# AGENDA
# BOARD OF SUPERVISORS
# SONOMA COUNTY
# 575 ADMINISTRATION DRIVE, ROOM 102A
# SANTA ROSA, CA 95403

**TUESDAY** **DECEMBER 13, 2016** **8:30 A.M.**

**(The regular afternoon session commences at 1:30 p.m.)**

| | | | |
|---|---|---|---|
| Susan Gorin | First District | Sheryl Bratton | County Administrator |
| David Rabbitt | Second District | Bruce Goldstein | County Counsel |
| Shirlee Zane | Third District | | |
| James Gore | Fourth District | | |
| Efren Carrillo | Fifth District | | |

This is a simultaneous meeting of the Board of Supervisors of Sonoma County, the Board of Directors of the Sonoma County Water Agency, the Board of Commissioners of the Community Development Commission, the Board of Directors of the Sonoma County Agricultural Preservation and Open Space District, the Board of Directors of the Northern Sonoma County Air Pollution Control District, the Sonoma County Public Finance Authority, and as the governing board of all special districts having business on the agenda to be heard this date. Each of the foregoing entities is a separate and distinct legal entity.

The Board welcomes you to attend its meetings which are regularly scheduled each Tuesday at 8:30 a.m. Your interest is encouraged and appreciated.

**AGENDAS AND MATERIALS:** Agendas and most supporting materials are available on the Board's website at http://www.sonoma-county.org/board/. Due to legal, copyright, privacy or policy considerations, not all materials are posted online. Materials that are not posted are available for public inspection between 8:00 a.m. and 5:00 p.m., Monday through Friday, at 575 Administration Drive, Room 100A, Santa Rosa, CA.

**SUPPLEMENTAL MATERIALS**: Materials related to an item on this agenda submitted to the Board after distribution of the agenda packet are available for public inspection in the Board of Supervisors office at 575 Administration Drive, Room 100A, Santa Rosa, CA, during normal business hours.

**DISABLED ACCOMMODATION**: If you have a disability which requires an accommodation, an alternative format, or requires another person to assist you while attending this meeting, please contact the Clerk of the Board at (707) 565-2241 or bos@sonoma-county.org as soon as possible to ensure arrangements for accommodation.

**Public Transit Access to the County Administration Center:**
Sonoma County Transit: Rt. 20, 30, 44, 48, 60, 62
Santa Rosa CityBus: Rt. 14
Golden Gate Transit: Rt. 80
For transit information call (707) 576-RIDE or 1-800-345-RIDE or visit or http://www.sctransit.com/

***APPROVAL OF THE CONSENT CALENDAR***

The Consent Calendar includes routine financial and administrative actions that are usually approved by a single majority vote. There will be no discussion on these items prior to voting on the motion unless Board Members or the public request specific items be discussed and/or removed from the Consent Calendar.

***PUBLIC COMMENT***

Any member of the public desiring to address the Board on a matter on the agenda: Please walk to the podium and after receiving recognition from the Chair, please state your name and make your comments. In order that all interested parties have an opportunity to speak, please be brief and limit your comments to the subject under discussion. Each person is usually granted 3 minutes to speak; time limitations are at the discretion of the Chair. While members of the public are welcome to address the Board, under the Brown Act, Board members may not deliberate or take action on items not on the agenda.

# 8:30 A.M. CALL TO ORDER

# PLEDGE OF ALLEGIANCE

## I. APPROVAL OF THE AGENDA

(Items may be added or withdrawn from the agenda consistent with State law)

## II. CONSENT CALENDAR

(Items 1 through 62)

### AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT

(Directors: Gorin, Rabbitt, Zane, Gore, Carrillo)

1. Authorize the General Manager to execute a Compliance Agreement with the landowners of Lang (Safari West) and Lang–Guttman properties that will outline the process for bringing the landowners back into compliance with the conservation easement provisions and take all necessary actions to negotiate an exchange of land of equal or greater value for land proposed to be removed from the existing Safari West and Guttman conservation easements. (Fourth District)

### SONOMA COUNTY WATER AGENCY

(Directors: Gorin, Rabbitt, Zane, Gore, Carrillo)

2. Easement Agreement with the City of Santa Rosa – Steele Creek – Adopt a Resolution:
   (A) Determining that the grant of an easement to the City of Santa Rosa for an existing sewer main along Steele Creek in Santa Rosa, California is in the public interest and that the interest in land conveyed will not substantially conflict or interfere with the use of the property by the Water Agency.
   (B) Authorizing the General Manager to file a Notice of Exemption in accordance with the California Environmental Quality Act.
   (C) Authorizing the Chair to execute the easement agreement. (Third District)

3. SMART Easement Agreement – Steele Creek – Adopt a Resolution:
   (A) Determining that the grant of an easement to the Sonoma–Marin Area Rail Transit District for a multi-use pathway along Steele Creek is in the public interest and that the interest in land conveyed will not substantially conflict or interfere with the use of the property by the Water Agency.
   (B) Authorizing the General Manager to file a Notice of Determination in accordance with the California Environmental Quality Act.
   (C) Authorizing the Chair to execute the easement. (Third District)

4. State Legislative Advocacy Services and 2017-2018 State Legislative Platform –
   (A) Approve the Water Agency's 2017-2018 State Legislative Platform.
   (B) Authorize the General Manager to execute the Third Amended Agreement for State Legislative Advocacy with Conservation Strategy Group to provide legislative advocacy services increasing the amount by $226,800 and extending the agreement term by two years for a new not-to-exceed agreement total of $702,200 and end date of December 31, 2018.

CONSENT CALENDAR (continued)

5. 115th Congress Federal Legislative Platform and Advocacy Agreements –
   (A) Approve the Sonoma County Water Agency's 115th Congress Federal Affairs Platform for 2017–2018.
   (B) Authorize the General Manager to execute the First Amended Agreement for Government Consultation and Advocacy Services for Federal Funding, Legislative Advocacy, and Environmental Regulatory Water for Restoration, Planning, Research, Monitoring, and Project Implementation with Van Ness Feldman, increasing the amount by $185,760, and extending the agreement term by 24 months for a new not-to-exceed agreement total of $354,960 and end date of December 31, 2018.
   (C) Authorize the General Manager to execute the First Amended Agreement for Federal Legislative Consultation and Advocacy for Flood Control, Sanitation, Water Supply, and Water Recycling Projects, and Implementation of the Russian River Biological Opinion with Alcalde & Fay, increasing the amount by $212,160, expanding the scope of work, and extending the agreement term by 24 months for a new not-to-exceed agreement total of $405,360 and end date of December 31, 2018.
   (D) Authorize the General Manager to execute the First Amended Agreement for Federal Legislative Consultation and Advocacy for Extreme Weather Research, Federal Administration and Congressional Outreach, Recycled Water, and Energy and Resource Programs and Planning with Natural Resource Results, LLC, increasing the amount by $201,600, expanding the scope of work, and extending the agreement term by 24 months for a new not-to-exceed agreement total of $385,200 and end date of December 31, 2018.

6. Authorize the General Manager to execute the First Agreement for Funding of Petaluma River Stream Gauge Installation Project with the City of Petaluma increasing the amount by $35,600 to fund upgrade of two ALERT2 Base Stations for a new not-to-exceed agreement total of $209,800. (Second District)

7. Adopt a Resolution approving the filing of a grant application to the California Department of Water Resources for the 2016 Water–Energy Grant Rebate Program for restaurants in the amount of $370,500 and taking related actions.

8. Dry Creek Project Partnership Agreement –
   (A) Authorize the General Manager to sign a Project Partnership Agreement with United States Army Corps of Engineers for funding habitat enhancement work in Dry Creek.
   (B) Authorize the Water Agency staff to negotiate the acquisition of easements and temporary construction rights for the Project estimated at no more than $403,000.
   (C) Authorize the General Manager to offer each of the three affected property owners the reasonable cost, up to $5,000, for an independent appraisal of property rights needed and to reimburse the property owners said cost upon receipt of the copy of the contracted appraisal.
   (D) Authorize the General Manager to execute agreements to acquire the property rights for the appraised value, and to execute such other documents and take such other actions as are necessary to complete the transactions. (Fourth District)

9. Change Order for the Dry Creek Habitat Enhancement Phase II Project –
   Approve and authorize the General Manager to execute a Change Order to the contract with McCullough Construction, Inc. totaling $95,958 and granting a 28-day time extension due to a delay in the issuance of Army Corp of Engineers Permits.

**SONOMA COUNTY WATER AGENCY**
(Directors: Gorin, Rabbitt, Zane, Gore, Carrillo)
**AND**
**OCCIDENTAL COUNTY SANITATION DISTRICT**
**RUSSIAN RIVER COUNTY SANITATION DISTRICT**
**SOUTH PARK COUNTY SANITATION DISTRICT**
(Directors: Gorin, Rabbitt, Zane, Gore, Carrillo)
**AND**
**SONOMA VALLEY COUNTY SANITATION DISTRICT**
(Directors: Gorin, Carrillo, and Mayor Gallian)

10. Authorize the Water Agency's General Manager to execute an amended agreement with Peterson Power Systems to provide inspection, maintenance, and emergency services for large generators, increasing the amount by $50,000, enabling Peterson Power Systems to perform necessary engine maintenance for a new not-to-exceed agreement total of $140,000 and no change to end date of July 31, 2018.

**SONOMA COUNTY WATER AGENCY**
(Directors: Gorin, Rabbitt, Zane, Gore, Carrillo)
**AND**
**OCCIDENTAL COUNTY SANITATION DISTRICT**
**RUSSIAN RIVER COUNTY SANITATION DISTRICT**
(Directors: Gorin, Rabbitt, Zane, Gore, Carrillo)
**AND**
**TRANSPORTATION AND PUBLIC WORKS**

11. Northern Sonoma County Water Conservation Program –
    (A) Authorize the Water Agency's General Manager to execute a Proposition 84 Sub-Grantee Agreement with County of Humboldt for the Northern Sonoma County Water Conservation Program ($475,031; agreement terminates August 31, 2020).
    (B) Authorize the Water Agency's General Manager to execute agreements with cities of Santa Rosa ($116,250), Cotati ($30,000), Rohnert Park ($60,000), Healdsburg ($51,938), and Cloverdale ($51,938); County of Sonoma Department of Transportation and Public Works ($22,734); Town of Windsor ($46,875); and Sweetwater Springs Sanitation District ($3,750); agreements terminate August 31, 2020.
    (C) Authorize the Director of the Department of Transportation and Public Works to execute an agreement with the Water Agency to receive grant funds ($22,734).
    (First, Third, Fourth, and Fifth Districts)

**AUDITOR-CONTROLLER-TREASURER-TAX COLLECTOR**

12. Review and accept the Sonoma County CAL-Card Program Countywide Audit Follow-up Report for the period July 1, 2010 through June 30, 2012 as of Report Date August 30, 2016.

13. Authorize the Auditor-Controller-Treasurer-Tax Collector to negotiate and execute an agreement with Nationwide Retirement Solutions for deferred compensation provider services from the effective date of the new agreement for a period of ten years for an amount not-to-exceed $3,700,000 over the term of the contract, and to execute a Fourth Amendment to an agreement to extend the existing contract pending completion of the negotiations up to 180 days.

## BOARD OF SUPERVISORS

14. Approve Advertising Program grant awards and Authorize the County Administrator to execute a contract with the following non-profit entities for advertising and promotions activities for Fiscal Year 2016-17: Sonoma Valley Education Foundation, $2,500; Sonoma Valley Chorale, $2,000; Children's Museum of Sonoma County, $500; ArtEscape, $2,000. (First District)

15. Approve Advertising Program grant awards and Authorize the County Administrator to execute a contract with the following non-profit entities for advertising and promotions activities for Fiscal Year 2016-17: Children's Museum of Sonoma County, $500; Cloverdale Ram Sale, $500; Geyserville Community Foundation, $1,000; Wine Growers of Dry Creek Valley, $1,000; Cloverdale Cultural Committee, $500. (Fourth District)

16. Approve an action honoring Rudy Theiller by naming the athletic fields at Ragle Ranch Regional Park as The Rudy Theiller Memorial Athletic Fields, and Approve the use of $2,500 in Contingency funds to purchase signs for the renamed fields. (Fifth District)

## CLERK-RECORDER-ASSESSOR/COUNTY ADMINISTRATOR/ PERMIT AND RESOURCE MANAGEMENT DISTRICT

17. Consolidated Presidential General Election Official Canvass –
    (A) Adopt a Resolution adopting the official canvass of the vote for the November 8, 2016 Consolidated Presidential General Election.
    (B) Determine that Measure L, amending Section 12-11 of the Sonoma County Code to increase the Transient Occupancy Tax rate from nine percent to twelve percent, was duly adopted by a 4/5 vote of the Board on August 9, 2016, and approved by a majority vote of the qualified voters of the County of Sonoma on November 8, 2016, and direct the Clerk of the Board to attach a certification to Ordinance No. 6173 attesting to the vote on Measure L as shown in the official canvass.
    (C) Determine that Measure K, the Community Separators Protection Ordinance, was duly placed on the ballot by unanimous vote of the Board on August 2, 2016, and approved by a majority of the qualified voters of the County of Sonoma on November 8, 2016, direct the Clerk of the Board to assign a number to said Ordinance, authorize and direct the Chair to sign the ordinance, and direct the Clerk of the Board to attest.

## COUNTY ADMINISTRATOR

18. Authorize the Chair to execute the First Amendment to the Personal Services Agreement with Caryl Hart as the Director of the Sonoma County Regional Parks Department with an agreement term of November 12, 2016 through November 12, 2018.

## COUNTY ADMINISTRATOR/COUNTY COUNSEL

19. Graton Casino Type 47 Liquor License Premises Expansion –
    Authorize the Chair to execute a Memorandum of Agreement with the Federated Indians of Graton Rancheria to limit access by persons under twenty-one years of age at bars in the Graton Casino. (Second District)

CONSENT CALENDAR (continued)

19A. Authorize the Chair to sign and submit comments to the Federal Bureau of Indian Affairs on the November 17, 2016 Notice of Application for the proposed Lytton Rancheria 124-acre Fee-to-Trust conveyance. (Fourth District)

## ECONOMIC DEVELOPMENT BOARD/HUMAN SERVICES

20. North Bay North Coast Broadband Consortium Grant and Memorandum of Understanding –
(A) Accept California Advanced Services Fund Rural and Urban Regional Grant ($250,000) for the North Bay North Coast Broadband Consortium (NBNCBC) including Sonoma, Marin, Napa and Mendocino Counties.
(B) Approve the Memorandum of Understanding with Sonoma, Marin, Napa and Mendocino Counties for NBNCBC Grant Coordination.

21. Adopt a Resolution accepting the Sonoma Mendocino Comprehensive Economic Development Strategy and endorsing the Sonoma Mendocino Economic Development District to apply to the U.S. Economic Development Administration (EDA) for Economic Development District designation.

22. 2016 Sonoma County Tourism Annual Report and 2017 Marketing Plan –
(A) Adopt a Resolution confirming the Sonoma County Tourism Board's Annual Report for 2016 and the 2017 Marketing Plan and continuing the program and assessments as levied without change for the Sonoma County Tourism Business Improvement Area (SCTBIA) through June 30, 2017.
(B) Authorize staff to extend the Agreement for Services between the County of Sonoma and Sonoma County Tourism Board through June 30, 2017 to carry out projects, programs that specifically benefit the lodging establishments within the SCTBIA and promote tourism.

## FIRE AND EMERGENCY SERVICES

23. Authorize the Chair to sign Agreements with Bloomfield, Bodega, Camp Meeker, Fort Ross, Knights Valley, Lakeville, Mayacamas, Mountain, San Antonio, Two Rock, Valley Ford, and Wilmar Volunteer Fire Companies for fire protection services in County Service Area #40.

24. Modification to the Rancho Adobe and Bodega Bay Fire Protection Districts' Proposed Fire Codes – Modify the adoption of an ordinance of the Rancho Adobe Fire Protection District and the Bodega Bay Fire Protection District within their respective district boundaries of the 2016 edition of the California Fire Code local fire code amendments to include Chapter 13 Sonoma County Fire Safety Ordinance, Sec. 13-6, Article II Definitions.

## GENERAL SERVICES

25. Authorize the Purchasing Agent to issue a Blanket Purchase Order with United Site Services for 1 year for an estimated cost of $160,000 with the option to extend the Blanket Purchase Order for four additional 1 year terms.

26. Authorize the Purchasing Agent to approve a Blanket Purchase Order with three auto body contractors: Marquis Auto Body, $117,000; Western Auto Body, $75,000; and Carreras Auto Body, $38,000 for 1 year with the option to extend the Blanket Purchase Order for three additional 1 year terms.

27. License Extensions for 11 English Street, Petaluma and 2300 County Center Drive, A100, Santa Rosa –
    (A) Authorize the Director to execute a Fifth Amendment to License Agreement with the Assembly Committee on Rules of the California State Assembly for 150 sq. ft. of office space utilized by Assemblyman Marc Levine located at 11 English Street, Petaluma to extend the term through December 31, 2018, and to provide the tenant an option to extend term through June 30, 2019 all at no change in rent of $285 per month ($1.90 per sq. ft.) for the proposed extension and option terms.
    (B) Authorize the Director to execute a Second Amendment to License Agreement with U.S. Congressman Mike Thompson 5th Congressional District of California for 1,060 sq. ft. of office space located at 2300 County Center Drive, Suite A100, Santa Rosa to extend the term through January 2, 2019 and to provide the tenant an option to extend the term through June 30, 2019 all at no change in rent of $927 per month ($0.87 per sq. ft.) for the proposed extension and option terms.
    (C) Make findings that the subject property located at 2300 County Center Drive, Suite A100, Santa Rosa, is not needed by the County, the Agreement serves a public purpose, and that use by Congressman Mike Thompson will not interfere with the use of the premises by the County.

28. Authorize the Director to:
    (A) Execute amendments to extend the terms of the following Agreements through December 31, 2017:
        1) Lease Agreement with the Judicial Council of California (JCC), formerly the Administrative Office of the Courts, for premises located at 2688 Ventura Avenue, Santa Rosa (the Fleet Building site);
        2) Lease Agreement with the JCC for premises located at 600 Administration Drive, Santa Rosa (the Old Jail site); and
        3) Lease Agreement with the JCC for premises located on Russell Avenue, Santa Rosa (P20 parking lot site); and
    (B) Execute future amendments to extend the terms of these Agreements for an additional period not-to-exceed three years.

## GENERAL SERVICES/HEALTH SERVICES

29. Authorize the General Services Director to execute a lease amendment with Circle V Daytona, LLC, to extend the current lease term through May 31, 2017 at the current rental rate of $6,938 per month ($1.86 per sq. ft.) for 3,736 sq. ft. of office space located at 1360 North McDowell Boulevard, Petaluma for mental health outreach and engagement services to south Sonoma County clients at this location. (Second Action – Ready for Adoption)

## GENERAL SERVICES/HUMAN SERVICES

30. 3725 Westwind Blvd., Santa Rosa Lease Amendment –
Approve multiple recommendations relating to the existing Lease Agreement between Gilmore Development Properties, Inc. as Landlord and the County of Sonoma, as Tenant:
(A) Declare intent to execute an Amendment to the existing lease, to extend the Lease Expiration Date from May 31, 2017 to May 31, 2027, and provide two, five year options to further extend the lease term to 2037, expand the Existing Premises from 24,164 square feet to 32,347 square feet; reduce rent in Existing Premises from $2.43/square foot /month to $1.90/square foot/month, reduce annual rent escalations from 4% to 3%, and require the Landlord at Landlord's expense to make approximately $1,000,000 in Tenant Improvements to the Existing Premises, Expansion Space, Building Common Areas, Site and Parking.
(B) Direct the Clerk of the Board to publish a Notice of Intent to execute such Lease Amendment.
(C) Authorize the General Services Director to execute a Letter-Agreement whereby the Landlord will prepare architectural construction drawings and apply for building permits prior to potential execution of the proposed lease and approval by the Board, with the County reimbursing up to $30,000 if the lease is not executed. (First Action)

## GENERAL SERVICES/SHERIFF'S OFFICE

31. Authorize the General Services Director to execute an amendment to a sublease with the Mark West Chamber of Commerce & Visitors Bureau for the Sheriff's Office located at 4787 Old Redwood Highway, Suite 105, Santa Rosa to extend the term from its expiration date of December 31, 2016 to August 31, 2017 for a rental of $647 per month ($4.90 per sq. ft.). (Second Action – Ready for Adoption)

## HEALTH SERVICES

32. Medi-Cal Outreach, Enrollment, Renewal, and Retention Services for Jail, Probation, and Homeless Populations –
(A) Authorize the Director to execute the third amendment to an agreement with Redwood Community Health Coalition to expand Medi-Cal outreach and enrollment assistance services, increasing the agreement by $58,382, resulting in a new not-to-exceed amount of $208,032 through June 30, 2017.
(B) Authorize the Director to execute the first amendment to an agreement with Redwood Community Health Coalition to expand Medi-Cal retention and renewal services, increasing the agreement by $15,993, resulting in a new not-to-exceed amount of $156,952, and extending the term end date from December 31, 2016 to June 30, 2017.

33. Authorize the Director to execute the second amendment to an agreement with Harder+Company Community Research to conduct Mental Health Services Act evaluation activities, increasing the agreement by $97,916 resulting in a new not-to-exceed amount of $341,916 through June 30, 2018.

34. Authorize the Director to execute a grant agreement with County Medical Services Program Governing Board to accept $375,000 in revenue to support the County Wellness Pilot Program for the period January 1, 2017 through June 30, 2020.

CONSENT CALENDAR (continued)

35. Authorize the Director to execute a memorandum of understanding with the County of Humboldt for the period January 1, 2017 to December 31, 2018 to provide Public Health Laboratory Director Services to the County of Humboldt Public Health Laboratory and to receive revenue in the amount of $57,960.

## HUMAN RESOURCES/COUNTY COUNSEL

36. Authorize the Chair to execute an agreement between the County of Sonoma and the law firm of Liebert Cassidy Whitmore for labor relations consulting and related legal services from January 1, 2017 through June 30, 2019. (4/5 vote required)

## MISCELLANEOUS

37. Approve the Minutes of the Meeting of November 15, 2016 for the following: Agricultural Preservation and Open Space District, Community Development Commission, Northern Sonoma County Air Pollution Control District, Sonoma County Water Agency, and Board of Supervisors.

## PERMIT AND RESOURCE MANAGEMENT

38. Authorize the Director to execute an agreement with e360 LLC to provide assistance in processing planning applications for a not-to-exceed amount of $175,000 for a two-year term beginning December 13, 2016 and ending December 13, 2018.

39. Adopt a Resolution to mutually rescind and replace an existing Non-Prime (Type II) Land Conservation Contract with an Open Space Land Conservation Act contract on 40.10 acres as a Condition of Approval for Lot Line Adjustment LLA11-0046 located at 3560 Wine Creek Road, Healdsburg, APN 090-130-024, Douglas Rafanelli, AGP14-0186. (Fourth District)

40. Adopt a Resolution and Conditions of Approval for a Lot Line Adjustment between two parcels resulting from two Administrative Certificates of Compliance and under one Land Conservation Act Contract, for property located at 160 Ridge Oaks Road and 21800 River Road, Geyserville; Portions of APN 141-180-037 and -036, Brian H. and Beatrice M.E. Burwell of the Burwell Living Trust and William Hinkle, LLA16-0004. (Fourth District)

## PERMIT AND RESOURCE MANAGEMENT AND SONOMA COUNTY WATER AGENCY

(Directors: Gorin, Rabbitt, Zane, Gore, Carrillo)

41. Final Map and Summary Vacation of Sanitary Sewer Easements for Mark West Village Subdivision, Tract No. 1061 –
    (A) As the Board of Supervisors, Adopt a Resolution:
        (1) Approving and accepting the Final Map for "Mark West Village Subdivision, Tract No. 1061"; and
        (2) Accepting and rejecting certain offers of dedication and making findings all in accordance with the Subdivision Map Act.
    (B) As Water Agency Directors, Adopt a Resolution:
        (1) Determining that vacating certain sanitary sewer easements on behalf of the Airport-Larkfield-Wikiup Sanitation Zone will not have a significant adverse effect on the environment, and authorizing, directing and ordering the vacation of certain Airport-Larkfield-Wikiup Sanitation Zone sewer easements under the authority of Section 8333(c) of the Streets and Highways Code of the State of California; and
        (2) Authorizing and directing the General Manager to file a Notice of Determination in accordance with the California Environmental Quality Act; and
        (3) Authorizing and directing the Clerk of the Board to record a certified copy of the Resolution at the Office of the County Recorder. (Fourth District)

## PROBATION

42. Adopt a Resolution authorizing the Chief Probation Officer to execute agreements with other counties for the placement of out-of-county wards at the Sonoma County Probation Department Juvenile Hall or Probation Camp beginning July 1, 2016.

## REGIONAL PARKS

43. Authorize the Director to execute a Joint Powers Agreement with the City of Cloverdale for landscape maintenance services from July 1, 2016 through June 30, 2019 not-to-exceed $115,000 over 3 years. (Fourth District)

## RETIREMENT

44. Adopt a Resolution approving the election results for the Retirement Board Second Trustee position (general members) of the Sonoma County Employees' Retirement Association.

## TRANSPORTATION AND PUBLIC WORKS

45. Boyes Boulevard Bridge Replacement Project –
    Adopt a Resolution accepting a Grant Deed and Authorizing the Chair to execute a Property Purchase Agreement for a full fee-take purchase required for the Boyes Boulevard Road Bridge Replacement Project, authorizing a payment of $285,000, which includes $0 for severance damages; authorizing transfer of taxes on said land; and authorizing refunds, if applicable, lands of Linas Baranauskas, (APN: 052-191-007); Project C01147. (Second District)

CONSENT CALENDAR (continued)

46. Approve and authorize Chair to sign First Amendments to Agreements for Emergency Fully Operated Equipment Services with the following companies: CATS4U, Inc., Ghilotti Brothers, Inc., Hanford Applied Restoration & Conservation, Pacific Coast Drilling Company, Parmeter General Engineers & Services, Inc., Rege Construction, and Serres Corporation to include records retention clause with no change to the not-to exceed amount of $50,000 per fiscal year or term end date of June 30, 2018.

47. Approve and authorize the Chair to execute the Second Amendment with Green Valley Consulting Engineers for construction management services related to the State Route 12 Corridor Improvement Project extending the term of the agreement to December 31, 2017. (First District)

48. Adopt a Resolution establishing all-way stop controls at the intersection of Airport Boulevard East (#8803A)/El Mercado Parkway (#88078) and Faught Road (#8807) in Larkfield-Wikiup. (Fourth District)

49. Adopt a Resolution establishing all-way stop controls at the intersection of Edison Street (#79030) and Donald Street (#79025) in Graton. (Fifth District)

50. Approve out-of-state travel requests for the Airport Manager.

51. First Amendment to the Central Disposal Site Cell Tower Lease Agreement and Sublease to T-Mobile – Approve and Authorize the Chair to:
    (A) Execute the Settlement Agreement and General Release between the County and T-Mobile which compensates the County $43,710.60 for those years that the second cell tower continued to operate on County property while the County and Lessee negotiated the First Amendment, allows T-Mobile to remain on the property through May 31, 2017 until it completes the co-location of the cell towers, and authorizes execution of the First Amendment to the Lease Agreement;
    (B) Execute the First Amendment of the Lease Agreement and the Memorandum of First Amendment to Lease Agreement with Crown Castle International Corporation for property located at 403 Meacham Road, Petaluma, updating payment terms, approving co-location of two existing cell phone towers, and increasing the rent for Fiscal Year 2016-17 to $33,029;
    (C) Approve the sublease of the Lease Agreement from Crown Castle International Corporation to T-Mobile; and
    (D) Authorize the Director of Transportation and Public Works to record the Memorandum of First Amendment to Lease Agreement as requested by Lessee for its records and to execute the Consent to Sublease and the Property Owner Letter of Authorization. (Second District)

52. Authorize the Airport Manager to execute the:
    (A) Agreement for Sale of Mitigation Acreage with Fulton Road Preserve, LLC for a total cost to the County of $3,078,250 to fulfill mitigation requirements for the Runway Safety Area Improvement Project, and
    (B) Third Amendment to the Agreement for Sale of Conservation Credits with Alton Preserve, LLC for decreasing and exchanging plant and California Tiger Salamander conservation credits with the Fulton Road Preserve mitigation site with no contract cost change.

CONSENT CALENDAR (continued)

53. Approve and authorize Chair to execute the First Amendment to the agreement with OPAC Consulting Engineers, Inc. for the design of the replacement Bridge over the Pena Creek (C01293) increasing the contract amount by $2,526 in an amount not-to-exceed $517,100 which includes a Contingency of $46,780, and extending the term of the agreement to December 31, 2021. (Fourth District)

54. Environmental Mitigation and Monitoring Plan for Adobe at East Washington –
(A) Approve and authorize the Chair to sign agreement with Habitat Restoration Services Inc. to provide design, installation and watering services for Environmental Mitigation and Monitoring Plan as required by the Adobe at East Washington Signalization project (C02279) in a not-to-exceed amount of $257,000 with a term ending December 31, 2021.
(B) Authorize the Director to execute the Landowner Mitigation Agreement for implementation of mitigation project at Sears Point with Sonoma Land Trust with a term ending December 31, 2021. (Second District)

55. Approve and authorize the Chair to execute the First Amendment to the agreement with TRC Engineers for engineering design services for the Geysers Road Bridge over Frasier Creek extending the term of the agreement to December 31, 2021 with no change in the not-to-exceed amount of $559,261. (Fourth District)

## APPOINTMENTS/REAPPOINTMENTS

(Items 56 through 60)

56. Approve the re-appointment of Brian Sobel to serve as a public member-at-large of the Golden Gate Bridge, Highway and Transportation District Board of Directors serving a two-year term beginning on January 1, 2017 and ending on January 1, 2019. (Second District)

57. Approve the re-appointment of Fran Adams to the Sonoma County Mental Health Board for a three-year term beginning December 31, 2016 and ending on December 31, 2019. (Second District)

58. Approve the appointment of Carol S. McHale to the Commission on Human Rights serving a two-year term beginning on December 13, 2016 and ending on December 13, 2018. (Third District)

59. Approve the re-appointment of Paul Kelley to the North Coast Railroad Authority Board serving a two-year term beginning retroactively on April 16, 2016 and ending on April 15, 2018. (Fifth District)

CONSENT CALENDAR (continued)

60. Maternal, Child and Adolescent Health Advisory Board Appointments and Reappointments –
(A) Approve the appointments of Rachel Napoli, Rebecca Timme, Maria Avina and Katie Luciani to the Sonoma County Maternal, Child and Adolescent Health Advisory Board serving two-year terms beginning on January 1, 2017 and ending on December 31, 2018;
(B) Approve the re-appointments of Karla Fittipaldi, Jeff Miller, Casey McChesney, Annie Nicol, Ed Sheffield, Amanda Silva, and Marta Tilling to the Sonoma County Maternal, Child and Adolescent Health Advisory Board serving two-year terms beginning on January 1, 2017 and ending on December 31, 2018.
(C) Approve the re-appointment of Gina Cuclis to the Sonoma County Maternal, Child and Adolescent Health Advisory Board to complete her current term ending December 31, 2017 as an Elected Officials representative. (Health Services)

## PRESENTATIONS/GOLD RESOLUTIONS

(Items 61 through 62)

PRESENTATIONS AT THE BOARD MEETING

61. **1:30 P.M.** – Adopt a Gold Resolution celebrating the 40th Anniversary of the Sonoma Land Trust. (First District)

PRESENTATIONS AT A DIFFERENT DATE

62. Adopt a Gold Resolution celebrating Dan Condron's retirement from Sonoma State University. (Third District)

# III. REGULAR CALENDAR

(Items 63 through 69)

## SONOMA COUNTY WATER AGENCY

(Directors: Gorin, Rabbitt, Zane, Gore, Carrillo)

63. Authorize the General Manager to execute a Power Purchase Agreement with Pristine Sun Inc. for a floating solar system at Airport-Larkfield-Wikiup Sanitation Zone's Oceanview Reservoir. (Fourth District)

64. Biological Opinion Phase 3 Letter of Credit - Authorize the General Manager to undertake actions necessary to procure a standby Letter of Credit in the amount of $12,765,840 as described in the Memorandum of Agreement with California Department of Fish and Wildlife, including execution of an agreement with U.S. Bank for such a Letter of Credit in substantially the form presented to this Board.

## TRANSPORTATION AND PUBLIC WORKS

65. Subsidized Transit Fare Program for Veterans and College Students – Program update and recommendation for 2017 –
    (A) Provide funding to continue the College Student Subsidized Transit Fare Program through December 31, 2017 in an amount up to $236,831, accept financial assistance from the Santa Rosa Junior College (SRJC) and Sonoma State University (SSU) to "bridge" the program through 2017, and Authorize the Chair to execute a Memorandum of Understanding with SRJC and SSU for $19,477 to accept their financial contributions in the amounts of $30,000 and $19,477 respectively to the program for 2017.
    (B) Approve the use of Contingency funds in the amount of $103,416 to fund the College Student Subsidized Transit Fare Program and $20,500 to fund the permanent Veterans Subsidized Fare Program from January through June 2017.
    (C) Direct staff to develop a multi-year agreement with SRJC and SSU that further reduces County general fund contributions beginning in 2018. Staff will report on progress made and recommendations towards this effort in November 2017.

66. Establishment of Quiet Zones at Railroad Crossings in Sonoma County –
    (A) Direct staff to submit a Notice of Intent for Quiet Zones at Railroad Crossings within Sonoma County relating to the rail operations of Sonoma Marin Area Rail Transit (SMART).
    (B) Authorize the Director of Transportation and Public Works to negotiate cooperative agreements with Rohnert Park and Cotati regarding joint quiet zone applications. (Second, Third, and Fourth Districts)

## COUNTY ADMINISTRATOR/PERMIT AND RESOURCE MANAGEMENT AND COMMUNITY DEVELOPMENT COMMISSION

(Commissioners: Gorin, Rabbitt, Zane, Gore, Carrillo)

67. Authorize the County Administrator to execute a Memorandum of Understanding with the North Coast Regional Water Quality Control Board relating to the reduction of pathogens in the Russian River Watershed and implementation of the Pathogen Indicator Bacteria Total Maximum Daily Load Action Plan. (Fourth and Fifth Districts)

## REGIONAL PARKS

68. Andy's Unity Park– Construction Bid Award and Direction on Funding Gap –
(A) Adopt and approve the Project Manual and Drawings entitled "Andy's Unity Park".
(B) Direct staff of Regional Parks to work with the County Administrator's Office and community stakeholders to identify the needed $1,651,473 to complete base bid construction up to $2,630,573 for all additive alternatives.
(C) Authorize the Director to select additive alternates if there are adequate resources to do so. Additive Alternate #3 for the skate spot element will not be selected due to bid irregularities associated with the qualifications of the subcontractor including their failure to register with the Department of Industrial Relations as required by State Law.
(D) Authorize the Director to make other minor and related changes to the project required by the final conditions and agency approvals and other project conditions so long as the total does not exceed 10% of the total project cost.
(E) Award the contract to Argonaut Constructors for the amount of $3,316,516 and authorize the Chair of Board to execute the contract. (Fifth District)

## AUDITOR-CONTROLLER-TREASURER-TAX COLLECTOR/COUNTY COUNSEL

68A. IRS Appeal and Sonoma County Payroll Process Audit –
(A) Direct County Counsel to take all steps necessary to continue to challenge and favorably resolve the inappropriate tax levy by the Internal Revenue Service including any related penalties and interest. (Majority)
(B) Review and accept the Sonoma County Payroll Process Internal Audit Report for the period July 1, 2011 through June 30, 2015 which includes a significant subsequent event regarding the discovery of penalties and interest assessed by the IRS. (Majority)
(C) Adopt a Fiscal Year 2015-16 budget Resolution totaling $4.7 million to authorize the Auditor-Controller-Treasurer-Tax Collector (ACTTC) and County Administrator (CAO) to record a general fund payable to the IRS at June 30, 2016, and make payments to the IRS in amounts not-to-exceed $4.0 million to preserve appeal rights and safeguard County credit rating and financial status, and record a general fund payable at June 30, 2016 to reimburse to the Unemployment Insurance Internal Service Fund for penalties and interest payments made to the Employment Development Department (EDD) in an amount of $674,000. (4/5 vote required)
(D) Adopt a Fiscal Year 2016-17 budget Resolution totaling $525,000 to authorize the ACTTC and CAO to make payments to the IRS in amounts not-to-exceed $300,000 for additional penalties that may have accrued to IRS accounts and encumber a legal services agreement in an amount not-to-exceed $225,000. (4/5 vote required)
(E) Authorize County Counsel to enter into agreements with the Hanson Bridgett LLP law firm and/or other lawyers for legal services to represent the ACTTC and the County regarding the tax dispute in an aggregate total not-to-exceed $225,000. (4/5 vote required)

## BOARD OF SUPERVISORS

69. Approve a permit fee waiver of $7,584 for the Forestville Planning Association's Forestville Downtown Park use permit. (Fifth District)

70. **PUBLIC COMMENT ON CLOSED SESSION ITEMS**

## IV. CLOSED SESSION CALENDAR
(Item 71)

71. The Board of Supervisors will consider the following in closed session: Conference with Legal Counsel – Existing Litigation – County of Sonoma – Request for a Collections Due Process or Equivalent Hearing, Appeal of Internal Revenue Service Collections Action, Form 12153 (Nov. 17, 2016). (Government Code Section 54956.9(d)(1)).

## V. REGULAR AFTERNOON CALENDAR
(Items 72 through 79)

72. **RECONVENE FROM CLOSED SESSION**

73. **REPORT ON CLOSED SESSION**

## VI. BOARD MEMBER REPORTS ON ASSIGNED BOARDS, COUNCILS, COMMISSIONS OR OTHER ATTENDED MEETINGS

## VII. 1:30 P.M. - PRESENTATIONS/GOLD RESOLUTIONS
(Item 61, approved on the Consent Calendar)

74. **2:00 P.M. - PUBLIC COMMENT ON MATTERS NOT LISTED ON THE AGENDA BUT WITHIN THE SUBJECT MATTER JURISDICTION OF THE BOARD AND ON BOARD MEMBER REPORTS**
(Comments are restricted to matters within the Board's jurisdiction. The Board will hear public comments at this time for up to thirty minutes. Please be brief and limit your comments to three minutes. Any additional public comments will be heard at the conclusion of the meeting. While members of the public are welcome to address the Board, under the Brown Act, Board members may not deliberate or take action on items not on the agenda.)

### PERMIT AND RESOURCE MANAGEMENT

75. **2:10 P.M. – AGP15-0026 –** Conduct a Public Hearing for an Agricultural Preserve expansion and a new Land Conservation (Williamson) Act Contract; Terry Zimmerman. (Second District)
   a) APPLICANT: Terry Zimmerman
   b) APPELLANTS: N/A
   c) LOCATION: 6340 Bodega Avenue, Petaluma
   d) ASSESSOR'S PARCEL NOS.: 022-080-018
   e) ENVIRONMENTAL DOCUMENT: Categorically Exempt per Section 15317 of CEQA
   f) REQUEST: Adopt a Resolution to expand Agricultural Preserve 2-423 and authorize the Chair to execute a Non-Prime Land Conservation Act Contract for 96.56 acres.

REGULAR AFTERNOON CALENDAR (continued)

76. **2:10 P.M.** – **MNS06-0032** – Conduct a Public Hearing appealing the Planning Commission decision to approve a Minor Subdivision. (Fifth District)
   a) APPLICANT: Jackson Vineyards II LLC
   b) APPELLANTS: Ad Hoc Committee for Clean Water
   c) LOCATION: 12924 Bones Lane, Occidental
   d) ASSESSOR'S PARCEL NOS.: 074-030-043
   e) ENVIRONMENTAL DOCUMENT: Mitigated Negative Declaration
   f) REQUEST: Conduct a Public Hearing and Adopt a Resolution denying an appeal from a decision of the Planning Commission, making findings pursuant to CEQA and the Subdivision Map Act, adopting a Mitigated Negative Declaration and Mitigation Monitoring Program, and approving a tentative map for the property.

**PLEASE NOTE;**

**THE FOLLOWING ITEM WILL ALSO BE HEARD BY THE BOARD AT THE DECEMBER 20, 2016 MEETING AT 9:00 A.M.**

**COUNTY ADMINISTRATOR'S OFFICE/ PERMIT AND RESOURCE MANAGEMENT/ AGRICULTURE/WEIGHTS AND MEASURES/ HEALTH SERVICES**

77. **2:10 P.M.** – Medical Cannabis Program Ordinances and Policies –

The Board will continue deliberations from the December 6, 2016 Public Hearing to consider whether to:

(A) Adopt the Negative Declaration and approve the Medical Cannabis Land Use Ordinance amending the zoning code to permit and regulate medical cannabis businesses; (Majority)

(B) Adopt a Resolution amending the Uniform Rules for Agricultural Preservation and Farmland Security Zones to list medical cannabis cultivation as a compatible use within Agricultural Preserves; (Majority)

The Board will consider whether to:

(C) Adopt an Ordinance amending Chapter 14 of the Sonoma County Code to regulate medical cannabis dispensaries and edible cannabis product manufacturing sites; (Majority) (Second Reading – Ready for Adoption);

(D) Adopt the Cannabis Business Tax Ordinance establishing a general business tax on cannabis operators, which will become effective it is approved by a majority of the voters voting on the tax measure at the March 7, 2017 election; (4/5 vote required) (Second Reading – Ready for Adoption); and

(E) Approve the use of Contingency funds in an amount up to $400,000 to place the proposed measure on the ballot.

78. Permit and Resource Management Department: Review and possible action on the following:
Acts and Determinations of Planning Commission/Board of Zoning Adjustments
Acts and Determinations of Project Review and Advisory Committee
Acts and Determinations of Design Review Committee
Acts and Determinations of Landmarks Commission

79. **ADJOURNMENT**

**PLEASE NOTE:**

**THE FOLLOWING ITEM WILL BE CONTINUED TO THE JANUARY 10, 2017 MEETING.**

**FAIRGROUNDS**

Conduct a Public Hearing and Adopt a Resolution approving the 2017 Operating and Capital Improvements Budget and the 2017 Employee Position Allocation List for Sonoma County Fair and Exposition, Inc.

**NOTE: The next regular meeting will be held on Tuesday, December 20, 2016.**

**Upcoming Hearings** (All dates are tentative until each agenda is finalized)

December 20, 2016 (AM) – Ordinance establishing new zoning regulations to permit cannabis cultivation, storage, distribution, and manufacturing.
January 10, 2017 (PM) – Sonoma Valley County Sanitation District's Sewer Lateral Ordinance Amendment.
January 10, 2017 (PM) – 2017 Operating and Capital Improvements Budget and the 2017 Employee Position Allocation List for Sonoma County Fair and Exposition, Inc.
January 24, 2017 (AM) – Russian River-Cotati Intertie Pipeline Seismic Hazard Mitigation at Mark West Creek Crossing Project – Hearing of Necessity.
January 24, 2017 – Russian River-Cotati Intertie Pipeline Seismic Hazard Mitigation at Russian River Crossing Project – Hearing of Necessity.

| | |
|---|---|
| # County of Sonoma Agenda Item Summary Report<br><br>Clerk of the Board<br>575 Administration Drive<br>Santa Rosa, CA 95403 | **Agenda Item Number: 1**<br>(This Section for use by Clerk of the Board Only.) |

| | | | |
|---|---|---|---|
| **To:** | Board of Directors of the Sonoma County Agricultural Preservation and Open Space District | | |
| **Board Agenda Date:** | December 13, 2016 | **Vote Requirement:** | Unanimous |
| **Department or Agency Name(s):** | Sonoma County Agricultural Preservation and Open Space District | | |
| **Staff Name and Phone Number:** | | **Supervisorial District(s):** | |
| Kathleen Marsh, Stewardship Coordinator<br>565-7262 | | 4th | |
| **Title:** | Lang Conservation Easement Compliance Agreement | | |

**Recommended Actions:**

Authorize the General Manager to execute a Compliance Agreement with the landowners of Lang (Safari West) and Lang-Guttman properties that will outline the process for bringing the landowners back into compliance with the easement provisions and take all necessary actions to negotiate an exchange of land of equal or greater value for land proposed to be removed from the existing Safari West and Guttman conservation easements.

**Executive Summary:**

The District holds a conservation easement over the Lang (Safari West) property, and a second conservation easement over the Lang-Guttman (Guttman) property. There are existing violations to both of these conservation easements. To resolve these violations, the District and the landowners are proposing to enter into a Compliance Agreement which identifies the steps that must be taken to correct the outstanding issues and reach a final resolution. As part of these steps, the District and landowners will negotiate an exchange of land that will remove some of the land that currently has unauthorized uses from the easement in exchange for new easements over fee title to land of equal or greater value. Once negotiated, the exchange agreement will come to the Board of Directors for approval.

**Discussion:**

The District holds a conservation easement over the Lang (Safari West) property, and a second conservation easement over the Lang-Guttman (Guttman) property. The two properties house an exotic animal park that existed prior to the District's acquisition of the Safari West and Guttman conservation easements. The exotic animal park is a permissible agricultural use under both the zoning for the property and the District's conservation easements. Each conservation easement is divided into Agricultural areas and Forever Wild areas. The exotic animal park is permitted in both the Agricultural and the Forever Wild areas of each conservation easement. The Safari West Conservation Easement permits tours associated with the exotic animal park operation in the Agricultural area only; the

Guttman Conservation Easement is silent with respect to conducting tours in the Agricultural area. Both conservation easements prohibit tours in the Forever Wild area of the properties.

The District observed and documented tours being conducted in the Forever Wild portion of the Safari West Conservation Easement as well as in both the Agricultural area and Forever Wild area of the Guttman Conservation Easement property. These activities exceed the uses and activities permitted by the Conservation Easements and constitute a violation of the easement terms.

Additionally, the Safari West Conservation Easement permits the on-site restaurant to serve meals only to guests staying overnight in the guest tent cabins. The owners of Safari West have been serving meals to other visitors who are not overnight guests. This level of food service is not permitted by the Safari West Conservation Easement, and constitutes an additional violation of the terms of the Conservation Easement.

Finally, the gift shop located on the Safari West property has been selling items beyond what the Conservation Easement permits. The Conservation Easement permits the gift shop to sell items harvested and produced on the Safari West property, and other items with District approval. The majority of the items being sold have neither been harvested nor produced on the property, and the District has not, and likely would not, grant approval for the sale of these items, as they go well beyond what is associated with the Safari West operations. The sale of these items constitutes a further violation of the terms of the Conservation Easement.

The above described uses and activities also exceed the uses authorized by the Use Permit issued in 1994 by the Sonoma County Board of Zoning Adjustments (BZA). In November 2015, the BZA approved a modification to the Use Permit that expanded the permissible uses on site to conform to actual operations, subject to conditions. One of these conditions required the landowners to enter into a Compliance Agreement with the District to ensure that the landowners pursued the necessary modifications to the existing Conservation Easements to permit the activities and uses authorized by the Use Permit as modified. The modification of the existing conservation easements will require the removal of some property currently protected by the existing conservation easements in exchange for property (or an interest in property) of equal or greater value to the property being removed. The Compliance Agreement sets forth in detail the steps that must be taken to resolve the outstanding Conservation Easement violations that exist on the properties. The Compliance Agreement is an interim step to final resolution and is necessary because the statutory process to complete an exchange is lengthy (18-24 months start to finish).

To resolve the Conservation Easement violations on the property, the District and the landowners are prepared to take the following steps:

- Delineate an area on the Safari West property that encompasses the restaurant, the gift shop, other associated buildings and the parking area used by guests of Safari West, and remove that area from the Conservation Easement entirely (approximately 3 acres)
- Create a special use corridor in the Forever Wild areas of the Safari West and Guttman Conservation Easements that would encompass just the roads on which safari tours would be allowed

- Identify land of equal or greater value to the land excluded from the Conservation Easements and the road corridor for exchange for these areas to be removed or modified. An appraisal will be conducted to determine the value of the land to be excluded and the road corridor. Once the value of these excluded areas is established, an appraisal will be conducted on the land to be received in exchange for these areas.
- Rescind and replace the two Conservation Easements with a single new Conservation Easement that will cover both properties and allow for the increased activities proposed under the new Use Permit

The District has been working with the landowners to resolve additional District concerns regarding 1) the stocking rate of the current livestock grazing and its impact on the natural resources of the property; and 2) the potential for sediment associated with major road erosion on the property to enter the Mark West Creek tributary stream on the property. The landowners have submitted a Grazing Plan and an Erosion Control Plan to address these concerns. Staff is currently reviewing these plans and will work with the landowners to implement them.

With respect to the proposed exchange, the appraisal of the land to be removed from the existing conservation easements is underway. Once that appraisal is completed, staff will work with the landowner to identify other lands of equal or greater value that the landowner could offer in exchange. The Compliance Agreement commits the District and landowner to negotiate in good faith. However, the Compliance Agreement neither commits the Board of the Directors to a particular course of action, nor constrains the Board's discretion, in its official capacity, to consider and act on a formal request from the landowner to modify the Conservation Easements and effect an exchange of property. Any property proposed for exchange must be: (i) adjacent to lands either owned by or in which the District holds an interest and necessary or beneficial for open-space or park purposes; (ii) of equal or greater value to the land or property interest being given up by the District; and (iii) approved by a unanimous vote of the full Board of Directors. The proposed exchange will return to this Board for further action at a future date.

To indicate good faith and the desire to work with the District to resolve the outstanding Conservation Easement violations, the landowners have agreed to enter into the Compliance Agreement, and have submitted a deposit to the District in the amount of $50,000 to cover the costs of the appraisal and other on-going staff time to effect the exchange. The landowner will submit additional funds as necessary to cover District staff time costs.

If the Board ultimately approves an exchange, the value of the District's conservation easement over the Safari West and Guttman properties, coupled with any new land or property interest acquired by the District, will be at least equal to the value of the District's interests in the existing conservation easements.

**Prior Board Actions:**

August 18, 1998: Resolution No. 98-1086, approving the First Amendment to the Lang (Safari West) conservation easement
August 27, 1996: Resolution No. 96-1177, approving Easement Acquisition over Lang-Guttman
June 20, 1995: Resolution No. 95-0826, approving Easement Acquisition over Lang (Safari West)

| | |
|---|---|
| **Strategic Plan Alignment** | Goal 2: Economic and Environmental Stewardship |

Approval of this Compliance Agreement would ensure the continued progress towards resolution of the current conservation easement violations, protect additional land through a land exchange, and ensure continued protection of the conservation values of the land.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

There will be no fiscal impact to the District. The landowners have agreed to pay for all costs associated with the Compliance Agreement and the requested exchange of lands.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

1. Compliance Agreement
2. Resolution

| Related Items “On File” with the Clerk of the Board: |
| --- |
| |

# CONSERVATION EASEMENT COMPLIANCE AGREEMENT BETWEEN THE SONOMA COUNTY AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT AND PETER AND NANCY LANG

THIS CONSERVATION EASEMENT COMPLIANCE AGREEMENT ("**Compliance Agreement**") is entered into this ____ day of _____, 2016, by and between the SONOMA COUNTY AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT, a public agency formed pursuant to the provisions of Public Resources Code sections 5500 *et seq.* ("**District**"), and Peter A. Lang and Nancy Anne Lang, as joint tenants (collectively, "**Grantor**"). District and Grantor are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties**."

## R E C I T A L S

A. Grantor owns certain real property (the "**Property**") located in the County of Sonoma, commonly addressed as 3115 Porter Creek Road, Santa Rosa, California, and more particularly identified by Sonoma County Assessor's Parcel Numbers 079-020-048 and 079-020-049. The Property is comprised of two parcels containing an aggregate total of 400 acres.

B. In 1994, the Sonoma County Board of Zoning Adjustments ("**BZA**") granted a use permit (Use Permit 94-201) to allow Grantor to establish a wildlife preserve facility (known as "**Safari West**") on the Property to facilitate the propagation of rare and endangered exotic species and further authorizing Grantor to conduct group tours of the wildlife preserve. Said use permit permitted two types of tours—small open vehicles with up to nine people per tour and walking tours with a maximum of 35 people per group. All tours were to be limited to 62 acres of the Property.

C. On June 13, 1995, Grantor and District entered into that certain "Deed and Agreement By and Between Peter A. Lang and the Sonoma County Agricultural Preservation and Open Space District Conveying a Conservation Easement and Assigning Development Rights" (the "**1995 Conservation Easement**") conveying a conservation easement over a 243-acre portion of the Property identified as Sonoma County Assessor's Parcel Number 079-020-048. The 1995 Conservation Easement was recorded in the Official Documents of Sonoma County as Instrument Number 1995-052751and divided the covered portion of the Property into "Forever Wild" and "Agricultural" areas. The 1995 Conservation Easement limits Grantor's use of the Property subject to the 1995 Conservation Easement and conveys certain development rights to District. Of importance here, the 1995 Conservation Easement expressly prohibits the use of motorized vehicles: (i) in the Agricultural areas *except* by Grantor for agricultural, exotic animal preserve operations, ranching, or attendant residential activities, and property management activities, and (ii) in the Forever Wild area *except* by Grantor for permitted property management activities, for inspections by District, for emergency and fire control purposes, and for uses pursuant to deeded rights that pre-dated the 1995 Conservation Easement.

D. On September 4, 1996, Grantor and District entered into that certain "Deed and Agreement By and Between Peter A. Lang and the Sonoma County Agricultural Preservation

and Open Space District Conveying a Conservation Easement and Assigning Development Rights" (the "**1996 Conservation Easement**") conveying a conservation easement over the remaining 158-acre portion of the Property identified as Sonoma County Assessor's Parcel Number 079-020-049. The 1996 Conservation Easement was recorded in the Official Documents of Sonoma County as Instrument Number 1996-078429 and divided the covered portion of the Property into the same "Forever Wild" and "Agricultural" areas set forth in the 1995 Conservation Easement. The 1996 Conservation Easement similarly limits Grantor's use of the Property covered by the 1996 Conservation Easement and conveys certain development rights to District and contains the same prohibitions described in Recital C, above.

E. On May 14, 1998, the BZA granted Grantor a use permit ("**Use Permit 97-0140**") to permit a campground with 30 tent sites on the Property. Said use permit also included the construction of a commercial kitchen and fire pit, as well as the addition of a __-space parking lot to the Property. Among other things, the conditions of approval imposed by the BZA on Use Permit 97-0140: (i) limited the maximum visitors to the Property to 185, including a maximum of 120 campers, at any one time, and (ii) prohibited the commercial kitchen from providing more than three meals during any one-week period.

F. Following the BZA's approval of Use Permit 97-0140, Grantor and District entered into that certain "First Amendment to Conservation Easement" dated August 28, 1998, and recorded in the Official Records of Sonoma County as Instrument Number 1998-097863 (the "**1998 Amendment**"). The 1998 Amendment modified the 1995 Conservation Easement to permit the establishment of the 30 tent sites authorized by Use Permit 97-0140 and to explicitly allow tours associated with an exotic animal preserve operation within the Agricultural area. The 1998 Amendment made no modifications to the restrictions prohibiting the use of motorized vehicles in the Forever Wild area. The 1995 Conservation Easement, together with the 1998 Amendment thereto and the 1996 Conservation Easement, are hereinafter collectively referred to as the "**Conservation Easements**."

G. Disputes have arisen between District and Grantor regarding the consistency of certain activities with the terms of the Conservation Easements as described in the following recitals. As used in this Compliance Agreement, the term "**Disputes**" shall mean and include all the contentions and assertions described in these recitals with respect to the restrictions imposed by the Conservation Easements, as well as the underlying known and unknown facts and circumstances of those contentions and assertions.

H. District contends, among other things, that:

(i) The food service being provided by the existing restaurant far exceeds the food service permitted by the Conservation Easements. The existing restrictions in the Conservation Easements allow food service only "in association with the operation of the camp sites." (*See* 1998 Amendment, Exhibit B, Subsection A, ¶ 5.) Grantor has been providing food service to other visitors who are not overnight guests of Safari West for a number of years and in direct contravention of the terms of the Conservation Easements.

(ii) Sale of items in the gift shop violates the terms of the Conservation Easements. The Conservation Easements restrict such sales to "crops and products harvested and produced principally on the Property" unless Grantor has obtained the prior written consent of District to sell products that are not "food, fiber, or plant material." (*See* 1995 Conservation Easement, Exhibit B, Subsection A, ¶ 3.) The majority of items sold in the gift shop appear to be neither produced nor harvested on the Property and, in fact, are products from other countries. District has never consented to the sale of such items. Any consent, if granted, would require that the items sold in the gift shop be associated with the permitted exotic animal preserve operation and the conservation purpose of the Conservation Easements. The existing sales go well beyond items associated with the Safari West operations.

(iii) Use of the Forever Wild area for safari tours is prohibited by the express language of the Conservation Easements except for permitted property management activities, District inspections, and emergency and fire control purposes. (1998 Amendment, Exhibit C, Subsection B, ¶ 6; and 1996 Conservation Easement Exhibit C, Subsection B, ¶ 6.) The current tours through the Forever Wild area are neither permitted under nor pre-date the Conservation Easements.

The Disputes described in this Recital H are sometimes referred to as the "**Use Disputes**."

I. Grantor conversely asserts that its activities are consistent with and fully comply with the provisions of the Conservation Easements.

J. In addition to involving activities on the Property that District contends violate the terms of the Conservation Easements, the Use Disputes also exceed the activities authorized by the County of Sonoma ("**County**") through Use Permit 94-201 and Use Permit 97-0140. In 2014, Grantor submitted an application to the Sonoma County Permit and Resource Management Department ("**PRMD**") to modify the existing use permit to allow tours of Safari West to include a small corridor into the Forever Wild area covered by the 1995 Conservation Easement, increase the maximum daily occupancy from 185 guests to 400 guests, and allow three meals a day to be served by the restaurant ("**Application UPE14-0082**"). District submitted comments to PRMD expressing the concerns set forth in Recital H, above, and raising an additional concern about the request to increase the maximum daily occupancy, asserting that the proposed increase to 400 guests per day would violate the applicable provisions of the Conservations Easements and opining that the additional guests may exceed the bounds of "non-intrusive" usage and impair the conservation purposes of the Conservation Easements. (1998 Amendment, Exhibit B, Subsection A, ¶ 7.)

K. Separate and apart from the Use Disputes, the December 2014 Annual Monitoring Visit disclosed two other outstanding issues. First, the 2014 Annual Monitoring Visit found severe overgrazing in the lower portion of the zebra pasture, which is protected by the 1996 Conservation Easement ("**Overgrazing Issue**"). Second, the 2014 Annual Monitoring Visit

identified the potential for sediment associated with major road erosion sites in the upper zebra pasture and muddy conditions in two animal pens to enter the Mark West Creek tributary stream located on the Property, thereby degrading the natural resources protected by the 1995 Conservation Easement (as modified by the 1998 Amendment) ("**Road Erosion Issue**"). The Use Disputes, the Overgrazing Issue, and the Road Erosion Issue are collectively referred to hereafter as the "**Disputes**."

L. Grantor has been working with the University of California Cooperative Extension to review and modify the grazing practices for the Safari West exotic animal operations. The intent of this effort is for Grantor to prepare and submit an updated grazing plan to District. However, it has been more than a year since District notified Grantor of the Overgrazing Issue, and an updated grazing plan has not yet been submitted to the District for its review and approval.

M. Grantor commissioned a road assessment to identify work necessary to solve the Road Erosion Issue and related sedimentation. That assessment identified more than $400,000 in necessary road repairs. To date, only a minimum of repairs have been undertaken by Grantor to correct the Road Erosion Issue. The Road Erosion Issue still persists, and corrective action is still necessary to prevent the degradation of the natural resources on the Property.

N. In an effort to resolve the Disputes and facilitate the desired operational modifications of Grantor while preserving the continued viability of the conservation purposes of the Conservation Easements, the Parties met and conferred on several occasions during 2015 and have reached a potential solution to resolve the Disputes. Each Party disputes and denies each of the other Party's claims, allegations, contentions and assertions. Without admitting liability or wrongdoing of any kind, the Parties desire by this Compliance Agreement to, among other things:

(i) Allow Grantor to proceed with Application UPE14-0082 before the County; and

(ii) Facilitate the modification of the Conservation Easements by providing for:

a. The delineation of an area on the Property that encompasses the gift shop, restaurant, and other associated buildings and the XX space parking area that is used by guests attending events that take place in the excluded area and removing that area from the Conservation Easements completely;

b. The creation of a special use corridor in the Forever Wild areas of the Conservation Easements that would encompass just the roads on which safari tours into the Forever Wild areas would be allowed;

c. The identification of land of equal or greater value to the land encompassing the gift shop and restaurant to be removed from the Conservation Easement and the special use corridor, as described in paragraphs (a) and (b) above, that could be exchanged for the areas removed from Conservation Easements in accordance with the requirements of Public Resources Code sections 5540 and 5540.5;

d. The recission and replacement of the 1995 Conservation Easement, the 1996 Conservation Easement, and the 1998 Amendment with a single new Amended and Restated Conservation Easement covering the entire Property that will supersede the existing Conservation Easements; and

(iii) Provide for the formal modification of the Conservation Easements to allow for the increased activities proposed under application 14-0082; and

(iv) Provide a deadline for the submission of an Updated Grazing Plan to address the Overgrazing Issue; and

(v) Provide for a plan to resolve the Road Erosion Issue and related sedimentation to ensure the continued preservation and viability of the natural resources protected by the Conservation Easements; and

(vi) Finally and completely resolve the Disputes, and all claims, demands, assertions and liability arising from and in any manner related to the Disputes.

O. On November 5, 2015, the BZA approved Application UPE14-0082 ("**Use Permit 14-0082**") modifying the previously granted use permits to: (i) allow tours of Safari West to include a small corridor into the Forever Wild area covered by the 1995 Conservation Easement; (ii) increase the maximum daily occupancy from 185 guests to 400 guests; (iii) increase permitted meal service at the restaurant to three meals a day; and (iv) permit 10 events per year on the Property. Said approval was subject to 39 conditions of approval, including Condition No. 32 which requires Grantor to execute this Compliance Agreement with District in order to vest its rights under Use Permit 14-0082.

P. District and Grantor desire to modify the Conservation Easements in order to, among other things: (i) diligently pursue and facilitate the exchange of land described in Recital K, above; (ii) permit the activities on the Property authorized by Use Permit 14-0082; and (iii) finally and completely resolve the Disputes, and all claims, demands, assertions and liability arising from and in any manner related to the Disputes.

Q. The additional activities authorized by Use Permit 14-0082 have been environmentally reviewed by the County in accordance with the requirements of the California Environmental Quality Act ("**CEQA**") and a negative declaration was adopted. As a responsible agency, District has reviewed the initial study and negative declaration and concurs with the findings of the County. Therefore, the negative declaration adopted by the County represents the independent judgment of the District and there is no need for further environmental review in connection with the approval and entry of this Compliance Agreement. The documents and other material which constitute the record on which this decision is based are located in the Sonoma County Permit and Resource Management Department in the custody of the Director of PRMD.

R. On _____, 2016, at a duly noticed public meeting, the District Board of Directors adopted Resolution No. _____ approving this Compliance Agreement, a copy of which resolution is attached as Exhibit A.

A G R E E M E N T

In this factual context and intending to be legally bound, the Parties agree as follows:

## ARTICLE 1
## GENERAL PROVISIONS

1.1 Incorporation of Recitals.

The foregoing recitals are true and correct and are incorporated into and form a material part of this Compliance Agreement.

1.2 Property Description and Binding Covenants.

The Property is that property described in the Conservation Easements and more commonly identified by Sonoma County Assessor's Parcel Numbers 079-020-048 and 079-020-049. Grantor represents that it has a legal or equitable interest in the Property. The Parties expressly intend and have determined that the provisions of this Compliance Agreement shall constitute covenants which shall run with the Property, and the burdens and benefits hereof shall bind and inure to all successors in interest to the parties hereto as more fully provided in Section 8.5 below.

1.3 Term.

The term of this Compliance Agreement shall commence upon _____, 2016 (the "**Effective Date**") and shall continue in full force and effect until the Conservation Easements are formally modified, unless earlier terminated as provided herein. Upon the expiration of said term, this Compliance Agreement shall be deemed terminated and of no further force and effect.

1.4 Sale or Assignment.

Grantor shall not have the right to sell, assign, or transfer its interest under this Compliance Agreement without the prior written consent of District, which consent shall not be unreasonably withheld or delayed. Grantor shall notify District not less than thirty (30) days in advance of any proposed sale, assignment, or transfer, and shall provide written notice of the proposed terms of such sale to District's General Manager. Said written notice shall include an express written assumption by such assignee or transferee, in a form reasonably satisfactory to District Counsel, of the obligations and other terms and conditions of this Compliance Agreement with respect to the Property or such portion thereof sold, assigned, or transferred. Any such assignee or transferee shall be obligated and bound by the terms and conditions of this Compliance Agreement and the Conservation Easements, and shall be the beneficiary thereof and a party thereto. Any such assignee or transferee shall observe and fully perform all of the duties and obligations of Grantor contained in this Compliance Agreement and the Conservation Easements.

1.5 Amendment of Agreement.

This Compliance Agreement may only be amended by written instrument signed by both the Parties hereto.

1.6 Waiver of Provisions.

No waiver of any provision of this Compliance Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. No waiver of any right or remedy in respect of any occurrence or event shall be deemed a waiver of any right of remedy in respect of any other occurrence or event.

## ARTICLE 2
## MODIFICATION OF THE CONSERVATION EASEMENTS AND OTHER CORRECTIVE ACTIONS

2.1 Modification of Existing Conservation Easements.

The Parties shall diligently pursue and prosecute to completion the steps necessary to effect the exchange of land described in Recital K and formally rescind, replace, and supersede the Conservation Easements with and Amended and Restated Conservation Easement covering the Property. At a minimum, the Parties acknowledge and agree that this process will involve the following steps:

- The delineation of an area on the Property that encompasses the gift shop, restaurant, and other associated buildings and the XX space parking area that is used by guests attending events that take place in the excluded area that would be removed from the Conservation Easements completely (the "**Commercial Exclusion Area**").

- The creation of a special use corridor in the Forever Wild area encompassing just the roads on which safari tours into the Forever Wild areas would be allowed so the Conservation Easements could be modified to expand the permitted uses within the Forever Wild area to allow for such increased activity within the designated corridor (the "**Special Use Corridor**").

- The appraisal of both the Commercial Exclusion Area and the Special Use Corridor to establish the value of: (i) the area to be removed from the Conservation Easements and (ii) the impact on the value of the Forever Wild area associated with the increased activity on the Special Use Corridor.

- The identification of land of equal or greater value that could be exchanged for the Commercial Exclusion Area and the diminution in value associated with the increase activity in the Forever Wild area.

- The submission of a formal request to modify the Conservation Easements as described above.

- The formal processing of the request to modify the Conservation Easements to allow for the increased activities in the Forever Wild area and to authorize the exchange of land to allow for the removal of the Commercial Exclusion Area from the existing easements.

The Parties acknowledge and agree that completing this process will require the Parties to cooperate and coordinate with one another in good faith to complete the exchange of land and modification of the Conservation Easements contemplated by this Compliance Agreement. Each Party represents and warrants that it shall cooperate throughout the life of this Compliance Agreement and shall take such actions and shall permit such investigations and review as may be reasonably necessary to complete the tasks specified in Articles 3 and 4.

2.2 Effect of Failure to Modify Conservation Easements.

The Parties acknowledge and agree that the actions required to implement this Compliance Agreement will take approximately 18 to 24 months to complete. The Parties further acknowledge and agree that Grantor's rights under Use Permit 14-0082 are expressly conditioned upon Grantor obtaining the modification of the Conservation Easements as described herein. Accordingly, Grantor acknowledges and agrees that its failure to: (i) fulfill its obligations under this Compliance Agreement, as determined by District's General Manager in his/her reasonable discretion, or (ii) obtain the approval of District's Board of Directors to the proposed modification of the Conservation Easements on or before _____, 2018, or any extension agreed to by District in writing, shall constitute a violation of its conditions of approval under Use Permit 14-0082. Such failure may subject said Use Permit to revocation by the County of Sonoma and could further subject Grantor to prosecution for failure to comply with the terms of the existing Conservation Easements.

2.3 Updated Grazing Plan.

Grantor acknowledges and agrees that the overgrazing of various areas of the Property identified during the 2014 Annual Monitoring Visit is a serious problem and that the continued overgrazing of such areas compromises the viability of the natural resources subject to the Conservation Easements. District acknowledges that Grantor has been working with University of California Cooperative Extension to review and modify Grantor's grazing practices and to update the Grazing Plan required under the Conservation Easements. In addition, Grantor has recently fenced off one area of concern. However, the problem has persisted without sufficient modification for more than a year after written notification to Grantor of the corrective action necessary to remedy the Overgrazing Issue. Accordingly, the Parties agree that it is imperative that Grantor submit an updated Grazing Plan to District for its review and approval as soon as possible, but in no event later than _____, 2016.

2.4 Road Erosion and Sedimentation.

Similarly, Grantor acknowledges and agrees that the road erosion and related sedimentation identified prior to the 2014 Annual Monitoring Visit also constitutes a serious problem and that the continued lack of remedial action could degrade the water quality of the tributary stream and undermine the viability of the natural resources protected by the Conservation Easements. District acknowledges Grantor's efforts in commissioning the road assessment to identify needed

remedial work to resolve the road erosion issues and further acknowledges Grantor's efforts to implement some of the recommended improvements. However, Grantor has failed to implement all of the necessary improvements identified by said road assessment or identify a plan for taking corrective action to repair the existing road erosion and prevent additional deterioration in the future. The Road Erosion Issue still persists and poses a continued threat to the water quality of the tributary stream and the viability of the natural resources protected by the Conservation Easements. Accordingly, the Parties agree that it is imperative that Grantor submit a plan identifying the measures Grantor will take to correct the road erosion that has occurred to District for its review and approval as soon as possible, but in no event later than _____, 2016.

## ARTICLE 3
## OBLIGATIONS OF GRANTOR

Grantor shall be responsible for the completion of the tasks specified in this Article 3. Failure of Grantor to complete any of the tasks set forth below or to cooperate with District or provide any required access to District or District's employees, consultants, or agents shall relieve District of any obligation to complete its tasks. Grantor shall do all of the following:

1. Allow District and its employees, contractors, and agents to inspect the Property and perform such studies, investigations, and appraisals as are reasonably necessary to delineate the Commercial Exclusion Area and the Special Use Corridor described in Article 2.

2. Consult with District staff and approve the final delineation of Commercial Exclusion Area and Special Use Corridor.

3. Identify land of equal or greater value to be exchanged for the Commerical Exclusion and the Special Use Corridor, and allow District and its employees, contractors, and agents to inspect said land and perform such studies, investigations, and appraisals as are reasonably necessary to determine if the identified lands satisfy the District's statutory obligations for an exchange.

4. Submit a formal written request to the District to modify the Conservation Easements in a form approved by the District.

5. Pay all costs associated with modifying the Conservation Easements, including, without limitation, District staff time, cost of appraisals, land surveys, and other investigations/studies, cost of environmental reviews (if any).

6. Submit such additional information and materials as District determines are reasonably necessary to allow District to process the request to modify the Conservation Easements.

7. Submit an updated Grazing Plan to District on or before _____, 2016.

8. Submit a plan for addressing road erosion and sedimentation issues on the Property on or before _____, 2016.

## ARTICLE 4
## OBLIGATIONS OF DISTRICT

4.1 District Responsibilities.

District shall be responsible for the completion of the tasks specified in this Article 4. District shall act in good faith to accomplish the intent of this Compliance Agreement, to reasonably delineate the areas to be removed from the Conservation Easements, to process the formal request to modify the Conservation Easements, and to ensure that Grantor complies with the terms of this Compliance Agreement and the terms and conditions of the Conservation Easements. District shall cooperate with Grantor to accomplish the intent of this Compliance Agreement, including prompt and timely action and assistance in delineating the Commercial Exclusion Area and Special Use Corridor, consulting with Grantor as reasonably necessary, and processing the request to modify the Conservation Easements. District shall do the following:

1. Inspect the Property and perform such studies and investigations as are reasonably necessary to delineate the Commercial Exclusion Area and the Special Use Corridor described in Article 2.

2. Consult with Grantor and obtain Grantor's approval for the final delineation of Commercial Exclusion Area and Special Use Corridor.

3. Obtain an appraisal to establish the value of the Commercial Craveout Area and the impact of the Special Use Corridor on the existing value of the Forever Wild Area.

4. Work with Grantor to identify land of equal or greater value to be exchanged for the Commercial Exclusion Area and the Special Use Corridor.

5. Inspect the land identified in item (4), above, and perform such studies, investigations, and appraisals as are reasonably necessary to determine if the identified lands satisfy the District's statutory obligations for an exchange.

6. Diligently process Grantor's formal request to modify the Conservation Easements.

7. Diligently review Grantor's updated Grazing Plan in accordance with the procedures set forth in the Conservation Easements.

8. Diligently review Grantor's plans for addressing road erosion and sedimentation in accordance with the procedures set forth in the Conservation Easements.

4.2 District's Good Faith In Processing.

District agrees that it will accept, in good faith, for processing, review, and action Grantor's request to modify Conservation Easements. In connection with any approval which the District is permitted or has the right to make under this Compliance Agreement relating to the Property and the Conservation Easements, District shall exercise its discretion or take action in a manner which is as expeditious as possible. Notwithstanding the foregoing, nothing in this Compliance Agreement shall be construed to commit District in advance to approve any particular permit; and this Compliance Agreement does not constrain the District's or its Board of Directors' discretion, acting as a government, with respect to any request to modify the Conservation Easements or effect the exchange contemplated herein, and nothing contained herein shall be construed to mean that District is agreeing or has agreed to exercise its discretionary authority in support of the request to modify the Conservation Easements or finalize the exchange that may be required for Grantor to vest its rights under Use Permit 14-0082.

## ARTICLE 5
## WAIVER AND RELEASE OF CLAIMS

5.1 Application

The waiver and release provisions set forth in this Article 5 shall only apply if Grantor fulfills its obligations under this Compliance Agreement and obtains the approval of District's Board of Directors to the proposed modification of the Conservation Easements and exchange of land on or before the deadline set forth in Section 2.2 of this Agreement.

5.2 Release, Waiver, and Covenant Not to Sue.

District and Grantor do hereby completely release, waive and forever discharge one another, their predecessors and successors-in-interest, heirs, assigns, past, present, and future, elected and appointed officials, employees, staff, principals, agents, officers or directors, managers, attorneys, insurers and all other persons or entities in any manner related thereto or acting on their behalf, from any and all claims, demands, actions, proceedings and causes of action of any and every sort, whether known or unknown, arising out of or relating to the Disputes. The Parties further covenant not to sue one another for claims, damages or other relief arising from or in any manner connected with the Disputes, and promise and agree that they will not file, participate in, or instigate the filing of any claims and/or causes of action in any state or federal court or any proceedings before any local, state, or federal agency, against the other arising out of the Disputes.

5.3 Release and Waiver of Unknown Claims.

The Parties intend this Release and Waiver of Claims to be and constitute a full general release and to constitute a full and final accord and satisfaction extending to all claims arising out of or relating to the Disputes, whether the same are known, unknown, suspected or anticipated, unsuspected or unanticipated. Accordingly, the Parties, by initialing below and signing this Compliance Agreement, certify that they have read, understand and expressly release and waive the provisions of California Civil Code section 1542, which reads as follows:

> **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.**

The Parties understand and acknowledge that the significance and consequence of this release and waiver of California Civil Code Section 1542 is that even if the Parties should eventually suffer additional damages or losses arising out of or relating to the Disputes, or should there exist other undisclosed obligations or liabilities arising out of or relating to the Disputes, the Parties may not make any claim for those damages, losses or obligations.

DISTRICT: _____ GRANTOR: _____/_____

5.4 Indemnification and Defense from Third Party Claims Regarding the Disputes.

If any other person or entity initiates any lawsuit, arbitration or proceeding arising from or connected to the Disputes and/or this Waiver and Release of Claims against District, Grantor, and each of them, shall defend District, with counsel acceptable to District, and shall fully and completely indemnify District against and from any and all claims, demands, damages, judgments, causes of action against District arising from or connected to the Disputes and/or this Waiver and Release of Claims.

5.5 Non-Admission of Liability.

The Parties acknowledge and agree that this Waiver and Release of Claims constitutes a compromise of disputed claims and fully and finally settles all claims as asserted by the Parties arising out of or relating to the Disputes. This Waiver and Release of Claims has been entered into for the purpose of buying peace and to prevent further involvement arising from the Parties' claims. Nothing contained herein, including without limitation, the payment of any consideration hereunder or the waiver of any rights hereunder, shall be interpreted or construed to be an admission on the part of the Parties. Except for the obligations created by this Compliance Agreement, the Parties expressly deny any and all liability associated with or related, whether directly or indirectly, to the Disputes.

5.6 No Filings.

The Parties represent that neither has filed any lawsuit, claim, charge, or complaint against the other with any local, state, or federal agency or court.

5.7 Legal Advice on Waiver and Release.

Each Party warrants and represents that prior to executing this Compliance Agreement, said Party has relied upon the advice of legal counsel of said Party's choice with respect to the substance of the waiver and release of claims embodied in this Article 5. The Waiver and Release of Claims set forth in this Article 5, its text and other consequences and risks have been completely explained to the Parties by their respective counsel and the Parties warrant and represent that they understand and accept the terms of this Settlement Agreement and intend, by their initials below and their signatures on this Compliance Agreement, to enter into and be bound hereby.

DISTRICT: _____ GRANTOR: _____/_____

## ARTICLE 6
## INDEMNITY

6.1 Indemnity and Hold Harmless Covenant.

Grantor hereby agrees to and shall hold District and its elected and appointed boards, commissions, officers, agent, and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage, which may arise from Grantor's or Grantor's contractors' or subcontractors', agents', or employees' operations under this Compliance Agreement, whether such operations be by Grantor or by any of Grantor's contractors, subcontractors, or by any one or more persons directly or indirectly employed by or acting as agent for Grantor or any of Grantor's contractors or subcontractors. Grantor agrees to and shall defend District and its officers, agents, employees, partners, and representatives from actions for damages caused or alleged to have been caused by reason of Grantor's activities in connection with the Property.

6.2 Legal Challenges.

In the event of any legal action instituted by a third party or any governmental entity or official arising out of the approval, execution, or implementation of this Compliance Agreement (exclusive of any such actions brought by Grantor), Grantor agrees to and shall cooperate fully and join in the defense by District of such action, provided, however, that District and Grantor shall each bear their own respective costs, if any, arising from such defense.

6.3 Survival.

The provisions of this Article 6 shall survive the expiration or earlier termination of this Compliance Agreement.

## ARTICLE 7
## DEFAULT; TERMINATION; ANNUAL REVIEW

7.1 Default.

7.1.1 Remedies In General. As part of the bargained for consideration for this Compliance Agreement, the Parties agree that any action or proceeding to cure, correct or remedy any default or to enforce any covenant or promise under this Compliance Agreement

shall be limited solely and exclusively to those remedies expressly provided. The Parties agree that, following notice and expiration of any applicable cure periods, either Party may institute legal or equitable proceedings to cure, correct, or remedy any default, or to enforce any covenant or promise herein, enjoin any threatened or attempted violation, or enforce by specific performance, declaratory relief or writ of mandate the obligations and rights of the Parties. In no event shall either Party, or any of their officers, agents, representatives, officials, employees or insurers, be liable to the other Party for damages, whether actual, consequential, punitive or special, for any breach or violation of this Compliance Agreement. Any legal action to interpret or enforce the provisions of this Compliance Agreement shall be brought in the Superior Court for Sonoma County, California.

7.1.2 Default; Cure Period. Subject to extensions of time by mutual consent in writing of the Parties, breach of, failure, or delay by either Party to perform any term or condition of this Compliance Agreement shall constitute an event of default. In the event of any alleged default of any term, condition, or obligation of this Compliance Agreement, the Party alleging such default shall give the defaulting Party notice in writing specifying the nature of the alleged default and the manner in which such default may be satisfactorily cured ("**Notice of Breach**"). The defaulting Party shall cure the default within 60 days following receipt of the Notice of Breach, provided, however, if the nature of the alleged default is non-monetary and such that it cannot reasonably be cured within such 60-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure, provided that if the cure is not diligently prosecuted to completion, then no additional cure period shall be provided. If the alleged failure is cured within the time provided above, then no default shall exist and the noticing Party shall take no further action to exercise any remedies available hereunder. If the alleged failure is not cured, then a default shall exist under this Compliance Agreement and the non-defaulting Party may exercise any of the remedies available.

During any such sixty (60) day cure period, the Party charged with an event of default shall not be considered in default hereunder. Upon the expiration of the cure period, if such default has not been cured, or is not being diligently cured, the other Party may proceed as provided below.

7.1.3 Procedure for Default by Grantor. If Grantor is alleged to be in default hereunder by District then after notice and expiration of the cure period specified above, District may institute legal proceedings against Grantor pursuant to this Compliance Agreement, and/or give notice of intent to terminate this Compliance Agreement and institute legal proceedings to enforce the terms and conditions of the Conservation Easements. Following notice of intent to terminate this Compliance Agreement as provided above, the matter shall be scheduled for consideration and review at a duly noticed public meeting of the District Board of Directors within 60 calendar days following the date of delivery of such notice (the "**Default Hearing**"). Grantor shall have the right to offer written and oral testimony prior to or at the time of said public hearing. If the Board determines that a default has occurred and is continuing, and elects to terminate the Agreement, District shall give written notice of termination of the Agreement to Grantor by certified mail and the Agreement shall thereby be terminated 30 days thereafter; provided, however, that if Grantor files an action to challenge District's termination of the Agreement within such 30-day period, then the Agreement shall remain in full force and effect

unless and until a trial court has affirmed District's termination of the Agreement and all appeals have been exhausted (or the time for requesting any and all appellate review has expired).

7.1.4 Procedure for Default by District. If the District is alleged by Grantor to be in default under this Compliance Agreement, then after notice and expiration of the cure period and completion of the dispute resolution procedures below, Grantor may enforce the terms of this Compliance Agreement by an action at law or in equity, subject to the limitations set forth above.

7.2 Excusable Delay; Extension of Time of Performance.

In addition to specific provisions of this Compliance Agreement, neither Party shall be deemed to be in default where delays in performance or failures to perform are due to, or a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, enactment or imposition against the Project of any moratorium, or any time period for legal challenge of such moratorium by Grantor, or similar and substantiated basis for excused performance not within the control of the Party to be excused. Litigation by a third party attacking the validity of this Compliance Agreement or any of the Conservation Easements or implementing or subsequent approvals, or any permit, ordinance, entitlement or other action of a governmental agency other than the District necessary for the operation of Safari West on the Property, shall be deemed to create an excusable delay as to Grantor. Upon the request of either Party, an extension of time for the performance of any obligation whose performance has been so prevented or delayed shall be memorialized in writing. District's General Manager is authorized on behalf of District to enter into such an extension. The term of any such extension shall be equal to the period of the excusable delay, or longer, as may be mutually agreed upon.

## ARTICLE 8
## MISCELLANEOUS

8.1 Defined Terms; Citations. Unless the context obviously indicates otherwise, the capitalized terms used in this Compliance Agreement shall have the meaning given them in this Compliance Agreement.

8.2 Notices. All notices, consents, requests, demands, or other communications to or upon the respective Parties shall be in writing and shall be effective for all purposes: (A) upon receipt on any District business day before 5:00 PM local time and on the next District business day if received after 5:00 PM or on other than a District business day, including without limitation, in the case of (i) personal delivery or (ii) delivery by messenger, express or air courier or similar courier, or (B) three (3) business days after being duly mailed to the principal offices of the intended Party via certified mail, return receipt requested, postage prepaid, all addressed as follows:

| | |
|---|---|
| If to District: | Sonoma County Agricultural Preservation and Open Space District<br>Attention: General Manager<br>747 Mendocino Avenue, Suite 100<br>Santa Rosa, California 95401-4850 |
| *With a mandatory copy to:* | Robert Pittman, District Counsel<br>Sonoma County Counsel's Office<br>575 Administration Drive, Room 105-A<br>Santa Rosa, California 95403 |
| If to Grantor: | Peter and Nancy Lang<br>3115 Porter Creek Road<br>Santa Rosa, California 95404 |

Either Party may change its address by providing five (5) business days' prior written notice to the other Party in the manner set forth above.

8.3 Authority to Enter into Compliance Agreement. By executing this Compliance Agreement, the signatory for each Party hereto warrants and represents that he/she has the authority and/or has obtained all necessary approvals to enter into this Compliance Agreement on behalf of and bind the Party on whose behalf he/she has executed this Compliance Agreement.

8.4 Relationship of Parties. It is specifically understood and agreed by and between the Parties that the operation of the Property and the wildlife preserve located thereon is a separately undertaken private development. No partnership, joint venture, or other association of any kind between Grantor and District is formed by this Compliance Agreement, and District and Grantor expressly disclaim the existence of any form of agency relationship, joint venture or partnership between the Parties. The only relation between District and Grantor is that of a governmental entity regulation the development of private property and the owner of such private property.

8.5 Covenants Running with the Land. All of the provisions contained in this Compliance Agreement shall be binding upon and benefit the Parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of, or interest in, the Property, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Compliance Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, Civil Code section 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Property, as appropriate, runs with the Property and is for the benefit of and binding upon the owner, Grantor, and each successive owner of all or a portion of the Property, during its ownership of such property.

8.6 Other Necessary Acts. Each Party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out the Project

Approvals and this Compliance Agreement and to provide and secure to the other Party the full and complete enjoyment of its rights and privileges under this Compliance Agreement.

8.7 Governing Law, Venue, and Construction. The laws of the State of California, without regard to conflict of law principles, shall govern the interpretation and enforcement of this Compliance Agreement. Any action to enforce or interpret this Compliance Agreement shall be filed in the Superior Court for Sonoma County, California. This Compliance Agreement has been reviewed and revised by legal counsel for both District and Grantor, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Compliance Agreement.

8.8 Non-Liability. No member, official, or employee of District shall be personally liable to Grantor, or any successor in interest, in the event of any default or breach by District or for any amount which may become due to Grantor or its successors, or on any obligations under the terms of this Compliance Agreement. Grantor hereby waives and releases any claim it may have against the members, officials or employees of District with respect to any default or breach by District or for any amount which may become due to Grantor or its successors, or on any obligations under the terms of this Compliance Agreement.

8.9 No Third Party Beneficiary. This Compliance Agreement is made solely and specifically among and for the benefit of the Parties, and their respective successors and assigns subject to the express provisions relating to successors and assigns, and no other party will have any rights, interest or claims or be entitled to any benefits under or on account of this Compliance Agreement as a third party beneficiary or otherwise.

8.10 Time of Essence. The Parties hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that failure to timely perform any of the terms, conditions, obligations or provisions hereof by either party shall constitute a material breach of and a non-curable (but waivable) default under this Compliance Agreement by the Party so failing to perform.

8.11 Headings. Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the Parties and are not a part of the Agreement. Whenever required by the context of this Compliance Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. Unless otherwise indicated, all references to paragraphs, sections, subparagraphs and subsections are to this Compliance Agreement.

8.12 Advice of Legal Counsel. Each Party represents and warrants to the other the following: they have carefully read this Compliance Agreement, including the waiver and release embodied in Article 5, and in signing this Compliance Agreement, they do so with full knowledge of any right which they may have; they have received independent legal advice from their respective legal counsel as to the matters set forth in this Compliance Agreement, or have knowingly chosen not to consult legal counsel as to the matters set forth in this Compliance Agreement; and, they have freely signed this Compliance Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other Party, or their respective agents, employees, or attorneys, except as specifically set forth in this Compliance Agreement, and without duress or coercion, whether economic or otherwise.

8.13 No Inducement. The Parties acknowledge, warrant and represent that no promises, inducements or agreements not expressly contained herein have been made to enter into this Compliance Agreement and that this Compliance Agreement, including the Waiver and Release of Claims herein, constitute the entire agreement between the Parties, are contractual and binding and are not merely recitals.

8.14 Severability. If any term, provision, condition or covenant of this Compliance Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Compliance Agreement, or the application of the term, provision, condition, or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by Law.

8.15 Entire Agreement. This Compliance Agreement constitutes in full, the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements of the Parties with respect to all or any part of the subject matter of this Compliance Agreement. No oral statements or prior written matter not specifically incorporated in this Compliance Agreement shall be of any force and effect. No amendment of, supplement to or waiver of any obligations under this Compliance Agreement will be enforceable or admissible unless set forth in a writing approved by the District and Grantor.

8.16 Counterparts. This Compliance Agreement may be executed in any number of identical counterparts and each counterpart shall be deemed to be an original document. All executed counterparts together shall constitute one and the same document, and any counterpart signature pages may be detached and assembled to form a single original document. This Compliance Agreement may be executed by signatures transmitted by facsimile, adobe acrobat or other electronic image files and these signatures shall be valid, binding and admissible as though they were ink originals.

8.17 Recordation of Compliance Agreement. No later than ten (10) days after District enters into this Compliance Agreement, the District shall record an executed copy of this Compliance Agreement in the Official Records of Sonoma County.

*—THIS SPACE INTENTIONALLY LEFT BLANK—*

*—SIGNATURES FOLLOW ON NEXT PAGE—*

## ARTICLE 9
## SIGNATURES

This Compliance Agreement has been entered into by and between Grantor and the District as of the Effective Date.

**DISTRICT:**

**SONOMA COUNTY AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT**, a public agency formed pursuant to Public Resources Code sections 5500 *et seq.*

By: _____
William J. Keene, General Manager

APPROVED AS TO FORM:

District Counsel

By: _____
_____
Robert Pittman,
Assistant County Counsel

**GRANTOR:**

**PETER and NANCY LANG,** joint tenants

By: _____
Name: _____
Its: _____

APPROVED AS TO FORM:

By: _____
_____

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☑ Unanimous vote

**Resolution Of The Board Of Directors Of The Sonoma County Agricultural Preservation and Open Space District, State Of California, Approving A Conservation Easement Compliance Between The District And Peter And Nancy Lang (Compliance Agreement); Authorizing And Directing The District's General Manager To Execute The Compliance Agreement On Behalf Of The District; And Authorizing All Other Actions Necessary To Complete The Exchange Contemplated By The Compliance Agreement.**

**Whereas,** Peter and Nancy Lang (Landowners) own certain real property (the "Property") located in the County of Sonoma, commonly addressed as 3115 Porter Creek Road, Santa Rosa, California, and more particularly identified by Sonoma County Assessor's Parcel Numbers 079-020-048 and 079-020-049, which property is comprised of two parcels containing an aggregate total of 400 acres; and

**Whereas,** the District holds a conservation easement over the Lang-Safari West (Safari West) property, and a second conservation easement over the Lang-Guttman (Guttman) property; and

**Whereas,** each conservation easement is divided into Agricultural areas and Forever Wild areas; and

**Whereas,** District staff have observed and documented various activities and uses on the Property that exceed the uses and activities permitted by the Conservation Easements and constitute violations of the easement terms; and

**Whereas,** said uses and activities also exceed the uses permitted by the Use Permit issued in 1994 by the Sonoma County Board of Zoning Adjustments (BZA); and

**Whereas,** in November 2015, the BZA approved a modification to the Use Permit that expanded the permissible uses on site to conform to actual operations, subject to conditions (Use Permit 14-0082); and

**Whereas,** one of those conditions required the Landowners to enter into a Conservation and Compliance Agreement (Compliance Agreement) with the District to ensure that the Landowners pursued the necessary modifications to the existing Conservation Easements to resolve the outstanding easement violations and allow for the activities and uses authorized by the Use Permit as modified; and

**Whereas,** the District and the Landowners desire to enter into the Compliance Agreement to pursue modification of the existing Conservation Easements in order to, among other things: (i) facilitate the exchange of land described in Recital K of the Compliance Agreement; (ii) permit the activities on the Property authorized by Use Permit 14-0082; and (iii) finally and completely resolve the outstanding violations, and all claims, demands, assertions and liability arising from and in any manner related to said violations.

**Now, Therefore, Be It Resolved** that this Board of Directors hereby finds, determines, declares and orders as follows:

1. Truth of Recitals. That the foregoing recitations are true and correct.

2. Compliance Agreement. That the Conservation Easement Compliance Agreement by and between the District and the Landowners (Compliance Agreement) is hereby approved and the District's General Manager is authorized and directed to execute the Compliance Agreement on behalf of the District.

3. Further Actions. That the District's General Manager is hereby authorized and directed to take all steps necessary to effectuate the resolution embodied in the Compliance Agreement.

**Directors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 2**
(This Section for use by Clerk of the Board Only.)

| | |
|---|---|
| **To:** | Board of Directors, Sonoma County Water Agency |
| **Board Agenda Date:** December 13, 2016 | **Vote Requirement:** Majority |
| **Department or Agency Name(s):** | Sonoma County Water Agency |
| **Staff Name and Phone Number:** | **Supervisorial District(s):** |
| Bill Christoffersen 547-1967 | Third |
| **Title:** | Easement Agreement with City of Santa Rosa – Steele Creek |

**Recommended Actions:**

Adopt a resolution:

A) Determining that the grant of an easement to the City of Santa Rosa for an existing sewer main along Steele Creek in Santa Rosa, California is in the public interest and that the interest in land conveyed will not substantially conflict or interfere with the use of the property by the Water Agency
B) Authorizing the General Manager of the Water Agency to file a Notice of Exemption in accordance with the California Environmental Quality Act
C) Authorizing the Chair to execute the easement agreement

**Executive Summary:**

In 2015 the City of Santa Rosa installed a sewer main on Water Agency property. Water Agency staff have determined that the construction does not interfere with the use of the property for flood control purposes. This item requests authorization to execute an easement agreement to allow the City of Santa Rosa to operate and maintain an existing sewer main and associated appurtenances upon property owned by the Water Agency along Steele Creek. The City will pay $2,700 as compensation for this easement.

**Discussion:**

On or around October 9, 2015 the City of Santa Rosa (City) installed a sewer main and associated improvements on property owned by the Water Agency for the operation and maintenance of the Steele Creek Flood Control Channel (Channel). The improvements are part of the City's 8th Street, West Steele Lane, San Miguel Road SMART Rail Crossing Water and Sewer Improvements Project (Project). The City has requested that the Water Agency execute a sewer easement to allow the existing sewer main to remain upon and across its Steele Creek property (Agency Property).

Pursuant to Government Code section 25526.6, the Water Agency Board may grant an easement for use of any Water Agency real property to a fellow public agency, such as the City, in a manner and upon the terms and conditions as the Board determines or prescribes, upon a finding by the Board that the

conveyance is in the public interest and that the interest in land conveyed will not substantially conflict or interfere with the use of the property by the Water Agency.

Water Agency staff have reviewed the existing City Sewer plans and have drafted an Easement Agreement for execution by the Water Agency and the City. The Easement Agreement contains terms to ensure that the maintenance and operation of the City sewer main on the Water Agency's property will not interfere with the Channel or the Water Agency's operation and maintenance of the Channel. The Easement Agreement also requires City to pay for any damage to the Water Agency's facilities caused by the City's use of the easement area for the City's Project. The Easement Agreement requires the City to indemnify the Water Agency from any claims arising from City's use of the Water Agency's easement. The easement conveyance to the City is in the public interest because the sewer main supports a vital infrastructure for public health. The City has supplied an appraisal for just compensation of the property rights proposed to be acquired. The appraisal established just compensation at $2,700. Water Agency Staff reviewed the appraisal and agreed with the opinion of value for just compensation of the easement.

The City determined that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15282(k) (Other Statutory Exemptions) and 15302(c) (Replacement or Reconstruction), because the Project consists of installation of new publically-owned pipelines of less than one mile in length within the existing right-of-way, and the Project would involve replacement of existing utilities involving negligible expansion of capacity. The City filed a Notice of Exemption on these grounds on November 13, 2014. The General Manager of the Water Agency has also determined that the Grant of Easement to the City for the operation and maintenance of the Project improvements is exempt from CEQA pursuant to CEQA Guidelines 15061(b)(3) because the easement grant to allow the continued operation and maintenance of the existing water and sewer improvements by the City would not result in any change of existing environmental conditions and there is no possibility that the activity may have a significant effect on the environment.

Water Agency staff have prepared a Notice of Exemption in accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the Water Agency's Procedures for the Implementation of CEQA. In accordance with Government Code section 65402, on August 30, 2015 the Water Agency requested the City planning agency to determine the use of the Agency Property for Project is consistent with the City's general plan and the City did not respond within 40 days, which means that the proposed use is deemed in conformity with the City's General Plan for the purposes of compliance with Government Code section 65402.

**Prior Board Actions:**

None

**Strategic Plan Alignment** Goal 3: Invest in the Future

This easement will offer a more efficient utility for residents and foster the collaboration between the Water Agency and the City of Santa Rosa.

Water Agency Organizational Goals and Strategies, Goal 1: Maintain, operate, and modify flood protection facilities to meet current and future public needs.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | 0 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **0** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | 0 | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **0** | | |

**Narrative Explanation of Fiscal Impacts:**

The water Agency will receive $2,700 from the City in exchange for the easement.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

1. Resolution
2. Easement Agreement with Map of Affected Area

**Related Items "On File" with the Clerk of the Board:**

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution Of The Board Of Directors Of The Sonoma County Water Agency Determining That The Grant of an Easement to the City of Santa Rosa for a Sanitary Sewer Along Steele Creek in Santa Rosa, California is in the Public Interest and That the Interest in Land Conveyed Will Not Substantially Conflict or Interfere with the Use of the Property by the Water Agency; Making Related Findings; Authorizing the General Manager of the Water Agency to File a Notice of Exemption in Accordance with the California Environmental Quality Act; and Authorizing the Chair to Execute the Easement Agreement.**

**Whereas**, the Sonoma County Water Agency ("Water Agency") is the owner of certain real property within the City of Santa Rosa, California commonly known as Steele Creek Channel, and being more particularly described as follows:

> All that certain real property conveyed to the Sonoma County Flood Control and Water Conservation District by that certain Grant Deed recorded on March 11, 1965 in Book 2113, page 463 of Official Records of Sonoma County; that certain deed recorded on July 23, 1964 in Book 2061 beginning on page 138 Official Records of Sonoma County; that certain deed recorded on November 16, 1966 in Book 240 beginning on page 966 Official Records of Sonoma County, California (hereinafter referred to as the "Agency Property").

**Whereas,** the City of Santa Rosa ("City") has requested a permanent easement over portions of the Agency Property for the purposes of installation and maintenance of improvements required for the City's 8th Street, West Steele Lane, San Miguel Road SMART Rail Crossing Water and Sewer Improvements Project (Project); and

**Whereas**, the City filed a Notice of Exemption for the Project on November 13, 2014 on grounds that the Project would involve replacement of existing utilities involving negligible expansion of capacity; and

**Whereas,** pursuant to Government Code section 25526.6, the Water Agency Board may

grant an easement for use of any Water Agency real property to a fellow public agency, such as the City, in a manner and upon the terms and conditions as the Board determines or prescribes, upon a finding by the Board that the conveyance is in the public interest and that the interest in land conveyed will not substantially conflict or interfere with the use of the property by the Water Agency; and

**Whereas,** the proposed easement conveyance to the City is in the public interest because the Project will support vital infrastructure for public health and the proposed conveyance will not substantially conflict or interfere with the use of the Agency Property by the Water Agency because the Water Agency will retain the ability to carry out its flood control and maintenance responsibilities; and

**Whereas,** pursuant to CEQA, State CEQA Guidelines and the Agency's Procedures for the Implementation of CEQA, the Water Agency, as a responsible agency, has prepared a Notice of Exemption declaring that the proposed easement grant to the City for the Project is exempt from CEQA pursuant to CEQA Guidelines 15061(b)(3) because the easement grant to the City to allow the continued operation and maintenance of the existing water and sewer improvements by the City would not result any change of existing environmental conditions and there is no possibility that the activity may have a significant effect on the environment.

**Now, Therefore, Be It Resolved,** that the Board of Directors of the Sonoma County Water Agency hereby finds, determines, and declares as follows:

1. The above recitals are true and correct.
2. The proposed easement grant to the City will not have a significant adverse effect on the environment.
3. The proposed easement grant to the City is in the public interest and the interest in land conveyed will not substantially conflict or interfere with the use of the Agency Property by the Water Agency.
4. The Chair is authorized and directed to execute the Easement Agreement with City in the form presented to this Board.
5. The Agency's General Manager is authorized and directed to file a Notice of Exemption with the Sonoma County Clerk in accordance with provisions of CEQA.

**Directors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

**RECORDED AT NO FEE PER GOVERNMENT CODE § 6103 RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:**

City of Santa Rosa
Department of Public Works
Engineering Development Services
100 Santa Rosa Ave. Room 5
Santa Rosa, CA 95404

Portion of APN: 041-043-023 and 012-440-019

# EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made by and between the **Sonoma County Water Agency**, a body corporate and politic, organized and existing under and by virtue of the laws of the State of California (herein after referred to as the "Agency") and the **City of Santa Rosa**, a Municipal Corporation (herein after referred to as the "City").

R E C I T A L S

WHEREAS, Agency is the owner of certain real property within City of Santa Rosa, County of Sonoma, State of California commonly known as Steele Creek Channel, and being more particularly described as follows:

> All that certain real property conveyed to the Sonoma County Flood Control and Water Conservation District by that certain Grant Deed recorded on November 16, 1966, in Book 2240, beginning page 996, that certain Grant Deed recorded on March 11, 1965 in Book 2113, beginning at page 463, and that certain Grant Deed recorded on July 23, 1964 in Book 2061, beginning on page 138 of Official Records of Sonoma County, California (hereinafter referred to as the "Agency Property").

WHEREAS, City wishes to obtain a permanent easement interest in portions of the Agency Property for the installation and maintenance of improvements required for a certain sanitation sewer main owned by the City of Santa Rosa and commonly known as the Santa Rosa Guerneville Road S.M.A.R.T Sewer Replacement Project (the "Project"), which property is more particularly described as follows:

> That portion of the hereinabove described real property more particularly described in Exhibit "A" and shown for reference in Exhibit "A-1 attached hereto, and by this reference hereby made a part of this Agreement (hereinafter referred to as the "Easement Area").

NOW, THEREFORE, for good and valuable consideration and in consideration of the mutual covenants, terms, conditions and restrictions contained herein, Agency and City covenant and agree as follows:

## A G R E E M E N T

1. Grant of Non-Exclusive Easement. Agency hereby grants to City a non-exclusive easement interest in the Easement Area of the nature, character and extent, and subject to the conditions, set forth in this Agreement.

2. Description of Easement over Agency Property. The easement granted over the Easement Area is a perpetual easement and right-of-way for the purpose of laying down, constructing, reconstructing, removing, replacing, repairing, maintaining, operating and using the Project, in accordance with the original Project plans entitled: City of Santa Rosa Guerneville Road S.M.A.R.T Sewer Replacement Project, dated July, 2015. Said easement shall exist in, under, along, and across the Easement Area and shall include the right, at all times, to enter in, over and upon said Easement Area for all purposes described above in this paragraph, provided, however, that said use may not damage or unreasonably restrict Agency's full use of the Agency Property or the improvements existing thereon at any given time. Agency reserves the right to install, construct, operate, and maintain both its existing improvements and any future improvements on the Agency Property, so long as such future improvements do not unreasonably interfere with City's use of the easement hereunder. This easement is granted on the condition that City's use of the easement will not damage or unreasonably restrict Agency's full use of existing Agency improvements. The grant of easement herein is subject to and subordinate to the rights of Agency and its successors and assigns to use the Agency Property in the performance of its governmental and proprietary functions.

3. Term. The easement herein granted shall continue indefinitely so long as City is in compliance with the terms and conditions of this Agreement.

4. Maintenance of Easement. City shall maintain all of City's improvements within the Easement Area at City's sole cost and expense. Any reconstruction or maintenance activities performed by City and related to the easement shall not unreasonably interfere with the Agency's continued use of the Agency's Property or the Easement Area or for any purpose. City shall not materially alter or reconstruct the Project without first obtaining Agency's written approval of plans for such alteration or reconstruction, which shall not be unreasonably withheld, conditioned or delayed, provided such plans are consistent with the purpose of this easement and the Project. City shall promptly repair and restore to its original condition any of Agency's Property, including, but not limited to, engineered channel and access road, that may be altered, damaged or destroyed in connection with City's use of the Easement Area.

5. Waste or Nuisance; Agency's Rights in Property. City shall not commit or suffer: (a) any waste or nuisance within the Easement Area; (b) any action or use of the Easement Area which unreasonably interferes or conflicts with the use of the Easement Area or Agency Property by Agency or any authorized person; or (c) any action on the Easement Area in violation of any law or ordinance. City shall not undertake or permit any activity or use on the Easement Area that is inconsistent with

the purpose of this Agreement, including, without limitation, the following activities: (a) constructing, reconstructing, replacing, repairing, or maintaining any building, structure, utilities, or other improvement other than as generally consistent with the plans for the Guerneville Road S.M.A.R.T Sewer Replacement Project, dated July, 2015, (b) altering the surface or contour of the land in any manner not consistent with the Guerneville Road S.M.A.R.T Sewer Replacement Project, dated July, 2015, including, but not limited to, excavating or removing soil, sand, gravel, rock, sod, trees, shrubs, plants or vegetation, except as necessary to maintain and repair the Project in accordance with Paragraph 4; (c) degrading or eroding the soil or polluting any surface or sub-surface waters; (d) dumping, accumulating, or storing trash, ashes, garbage, waste, junk, non-operative vehicles, or other materials; (e) damaging the integrity of the surface beyond normal wear and tear; (f) exploring for or developing and extracting minerals and hydrocarbons by any mining method, surface or otherwise; (g) parking any vehicle, other than for necessary maintenance or repair by the City; and (h) placing or leaving any personal property of City or City's tenants, other than as necessary for appropriate uses of the easement, such as signage.

6. Non-Liability of Agency; Indemnity. Agency and its officers, agents, and employees shall not be liable to City or any third party for any injury, loss, or damage arising out of or in connection with the City's use of the easement granted herein. City agrees to defend, indemnify, hold harmless, and release Agency, and its officers, agents, and employees, from and against any and all actions, claims, damages, liabilities, or expenses that may be asserted by any person or entity, including City, relating to the laying down, constructing, reconstructing, removing, replacing, repairing, maintaining, operating and using the Project or to the use of the easement granted herein, whether or not there is concurrent negligence on the part of Agency, but excluding liability due to the sole active negligence or sole willful misconduct of Agency, its officers, agents or employees. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for the City or its agents under workers' compensation acts, disability benefit acts, or other employee benefit acts. City agrees to compensate Agency for any damage to Agency property as a result of the construction, operation, or maintenance of said Project. If future laws or regulations require a greater separation between the Project and any Agency improvements (engineered channel and access road), City shall relocate the Project accordingly and be responsible for any costs associated with the relocation. The obligations of this Paragraph survive termination of this Agreement.

7. Enforcement. If through inspection or otherwise Agency determines that City is in violation of the provisions of this Agreement or that a violation is threatened, Agency shall give written notice to City of such violation and demand corrective action sufficient to cure the violation. If City fails to cure the violation within thirty (30) days after receipt of notice thereof from Agency, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to pursue a complete cure of such violation, Agency may bring an action to enforce the provisions of this Agreement, enjoin the violation, recover damages and enforcement costs for the violation, and require restoration of the easement to the condition that existed prior to the violation. If Agency reasonably determines that circumstances require immediate action to prevent or mitigate an imminent threat to public health or safety, Agency may pursue its remedies under this paragraph without waiting for the

period for cure to expire, though Agency shall notify City as soon as possible, either prior to any action or immediately thereafter.

8. Enforcement Discretion. Enforcement of the provisions of this Agreement shall be at the discretion of the Parties, and any forbearance by a Party to exercise its rights under this Agreement in the event of any breach of any provision of this Agreement by the other Party shall not be deemed or construed to be a waiver by the Party of such provision or of any subsequent breach of the same or any other provision of this Agreement or of any of the Party's rights under this Agreement. No delay or omission by a Party in the exercise of any right or remedy upon any breach by the other Party shall impair such right or remedy or be construed as a waiver.

9. Access and Control. Nothing contained in this Agreement shall be construed as precluding Agency's right to grant access to third parties across the Easement Area, so long as any rights so granted are not inconsistent with the purpose of this easement. Without limiting the generality of the foregoing, City acknowledges that an easement grant to the Sonoma Marin Area Rail Transit District allowing use of the Easement Area for its multi-use pathway is consistent with the purpose of this easement and City agrees not to object to or interfere with the grant of such an easement.

10. Successors. This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective successors, heirs, assigns and transferees.

11. Amendment. If circumstances arise under which an amendment or modification of this Agreement would be appropriate, City and Agency shall be free to jointly amend this Agreement. Any such amendment shall be recorded in the Office of the Sonoma County Recorder.

12. Notices. Any notice, demand, request, approval, or other communication that either party desires or is required to be given under this Agreement shall be in writing and may be given by personal delivery or by mail. Notices, demands, requests, approvals, or other communications sent by mail should be addressed as follows:

Agency: Sonoma County Water Agency
Attention: General Manager
404 Aviation Boulevard
Santa Rosa, CA 95403

City: City of Santa Rosa
Department of Public Works
Engineering Development Services
100 Santa Rosa Ave. Room 5
Santa Rosa CA 95404

and when so addressed, shall be deemed given upon deposit in the United States Mail, registered or certified, return receipt requested, postage prepaid. In all other instances, notices, demands, requests,

approvals, or other communications shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the persons to whom notices, demands, requests, approvals, or other communications are to be given by giving notice pursuant to this section.

13. Applicable Law and Forum. Interpretation and performance of this Agreement shall be governed by California law and any action to enforce the provisions of this Agreement or the breach thereof shall be brought and tried in the County of Sonoma.

14. No Third Party Beneficiaries. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

15. Integration. This Agreement is the final and complete expression of the agreement between the parties and any and all prior or contemporaneous agreements written or oral are merged into this instrument.

16. Captions. The captions in this Agreement have been included solely for convenience of reference. They are not a part of this Agreement and shall have no effect upon its construction or interpretation.

17. Survival of Agreement. This Agreement, including all representations, warranties, covenants, agreements, releases and other obligations contained herein, shall survive the closing of this transaction and recordation of any deed or other document related hereto.

18. Title to Agency Property. It is understood that the City intends to perform its own title review and obtain title insurance for the easement rights to be acquired from the Agency. The Agency is authorized to grant and covey this easement, subject to any and all senior rights that may exist in and to the Agency Property.

IN WITNESS WHEREOF, Agency and City have executed this Agreement as set forth below.

SONOMA COUNTY WATER AGENCY:

Executed by the Sonoma County Water Agency this _____ day of _____, 2016, pursuant to authority granted by Agenda Item No. _____ dated _____, 2016:

Attest:

By: _____
Efren Carrillo
Chair, Board of Directors

By:_____
Clerk, Board of Directors

Reviewed as to Substance:

By:_____
General Manager

Date:_____

Approved as to Form:

By:_____
Deputy County Counsel

Date:_____

CITY OF SANTA ROSA, a municipal corporation:

By: _____
City Public Works Director

Date:_____

Resolution Number:

Approved as to Form:

By: _____
City Attorney

Date:_____

Exhibit "A"
PUBLIC SANITARY SEWER EASEMENT

Lying within the City of Santa Rosa, County of Sonoma, State of California being portions of the lands of Sonoma County Water Agency (SCWA) as described by Grant Deeds recorded in Book 2240, Page 996 of Official Records of Sonoma County; Book 2061, Page 138 of Official Records of Sonoma County; and Book 2113, Page 463 of Official Records of Sonoma County, said portions are more particularly described as follows:

PARCEL 1

Being a strip of land 15.00 feet in width lying southwesterly of the following described line: BEGINNING at a point on the northeasterly boundary of the lands of SCWA, said point is the most northerly corner of the 15.00 foot public sanitary sewer easement described in Document Number 2006-007835, Sonoma County Records; thence along the northeasterly boundary of said lands of SCWA, North 34°00'41" West 771.65 feet; thence leaving said northeasterly boundary, North 68°46'57" West 64.25 feet to the southerly boundary of Guerneville Road and the TERMINUS of the herein described line.

The southwesterly side line of the easement herein described is lengthened or shortened to terminate on the southwesterly boundary of said lands of SCWA and the most westerly corner of said public sanitary sewer easement described in Document Number 2006-007835, Sonoma County Records.

PARCEL 2

COMMENCING at a point on the northeasterly boundary of the lands of SCWA, said point is the most northerly corner of the 15.00 foot public sanitary sewer easement described in Document Number 2006-007835, Sonoma County Records; thence along the northeasterly boundary of said lands of SCWA, North 34°00'41" West 771.65 feet to the POINT OF BEGINNING; thence leaving said northeasterly boundary, North 68°46'57" West 64.25 feet to the southerly boundary of Guerneville Road; thence along said southerly boundary, North 51°20'55" East 36.76 feet to the northeasterly corner of said lands of SCWA; thence along the northeasterly boundary of said lands of SCWA, South 34°00'41" East 55.75 feet to the POINT OF BEGINNING.

Containing 13,542 square feet more or less.

Being a portion of APN 041-040-023 & 012-440-019.

R-Sheet No.: 5391

Prepared by Cinquini & Passarino, Inc.

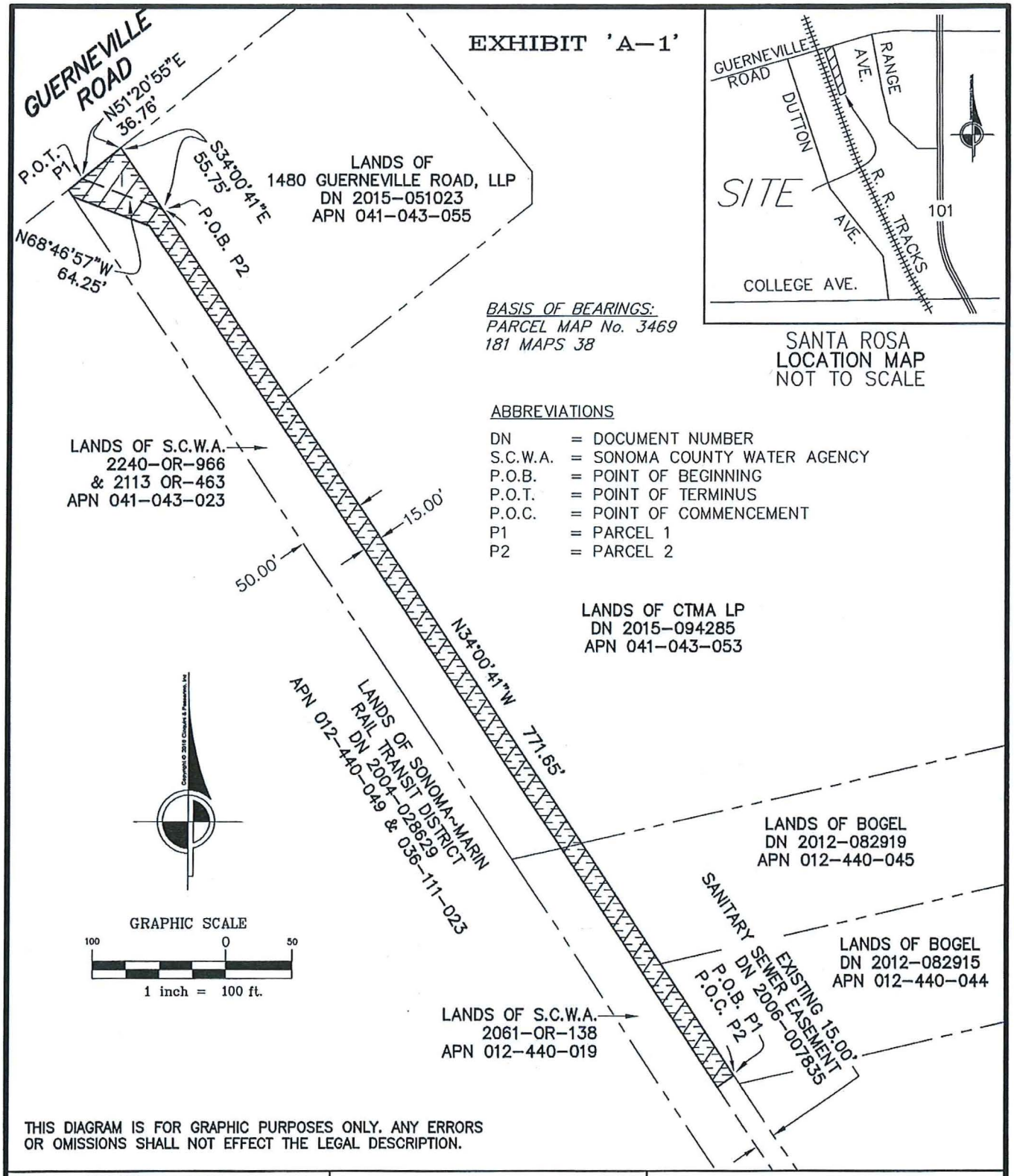
PROFESSIONAL LAND SURVEYOR
ANTHONY G. CINQUINI
Exp. 12/31/17
NO. 8614
STATE OF CALIFORNIA

Anthony G. Cinquini, PLS 8614

Sept 23, 2016
Date

1360 North Dutton Avenue, Suite 150, Santa Rosa, CA 95401
Tel: (707) 542-6268 Fax: (707) 542-2106
www.cinquinipassarino.com
CPI No.: 7160-15

# EXHIBIT 'A–1'




ABBREVIATIONS

| | | |
|---|---|---|
| DN | = | DOCUMENT NUMBER |
| S.C.W.A. | = | SONOMA COUNTY WATER AGENCY |
| P.O.B. | = | POINT OF BEGINNING |
| P.O.T. | = | POINT OF TERMINUS |
| P.O.C. | = | POINT OF COMMENCEMENT |
| P1 | = | PARCEL 1 |
| P2 | = | PARCEL 2 |

THIS DIAGRAM IS FOR GRAPHIC PURPOSES ONLY. ANY ERRORS OR OMISSIONS SHALL NOT EFFECT THE LEGAL DESCRIPTION.

| OWNER AND MAILING ADDRESS | PROPERTY AREAS | CITY OF SANTA ROSA |
|---|---|---|
| SONOMA COUNTY WATER AGENCY<br>404 AVIATION BLVD.<br>SANTA ROSA, CA 95403 | SANITARY SEWER EASEMENT 0.31 ACRES | 15' PUBLIC SANITARY SEWER EASEMENT OVER THE LANDS OF SONOMA COUNTY WATER AGENCY TO CITY OF SANTA ROSA |
| A.P. No. 012–440–019 & 041–043–023 | | Scale: 1"=100' Date: 12/18/15 |
| O.R. No. 2061–OR–138 & 2240–OR–966 | CITY ACQUISITION DEED | DWN. / CHK. / APPROVED: Brad Hoffman / FILE NO. R.–5391 |
| ADDRESS 1488 GUERNEVILLE ROAD | O.R. | |

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 3**
(This Section for use by Clerk of the Board Only.)

| | |
|---|---|
| **To:** Board of Directors, Sonoma County Water Agency | |
| **Board Agenda Date:** December 13, 2016 | **Vote Requirement:** Majority |
| **Department or Agency Name(s):** Sonoma County Water Agency | |
| **Staff Name and Phone Number:**<br>Bill Christoffersen 547-1967 | **Supervisorial District(s):**<br>Third |
| **Title:** SMART Easement Agreement -Steele Creek | |

**Recommended Actions:**

Adopt a resolution:

A) Determining that the grant of an easement to the Sonoma-Marin Area Rail Transit District for a multi-use pathway along Steele Creek is in the public interest and that the interest in land conveyed will not substantially conflict or interfere with the use of the property by the Water Agency
B) Authorizing the General Manager of the Water Agency to file a Notice of Determination in accordance with the California Environmental Quality Act
C) Authorizing the Chair to execute the easement agreement

**Executive Summary:**

This item requests authorization to execute an easement agreement to allow the Sonoma-Marin Area Rail Transit District (SMART) to construct a new multi-use pathway, fencing, and associated appurtenances upon property owned by the Water Agency along Steele Creek.

**Discussion:**

SMART is proposing to construct, operate, and maintain a multi-use pathway, fencing and associated improvements (Project) on property that the Water Agency owns for the operation and maintenance of the Steele Creek Flood Control Channel (Channel). The proposed Project is part of a larger voter-approved passenger rail and bicycle-pedestrian pathway project located in Marin and Sonoma counties. SMART has requested that the Water Agency allow it to construct a portion of the Project upon and across its Steele Creek property. SMART is receiving a grant of $750,000 from the Regional Measure 2 Safe Routes to Transit toll funds to construct multi-use pedestrian pathways adjacent to SMART rail lines.

Pursuant to Government Code section 25526.6, the Water Agency Board may grant an easement for use of any Water Agency real property to a fellow public agency, such as SMART, in a manner and upon the terms and conditions as the Board determines or prescribes, upon a finding by the Board that the conveyance is in the public interest and that the interest in land conveyed will not substantially conflict

or interfere with the use of the property by the Water Agency.

Water Agency staff have reviewed the plans for the SMART project and have drafted an Easement Agreement for execution by the Water Agency and SMART. The Easement Agreement contains terms to ensure that the construction and maintenance of the SMART Project on the Water Agency's property will not interfere with the Channel or the Water Agency's operation and maintenance of the Channel. The Easement Agreement requires SMART to pay for any damage to the Water Agency's facilities caused by the SMART Project. The Easement Agreement also requires SMART to indemnify the Water Agency from any claims arising from SMART's use of the Water Agency's easement. The easement conveyance to SMART is in the public interest because the Project will support a variety of transportation and recreational benefits to the public. SMART supplied an appraisal for just compensation of the property rights proposed to be acquired. The appraisal established just compensation at $4,350. Water Agency staff have reviewed the appraisal and agree with the opinion of value for the proposed easement.

SMART has completed environmental documentation in accordance with the California Environmental Quality Act (CEQA) for the Project. SMART prepared an Environmental Impact Report/Environmental Impact Statement (EIR/EIS), which addresses the potential impacts related to the Project and measures to mitigate adverse effects of the Project. With the incorporation of the mitigation measures established by SMART, the Project was determined not to have an adverse impact on the environment. SMART approved the Sonoma-Marin Area Rail Transit Project on July 21, 2006. In accordance with Government Code section 65402, on September 1, 2016 the Water Agency requested the City planning agency to determine the use of the property for the project is consistent with the City's general plan and the City has not responded within 40 days, which means that the proposed use is deemed in conformity with the City's General Plan for the purposes of compliance with Government Code section 65402.

The Water Agency has prepared a Notice of Determination in accordance with the CEQA, the State CEQA Guidelines, and the Water Agency's Procedures for the Implementation of CEQA. The Notice of Determination states that based on the EIR/EIS prepared by SMART, the execution of the Easement Agreement would not have a significant adverse impact on the environment.

**Prior Board Actions:**

None

| **Strategic Plan Alignment** | Goal 3: Invest in the Future |
|---|---|

This easement will help make available access to multi-use trials for Sonoma County Residents. The multi-use trail will give residents a way to promote a healthy lifestyle.

Water Agency Organizational Goals and Strategies, Goal 3: Increase outreach to community and employees.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | 0 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **0** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **0** | | |

**Narrative Explanation of Fiscal Impacts:**

The Water Agency will receive $4,350 from SMART in exchange for the easement.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Resolution
Easement Agreement with Map of Affected Area

**Related Items "On File" with the Clerk of the Board:**

pa\\S:\Agenda\ROW\2016\12-13-2016 WA SMART Easement Agreement-Steele Creek_summ.docm

ROW/15-1.5-4/Steele Creek Pedestrian and Bicycle Path/Easement Agree between SCWA and Sonoma-Marin Rail Transit District (SMART)/File ID 5900

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution Of The Board Of Directors Of The Sonoma County Water Agency Determining That The Grant of an Easement to the Sonoma-Marin Area Rail Transit District for a Multi-use Pathway along Steele Creek in Santa Rosa, California is in the Public Interest and That the Interest in Land Conveyed Will Not Substantially Conflict or Interfere with the Use of the Property by the Water Agency; Making Related Findings; Authorizing the General Manager of the Water Agency to file a Notice of Determination in Accordance with the California Environmental Quality Act; and Authorizing the Chair to Execute the Easement Agreement.**

**Whereas**, the Sonoma County Water Agency ("Water Agency") is the owner of certain real property within the City of Santa Rosa, County of Sonoma, State of California commonly known as Steele Creek Channel, and being more particularly described as follows:

> All that certain real property conveyed to the Sonoma County Flood Control and Water Conservation District by that certain Grant Deed recorded on March 11, 1965 in Book 2113, page 463 of Official Records of Sonoma County; that certain deed recorded on July 23, 1964 in Book 2061 beginning on page 138 Official Records of Sonoma County; that certain deed recorded on November 16, 1966 in Book 240 beginning on page 966 Official Records of Sonoma County, California (hereinafter referred to as the "Agency Property").

**Whereas,** the Sonoma-Marin Area Rail Transit District ("SMART") has requested a permanent easement over portions of the Agency Property for the purposes of installation and maintenance of improvements required for SMART's Multi-Use Pathway Project (Project); and

**Whereas,** SMART, as the Lead Agency for the Project, prepared an Environmental Impact Report/Environmental Impact Statement, which addresses the potential impacts related to the Project and measures to mitigate adverse effects of the Project; and

**Whereas**, the SMART filed a Notice of Determination in accordance with the California Environmental Quality Act (CEQA), dated July 21, 2006; and

**Whereas,** pursuant to Government Code section 25526.6, the Water Agency Board may grant an easement for use of any Water Agency real property to a fellow public agency, such as SMART, in a manner and upon the terms and conditions as the Board determines or prescribes, upon a finding by the Board that the conveyance is in the public interest and that the interest in land conveyed will not substantially conflict or interfere with the use of the property by the Water Agency; and

**Whereas,** the proposed easement conveyance to SMART is in the public interest because the Project will support a variety of transportation and recreational benefits to the public and the proposed conveyance will not substantially conflict or interfere with the use of the Agency Property by the Water Agency because the Water Agency will still have the ability to carry out its flood control and maintenance responsibilities on the Agency Property; and

**Whereas,** pursuant to CEQA, State CEQA Guidelines and the Agency's Procedures for the Implementation of CEQA, the Water Agency, as a responsible agency, has prepared a Notice of Determination finding that the proposed easement grant to SMART for the Project will not have a significant adverse impact on the environment based on the Environmental Impact Report prepared by SMART.

**Now, Therefore, Be It Resolved,** that the Board of Directors of the Sonoma County Water Agency hereby finds, determines, and declares as follows:

1. The above recitals are true and correct.
2. The proposed easement grant to SMART will not have a significant adverse effect on the environment.
3. The proposed easement grant to SMART is in the public interest and the interest in land conveyed will not substantially conflict or interfere with the use of the Agency Property by the Water Agency.
4. The Chair is authorized and directed to execute the Easement Agreement with SMART in the form presented to this Board.
5. The Agency's General Manager is hereby authorized and directed to file a Notice of Determination with the Sonoma County Clerk in accordance with provisions of CEQA.

**Directors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

**RECORDED AT NO FEE PER GOVERNMENT CODE § 6103 RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:**

Sonoma-Marin Are Rail Transit
5401 Old Redwood Highway, Suite 200
Petaluma, CA 94954

Portion of APN: 012-440-019; 041-043-023

# EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made by and between the **Sonoma County Water Agency**, a body corporate and politic, organized and existing under and by virtue of the laws of the State of California (herein after referred to as the "Agency") and the **Sonoma Marin Area Rail Transit District**, a special district created pursuant to California Law (herein after referred to as the ("SMART").

## RECITALS

WHEREAS, Agency is the owner of certain real property within City of Santa Rosa, County of Sonoma, State of California commonly known as Steele Creek Channel, and being more particularly described as follows:

> All that certain real property conveyed to the Sonoma County Water Agency by that certain Grant Deed recorded on March 11, 1965 in Book 2113 beginning at page 463 Official Records of Sonoma County; that certain deed recorded July 23, 1964 in Book 2061 beginning on page 138 Official Records of Sonoma County; that certain deed recorded on November 16, 1966 in Book 240 beginning on page 966 Official Records of Sonoma County, California (herein after referred to as the "Agency Property").

WHEREAS, SMART wishes to obtain a permanent easement over portions of the Agency Property for the purposes of installation of improvements required for a Multi-Use Pathway Project (the "Project") described as follows:

> That portion of the hereinabove described real property more particularly described in Exhibit "A" and shown for reference in Exhibit "B-1, B-2, B-3 and B-4 attached hereto, and by this reference hereby made a part of this Agreement (hereinafter referred to as the "Easement Area").

NOW, THEREFORE, for good and valuable consideration of Four Thousand Three Hundred and Fifty Dollars and zero cents ($4,350) and in consideration of the mutual covenants, terms, conditions and restrictions contained herein, Agency and SMART covenant and agree as follows:

# AGREEMENT

1. Grant of Non-Exclusive Easement. Agency hereby grants to SMART a non-exclusive easement interest in the Easement Area of the nature, character and extent, and subject to the conditions, set forth in this Agreement.

2. Description of Easement over Agency Property. The easement granted over the Easement Area is a perpetual easement and right-of-way for the purpose of laying down, constructing, reconstructing, removing, replacing, repairing, maintaining, operating and using the Project, in accordance with the original Project plans entitled: SMART Pathway Region 1 Jurisdictional Review Maps, dated December, 2014. Said Easement shall exist in, under, along, and across the Easement Area and shall include the right at all times to enter in, over and upon said Easement Area for all purposes described above in this paragraph. Provided, however, that said use may not damage or restrict Agency's full use of the Agency Property or the improvements existing thereon at any given time. Agency reserves the right to install, construct, operate, and maintain both its existing improvements and any future improvements on the Agency Property. This easement is granted on the condition that SMART's use of the easement will not damage or restrict Agency's full use of existing Agency improvements in any way. The grant of easement herein is subject to and subordinate to the rights of Agency and its successors and assigns, to use the Agency Property in the performance of its governmental and proprietary functions.

3. Term. The easement herein granted shall continue indefinitely so long as SMART is in compliance with the terms and conditions of this Agreement.

4. Maintenance of Easement. SMART shall maintain all improvements within the Easement Area at SMART's sole cost and expense. Any reconstruction or maintenance activities performed by SMART and related to the easement shall not interfere with the Agency's continued use of the Agency's Property or the Easement Area or for any purpose. SMART shall not materially alter or reconstruct the Project without first obtaining Agency's written approval of plans for such alteration or reconstruction and shall obtain a revocable license. SMART shall promptly repair and restore to its original condition any of Agency's Property, including, but not limited to, roads, utilities, buildings and fences that may be altered, damaged or destroyed in connection with SMART's use of the Easement Area.

5. Waste or Nuisance; Agency's Rights in Property. SMART shall not commit or suffer: (a) any waste or nuisance within the Easement Area; (b) any action or use of the Easement Area which interferes or conflicts with the use of the Easement Area or Agency Property by Agency or any authorized person; or (c) any action on the Easement Area in violation of any law or ordinance. SMART shall not undertake or permit any activity or use on the Easement Area that is inconsistent with the purpose of this Agreement, including, without limitation, the following activities: (a) constructing, reconstructing, replacing, repairing, or maintaining any building, structure, utilities, or other improvement other than as shown on the plans for the SMART Pathway Region 1 Jurisdictional Review Maps, dated December, 2014, (b) altering the surface or contour of the land in any manner not consistent with the SMART Pathway Region 1 Jurisdictional Review Maps , dated December, 2014, including, but not limited to, excavating or removing soil, sand, gravel, rock, sod, trees, shrubs, plants or vegetation , except as necessary to maintain the Project in accordance with Paragraph 4; (c) degrading or eroding the soil or polluting any surface or sub-surface waters; (d) dumping, accumulating, or storing trash, ashes,

garbage, waste, junk, non-operative vehicles, or other materials; (e) damaging the integrity of the surface beyond normal wear and tear; (f) exploring for or developing and extracting minerals and hydrocarbons by any mining method, surface or otherwise; (g) parking any vehicle; and (h) placing or leaving any personal property of SMART or SMART's tenants, other than as necessary for appropriate uses of the easement, such as signage or debris receptacles.

6. Non-Liability of Agency; Indemnity. Agency and its officers, agents, and employees shall not be liable to SMART or any third party for any injury, loss, or damage arising out of or in connection with the use of the easement granted herein. SMART agrees to defend, indemnify, hold harmless, and release Agency, and its officers, agents, and employees, from and against any and all actions, claims, damages, liabilities, or expenses that may be asserted by any person or entity, including SMART, relating to the laying down, constructing, reconstructing, removing, replacing, repairing, maintaining, operating and using the Project or to the use of the easement granted herein or to the license, whether or not there is concurrent negligence on the part of Agency, but excluding, to the extent required by law, liability due to the sole active negligence or sole willful misconduct of Agency. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Licensee or its agents under workers' compensation acts, disability benefit acts, or other employee benefit acts. SMART agrees to compensate Agency for any damage to Agency property as a result of the construction, operation, or maintenance of said Project. If future laws or regulations require a greater separation between the Project and any Agency improvements, SMART shall relocate the Project accordingly and be responsible for any costs associated with the relocation. The obligations of this Paragraph survive termination of this Agreement.

7. Enforcement. If through inspection or otherwise Agency determines that SMART is in violation of the provisions of this Agreement or that a violation is threatened, Agency shall give written notice to SMART of such violation and demand corrective action sufficient to cure the violation. If SMART fails to cure the violation within fourteen (30) days after receipt of notice thereof from Agency, or under circumstances where the violation cannot reasonably be cured within a fourteen (30) day period, fails to begin curing such violation within the fourteen (30) day period, or fails to continue diligently to pursue a complete cure of such violation, Agency may bring an action to enforce the provisions of this Agreement, enjoin the violation, recover damages and enforcement costs for the violation, and require restoration of the easement to the condition that existed prior to the violation. If Agency reasonably determines that circumstances require immediate action to prevent or mitigate a violation or threatened violation of the provisions of this Agreement, Agency may pursue its remedies under this paragraph without prior notice to SMART and without waiting for the period for cure to expire.

8. Enforcement Discretion. Enforcement of the provisions of this Agreement shall be at the discretion of the Parties, and any forbearance by a Party to exercise its rights under this Agreement in the event of any breach of any provision of this Agreement by the other Party shall not be deemed or construed to be a waiver by the Party of such provision or of any subsequent breach of the same or any other provision of this Agreement or of any of the Party's rights under this Agreement. No delay or omission by a Party in the exercise of any right or remedy upon any breach by the other Party shall impair such right or remedy or be construed as a waiver.

9. Access and Control. Nothing contained in this Agreement shall be construed as precluding Agency's right to grant access to third parties across the Easement Area, so long as any rights so granted are not inconsistent with the purpose of this easement. Without limiting the generality of the foregoing, SMART acknowledges that an easement grant to the City of Santa Rosa allowing use of the

Easement Area for its sewer replacement project is consistent with the purpose of this easement and SMART agrees not to object to or interfere with the grant of such an easement.

10. Successors. This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective successors, heirs, assigns and transferees.

11. Amendment. If circumstances arise under which an amendment or modification of this Agreement would be appropriate, SMART and Agency shall be free to jointly amend this Agreement. Any such amendment shall be recorded in the Office of the Sonoma County Recorder.

12. Notices. Any notice, demand, request, approval, or other communication that either party desires or is required to be given under this Agreement shall be in writing and may be given by personal delivery or by mail. Notices, demands, requests, approvals, or other communications sent by mail should be addressed as follows:

Agency: Sonoma County Water Agency
Attention: General Manager
404 Aviation Boulevard
Santa Rosa, CA 95403

SMART: Sonoma-Marin Are Rail Transit
5401 Old Redwood Highway, Suite 200
Petaluma, CA 94954

and when so addressed, shall be deemed given upon deposit in the United States Mail, registered or certified, return receipt requested, postage prepaid. In all other instances, notices, demands, requests, approvals, or other communications shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the persons to whom notices, demands, requests, approvals, or other communications are to be given by giving notice pursuant to this section.

13. Applicable Law and Forum. Interpretation and performance of this Agreement shall be governed by California law and any action to enforce the provisions of this Agreement or the breach thereof shall be brought and tried in the County of Sonoma.

14. No Third Party Beneficiaries. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

15. Integration. This Agreement is the final and complete expression of the agreement between the parties and any and all prior or contemporaneous agreements written or oral are merged into this instrument.

16. Captions. The captions in this Agreement have been included solely for convenience of reference. They are not a part of this Agreement and shall have no effect upon its construction or interpretation.

17. Survival of Agreement. This Agreement, including all representations, warranties, covenants, agreements, releases and other obligations contained herein, shall survive the closing of this transaction and recordation of any deed or other document related hereto.

18. Title to Agency Property. It is understood that the SMART did not provide a title report or obtain title insurance for the easement rights to be acquired from the Agency. In addition to any indemnification granted under Section 6 above, SMART further agrees to defend, indemnify, hold harmless, and release Agency, and its officers, agents, and employees, from and against any and all actions, claims, damages, liabilities, or expenses that may be asserted by any person or entity, including SMART, relating to any third party rights that may exist on Agency's property that would be damaged by SMART's Project. The Agency provides no warranty, express or implied, that the Agency has sole right to grant the necessary easement rights to SMART. SMART agrees to indemnify Agency from and against any claims or liabilities arising from construction, operation, or maintenance of said Project that are asserted by third parties claiming property rights in the Easement Area. The obligations of this Paragraph survive termination of this Agreement.

IN WITNESS WHEREOF, Agency and SMART have executed this Agreement as set forth below.

SONOMA COUNTY WATER AGENCY:

Executed by the Sonoma County Water Agency this _____ day of _____, 2016, pursuant to authority granted by Agenda Item No. _____ dated _____, 2016:

Attest:

By: _____
Efren Carrillo
Chair, Board of Directors

By:_____
Clerk, Board of Directors

Reviewed as to Substance:

By:_____
General Manager

Date:_____

Approved as to Form:

By:_____
Deputy County Counsel

Date:_____

SONOMA–MARIN AREA RAIL TRANSIT, a special district created pursuant to California law:

By: _____
SMART Director

Date:_____

Resolution Number:

Approved as to Form:

By: _____
SMART Attorney

Date:_____

# Exhibit A

An easement over a portion of the lands of the Sonoma County Water Agency (formerly the Sonoma County Flood Control and Water Conservation District) as described by deeds recorded March 11, 1965 in Book 2113 of Official Records, Page 463, Sonoma County Records, July 23, 1964 in Book 2061 of Official Records, Page 138, Sonoma County Records, and November 16, 1966 in Book 2240 of Official Records, Page 966, Sonoma County Records, said easement being particularly described as follows:

Beginning at a point on the southeasterly line of Guerneville Road which bears N 51°19'58" E, 385.64 feet and S 38°40'02" E, 43.00 feet from a 2 inch Brass Disc with a punch mark and stamped "City of Santa Rosa" at the intersection of the centerlines of Guerneville Road and North Dutton Avenue, said point of beginning being the northeasterly corner of the lands of the Sonoma County Water Agency (formerly the Sonoma County Flood Control and Water Conservation District) as described by deed recorded November 16, 1966 in Book 2240 of Official Records, Page 966, Sonoma County Records; thence from said point of beginning and along the easterly line of said lands of the Sonoma County Water Agency, S 34°01'25" E, 1504.34 feet, to the southeasterly corner of the lands of the Sonoma County Water Agency as described by deed recorded July 23, 1964 in Book 2061 of Official Records, Page 138, Sonoma County Records, being a point on the northerly line of Jennings Street as shown on the final map of "Coddingtown Acres Subdivision No. 4" filed November 30, 1964 in Book 102 of Maps, Page 20, Sonoma County Records; thence along the southerly line of said lands of the Sonoma County Water Agency and said northerly line of Jennings Street, S 76°196'28" W, 53.33 feet, to the southwesterly corner of said lands of the Sonoma County Water Agency, and being a point on the northeasterly line of the lands of the Sonoma-Marin Area Rail Transit District as described by deed recorded March 2, 2004 under Official Records Document Number 2004-028629, Sonoma County Records; thence along the southwesterly line of said lands of the Sonoma County Water Agency, N 34°01'25" W, 12.80 feet; thence leaving said southwesterly line, parallel with the northerly line of Jennings Street, N 76°19'28" E, 18.97 feet; thence along the arc of a curve to the left, tangent with the last preceding course, with a radius of 15.00 feet, through a central angle of 110°20'53", an arc length of 28.89 feet; thence parallel with and 12.00 feet westerly of, measured at right angles to, the northeasterly line of said lands of the Sonoma County Water Agency N 34°01'25" W, 1444.49 feet; thence S 51°19'58" W, 12.04 feet; thence N 34°01'25" W, 20.07 feet, to a point on the southerly line of Guerneville Road; thence along said southerly line, N 51°19'58" E, 24.07 feet, to the point of beginning, affecting an area of 18,853 square feet, more or less.

Affects APN 041-043-023 & 012-440-019

The Basis of Bearings for the above description is California Coordinate System CCS83, Epoch 2008.00 as published by the California Spatial Reference Center, Central

Coast Modernization Project, Dated March 16, 2009 as said basis of bearings is shown on "Record of Survey" filed July 6, 2010 in Book 741 of Maps, Pages 1-24, Sonoma County Records, and based upon Monument Numbers 275 and 276 as shown on said map. Distances in this description are ground distances. To convert to grid distances multiply by 1.0000265a.

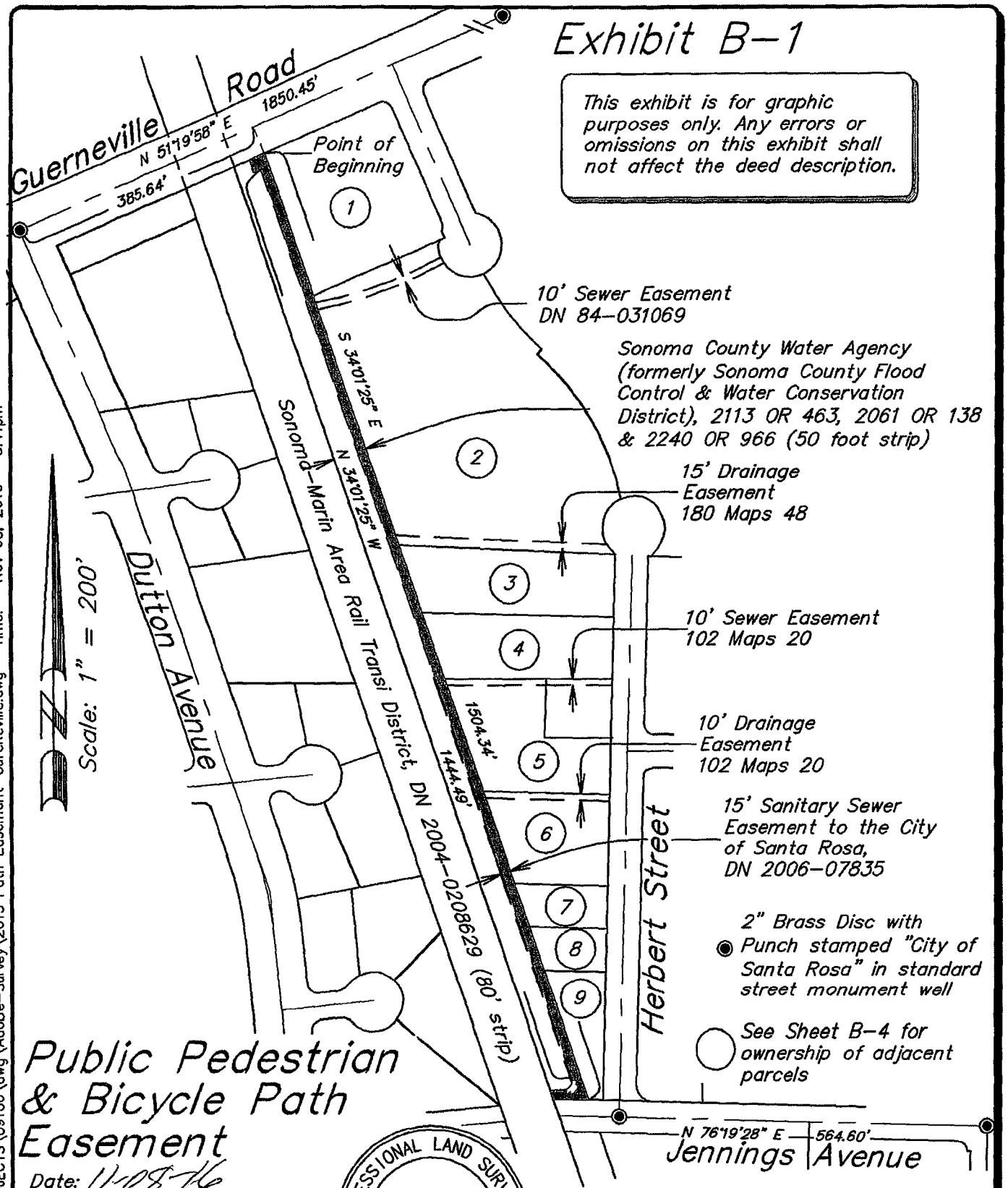
Date: 11-08-16

Prepared by: _____
Paul M. Brown, PLS 5087
My license expires 06/30/17

PROFESSIONAL LAND SURVEYOR
PAUL M. BROWN
No. PLS 5087
Exp. 06/30/17
STATE OF CALIFORNIA

# Exhibit B-1

This exhibit is for graphic purposes only. Any errors or omissions on this exhibit shall not affect the deed description.




## Public Pedestrian & Bicycle Path Easement

Date: 11-08-16

Paul M. Brown, PLS 5087
my license expires 6/30/17

PROFESSIONAL LAND SURVEYOR
PAUL M. BROWN
No. PLS 5087
EXPIRES 6-30-17
STATE OF CALIFORNIA


**adobe associates, inc.**
civil engineering | land surveying | wastewater
1220 N. Dutton Ave., Santa Rosa, Ca. 95401
P (707) 541-2300; F (707) 541-2301

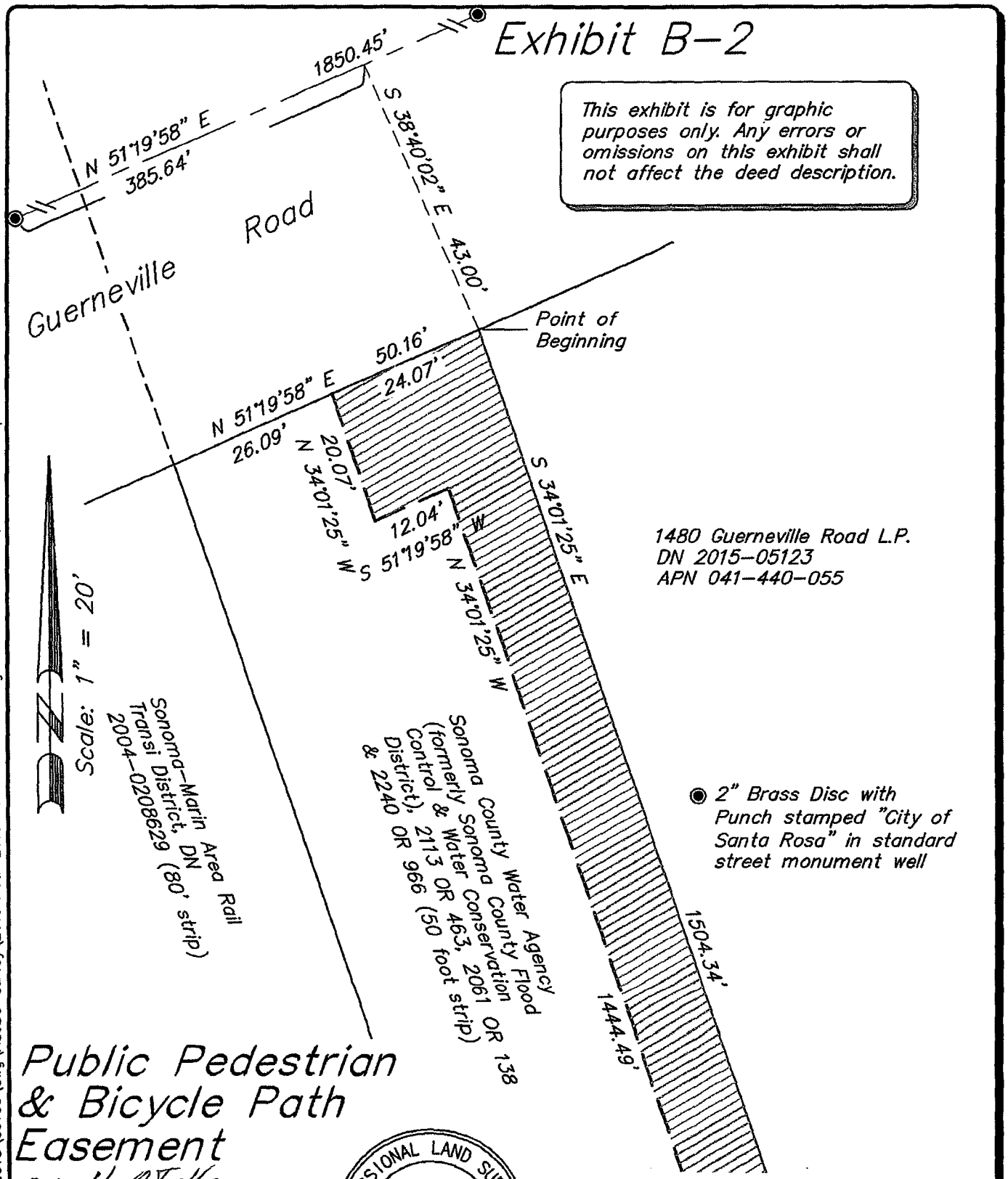

Job No. 09100

APN 012-440-019; 041-043-023 November 2015

File: T:\2009 PROJECTS\09100\dwg\Adobe-Survey\2015 Path Easement-Gureneville.dwg Time: Nov 08, 2016 - 5:11pm

# Exhibit B-2

This exhibit is for graphic purposes only. Any errors or omissions on this exhibit shall not affect the deed description.




# Public Pedestrian & Bicycle Path Easement

Date: 11-08-16

Paul M. Brown, PLS 5087
my license expires 6/30/17

PROFESSIONAL LAND SURVEYOR
PAUL M. BROWN
No. PLS 5087
EXPIRES 6-30-17
STATE OF CALIFORNIA

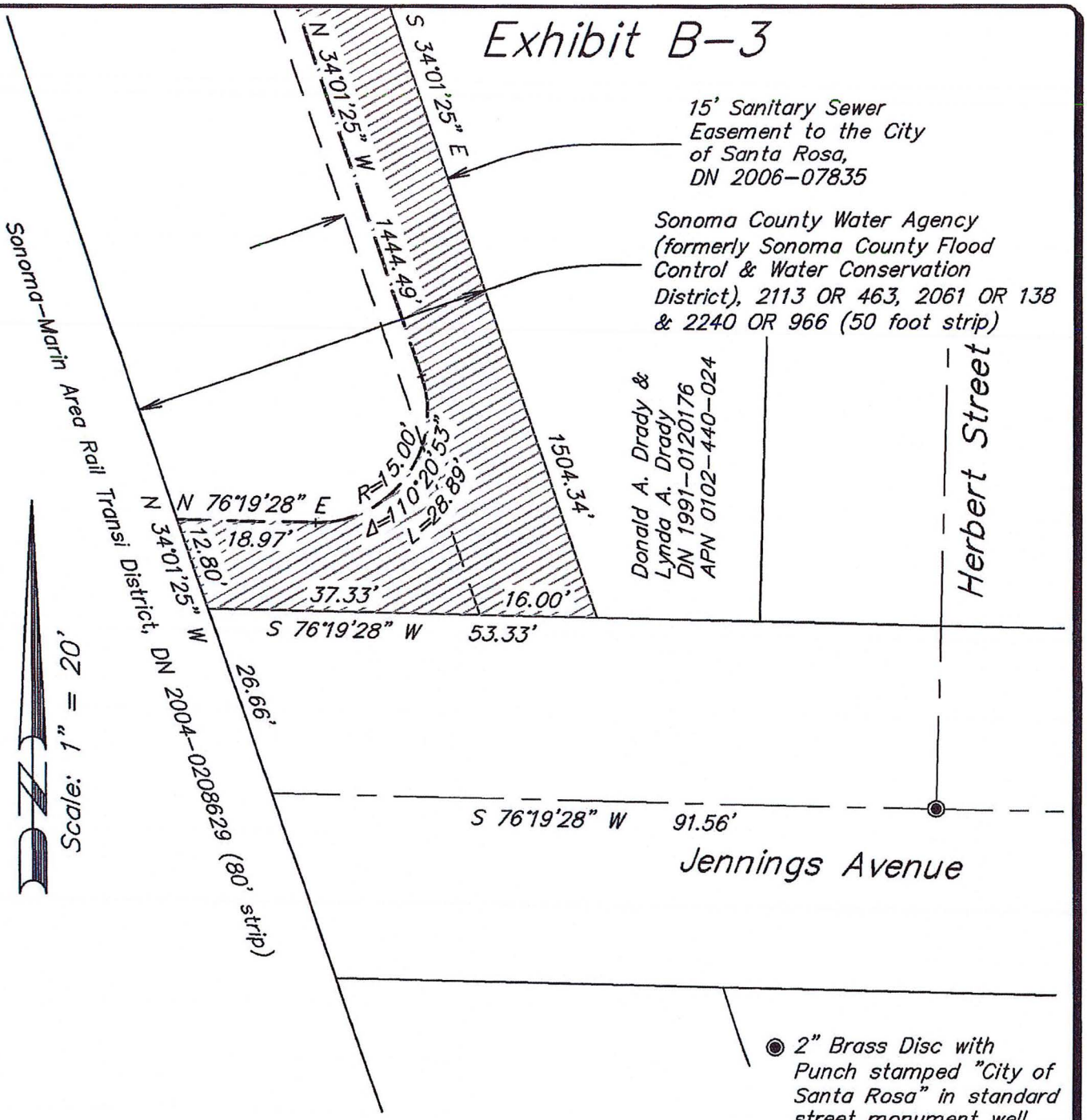

**adobe associates, inc.**
civil engineering | land surveying | wastewater
1220 N. Dutton, Ave., Santa Rosa, Ca. 95401
P (707) 541-2300; F (707) 541-2301


Job No. 09100

APN 012-440-019; 041-043-023 November 2015

File: T:\2009 PROJECTS\09100\dwg\Adobe-Survey\2015 Path Easement-Gureneville.dwg Time: Nov 08, 2016 - 5:12pm

# Exhibit B-3




## Public Pedestrian & Bicycle Path Easement

This exhibit is for graphic purposes only. Any errors or omissions on this exhibit shall not affect the deed description.

Date: 11-03-16

Paul M. Brown, PLS 5087
my license expires 6/30/17

PROFESSIONAL LAND SURVEYOR
PAUL M. BROWN
No. PLS 5087
EXPIRES 6-30-17
STATE OF CALIFORNIA


adobe associates, inc.
civil engineering | land surveying | wastewater
1220 N. Dutton, Ave., Santa Rosa, Ca. 95401
P (707) 541-2300; F (707) 541-2301


Job No. 09100

APN 012-440-019; 041-043-023 November 2015

File: T:\2009 PROJECTS\09100\dwg\Adobe-Survey\2015 Path Easement-Gureneville.dwg Time: Nov 08, 2016 - 5:12pm

# Exhibit B-4

1. 1480 Guerneville Road, L.P.
   DN 2015-051023
   APN 041-440-055

2. CTMA LP, a California limited partnership
   DN 2015-094285
   APN 041-440-053

3. Stephen H. Bogel & Lydia L. Bogel 2003 Revocable Trust
   DN 2012-082919
   APN 012-440-045

4. Stephen H. Bogel & Lydia L. Bogel 2003 Revocable Trust
   DN 2012-082915
   APN 012-440-044

5. JRBMZB Trust
   DN 2015-049221
   APN 012-440-042

6. Timothy Attell (50% interest), Ameber Attell (50% interest)
   DN 2013-0956794
   APN 012-440-022

7. Dick Duane Myers & Debra L. Myers
   DN 2005-057549
   APN 012-440-040

8. The Ana Gibson 2009 Trust
   DN 2009-120796
   APN 041-440-041

9. Donald A. Drady & Lynda A. Drady
   DN 1991-0120176
   APN 0102-440-024

## Public Pedestrian & Bicycle Path Easement

Date: 11-08-16

Paul M. Brown, PLS 5087
my license expires 6/30/17

PROFESSIONAL LAND SURVEYOR
PAUL M. BROWN
No. PLS 5087
EXPIRES 6-30-17
STATE OF CALIFORNIA

This exhibit is for graphic purposes only. Any errors or omissions on this exhibit shall not affect the deed description.

adobe associates, inc.
civil engineering | land surveying | wastewater
1220 N. Dutton, Ave., Santa Rosa, Ca. 95401
P (707) 541-2300; F (707) 541-2301

Job No. 09100

APN 012-440-019; 041-043-023 November 2015

File: T:\2009 PROJECTS\09100\dwg\Adobe-Survey\2015 Path Easement-Gureneville.dwg Time: Nov 08, 2016 - 5:13pm

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 4**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Directors, Sonoma County Water Agency

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Sonoma County Water Agency

**Staff Name and Phone Number:**
Ann DuBay 524-8378

**Supervisorial District(s):**

**Title:** State Legislative Advocacy Services and 2017-2018 State Legislative Platform

**Recommended Actions:**

A. Approve the Water Agency's 2017-2018 State Legislative Platform.
B. Authorize Sonoma County Water Agency's (Water Agency) General Manager to execute the Third Amended Agreement for State Legislative Advocacy with Conservation Strategy Group to provide legislative advocacy services, increasing the amount by $226,800 and extending the agreement term by two years for a new not-to-exceed agreement total of $702,200 and end date of December 31, 2018.

**Executive Summary:**

This item requests approval of the 2017-2018 State Legislative Platform and approval for the Chair to execute a third amended agreement with Conservation Strategy Group ($702,200 through December 31, 2018) for state legislative advocacy services.
As a provider of regional water supply, energy, flood control and local sanitation services, the Water Agency is directly impacted by state legislative and budget decisions. Since 2010, Conservation Strategies Group (CSG) has assisted the Water Agency in monitoring the state budget and relevant water, wastewater, watershed restoration, energy, flood control and stormwater legislation. CSG has alerted the Water Agency to legislation that could negatively affect operations. In addition, CSG has worked proactively with the Water Agency to ensure that it is well-positioned to take advantage of state bonds and other funding opportunities.

This item would extend the agreement for two years, and provide a five percent increase to reflect additional work necessary to rebuild and reengage a coalition of rural and coastal agencies in preparation for an anticipated new water bond and to monitor state regulatory agencies in the wake of the ongoing drought.

The item would also adopt a State Legislative Platform for the new 2017-2018 session of the Assembly and Senate.

**Discussion:**

HISTORY OF STATE ADVOCACY

State legislative initiatives have been a part of the Water Agency's portfolio since the late 1990's when an initiative began to secure state and federal support for restoration of listed salmon and steelhead. The Water Agency organized a five state coalition to advocate for the federal initiative known as the Pacific Coastal Salmon Recovery Fund. The initiative initially received $58 million in 2000 and since that time has received federal appropriations in excess of $1.06 billion.

It became apparent in the early 2000's that Northern California was failing to capture an equitable share of statewide general obligation bond funding for water infrastructure. The Water Agency organized a coalition of 13 coastal California counties, more than 225 agencies in total, to advocate for a new formula for allocation of water bond dollars. The effort helped deliver more than $161 million for the Bay Area and the North Coast Integrated Regional Water Management Plans including more than $11 million for projects in Sonoma County. The effort also led to the Water Agency engaging more fully in legislative, budgetary and regulator activities at the state level.

To provide guidance to staff and consultants, the Board has periodically adopted state and federal legislative platforms. The 2017-2018 Legislative Session convenes on December 5, 2016. An analysis, below, provides a short summary of issues of concern in the 2015-2016 session and for the upcoming session. Attachment 2 includes the full proposed legislative platform.

The drought continues to highlight California's immediate water supply and long-term water needs. As a result, the upcoming session is expected to include potentially significant legislation and regulatory activity. The following items are high-priority to the Water Agency:

Groundwater: Implementation of the Sustainable Groundwater Management Act (SGMA) is underway, and it is likely that attempts will be made to significantly modify the legislation. In addition, California Department of Water Resources and the State Water Board will continue to release proposed regulations to implement SGMA. Of particular importance to the Water Agency are opportunities to clarify basin boundary issues and to ensure funding for start-up costs. The Water Agency will continue to work with the statewide organizations on technical clean-up legislation and to oppose legislation that would weaken SGMA enforcement. The Water Agency will also advocate for funding for implementation of SGMA, including possible changes to Propositions 218 and 26.

Watershed funding: Recent actions by the State Water Board to curtail water use in key Russian River tributaries have focused attention on projects that reduce on-stream water use and that restore the watershed. A proposed park bond could provide possible funding streams for watershed restoration, as will ongoing implementation of Proposition 1.

1. Integrated Regional Watershed Management: It is possible that another water bond could be placed on the 2018 ballot. Maintaining funding for Integrated Regional Watershed Management (IRWM) will be key to the Water Agency and other coastal and rural agencies. The Water Agency will continue to monitor development of water public goods charge initiatives, oppose legislation that would apply a statewide fee on water users and ensure IRWMPs are included in future water bond measures and are considered as possible mechanisms for distribution of cap-and-trade funds.

The Water Agency and County anticipate bringing a presentation to their Boards on legislative priorities and platforms early in 2017.

LEGISLATIVE SERVICES CONTRACT – HISTORY AND SCOPE

From 1999 to 2010 the Water Agency retained the services of two legislative advocacy firms at the state level. In 2010 the decision was made to consolidate the work with one firm in order to reduce cost to the Water Agency and increase efficiency. In 2010, the Water Agency and its affiliated sanitation districts sent a Request for Qualifications to nine firms. The solicitation was also posted on the Water Agency's website. Two firms, Reeb Government Relations and Conservation Strategy Group, both located in Sacramento, California, responded. CSG was selected to perform the work because the firm demonstrated superior knowledge, experience, and accomplishment in water policy, endangered species regulations, and environmental policy, as well as a track record of legislative accomplishment. Amendment 3 will be the final extension of CSG's existing contract. In 2018, the Water Agency will send out a Request for Qualifications for its state legislative services.

The Water Agency and CSG entered into the current agreement for state legislative advocacy, dated July 31, 2012, in the amount of $199,400 through July 31, 2014.

The First Amended Agreement dated March 31, 2013, changed the funding structure with no increase to time or cost.

The Second Amended Agreement dated July 22, 2014, increased the amount by $276,000 and expanded the scope of work to include development and coordination of regional and statewide coalitions to further the Water Agency's efforts in securing funds for water supply, recycled water, flood control, groundwater, greenhouse gas reduction, energy, and other programs, and extended the agreement term by 2 years and 5 months for a new not-to-exceed total of $475,400 and end date of December 31, 2016.

Since 2010, CSG has represented the Water Agency in Sacramento, working with the Legislature, the Governor's office, and state agencies including the State Water Resources Control Board, the Department of Water Resources, the Department of Fish and Wildlife, and the Resources Agency.

CSG also represents the Sonoma County Open Space and Agricultural Preservation District (District). The District and the Water Agency coordinate representation on issues common to both entities. CSG also coordinates with the County of Sonoma lobbyists on issues of common interest, primarily Assembly Bill 32 implementation. Many of the Water Agency issues, such as water supply and recycled water issues, are unique to the Water Agency in its role as a water supplier and energy producer.

In the six years that CSG has been working with the Water Agency, CSG has successfully assisted the Water Agency with several initiatives. The issues of most pressing concern in the last legislative session and which will likely be of concern in the upcoming session include the following:

Bond Measures: CSG provided staff support and leadership for the Water Agency's Water Bond Coalition. As a result, voter-approved Proposition 1 (the Water Quality, Supply and Infrastructure Improvement Act of 2014) included more than $510 million for integrated regional water management and included a specific allocation of these funds by region as requested by the coalition.

As much of the state grapples with the ongoing drought, it is anticipated that another water bond will be considered in the upcoming legislative session. Given the antipathy of some water agencies and irrigation districts towards Integrated Regional Watershed Management (IRWM), it is anticipated that the Water Bond Coalition will need to re-engage to ensure that funds are allocated to IRWM programs, and that the water supply and water quality needs of rural and coastal regions are met.

CSG successfully secured language in AB 2444 (2016), the proposed parks bond, that would allow programs like the Sonoma County Youth Ecology Corps to perform restoration work on bond-funded projects. While AB 2444 died, the author's office is already negotiating a new parks bond, which will likely contain the same language. CSG will continue to advocate on behalf of including the SVYEC in water, parks and other bond measures.

Groundwater: Since the implementation of the groundbreaking Sustainable Groundwater Management Act (SGMA) in 2014, the Consultant has worked closely with staff to ensure that clean-up legislation and other measures don't adversely affect local SGMA implementation efforts. Of critical importance was the CSG's work with the author to amend SB 1317, which would have placed a significant burden on the county and Water Agency. It is anticipated that monitoring groundwater legislation and SGMA regulations will require ongoing and significant efforts.

Local Greenhouse Gas Revenue Initiative: CSG coordinated development of a coalition of local agencies and state associations advocating for allocation of greenhouse gas revenue for climate protection programs at local agencies. The coalition sponsored Assembly Bill 1790 for this purpose and secured resounding support for the bill in the Assembly Natural Resources Committee and in the Assembly Local Government Committee. The California State Association of Counties, the League of Cities, and the Special Districts Association strongly supported this effort, as did the County of Los Angeles.

Community Choice: CSG actively assisted the Water Agency in opposing legislation that would have significant negative impact on Sonoma Clean Power. Several bills, if enacted, could have threatened the economic viability of Sonoma Clean Power and could have impacted the repayment of start-up costs loaned by the Water Agency to Sonoma Clean Power.

Emergency Drought Response: CSG participated directly in development of funding allocation for emergency drought response under Senate Bills 103 and 104 (2014). The legislation supplied $200 million through the integrated water management program for drought relief projects, about $8.7 million for the North Coast Region. The program also allocated $30 million in greenhouse gas revenues for water and energy efficiency programs.

The prolonged drought (which is ongoing in many parts of California) and the passage of Proposition 1 resulted in an unprecedented level of activity on behalf of regulatory agencies, particularly the State

Water Quality Control Board. CSG will continue to monitor meetings, draft regulations, and bond implementation rules to ensure the Water Agency's interests are being considered.

Under the proposed amended agreement, CSG will continue its original scope of work, which includes assisting Water Agency in responding to legislative initiatives that have the potential to impact Water Agency programs, advocating Water Agency legislative priorities, assisting with Water Agency requests for grants and loans, facilitating communication with state regulatory agencies, providing government affairs consulting and lobbying services, and assisting the Water Agency with the coordination of the Local Government Coalition and the Water Bond Coalitions.

The total additional cost for the amended agreement is $226,800 allocated as follows: $56,700 in FY 2016/2017, $113,400 in fiscal year 2017/2018 and $56,700 in fiscal year 2018/2019. The new total agreement amount is $702,200. The new end date is December 31, 2018.

RECOMMENDATION

Water Agency staff recommends that the Chair authorize the Water Agency General Manager to execute a third amended agreement with Conservation Strategy Group ($702,200 through December 31, 2018) for state legislative advocacy services.

Water Agency staff recommends that the Board approve the 2017-2018 State Legislative Platform.

**Prior Board Actions:**

01/13/2015: Approved the Water Agency 2015-16 legislative platform

07/22/2014: Approved second amended agreement between Water Agency and Conservation Strategy Group for state legislative advocacy services. Additional cost $276,000; term end December 31, 2016.

07/31/2012: Approved agreement between Water Agency and Conservation Strategy Group for state legislative advocacy services. Cost $199,400; term end July 31, 2014.

02/21/2012: Approved the Water Agency legislative platform

08/24/2010: Approved amended agreement between Water Agency and Conservation Strategy Group for state legislative advocacy services. Cost $199,400; term end June 30, 2012.

**Strategic Plan Alignment** Goal 2: Economic and Environmental Stewardship

This agreement will assist the County in its goal of protecting its watersheds and ensuring a water and energy plan that increases water conservation.

Water Agency Supply Goals and Strategies, Goal 2: Protect the Water Agency's existing water rights and our clean, high-quality water supply, and improve system resiliency by continuing to develop alternative supplies.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | $56,700 | $113,400 | $56,700 |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **$56,700** | **$113,400** | **$56,700** |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | $56,700 | $113,400 | $56,700 |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$56,700** | **$113,400** | **$56,700** |

**Narrative Explanation of Fiscal Impacts:**

Budgeted amount of $56,700 is available from FY 2016/2017 appropriations for the Warm Springs Dam ($13,608), Recycled Water ($13,608), and Water Transmission funds ($29,484). FY 2017/2018 and 2018/2019 appropriations will be budgeted in those fiscal year.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Amended Agreement (1 copy)
Priorities Table

**Related Items "On File" with the Clerk of the Board:**

For accessibility assistance with this document, please contact the Sonoma County Water Agency Technical Writing Section at (707) 547-1900, fax at (707) 544-6123, or TDD through the California Relay Service (by dialing 711).
jac: s:\techw\agreements\1112-155c.docx version: 11/7/2016 3:09:00 PM TW 11/12-155C

# Third Amended Agreement for State Legislative Advocacy Services

This third amended agreement ("Third Amended Agreement" or "Agreement") is by and between **Sonoma County Water Agency**, a body corporate and politic of the State of California (hereinafter "Water Agency") and **Conservation Strategy Group,** a limited liability company (hereinafter "Consultant"). The Effective Date of this Agreement is the date listed in Article 5.

## RECITALS

A. Consultant represents it is a duly qualified firm, experienced in providing assistance with governmental and legislative affairs, lobbying, and related services.

B. Consultant represents it is a consultant/lobbyist, registered with the State of California, experienced in obtaining grants and loans for flood control, watershed restoration, and other water-related projects.

C. Water Agency is actively involved in efforts to secure additional state and federal funding for water-related projects of interest to Water Agency, including projects to aid in water supply, flood control, sanitation, salmonid recovery, a watershed restoration, and water reuse.

D. Legislation under consideration by the State of California concerning water supply, flood control, sanitation, watershed restoration, and water reuse has the potential to impact Water Agency programs and operating costs.

E. Water Agency wishes to employ the services of Consultant to assist Water Agency in responding to legislative initiatives that may impact Water Agency programs, advocate Water Agency's legislative priorities, assist with Water Agency requests for grants and loans, facilitate communication with State regulatory agencies, and provide government affairs consulting and lobbying services.

F. Water Agency and Consultant first entered into this Agreement on July 31, 2012.

G. The First Amended Agreement changed Paragraph 4.1b to allow all funds budgeted for expenses to be spent at any time during the term of the Agreement.

H. This Second Amended Agreement ended the reduced monthly retainer amount on July 31, 2014; increased the retention amount through the term end on December 31, 2016; included mandatory language for lobbyist reporting; increased the total not-to-exceed amount to $475,400; extended the term by 2 years and 5 months to December 31, 2016; and expanded the Consultant scope to include development and coordination of regional and/or statewide coalitions to further the Water Agency's efforts in securing funds for water supply, recycled water, watershed restoration, flood control, groundwater, greenhouse gas reduction, energy, and other programs.

I. This Third Amended Agreement extends the term by two years to December 31, 2018, and increases the total cost by $226,000, for a new not-to-exceed amount of $701,400.

J. This Third Amended Agreement supersedes all previous agreements and amendments between the parties.

K. .

In consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

## AGREEMENT

## 1. RECITALS

1.1. The above recitals are true and correct.

## 2. LIST OF EXHIBITS

2.1. The following exhibits are attached hereto and incorporated herein:

a. Exhibit A: Scope of Work

b. Exhibit B: Insurance Requirements

## 3. SCOPE OF SERVICES

3.1. *Consultant's Specified Services.* Consultant shall perform the services described in Exhibit A ("Scope of Work"), within the times or by the dates provided for in Exhibit A and pursuant to Article 9 (Prosecution of Work). In the event of a conflict between the body of this Agreement and Exhibit A, the provisions in the body of this Agreement shall control.

3.2. *Cooperation with Water Agency.* Consultant shall cooperate with Water Agency in the performance of all work hereunder. Consultant shall coordinate the work with Water Agency's Project Manager. Contact information and mailing addresses:

| Water Agency | Consultant |
|---|---|
| Project Manager: Ann DuBay<br>404 Aviation Boulevard<br>Santa Rosa, CA 95403-9019<br>Phone: 707-524-8378<br>Email: Ann.DuBay@scwa.ca.gov | Contact: Joe Caves<br>1100 11th Street, 5th Floor<br>Sacramento, CA 95814<br>Phone: 916-558-1516<br>Email: Joe@csgcalifornia.com |
| **Remit invoices to:**<br>Susan Bookmyer<br>Same address as above or<br>Email:<br>susan.bookmyer@scwa.ca.gov | **Remit payments to:**<br>Attn: Accounts Receivable<br>Same address as above |

3.3. *Performance Standard and Standard of Care.* Consultant hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with the requirements of applicable federal, state and local laws, it being understood that acceptance of Consultant's work by Water Agency shall

not operate as a waiver or release. Water Agency has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant hereby agrees that its work will be performed and its operations conducted in accordance with the standards of a reasonable professional having specialized knowledge and expertise in the services provided under this Agreement. If Water Agency determines that any of Consultant's work is not in accordance with such level of competency and standard of care, Water Agency, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with Water Agency to review the quality of the work and resolve matters of concern; (b) require Consultant to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 6 (Termination); or (d) pursue any and all other remedies at law or in equity.

3.4. *Assigned Personnel.*

a. Consultant shall assign only competent personnel to perform work hereunder. In the event that at any time Water Agency, in its sole discretion, desires the removal of any person or persons assigned by Consultant to perform work hereunder, Consultant shall remove such person or persons immediately upon receiving written notice from Water Agency.

b. Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by Water Agency to be key personnel whose services were a material inducement to Water Agency to enter into this Agreement, and without whose services Water Agency would not have entered into this Agreement. Consultant shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of Water Agency.

c. In the event that any of Consultant's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness, or other factors outside of Consultant's control, Consultant shall be responsible for timely provision of adequately qualified replacements.

## 4. PAYMENT

4.1. Method of Payment. For all services and incidental costs required hereunder, Consultant shall be paid in accordance with the following terms:

a. *Monthly Retainer*: For all services and incidental costs authorized hereunder, commencing August 1, 2012 through July 31, 2014, Water Agency agrees to pay Consultant a monthly retainer of $8,100.00.

b. *Monthly Retainer*: For all services and incidental costs authorized hereunder, commencing August 1, 2014 through December 31, 2016, Water Agency agrees to pay Consultant a monthly retainer of $9,000.00. Of this retainer,

$4,000 per month will be for Lobbying Services and $5,000 per month will be for Consulting Services.

c. *Monthly Retainer*: For all services and incidental costs authorized hereunder, commencing August 1, 2016 through December 31, 2018, Water Agency agrees to pay Consultant a monthly retainer of $9,450.00. Of this retainer, $4,200per month will be for Lobbying Services and $5,250 per month will be for Consulting Services.

d. *Expenses and Non-Reimbursable Services*: In addition, Water Agency agrees to reimburse Consultant's reasonable and necessary expenses, with advanced written approval from Water Agency's Project Manager, not to exceed $5,000.00 each year for the term of the Agreement. Consultant shall not be reimbursed for unneeded messenger or express mail charges; first class or business class air travel; entertainment; normal overhead functions such as word processing or typing time, ordering records, calendaring functions, filing, indexing, proofreading or copying time, or any other procedures of a secretarial nature; meals unless on preauthorized travel; overtime; or office supplies.

e. *Lobby Reporting Requirements*: Consultant shall register Water Agency as a lobbying client on its California Lobbying Firm Registration Statement (FPPC Form 601). Consultant agrees to assist Water Agency with its quarterly reporting obligations under state law as a Lobbyist Employer during the term of the agreement between Consultant and Water Agency. Water Agency agrees to provide to Consultant upon request all requested information for the Lobbyist Employer Report in a timely manner. Water Agency acknowledges that other Water Agency expenditures relating to the state lobbying activities may be reportable, such as payments made to Water Agency's employees or other consultants, payments made for grassroots lobbying communications, and gifts made to public officials. Cooperation and information from Water Agency is necessary to ensure an accurate and timely Report.

4.2. Total costs: Total costs under this Agreement shall not exceed $701,400.

4.3. Invoices: Consultant shall submit its bills on a monthly basis, in a form approved by Water Agency's Project Manager. The bills shall show or include:

a. Consultant name

b. Name of Agreement

c. Water Agency Project-Activity Codes:

- D0025P004
- W0061C001
- T0072D025

d. Task performed with an itemized description of services rendered by date

e. Copies of receipts for reimbursable materials/expenses

4.4. Availability of Funding in Subsequent Fiscal Years.

a. Water Agency's performance under this Agreement in subsequent years is contingent upon appropriation of funds by Water Agency's Board of Directors. Water Agency shall have no liability under this Agreement if sufficient funds are not appropriated in subsequent fiscal years by the Water Agency's Board of Directors for the purpose of this Agreement. Amount of funding planned for appropriation for this Agreement is as follows:

| Year | Timeframe | Amounts |
|---|---|---|
| Year 1 | August 1, 2012 through July 31, 2013 | $99,700 |
| Year 2 | August 1, 2013, through July 31, 2014 | $99,700 |
| Year 3 | August 1, 2014 through July 31, 2015 | $113,000 |
| Year 4 | August 1, 2015 through December 31, 2016 | $163,000 |
| Year 5 | January 1, 2016 through December 31, 2017 | $113,000 |
| Year 6 | January 1, 2017 through December 31, 2018 | $113,000 |
| | Total for 6 Years, 5 Months | $701,400 |

4.5. If funding for this Agreement for any fiscal year is reduced or eliminated by Water Agency's Board of Directors, Water Agency shall have the option to either terminate this Agreement in accordance with Article 6 or offer an amendment to Consultant to reflect the reduced amount.

## 5. TERM OF AGREEMENT

5.1. The term of this Agreement shall be from August 1, 2012 ("Effective Date") to December 31, 2018, unless terminated earlier in accordance with the provisions of Article 6 (Termination).

## 6. TERMINATION

6.1. *Termination Without Cause:* Notwithstanding any other provision of this Agreement, at any time and without cause, Water Agency shall have the right, in its sole discretion, to terminate this Agreement by giving 5 days written notice to Consultant.

6.2. *Termination for Cause:* Notwithstanding any other provision of this Agreement, should Consultant fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, Water Agency may immediately terminate this Agreement by giving Consultant written notice of such termination, stating the reason for termination.

6.3. *Delivery of Work Product and Final Payment Upon Termination:* In the event of termination, Consultant, within 14 days following the date of termination, shall

deliver to Water Agency all materials and work product subject to Paragraph 12.7 and shall submit to Water Agency an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

6.4. *Payment Upon Termination:* Upon termination of this Agreement by Water Agency, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total payment; provided, however, that if services are to be paid on a per-hour or per-day basis, then Consultant shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to termination times the applicable hourly or daily rate; and further provided, however, that if Water Agency terminates the Agreement for cause pursuant to Paragraph 6.2, Water Agency shall deduct from such amounts the amount of damage, if any, sustained by Water Agency by virtue of the breach of the Agreement by Consultant.

6.5. *Authority to Terminate:* Water Agency's right to terminate may be exercised by Water Agency's General Manager.

## 7. INDEMNIFICATION

7.1. Consultant agrees to accept all responsibility for loss or damage to any person or entity, including Water Agency, and to indemnify, hold harmless, and release Water Agency, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Consultant, that arise out of, pertain to, or relate to Consultant's performance or obligations under this Agreement. Consultant agrees to provide a complete defense for any claim or action brought against Water Agency based upon a claim relating to Consultant's performance or obligations under this Agreement. Consultant's obligations under this Paragraph 7 apply whether or not there is concurrent negligence on the part of Water Agency, but, to the extent required by law, excluding liability due to conduct of Water Agency. Water Agency shall have the right to select its legal counsel at Consultant's expense, subject to Consultant's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Consultant or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts. This indemnity provision survives the Agreement.

## 8. INSURANCE

8.1. With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit B.

## 9. PROSECUTION OF WORK

9.1. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for Consultant's performance of this Agreement shall be extended by a number of days equal to the number of days Consultant has been delayed.

## 10. EXTRA OR CHANGED WORK

10.1. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Minor changes, which do not increase the amount paid under the Agreement, and which do not significantly change the scope of work or significantly lengthen time schedules may be executed by the Water Agency's General Manager in a form approved by County Counsel. The parties expressly recognize that Water Agency personnel are without authorization to order all other extra or changed work or waive Agreement requirements. Failure of Consultant to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Consultant shall be entitled to no compensation whatsoever for the performance of such work. Consultant further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of Water Agency.

## 11. CONTENT ONLINE ACCESSIBILITY

11.1. *Accessibility:* Water Agency policy requires that all documents that may be published to the Web meet accessibility standards to the greatest extent possible, and utilizing available existing technologies.

11.2. *Standards:* All consultants responsible for preparing content intended for use or publication on a Water Agency/County-managed or Water Agency/County-funded web site must comply with applicable Federal accessibility standards established by 36 C.F.R. Section 1194, pursuant to Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794(d)), and Water Agency's Web Site Accessibility Policy located at http://webstandards.sonoma-county.org.

11.3. *Certification:* With each final receivable intended for public distribution (report, presentations posted to the Internet, public outreach materials), Consultant shall

include a descriptive summary describing how all deliverable documents were assessed for accessibility (e.g. Microsoft Word accessibility check; Adobe Acrobat accessibility check, or other commonly accepted compliance check).

11.4. *Alternate Format:* When it is strictly impossible due to the unavailability of technologies required to produce an accessible document, Consultant shall identify the anticipated accessibility deficiency prior to commencement of any work to produce such deliverables. Consultant agrees to cooperate with Water Agency staff in the development of alternate document formats to maximize the facilitative features of the impacted document(s); e.g., embedding the document with alt-tags that describe complex data/tables.

11.5. *Noncompliant Materials; Obligation to Cure:* Remediation of any materials that do not comply with Water Agency's Web Site Accessibility Policy shall be the responsibility of Consultant. If Water Agency, in its sole and absolute discretion, determines that any deliverable intended for use or publication on any Water Agency/County-managed or Water Agency/County-funded Web site does not comply with Water Agency Accessibility Standards, Water Agency will promptly inform Consultant in writing. Upon such notice, Consultant shall, without charge to Water Agency, repair or replace the non-compliant materials within such period of time as specified by Water Agency in writing. If the required repair or replacement is not completed within the time specified, Water Agency shall have the right to do any or all of the following, without prejudice to Water Agency's right to pursue any and all other remedies at law or in equity:

a. Cancel any delivery or task order

b. Terminate this Agreement pursuant to the provisions of Article 6 (Termination); and/or

c. In the case of custom EIT developed by Consultant for Water Agency, Water Agency may have any necessary changes or repairs performed by itself or by another contractor. In such event, Consultant shall be liable for all expenses incurred by Water Agency in connection with such changes or repairs.

11.6. *Water Agency's Rights Reserved:* Notwithstanding the foregoing, Water Agency may accept deliverables that are not strictly compliant with Water Agency Accessibility Standards if Water Agency, in its sole and absolute discretion, determines that acceptance of such products or services is in Water Agency's best interest.

## 12. REPRESENTATIONS OF CONSULTANT

12.1. *Status of Consultant:* The parties intend that Consultant, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Consultant is not to be considered an agent or employee of Water Agency and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits Water Agency provides its employees. In the event Water

Agency exercises its right to terminate this Agreement pursuant to Article 6 (Termination), Consultant expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

12.2. *Taxes:* Consultant agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Consultant agrees to indemnify and hold Water Agency harmless from any liability which it may incur to the United States or to the State of California or to any other public entity as a consequence of Consultant's failure to pay, when due, all such taxes and obligations. In case Water Agency is audited for compliance regarding any withholding or other applicable taxes, Consultant agrees to furnish Water Agency with proof of payment of taxes on these earnings.

12.3. *Records Maintenance:* Consultant shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to Water Agency for inspection at any reasonable time. Consultant shall maintain such records for a period of four (4) years following completion of work hereunder.

12.4. *Conflict of Interest:* Consultant covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Consultant further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if required by law or requested to do so by Water Agency, Consultant shall submit a completed Fair Political Practices Commission Statement of Economic Interests (Form 700) with Water Agency within 30 calendar days after the Effective Date of this Agreement and each year thereafter during the term of this Agreement, or as required by state law.

12.5. *Statutory Compliance/Living Wage Ordinance:* Consultant agrees to comply, and to ensure compliance by its subconsultants or subcontractors, with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Consultant expressly acknowledges and agrees that this Agreement may be subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in

termination of the Agreement or pursuit of other legal or administrative remedies.

12.6. *Nondiscrimination:* Consultant shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

12.7. *Assignment of Rights:* Consultant assigns to Water Agency all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Consultant in connection with this Agreement. Consultant agrees to take such actions as are necessary to protect the rights assigned to Water Agency in this Agreement, and to refrain from taking any action which would impair those rights. Consultant's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as Water Agency may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of Water Agency. Consultant shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of Water Agency.

12.8. *Ownership and Disclosure of Work Product:* All reports, original drawings, graphics, plans, studies, and other data or documents ("documents"), in whatever form or format, assembled or prepared by Consultant or Consultant's subcontractors, consultants, and other agents in connection with this Agreement shall be the property of Water Agency. Water Agency shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Consultant shall promptly deliver to Water Agency all such documents, which have not already been provided to Water Agency in such form or format as Water Agency deems appropriate. Such documents shall be and will remain the property of Water Agency without restriction or limitation. Consultant may retain copies of the above described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of Water Agency.

## 13. DEMAND FOR ASSURANCE

13.1. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend

any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance. Nothing in this Article 13 limits Water Agency's right to terminate this Agreement pursuant to Article 6 (Termination).

## 14. ASSIGNMENT AND DELEGATION

14.1. *Consent:* Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

14.2. *Subcontracts:* Notwithstanding the foregoing, Consultant may enter into subcontracts with the subconsultants specifically identified herein. If no subconsultants are listed, then no subconsultants will be utilized in the performance of the work specified in this Agreement.

14.3. *Change of Subcontractors or Subconsultants:* If, after execution of the Agreement, parties agree that subconsultants not listed in Paragraph 14.2 will be utilized, Consultant may enter into subcontracts with subconsultants to perform other specific duties pursuant to the provisions of this paragraph. The following provisions apply to any subcontract entered into by Consultant other than those listed in Paragraph 14.2 above:

a. Prior to entering into any contract with subconsultant, Consultant shall obtain Water Agency approval of subconsultant. Water Agency's Board of Directors must approve the selection of any subconsultant if the amount payable to subconsultant under the agreement exceeds $25,000. In connection with such approval, Consultant shall provide Water Agency with copies of the responses to Consultant's Request for Proposals (RFP) to subconsultants, the names of key personnel who will be performing work under the agreement, and an explanation of Consultant's reasons for choosing the recommended subconsultant based upon the criteria in the RFP.

## 15. METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS, AND MAKING PAYMENTS

15.1. *Method of Delivery:* All notices, bills, and payments shall be made in writing and shall be given by personal delivery or by U.S. Mail or courier service. Notices, bills, and payments shall be addressed as specified in Paragraph 3.2.

15.2. *Receipt:* When a notice, bill, or payment is given by a generally recognized overnight courier service, the notice, bill, or payment shall be deemed received on the next business day. When a copy of a notice, bill, or payment is sent by electronic means, the notice, bill, or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill, or payment is deposited in the U.S. mail and postmarked on the date of the electronic transmission (for a payment, on or before the due date), (2) the sender has a written confirmation of the electronic transmission, and (3) the electronic transmission is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills, and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this Article.

## 16. MISCELLANEOUS PROVISIONS

16.1. *No Bottled Water:* In accordance with Water Agency Board of Directors Resolution No. 09-0920, dated September 29, 2009, no Water Agency funding shall be used to purchase single-serving, disposable water bottles for use in Water Agency facilities or at Water Agency-sponsored events. This restriction shall not apply when potable water is not available.

16.2. *No Waiver of Breach:* The waiver by Water Agency of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.

16.3. *Construction:* To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Consultant and Water Agency acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Consultant and Water Agency acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

16.4. *Consent:* Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

16.5. *No Third-Party Beneficiaries:* Except as provided in Article 7 (Indemnification), nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

16.6. *Applicable Law and Forum:* This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or in the forum nearest to the city of Santa Rosa, in the County of Sonoma.

16.7. *Captions:* The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

16.8. *Merger:* This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

16.9. *Time of Essence:* Time is and shall be of the essence of this Agreement and every provision hereof.

/

/

/

/

/

/

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date last signed by the parties to the Agreement.

TW 11/12-155C

Reviewed as to funds:

By: _____
Water Agency Division Manager - Administrative Services

Approved as to form:

By: _____
Cory O'Donnell, Deputy County Counsel

Insurance Documentation is on file with Water Agency

Date/TW Initials: 11/1/16 JC

**Sonoma County Water Agency**

By: _____
Grant Davis
Water Agency General Manager
Authorized per Water Agency's Board of Directors Action on December 13, 2016

Date: _____

**Conservation Strategy Group**, a limited liability company

By: _____

_____
(Please print name here)

Title: _____

Date: _____

# Exhibit A

## Scope of Work

1. **TASKS**

1.1 Monitor legislation relevant to Water Agency and notify Water Agency of bills or amendments to bills that may impact Water Agency operations.

1.2 Based on consultation with Water Agency, initiate appropriate actions to advocate the interests of Water Agency regarding state legislative and budget issues.

1.3 Serve as a principal contact between Water Agency and Water Agency's legislative delegation, providing members of the delegation with information on topics affecting Water Agency and Water Agency's point of view on legislative and budget issues. Share with Water Agency staff any concerns or questions raised by legislators.

1.4 Assist Water Agency in developing and implementing strategy to address legislative concerns. Coordinate implementation of Water Agency's legislative strategy with representatives of other agencies or organizations on issues of common interest including but not limited to the Association of California Water Agencies, the California Association of Sanitation Agencies, and the California Special Districts Association.

1.5 Work with Water Agency staff to write, secure sponsors, support, and achieve enactment of new legislation that addresses Water Agency needs or increases Water Agency's effectiveness in carrying out its mission.

1.6 Facilitate formal and informal communication with state legislators and staff members on behalf of Water Agency, and maintain regular contact in order to anticipate state actions that may affect Water Agency.

1.7 Prepare letters, attend meetings, and make verbal presentations to legislative committees and working groups advocating for Water Agency's positions on legislative issues.

1.8 Advise when participation by Water Agency officials in state hearings and meetings would further Water Agency's interests. Arrange, coordinate, and schedule Water Agency officials for such hearings and meetings.

1.9 Provide regular reports to Water Agency on major issues. This includes written reports, telephone and e-mail reports to Water Agency staff on urgent matters, and presentations to Water Agency's Board of Directors upon request.

1.10 Monitor actions of the State Water Resources Control Board, the California Department of Water Resources, and other state agencies. Facilitate communication between Water Agency and state officials and staff on matters related to Water Agency business. Coordinate meetings as needed and maintain contact with key personnel in relevant state agencies.

1.11 Assist Water Agency in developing legislation to facilitate regional implementation of climate protection programs jointly with transportation authorities or other entities.

1.12 When appropriate, work with Water Agency in development and coordination of coalitions of like-minded agencies and organizations to further opportunities for funding of Water Agency programs and projects.

## 2. DELIVERABLES AND DUE DATES

2.1 Weekly Updates: Provide weekly, verbal updates to Water Agency's General Manager or his designee regarding legislative issues.

2.2 Meetings: Meet with Water Agency staff members in Sacramento as needed and meet with Water Agency officials in Santa Rosa and other locations at mutually agreeable times.

2.3 Quarterly Reports:

a. The reports shall be prepared in draft form and one copy submitted to Water Agency on the first of each quarter during the term of this Agreement.

b. Reports shall include:

- Summaries of activities
- Copies of letters and legislation prepared
- Recommendations regarding future advocacy work
- Copies of meeting and hearing agendas

# Exhibit B

## Insurance Requirements

1. **INSURANCE**

1.1. With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

1.2. **Workers' Compensation and Employers Liability Insurance**

a. Required if Consultant has employees.

b. Workers' Compensation insurance with statutory limits as required by the Labor Code of the State of California.

c. Employers' Liability with limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.

d. Required Evidence of Coverage:

i. Certificate of Insurance

e. If Consultant currently has no employees, Consultant agrees to obtain the above-specified Workers' Compensation and Employers' Liability insurance should any employees be engaged during the term of this Agreement or any extensions of the term.

1.3. **General Liability Insurance**

a. Commercial General Liability Insurance on a standard occurrence form, no less broad than ISO form CG 00 01.

b. Minimum Limits: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate.

c. Consultant shall disclose any deductible or self-insured retention in excess of $25,000 and such deductible or self-insured retention must be approved in advance by Water Agency. Consultant is responsible for any deductible or self-insured retention.

d. Sonoma County Water Agency, its officers, agents, and employees, shall be additional insured(s) for liability arising out of operations by or on behalf of the Consultant in the performance of this Agreement.

e. The insurance provided to Water Agency *et al.* as additional insureds shall apply on a primary and non-contributory basis with respect to any insurance or self-insurance program maintained by them.

f. The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed

operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in ISO form CG 00 01, or equivalent).

g. The policy shall cover inter-insured suits between Water Agency and Consultant and include a "separation of insureds" or "severability" clause which treats each insured separately.

h. Required Evidence of Coverage:

   i. Copy of the additional insured endorsement or policy language granting additional insured status, and

   ii. Certificate of Insurance.

1.4. **Automobile Liability Insurance**

a. Minimum Limits: $1,000,000 combined single limit per accident.

b. Coverage shall apply to all owned autos. If Consultant currently owns no autos, Consultant agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.

c. Coverage shall apply to hired and non-owned autos.

d. Required Evidence of Coverage:

   i. Certificate of Insurance.

1.5. **Standards for Insurance Companies**

a. Insurers shall have an A.M. Best's rating of at least A:VII.

1.6. **Documentation**

a. The Certificate of Insurance must include the following reference: TW 11/12-155B.

b. All required Evidence of Coverage shall be submitted prior to the execution of this Agreement. Consultant agrees to maintain current Evidence of Coverage on file with Water Agency for the required period of insurance.

c. The name and address for mailing Additional Insured endorsements and Certificates of Insurance is: Sonoma County Water Agency its officers, agents, and employees, 404 Aviation Boulevard, Santa Rosa, CA 95403-9019

d. Required Evidence of Coverage shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

e. Consultant shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.

f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

1.7. **Policy Obligations**

a. Consultant's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

1.8. **Material Breach**

a. If Consultant fails to maintain insurance coverage which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. Water Agency, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, Water Agency may purchase the required insurance coverage, and without further notice to Consultant, Water Agency may deduct from sums due to Consultant any premium costs advanced by Water Agency for such insurance. These remedies shall be in addition to any other remedies available to Water Agency.

CONSSTR-01 MDURAN

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 11/1/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Western Elite Insurance Solutions
140 Diamond Creek Place
Roseville, CA 95747

CONTACT NAME:
PHONE (A/C, No, Ext): (916) 259-6900 FAX (A/C, No): (866) 206-8646
E-MAIL ADDRESS:

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : Rockhill Insurance Company | 28053 |
| INSURER B : National Union Fire Insurance Company of Pittsburgh PA | 19445 |
| INSURER C : Oak River Insurance Company | 34630 |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

INSURED
Conservation Strategy Group
Kelly Solov
1100 11th Street Suite 200
Sacramento, CA 95814

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | X COMMERCIAL GENERAL LIABILITY<br>CLAIMS-MADE X OCCUR<br>X Prof. Liab.<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br>X POLICY PRO-JECT LOC<br>OTHER: | X | | ENVP007817-03 | 02/14/2016 | 02/14/2017 | EACH OCCURRENCE<br>DAMAGE TO RENTED PREMISES (Ea occurrence)<br>MED EXP (Any one person)<br>PERSONAL & ADV INJURY<br>GENERAL AGGREGATE<br>PRODUCTS - COMP/OP AGG | $ 1,000,000<br>$ 50,000<br>$ 5,000<br>$ 1,000,000<br>$ 2,000,000<br>$ 2,000,000 |
| A | AUTOMOBILE LIABILITY<br>ANY AUTO<br>OWNED AUTOS ONLY<br>SCHEDULED AUTOS<br>X HIRED AUTOS ONLY<br>X NON-OWNED AUTOS ONLY | | | ENVP007817-03 | 02/14/2016 | 02/14/2017 | COMBINED SINGLE LIMIT (Ea accident)<br>BODILY INJURY (Per person)<br>BODILY INJURY (Per accident)<br>PROPERTY DAMAGE (Per accident) | $ 1,000,000<br>$<br>$<br>$ |
| B | UMBRELLA LIAB OCCUR<br>X EXCESS LIAB CLAIMS-MADE<br>DED RETENTION $ | | | BE028257953 | 02/14/2016 | 02/14/2017 | EACH OCCURRENCE<br>AGGREGATE | $ 4,000,000<br>$ 4,000,000 |
| C | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N<br>If yes, describe under DESCRIPTION OF OPERATIONS below | N/A | | COWC710923 | 04/28/2016 | 04/28/2017 | X PER STATUTE OTH-ER<br>E.L. EACH ACCIDENT<br>E.L. DISEASE - EA EMPLOYEE<br>E.L. DISEASE - POLICY LIMIT | $ 1,000,000<br>$ 1,000,000<br>$ 1,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The Sonoma County Water Agency, its officers, agents, and employees are named as an Additional Insured with respects to General Liability per the attached endorsement form number CG20100704. Coverage is Primary and Non-Contributory per the atatched endorsement form number RHIC6048. *10 days notice for non-payment.

CERTIFICATE HOLDER

Sonoma County Water Agency
P.O. Box 11628
Santa Rosa, CA 95406

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE


© 1988-2015 ACORD CORPORATION. All rights reserved.
The ACORD name and logo are registered marks of ACORD

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

# ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

| Name Of Additional Insured Person(s) Or Organization(s): | Location(s) Of Covered Operations |
|---|---|
| Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement, effected prior to the date your operations for that person or organization commenced, that such person or organization be added as an additional insured on your policy. | In respect to any location where the named insured is performing "your work". |
| **Information required to complete thise Schedule, if not shown, will be shown in the Declarations.** | |

**A.** **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.


© ISO Properties, Inc., 2004

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

# PRIMARY/NON-CONTRIBUTORY COVERAGE

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**
**CONTRACTORS POLLUTION LIABILITY COVERAGE PART**
**TRANSPORTATION POLLUTION LIABILITY COVERAGE PART**

PRIMARY/NON-CONTRIBUTORY – If required by written contract or agreement, effected prior to the date your operations for that person or organization commenced and named below, such insurance as is afforded by this policy to any additional insureds under this policy shall be primary insurance, and any insurance or self-insurance maintained by such additional insured(s) shall not contribute to the insurance afforded to the named insured.

All other terms and conditions remain unchanged.

**SCHEDULE**

Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement, effected prior to the date your operations for that person or organization commenced, that such person or organization be added as an additional insured on your policy.


Includes Copyrighted Material of Insurance Services Office, Inc. with its permission

# STATE PROGRAM

| OBJECTIVES | PROPOSED ACTIONS | BENEFITS | NOTE |
|---|---|---|---|
| **Groundwater:** Participate in ongoing development of guidelines and regulations for the implementation of the Sustainable Groundwater Management Act and in legislation and regulatory policy that will facilitate groundwater banking projects and enhanced groundwater well information; and advocate for funding for the new groundwater act, through the budget and through implementation of Proposition 1. | 1. Work with the Groundwater Resources Association, ACWA, California Water Foundation and other organizations on technical clean-up legislation.<br>2. Advocate for funding for implementation of SGMA, including changes to Propositions 218 and 26.<br>3. Work with above organizations to support legislation expanding access to well log information.<br>4. Advocate for regulatory policy that does not apply waste discharge requirements to aquifer recharge projects.<br>5. Support legislation that removes regulatory barriers to future groundwater banking projects.<br>6. Support clean-up legislation but oppose legislation that would weaken SGMA enforcement. | • Successful implementation of SGMA will maintain local control of groundwater supply.<br>• Supports implementation of one of the Water Agency's key water supply strategies for the future. | Adds to progress made in Sonoma Valley, Santa Rosa Plain and Petaluma Valley in voluntary groundwater management efforts. |
| **Integrated Regional Watershed Management**: Participate in development of ongoing funding sources for integrated regional water management plans; watershed and habitat restoration and flood protection. | 1. Monitor development of water public goods charge initiatives.<br>2. Oppose legislation that would apply a statewide fee on water users.<br>3. Support funding for Coastal Salmon and Youth Ecology Corps programs<br>4. Ensure IRWMPs are included in future water bond measures and are considered as possible mechanisms for distribution of cap-and-trade funds. | • The Water Agency's water supply is dependent on healthy watersheds and the improvement of endangered and threatened coho, steelhead and Chinook. | IRWM is the preferred model for future water resource management in California. |
| **Proposition 1:** Participate in ongoing implementation of Proposition 1, and actively pursue grant opportunities for Water Agency and sanitation districts programs and projects. | 1. Attend, monitor and actively participate in hearings, workshops and other activities related to bond guidelines, grant solicitations and funding allocations.<br>2. Issue letters explaining the Water Agency position on bond guidelines and implementation.<br>3. Pursue grants and loans released as a result of the water bond. | • Helps offset costs of water, sanitation, recycled water, storm water, flood control, habitat restoration and groundwater projects and programs.<br>• Allows Water Agency and partners to successfully implement projects that lack specific local funding agency, such as restoration of the Laguna de Santa Rosa. | The Water Bond Coalition actively support legislative efforts which resulted in the creation of Proposition 1 in 2014. |
| **Invasive Species:** Support efforts to prevent infestations of invasive mussels in North Coast lakes and waterways. Support efforts to reduce or prevent infestations of waterways from other invasive species. | 1. Monitor legislation that could impact inspection programs.<br>2. Work with state agencies to ensure enforcement of existing policies for prevention of infestations.<br>3. Pursue funding opportunities for operation of new inspection program. | • May prevent a costly and harmful infestation of mussels in local lakes and waterways. | Mussels are prevalent in Southern California and have now been detected in San Benito County. Water Agency actively supported legislation to create a statewide inspection program. |
| **Sonoma County Youth Ecology Corps:** Pursue funding for the SCYEC. | 1.Work with partners and coalitions to get language in state bond measures that gives additional points to grant proposals that use SCYEC-type programs for restoration projects.<br>2. Include SCYEC funding as a component in future stream restoration grant applications through CDFW and other entities.<br>3. Support or sponsor efforts to develop regional coalitions of other youth employment programs. | • Would ensure continued successful operation of the Sonoma County Youth Ecology Corps. | AB 2444, Garcia, the proposed park bond, included language that would have provided points to restoration projects that engaged programs like SCYEC. |

| PROPOSED ACTIONS | BENEFITS | NOTE | OBJECTIVE |
|---|---|---|---|
| **Fisheries:** Support continued state funding for the Fishery Restoration Grant Program required as matching funds for the federal pacific coastal salmon recovery fund. | 1. Advocate for allocation of match funds in the budget bill.<br>2. Work with CDFW personnel to develop alternate funding strategies. | • Ensures that local agencies have access to grant funding for salmon restoration programs including the federal PCSRF. | PCSRF has supplied more than $1.09 billion for coastal salmon restoration and more than $180 million for fisheries in California. |
| **Renewable Energy & Energy Efficiency:** Develop policy and programs (including sponsoring and supporting legislation) that reduce water use, increase energy efficiency and create renewable energy, including Pay As You Save (PAYS) programs, Cal-Conserve program, grant programs and allocations of state funding from the cap-and-trade system or the utility public goods charges. | 1. Support legislation for programs that reduce water and energy use, such as Pay As You Save and Cal-Conserve.<br>2. Support funding for programs that reduce water and energy use, such as PAYS and Cal-Conserve.<br>3. Work with LGSEC or other partners to secure an allocation through the CPUC of carbon revenue for investment in local water-energy programs.<br>4. Advocate for entities like RCPA or a regional local government energy network to be designated to operate regional energy efficiency programs. | • Creates opportunities statewide for local governments to reduce water and energy use, thereby also reducing greenhouse gas emissions. PAYS, in particular, could help reduce water and energy use in multi-family housing. | To-date local governments have been overlooked in discussions about allocation of cap-and-trade funds. |
| **Weather Forecasting; Climate Change and Adaptation:** Support and sponsor legislation and initiatives that promote Forecast Informed Reservoir Operations (FIRO), atmospheric river (AR) research, and climate change and climate adaptation initiatives. | 1. Pursue funding through water bond and other sources.<br>2. Support and sponsor legislative language that would increase funding for enhanced weather and hydrologic forecasting in the Russian River watershed, San Francisco Bay Area and other local watersheds.<br>3. Develop and update materials explaining FIRO, ARs, climate adaptation and climate change initiatives and projects.<br>4. Build coalitions and partnerships to support FIRO and enhanced forecasting capabilities. | • Better information about Atmospheric Rivers will provide resiliency as the climate changes.<br>• Forecast Informed Reservoir Operations could allow more water to be preserved in Lake Mendocino.<br>• Will provide enhanced weather and hydrologic forecasting in the Russian River and other local watersheds.<br>• State funding could help offset the significant costs of climate adaptation initiatives. | The Water Agency is working cooperatively with the Scripps Institute Center for Western Water and Weather Extremes, USACE, NOAA, National Weather Service, California Department of Water Resources and other agencies on Forecast Informed Reservoir Operations.<br><br>The Water Agency is working cooperatively with RCPA, NBCAI, Pepperwood Institute and other organizations on climate adaptation strategies and programs. |
| **Recycled Water & Storm Water:** Work to maximize beneficial use of recycled water and storm water, including the North Bay Water Reuse Program. | 1. Work with North Bay Water Reuse Authority and other coalitions or partners to support language or legislation maximizing the beneficial use of recycled water and storm water.<br>2. Support or sponsor legislation that would help maximize the beneficial use of recycled water or storm water.<br>3. Monitor regulations that limit the use of recycled water or storm water.<br>4. Pursue funding from water bond for recycled water and storm water projects. | • Furthers implementation of an Agency water supply strategy. Would improve ag water supply, urban water supply and reduce wastewater discharges to San Pablo Bay and to other watersheds. | |
| **Sanitation:** Pursue state funding for completion of sewer system and irrigation system improvements in sanitation districts and zones. | 1. Meet with State Water Board personnel when necessary to support grant applications.<br>2. Seek assistance from local legislators to support funding for local projects.<br>3. Actively pursue funding from the water bond. | • Could accelerate completion of sanitation system upgrades in smaller communities. State Revolving Fund loans and grants can be procured for this purpose. | |
| **Drought:** Monitor drought response legislation and regulation and secure funding for drought response initiatives/programs. | 1. Monitor ongoing drought response efforts, including legislation and regulations.<br>2. Work with ACWA and other coalitions to advocate for appropriate drought responses. | • The drought is ongoing through much of California and is a reminder that preparation must be ongoing, in order to be better prepared for the next drought. | State regulatory agencies continue to enact measures in response to the drought. While ongoing conservation is necessary, some may not be locally or regionally appropriate, given that the North Bay seems to be coming out of the drought. |

| OBJECTIVE | PROPOSED ACTIONS | BENEFITS | NOTE |
|---|---|---|---|
| **Park Bond:** Track development of statewide parks bond initiative and work to insure that water-related terms meet agency needs. | 1. Track development of parks bond language.<br>2. Advocate for programs that protect source water quality, restore habitat and improve storm water management.<br>3. Advocate for inclusion of youth corps (including SCYEC) to conduct projects funded by the parks bond. | • Provides additional funding to support Water Agency goals. | |
| **Proposition 218:** Monitor and support legislation that would ease restrictions on funding storm water and flood control projects. | 1. Track legislation that would amend Proposition 218 to include storm water as a water supply source.<br>2. Consider local measure that would provide funding for storm water and flood control projects. | • Would provide funding for storm water capture and flood control projects.<br>• Would help create resiliency in flood control system.<br>• Could benefit groundwater, if storm water capture projects were developed in recharge areas. | |
| **Workforce Housing:** Monitor and support legislation that would remove barriers to provision of housing incentives to employees. | 1. Identify state legislation that would improve opportunities for public agencies to provide housing incentives for workers.<br>2. Communicate with CAO's office and CDC regarding legislation, and, if appropriate, take positions on legislation. | • Could help Water Agency and other public entities provide assistance to employees who can't afford to live where they work due to high housing costs.<br>• Water Agency employees could be more readily available in case of emergencies. | |
| **Disaster Preparedness & Funding:** Support Water Agency applications for disaster relief funds from the federal emergency management agency. Support initiatives to improve or fund emergency response efforts. | 1. Meet with officials from FEMA to identify and address concerns about the status of reimbursement funding. | • Could accelerate payment of funds that have been requested from FEMA.<br>• Could provide funding for preparedness programs related to water supply and sanitation. | FEMA requires applicants to comply with detailed audit requirements. |
| **Regulations**: Monitor state legislative and regulatory actions and take positions on behalf of the Water Agency consistent with the objectives of the legislative program. | 1. Track legislative developments as reported by Water Agency lobbyists and information provided by coalitions and trade organizations.<br>2. Write letters expressing Agency positions on legislation or regulatory initiatives consistent with Board Direction. | • Ensures that Water Agency interests are represented in the development of state policy. | Staff anticipate taking written positions on 20 to 30 bills in this legislative session. |
| **Coalitions:** Continue to participate in the coalitions and like-minded advocacy groups, including the California groundwater coalition, the Local Government Sustainable Energy Coalition and the Water Bond Coalition. | 1. Participate in educational services offered by these groups.<br>2. Host and attend meetings of these groups aimed at developing legislative strategy. | • Provides information about upcoming legislative actions and allows a coordinated effort to advance local priorities. | The Local Government Sustainable Energy Coalition is administered by the Local Government Commission. |
| **State Legislation & Budget:** Monitor legislation and the state budget and take positions on behalf of the agency consistent with the objectives of the legislative program. | 1. Track legislative developments, the state budget and regulatory agencies as reported by Water Agency lobbyists and trade organizations.<br>2. Write letters expressing Water Agency positions on legislation or Budget initiatives consistent with Board Direction. | • Ensures that Water Agency interests are represented in the development of state policy.<br>• Helps prevent harmful budget trailer language that could impact Water Agency operations. | |

| | |
|---|---|
| # County of Sonoma Agenda Item Summary Report<br><br>Clerk of the Board<br>575 Administration Drive<br>Santa Rosa, CA 95403 | **Agenda Item Number: 5**<br>(This Section for use by Clerk of the Board Only.) |
| **To:** Board of Directors, Sonoma County Water Agency | |
| **Board Agenda Date:** December 13, 2016 | **Vote Requirement:** Majority |
| **Department or Agency Name(s):** Sonoma County Water Agency | |
| **Staff Name and Phone Number:**<br>Brad Sherwood (707) 547-1927 | **Supervisorial District(s):**<br>All |
| **Title:** 115th Congress Federal Legislative Platform and Advocacy Agreements | |

**Recommended Actions:**

a) Approve the Sonoma County Water Agency's 115th Congress Federal Affairs Platform for 2017–2018.
b) Authorize Sonoma County Water Agency's General Manager to execute the First Amended Agreement for Government Consultation and Advocacy Services for Federal Funding, Legislative Advocacy, and Environmental Regulatory Water for Restoration, Planning, Research, Monitoring, and Project Implementation with Van Ness Feldman, increasing the amount by $185,760, and extending the agreement term by 24 months for a new not-to-exceed agreement total of $354,960 and end date of December 31, 2018.
c) Authorize Sonoma County Water Agency's General Manager to execute the First Amended Agreement for Federal Legislative Consultation and Advocacy for Flood Control, Sanitation, Water Supply, and Water Recycling Projects, and Implementation of the Russian River Biological Opinion with Alcalde & Fay, increasing the amount by $212,160, expanding the scope of work, and extending the agreement term by 24 months for a new not-to-exceed agreement total of $405,360 and end date of December 31, 2018.
d) Authorize Sonoma County Water Agency's General Manager to execute the First Amended Agreement for Federal Legislative Consultation and Advocacy for Extreme Weather Research, Federal Administration and Congressional Outreach, Recycled Water, and Energy and Resource Programs and Planning with Natural Resource Results, LLC, increasing the amount by $201,600, expanding the scope of work, and extending the agreement term by 24 months for a new not-to-exceed agreement total of $385,200 and end date of December 31, 2018.

**Executive Summary:**

The Sonoma County Water Agency (Water Agency) requests approval of its 115th Congress Federal Legislative Platform for 2017 – 2018, and authorization for the Water Agency's General Manager to execute three amended agreements for federal legislative advocacy, expanding the scope of work of each agreement to include reservoir reoperation and extreme weather funding and policy outreach, and extending the term of each agreement by 24 months. New not-to-exceed agreement totals for each

agreement vary, as described below. The new term end date for all three agreements is December 31, 2018.

**Discussion:**

HISTORY OF ITEM/BACKGROUND

Since 1999, as directed in its strategic plan, the Water Agency participates in the development of water and natural resources policy issues at the federal level. The Water Agency Board of Directors (Board) reviews and approves its Federal Legislative Platform (Platform) once every two years, based on the Congressional cycle. The Water Agency implements the Platform by contracting with professional federal affairs representatives (Representatives). Agreements with the Representatives are reviewed by the Board every two years, based on the Congressional cycle.

2017-2018 FEDERAL AFFAIRS PLATFORM

Below are some of the federal advocacy priorities as written in the Platform (not in order of priority):

1. Legislative, regulatory, and funding support for weather-related initiatives, such as revising reservoir operations at Lake Mendocino, National Oceanic and Atmospheric Administration's Hydrometeorology Testbed Project Implementation, atmospheric rivers research and drought funding opportunities;
2. Regulatory and funding support for medicine take back programs and initiatives;
3. Ongoing funding and regulatory support to continue implementing the Russian River Biological Opinion;
4. Full funding for Corps operations and maintenance activities at Warm Springs and Coyote Valley Dams and related fish facilities;
5. Legislative and regulatory support for the Pacific Coastal Salmon Recovery Fund;
6. Legislative and regulatory support for climate protection, risk assessment and community collaboration;
7. Legislative and regulatory support for Quagga/Zebra Mussel prevention funding and planning at Lake Sonoma and Lake Mendocino;
8. Ongoing technical Collaboration with United States Geological Survey and National Oceanic and Atmospheric Administration; and
9. Ongoing technical, legislative and regulatory support for climate adaptation and risk assessment initiatives, including the White House Partnership for Resilience and Preparedness.

The Water Agency and County anticipate bringing a presentation to their Boards on legislative priorities and platforms early in 2017.

Federal Authorization Requests

While specific project earmarks have not been made by Congress in some time, it is possible to include authorization for a general program in an appropriation bill, such as the Energy and Water Appropriations bill. It is recommended that this approach be used for authorizations, when so advised by federal legislators or legislative staff members, to support programs that would further Water Agency projects and funding needs, and regional funding needs that are synergistic with and supportive of Water Agency programs.

Federal Funding Requests

Water Agency staff's recommended top priority is advocating for appropriation of federal funds to implement the measures required under the Russian River Biological Opinion and support for weather-related initiatives, such as atmospheric rivers research within the Russian River watershed and funding to support the National Oceanic and Atmospheric Administration's Hydrometerology Testbed program (H.M.T.). H.M.T. conducts research on precipitation and weather conditions that can lead to flooding and fosters transition of scientific advances and new tools into forecasting operations. H.M.T.'s outputs support efforts to balance water resource demands and flood control in a changing climate. Specific to the Water Agency, H.M.T.'s outputs support efforts to revise reservoir operations, such as at Lake Mendocino.

FEDERAL LEGISLATIVE ADVOCACY CONTRACTS

In order to implement the Platform, the Water Agency engages with Representatives to provide consultation and advocacy, as well as through direct work of staff and actions by the Board of Directors. Since 2013-14 the Water Agency has engaged Alcalde & Fay, Natural Resource Results, LLC, and Van Ness Feldman to provide these services.

Selection Process

In September 2012, the Water Agency sent a Request for Qualifications to the following seven firms:

1. Agricultural Resources, Washington, D.C.
2. Alcalde & Fay, Arlington, VA
3. BlueWater Strategies, LLC, Washington, D.C.
4. Brownstein Hyatt Farber Schreck, Santa Barbara, CA, and Washington, D.C.
5. Ferguson Group, Washington, D.C.
6. Natural Resource Results, LLC, Washington, D.C.
7. Van Ness Feldman, Washington, D.C.

The solicitation was also posted on the Water Agency's website.

All of the firms except the Ferguson Group responded. Alcalde & Fay, Natural Resource Results, LLC, and Van Ness Feldman were selected for their expertise, Congressional and Administration contacts, and exhibition of success in funding acquisition, regulatory watch, and legislation enacted.

The Water Agency enters into agreement with three separate Representatives in order to completely represent its diverse federal affairs legislative program. The Representatives each work on various components of this program. Each Representative also maintains its own legislative and outreach network which helps advance the program.

During the 2015-16 cycle, Representatives contracts and scopes were as follows:

The Water Agency entered into an agreement for Government Consultation and Advocacy Services for Federal Funding, Legislative Advocacy, and Environmental Regulatory Water for Restoration, Planning, Research, Monitoring, and Project Implementation with Van Ness Feldman, dated December 9, 2014, in the amount of $169,200.

The Water Agency entered into an agreement for Federal Legislative Consultation and Advocacy for Flood Control, Sanitation, Water Supply, and Water Recycling Projects, and Implementation of the Russian River Biological Opinion with Alcalde & Fay, dated December 9, 2014, in the amount of $193,200.

The Water Agency entered into an agreement for Federal Legislative Consultation and Advocacy for Extreme Weather Research, Federal Administration and Congressional Outreach, Recycled Water, and Energy and Resource Programs and Planning with Natural Resource Results, LLC, dated December 9, 2014 in the amount of $183,600.

The Representatives have successfully met legislative and regulatory deadlines and goals since this time. The Representatives will continue to implement outreach and legislative strategies as included in the 115th Federal Congress Legislative Platform.

Below are some of the accomplishments that have been made over the two-year period since the Board last approved the Platform and agreements for Representatives in 2014:

Pacific Coastal Salmon Recovery Fund: $130 million

The Senate Appropriations Committee approved the FY 2016 and 2017 Commerce, Justice Science Appropriations Acts which included $65M annually for the Pacific Coastal Salmon Recovery Fund. The Water Agency requested and Congress approved $65 million annually for the PCSRF, in which approximately $2 million was used to help construct the viewing gallery at the new Russian River fish ladder facility. Thousands of school children and the public can now view migrating Chinook, coho and steelhead at the facility through the underwater viewing gallery through tours offered by the Water Agency (http://www.scwa.ca.gov/tours/).

Reservoir Re-Operations – Water Operations Technical Support Program: $ 5.5 million

The FY2017 Energy and Water Appropriations Act includes $5.5 million for the Water Operations Technical Support (WOTS) Program, which directly supports reservoir re-operations efforts including Forecast Informed Reservoir Operation activities at Lake Mendocino. The funding level is significant, as it reflects the increase requested by the Water Agency over the President's $500K requests for FY2016 and FY2017. WOTS provides rapid direct technical assistance to the U.S. Army Corps of Engineers (Corps) field offices in implementing technology to solve water quality environmental problems at Corps projects. The WOTS Program is an Operations and Maintenance (O&M) funded program, and is assigned to the U.S. Army Engineer Research and Development Center (ERDC), Environmental Laboratory (EL).

Biological Opinion – Continuing Authorities Program: $33 million

The committee report associated with the House FY 2017 Energy and Water Development Appropriations Act indicates that $33 million will be allocated for the Continued Authorities Program (from which funds are allocated for Dry Creek restoration activities, including the Dry Creek Project). The Continuing Authorities Program provides the Corps with the authority to solve water resource, flood risk mitigation, and environmental restoration problems in partnership with local sponsors without the need to obtain specific congressional authorization for each project. This decreases the amount of time required to budget, develop and approve a potential project for construction

Biological Opinion – 1135 Program: $4 million

The committee report associated with the House FY 2017 Energy and Water Development Appropriations Act included $4 million for the Corps' Section 1135 projects, from which $800,000 in funds have been allocated for Dry Creek restoration activities. Under the authority provided by Section 1135 of the Water Resources Development Act of 1986, the Corps may plan, design and build modifications to existing Corps projects, or areas degraded by Corps projects, to restore aquatic habitats for fish and wildlife.

Hill Briefing

Representatives organized a Capitol Hill briefing for Congressional staff from California and the Western U.S. to increase awareness on western weather extremes and to highlight the efforts of a broad coalition of stakeholders on this critical issue. The speaker's panel included representatives from the National Weather Service, the Corps, Western States Water Council, the Center for Western Water and Weather Extremes, and the Water Agency.

ADDITIONAL SERVICES TO BE PERFORMED UNDER THE AMENDED AGREEMENTS

Each of the proposed amended agreements expand the scope to include reservoir reoperation and extreme weather funding and policy outreach, increase the contract amount by approximately 10%, and to extend each agreement term by two years to December 31 2018.

Van Ness Feldman Agreement: The total additional cost is $185,760 allocated as follows: $49,140 in fiscal year 2016/2017; $91,080 in fiscal year 2017/2018, and $45,540 in fiscal year 2018/2019. The new total agreement amount is $354,960.

Alcalde & Fay Agreement: The total additional cost is $212,160 allocated as follows: $55,740 in fiscal year 2016/2017, $104,280 in fiscal year 2017/2018, and $52,140 in fiscal year 2018/2019. The new total agreement amount is $405,768.

Natural Resource Results Agreement: The total additional cost is $201,600 allocated as follows: $53,100 in fiscal year 2016/2017, $99,000 in fiscal year 2017/2018, and $49,500 in fiscal year 2018/2019. The new total agreement amount is $385,200. The new end date is December 31, 2018.

RECOMMENDATIONS

a) Approve the Water Agency's 115th Congress Federal Affairs Platform for 2017- 2018.
b) Authorize Water Agency's General Manager to execute the amended agreement with Van Ness Feldman to provide government consultation and advocacy services, increasing the amount by $185,760, expanding the scope of work to include reservoir reoperation and extreme weather funding and policy outreach, and extending the agreement term by 24 months for a new not-to-exceed agreement total of $354,960 and end date of December 31, 2018.
c) Authorize Water Agency's General Manager to execute the amended agreement with Alcalde & Fay to provide consultation and advocacy services increasing the amount by $212,160, expanding the scope of work to include reservoir reoperation and extreme weather funding and policy outreach, and extending the agreement term by 24 months for a new not-to-exceed agreement total of $405,768 and end date of December 31, 2018.
d) Authorize Water Agency's General Manager to execute the amended agreement with Natural Resource Results, LLC to provide consultation and advocacy services increasing the amount by $201,600, expanding the scope of work to include reservoir reoperation and extreme weather funding

and policy outreach, and extending the agreement term by 24 months for a new not-to-exceed agreement total of $385,200 and end date of December 31, 2018.

**Prior Board Actions:**

12/9/2014: : Approved agreements between Water Agency and Van Ness Feldman, Alcalde & Fay, and Natural Resource Results for legislative and advocacy services. Cost $169,200, $193,200, and $183,600 respectively; term end December 31, 2016.

12/11/2012: Approved agreements between Water Agency and Alcalde & Fay, Van Ness Feldman, and Natural Resource Results for legislative and advocacy services. Cost $193,200, $169,200, and $151,800 respectively; term end December 31, 2014.

02/21/2012: Approval of Water Agency State and Federal Legislative Priorities for 2012 and 2013.

01/24/2012: Approval of resolution supporting the San Francisco Bay Restoration Act and joining the San Francisco Bay Restoration Program coalition

01/10/2012: Approval of the County of Sonoma 2012 legislative platform.

06/07/2011: Board Action approving participation in the Local Government Sustainable Energy

04/05/2011: Approval of consultation and advocacy agreement with Natural Resource Results for sustainability program public policy planning and related activity in the amount of $167,000 with the agreement term ending February 2013.

12/14/2010: Approval of legislative advocacy agreements with Van Ness Feldman ($192,000) and Alcalde & Fay ($228,000) in support of federal funding, legislative, and regulatory requests through December 31, 2012.

03/18/2008: Board Action approving pursuing partnerships and advocating for state and federal funding and legislative policy for sustainability.

02/01/2005: Resolution 05-0104 approving state and federal funding and authorization requests, authorizing the Chair to sign letters of support, authorizing the Water Agency to organize local and regional coalitions and to reimburse costs of reasonable travel costs for staff and regional leaders to support such funding and authorization requests.

**Strategic Plan Alignment** Goal 2: Economic and Environmental Stewardship

County Goal 2: Economic and Environmental Stewardship. The federal affairs work within these agreements support habitat restoration projects and protects the water supply for more than 600,000 residents in portions of Sonoma and Marin counties.

Water Agency Water Supply Goals and Strategies, Goal 3: Maintain stable water supply revenue source and improve operational efficiencies. The federal affairs work within these agreements support initiatives that provide operational flexibility at local reservoirs, improves current water supply facilities and secures funding for ongoing habitat restoration projects.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | $294,480 | $294,360 | $147,180 |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **$294,480** | **$294,360** | **$147,180** |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | $294,480 | $294,360 | $147,180 |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$294,480** | **$294,360** | **$147,180** |

**Narrative Explanation of Fiscal Impacts:**

Van Ness Feldman: Budgeted amount of $91,440 is available from FY 2017/2018 appropriations for the Water Transmission, Warms Springs Dam, and Recycled Water funds. FY 2018/2019 appropriations will be budgeted in that fiscal year.

Alcalde & Fay: Budgeted amount of $104,040 is available from FY 2017/2018 appropriations for the Water Transmission, Warms Springs Dam, and Recycled Water fund. FY 2018/2019 appropriations will be budgeted in that fiscal year.

Natural Resource Results: Budgeted amount of $99,000 is available from FY 2017/2018 appropriations for the Water Transmission, Warms Springs Dam, and Recycled Water funds. FY 2018/2019 appropriations will be budgeted in that fiscal year.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

1. Van Ness Feldman Amended Agreement (1 Copy)

| |
|---|
| 2. Alcalde & Fay Amended Agreement (1 Copy)<br>3. Natural Resource Results Amended Agreement (1 Copy) |
| **Related Items "On File" with the Clerk of the Board:** |
| Water Agency Federal Legislative Priorities |

nw\\S:\Agenda\agrees\12-06-2016 WA 115th Congressional Fed Legislative Platform & Advocacy Agrees_summ.docm

CF/0-0-21 Van Ness Feldman (Agree for Government Consultation and Advocacy Services for Federal Funding, Legislative Advocacy, and Environmental... and Project Implementation) TW 14/15-049 (ID 5157)
CF/0-0-21 Alcalde & Fay (Agree for Federal Legislative Consultation and Advocacy for Flood Control, Sanitation... and Implementation of the Russian River Biological Opinion) TW 14/15-050 (ID 5158)
CF/0-0-21 Natural Resource Results, LLC (Agree for Federal Legislative Consultation and Advocacy for Extreme Weather Research, Federal… Resource Programs and Planning) TW 14/15-051 (ID 5159)

# DRAFT First Amended Agreement for Government Consultation and Advocacy Services for Federal Funding, Legislative Advocacy, and Environmental Regulatory Water for Restoration, Planning, Research, Monitoring, and Project Implementation~~Agreement for Government Consultation and Advocacy Services for Federal Funding, Legislative Advocacy, and Environmental Regulatory Water for Restoration, Planning, Research, Monitoring, and Project Implementation~~

This first amended agreement ("First Amended Agreement" or "Agreement") is by and between **Sonoma County Water Agency~~Sonoma County Water Agency~~**, ("Water Agency") and **Van Ness Feldman~~Van Ness Feldman~~**, a Limited Liability Partnership ("Consultant"). The Effective Date of this Agreement is the date the Agreement is last signed by the parties to the Agreement, unless otherwise specified in Article 5 (Term of Agreement).

Formatted: Strong

Formatted: Strong

## RECITALS

A. Consultant certifies that it is a Washington, DC corporation duly authorized to do business in the State of California, registered with the Secretary of State of California, and represents it is a duly qualified and registered lobbying firm, experienced in providing legislative advocacy services to individuals, agencies, and coalitions; developing and implementing legislative advocacy strategies; and preparing advocacy documents to be used in legislative efforts and related services.

B. Consultant is experienced in obtaining and maximizing funding in the form of grants and loans for projects and programs related to watershed improvement and restoration, fisheries restoration, Endangered Species Act (ESA) compliance efforts, water supply, reliability and emergency response for flooding and water supply, renewable power and greenhouse gas reduction, climate change adaption, and related activities; advocating for federal legislation to assist in implementation of such projects and programs; and in monitoring and proposing changes to environmental regulations that may affect such projects and programs.

C. The Water Agency is a California special district with responsibility for wholesale water supply, flood protection, wastewater treatment, and recycled water distribution. The Water Agency also operates a hydroelectric plant and allows recreational use over some of its properties. The Water Agency is involved in efforts to protect and restore endangered or threatened steelhead and salmon species in the Russian River watershed and in implementing a Biological Opinion from the National Marine Fisheries Service that requires extensive restoration and biological monitoring. Significant efforts are underway to increase renewable power production, reduce greenhouse gas emissions, and provide for climate change adaption.

D. Legislative tracking, legislative development, and pursuit of funding to offset costs are essential for success in fulfilling the Water Agency's responsibilities. Federal laws that

impact the Water Agency's work include, but are not limited to, the Clean Water Act, the ESA, Water Resources Development Act(s), and the National Environmental Policy Act. Water Agency interests require coordination and communication with several federal departments, agencies and related offices including, but not limited to, the United States Army Corps of Engineers, Fish and Wildlife Service, National Oceanic and Atmospheric Agency, Office of Management and Budget, Federal Energy Regulatory Commission, Environmental Protection Agency, the Council on Environmental Quality, United States Geological Survey, Department of Energy, and the Federal Emergency Management Agency.

E. Water Agency and Consultant first entered into this Agreement on December 9, 2014 ("Original Agreement").

~~D.~~F. In addition to the continued need for the original scope of work, Water Agency requires Consultant's assistance developing and coordinating a Regional Education and Awareness Coalition for reservoir reoperation and extreme weather funding and policy.

G. This First Amended Agreement adds $185,760 to the Original Agreement amount of $169,200, and extends the Agreement term by two years, for a new end-date of December 31, 2018.

~~E.~~H. This First Amended Agreement supersedes all previous agreements between the parties.

In consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

## A G R E E M E N T

### 1. RECITALS

1.1. The above recitals are true and correct.

### 2. LIST OF EXHIBITS

2.1. The following exhibits are attached hereto and incorporated herein:

a. Exhibit A: Scope of Work

b. Exhibit B: Insurance Requirements

### 3. SCOPE OF SERVICES

3.1. *Consultant~~Consultant~~'s Specified Services:* Consultant shall perform the services described in Exhibit A (Scope of Work), within the times or by the dates provided for in Exhibit A and pursuant to Article 9 (Prosecution of Work). In the event of a conflict between the body of this Agreement and Exhibit A, the provisions in the body of this Agreement shall control.

**Formatted:** Emphasis

3.2. *Cooperation with Water Agency~~Water Agency~~:* Consultant shall cooperate with Water Agency in the performance of all work hereunder. Consultant shall coordinate the work with Water Agency's Project Manager. Contact information and mailing addresses:

| **Water Agency~~Water Agency~~** | **Consultant~~Consultant~~** |
|---|---|
| Project Manager: Brad Sherwood<br><br>404 Aviation Boulevard<br>Santa Rosa, CA 95403-9019<br>Phone: 707-547-1927<br>Email: Brad.Sherwood@scwa.ca.gov | Contact: ~~Nancy Macan McNally~~Jordan A. Smith<br>1050 Thomas Jefferson Street, NW<br>Washington, DC 20007<br>Phone: 202-298-~~1892~~1914<br>Email: ~~nmm~~jas@vnf.com |
| **Remit invoices to:**<br>Susan Bookmyer<br>Same address as above or<br>Email:<br>susan.bookmyer@scwa.ca.gov | **Remit payments to:**<br>Attn: Accounts Receivable |

3.3. *Performance Standard and Standard of Care:* Consultant hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with the standards of a reasonable professional having specialized knowledge and expertise in the services provided under this Agreement and in accordance with all applicable federal, state and local laws, it being understood that acceptance of Consultant's work by Water Agency shall not operate as a waiver or release. Water Agency has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. If Water Agency determines that any of Consultant's work is not in accordance with such level of competency and standard of care, Water Agency, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with Water Agency to review the quality of the work and resolve matters of concern; (b) require Consultant to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 6 (Termination); or (d) pursue any and all other remedies at law or in equity.

3.4. *Assigned Personnel:*

a. Consultant shall assign only competent personnel to perform work hereunder. In the event that at any time Water Agency, in its sole discretion, desires the removal of any person or persons assigned by Consultant to perform work hereunder, Consultant shall remove such person or persons immediately upon receiving written notice from Water Agency.

b. Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by Water Agency to be key personnel whose services were a material inducement to Water Agency to enter into this Agreement,

**Formatted:** Emphasis

**Formatted:** Font: Bold

**Formatted:** Font: Bold

and without whose services Water Agency would not have entered into this Agreement. Consultant shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of Water Agency.

c. With respect to performance under this Agreement, Consultant shall employ the following key personnel:

| *Title* | *Name* |
|---|---|
| Senior Director, Governmental Issues | Jordan Smith |
| Principal, Managing Director, Governmental Issues | Nancy Macan McNally |
| Chairman, Attorney at Law | Richard A. Agnew |
| Partner, Attorney at Law | Robert G. Szabo |
| ~~Senior Director, Governmental Issues~~ | ~~Jordan Smith~~ |

Formatted Table

d. In the event that any of Consultant's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness, or other factors outside of Consultant's control, Consultant shall be responsible for timely provision of adequately qualified replacements.

## 4. PAYMENT

4.1. *Total Costs:*

a. Total costs under this Agreement shall not exceed $~~169,200~~$354,960.

4.2. *Method of Payment:* Consultant shall be paid in accordance with the following terms:

a. *Monthly Retainer:* From the period commencing on January 1, 2015 and ending on December 31, 2016, Water Agency agrees to pay Consultant a monthly retainer of $6,900. Commencing January 1, 2017~~5~~, Water Agency agrees to pay Consultant a monthly retainer of $~~6,900~~7,590.

b. *Expenses and Non-Reimbursable Services:* Water Agency agrees to reimburse Consultant's reasonable and necessary expenses up to $150 per month, unless additional expenses are pre-authorized by Water Agency. Expenses are not to exceed $3,600 for the term of the Agreement. Consultant shall not be reimbursed for unneeded messenger or express mail charges; first class or business class air travel; entertainment; normal overhead functions such as word processing or typing time, ordering records, calendaring functions, filing, indexing, proofreading or copying time, or any other procedures of a secretarial nature; meals unless on preauthorized travel; overtime; or office supplies.

c. Consultant shall not be entitled to any additional payment for any expenses incurred in completion of the services.

4.3. *Invoices:* Consultant shall submit its bills in arrears on a monthly basis, based on work completed for the period, in a form approved by Water Agency. The bills shall show or include:

a. Consultant name
b. Name of Agreement
c. Water Agency's ~~Order Number~~Project-Activity Code~~(s) 0702 A1~~T0080A002
d. Task performed with an itemized description of services rendered by date
e. Summary of work performed by subconsultants, as described in Paragraph 14.4
f. List of reimbursable materials and expenses
g. Copies of receipts for reimbursable materials and expenses

4.4. *Quarterly Reports with Invoices:* Quarterly reports required in the Scope of Work shall be submitted in order to receive reimbursement for the work for the preceding period. No payment will be made without receipt of these reports.

4.5. *Funding:*

a. Funding for this Agreement is as follows:

| *Current Fiscal Year* | *Budgeted Appropriation* |
|---|---|
| 2014/2015 | $42,300 |
| | |
| *Subsequent Fiscal Years* | *Planned Appropriation* |
| 2015/2016 | $84,600 |
| 2016/2017 | $~~42,300~~91,440 |
| 2017/2018 | $91,080 |
| 2018/2019 | $45,540 |

b. Availability of Funding in Subsequent Fiscal Years:

i. Water Agency's performance under this Agreement in subsequent years is contingent upon appropriation of funds by Water Agency's Board of Directors. Water Agency shall have no liability under this Agreement if sufficient funds are not appropriated in subsequent fiscal years by Water Agency's Board of Directors for the purpose of this Agreement.

ii. If funding for this Agreement for any fiscal year is reduced or eliminated by Water Agency's Board of Directors, Water Agency shall have the option to either terminate this Agreement in accordance with Article 6 (Termination) or offer an amendment to Consultant to reflect the reduced amount.

## 5. TERM OF AGREEMENT

5.1. The term of this Agreement shall be from January 1, 2015 ("Effective Date") to ~~December 31, 2016~~December 31, 2018, unless terminated earlier in accordance with the provisions of Article 6 (Termination).

## 6. TERMINATION

6.1. *Authority to Terminate:* Water Agency's right to terminate may be exercised by Water Agency's General Manager.

6.2. *Termination Without Cause:* Notwithstanding any other provision of this Agreement, at any time and without cause, Water Agency shall have the right, in its sole discretion, to terminate this Agreement by giving 5 days written notice to Consultant.

6.3. *Termination for Cause:* Notwithstanding any other provision of this Agreement, should Consultant fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, Water Agency may immediately terminate this Agreement by giving Consultant written notice of such termination, stating the reason for termination.

6.4. *Delivery of Work Product and Final Payment Upon Termination:* In the event of termination, Consultant, within 14 days following the date of termination, shall deliver to Water Agency all materials and work product subject to Paragraph 12.8~~12.7~~ and shall submit to Water Agency an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

6.5. *Payment Upon Termination:* Upon termination of this Agreement by Water Agency, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total payment; provided, however, that if services are to be paid on a per-hour or per-day basis, then Consultant shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to termination times the applicable hourly or daily rate; and further provided, however, that if Water Agency terminates the Agreement for cause pursuant to Paragraph 6.3, Water Agency shall deduct from such amounts the amount of damage, if any, sustained by Water Agency by virtue of the breach of the Agreement by Consultant.

## 7. INDEMNIFICATION

7.1. Consultant agrees to accept responsibility for loss or damage to any person or entity, including Sonoma County Water Agency, and to defend, indemnify, hold harmless, and release Sonoma County Water Agency, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Consultant, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant or its agents, employees, contractors, subcontractors,

or invitees hereunder, whether or not there is concurrent negligence on Sonoma County Water Agency's part, but, to the extent required by law, excluding liability due to Sonoma County Water Agency's conduct. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Consultant or its agents, employees, contractors, subcontractors, or invitees under workers' compensation acts, disability benefits acts, or other employee benefit acts. This indemnity provision survives the Agreement.

## 8. INSURANCE

8.1. With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit B (Insurance Requirements).

## 9. PROSECUTION OF WORK

9.1. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for Consultant's performance of this Agreement shall be extended by a number of days equal to the number of days Consultant has been delayed.

## 10. EXTRA OR CHANGED WORK

10.1. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Minor changes, which do not increase the amount paid under the Agreement, and which do not significantly change the scope of work or significantly lengthen time schedules may be executed by the Water Agency's General Manager in a form approved by County Counsel. The parties expressly recognize that Water Agency personnel are without authorization to order all other extra or changed work or waive Agreement requirements. Failure of Consultant to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Consultant shall be entitled to no compensation whatsoever for the performance of such work. Consultant further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of Water Agency.

## 11. CONTENT ONLINE ACCESSIBILITY

11.1. *Accessibility:* Water Agency policy requires that all documents that may be published to the Web meet accessibility standards to the greatest extent possible, and utilizing available existing technologies.

11.2. *Standards:* All consultants responsible for preparing content intended for use or publication on a Water Agency/County-managed or Water Agency/County-funded web site must comply with applicable federal accessibility standards established by 36 C.F.R. Section 1194, pursuant to Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794(d)), and Water Agency's Web Site Accessibility Policy located at http://webstandards.sonoma-county.org.

11.3. *Certification:* With each final receivable intended for public distribution (report, presentations posted to the Internet, public outreach materials), Consultant shall include a descriptive summary describing how all deliverable documents were assessed for accessibility (e.g., Microsoft Word accessibility check; Adobe Acrobat accessibility check, or other commonly accepted compliance check).

11.4. *Alternate Format:* When it is strictly impossible due to the unavailability of technologies required to produce an accessible document, Consultant shall identify the anticipated accessibility deficiency prior to commencement of any work to produce such deliverables. Consultant agrees to cooperate with Water Agency staff in the development of alternate document formats to maximize the facilitative features of the impacted document(s); e.g., embedding the document with alt-tags that describe complex data/tables.

11.5. *Noncompliant Materials; Obligation to Cure:* Remediation of any materials that do not comply with Water Agency's Web Site Accessibility Policy shall be the responsibility of Consultant. If Water Agency, in its sole and absolute discretion, determines that any deliverable intended for use or publication on any Water Agency/County-managed or Water Agency/County-funded Web site does not comply with Water Agency Accessibility Standards, Water Agency will promptly inform Consultant in writing. Upon such notice, Consultant shall, without charge to Water Agency, repair or replace the non-compliant materials within such period of time as specified by Water Agency in writing. If the required repair or replacement is not completed within the time specified, Water Agency shall have the right to do any or all of the following, without prejudice to Water Agency's right to pursue any and all other remedies at law or in equity:

a. Cancel any delivery or task order
b. Terminate this Agreement pursuant to the provisions of Article 6 (Termination); and/or
c. In the case of custom Electronic and Information Technology (EIT) developed by Consultant for Water Agency, Water Agency may have any necessary changes or repairs performed by itself or by another contractor. In such event, Consultant shall be liable for all expenses incurred by Water Agency in connection with such changes or repairs.

11.6. *Water Agency~~Water Agency~~'s Rights Reserved:* Notwithstanding the foregoing, Water Agency may accept deliverables that are not strictly compliant with Water Agency Accessibility Standards if Water Agency, in its sole and absolute

**Formatted:** Emphasis

discretion, determines that acceptance of such products or services is in Water Agency's best interest.

## 12. REPRESENTATIONS OF CONSULTANT

12.1. *Status of Consultant~~Consultant~~:* The parties intend that Consultant, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Consultant is not to be considered an agent or employee of Water Agency and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits Water Agency provides its employees. In the event Water Agency exercises its right to terminate this Agreement pursuant to Article 6 (Termination), Consultant expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

Formatted: Emphasis

12.2. *Taxes:* Consultant agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Consultant agrees to indemnify and hold Water Agency harmless from any liability which it may incur to the United States or to the State of California or to any other public entity as a consequence of Consultant's failure to pay, when due, all such taxes and obligations. In case Water Agency is audited for compliance regarding any withholding or other applicable taxes, Consultant agrees to furnish Water Agency with proof of payment of taxes on these earnings.

12.3. *Records Maintenance:* Consultant shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to Water Agency for inspection at any reasonable time. Consultant shall maintain such records for a period of four (4) years following completion of work hereunder.

12.4. *Conflict of Interest:* Consultant covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Consultant further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if required by law or requested to do so by Water Agency, Consultant shall submit a completed Fair Political Practices Commission Statement of Economic Interests (Form 700) with Water Agency within 30 calendar days after the Effective Date of this Agreement and each year thereafter during the term of this Agreement, or as required by state law.

12.5. *Statutory Compliance/Living Wage Ordinance.* Consultant agrees to comply, and to ensure compliance by its subconsultants or subcontractors, with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Consultant expressly acknowledges and agrees that this Agreement may be subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

~~12.5.~~12.6. *Nondiscrimination:* Consultant shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

~~12.6.~~12.7. *Assignment of Rights:* Consultant assigns to Water Agency all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Consultant in connection with this Agreement. Consultant agrees to take such actions as are necessary to protect the rights assigned to Water Agency in this Agreement, and to refrain from taking any action which would impair those rights. Consultant's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as Water Agency may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of Water Agency. Consultant shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of Water Agency.

~~12.7.~~12.8. *Ownership and Disclosure of Work Product:* All reports, original drawings, graphics, plans, studies, and other data or documents ("documents"), in whatever form or format, assembled or prepared by Consultant or Consultant's subcontractors, consultants, and other agents in connection with this Agreement shall be the property of Water Agency. Water Agency shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Consultant shall promptly deliver to Water Agency all such documents, which have not already been provided to Water Agency in such form or format as Water Agency deems appropriate. Such documents shall be and will remain the property of Water Agency without restriction or limitation. Consultant may

retain copies of the above described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of Water Agency.

~~12.8.~~12.9. *Nondisclosure of Confidential Information:* While doing the work required by this Agreement, Consultant may have access to technical information and materials pertaining to Water Agency's federal affairs, including but not limited to information regarding Water Agency's legislative strategies ("Confidential Information"). The Confidential Information may include confidential or proprietary information or trade secrets exempt from disclosure under provisions of the California Public Records Act. In consideration of disclosure by Water Agency of Confidential Information to Consultant, Consultant and its agents shall hold any material or information designated by Water Agency as Confidential in strict confidence and shall not disclose it or otherwise make it available, in any form or matter whatsoever, to any person or entity without the prior written consent of Water Agency, except as may be ordered by a court of law. Immediately upon receipt of any request or demand for disclosure of any Confidential Information within the scope of this Agreement, Consultant shall give Water Agency written notice and a copy of the request and the time period, if any, within which Consultant is required to respond to the request. Upon termination of this Agreement, Consultant shall return Confidential Information in its possession, including copies, to Water Agency. Consultant's obligation to maintain material and information designated as Confidential in strict confidence shall survive completion of work under this Agreement and termination of this Agreement and, as provided for in Paragraph 12.8~~12.7~~, Consultant agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of Water Agency.

## 13. DEMAND FOR ASSURANCE

13.1. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

Nothing in this Article 13 limits Water Agency's right to terminate this Agreement pursuant to Article 6 (Termination).

## 14. ASSIGNMENT AND DELEGATION

14.1. *Consent:* Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

14.2. *Subcontracts:* Notwithstanding the foregoing, Consultant may enter into subcontracts with the subconsultants specifically identified herein. If no subconsultants are listed, then no subconsultants will be utilized in the performance of the work specified in this Agreement.

14.3. *Change of Subcontractors or Subconsultants:* If, after execution of the Agreement, parties agree that subconsultants not listed in Paragraph 14.2 will be utilized, Consultant may enter into subcontracts with subconsultants to perform other specific duties pursuant to the provisions of this Paragraph 14.3. The following provisions apply to any subcontract entered into by Consultant other than those listed in Paragraph 14.2 above:

a. Prior to entering into any contract with subconsultant, Consultant shall obtain Water Agency approval of subconsultant. Water Agency's Board of Directors must approve the selection of any subconsultant if the amount payable to subconsultant under the agreement exceeds $25,000. In connection with such approval, Consultant shall provide Water Agency with copies of the responses to Consultant's Request for Proposals (RFP) to subconsultants, the names of key personnel who will be performing work under the agreement, and an explanation of Consultant's reasons for choosing the recommended subconsultant based upon the criteria in the RFP.

b. All agreements with subconsultants shall (a) contain indemnity requirements in favor of Water Agency in substantially the same form as that contained in Article 7, (b) contain language that the subconsultant may be terminated with or without cause upon reasonable written notice, and (c) prohibit the assignment or delegation of work under the agreement to any third party.

14.4. *Summary of Subconsultants' Work:* Consultant shall provide Water Agency with a summary of work performed by subconsultants with each invoice submitted under Paragraph 4.3. Such summary shall identify the individuals performing work on behalf of subconsultants and the total amount paid to subconsultant, broken down by the tasks listed in the Scope of Work.

## 15. METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS, AND MAKING PAYMENTS

15.1. *Method of Delivery:* All notices, bills, and payments shall be made in writing and shall be given by personal delivery, U.S. Mail, courier service, or electronic means. Notices, bills, and payments shall be addressed as specified in Paragraph 3.2.

15.2. *Receipt:* When a notice, bill, or payment is given by a generally recognized overnight courier service, the notice, bill, or payment shall be deemed received on the next business day. When a copy of a notice, bill, or payment is sent by electronic means, the notice, bill, or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill, or payment is deposited in the U.S. mail and postmarked on the date of the electronic transmission (for a payment, on or before the due date), (2) the sender has a written confirmation of the electronic transmission, and (3) the electronic transmission is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills, and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this Article 15.

## 16. MISCELLANEOUS PROVISIONS

16.1. *No Bottled Water:* In accordance with Water Agency Board of Directors Resolution No. 09-0920, dated September 29, 2009, no Water Agency funding shall be used to purchase single-serving, disposable water bottles for use in Water Agency facilities or at Water Agency-sponsored events. This restriction shall not apply when potable water is not available.

16.2. *No Waiver of Breach:* The waiver by Water Agency of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.

16.3. *Construction:* To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Consultant and Water Agency acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Consultant and Water Agency acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

16.4. *Consent:* Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

16.5. *No Third-Party Beneficiaries:* Except as provided in Article 7 (Indemnification), nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

16.6. *Applicable Law and Forum:* This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or in the forum nearest to the city of Santa Rosa, in the County of Sonoma.

16.7. *Captions:* The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

16.8. *Merger:* This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

16.9. *Survival of Terms:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

16.10. *Time of Essence:* Time is and shall be of the essence of this Agreement and every provision hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date last signed by the parties to the Agreement.

TW 14/15-049A

Reviewed as to funds:

By: _____
Water Agency Division Manager - Administrative Services

Approved as to form:

By: _____
[Name], Deputy County Counsel

Insurance Documentation is on file with Water Agency

Date/TW Initials: _____

**Sonoma County Water Agency**

By: _____
Grant Davis
Water Agency General Manager
Authorized per Water Agency's Board of Directors Action on December 6, 2016

Date: _____

**Van Ness Feldman**, a Limited Liability Partnership

By: _____

_____
(Please print name here) [

Title: _____

Date: _____

# Exhibit A

**Scope of Work**

## 1. COMMENCEMENT OF WORK

1.1. Consultant is authorized to proceed immediately with the performance of this Agreement upon the Effective Date of this Agreement.

## 2. TASKS

Submit one electronic copy in PDF format (emailed or on CD) and three hard copies of each final deliverable to Water Agency.

2.1. Consultant shall work with states, local agencies, and other interested parties to maintain and increase, if possible, federal funding for those programs that support atmospheric river research, fisheries recovery, climate change and assessment, water supply and quality and flood protection programs. Consultant shall assist the Water Agency in promoting the preparation of recovery plans and identification of reasonable and effective recovery goals for salmonids listed in the Water Agency's service area. In addition, Consultant shall assist the Water Agency in monitoring and providing input to modifications for federal environmental regulation and rulemaking. Consultant work shall include:

~~2.1.~~a. Coordinating meetings, as necessary, with other consultants and interested parties working in Washington, D.C. in support of fishery recovery funding programs; Endangered Species Act compliance; invasive species prevention; hydrometeorology tested programs; water quality protection and safe medicine disposal; and research, monitoring and scientific study included but not limited to meetings with US Fish and Wildlife Service, US Environmental Protection Agency, US Geological Survey, National Oceanic and Atmospheric Administration along with National Marine Fisheries Service, and the US Department of Agriculture.

~~2.2.~~b. Assisting in the development of strategies to obtain federal funding for planning, programs, and project implementation that further Water Agency goals in increasing water supply reliability and in emergency response for impacts to Water Agency infrastructure and operations.

~~2.3.~~c. Coordinating, on a continuous basis, sharing of funding and legislative information related to the Pacific Coastal Salmon Recovery Fund among congressional contacts, district and administration staff, and consultants.

~~2.4.~~d. Assisting in the development of strategies, legislation, and funding opportunities that further the recovery of listed salmonid populations in the Water Agency's service area and the broader Evolutionarily Significant Units where these species are listed and of initiatives that support recovery of listed salmonid populations.

**Formatted:** Heading 2,section2,Section2

**Formatted:** Heading 3, Indent: Left: 1", Hanging: 0.25", Tab stops: 1.25", List tab

~~2.5.~~e. Assisting in the development of strategies to obtain federal funding for restoration and assist the Water Agency in monitoring the status, availability, and eligibility for Water Agency efforts for such funding opportunities.

~~2.6.~~f. Providing periodic updates via email, facsimile, or verbally to the Water Agency regarding proposed modifications to federal environmental regulations and rulemakings related to Water Agency activities.

~~2.7.~~g. Preparing strategy, advocacy papers and correspondence; provide written and oral testimony for Congressional committees; contacting Administration officials and Members of Congress and congressional and committee staff; and preparing legal research, drafting, and case-making services as necessary to the efforts to maximize Water Agency opportunities for restoration funding and the efforts to provide input to modifications to federal environmental regulations and rulemaking as described herein.

~~2.8.~~h. Ensuring to the extent possible that authorization or guidance language for federal appropriations for environmental restoration, invasive species preventions programs, water quality protection recovery planning, and other efforts noted above to the maximum extent possible, for optimal eligibility for the Water Agency's restoration efforts.

~~2.9.~~i. Ensuring to the extent possible that authorization and funding is provided for in federal legislation to support assessment and modeling of climate change, response to climate change, development of alternative energy sources, emergency response and water supply reliability programs, related research and scientific study, and to enhance resource sustainability.

~~2.10.~~j. Ensuring to the extent possible authorization and implementation of the Russian River Biological Opinion continues and is supported by all federal parties involved.

k. Coordinating efforts with other Water Agency consultants who are providing federal legislation and funding support services to maximize efficiency and avoid any duplication of effort, as directed by Water Agency's General Manager or Project Manager.

2.2. Consultant shall develop and coordinate a Regional Education and Awareness Coalition for reservoir reoperation and extreme weather funding and policy.

a. Sustain and increase federal funding for reservoir reoperation policy planning and implementation.

i. Funding shall be included in U.S. Army Corps of Engineers budget lines as appropriate.

ii. Funding shall be included in National Oceanic and Atmospheric Administration's National Weather Service (NOAA NWS) budget lines as appropriate.

b. Sustain and increase federal funding for atmospheric river forecasting and research initiatives.

i. Funding shall be included in NOAA NWS budget lines as appropriate.

c. Coalition efforts shall include:

i. Coordinating with multi-Western states

ii. Outreach to multi-Western state water associations and trade organizations

iii. Develop as-needed outreach materials, such as issue-based website, fact sheets, media packets, and legislative packets

iv. Organize Washington, D.C. and regional Western state advocacy meetings and tours in support of funding/policy agenda

~~2.11.~~d. Develop, organize, and implement quarterly, or as-needed, coalition advocacy outreach meetings/conference calls.

**Formatted:** Normal, Level 3, Indent: Left: 1", Hanging: 0.25", Space Before: 3 pt, Outline numbered + Level: 3 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 2.19" + Tab after: 2.69" + Indent at: 2.49", Tab stops: Not at 2.69"

## 3. REPORTS AND STRATEGIC PLANNING:

3.1. Regular Communication:

a. As they are produced, copies of correspondence and other relevant documents generated with respect to work performed under this Agreement shall be provided to the Water Agency's General Manager and Project Manager. Copies of schedules for all legislative meetings arranged by Consultant with Water Agency staff also shall be provided.

b. Provide oral or email reports of activities performed under this Agreement at least every two weeks. Consultant shall contact Water Agency's General Manager or Project Manager -to report activities for each two-week period.

3.2. Monthly Conference Calls: Coordinate a monthly conference call and draft agendas prior to and for such a call as directed and with input from the Water Agency's General Manager and Project Manager. Such monthly calls will be with other consultants and Water Agency staff and other interested parties as directed and approved by the Water Agency. Tasks and follow up from such calls shall be documented and distributed after each call via email as directed by the Water Agency. Calls may be more frequent or on occasion less than monthly pending direction from the Water Agency General Manager or Project Manager.

3.3. Quarterly Reports: Prepare quarterly written reports of activities performed under this Agreement. The reports shall include a description of activities performed for Water Agency during that quarter, including the agencies and congressional offices contacted on Water Agency's behalf. The quarterly written reports shall separately describe work performed under each funding or legislative proposal. Submit quarterly reports in writing via email to the Water Agency's General Manager and Project Manager within two weeks of the last day of the months of March, June, September, and December for each year of this agreement.

3.4. Annual Meeting: Meet via teleconference or in person with appropriate Water Agency staff and other consultants as determined by Project Manager at least once per calendar year for the term of the agreement to develop a federal

legislative outreach strategy for the upcoming calendar years. Prepare documentation for the components of the strategy to be implemented by Consultant under this Agreement, and coordinate with Water Agency Project Manager and other consultants as directed to compile such documentation into annual plans. Submit this compiled federal legislative outreach strategy to the Water Agency's General Manager and Project Manager within 7 calendar days of the meeting of each calendar year covered under this Agreement.

3.5. Annual Summary Report: ~~By December 31, 2015 and again by December 31, 2016, p~~Prepare summaries of efforts made over each calendar year to document work and successes in funding, legislation, and opportunities identified related to efforts made under this scope of work, and submit to Water Agency by the dates shown in the table below.

| Deliverable | Due Date |
|---|---|
| Oral or written (email) activity report | The first and third Friday of each month for the term of the Agreement |
| Monthly Conference Call Agenda | Within 1 calendar day prior to conference call |
| Monthly Conference Call Follow up Notes and Minutes | Within 7 calendar days of the conference call |
| Quarterly Reports | Within two weeks of the last day of the months of March, June, September, and December for each year |
| Compiled Federal Legislative Outreach Strategy | Within 7 calendar days of the meeting |
| Annual Summary Report | December 31, 2015<br>December 31, 2016<br>December 31, 2017<br>December 31, 2018 |

**Formatted:** Keep with next, Keep lines together

**Formatted:** Keep with next, Keep lines together

**Formatted:** Keep with next, Keep lines together

**Formatted:** Keep with next, Keep lines together

**Formatted:** Keep with next, Keep lines together

**Formatted:** Keep with next, Keep lines together

**Formatted:** Keep with next, Keep lines together

# Exhibit B

**Insurance Requirements**

With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

Water Agency reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

## 1. INSURANCE

### 1.1. Workers Compensation and Employers Liability Insurance

a. Required if Consultant has employees as defined by the Labor Code of the State of California.

b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.

c. Employers Liability with minimum limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.

d. Required Evidence of Insurance: Certificate of Insurance.

e. If Consultant currently has no employees as defined by the Labor Code of the State of California, Consultant agrees to obtain the above-specified Workers Compensation and Employers' Liability insurance should employees be engaged during the term of this Agreement or any extensions of the term.

### 1.2. General Liability Insurance

a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.

b. Minimum Limits: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of Excess or General Liability Insurance and Commercial Umbrella Liability Insurance. If Consultant maintains higher limits than the specified minimum limits, Water Agency requires and shall be entitled to coverage for the higher limits maintained by Consultant.

c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by Water Agency. Consultant is responsible for

any deductible or self-insured retention and shall fund it upon Water Agency's written request, regardless of whether Consultant has a claim against the insurance or is named as a party in any action involving the Water Agency.

d. Sonoma County Water Agency, its officers, agents, and employees, shall be additional insured(s) for liability arising out of operations by or on behalf of the Consultant in the performance of this Agreement.

e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.

f. The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in Insurance Services Office form CG 00 01, or equivalent).

g. The policy shall cover inter-insured suits between the additional insureds and Consultant and include a "separation of insureds" or "severability" clause which treats each insured separately.

h. Required Evidence of Insurance:

   i. Copy of the additional insured endorsement or policy language granting additional insured status, and

   ii. Certificate of Insurance.

**1.3. Automobile Liability Insurance**

a. Minimum Limit: $1,000,000 combined single limit per accident. The required limit may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Umbrella Liability Insurance.

b. Insurance shall cover all owned autos. If Consultant currently owns no autos, Consultant agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.

c. Insurance shall cover hired and non-owned autos.

d. Required Evidence of Insurance: Certificate of Insurance.

**1.4. Professional Liability/Errors and Omissions Insurance**

a. Minimum Limit: $1,500,000 per claim or per occurrence.

b. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by Water Agency.

c. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.

d. Coverage applicable to the work performed under this Agreement shall be continued for two (2) years after completion of the work. Such continuation

coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.

e. Required Evidence of Insurance: Certificate of Insurance.

**1.5. Standards for Insurance Companies**

a. Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

**1.6. Documentation**

a. The Certificate of Insurance must include the following reference: TW 14/15-049.

b. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Consultant agrees to maintain current Evidence of Insurance on file with Water Agency for the entire term of this Agreement and any additional periods if specified in Sections 1.1, 1.2, 1.3, or 1.4 above.

c. The name and address for mailing Additional Insured endorsements and Certificates of Insurance is: Sonoma County Water Agency, its officers, agents, and employees, 404 Aviation Boulevard, Santa Rosa, CA 95403-9019.

d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

e. Consultant shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.

f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

**1.7. Policy Obligations**

a. Consultant's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

**1.8. Material Breach**

a. If Consultant fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. Water Agency, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, Water Agency may purchase the required insurance, and without further notice to Consultant, Water Agency may deduct from sums due to Consultant any premium costs advanced by Water Agency for such insurance. These remedies shall be in addition to any other remedies available to Water Agency.

# DRAFT First Amended Agreement for Federal Legislative Consultation and Advocacy for Flood Control, Sanitation, Water Supply, and Water Recycling Projects, and Implementation of the Russian River Biological Opinion~~Agreement for Federal Legislative Consultation and Advocacy for Flood Control, Sanitation, Water Supply, and Water Recycling Projects, and Implementation of the Russian River Biological Opinion~~

This first amended agreement ("First Amended Agreement" or "Agreement") is by and between **Sonoma County Water Agency**~~**Sonoma County Water Agency**~~, (~~collectively referred to as~~ "Water Agency") and **Alcalde & Fay**~~**Alcalde & Fay**~~, a Virginia corporation ("Consultant"). The Effective Date of this Agreement is the date the Agreement is last signed by the parties to the Agreement, unless otherwise specified in Article 5 (Term of Agreement).

Formatted: Strong

Formatted: Strong

## RECITALS

A. Consultant certifies that it is a Virginia corporation duly authorized to do business in the State of California, registered with the Secretary of State of California, and represents that it is a qualified lobbying firm, experienced in obtaining and maximizing funding in the form of grants and loans for watershed improvement and restoration, fisheries, sanitation, water supply, and flood control projects, and related services.

B. The Water Agency is a California special district with responsibility for wholesale water supply, flood protection, wastewater treatment, and recycled water distribution. The Water Agency also operates a hydroelectric plant and allows recreational use over some of its properties. The Water Agency is involved in efforts to protect and restore endangered and/or threatened steelhead and salmon species in the Russian River watershed and in implementing a Biological Opinion from the National Marine Fisheries Service that requires extensive restoration and biological monitoring and coordination with the United States Army Corps of Engineers (USACE). The Water Agency also participates in a youth employment program with several other local agencies and non-profits that have and would continue to benefit from federal support.

C. Legislative development and pursuit of funding to offset costs are essential for success in fulfilling the Water Agency's responsibilities. Federal laws that impact the Water Agency's work include, but are not limited to, the Endangered Species Act (ESA), Water Resources Development Act(s), and the National Environmental Policy Act. Water Agency interests require coordination and communication with several federal departments, agencies, and related offices including but not limited to USACE, Bureau of Reclamation, and the Federal Emergency Management Agency.

D. The Water Agency is an active participant in and supporter of the Pacific Coastal Salmonid Conservation and Restoration Initiative (Pacific Salmon Initiative) and is responsible for the development of this five-state federal funding proposal. California received more than $138

million from 2000-2010 through the Pacific Coastal Salmon Recovery Fund with $145 million in additional funds for all five states for 2011 and 2012. Consultant has provided considerable assistance to the Water Agency in development and ongoing support for continued funding of the Pacific Salmon Initiative.

E. The Water Agency has an ongoing need to pursue funding and authorization opportunities toward implementation of the Russian River Biological Opinion. These opportunities also support operations and maintenance needs at the Warm Springs and Coyote Valley Dams to provide the water supply for over 600,000 people in Sonoma and Marin counties. Continued work with Congress, USACE, and other relevant federal administration officials is essential for successful function of these programs and facilities. Consultant has provided considerable assistance to the Water Agency in obtaining additional funding for operations and maintenance including ESA and Russian River Biological Opinion compliance-related efforts at these dams.

F. Water Agency has an ongoing need to pursue federal funding opportunities for improvements to wastewater treatment and collection facilities, recycled water storage and distribution systems, and protection of water quality. Potential federal funding sources include the United States Department of Agriculture, United States Bureau of Reclamation and the United States Environmental Protection Agency.

G. Water Agency desires to have Consultant represent Water Agency's interests in securing federal funding and support for Water Agency and partners that assist Water Agency in its water supply, water conservation and water-use efficiency, water treatment and recycling, water quality protection, watershed restoration, ESA compliance, flood control, emergency services, and related efforts.

H. Water Agency and Consultant first entered into this Agreement on December 9, 2014 ("Original Agreement").

I. In addition to the continued need for the original scope of work, Water Agency requires assistance developing and coordinating a Regional Education and Awareness Coalition for reservoir reoperation and extreme weather funding and policy.

J. This First Amended Agreement adds $212,160 to the Original Agreement amount of $193,200, and extends the Agreement term by two years, for a new end-date of December 31, 2018.

~~G.~~K. This First Amended Agreement supersedes all previous agreements between the parties.

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

In consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

## A G R E E M E N T

### 1. RECITALS

1.1. The above recitals are true and correct.

### 2. LIST OF EXHIBITS

2.1. The following exhibits are attached hereto and incorporated herein:

a. Exhibit A: Scope of Work

b. Exhibit B: Insurance Requirements

## 3. SCOPE OF SERVICES

3.1. *Consultant~~Consultant~~'s Specified Services:* Consultant shall perform the services described in Exhibit A (Scope of Work), within the times or by the dates provided for in Exhibit A and pursuant to Article 9 (Prosecution of Work). In the event of a conflict between the body of this Agreement and Exhibit A, the provisions in the body of this Agreement shall control.

Formatted: Emphasis

3.2. *Cooperation with Water Agency~~Water Agency~~:* Consultant shall cooperate with Water Agency in the performance of all work hereunder. Consultant shall coordinate the work with Water Agency's Project Manager. Contact information and mailing addresses:

Formatted: Emphasis

| **Water Agency~~Water Agency~~** | **Consultant~~Consultant~~** |
|---|---|
| Project Manager: Brad Sherwood<br>404 Aviation Boulevard<br>Santa Rosa, CA 95403-9019<br>Phone: 707-547-1927<br>Email: Brad.Sherwood@scwa.ca.gov | Contact: Paul Schlesinger<br>2111 Wilson Boulevard, Suite 850<br>Arlington, VA 22201<br>Phone: 703-841-0626<br>Email: schlesinger@alcalde-fay.com |
| **Remit invoices to:**<br>Susan Bookmyer<br>Same address as above or<br>Email: susan.bookmyer@scwa.ca.gov | **Remit payments to:**<br>Attn: Accounts Receivable |

Formatted: Font: Bold

Formatted: Font: Bold

3.3. *Performance Standard and Standard of Care:* Consultant hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with the standards of a reasonable professional having specialized knowledge and expertise in the services provided under this Agreement and in accordance with all applicable federal, state and local laws, it being understood that acceptance of Consultant's work by Water Agency shall not operate as a waiver or release. Water Agency has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. If Water Agency determines that any of Consultant's work is not in accordance with such level of competency and standard of care, Water Agency, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with Water Agency to review the quality of the work and resolve matters of concern; (b) require Consultant to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 6 (Termination); or (d) pursue any and all other remedies at law or in equity.

3.4. *Assigned Personnel:*

a. Consultant shall assign only competent personnel to perform work hereunder. In the event that at any time Water Agency, in its sole discretion, desires the removal of any person or persons assigned by Consultant to perform work hereunder, Consultant shall remove such person or persons immediately upon receiving written notice from Water Agency.

b. Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by Water Agency to be key personnel whose services were a material inducement to Water Agency to enter into this Agreement, and without whose services Water Agency would not have entered into this Agreement. Consultant shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of Water Agency.

c. With respect to performance under this Agreement, Consultant shall employ the following key personnel:

| *Title* | *Name* |
|---|---|
| Partner; Project Manager | Paul Schlesinger |

d. In the event that any of Consultant's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness, or other factors outside of Consultant's control, Consultant shall be responsible for timely provision of adequately qualified replacements.

## 4. PAYMENT

4.1. *Total Costs:*

a. Total costs under this Agreement shall not exceed ~~$193,200~~$~~407,600.~~~~405,760~~405,360.

4.2. *Method of Payment:* Consultant shall be paid in accordance with the following terms:

a. *Monthly Retainer:* From the period commencing on January 1, 2015 and ending December 31, 2016, Water Agency agrees to pay Consultant a monthly retainer of $7,900. Commencing January 1, 2017~~5~~, Water Agency agrees to pay Consultant a monthly retainer of $~~7,900~~8,690.

b. *Expenses and Non-Reimbursable Services:* Water Agency agrees to reimburse Consultant's reasonable and necessary expenses up to $150 per month, unless additional expenses are pre-authorized by the Water Agency, not to exceed $~~3,600~~~~4,000~~ 7,200 for the term of the Agreement. Consultant shall not be reimbursed for unneeded messenger or express mail charges; first class or business class air travel; entertainment; normal overhead functions such as word processing or typing time, ordering records, calendaring functions, filing, indexing, proofreading or copying time, or any other

procedures of a secretarial nature; meals unless on preauthorized travel; overtime; or office supplies.

c. Consultant shall not be entitled to any additional payment for any expenses incurred in completion of the services.

4.3. *Invoices:* Consultant shall submit its bills in arrears on a monthly basis, based on work completed for the period, in a form approved by Water Agency. The bills shall show or include:

a. Consultant name
b. Name of Agreement
c. Water Agency's ~~Order Number~~Project-Activity Code ~~(s) 0702 A1~~T0080A002
d. Task performed with an itemized description of services rendered by date
e. Summary of work performed by subconsultants, as described in Paragraph 14.4
f. List of reimbursable materials and expenses
g. Copies of receipts for reimbursable materials and expenses

**4.4.** *Funding:*

a. Funding for this Agreement is as follows:

| *Current Fiscal Year* | *Budgeted Appropriation* |
|---|---|
| 2014/2015 | $48,300 |
| | |
| *Subsequent Fiscal Years* | *Planned Appropriation* |
| 2015/2016 | $96,600 |
| 2016/2017 | $~~48,300~~~~53,140~~104,040 |
| 2017/2018 | $~~107,200~~~~106,280~~104,280 |
| 2018/2019 | $~~107,200~~~~53,140~~52,140 |

b. Availability of Funding in Subsequent Fiscal Years:

i. Water Agency's performance under this Agreement in subsequent years is contingent upon appropriation of funds by Water Agency's Board of Directors. Water Agency shall have no liability under this Agreement if sufficient funds are not appropriated in subsequent fiscal years by Water Agency's Board of Directors for the purpose of this Agreement.

ii. If funding for this Agreement for any fiscal year is reduced or eliminated by Water Agency's Board of Directors, Water Agency shall have the option to either terminate this Agreement in accordance with Article 6 (Termination) or offer an amendment to Consultant to reflect the reduced amount.

## 5. TERM OF AGREEMENT

5.1. The term of this Agreement shall be from January 1, 2015 ("Effective Date") to ~~December 31, 2016~~December 31, 2018, unless terminated earlier in accordance with the provisions of Article 6 (Termination).

## 6. TERMINATION

6.1. *Authority to Terminate:* Water Agency's right to terminate may be exercised by Water Agency's General Manager.

6.2. *Termination Without Cause:* Notwithstanding any other provision of this Agreement, at any time and without cause, Water Agency shall have the right, in its sole discretion, to terminate this Agreement by giving 5 days written notice to Consultant.

6.3. *Termination for Cause:* Notwithstanding any other provision of this Agreement, should Consultant fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, Water Agency may immediately terminate this Agreement by giving Consultant written notice of such termination, stating the reason for termination.

6.4. *Delivery of Work Product and Final Payment Upon Termination:* In the event of termination, Consultant, within 14 days following the date of termination, shall deliver to Water Agency all materials and work product subject to Paragraph 12.8~~12.7~~ and shall submit to Water Agency an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

6.5. *Payment Upon Termination:* Upon termination of this Agreement by Water Agency, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total payment; provided, however, that if services are to be paid on a per-hour or per-day basis, then Consultant shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to termination times the applicable hourly or daily rate; and further provided, however, that if Water Agency terminates the Agreement for cause pursuant to Paragraph 6.3, Water Agency shall deduct from such amounts the amount of damage, if any, sustained by Water Agency by virtue of the breach of the Agreement by Consultant.

## 7. INDEMNIFICATION

7.1. Consultant agrees to accept all responsibility for loss or damage to any person or entity, including Sonoma County Water Agency, and to indemnify, hold harmless,

and release Sonoma County Water Agency, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Consultant, that arise out of, pertain to, or relate to Consultant's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Consultant agrees to provide a complete defense for any claim or action brought against Sonoma County Water Agency based upon a claim relating to Consultant's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Consultant's obligations under this Article 7 apply whether or not there is concurrent negligence on the part of Sonoma County Water Agency, but, to the extent required by law, excluding liability due to conduct of Sonoma County Water Agency. Sonoma County Water Agency shall have the right to select its legal counsel at Consultant's expense, subject to Consultant's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Consultant or its agents, employees, contractors, subcontractors, or invitees under workers' compensation acts, disability benefits acts, or other employee benefit acts.

## 8. INSURANCE

8.1. With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit B (Insurance Requirements).

## 9. PROSECUTION OF WORK

9.1. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for Consultant's performance of this Agreement shall be extended by a number of days equal to the number of days Consultant has been delayed.

## 10. EXTRA OR CHANGED WORK

10.1. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Minor changes, which do not increase the amount paid under the Agreement, and which do not significantly change the scope of work or significantly lengthen time schedules may be executed by the Water Agency's General Manager in a form approved by County Counsel. The parties expressly recognize that Water Agency personnel are without authorization to order all other extra or changed work or waive Agreement requirements. Failure of Consultant to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to

such unauthorized work and thereafter Consultant shall be entitled to no compensation whatsoever for the performance of such work. Consultant further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of Water Agency.

## 11. CONTENT ONLINE ACCESSIBILITY

11.1. *Accessibility:* Water Agency policy requires that all documents that may be published to the Web meet accessibility standards to the greatest extent possible, and utilizing available existing technologies.

11.2. *Standards:* All consultants responsible for preparing content intended for use or publication on a Water Agency/County-managed or Water Agency/County-funded web site must comply with applicable federal accessibility standards established by 36 C.F.R. Section 1194, pursuant to Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794(d)), and Water Agency's Web Site Accessibility Policy located at http://webstandards.sonoma-county.org.

11.3. *Certification:* With each final receivable intended for public distribution (report, presentations posted to the Internet, public outreach materials), Consultant shall include a descriptive summary describing how all deliverable documents were assessed for accessibility (e.g., Microsoft Word accessibility check; Adobe Acrobat accessibility check, or other commonly accepted compliance check).

11.4. *Alternate Format:* When it is strictly impossible due to the unavailability of technologies required to produce an accessible document, Consultant shall identify the anticipated accessibility deficiency prior to commencement of any work to produce such deliverables. Consultant agrees to cooperate with Water Agency staff in the development of alternate document formats to maximize the facilitative features of the impacted document(s); e.g., embedding the document with alt-tags that describe complex data/tables.

11.5. *Noncompliant Materials; Obligation to Cure:* Remediation of any materials that do not comply with Water Agency's Web Site Accessibility Policy shall be the responsibility of Consultant. If Water Agency, in its sole and absolute discretion, determines that any deliverable intended for use or publication on any Water Agency/County-managed or Water Agency/County-funded Web site does not comply with Water Agency Accessibility Standards, Water Agency will promptly inform Consultant in writing. Upon such notice, Consultant shall, without charge to Water Agency, repair or replace the non-compliant materials within such period of time as specified by Water Agency in writing. If the required repair or replacement is not completed within the time specified, Water Agency shall have the right to do any or all of the following, without prejudice to Water Agency's right to pursue any and all other remedies at law or in equity:

a. Cancel any delivery or task order

b. Terminate this Agreement pursuant to the provisions of Article 6 (Termination); and/or

c. In the case of custom Electronic and Information Technology (EIT) developed by Consultant for Water Agency, Water Agency may have any necessary changes or repairs performed by itself or by another contractor. In such event, Consultant shall be liable for all expenses incurred by Water Agency in connection with such changes or repairs.

11.6. *Water Agency~~Water Agency~~'s Rights Reserved:* Notwithstanding the foregoing, Water Agency may accept deliverables that are not strictly compliant with Water Agency Accessibility Standards if Water Agency, in its sole and absolute discretion, determines that acceptance of such products or services is in Water Agency's best interest.

Formatted: Emphasis

## 12. REPRESENTATIONS OF CONSULTANT

12.1. *Status of Consultant~~Consultant~~:* The parties intend that Consultant, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Consultant is not to be considered an agent or employee of Water Agency and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits Water Agency provides its employees. In the event Water Agency exercises its right to terminate this Agreement pursuant to Article 6 (Termination), Consultant expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

Formatted: Emphasis

12.2. *Taxes:* Consultant agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Consultant agrees to indemnify and hold Water Agency harmless from any liability which it may incur to the United States or to the State of California or to any other public entity as a consequence of Consultant's failure to pay, when due, all such taxes and obligations. In case Water Agency is audited for compliance regarding any withholding or other applicable taxes, Consultant agrees to furnish Water Agency with proof of payment of taxes on these earnings.

12.3. *Records Maintenance:* Consultant shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to Water Agency for inspection at any reasonable time. Consultant shall maintain such records for a period of four (4) years following completion of work hereunder.

12.4. *Conflict of Interest:* Consultant covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial

conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Consultant further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if required by law or requested to do so by Water Agency, Consultant shall submit a completed Fair Political Practices Commission Statement of Economic Interests (Form 700) with Water Agency within 30 calendar days after the Effective Date of this Agreement and each year thereafter during the term of this Agreement, or as required by state law.

12.5. Statutory Compliance/Living Wage Ordinance. Consultant agrees to comply, and to ensure compliance by its subconsultants or subcontractors, with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Consultant expressly acknowledges and agrees that this Agreement may be subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

~~12.5.~~12.6. *Nondiscrimination:* Consultant shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

~~12.6.~~12.7. *Assignment of Rights:* Consultant assigns to Water Agency all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Consultant in connection with this Agreement. Consultant agrees to take such actions as are necessary to protect the rights assigned to Water Agency in this Agreement, and to refrain from taking any action which would impair those rights. Consultant's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as Water Agency may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of Water Agency. Consultant shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of Water Agency.

~~12.7.~~12.8. *Ownership and Disclosure of Work Product:* All reports, original drawings, graphics, plans, studies, and other data or documents ("documents"), in whatever form or format, assembled or prepared by Consultant or Consultant's subcontractors, consultants, and other agents in connection with this Agreement shall be the property of Water Agency. Water Agency shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Consultant shall promptly deliver to Water Agency all such documents, which have not already been provided to Water Agency in such form or format as Water Agency deems appropriate. Such documents shall be and will remain the property of Water Agency without restriction or limitation. Consultant may retain copies of the above described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of Water Agency.

~~12.8.~~12.9. *Nondisclosure of Confidential Information:* While doing the work required by this Agreement, Consultant may have access to technical information and materials pertaining to Water Agency's federal affairs, including but not limited to information regarding Water Agency's legislative strategies ("Confidential Information"). The Confidential Information may include confidential or proprietary information or trade secrets exempt from disclosure under provisions of the California Public Records Act. In consideration of disclosure by Water Agency of Confidential Information to Consultant, Consultant and its agents shall hold any material or information designated by Water Agency as Confidential in strict confidence and shall not disclose it or otherwise make it available, in any form or matter whatsoever, to any person or entity without the prior written consent of Water Agency, except as may be ordered by a court of law. Immediately upon receipt of any request or demand for disclosure of any Confidential Information within the scope of this Agreement, Consultant shall give Water Agency written notice and a copy of the request and the time period, if any, within which Consultant is required to respond to the request. Upon termination of this Agreement, Consultant shall return Confidential Information in its possession, including copies, to Water Agency. Consultant's obligation to maintain material and information designated as Confidential in strict confidence shall survive completion of work under this Agreement and termination of this Agreement and, as provided for in Paragraph 12.8~~12.7~~, Consultant agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of Water Agency.

## 13. DEMAND FOR ASSURANCE

13.1. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance

and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance. Nothing in this Article 13 limits Water Agency's right to terminate this Agreement pursuant to Article 6 (Termination).

## 14. ASSIGNMENT AND DELEGATION

14.1. *Consent:* Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

14.2. *Subcontracts:* Notwithstanding the foregoing, Consultant may enter into subcontracts with the subconsultants specifically identified herein. If no subconsultants are listed, then no subconsultants will be utilized in the performance of the work specified in this Agreement.

14.3. *Change of Subcontractors or Subconsultants:* If, after execution of the Agreement, parties agree that subconsultants not listed in Paragraph 14.2 will be utilized, Consultant may enter into subcontracts with subconsultants to perform other specific duties pursuant to the provisions of this Paragraph 14.3. The following provisions apply to any subcontract entered into by Consultant other than those listed in Paragraph 14.2 above:

a. Prior to entering into any contract with subconsultant, Consultant shall obtain Water Agency approval of subconsultant. Water Agency's Board of Directors must approve the selection of any subconsultant if the amount payable to subconsultant under the agreement exceeds $25,000. In connection with such approval, Consultant shall provide Water Agency with copies of the responses to Consultant's Request for Proposals (RFP) to subconsultants, the names of key personnel who will be performing work under the agreement, and an explanation of Consultant's reasons for choosing the recommended subconsultant based upon the criteria in the RFP.

b. All agreements with subconsultants shall (a) contain indemnity requirements in favor of Water Agency in substantially the same form as that contained in Article 7, (b) contain language that the subconsultant may be terminated with or without cause upon reasonable written notice, and (c) prohibit the assignment or delegation of work under the agreement to any third party.

14.4. *Summary of Subconsultants' Work:* Consultant shall provide Water Agency with a summary of work performed by subconsultants with each invoice submitted under Paragraph 4.3. Such summary shall identify the individuals performing work on behalf of subconsultants and the total amount paid to subconsultant, broken down by the tasks listed in the Scope of Work.

## 15. METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS, AND MAKING PAYMENTS

15.1. *Method of Delivery:* All notices, bills, and payments shall be made in writing and shall be given by personal delivery, U.S. Mail, courier service, or electronic means. Notices, bills, and payments shall be addressed as specified in Paragraph 3.2.

15.2. *Receipt:* When a notice, bill, or payment is given by a generally recognized overnight courier service, the notice, bill, or payment shall be deemed received on the next business day. When a copy of a notice, bill, or payment is sent by electronic means, the notice, bill, or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill, or payment is deposited in the U.S. mail and postmarked on the date of the electronic transmission (for a payment, on or before the due date), (2) the sender has a written confirmation of the electronic transmission, and (3) the electronic transmission is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills, and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this Article 15.

## 16. MISCELLANEOUS PROVISIONS

16.1. *No Bottled Water:* In accordance with Water Agency Board of Directors Resolution No. 09-0920, dated September 29, 2009, no Water Agency funding shall be used to purchase single-serving, disposable water bottles for use in Water Agency facilities or at Water Agency-sponsored events. This restriction shall not apply when potable water is not available.

16.2. *No Waiver of Breach:* The waiver by Water Agency of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.

16.3. *Construction:* To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Consultant and Water Agency

acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Consultant and Water Agency acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

16.4. *Consent:* Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

16.5. *No Third-Party Beneficiaries:* Except as provided in Article 7 (Indemnification), nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

16.6. *Applicable Law and Forum:* This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or in the forum nearest to the city of Santa Rosa, in the County of Sonoma.

16.7. *Captions:* The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

16.8. *Merger:* This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

16.9. *Survival of Terms:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

16.10. *Time of Essence:* Time is and shall be of the essence of this Agreement and every provision hereof.

/

/

/

/

/

/

~~16.10.~~

**Formatted:** Normal, Space Before: 6 pt, After: 3 pt

**Formatted:** Normal

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date last signed by the parties to the Agreement.

Reviewed as to funds:

TW 14/15-050A

By: _____
Water Agency Division Manager - Administrative Services

Approved as to form:

By: _____
[Name], Deputy County Counsel

Insurance Documentation is on file with Water Agency

Date/TW Initials: _____

**Sonoma County Water Agency**

By: _____
Grant Davis
Water Agency General Manager
Authorized per Water Agency's Board of Directors Action on December 6, 2016

Date: _____

**Alcalde & Fay**, a Virginia corporation

By: _____

_____
(Please print name here)

Title: _____

Date: _____

~~TW 14/15-50~~

~~Reviewed as to substance:~~

~~By: _____~~
~~Water Agency General Manager~~

~~Reviewed as to funds:~~

~~By: _____~~
~~Water Agency Division Manager - Administrative Services~~

~~Approved as to form:~~

~~By: _____~~
~~Steve Shupe, Deputy County Counsel~~

~~Insurance Documentation is on file with Water Agency~~

~~_____~~
~~(Date)~~

~~**Sonoma County Water Agency**~~

~~By: _____~~
~~Chair, Board of Directors~~

~~Date: _____~~

~~Attest:~~

~~By: _____~~
~~Clerk of the Board~~

~~**Alcalde & Fay**, a Virginia corporation~~

~~By: _____~~

~~_____~~
~~(Please print name here)~~

~~Title: _____~~

~~Date: _____~~

# Exhibit A

**Scope of Work**

## 1. COMMENCEMENT OF WORK

1.1. Consultant is authorized to proceed immediately with the performance of this Agreement upon the Effective Date of this Agreement.

## 2. TASKS

Submit one electronic copy in PDF format (emailed or on CD) and three hard copies of each final deliverable to Water Agency

2.1. Consultant shall advise and assist Water Agency, as requested, on sanitation and water recycling; water supply and water resource planning with particular emphasis on working with the United States Army Corps of Engineers on funding and effective implementation for the Russian River Biological Opinion and on working with the California delegation on legislation and funding related to Water Agency interests; atmospheric river research; energy and water-use efficiency; climate change and sustainability; flood control; and fish habitat and recovery issues. Consultation and assistance shall include, but is not limited to, the following:

Formatted: Heading 2,section2,Section2

~~2.1.~~a. Developing strategies to deal with governmental agencies, particularly the United States Army Corps of Engineers, that regulate and fund water supply, water recycling, sanitation, flood control, energy and water-use efficiency, climate change, youth employment programs, and watershed and fish habitat restoration, protection, and improvement projects.

Formatted: Heading 3, Indent: Left: 1", Hanging: 0.25", Tab stops: 1.25", List tab

~~2.2.~~b. Supporting implementation of recommended and prudent alternatives and measures from the Russian River Biological Opinion and to insure that funding to implement such alternatives and measures is requested for in federal administrative budgets and appropriation legislation.

~~2.3.~~c. Arranging meetings with federal legislators, legislative and committee staff, and administration staff as necessary to further Water Agency legislative and funding goals.

~~2.4.~~d. Tracking the results of meetings with legislators and their staff and responding to additional information requests made at such meetings.

~~2.5.~~e. Drafting and distributing information sheets, letters, congressional funding request forms, legislative language and other documents as necessary to describe projects and funding needs to legislators and the administration.

~~2.6.~~f. Developing strategies to obtain and maximize federal funding for water supply, sanitation, flood control, recycled water, atmospheric river research, invasive species, water-use efficiency, climate change, watershed, fish habitat and recovery projects, and youth employment programs.

~~2.7.~~g. Attending meetings at or near Water Agency offices in Santa Rosa, CA, as requested, and meetings as needed with Water Agency staff in Washington, D.C. Consultant shall also attend meetings, as necessary, of consultants and federal employees, legislators, and legislative and committee staff working in Washington, D.C., with Water Agency to support funding efforts as directed.

~~2.8.~~h. Coordinating efforts with other Water Agency consultants who are providing federal legislation and funding support services for fishery recovery efforts including the Russian River Biological Opinion, climate change, sustainability, energy efficiency, recycled water, invasive species prevention, and atmospheric river projects to maximize efficiency and avoid any duplication of effort, as directed by Water Agency.

i. Maintaining contact with and providing information for federal legislators and their staff and committee and administration staff throughout the year to follow up on information needs and other requests, and to develop and enhance support for Water Agency funding and legislative proposals.

2.2. Consultant shall develop and coordinate a Regional Education and Awareness Coalition for reservoir reoperation and extreme weather funding and policy.

a. Sustain and increase federal funding for reservoir reoperation policy planning and implementation.

i. Funding shall be included in U.S. Army Corps of Engineers budget lines as appropriate.

ii. Funding shall be included in National Oceanic and Atmospheric Administration's National Weather Service (NOAA NWS) budget lines as appropriate.

b. Sustain and increase federal funding for atmospheric river forecasting and research initiatives.

i. Funding shall be included in NOAA NWS budget lines as appropriate.

c. Coalition efforts shall include:

i. Coordinating with multi-Western states

ii. Outreach to multi-Western state water associations and trade organizations

iii. Develop as-needed outreach materials, such as issue-based website, fact sheets, media packets, and legislative packets

iv. Organize Washington, D.C. and regional Western state advocacy meetings and tours in support of funding/policy agenda

~~2.9.~~d. Develop, organize, and implement quarterly, or as-needed, coalition advocacy outreach meetings/conference calls

**Formatted:** Indent: Left: 1", Hanging: 0.25", Tab stops: 1.25", List tab + Not at 2.69"

**Formatted:** Indent: Left: 1", Hanging: 0.25", Tab stops: 1.25", List tab + Not at 2.69"

**Formatted:** Indent: Left: 1", Hanging: 0.25", Tab stops: 1.25", List tab + Not at 2.69"

**Formatted:** Heading 3, Indent: Left: 1", Hanging: 0.25", Tab stops: 1.25", List tab

## 3. REPORTS AND STRATEGIC PLANNING

3.1. Regular Communication:

a. As they are produced, copies of correspondence and other relevant documents generated with respect to work performed under this Agreement shall be provided to the Water Agency's General Manager and Project Manager. Copies of schedules for all legislative meetings arranged by Consultant with Water Agency staff also shall be provided.

b. Provide oral or email reports of activities performed under this Agreement at least every two weeks. Contact Water Agency's General Manager or Project Manager to report activities for each two-week period.

3.2. Monthly Conference Calls: Coordinate a monthly conference call and draft agendas prior to and for such a call as directed and with input from the Water Agency's General Manager and Project Manager. Such monthly calls will be with other consultants and Water Agency staff and other interested parties as directed and approved by the Water Agency. Tasks and follow up from such calls shall be documented and distributed after each call via email as directed by the Water Agency. Calls may be more frequent or on occasion less than monthly pending direction from the Water Agency General Manager or Project Manager.

3.3. Quarterly Reports: Prepare quarterly written reports of activities performed under this Agreement. The reports shall include a description of activities performed for Water Agency during that quarter, including the agencies and congressional offices contacted on Water Agency's behalf. The quarterly written reports shall separately describe work performed under each funding or legislative proposal. Quarterly reports shall be submitted in writing via email to the Water Agency's General Manager and Project Manager within two weeks of the last day of the months of March, June, September, and December for each year of this Agreement.

3.4. Annual Meeting: Meet via teleconference or in person with appropriate Water Agency staff and other consultants as determined by Project Manager at least once in **[Brad: At least once per year for the term of the agreement?]** December 2015 or January 2016 and at least once in November or December 2016 to develop a federal legislative outreach strategy for the upcoming calendar years. Prepare documentation for the components of the strategy to be implemented by Consultant under this Agreement, and coordinate with Water Agency Project Manager and other consultants as directed to compile such documentation into annual plans. Submit this compiled federal legislative outreach strategy to the Water Agency's General Manager and Project Manager by January 31 of each calendar year covered under this Agreement.

3.5. ~~Annual Summary Report: By December 31, 2015 and again by December 31, 2016, p~~Prepare summaries of efforts made over each calendar year to document work and successes in funding, legislation, and opportunities identified related to efforts made under this scope of work, and submit to Water Agency by the dates shown in the table below.

**Formatted:** Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 1"

| Deliverable | Due Date |
|---|---|

| | |
|---|---|
| Oral or written (email) activity report | The first and third Friday of each month for the term of the Agreement |
| Monthly Conference Call Agenda | Within 1 calendar day prior to conference call |
| Monthly Conference Call Follow up Notes and Minutes | Within 7 calendar days of the conference call |
| Compiled Federal Legislative Outreach Strategy | Within 7 calendar days of the meeting |
| Annual Summary Report | December 31, 2015<br>December 31, 2016<br>December 31, 2017<br>December 31, 2018 |

# Exhibit B

**Insurance Requirements**

With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

Water Agency reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

## 1. INSURANCE

### 1.1. Workers Compensation and Employers Liability Insurance

a. Required if Consultant has employees as defined by the Labor Code of the State of California.

b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.

c. Employers Liability with minimum limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.

d. Required Evidence of Insurance: Certificate of Insurance.

e. If Consultant currently has no employees as defined by the Labor Code of the State of California, Consultant agrees to obtain the above-specified Workers Compensation and Employers' Liability insurance should employees be engaged during the term of this Agreement or any extensions of the term.

### 1.2. General Liability Insurance

a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.

b. Minimum Limits: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of Excess or General Liability Insurance and Commercial Umbrella Liability Insurance. If Consultant maintains higher limits than the specified minimum limits, Water Agency requires and shall be entitled to coverage for the higher limits maintained by Consultant.

c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by Water Agency. Consultant is responsible for any deductible or self-insured retention and shall fund it upon Water

Agency's written request, regardless of whether Consultant has a claim against the insurance or is named as a party in any action involving the Water Agency.

d. Sonoma County Water Agency, its officers, agents, and employees, shall be additional insured(s) for liability arising out of operations by or on behalf of the Consultant in the performance of this Agreement.

e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.

f. The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in Insurance Services Office form CG 00 01, or equivalent).

g. The policy shall cover inter-insured suits between the additional insureds and Consultant and include a "separation of insureds" or "severability" clause which treats each insured separately.

h. Required Evidence of Insurance:

   i. Copy of the additional insured endorsement or policy language granting additional insured status, and

   ii. Certificate of Insurance.

**1.3. Automobile Liability Insurance**

a. Minimum Limit: $1,000,000 combined single limit per accident. The required limit may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Umbrella Liability Insurance.

b. Insurance shall cover all owned autos. If Consultant currently owns no autos, Consultant agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.

c. Insurance shall cover hired and non-owned autos.

d. Required Evidence of Insurance: Certificate of Insurance.

**1.4. Standards for Insurance Companies**

a. Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

**1.5. Documentation**

a. The Certificate of Insurance must include the following reference: TW 14/15-050.

b. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Consultant agrees to maintain current Evidence of Insurance on file with Water Agency for the entire term of this Agreement and any additional periods if specified in Sections 1.1, 1.2, or 1.3 above.

c. The name and address for mailing Additional Insured endorsements and Certificates of Insurance is: Sonoma County Water Agency, its officers, agents, and employees, 404 Aviation Boulevard, Santa Rosa, CA 95403-9019.

d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

e. Consultant shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.

f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

**1.6. Policy Obligations**

a. Consultant's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

**1.7. Material Breach**

a. If Consultant fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. Water Agency, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, Water Agency may purchase the required insurance, and without further notice to Consultant, Water Agency may deduct from sums due to Consultant any premium costs advanced by Water Agency for such insurance. These remedies shall be in addition to any other remedies available to Water Agency.

# DRAFT First Amended Agreement for Federal Legislative Consultation and Advocacy for Extreme Weather Research, Federal Administration and Congressional Outreach, Recycled Water, and Energy and Resource Programs and PlanningAgreement for Federal Legislative Consultation and Advocacy for Extreme Weather Research, Federal Administration and Congressional Outreach, Recycled Water, and Energy and Resource Programs and Planning

This first amended agreement ("First Amended Agreement" or "Agreement") is by and between **Sonoma County Water Agency**Sonoma County Water Agency, (collectively referred to as "Water Agency") and **Natural Resource Results**Natural Resource Results, a limited liability company (LLC) ("Consultant"). The Effective Date of this Agreement is the date the Agreement is last signed by the parties to the Agreement, unless otherwise specified in Article 5 (Term of Agreement).

Formatted: Strong

Formatted: Strong

## RECITALS

A. Consultant certifies that it is a Washington, DC corporation duly authorized to do business in the State of California, registered with the Secretary of State of California, and represents it is a duly qualified and registered consultant/lobbying firm, experienced in providing legislative advocacy services to individuals, agencies, and coalitions; developing and implementing legislative advocacy strategies; and preparing advocacy documents to be used in legislative efforts. Consultant has an office in Washington, D.C.

B. Consultant is experienced in working with federal resource agencies and non-governmental entities, and with the federal administration and congressional members in developing resource management goals and programs, and in obtaining and maximizing funding in the form of grants and loans for projects and programs related to watershed improvement and restoration, climate change adaption, and related activities, and advocating for legislation to support such programs.

C. The Water Agency is a California special district with responsibility for wholesale water supply, flood protection, wastewater treatment, and recycled water distribution. The Water Agency also operates a hydroelectric plant and allows recreational use over some of its properties. The Water Agency is involved in efforts to protect and restore endangered or threatened steelhead and salmon species in the Russian River watershed and in implementing a Biological Opinion from the National Marine Fisheries Service that requires extensive restoration and biological monitoring. Significant efforts are underway to increase renewable power production, reduce greenhouse gas emissions, and provide for climate change adaption.

D. The Water Agency's federal affairs platform includes legislative and regulatory efforts to support reservoir re-operations at Lake Sonoma and Lake Mendocino. The work includes collaborating with key stakeholders including members of Congress, the U.S. Army Corps of

Engineers, the Bureau of Reclamation, National Oceanic and Atmospheric Administration and Scripps Institution of Oceanography at U.C Davis's Center for Western Weather and Water Extremes, among others. Successfully accomplishing this platform issue will include legislative and administrative strategies.

E. The Water Agency is working with various federal, state, regional, and local interests on promoting reservoir re-operations. Securing existing and future support and promoting funding at the federal level will be required. Water Agency efforts will include securing support and funding for this effort. Coordination and collaboration with Water Agency state advocacy consultants will enhance funding and legislative opportunities to support such efforts.

F. Legislative tracking, legislative development, and pursuit of funding to offset costs are essential for success in fulfilling the Water Agency's responsibilities. Water Agency interests require coordination and communication with several federal departments, agencies, and related offices including, but not limited to, the Office of Management and Budget, the Council on Environmental Quality, and the Department of Energy.

G. Water Agency desires to have Consultant represent Water Agency's interests in securing federal funding and support for Water Agency and partners that assist Water Agency in the efforts described above, and in monitoring legislation that could impact such efforts.

~~G.~~H. Water Agency and Consultant first entered into this Agreement on December 9, 2014 ("Original Agreement").

I. In addition to the continued need for the original scope of work, Water Agency requires Consultant's assistance developing and coordinating a Regional Education and Awareness Coalition for reservoir reoperation and extreme weather funding and policy.

J. This First Amended Agreement adds $201,600 to the Original Agreement amount of $183,600, and extends the Agreement term by two years, for a new end-date of December 31, 2018.

~~H.~~K. This First Amended Agreement supersedes all previous agreements between the parties.

In consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

## A G R E E M E N T

### 1. RECITALS

1.1. The above recitals are true and correct.

### 2. LIST OF EXHIBITS

2.1. The following exhibits are attached hereto and incorporated herein:

a. Exhibit A: Scope of Work
b. Exhibit B: Insurance Requirements
c. Exhibit C: Waiver of Insurance Requirements

## 3. SCOPE OF SERVICES

3.1. *Consultant~~Consultant~~'s Specified Services:* Consultant shall perform the services described in Exhibit A (Scope of Work), within the times or by the dates provided for in Exhibit A and pursuant to Article 9 (Prosecution of Work). In the event of a conflict between the body of this Agreement and Exhibit A, the provisions in the body of this Agreement shall control.

3.2. *Cooperation with Water Agency~~Water Agency~~:* Consultant shall cooperate with Water Agency in the performance of all work hereunder. Consultant shall coordinate the work with Water Agency's Project Manager. Contact information and mailing addresses:

| **Water Agency~~Water Agency~~** | **Consultant~~Consultant~~** |
|---|---|
| Project Manager: Brad Sherwood<br>404 Aviation Boulevard<br>Santa Rosa, CA 95403-9019<br>Phone: 707-547-1927<br>Email:<br>Brad.Sherwood@scwa.ca.gov | Contact: David Anderson<br>1455 Pennsylvania Ave, NW, Suite 400<br>Washington, DC 20004<br>Phone: 202-349-4022<br>Email:<br>danderson@naturalresourceresults.com |
| **Remit invoices to:**<br>Susan Bookmyer<br>Same address as above or<br>Email:<br>susan.bookmyer@scwa.ca.gov | **Remit payments to:**<br>Attn: Accounts Receivable<br>Same address as above |

3.3. *Performance Standard and Standard of Care:* Consultant hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with the standards of a reasonable professional having specialized knowledge and expertise in the services provided under this Agreement and in accordance with all applicable federal, state and local laws, it being understood that acceptance of Consultant's work by Water Agency shall not operate as a waiver or release. Water Agency has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. If Water Agency determines that any of Consultant's work is not in accordance with such level of competency and standard of care, Water Agency, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with Water Agency to review the quality of the work and resolve matters of concern; (b) require Consultant to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 6 (Termination); or (d) pursue any and all other remedies at law or in equity.

3.4. *Assigned Personnel:*

a. Consultant shall assign only competent personnel to perform work hereunder. In the event that at any time Water Agency, in its sole discretion,

**Formatted:** Emphasis

**Formatted:** Emphasis

**Formatted:** Font: Bold

**Formatted:** Font: Bold

desires the removal of any person or persons assigned by Consultant to perform work hereunder, Consultant shall remove such person or persons immediately upon receiving written notice from Water Agency.

b. Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by Water Agency to be key personnel whose services were a material inducement to Water Agency to enter into this Agreement, and without whose services Water Agency would not have entered into this Agreement. Consultant shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of Water Agency.

c. In the event that any of Consultant's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness, or other factors outside of Consultant's control, Consultant shall be responsible for timely provision of adequately qualified replacements.

## 4. PAYMENT

4.1. *Total Costs:*

a. Total costs under this Agreement shall not exceed ~~$183,600~~$385,200.

4.2. *Method of Payment:* Consultant shall be paid in accordance with the following terms:

a. *Monthly Retainer:* From the period commencing on January 1, 2015 and ending on December 31, 2016, Water Agency agrees to pay Consultant a monthly retainer of $7,500. Commencing January 1, 2017~~5~~, Water Agency agrees to pay Consultant a monthly retainer of $~~7,500~~8,250.

b. *Expenses and Non-Reimbursable Services:* Water Agency agrees to reimburse Consultant's reasonable and necessary expenses up to $150 per month, unless additional expenses are pre-authorized by the General Manager, Project Manager, or Assistant Project Manager, with advanced written approval from Water Agency, not to exceed $3,600 for the term of the Agreement. Consultant shall not be reimbursed for unneeded messenger or express mail charges; first class or business class air travel; entertainment; normal overhead functions such as word processing or typing time, ordering records, calendaring functions, filing, indexing, proofreading or copying time, or any other procedures of a secretarial nature; meals unless on preauthorized travel; overtime; or office supplies.

c. Consultant shall not be entitled to any additional payment for any expenses incurred in completion of the services.

4.3. *Invoices:* Consultant shall submit its bills in arrears on a monthly basis, based on work completed for the period, in a form approved by Water Agency. The bills shall show or include:

a. Consultant name

b. Name of Agreement

c. Water Agency's ~~Order Number~~Project-Activity Code ~~(s) 0702-A1~~T0080A002

d. Task performed with an itemized description of services rendered by date

e. Summary of work performed by subconsultants, as described in Paragraph 14.4

f. List of reimbursable materials and expenses

g. Copies of receipts for reimbursable materials and expenses

4.4. *Funding:*

a. Funding for this Agreement is as follows:

| *Current Fiscal Year* | *Budgeted Appropriation* |
|---|---|
| 2014/2015 | $45,900 |
| | |
| *Subsequent Fiscal Years* | *Planned Appropriation* |
| 2015/2016 | $91,800 |
| 2016/2017 | $~~45,900~~99,000 |
| 2017/2018 | $99,000 |
| 2018/2019 | $49,500 |

b. Availability of Funding in Subsequent Fiscal Years:

i. Water Agency's performance under this Agreement in subsequent years is contingent upon appropriation of funds by Water Agency's Board of Directors. Water Agency shall have no liability under this Agreement if sufficient funds are not appropriated in subsequent fiscal years by Water Agency's Board of Directors for the purpose of this Agreement.

ii. If funding for this Agreement for any fiscal year is reduced or eliminated by Water Agency's Board of Directors, Water Agency shall have the option to either terminate this Agreement in accordance with Article 6 (Termination) or offer an amendment to Consultant to reflect the reduced amount.

## 5. TERM OF AGREEMENT

5.1. The term of this Agreement shall be from January 1, 2015 ("Effective Date") to ~~December 31, 2016~~December 31, 2018, unless terminated earlier in accordance with the provisions of Article 6 (Termination).

## 6. TERMINATION

6.1. *Authority to Terminate:* Water Agency's right to terminate may be exercised by Water Agency's General Manager.

6.2. *Termination Without Cause:* Notwithstanding any other provision of this Agreement, at any time and without cause, Water Agency shall have the right, in

**Formatted:** Keep with next, Keep lines together

**Formatted:** Keep with next, Keep lines together

**Formatted:** Keep with next, Keep lines together

**Formatted:** Keep with next, Keep lines together

**Formatted:** Keep with next, Keep lines together

**Formatted:** Keep with next, Keep lines together

**Formatted:** Keep with next, Keep lines together

**Formatted:** Keep with next, Keep lines together

its sole discretion, to terminate this Agreement by giving five days written notice to Consultant.

6.3. *Termination for Cause:* Notwithstanding any other provision of this Agreement, should Consultant fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, Water Agency may immediately terminate this Agreement by giving Consultant written notice of such termination, stating the reason for termination.

6.4. *Delivery of Work Product and Final Payment Upon Termination:* In the event of termination, Consultant, within 14 days following the date of termination, shall deliver to Water Agency all materials and work product subject to Paragraph 12.8~~12.7~~ and shall submit to Water Agency an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

6.5. *Payment Upon Termination:* Upon termination of this Agreement by Water Agency, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total payment; provided, however, that if services are to be paid on a per-hour or per-day basis, then Consultant shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to termination times the applicable hourly or daily rate; and further provided, however, that if Water Agency terminates the Agreement for cause pursuant to Paragraph 6.3, Water Agency shall deduct from such amounts the amount of damage, if any, sustained by Water Agency by virtue of the breach of the Agreement by Consultant.

## 7. INDEMNIFICATION

7.1. Consultant agrees to accept all responsibility for loss or damage to any person or entity, including Sonoma County Water Agency, and to indemnify, hold harmless, and release Sonoma County Water Agency, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Consultant, that arise out of, pertain to, or relate to Consultant's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Consultant agrees to provide a complete defense for any claim or action brought against Sonoma County Water Agency based upon a claim relating to Consultant's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Consultant's obligations under this Article 7 apply whether or not there is concurrent negligence on the part of Sonoma County Water Agency, but, to the extent

required by law, excluding liability due to conduct of Sonoma County Water Agency. Sonoma County Water Agency shall have the right to select its legal counsel at Consultant's expense, subject to Consultant's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Consultant or its agents, employees, contractors, subcontractors, or invitees under workers' compensation acts, disability benefits acts, or other employee benefit acts.

## 8. INSURANCE

8.1. With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit B (Insurance Requirements).

## 9. PROSECUTION OF WORK

9.1. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for Consultant's performance of this Agreement shall be extended by a number of days equal to the number of days Consultant has been delayed.

## 10. EXTRA OR CHANGED WORK

10.1. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Minor changes, which do not increase the amount paid under the Agreement, and which do not significantly change the scope of work or significantly lengthen time schedules may be executed by the Water Agency's General Manager in a form approved by County Counsel. The parties expressly recognize that Water Agency personnel are without authorization to order all other extra or changed work or waive Agreement requirements. Failure of Consultant to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Consultant shall be entitled to no compensation whatsoever for the performance of such work. Consultant further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of Water Agency.

## 11. CONTENT ONLINE ACCESSIBILITY

11.1. *Accessibility:* Water Agency policy requires that all documents that may be published to the Web meet accessibility standards to the greatest extent possible, and utilizing available existing technologies.

11.2. *Standards:* All consultants responsible for preparing content intended for use or publication on a Water Agency/County-managed or Water Agency/County-funded web site must comply with applicable federal accessibility standards established by 36 C.F.R. Section 1194, pursuant to Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794(d)), and Water Agency's Web Site Accessibility Policy located at http://webstandards.sonoma-county.org.

11.3. *Certification:* With each final receivable intended for public distribution (report, presentations posted to the Internet, public outreach materials), Consultant shall include a descriptive summary describing how all deliverable documents were assessed for accessibility (e.g., Microsoft Word accessibility check; Adobe Acrobat accessibility check, or other commonly accepted compliance check).

11.4. *Alternate Format:* When it is strictly impossible due to the unavailability of technologies required to produce an accessible document, Consultant shall identify the anticipated accessibility deficiency prior to commencement of any work to produce such deliverables. Consultant agrees to cooperate with Water Agency staff in the development of alternate document formats to maximize the facilitative features of the impacted document(s); e.g., embedding the document with alt-tags that describe complex data/tables.

11.5. *Noncompliant Materials; Obligation to Cure:* Remediation of any materials that do not comply with Water Agency's Web Site Accessibility Policy shall be the responsibility of Consultant. If Water Agency, in its sole and absolute discretion, determines that any deliverable intended for use or publication on any Water Agency/County-managed or Water Agency/County-funded Web site does not comply with Water Agency Accessibility Standards, Water Agency will promptly inform Consultant in writing. Upon such notice, Consultant shall, without charge to Water Agency, repair or replace the non-compliant materials within such period of time as specified by Water Agency in writing. If the required repair or replacement is not completed within the time specified, Water Agency shall have the right to do any or all of the following, without prejudice to Water Agency's right to pursue any and all other remedies at law or in equity:

a. Cancel any delivery or task order
b. Terminate this Agreement pursuant to the provisions of Article 6 (Termination); and/or
c. In the case of custom Electronic and Information Technology (EIT) developed by Consultant for Water Agency, Water Agency may have any necessary changes or repairs performed by itself or by another contractor. In such event, Consultant shall be liable for all expenses incurred by Water Agency in connection with such changes or repairs.

11.6. *Water Agency~~Water Agency~~'s Rights Reserved:* Notwithstanding the foregoing, Water Agency may accept deliverables that are not strictly compliant with Water Agency Accessibility Standards if Water Agency, in its sole and absolute

**Formatted:** Emphasis

discretion, determines that acceptance of such products or services is in Water Agency's best interest.

## 12. REPRESENTATIONS OF CONSULTANT

12.1. *Status of Consultant~~Consultant~~:* The parties intend that Consultant, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Consultant is not to be considered an agent or employee of Water Agency and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits Water Agency provides its employees. In the event Water Agency exercises its right to terminate this Agreement pursuant to Article 6 (Termination), Consultant expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

Formatted: Emphasis

12.2. *Taxes:* Consultant agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Consultant agrees to indemnify and hold Water Agency harmless from any liability which it may incur to the United States or to the State of California or to any other public entity as a consequence of Consultant's failure to pay, when due, all such taxes and obligations. In case Water Agency is audited for compliance regarding any withholding or other applicable taxes, Consultant agrees to furnish Water Agency with proof of payment of taxes on these earnings.

12.3. *Records Maintenance:* Consultant shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to Water Agency for inspection at any reasonable time. Consultant shall maintain such records for a period of four (4) years following completion of work hereunder.

12.4. *Conflict of Interest:* Consultant covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Consultant further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if required by law or requested to do so by Water Agency, Consultant shall submit a completed Fair Political Practices Commission Statement of Economic Interests (Form 700) with Water Agency within 30 calendar days after the Effective Date of this Agreement and each year thereafter during the term of this Agreement, or as required by state law.

12.5. *Statutory Compliance/Living Wage Ordinance.* Consultant agrees to comply, and to ensure compliance by its subconsultants or subcontractors, with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Consultant expressly acknowledges and agrees that this Agreement may be subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

~~12.5.~~12.6. *Nondiscrimination:* Consultant shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

~~12.6.~~12.7. *Assignment of Rights:* Consultant assigns to Water Agency all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Consultant in connection with this Agreement. Consultant agrees to take such actions as are necessary to protect the rights assigned to Water Agency in this Agreement, and to refrain from taking any action which would impair those rights. Consultant's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as Water Agency may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of Water Agency. Consultant shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of Water Agency.

~~12.7.~~12.8. *Ownership and Disclosure of Work Product:* All reports, original drawings, graphics, plans, studies, and other data or documents ("documents"), in whatever form or format, assembled or prepared by Consultant or Consultant's subcontractors, consultants, and other agents in connection with this Agreement shall be the property of Water Agency. Water Agency shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Consultant shall promptly deliver to Water Agency all such documents, which have not already been provided to Water Agency in such form or format as Water Agency deems appropriate. Such documents shall be and will remain the property of Water Agency without restriction or limitation. Consultant may

retain copies of the above described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of Water Agency.

~~12.8.~~12.9. *Nondisclosure of Confidential Information:* While doing the work required by this Agreement, Consultant may have access to technical information and materials pertaining to Water Agency's federal affairs, including but not limited to information regarding Water Agency's legislative strategies ("Confidential Information"). The Confidential Information may include confidential or proprietary information or trade secrets exempt from disclosure under provisions of the California Public Records Act. In consideration of disclosure by Water Agency of Confidential Information to Consultant, Consultant and its agents shall hold any material or information designated by Water Agency as Confidential in strict confidence and shall not disclose it or otherwise make it available, in any form or matter whatsoever, to any person or entity without the prior written consent of Water Agency, except as may be ordered by a court of law. Immediately upon receipt of any request or demand for disclosure of any Confidential Information within the scope of this Agreement, Consultant shall give Water Agency written notice and a copy of the request and the time period, if any, within which Consultant is required to respond to the request. Upon termination of this Agreement, Consultant shall return Confidential Information in its possession, including copies, to Water Agency. Consultant's obligation to maintain material and information designated as Confidential in strict confidence shall survive completion of work under this Agreement and termination of this Agreement and, as provided for in Paragraph 12.8~~12.7~~, Consultant agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of Water Agency.

## 13. DEMAND FOR ASSURANCE

13.1. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

Nothing in this Article 13 ~~12.8~~ limits Water Agency's right to terminate this Agreement pursuant to Article 6 (Termination).

## 14. ASSIGNMENT AND DELEGATION

14.1. *Consent:* Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

14.2. *Subcontracts:* Notwithstanding the foregoing, Consultant may enter into subcontracts with the subconsultants specifically identified herein. If no subconsultants are listed, then no subconsultants will be utilized in the performance of the work specified in this Agreement.

14.3. *Change of Subcontractors or Subconsultants:* If, after execution of the Agreement, parties agree that subconsultants not listed in Paragraph 14.2 will be utilized, Consultant may enter into subcontracts with subconsultants to perform other specific duties pursuant to the provisions of this Paragraph 14.3. The following provisions apply to any subcontract entered into by Consultant other than those listed in Paragraph 14.2 above:

a. Prior to entering into any contract with subconsultant, Consultant shall obtain Water Agency approval of subconsultant. Water Agency's Board of Directors must approve the selection of any subconsultant if the amount payable to subconsultant under the agreement exceeds $25,000. In connection with such approval, Consultant shall provide Water Agency with copies of the responses to Consultant's Request for Proposals (RFP) to subconsultants, the names of key personnel who will be performing work under the agreement, and an explanation of Consultant's reasons for choosing the recommended subconsultant based upon the criteria in the RFP.

b. All agreements with subconsultants shall (a) contain indemnity requirements in favor of Water Agency in substantially the same form as that contained in Article 7, (b) contain language that the subconsultant may be terminated with or without cause upon reasonable written notice, and (c) prohibit the assignment or delegation of work under the agreement to any third party.

14.4. *Summary of Subconsultants' Work:* Consultant shall provide Water Agency with a summary of work performed by subconsultants with each invoice submitted under Paragraph 4.3. Such summary shall identify the individuals performing work on behalf of subconsultants and the total amount paid to subconsultant, broken down by the tasks listed in the Scope of Work.

## 15. METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS, AND MAKING PAYMENTS

15.1. *Method of Delivery:* All notices, bills, and payments shall be made in writing and shall be given by personal delivery, U.S. Mail, courier service, or electronic means. Notices, bills, and payments shall be addressed as specified in Paragraph 3.2.

15.2. *Receipt:* When a notice, bill, or payment is given by a generally recognized overnight courier service, the notice, bill, or payment shall be deemed received on the next business day. When a copy of a notice, bill, or payment is sent by electronic means, the notice, bill, or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill, or payment is deposited in the U.S. mail and postmarked on the date of the electronic transmission (for a payment, on or before the due date), (2) the sender has a written confirmation of the electronic transmission, and (3) the electronic transmission is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills, and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this Article 15.

## 16. MISCELLANEOUS PROVISIONS

16.1. *No Bottled Water:* In accordance with Water Agency Board of Directors Resolution No. 09-0920, dated September 29, 2009, no Water Agency funding shall be used to purchase single-serving, disposable water bottles for use in Water Agency facilities or at Water Agency-sponsored events. This restriction shall not apply when potable water is not available.

16.2. *No Waiver of Breach:* The waiver by Water Agency of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.

16.3. *Construction:* To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Consultant and Water Agency acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Consultant and Water Agency acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

16.4. *Consent:* Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

16.5. *No Third-Party Beneficiaries:* Except as provided in Article 7 (Indemnification), nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

16.6. *Applicable Law and Forum:* This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or in the forum nearest to the city of Santa Rosa, in the County of Sonoma.

16.7. *Captions:* The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

16.8. *Merger:* This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

16.9. *Survival of Terms:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

16.10. *Time of Essence:* Time is and shall be of the essence of this Agreement and every provision hereof.

/

/

/

/

/

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date last signed by the parties to the Agreement.

Reviewed as to funds:

TW 14/15-051A

By: _____
Water Agency Division Manager - Administrative Services

Approved as to form:

By: _____
[Name], Deputy County Counsel

Insurance Documentation is on file with Water Agency

Date/TW Initials: 10/26/16 JC

**Sonoma County Water Agency**

By: _____
Grant Davis
Water Agency General Manager
Authorized per Water Agency's Board of Directors Action on December 6, 2016

Date: _____

**Natural Resource Results**, a limited liability company

By: _____

_____
(Please print name here)

Title: _____

Date: _____

# Exhibit A

## Scope of Work

## 1. COMMENCEMENT OF WORK

1.1. Consultant is authorized to proceed immediately with the performance of this Agreement upon the Effective Date of this Agreement.

## 2. TASKS

Submit one electronic copy in PDF format (emailed or on CD) and three hard copies of each final deliverable to Water Agency.

2.1. Consultant shall coordinate efforts with the Administration, Congressional Representatives and Federal, State, and local agencies, along with other interested parties to increase political support and federal funding for atmospheric river and hydrometeorology testbed research programs, and shall assist the Water Agency in maximizing other opportunities for Federal support and funding for recycled water, water supply, flood control, fisheries recovery and restoration and carbon neutral economy efforts.

~~2.1.~~a. Coordinate meetings, as necessary, with other consultants and interested parties

~~2.2.~~b. Assist in the development of strategies, legislation, and funding opportunities related to atmospheric river and hydrometeorology testbed research programs

~~2.3.~~c. Serve as Water Agency's lead contact with Office of Management and Budget and Council on Environmental Quality

~~2.4.~~d. Use best efforts to ensure, if new authorization is needed, that federal legislation authorizes appropriations for funding of the core elements of atmospheric river and hydrometeorology testbed research programs.

~~2.5.~~e. Assist the Water Agency in the development of strategies and funding opportunities related to implementing the Russian River Biological Opinion and coordinate such work with other Water Agency consultants as directed by the General Manager and/or Project Manager. Specifically, focus on funding opportunities in the President's Budget and coordinate efforts with other consultants and interested parties.

~~2.6.~~f. Assist the Water Agency in the development of strategies and funding opportunities related to habitat restoration and enhancement projects in Dry Creek. Specifically, focus on funding opportunities in the President's Budget and seek assistance where needed from the Office of Management and Budget and the Council on Environmental Quality and coordinate efforts with other consultants and interested parties on appropriations and authorization, as directed by Water Agency's Project Manager.

**Formatted:** Heading 2,section2,Section2, Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 1"

**Formatted:** Heading 3, Indent: Left: 1", Hanging: 0.25", No bullets or numbering

~~2.7.~~g. Assist the Water Agency in monitoring and providing input into potential federal funding sources for atmospheric river and hydrometeorology testbed research programs, the Russian River Biological Opinion, and other areas of Water Agency interest as directed by the General Manager or Project Manager.

~~2.8.~~h. Arrange meetings with federal legislators, legislative and committee staff, and administration staff as necessary to further Water Agency legislative and funding goals.

~~2.9.~~i. Attend meetings at or near Water Agency offices in Santa Rosa, CA, as requested, and meetings as needed with Water Agency staff in Washington, D.C. Also, attend meetings, as necessary, of consultants and federal employees, legislators, and legislative and committee staff working in Washington, D.C., with Water Agency to support funding efforts as directed.

~~2.10.~~j. Track the results of meetings with legislators and their staff, and respond to additional information requests made at such meetings.

~~2.11.~~k. Draft and distribute information sheets, letters, congressional funding request forms, legislative language and other documents as necessary to describe projects and funding needs to legislators and the administration.

l. Maintain contact with and provide information for federal legislators and their staff and committee and administration staff throughout the year to follow up on information needs and other requests and to develop and enhance support for Water Agency funding and legislative proposals.

2.2. Consultant shall develop and coordinate a Regional Education and Awareness Coalition for reservoir reoperation and extreme weather funding and policy.

a. Sustain and increase federal funding for reservoir reoperation policy planning and implementation.

i. Funding shall be included in U.S. Army Corps of Engineers budget lines as appropriate.

ii. Funding shall be included in National Oceanic and Atmospheric Administration's National Weather Service (NOAA NWS) budget lines as appropriate.

b. Sustain and increase federal funding for atmospheric river forecasting and research initiatives.

i. Funding shall be included in NOAA NWS budget lines as appropriate.

c. Coalition efforts shall include:

i. Coordinating with multi-Western states

ii. Outreach to multi-Western state water associations and trade organizations

iii. Develop as-needed outreach materials, such as issue-based website, fact sheets, media packets, and legislative packets

**Formatted:** Heading 4, No bullets or numbering

**Formatted:** Indent: Left: 1", Hanging: 0.25"

**Formatted:** Heading 4

**Formatted:** Indent: Left: 1", Hanging: 0.25"

**Formatted:** Heading 4

**Formatted:** Heading 4, No bullets or numbering

iv. Organize Washington, D.C. and regional Western state advocacy meetings and tours in support of funding/policy agenda

d. Develop, organize, and implement quarterly, or as-needed, coalition advocacy outreach meetings/conference calls.

~~2.12.~~

**Formatted:** Indent: Left: 1", Hanging: 0.25", Outline numbered + Level: 3 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 2.19" + Tab after: 2.69" + Indent at: 2.49", Tab stops: Not at 2.69"

**Formatted:** Normal, Indent: Left: 0.5", No bullets or numbering

## 3. REPORTS AND STRATEGIC PLANNING:

3.1. Regular Communication:

a. As they are produced, copies of correspondence and other relevant documents generated with respect to work performed under this Agreement shall be provided to the Water Agency's General Manager and Project Manager. Copies of schedules for all legislative meetings arranged by Consultant with Water Agency staff also shall be provided.

b. Provide oral or email reports of activities performed under this Agreement at least every two weeks. Consultant shall contact Water Agency's General Manager or Project Manager to report activities for each two-week period.

3.2. Monthly Conference Calls: Coordinate a monthly conference call and draft agendas prior to and for such a call as directed and with input from the Water Agency's General Manager and Project Manager. Such monthly calls will be with other consultants and Water Agency staff and other interested parties as directed and approved by the Water Agency. Tasks and follow up from such calls shall be documented and distributed after each call via email as directed by the Water Agency. Calls may be more frequent or on occasion less than monthly pending direction from the Water Agency General Manager or Project Manager.

3.3. Quarterly Reports: Prepare quarterly written reports of activities performed under this Agreement. The reports shall include a description of activities performed for Water Agency during that quarter, including the agencies and congressional offices contacted on Water Agency's behalf. The quarterly written reports shall separately describe work performed under each funding or legislative proposal. Submit quarterly reports in writing via e-mail to the Water Agency's General Manager and Project Manager within two weeks of the last day of the months of March, June, September, and December for each year of this Agreement.

3.4. Annual Meeting: Meet via teleconference or in person with appropriate Water Agency staff and other consultants as determined by Project Manager ~~at least once in December 2015 or January 2016 and at least once in November or December 2016~~at least once a year for the term of the agreement to develop a federal legislative outreach strategy for the upcoming calendar years. Prepare documentation for the components of the strategy to be implemented by Consultant under this Agreement, and coordinate with Water Agency Project Manager and other consultants as directed to compile such documentation into annual plans. Submit this compiled federal legislative outreach strategy to the

Water Agency's General Manager and Project Manager within 7 calendar days of the meeting of each calendar year covered under this Agreement.

3.5. ~~Annual Summary Report: By December 31, 2015 and again by December 31, 2016, p~~Prepare summaries of efforts made over each calendar year to document work and successes in funding, legislation, and opportunities identified related to efforts made under this scope of work, and submit to Water Agency by the dates shown in the table below.

| Deliverable | Due Date |
|---|---|
| Oral or written (email) activity report | The first and third Friday of each month for the term of the Agreement |
| Monthly Conference Call Agenda | Within 1 calendar day prior to conference call |
| Monthly Conference Call Follow up Notes and Minutes | Within 7 calendar days of the conference call |
| Quarterly Reports | Within two weeks of the last day of the months of March, June, September, and December for each year |
| Compiled Federal Legislative Outreach Strategy | Within 7 calendar days of the meeting of each calendar year |
| Annual Summary Report | December 31, 2015<br>December 31, 2016<br>December 31, 2017<br>December 31, 2018 |

# Exhibit B

**Insurance Requirements**

With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

Water Agency reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

## 1. INSURANCE

### 1.1. Workers Compensation and Employers Liability Insurance

a. Required if Consultant has employees as defined by the Labor Code of the State of California.

b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.

c. Employers Liability with minimum limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.

d. Required Evidence of Insurance: Certificate of Insurance.

e. If Consultant currently has no employees as defined by the Labor Code of the State of California, Consultant agrees to obtain the above-specified Workers Compensation and Employers' Liability insurance should employees be engaged during the term of this Agreement or any extensions of the term.

### 1.2. General Liability Insurance

a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.

b. Minimum Limits: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of Excess or General Liability Insurance and Commercial Umbrella Liability Insurance. If Consultant maintains higher limits than the specified minimum limits, Water Agency requires and shall be entitled to coverage for the higher limits maintained by Consultant.

c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by Water Agency. Consultant is responsible for any deductible or self-insured retention and shall fund it upon Water

Agency's written request, regardless of whether Consultant has a claim against the insurance or is named as a party in any action involving the Water Agency.

d. Sonoma County Water Agency, its officers, agents, and employees, shall be additional insured(s) for liability arising out of operations by or on behalf of the Consultant in the performance of this Agreement.

e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.

f. The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in Insurance Services Office form CG 00 01, or equivalent).

g. The policy shall cover inter-insured suits between the additional insureds and Consultant and include a "separation of insureds" or "severability" clause which treats each insured separately.

h. Required Evidence of Insurance:

   i. Copy of the additional insured endorsement or policy language granting additional insured status, and

   ii. Certificate of Insurance.

**1.3. Automobile Liability Insurance**

a. Minimum Limit: $1,000,000 combined single limit per accident. The required limit may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Umbrella Liability Insurance.

b. Insurance shall cover all owned autos. If Consultant currently owns no autos, Consultant agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.

c. Insurance shall cover hired and non-owned autos.

d. Required Evidence of Insurance: Certificate of Insurance.

**1.4. Standards for Insurance Companies**

a. Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

**1.5. Documentation**

a. The Certificate of Insurance must include the following reference: TW 14/15-051.

b. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Consultant agrees to maintain current Evidence of Insurance on file with Water Agency for the entire term of this Agreement and any additional periods if specified in Sections 1.1, 1.2, or 1.3 above.

c. The name and address for mailing Additional Insured endorsements and Certificates of Insurance is: Sonoma County Water Agency, its officers, agents, and employees, 404 Aviation Boulevard, Santa Rosa, CA 95403-9019.

d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

e. Consultant shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.

f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

**1.6. Policy Obligations**

a. Consultant's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

**1.7. Material Breach**

a. If Consultant fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. Water Agency, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, Water Agency may purchase the required insurance, and without further notice to Consultant, Water Agency may deduct from sums due to Consultant any premium costs advanced by Water Agency for such insurance. These remedies shall be in addition to any other remedies available to Water Agency.

Exhibit C **Waiver of Insurance Requirements**

***This Exhibit modifies the insurance requirements as specified in Exhibit*** B

| | | | |
|---|---|---|---|
| **Department** Water Agency | **Department Contact** Lisa Consani | **Phone** 707-524-1166 | |
| **Contractor, Consultant, Vendor, Licensee, Tenant** Natural Resource Results, LLC | | | |
| **Contact Person** David Anderson | **Phone** 202-349-4022 | | |
| **Contract Term** Dec. 31, 2016 | **Contract Cost** $183,600 | **Template #** 3 | |

♦ *If only Section I waivers are required, submit to your Department Head or designee for signature. Do not submit to Risk.*
♦ *If only Section II waivers, or a combination of Section I and II waivers, are required,* ***submit to Risk***.

**Section I - Department Waivers**

**Requirement to be Waived and Reason**

- ☐ Workers Compensation: Waive Subrogation Waiver.
- ☐ General Liability: Waive General Aggregate per location or per project; General Aggregate is at least double the Occurrence Limit.
- ☐ General Liability: Waive requirement for Subrogation Waiver because insurer will not provide the coverage.
- ☐ General Liability (Suppliers of Products): Waive "Additional Insured – Vendors". County does not distribute the product to the public.
- ☐ General Liability (Special Events): Waive Products/Completed Operations Coverage. Licensee will not sell or distribute food or other tangible items at the event.
- ☐ General Liability (Instructors/Trainers): Waive General Liability. Training is conducted at County/Entity facility and does not involve the use of hazardous equipment or participation in physical activity.
- ☐ General Liability (Therapists, Counselors, Social workers and Psychologists): Waive General Liability. All services are provided in the consultant's office or on County premises and acceptable evidence of professional liability insurance has been provided.
- ☐ Auto Liability: Waive coverage and/or limits; Consultant or Contractor does no driving on behalf of the County or the driving is limited to attendance at meetings at County/Entity facilities.
- ☐ Auto Liability (Suppliers of Products): Waive coverage because vendor's goods are delivered by common carrier or contract carrier.
- ☐ Property Insurance (Long Term Tenants): Waive Property Insurance requirement. Tenant has not made improvements to the property or the current construction cost of the improvements is less than $25,000.
- ☐ Mold Liability: Landlord cannot obtain the insurance.

Approved by Department Head, Department Designee or Risk Management _____ Date _____

H-2 Waiver of Insurance Requirements (fillable form) Ver. 05/09/2011 Page 1 of 2

**Section II – Risk Management Waivers**

***Submit to Risk with Scope of Work Exhibit or detailed description of services or event.***

**General Liability Waivers**

☐ Waive requirement for coverage
Reason: _____

☒ Waive requirement for additional insured endorsement
Reason: Consultants CGL can only issue AI for premises owners under policy. Work is low risk and performed in Consultant's office.

☐ Waive primary & non-contributory language (if evidence is required)
Reason: _____

**Auto Liability Waivers**

☐ Accept lower limits
Reason: _____

☒ Waive hired & non-owned auto liability
Reason: Personal auto insurance limits are at $1M

**Workers Compensation Waivers**

☐ Waive requirement for subrogation waiver endorsement if required
Reason: _____

**Professional Liability Waivers**

☐ Waive requirement for coverage
Reason: _____

☐ Accept lower limits
Reason: _____

**Pollution Liability Waivers**

☐ Waive requirement for coverage
Reason: _____

☐ Accept lower limits
Reason: _____

☐ Waive requirement for additional insured endorsement
Reason: _____

**Other Waivers**

☒ Describe: Accept General Liability limited to premises laibility
Reason: _____

Approved by Risk Management

11/10/19 Send Email
Date

Waiver of Insurance Requirements (fillable form) Ver. 01/15/2012 Page 2 of 2

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 6**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Directors, Sonoma County Water Agency

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Sonoma County Water Agency

**Staff Name and Phone Number:**
Susan Haydon 547-1937

**Supervisorial District(s):**
Second

**Title:** Petaluma River Stream Gauge Installation Project

**Recommended Actions:**

Authorize Sonoma County Water Agency's General Manager to execute the first amendment to the agreement for Funding of Petaluma River Stream Gauge Installation Project with City of Petaluma increasing the amount by $35,600 to fund upgrade of two ALERT2 Base Stations for a new not-to-exceed agreement total of $209,800.

**Executive Summary:**

This item requests authority for the Sonoma County Water Agency's (Water Agency) General Manager to execute an amended funding agreement with City of Petaluma (City) to fund the upgrade of two ALERT2 Base Stations and upgrade gauges to provide communication capabilities to the new stations as part of the Petaluma River Stream Gauge Installation Project (Project). These stations will allow the City's emergency response team to access live conditions during extreme flood events within the Petaluma River Watershed, and also link to a public website. The additional funding amount is $35,600 for a new not-to-exceed agreement total of $209,800.

**Discussion:**

The Project consists of installation of ten gauges to measure and record stream depth and precipitation. The Project is located in the Petaluma River Watershed within the city limits of Petaluma and in the unincorporated area of Sonoma County.

The City and Water Agency have evaluated storm flows and rainfall intensities which occur within the Petaluma Watershed. Water Agency's Zone 2A Advisory Committee recommended that the Project be undertaken and expedited to assist in the collection of rainfall and storm flow data to provide statistical data in providing flood management recommendations and responses within the Petaluma River Watershed.

On July 22, 2014, the Water Agency and City entered into an agreement for the Water Agency to fund a portion of the Project costs (Original Agreement). The agreement amount was $174,200. Work funded under the Original Agreement has been completed.

Under the proposed first amended agreement, the Water Agency will provide City additional funding in the amount of $35,600 to upgrade two ALERT2 Base Stations and upgrade gauges to provide communication capabilities to the new stations as part of the Project. In addition to Water Agency contributions, City is also funding the Project, partially through grant funds received for the Project. These stations will allow the City's emergency response team to access live conditions during extreme flood events within the Petaluma River Watershed, and also link to a public website.

**Prior Board Actions:**

07/22/2014: Approved agreement between Water Agency and City for funding of Project. Cost $174,200.

**Strategic Plan Alignment** Goal 2: Economic and Environmental Stewardship

The subject work directly supports the City and Water Agency in adhering to the County's goal to protect our watersheds by effectively monitoring stream flows for flood management.

Water Agency Flood Control Goals and Strategies, Goal 1: Maintain, operate, and modify flood protection facilities to meet current and future public needs.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | $35,600 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **$35,600** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | $35,600 | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$35,600** | | |

**Narrative Explanation of Fiscal Impacts:**

Budgeted amount of $35,600 is available form FY 2016/2017 appropriations for the Zone 2A Flood Control fund. No additional appropriation is required.

| Staffing Impacts | | | |
|---|---|---|---|
| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Amended Agreement (1 copy)

**Related Items "On File" with the Clerk of the Board:**

pa\\S:\Agenda\agrees\12-13-2016 WA Petaluma River Stream Gauge Install_summ.docm

CF/15-2.1-21 Petaluma, City of (Funding Agree for Petaluma River Stream Gage Installation Project) TW 13/14-016 (ID 4798)

For accessibility assistance with this document, please contact the Sonoma County Water Agency Technical Writing Section at (707) 547-1900, Fax at (707) 544-6123, or TDD through the California Relay Service (by dialing 711).

JAC: s:\techw\agreements\1314-016a.docx version: 11/7/2016 11:02:00 AM

TW 13/14-016A

# FIRST AMENDED AGREEMENT FOR

# FUNDING OF PETALUMA RIVER STREAM GAUGE INSTALLATION PROJECT

This first amended agreement ("First Amended Agreement" or "Agreement") is between the **Sonoma County Water Agency,** a body corporate and politic of the State of California ("Water Agency"), and **City of Petaluma** ("City").

## RECITALS

A. The Petaluma River Stream Gauge Installation Project ("Project") consists of installation of ten gauges to measure and record stream depth and precipitation, and appurtenances. The Project is located in Petaluma River watershed within the city limits of Petaluma, and in the unincorporated area of Sonoma County.

B. City and Water Agency have evaluated storm flows and rainfall intensities which occur within the Petaluma River Watershed. Water Agency's Zone 2A Advisory Committee recommends that the Project be undertaken and expedited to assist in the collection of rainfall and storm flow data to provide statistical data in providing flood management recommendations and responses within the Petaluma River Watershed.

C. Water Agency and City first entered into this Agreement on July 22, 2014 ("Original Agreement").

D. Estimated Project costs are shown on Attachment B. Attachment B is an integral part of this Agreement. Under the Original Agreement, City requested $174,200 from Water Agency's Zone 2A fund for the design and construction of the Project during the 2013-14 construction season.

E. This First Amended Agreement adds $35,600 to the Agreement amount, for a new total of $209,800, to upgrade two ALERT2 Base Stations and upgrade gauges to provide communication capabilities to the new stations as part of the Project. These stations will allow the City's emergency response team to access live conditions during extreme flood events within the Petaluma River Watershed, and also link to a public website.

F. City owns or will acquire, and is willing to retain ownership of, any property or easements wherein said Project will be constructed and is willing to operate and maintain said Project in accordance with this Agreement.

G. Water Agency and City do mutually desire to cooperate in the design and construction and financing of said Project. In addition to Water Agency contributions, City is also funding the Project, partially through grant funds received for the Project.

H. City wishes to expedite design and construction of said Project.

I. City will provide public online access to the data collected from the gauges installed under this Agreement.

J. City has prepared all appropriate environmental documents for the Project under the California Environmental Quality Act (CEQA). Notice of Exemption Pursuant to Section 15303, Construction of Small Structures ("installation of small new equipment and facilities in small structures") was filed on December 2013.

K. City has determined the locations of proposed stream and precipitation gauges, obtained a quotation for the purchase of gauges, and begun solicitation of bids for installation of gauges.

L. This First Amended Agreement supersedes all previous agreements between the parties.

## AGREEMENT

City and Water Agency agree as follows:

**1. RECITALS**

1.1. The above recitals are true and correct.

**2. COORDINATION**

2.1. City shall coordinate the work with Water Agency's Project Manager. Contact information:

| Water Agency | City |
|---|---|
| Project Manager: Susan Haydon | Contact: Dan Herrera |
| 404 Aviation Boulevard | 202 North McDowell Avenue |
| Santa Rosa, CA 95403-9019 | Petaluma, CA 94954 |
| Phone: 707-547-1937 | Phone: 707-778-4589 |
| Email: Susan.Haydon@scwa.ca.gov | Email: dherrera@ci.petaluma.ca.us |

**3. CITY'S RESPONSIBILITIES**

City shall complete the following at its cost and expense, except to the extent of Water Agency funding provided for in Sections 4 and 5 below.

3.1. General: City agrees to perform all work in accordance with the requirements of applicable federal, state, and local laws.

3.2. Environmental Documentation: City shall be the Lead Agency for the Project under the requirements of the California Environmental Quality Act (CEQA) and shall prepare all appropriate environmental documents. City shall provide a copy of the Notice of Exemption to Water Agency during public review process and a final copy within 30 calendar days of the filing of the document.

3.3. Permits: City shall obtain any permits that may be necessary from utilities or regulatory agencies for construction of the Project.

3.4. Right-of-Way: City shall acquire any and all additional land or easements as necessary for the construction of the Project.

3.5. Design and Surveying: City shall design the Project including all design surveying and construction staking.

3.6. Insurance Requirements and Indemnification Obligations

A. Insurance Requirements:

i. City shall maintain and shall require all of its contractors, consultants, and other agents to maintain, insurance as described in Attachment A. Evidence of insurance shall be submitted as specified in Attachment A.

B. Indemnification Obligation of City:

i. City agrees to indemnify, hold harmless, and release Water Agency, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including City, that arise out of, pertain to, or relate to City's or its agents', employees', contractors', or subcontractors' performance or obligations under this Agreement. City agrees to provide a complete defense for any claim or action brought against Water Agency based upon a claim relating to City's or its agents', employees', contractors', or subcontractors' performance or obligations under this Agreement. City's obligations under this Paragraph C apply whether or not there is concurrent negligence on the part of Water Agency but, to the extent required by law, excluding liability due to conduct of Water Agency. City shall provide legal counsel to defend Water Agency as required by this provision, subject to Water Agency's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for City or its agents, employees, contractors, subcontractors, or invitees under workers' compensation acts, disability benefits acts, or other employee benefit acts.

C. Indemnification Obligation of City's Consultants and Contractors:

i. City shall include the following language in its Consultant and Contractor agreements issued pursuant to this Agreement:

(1) Consultant/Contractor agrees to accept all responsibility for loss or damage to any person or entity, including the Sonoma County Water Agency ("Water Agency") and the City, and to indemnify, hold harmless, and release Water Agency and City, and each of their officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Consultant/Contractor, that arise out of, pertain to, or relate to Consultant's/Contractor's or its agents', employees', contractors', or subcontractors' performance or obligations under this Agreement. Consultant/Contractor agrees to provide a complete defense for any claim or action brought against Water Agency and/or the City based upon a claim relating to Consultant's/Contractor's or its agents', employees', contractors', or subcontractors' performance or obligations under this Agreement. Consultant's/Contractor's obligations under this Paragraph C apply whether or not there is concurrent negligence on the part of Water Agency and/or the City, but, to the extent required by law, excluding liability due to conduct of Water Agency and/or the City. Consultant/Contractor shall provide legal counsel to defend Water Agency and the City as required by this provision, subject to Water Agency's and City's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the

amount or type of damages or compensation payable to or for Consultant/Contractor or its agents, employees, contractors, subcontractors, or invitees under workers' compensation acts, disability benefits acts, or other employee benefit acts.

D. Documentation: City shall provide evidence of such insurance and indemnification to Water Agency in a form satisfactory to Water Agency.

3.7. Title: All title to all Project facilities constructed pursuant to this Agreement shall vest with City.

3.8. Installation, Operation, and Maintenance: City shall complete Project, accept ownership, and shall operate and maintain Project in for a period of twenty (20) years. For good cause, City may elect to cease operation and maintenance of a particular "gauge" prior to the expiration of 20 years, subject to City's receipt of Water Agency's written consent.

3.9. Prevailing Wages: City understands that use of Water Agency funds for any "public work," as defined by Labor Code sections 1720 *et seq.*, triggers prevailing wage compliance obligations under the California Labor Code, and that the Project contemplated hereunder qualifies as a "public work" for this purpose. City agrees to comply with all obligations of an "awarding body" as defined by Labor Code section 1722 with respect to any public works contract it may enter into pursuant to this Agreement. Without limiting the generality of the foregoing, City agrees to (1) confirm that all contractors and subcontractors engaged to work on the Project are registered and qualified pursuant to Labor Code section 1725.5; (2) require all such contractors and subcontractors to pay prevailing wages to all workers on the Project in accordance with the California Labor Code and applicable DIR regulations; (3) require all such contractors and subcontractors to furnish the records specified in Labor Code section 1776 (e.g. electronic certified payroll records) directly to the Labor Commissioner in a format prescribed by the Labor Commissioner at least monthly pursuant to Labor Code section 1771.4(a)(3); and (4) provide all notices required pursuant to Labor Code sections 1771.1, 1771.4 and 1771.3.

3.10. Records: City shall maintain complete and accurate records of all transactions in compliance with generally accepted accounting principles for enterprise accounting as promulgated by the American Institute of Certified Public Accountants and the Governmental Accounting Standards Board. Such records shall be available to Water Agency at all reasonable times for inspection and analysis.

3.11. Statement of Costs: Within 60 days of completion of Project, or within 60 days of decision to not proceed with the Project, City shall submit to Water Agency a statement of complete accounting of City's Project costs.

3.12. Invoices: City shall invoice Water Agency for costs authorized under this Agreement. Invoices submitted to Water Agency by City shall be clearly marked with "City of Petaluma, Funding of Petaluma River Stream Gauge Installation Project, Project-Activity Code F0244M019."

3.13. Report: Prepare a report that includes the following:

A. Contents:

i. Table of Contents

ii. A detailed description of the work performed, including date(s) of installation and activation

iii. A map of gauge locations

iv. Other information as requested

B. First Draft: Prepare the report in draft form and submit to Water Agency for review and approval within 60 calendar days of completion of the Project. Water Agency will return 1 copy of the draft report to the City with comments or approval in writing.

C. Subsequent Draft(s): If Water Agency requests revisions, revise the draft report and resubmit 1 copy of the report for Water Agency approval.

D. Final report: Submit the final approved report to Water Agency within 30 calendar days of Water Agency approval.

**4. WATER AGENCY'S RESPONSIBILITIES**

4.1. Initial Payment: Upon receipt of an invoice, Water Agency will deposit with City $56,000, which is to finance Project's costs for purchase of ten stream gauges.

4.2. Subsequent Payment: Upon selection of a qualified contractor, receipt of an invoice thereof, and receipt of evidence of insurance and indemnification required in paragraph 3.6, Water Agency will deposit with City $118,200, which is to finance the Water Agency's remaining share of Project's costs, with the exception of costs in paragraph 4.3, below.

4.3. ALERT2 Upgrade Payment: Upon execution of this Agreement, and receipt of an invoice thereof, Water Agency will deposit with City $35,600, which is to finance Water Agency's portion of Project costs for the ALERT2 Upgrade.

**5. ADDITIONAL REQUIREMENTS**

5.1. Term of Agreement: The term of this Agreement shall be from July 22, 2014 ("Effective Date") to December 31, 2020.

5.2. Excess Costs: If the Project costs exceed the total amount authorized under this Agreement, City shall:

A. fund Project costs in excess of the authorized amounts without additional contribution from Water Agency; or

B. request additional funding from Water Agency. In such event, City shall submit a revised Project cost estimate to Water Agency's General Manager with a written request, including reasons for cost overruns.

Water Agency is under no obligation to approve such requests. If Water Agency's General Manager determines that the revised costs are reasonable and that additional funds are available in Water Agency's Zone 2A accounts, Water Agency may, in its discretion, amend this Agreement to increase Water Agency's contribution to Project pursuant to paragraph 5.2 below. If Water Agency's General Manager does not so determine, City shall proceed pursuant to paragraph A above.

5.3. Authority to Amend Agreement: Changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Minor changes, which do not increase the amount paid under the Agreement, and which do not significantly change the scope of the agreement or significantly lengthen time schedules may be executed by the Water Agency's General Manager in a form approved by County Counsel and by the City Manager on behalf of the City.

5.4. Refund of Remaining Funds: If the Project cost accounting statement submitted under paragraph 3.10 of this Agreement demonstrates that Project costs are less than the

amounts paid to City, City shall refund difference to Water Agency within 30 calendar days of submitting said statement to Water Agency.

5.5. No Waiver of Breach: The waiver by Water Agency of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.

5.6. Construction: To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

City and Water Agency acknowledge that they have each contributed to the making of this Agreement and that in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. City and Water Agency acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

5.7. No Third-Party Beneficiaries: Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

5.8. Applicable Law and Forum: This Agreement shall be construed and interpreted according to the substantive law of California excluding the law of conflicts. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in the County of Sonoma.

5.9. Captions: The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

5.10. Merger: This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

5.11. Time of Essence: Time is and shall be of the essence of this Agreement and every provision hereof.

5.12. Zone Liability: Work under this Agreement is being performed on behalf of the residents of Sonoma County Water Agency's Petaluma Zone 2A ("Zone"). City shall be paid exclusively from Zone funds. Without affecting or reducing Water Agency's payment obligations specified in provision 4 of this Agreement, City agrees that City shall make no claim for compensation for City's services against other funds available to Water Agency and City expressly waives any right to be compensated from other funds available to Water Agency.

/

/

/

/

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as set forth below.

TW 13/14-016A

Reviewed as to funds:

By: _____
Water Agency Division Manager - Administrative Services

Approved as to form:

By: _____
Lisa Pheatt, Deputy County Counsel

Insurance Documentation is on file with Water Agency

Date/TW Initials: 11/7/16 JC

Approved:

By: _____
Department Director

Approved:

By: _____
Finance Director

Approved as to form:

By: _____
City Attorney

Approved:

By: _____
City's Risk Manager

**Sonoma County Water Agency**

By: _____
Grant Davis
Water Agency General Manager

Date: _____

**City of Petaluma**

By: _____
City Manager

Date: _____

Attest:

By: _____
City Clerk

**ATTACHMENT A**

**INSURANCE REQUIREMENTS**

## 1. SECTION I – INSURANCE TO BE MAINTAINED BY CITY OF PETALUMA

City shall maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. The insurance shall be maintained for one year after all funds have been disbursed.

Water Agency reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve City from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1.1. Workers Compensation and Employers Liability Insurance

A. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.

B. Employers' Liability with minimum limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.

C. Required Evidence of Insurance: Certificate of Insurance

1.2. General Liability Insurance

A. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.

B. Minimum Limits: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate.

C. Notwithstanding anything to the contrary in this Agreement, City's program of self-insurance consisting of a self-insured retention of $500,000 and excess coverage through risk pools and other providers is hereby approved as satisfying the insurance requirements of the City pursuant to this Agreement. City is responsible for any deductible or self-insured retention and shall fund it upon Water Agency's written request, regardless of whether City has a claim against the insurance or is named as a party in any action involving the Water Agency.

D. Sonoma County Water Agency, its officers, agents, and employees, shall be additional insureds for liability arising out of City's ongoing operations. (ISO endorsement CG 20 26 or equivalent).

E. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.

F. The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in ISO form CG 00 01, or equivalent).

G. The policy shall cover inter-insured suits between Water Agency and City and include a "separation of insureds" or "severability" clause which treats each insured separately.

H. Required Evidence of Insurance:

i. Copy of the additional insured endorsement or policy language granting additional insured status; and

ii. Certificate of Insurance.

1.3. Automobile Liability Insurance

A. Minimum Limits: $1,000,000 combined single limit per accident.

B. Insurance shall apply to all owned vehicles if City owns vehicles.

C. Insurance shall apply to hired and non-owned vehicles.

D. Required Evidence of Insurance: Certificate of Insurance.

1.4. Standards for Insurance Companies

A. Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

1.5. Documentation

A. The Certificate of Insurance must include the following reference: TW 13/14-016.

B. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. City agrees to maintain current Evidence of Insurance on file with Water Agency for the required period of insurance.

C. The name and address for mailing Additional Insured endorsements and Certificates of Insurance is: Sonoma County Water Agency, its officers, agents, and employees, 404 Aviation Boulevard, Santa Rosa, CA 95403-9019.

D. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

E. City shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.

F. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

1.6. Policy Obligations

A. City's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

## 2. SECTION II – INSURANCE TO BE MAINTAINED BY CITY'S CONTRACTORS AND/OR CONSULTANTS

City shall require its Consultant/Contractor and all subcontractors to maintain the insurance listed below, unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. The required documentation of insurance shall be furnished to City prior to commencement of any Project work.

Water Agency reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance

deficiency shall not relieve City nor its Consultant/Contractor from, nor be construed or deemed a waiver of, their obligation to maintain the required insurance.

2.1. Workers Compensation Insurance & Employers Liability Insurance

A. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.

B. Employers Liability with minimum limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.

C. The policy shall be endorsed to include a written waiver of the insurer's right to subrogate against City and Water Agency.

D. *Required Evidence of Insurance*:

**i.** Subrogation waiver endorsement; and

**ii.** Certificate of Insurance.

2.2. General Liability Insurance

A. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.

B. Minimum Limits: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project. The required limits may be provided by a combination of General Liability Insurance and Commercial Umbrella Liability Insurance. If the Consultant/Contractor maintains higher limits than the specified minimum limits, City and Water Agency require and shall be entitled to coverage for the higher limits maintained by Consultant/Contractor.

C. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by City. Consultant/Contractor is responsible for any deductible or self-insured retention and shall fund it upon written request by either City or Water Agency, regardless of whether the Consultant/Contractor has a claim against the insurance or is named as a party in any action involving City or Water Agency.

D. Insurance shall be maintained for one (1) year after Consultant/Contractor's completion of work.

E. Sonoma County Water Agency, its officers, agents and employees shall be additional insureds for liability arising out of Consultant/Contractor's ongoing operations (ISO endorsement CG 20 26, Additional Insured – Designated Person or Organization, or equivalent).

F. City of Petaluma, its officers, agents and employees shall be additional insureds for liability arising out of ongoing and completed operations by or on behalf of Consultant/Contractor with respect to work under this Agreement.

G. Consultant/Contractor shall maintain completed operations insurance with City endorsed as an additional insured for completed operations for at least (1) year after completion of work under this Agreement.

H. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance and/or self-insurance program maintained by them.

I. The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability insurance including the "f" definition of insured contract in ISO form CG 00 01, or equivalent).

J. The policy shall not contain a Contractors Warranty or other similar language which eliminates or restricts insurance because of a subcontractor's failure to carry specific insurance or to supply evidence of such insurance.

K. The policy shall be endorsed to include a written waiver of the insurer's right to subrogate against all persons or entities that are, or are required to be, additional insureds.

L. The policy shall cover inter-insured suits between Consultant/Contractor and the additional insureds and include a "separation of insureds" or "severability" clause which treats each insured separately.

M. *Required Evidence of Insurance*:

**i.** Additional insured endorsements or policy language granting additional insured status;

**ii.** Endorsement or policy language indicating that the insurance is primary and non-contributory;

**iii.** Subrogation waiver endorsement; and

**iv.** Certificate of Insurance.

2.3. Automobile Liability Insurance

A. Minimum Limits: $1,000,000 combined single limit per accident.

B. Insurance shall apply to all owned, hired and non-owned vehicles.

C. *Required Evidence of Insurance*: Certificate of Insurance.

2.4. Professional Liability Insurance (Required for any Consultant/Contractor providing engineering, surveying or other professional services.)

A. Minimum Limit: $1,000,000 per claim or per occurrence.

B. The Consultant/Contractor shall disclose any deductible or self-insured retention in excess of $25,000.

C. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work under this Agreement.

D. Insurance applicable to the work under this Agreement shall be continued for one (1) year after completion of the work. Such continuation Insurance may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work.

E. *Required Evidence of Insurance*: Certificate of Insurance

2.5. Standards for Insurance Companies

A. Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

2.6. Documentation

A. The Certificate of Insurance shall include such reference (s) as the City may reasonably require.

B. City shall require Consultant/Contractor to maintain current Evidence of Insurance for the required period of insurance. Any requirement to maintain insurance after completion of the work, including providing Certificates evidencing required insurance, shall survive the Agreement.

C. Required Evidence of Insurance shall be submitted to Denise Hill, Department of Public Works and Utilities, 202 North McDowell Boulevard, Petaluma, CA 94954.

D. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

E. City shall require Consultant/Contractor to provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.

F. Upon written request, certified copies of required insurance policies shall be provided to City within thirty (30) days.

2.7. Policy Obligations

A. City's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

**ATTACHMENT B**

**Summary of Estimated Costs**

| Item | Cost |
|---|---|
| **Estimated Stream Gauge Costs** | **$56,000** |
| **Estimated Planning, Design, and Other Preconstruction Costs** | |
| • Right-of-Way | $0 |
| • Planning, Design, Environmental, Bid Management | $9,000 |
| **Subtotal: Estimated Planning, Design, and Other Preconstruction Costs** | **$9,000** |
| **Estimated Installation Costs** | |
| • Estimated installation fee | $100,000 |
| • Change orders/contingencies | $0 |
| • Inspection and contract administration | $9,200 |
| • Calibration and activation | $0 |
| **Subtotal: Estimated Installation, Change Orders, Inspection, Contract Administration Costs, and Calibration and Activation** | **$109,200** |
| **Estimated ALERT2 Equipment Upgrade Costs** | **$35,600** |
| **Total Amount to be Funded** | **$209,800** |

# CITY OF PETALUMA

POST OFFICE BOX 61
PETALUMA, CA 94953-0061

David Glass
*Mayor*

Chris Albertson
Teresa Barrett
Mike Healy
Gabe Kearney
Dave King
Kathy Miller
*Councilmembers*

## CITY OF PETALUMA – RISK MANAGEMENT

**Self-Insurance Certificate**

**CERTIFICATE OF COVERAGE**

CERTIFICATE HOLDER: Sonoma County Water Agency
PO Box 11628
Santa Rosa, CA 95406

THIS CERTIFIES THE COVERAGE DESCRIBED HEREIN HAS BEEN ISSUED: City of Petaluma
PO Box 61
Petaluma, CA 94953

DESCRIPTION OF FUNCTION(S): Installation and updating of stream and precipitation Gauges in twenty six locations within the City of Petaluma and County of Sonoma

CONTRACT(S) TERM: Construction Years 2016-2018

LOCATION OF ACTIVITY: Twenty Six locations (see attached exhibit)

| ENTITY PROVIDING COVERAGE | COVERAGE LIMITS | EXPIRATION DATE |
|---|---|---|
| City of Petaluma | $500,000 S.I.R. / $40 million liability excess coverage through CJPRMA $1million S.I.R. Workers' Compensation | July 1, 2017* |

The following coverage is in effect and is provided in part through participation in a risk-sharing joint powers authority: comprehensive general liability as defined in the Memorandum of Coverage on file with the entity and which will be made available upon request.

The coverage being provided is limited to the coverage requirements outlined in the above entitled agreements, and the time period indicated herein and is subject to all the terms, conditions and exclusions of the Memorandum of Coverage. *Note: Policy renews annually, and a new certificate will need to be re-issued.

10/3/16
Date

Cecilia A. Quiambao
Contract Risk Manager

707-776-3780
Contact No.

***Human Resources***
*11 English Street*
*Petaluma, CA 94952*

*Phone (707) 778-4534*
*Fax (707) 927-1911*

*E-Mail:*
*humanresources@ci.petaluma.ca.us*

| | |
|---|---|
| County of Sonoma<br>Agenda Item<br>Summary Report<br><br>Clerk of the Board<br>575 Administration Drive<br>Santa Rosa, CA 95403 | **Agenda Item Number: 7**<br>(This Section for use by Clerk of the Board Only.) |

| | | | |
|---|---|---|---|
| **To:** | Board of Directors, Sonoma County Water Agency | | |
| **Board Agenda Date:** | December 13, 2016 | **Vote Requirement:** | Majority |
| **Department or Agency Name(s):** | Sonoma County Water Agency | | |
| **Staff Name and Phone Number:**<br>Carrie Pollard / 547-1968 | | **Supervisorial District(s):**<br>All | |
| **Title:** | Water-Energy Rebate Program for Restaurants | | |

**Recommended Actions:**

Adopt a Resolution approving the filing of a grant application to the California Department of Water Resources for the 2016 Water-Energy Grant Program in the amount of $370,500 and taking related actions.

**Executive Summary:**

With its partners in the Sonoma-Marin Saving Water Partnership, the Sonoma County Water Agency (Water Agency) seeks to help individuals and businesses reduce their water usage. The Water Agency is applying for State grant funding to implement a rebate program that will help restaurants save water and energy by replacing inefficient equipment. The State requires a resolution of the Board of Directors as part of the grant application. This agenda item presents a resolution for the Board's consideration to authorize the Water Agency's General Manager to file a grant application in the amount of $370,500. If awarded, the grant funds and approximately $22,306 in Water Agency funds will be used to implement the rebate program.

**Discussion:**

The goal of the 2016 Water-Energy Grant Program is to reduce greenhouse gas emissions and water and energy use by funding commercial and institutional water-energy efficiency programs or projects. Funding for the 2016 Water-Energy Grant Program was approved by the Governor on September 22, 2015 through SB 101, which appropriated $19 million in funding from Greenhouse Gas Reduction Fund (Health and Safety Code §39710 et seq.) to the California Department of Water Resources (Funding Agency) to continue this grant program. The grants are expected to be awarded in March 2017.

**<u>Authorizing Resolution</u>**

In order to apply to the 2016 Water-Energy Grant Program, the Funding Agency requires a resolution from the Water Agency's governing board that takes the following actions:

1. Authorizes the Water Agency's General Manager to file a grant application;

2. Authorizes the Water Agency's General Manager to execute a grant agreement with the State of California; and
3. Authorizes the Water Agency's General Manager to take all necessary actions to carry out the project and implement the grant agreement.

A copy of this resolution must be submitted to the Funding Agency no later than December 15, 2016.

**Proposed Project**

Water Agency staff recommend applying for a grant to help implement a rebate program (Rebate Program) for restaurants within the Sonoma-Marin Saving Water Partnership (Partnership) service area. The Partnership represents 11 water utilities, including the Water Agency, in Sonoma and Marin counties who have joined together to provide a regional approach to water use efficiency. The Water Agency serves as the administrator of the Partnership and would be the lead agency on the grant application. Other members of the partnership are California American Water District (Larkfield-Wikiup area); the cities of Cotati, Petaluma, Rohnert Park, Santa Rosa, and Sonoma; and Marin Municipal, North Marin, and Valley of the Moon Water Districts.

The Rebate Program will target restaurants in the Partnership service area, encouraging them to replace inefficient equipment with water-efficient and energy-efficient equipment. Because they frequently lease equipment, restaurants in the region have long maintained that savings associated with lower water and energy usage alone cannot justify the cost of purchasing new efficient equipment. The Rebate Program will allow restaurants to purchase new water-efficient and energy-efficient equipment in lieu of leasing it. The new equipment will significantly lower water and energy usage, provide permanent cost savings associated with reduced water and energy costs, and lower greenhouse gas emissions.

**Prior Board Actions:**

| **Strategic Plan Alignment** | Goal 2: Economic and Environmental Stewardship |
|---|---|

County Goal 2: Economic and Environmental Stewardship – The Program will help reduce water use and greenhouse gas production.

Water Agency Energy Goals and Strategies, Goal 2: Pursue funding and development of renewable energy projects of broad regional benefit to generate revenue, lower county-wide emissions profile, and reduce long term rate exposure risk to consumers. The Program will help reduce water use and greenhouse gas production.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | 0 | 207,556 | 185,250 |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **0** | **207,556** | **185,250** |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | 185,250 | 185,250 |
| Fees/Other | | | |
| Use of Fund Balance | | 22,306 | |
| Contingencies | | | |
| **Total Sources** | **0** | **207,556** | **185,250** |

**Narrative Explanation of Fiscal Impacts:**

The total cost of the project is $392,806. The source of $370,500 will be in State grant funds, and the remaining $22,306 in matching funds for staff time to implement the rebate program. The match funds will be budgeted in the Water Agency's Water Conservation Fund for Fiscal Year 2017-2018.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| N/A | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Resolution

**Related Items "On File" with the Clerk of the Board:**

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution of the Board of Directors of the Sonoma County Water Agency (Water Agency) Authorizing the Water Agency's General Manager to 1) File a Grant Application for the Sonoma-Marin Saving Water Partnership Water-Energy Program for Restaurants (Project), and that Application to be Made to the California Department of Water Resources to Obtain a 2016 Water-Energy Grant Pursuant to the Senate Bill (SB) 101, 3860-101-3228 Section 13; 2) Execute a Grant Agreement with the State of California and any Amendments thereto; and 3) Take all Actions Necessary to Carry Out the Project and Implement the Grant Agreement.**

**Whereas,** the California Department of Water Resources is preparing to disburse 2016 Water-Energy Grant Program funding pursuant to the Senate Bill (SB) 101, 3860-101-3228 Section 13; and

**Whereas,** the Water Agency desires to apply for said grant funds for the Sonoma-Marin Saving Water Partnership Water-Energy Program for Restaurants; and

**Whereas,** said procedures and criteria established by the California Department of Water Resources require a resolution certifying the approval of the application by the Water Agency's governing body before submission of said application to the State; and

**Whereas,** the application contains assurances with which the Water Agency must comply;

**Whereas,** the Water Agency, if selected will enter into an agreement with the State of California to carry out the Sonoma-Marin Saving Water Partnership Water-Energy Program for Restaurants Project.

**Now, Therefore, Be It Resolved** that the Board of Directors of the Water Agency hereby finds, determines, certifies, and declares as follows:

1. The General Manager of the Water Agency, or his designee, is hereby authorized to file a grant application for the Sonoma-Marin Saving Water Partnership Water-Energy

Program for Restaurants under the 2016 Water-Energy Grant Program; and

2. The General Manager of the Water Agency, or his designee is hereby authorized to execute a grant agreement with the State of California; and

3. The General Manager of the Water Agency, or his designee, is hereby authorized to manage the Agreement, conduct all negotiations, execute and submit all documents, including, but not limited to, applications, agreements, amendments, and payment requests, which may be necessary for the completion of the aforementioned Project, and delegate authority to others to provide management and support services required for performance of the work and administration of the Agreement.

**Supervisors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

| | |
|---|---|
| # County of Sonoma Agenda Item Summary Report<br><br>Clerk of the Board<br>575 Administration Drive<br>Santa Rosa, CA 95403 | **Agenda Item Number: 8**<br>(This Section for use by Clerk of the Board Only.) |
| **To:** Board of Directors, Sonoma County Water Agency | |
| **Board Agenda Date:** December 13, 2016 | **Vote Requirement:** Majority |
| **Department or Agency Name(s):** Sonoma County Water Agency | |
| **Staff Name and Phone Number:**<br>David Cuneo 547-1935 | **Supervisorial District(s):**<br>Fourth |
| **Title:** Dry Creek Project Partnership Agreement | |

**Recommended Actions:**

(A) Authorize the Water Agency's General Manager to sign a Project Partnership Agreement with United States Army Corps of Engineers for funding habitat enhancement work in Dry Creek

(B) Authorize the Water Agency staff to negotiate the acquisition of easements and temporary construction rights (collectively property rights) for the Project, estimated at no more than $403,000.

(C) Authorize the General Manager to offer each of the three affected property owners the reasonable cost, up to $5,000, for an independent appraisal of property rights needed in accordance with Code of Civil Procedure Section 1263.025 and to reimburse the property owners said cost upon receipt of the copy of the contracted appraisal

(D) Authorize the Water Agency's General Manager to execute agreements to acquire the property rights for the appraised value in the form provided to this Board, or in substantially the form following consultation with County Counsel; and to execute such other documents and take such other actions as are necessary to complete the transactions

**Executive Summary:**

This item requests authorization for the Sonoma County Water Agency's (Water Agency) General Manager to enter into a Project Partnership Agreement (Agreement) with the U.S. Army Corps of Engineers (Corps) for funding at a 75% (Corps) to 25% (Water Agency) ratio under the Corps' Continuing Authorities Program Section 1135 process for a portion (approximately a third of a mile) of the Dry Creek Habitat Enhancement Project (Project) as it relates to implementation of the Russian River Biological Opinion. The Project consists of ultimately constructing six miles of high quality habitat for coho salmon and steelhead within Dry Creek in a phased approach by 2020. To date, almost two miles of habitat enhancement work has been completed, with another third of a mile under contract for construction in 2017. The Agreement with the Corps would add an additional third of a mile for construction in 2017/2018. Planning and design efforts are already under way for the remaining portions in order to have a total of three miles of habitat enhancement completed by 2018, and an additional three miles (for a total of six miles of habitat enhancement) constructed by 2020. If approved by the Corps, Water Agency staff anticipate bringing at a

future date a separate cost share funding agreement under the Corps' General Investigation process for funding of the additional three miles (Miles 4, 5, and 6 of the habitat efforts).

In addition, this item seeks authorization for the General Manager to acquire the needed property rights for the portion of the Project related to the Agreement, which are estimated to be valued at $403,000 and are eligible to serve as part of the Water Agency's cost share for the Project. It also permits the General Manager to offer each of the three affected property owners the reasonable cost, up to $5,000, for an independent appraisal of property rights in accordance with Code of Civil Procedure Section 1263.025, and to reimburse the property owners upon receipt of a copy of the contracted appraisal. To meet a proposed summer 2017 start date for implementation of this portion of the Project, Water Agency staff is requesting that the Board delegate authority to the General Manager to execute agreements to acquire the property rights for the appraised value in the form presented to this Board, or in substantially the form following consultation with County Counsel; and to execute such other documents and take such other actions as are necessary to complete the transactions.

**Discussion:**

Dry Creek is home to endangered Central California Coast coho salmon and threatened California Coastal Chinook salmon and Central California Coast steelhead. The creek also serves as a conduit for water that is released from Lake Sonoma by the Corps for flood control purposes and by the Water Agency for water supply. The Project would implement additional habitat enhancement projects along Dry Creek to fulfill the requirements of the Russian River Biological Opinion.

<u>Russian River Biological Opinion</u>

The National Marine Fisheries Service issued the Russian River Biological Opinion on September 24, 2008. This opinion is a culmination of more than a decade of consultation between the Water Agency, the Corps, and the National Marine Fisheries Service regarding the impact of the Water Agency's and Corps' water supply and flood control activities on three fish species listed under the federal Endangered Species Act: Central California Coast steelhead, Central California Coast coho salmon, and California Coastal Chinook salmon. With respect to Dry Creek, the National Marine Fisheries Service concluded in the Russian River Biological Opinion that the continued operation of Warm Springs Dam by the Corps and the Water Agency in a manner similar to recent historic practices, are likely to jeopardize and adversely modify critical habitat for endangered coho salmon and threatened steelhead because summer flow velocities in Dry Creek are too high for optimal juvenile coho salmon and steelhead habitat. Because of a difference in life history, Chinook salmon do not spend the summer in Dry Creek and are therefore not impacted by summer flow velocities. Current summer flows in the creek typically range from 105 to 175 cubic feet per second. The velocities associated with these summer flows make it difficult for the juvenile fish to thrive. The Russian River Biological Opinion recognizes that large reductions in the summertime flows in Dry Creek would impair the Water Agency's ability to deliver water to its customers. Therefore, the Russian River Biological Opinion requires habitat enhancement of six miles of Dry Creek to improve summer rearing conditions for coho salmon and steelhead while allowing the Water Agency to maintain the existing flow range in Dry Creek of 105 to 175 cubic feet per second for water supply purposes. The six miles of habitat enhancement are to be distributed over the entire length of Dry Creek below Warm Springs Dam, and implemented at a minimum of eight locations on the creek. It is intended that the enhancements for summer rearing will also provide winter rearing and refugia habitat. The habitat

enhancements are to be implemented in phases to allow for evaluation of their effectiveness as the effort progresses.

Dry Creek Habitat Enhancement Demonstration Project

In October 2008, the Water Agency entered into an agreement with Inter-Fluve, Inc. to perform a feasibility assessment of geomorphic and habitat conditions along Dry Creek to identify habitat enhancement opportunities and develop conceptual designs of enhancement projects. During this initial habitat assessment, the Water Agency was approached by a group of landowners in the Dry Creek Valley who agreed to participate in a demonstration project. These landowners' properties along Dry Creek make up the Dry Creek Habitat Enhancement Demonstration Project (Demonstration Project), the first mile of the six miles of habitat enhancements required under the Russian River Biological Opinion. Installation of the first mile of habitat enhancement was completed in the fall of 2014.

Dry Creek Habitat Enhancement Project (Miles 2-6)

Water Agency staff are in the process of planning for, and implementing, the remaining habitat enhancement miles required under the Russian River Biological Opinion. On November 17, 2015, the Board Certified the Final Environmental Impact Report for the Dry Creek Habitat Enhancement Project (Miles 2-6) and approved the project. Construction on a portion of Miles 2-3 began in the summer of 2016 on the private property of willing landowners and on property owned by the City of Healdsburg. Design efforts for the remaining portions of Miles 2-3 as well as for Miles 4-6 are underway.

The habitat enhancement designs proposed for all locations are tailored to each site's geomorphic characteristics. Channel processes and dynamics vary along the length of Dry Creek; therefore the project designs at the upstream end of the creek (nearer to Lake Sonoma) tend to focus on direct habitat construction, with more process-reliant designs closer to the confluence with the Russian River. Designs generally include a suite of tools. They include:

1) Backwater channels, alcoves and ponds off to the side of the creek that, in summer, connect to the main stream only at their downstream end but may support higher flows during the winter;
2) Side channels, which are parallel to the main stream and connect at both ends during both the summer and winter;
3) Log jams, which are accumulations of logs that can initiate or stabilize a turn or fork in the channel and create deep pools;
4) Riffles, which are areas where the streambed is steeper and the current is swift, and pools, which are areas of deeper, cooler, slower water that provide habitat for young fish;
5) Winter refuge habitat, which provide locations where fish can escape high velocities in the mainstream of Dry Creek during high winter flows;
6) Vegetation management, which includes removal of non-native or invasive weed species, or dense stands of vegetation which channelize the flow of the creek;
7) Streambank construction to stabilize eroding banks; and
8) Dynamic process-based floodplain enhancement, which includes process-based enhancements in portions of Dry Creek near the confluence with the Russian River that would reconnect the channel and its floodplain.

U.S. Army Corps of Engineers Funding Efforts

Together with the Water Agency, the Corps has determined that there is a strong potential for the Corps to fund miles 2-3 of habitat work in Dry Creek under a Continuing Authorities Program pursuant to Section 1135 of the Water Resources Development Act of 1986 (Public Law 99-662) as amended, and miles 4-6 of habitat work in Dry Creek under the authority of a Corps Ecosystem Restoration Project General Investigation.

On June 10, 2014, this Board authorized the Water Agency to enter into a feasibility cost share agreement, associated with the Continuing Authorities Program Section 1135 process, with the Corps for funding a portion of the miles 2-3 of habitat design work in Dry Creek. On January 27, 2015, the Board authorized the Water Agency to enter into a feasibility cost share agreement associated with the Dry Creek Ecosystem Restoration Project General Investigation, for funding the design of portions of miles 4-6 of Dry Creek habitat enhancement work.

Design for both the Continuing Authorities Program Section 1135 (Miles 2-3), and the Ecosystem Restoration General Investigation (Miles 4-6) funding efforts are progressing. Under the Continuing Authorities Program Section 1135 (Miles 2-3), design has reached the point of completing the feasibility phase and is moving on to the design and implementation phase. For the design and implementation phase, the U.S Army Corps of Engineers requires a new costs-share Agreement (Recommended Action A of this agenda item) . The Agreement picks up where the previous feasibility cost-share agreement ended, and establishes the obligations of the Corps and Water Agency for securing project right-of-way, finalizing project designs, and constructing the Project. For the Continuing Authorities Program Section 1135, Dry Creek, California Ecosystem Restoration Project, the Water Agency recommends entering into an Agreement with the Corps for a portion of Miles 2-3 of habitat work in Dry Creek. The Water Agency would be the local sponsor and would cost share with the Corps at a 75/25 rate (federal and local, respectively) during the design and implementation phase. A second Project Partnership Agreement for the Ecosystem Restoration General Investigation (Miles 4-6) portion of the project is anticipated to come back before the Board at a later date (likely in 2018).

Partnering with the Corps for funding habitat work in Dry Creek could result in millions of dollars in cost savings to the Water Agency if a portion of the design and construction costs for habitat work in Dry Creek is paid for by the Corps. Without cost-sharing with the Corps, the Water Agency would still be obligated to pay the full amount of the Dry Creek habitat enhancement work (currently estimated to be $7-9 million dollars per mile). Under the Continuing Authorities Program Section 1135 (Miles 2-3) Project Partnership Agreement, the Water Agency's cost share will include design and pre-construction expenses (right-of-way acquisition, final design) and direct funding to the Corps to meet its local sponsor obligation of 25%.

Acquisition of Property Rights

Implementation of the portion of the Project subject to the Agreement requires obtaining easements and other temporary construction rights for staging, lay-down, and work areas, needed from three property owners for the summer 2017 construction period. The Water Agency has contracted with Greg Rinehart & Associates, Real Estate Appraisers and Consultants, to prepare an appraisal report for the valuation of the necessary property rights. The total appraised value of all of the combined property rights is estimated not to exceed $403,000 based upon previous appraisals of similar rights previously acquired by the Water Agency for other elements of the Dry Creek Project. In addition, under Code of Civil Procedure Section

1263.025, the District must offer to reimburse each property owner a reasonable cost, up to $5,000, for an independent appraisal of the property rights being acquired by the Water Agency. The total budgeted amount for the property rights needed, including reimbursement for independent appraisals, is $418,000. Funding for the property rights is available from appropriation in the Water Agency's Fiscal Year 2016/2017 Warm Springs Dam Fund. Water Agency staff has provided the draft Agreement and Grant of Easement, License Agreement, and draft Agreement for Purchase and Sale of Property Rights that will be utilized for acquiring the property rights needed for construction of the Project (on file with the clerk).

The Project areas being proposed for construction beginning in 2017 are situated along Dry Creek on the properties of willing landowners. The Project area, identified as Reach 4a, is located north of Westside Road Bridge on the private properties of Albert and Anne Baldocchi (Assessor Parcel Number 089-170-009), Byron and Judith Olson (Assessor Parcel Number 089-160-007), and Ferrari-Carano Vineyards and Winery LLC (Assessor Parcel Number 089-090-006).

Water Agency staff must secure the property rights needed for the Project in a relatively short period of time to meet the proposed early summer start of construction. Water Agency staff recommends that the Board delegate authority to the Water Agency's General Manager to acquire all the property rights needed for the Project for a total amount not to exceed $403,000, and to execute the agreements in the form provided to this Board, or in substantially the form provided to the Board following approval of the General Manager to substance, along with approval to form by County Counsel. Should Water Agency staff be unable to negotiate all property rights needed for the Project within the total amount of $418,000, the Water Agency will return to the Board for additional approval and authorization for the property rights needed for the Project.

**Prior Board Actions:**

10/17/15: Certify Final EIR and Approve Dry Creek Habitat Enhancement Project (Miles 2-6).
09/15/15: Authorized Safe Harbor Agreement with the National Marine Fisheries Service.
08/11/15: Hold Public Hearing for Draft Environmental Impact Report.
06/23/15: Authorize release for public review Draft Environmental Impact Report and set public hearing date of August 11, 2015.
01/27/15: Authorized Feasibility Cost Share Agreement with U.S. Army Corps of Engineers for Dry Creek Habitat Enhancements (Miles 4-6).
06/10/14: Authorized Feasibility Cost Share Agreement with U.S. Army Corps of Engineers for Dry Creek Habitat Enhancements (Miles 2-3). Revision No. 20140617-1
01/28/14: Approval of agreement for engineering design services with Inter-Fluve for Dry Creek Habitat Enhancement Mile 2. Cost $929,395, term end December 31, 2017.
01/28/14: Approval of agreement for engineering design services with ESA/PWA for Dry Creek Habitat Enhancement Mile 3. Cost $979,422, term end December 31, 2017.
11/15/11: Adopted Mitigated Negative Declaration and Approved Dry Creek Habitat Enhancement Demonstration Project.
05/04/10: Approved Agreement for Design of Dry Creek Habitat Enhancement Demonstration Project
03/30/10: Approved Agreement for Dry Creek Habitat Restoration Feasibility Study-Phase II
10/07/08: Approved Agreement for Dry Creek Habitat Restoration Feasibility Study-Phase I

| **Strategic Plan Alignment** | Goal 2: Economic and Environmental Stewardship |
|---|---|

Federal funding towards the project will help accomplish habitat enhancement of Dry Creek to provide near ideal summer rearing conditions for coho and steelhead while maintaining operational steady state discharge for water supply purposes.

Water Agency Organizational Goals and Strategies, Goal 2: Responsibly manage Water Agency finances; protect the Water Agency's existing water rights and our clean, high quality water supply, and improve system resiliency by continuing to develop alternative supplies.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | 418,000 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **418,000** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | 418,000 | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **418,000** | | |

**Narrative Explanation of Fiscal Impacts:**

Funds for acquisition of property rights has been budgeted in the Warm Springs Dam Fund 14135-33030100.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

| **Attachments:** |
| --- |
| Draft Project Partnership Agreement |
| **Related Items "On File" with the Clerk of the Board:** |
| Draft Agreement and Grant of Easement<br>Draft License Agreement<br>Draft Agreement for Purchase and Sale of Property Rights |

PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE SONOMA COUNTY WATER AGENCY
FOR
DESIGN AND CONSTRUCTION
OF THE
CONTINUING AUTHORITIES PROGRAM SECTION 1135
DRY CREEK, CALIFORNIA ECOSYSTEM RESTORATION STUDY

THIS AGREEMENT is entered into this _____ day of _____, _____, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, San Francisco District and the Sonoma County Water Agency (hereinafter the "Non-Federal Sponsor"), represented by the General Manager.

WITNESSETH, THAT:

WHEREAS, construction of the Russian River, Dry Creek, California Project (hereinafter the "*Existing Project*", as defined in Article I.A. of this Agreement) at Lake Sonoma, Geyserville, California was completed by the Secretary of the Army in 1983;

WHEREAS, the construction or operation of the *Existing Project* has contributed to the degradation of the quality of the environment;

WHEREAS, design and construction of the Continuing Authorities Program Section 1135 Dry Creek, California Ecosystem Restoration Project for restoration of environmental quality (hereinafter the "*Project*", as defined in Article I.B. of this Agreement) at Lake Sonoma, Geyserville, California was approved by _____ on _____, ____ pursuant to the authority contained in Section 1135(c) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2309a; hereinafter "Section 1135");

WHEREAS, performance of *monitoring* (as defined in Article I.R. of this Agreement) was approved as part of the *Project*;

WHEREAS, Section 1135 provides that not to exceed $40,000,000 in Federal funds are authorized to be appropriated annually to carry out projects for the purpose of: (1) making such modifications in the structures and operations of water resources projects constructed by the Secretary of the Army which the Secretary determines will improve the quality of the environment, or (2) undertaking measures for restoration of environmental quality when the Secretary determines that construction or operation of a water resources project has contributed to the degradation of the quality of the

Draft

environment; and not more than $10,000,000 in Federal funds may be expended on any single modification or measure carried out or undertaken pursuant to Section 1135;

WHEREAS, the Government and the Non-Federal Sponsor desire to enter into a Project Partnership Agreement (hereinafter the "Agreement") for design and construction of the *Project*;

WHEREAS, Section 1135 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2309a) specifies the cost-sharing requirements applicable to the *Project*;

WHEREAS, the Non-Federal Sponsor desires to perform certain work (hereinafter the "*non-Federal work*" as defined in Article I.O. of this Agreement) which is a part of the *Project* and receive credit toward the amount of its required contributions for the *Project* for the costs of such work;

WHEREAS, the Government and Non-Federal Sponsor have the full authority and capability to perform as hereinafter set forth and intend to cooperate in cost-sharing and financing of the *Project* in accordance with the terms of this Agreement; and

WHEREAS, the Government and the Non-Federal Sponsor, in connection with this Agreement, desire to foster a partnering strategy and a working relationship between the Government and the Non-Federal Sponsor through a mutually developed formal strategy of commitment and communication embodied herein, which creates an environment where trust and teamwork prevent disputes, foster a cooperative bond between the Government and the Non-Federal Sponsor, and facilitate the successful implementation of the *Project*.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree as follows:

Draft

## ARTICLE I - DEFINITIONS

A. The term "*Existing Project*" shall mean the Warm Springs (Lake Sonoma) multi-purpose dam and reservoir constructed on Dry Creek, California with channel stabilization works downstream, to reduce flood damages, supply additional water for beneficial uses, and augment existing recreational facilities constructed pursuant to the Flood Control Act of 1962, Pub. L. No. 87-874, 76 Stat. 1192, Section 203.

B. The term "*Project*" shall mean _____ as generally described in the **[FULL TITLE OF DECISION DOCUMENT]**, dated _____, ____ and approved by _____ on _____, ____. The term includes the *non-Federal work* described in paragraph O. of this Article.

C. The term "*total project costs*" shall mean the sum of all costs incurred by the Non-Federal Sponsor and the Government in accordance with the terms of this Agreement

directly related to design and construction of the *Project*. Subject to the provisions of this Agreement, the term shall include, but is not necessarily limited to: the Government's design costs; the Government's costs of preparation of environmental compliance documentation in accordance with Article II.A.2. of this Agreement; the Government's engineering and design costs during construction; the Non-Federal Sponsor's and the Government's costs of investigations to identify the existence and extent of hazardous substances in accordance with Article XIII.A. of this Agreement; the Government's costs of historic preservation activities in accordance with Article XVI.A. and Article XVI.C.1. of this Agreement; the Government's actual construction costs; the costs of the *non-Federal work* determined in accordance with Article II.B.4. of this Agreement; the Government's costs of *monitoring* in accordance with Article II.I. and Article II.J. of this Agreement; the Government's supervision and administration costs; the Government's costs of contract dispute settlements or awards; and the value of lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material for which the Government affords credit in accordance with Article IV of this Agreement or for which reimbursement by the Government is required pursuant to Article II.B.3. of this Agreement. The term does not include any costs for operation, maintenance, repair, rehabilitation, or replacement of the *Project*; any costs of *betterments* under Article II.H.2. of this Agreement; any costs of dispute resolution under Article VII of this Agreement; the Government's costs for data recovery activities associated with historic preservation in accordance with Article XVI.C.3. and Article XVI.C.4. of this Agreement; or the Non-Federal Sponsor's costs of negotiating this Agreement.

D. The term "*period of design and construction*" shall mean the time from the effective date of this Agreement to the date that construction and *monitoring* of the *Project* are complete, as determined by the Government, or the date that this Agreement is terminated in accordance with Article XII or Article XIII.C. of this Agreement, whichever is earlier.

E. The term "*financial obligations for design and construction*" shall mean the financial obligations of the Government and the costs for the *non-Federal work*, as determined by the Government, that result or would result in costs that are or would be included in *total project costs* except for obligations pertaining to the provision of lands, easements, and rights-of-way, the performance of *relocations*, and the construction of improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material.

F. The term "*non-Federal proportionate share*" shall mean the ratio of the sum of the costs included in *total project costs* for the *non-Federal work*, as determined by the Government, and the Non-Federal Sponsor's total contribution of funds required by Article II.B.2. and Article II.C.2. of this Agreement to *financial obligations for design and construction*, as projected by the Government.

Draft

G. The term "*highway*" shall mean any highway, roadway, street, or way, including any bridge thereof that is owned by a public entity.

H. The term "*relocation*" shall mean providing a functionally equivalent facility to the owner of a utility, cemetery, *highway*, railroad, or public facility when such action is authorized in accordance with applicable legal principles of just compensation. Providing a functionally equivalent facility may take the form of alteration, lowering, raising, or replacement and attendant demolition of the affected facility or part thereof.

I. The term "*functional portion of the Project*" shall mean a portion of the *Project* for which construction has been completed and that can function independently, as determined by the U.S. Army Engineer, San Francisco District (hereinafter the "District Engineer") in writing, although the remainder of the *Project* is not complete.

J. The term "*betterment*" shall mean a difference in the design or construction of an element of the *Project* that results from the application of standards that the Government determines exceed those that the Government would otherwise apply to the design or construction of that element. The term does not include any design or construction for features not included in the *Project* as defined in paragraph B. of this Article.

K. The term "*Federal program funds*" shall mean funds provided by a Federal agency, other than the Department of the Army, plus any non-Federal contribution required as a matching share therefor.

L. The term "*Section 1135 Project Limit*" shall mean the $10,000,000 statutory limitation on the Government's financial participation in the planning, design, and construction of the *Project* as specified in Section 1135 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2309a).

M. The term "*Section 1135 Annual Program Limit*" shall mean the statutory limitation on the Government's annual appropriations for planning, design, and construction of all projects implemented pursuant to Section 1135 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2309a). As of the effective date of this Agreement, such limitation is $40,000,000.

N. The term "*fiscal year*" shall mean one year beginning on October 1 and ending on September 30.

O. The term "*non-Federal work*" shall mean _____ including the design, construction, supervision and administration, and other activities associated with design and construction of such work performed by the Non-Federal Sponsor after the effective date of this Agreement. The term also includes *monitoring* performed by the Non-Federal Sponsor. The term does not include the design or construction of *betterments* or the provision of lands, easements, rights-of-way, *relocations*, or the construction of improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material that are associated with the non-Federal work.

Draft

P. The term "*fiscal year of the Non-Federal Sponsor*" shall mean one year beginning on July 1 and ending on June 30.

Q. The term "*monitoring*" shall mean activities, including the collection and analysis of data, that are necessary to determine if predicted outputs of the *Project* are being achieved.

## ARTICLE II - OBLIGATIONS OF THE GOVERNMENT AND THE NON-FEDERAL SPONSOR

A. The Government, subject to receiving funds appropriated by the Congress of the United States (hereinafter the "Congress") and using those funds and funds provided by the Non-Federal Sponsor, expeditiously shall design and construct the *Project*, except for the *non-Federal work*, applying those procedures usually applied to Federal projects, in accordance with Federal laws, regulations, and policies. The Non-Federal Sponsor expeditiously shall perform the *non-Federal work* in accordance with applicable Federal laws, regulations, and policies.

1. The Government shall not issue the solicitation for the first contract for design of the *Project* or commence design of the *Project* using the Government's own forces until the Non-Federal Sponsor has confirmed in writing its willingness to proceed with the *Project*.

2. The Government shall develop and coordinate as required, an Environmental Assessment and Finding of No Significant Impact or an Environmental Impact Statement and Record of Decision, as necessary, to inform the public regarding the environmental impacts of the *Project* in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347; hereinafter "NEPA"). However, neither the Government nor the Non-Federal Sponsor shall issue the solicitation for the first construction contract for the *Project* or commence construction of the *Project* using its own forces until all applicable environmental laws and regulations have been complied with, including, but not limited to NEPA and Section 401 of the Clean Water Act (33 U.S.C. 1341).

3. The Government shall afford the Non-Federal Sponsor the opportunity to review and comment on the solicitations for all Government contracts, including relevant plans and specifications, prior to the Government's issuance of such solicitations. To the extent possible, the Government shall afford the Non-Federal Sponsor the opportunity to review and comment on all proposed contract modifications, including change orders. In any instance where providing the Non-Federal Sponsor with notification of a contract modification is not possible prior to execution of the contract modification, the Government shall provide such notification in writing at the earliest date possible. To the extent possible, the Government also shall afford the Non-Federal Sponsor the opportunity to review and comment on all contract claims prior to resolution thereof. The Government shall consider in good faith the comments of the Non-Federal

Draft

Sponsor, but the contents of solicitations, award of contracts or commencement of design or construction using the Government's own forces, execution of contract modifications, resolution of contract claims, and performance of all work on the *Project*, except for the *non-Federal work*, shall be exclusively within the control of the Government.

4. At the time the District Engineer furnishes the contractor with the Government's Written Notice of Acceptance of Completed Work for each contract awarded by the Government for the *Project*, the District Engineer shall furnish a copy thereof to the Non-Federal Sponsor.

5. The Non-Federal Sponsor shall afford the Government the opportunity to review and comment on the solicitations for all contracts for the *non-Federal work*, including relevant plans and specifications, prior to the Non-Federal Sponsor's issuance of such solicitations. To the extent possible, the Non-Federal Sponsor shall afford the Government the opportunity to review and comment on all proposed contract modifications, including change orders. In any instance where providing the Government with notification of a contract modification is not possible prior to execution of the contract modification, the Non-Federal Sponsor shall provide such notification in writing at the earliest date possible. To the extent possible, the Non-Federal Sponsor also shall afford the Government the opportunity to review and comment on all contract claims prior to resolution thereof. The Non-Federal Sponsor shall consider in good faith the comments of the Government but, except as otherwise required in paragraph B.4. of this Article, the contents of solicitations, award of contracts or commencement of design or construction using the Non-Federal Sponsor's own forces, execution of contract modifications, resolution of contract claims, and performance of all work on the *non-Federal work* shall be exclusively within the control of the Non-Federal Sponsor.

6. At the time the Non-Federal Sponsor furnishes a contractor with a notice of acceptance of completed work for each contract awarded by the Non-Federal Sponsor for the *non-Federal work*, the Non-Federal Sponsor shall furnish a copy thereof to the Government.

B. The Non-Federal Sponsor shall contribute 25 percent of *total project costs* in accordance with the provisions of this paragraph.

1. In accordance with Article III of this Agreement, the Non-Federal Sponsor shall provide all lands, easements, and rights-of-way, including those required for *relocations*, the borrowing of material, and the disposal of dredged or excavated material, shall perform or ensure performance of all *relocations*, and shall construct improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material that the Government determines to be required or to be necessary for construction, operation, and maintenance of the *Project*.

2. The Non-Federal Sponsor shall provide funds in accordance with Article V.B. of this Agreement in the amount necessary to meet the Non-Federal Sponsor's required share of 25 percent of *total project costs* if the Government projects at any time that the

Draft

collective value of the following contributions will be less than such required share: (a) the value of the Non-Federal Sponsor's contributions under paragraph B.1. of this Article as determined in accordance with Article IV of this Agreement; and (b) the value of the Non-Federal Sponsor's contributions under Article XIII.A. of this Agreement.

3. The Government, subject to the availability of funds and as limited by paragraph B.6. of this Article, the *Section 1135 Project Limit*, and the *Section 1135 Annual Program Limit*, shall refund or reimburse to the Non-Federal Sponsor any contributions in excess of 25 percent of *total project costs* if the Government determines at any time that the collective value of the following contributions has exceeded 25 percent of *total project costs*: (a) the value of the Non-Federal Sponsor's contributions under paragraph B.1. of this Article as determined in accordance with Article IV of this Agreement; (b) the value of the Non-Federal Sponsor's contributions under paragraph B.2. of this Article; and (c) the value of the Non-Federal Sponsor's contributions under Article XIII.A. of this Agreement. After such a determination, the Government, in its sole discretion, may acquire any remaining lands, easements, and rights-of-way required for the *Project*, perform any remaining *relocations* necessary for the *Project*, or construct any remaining improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material required for the *Project* on behalf of the Non-Federal Sponsor. Notwithstanding the acquisition of lands, easements, and rights-of-way, performance of *relocations*, or construction of improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material by the Government under this paragraph, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for any costs of cleanup and response in accordance with Article XIII.C. of this Agreement.

4. The Government shall determine and include in *total project costs* any costs incurred by the Non-Federal Sponsor for *non-Federal work*, subject to the conditions and limitations of this paragraph. The Non-Federal Sponsor in a timely manner shall provide the Government with such documents as are sufficient to enable the Government to determine the amount of costs to be included in *total project costs* for *non-Federal work*.

a. The Non-Federal Sponsor shall not commence construction of the *non-Federal work* until the designs, detailed plans and specifications, and arrangements for the prosecution of such work have been approved by the Government. Changes proposed by the Non-Federal Sponsor to approved designs and plans and specifications also must be approved by the Government in advance of the related construction. Upon completion of the *non-Federal work*, the Non-Federal Sponsor shall furnish to the Government a copy of all final as-built drawings for the construction portion of such work.

b. *Non-Federal work* shall be subject to an on-site inspection and certification by the Government that the work was accomplished in a satisfactory manner and in accordance with the provisions of this Agreement and is suitable for inclusion in the *Project*.

Draft

c. The Non-Federal Sponsor's costs for *non-Federal work* that may be eligible for inclusion in *total project costs* pursuant to this Agreement shall be subject to an audit in accordance with Article IX.C. of this Agreement to determine the reasonableness, allocability, and allowability of such costs.

d. The Non-Federal Sponsor's costs for *non-Federal work* that may be eligible for inclusion in *total project costs* pursuant to this Agreement are not subject to interest charges, nor are they subject to adjustment to reflect changes in price levels between the time the *non-Federal work* is completed and the time the costs are included in *total project costs*.

e. The Government shall not include in *total project costs* any costs for *non-Federal work* paid by the Non-Federal Sponsor using *Federal program funds* unless the Federal agency providing the funds verifies in writing that such funds are authorized to be used to carry out the *Project*.

f. The Government shall not include in *total project costs* any costs for *non-Federal work* in excess of the Government's estimate of the costs of the *non-Federal work* if the work had been accomplished by the Government. In addition, the Government shall not include in *total project costs* any costs for *non-Federal work* that was obtained at no cost to the Non-Federal Sponsor.

g. In the performance of the construction portion of the *non-Federal work*, the Non-Federal Sponsor must comply with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (labor standards originally enacted as the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland Anti-Kickback Act). Costs for the construction portion of *non-Federal work* may be excluded from *total project costs* by the Government, in whole or in part, as a result of the Non-Federal Sponsor's failure to comply with its obligations under these laws.

5. The Government, in accordance with this paragraph, shall afford credit toward the Non-Federal Sponsor's contribution of funds required under paragraph B.2. of this Article for the costs of the *non-Federal work* determined in accordance with paragraph B.4. of this Article. However, the maximum amount of credit that can be afforded for the *non-Federal work* shall not exceed the least of the following amounts as determined by the Government: the Non-Federal Sponsor's contribution of funds required under paragraph B.2. of this Article or the costs of the *non-Federal work* determined in accordance with paragraph B.4. of this Article.

6. Notwithstanding any other provision of this Agreement, the Non-Federal Sponsor shall not be entitled to reimbursement of any costs of *non-Federal work* determined in accordance with paragraph B.4. of this Article and included in *total project costs* that exceed the amount of credit afforded for the *non-Federal work* determined in accordance with paragraph B.5. of this Article and the Non-Federal Sponsor shall be

Draft

responsible for 100 percent of all costs of *non-Federal work* included in *total project costs* that exceed the amount of credit afforded.

C. Notwithstanding any other provision of this Agreement, Federal financial participation in the *Project* is limited by the following provisions of this paragraph.

1. In the event the Government projects that the amount of Federal funds the Government will make available to the *Project* through the then-current *fiscal year*, or the amount of Federal funds the Government will make available for the *Project* through the upcoming *fiscal year*, is not sufficient to meet the Federal share of *total project costs* and the Federal share of costs for data recovery activities associated with historic preservation in accordance with Article XVI.C.3. and Article XVI.C.4. of this Agreement that the Government projects to be incurred through the then-current or upcoming *fiscal year*, as applicable, the Government shall notify the Non-Federal Sponsor in writing of such insufficiency of funds and of the date the Government projects that the Federal funds that will have been made available to the *Project* will be exhausted. Upon the exhaustion of Federal funds made available by the Government to the *Project*, future performance under this Agreement shall be suspended and the parties shall proceed in accordance with Article XII.B. of this Agreement.

2. In accordance with Section 1135 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2309a), the Government's total financial obligations for planning, design, and construction of the *Project* (except for costs incurred on behalf of the Non-Federal Sponsor in accordance with paragraph H. of this Article) shall not exceed the *Section 1135 Project Limit*. Notwithstanding any other provision of this Agreement, the Non-Federal Sponsor shall be responsible for all costs in excess of this limit and shall pay any such costs in accordance with Article V.B. of this Agreement.

3. If the Government determines that the total amount of Federal funds provided by Congress for all projects implemented pursuant to Section 1135 has reached the *Section 1135 Annual Program Limit*, and the Government projects that the Federal funds the Government will make available to the *Project* within the *Section 1135 Annual Program Limit* will not be sufficient to meet the Federal share of *total project costs* and the Federal share of costs for data recovery activities associated with historic preservation in accordance with Article XVI.C.3. and Article XVI.C.4. of this Agreement, the Government shall notify the Non-Federal Sponsor in writing of such insufficiency of funds and of the date the Government projects that the Federal funds that will have been made available to the *Project* will be exhausted. Upon the exhaustion of Federal funds made available by the Government to the *Project* within the *Section 1135 Annual Program Limit*, future performance under this Agreement shall be suspended and the parties shall proceed in accordance with Article XII.B. of this Agreement.

4. As of the effective date of this Agreement, $_____ of Federal funds is currently projected to be available for the *Project*. The Government makes no commitment to request Congress to provide additional Federal funds for the *Project*.

Draft

Further, the Government's financial participation in the *Project* is limited to the Federal funds that the Government makes available to the *Project*.

D. When the District Engineer determines that, except for *monitoring*, the entire *Project*, or a *functional portion of the Project*, is complete, the District Engineer shall so notify the Non-Federal Sponsor in writing and furnish the Non-Federal Sponsor with a final Operation, Maintenance, Repair, Rehabilitation, and Replacement Manual (hereinafter the "OMRR&R Manual") or, if the final OMRR&R Manual is not available, an interim OMRR&R Manual for the entire *Project* or such completed portion. Upon such notification, the Government also shall furnish to the Non-Federal Sponsor a copy of all final as-built drawings for the portion of the *Project* for which the Government awarded a construction contract, or the Government constructed using its own forces, if such drawings are available. Not later than 6 months after such notification by the Government that the entire *Project* is complete, the Government shall furnish the Non-Federal Sponsor with all final as-built drawings for the portion of the *Project* for which the Government awarded a construction contract, or the Government constructed using its own forces, and also shall furnish the Non-Federal Sponsor with the final OMRR&R Manual for the entire *Project*. In the event all final as-built drawings for the portion of the *Project* for which the Government awarded a construction contract, or the Government constructed using its own forces, or the final OMRR&R Manual for the entire *Project* cannot be completed within the 6 month period, the Government shall provide written notice to the Non-Federal Sponsor, and the Government and the Non-Federal Sponsor shall negotiate an acceptable completion date for furnishing such documents. Further, after completion of all contracts for the *Project*, copies of all of the Government's and Non-Federal Sponsor's Written Notices of Acceptance of Completed Work for all contracts for the *Project* that have not been provided to the other party previously shall be provided to the Non-Federal Sponsor and/or the Government, as appropriate.

E. Upon notification from the District Engineer in accordance with paragraph D. of this Article, the Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and replace the entire *Project*, or the *functional portion of the Project* as the case may be, in accordance with Article VIII of this Agreement.

F. Upon the District Engineer's determination that, except for *monitoring*, the entire *Project* is complete, the Government shall conduct an interim accounting, in accordance with Article V.C. of this Agreement, and furnish the results to the Non-Federal Sponsor. Further, upon conclusion of the *period of design and construction* the Government shall amend the interim accounting to complete the final accounting, in accordance with Article V.C. of this Agreement, and furnish the results to the Non-Federal Sponsor.

G. The Non-Federal Sponsor shall not use *Federal program funds* to meet any of its obligations for the *Project* under this Agreement unless the Federal agency providing the funds verifies in writing that such funds are authorized to be used to carry out the *Project*.

Draft

H. The Non-Federal Sponsor may request the Government to perform or provide, on behalf of the Non-Federal Sponsor, one or more of the services (hereinafter the "additional work") described in this paragraph. Such requests shall be in writing and shall describe the additional work requested to be performed or provided. If in its sole discretion the Government elects to perform or provide the requested additional work or any portion thereof, it shall so notify the Non-Federal Sponsor in a writing that sets forth any applicable terms and conditions, which must be consistent with this Agreement. In the event of conflict between such a writing and this Agreement, this Agreement shall control. The Non-Federal Sponsor shall be solely responsible for all costs of the additional work performed or provided by the Government under this paragraph and shall pay all such costs in accordance with Article V.D. of this Agreement.

1. Acquisition of lands, easements, and rights-of-way; performance of *relocations*; or construction of improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material for the *Project*. Notwithstanding acquisition of lands, easements, and rights-of-way, performance of *relocations*, or construction of improvements by the Government, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for any costs of cleanup and response in accordance with Article XIII.C. of this Agreement.

2. Inclusion of *betterments* in the design or construction of the *Project*. In the event the Government elects to include any such *betterments*, the Government shall allocate the costs of the *Project* features that include *betterments* between *total project costs* and the costs of the *betterments*.

I. Prior to completion of construction of the *Project*, the Government, in consultation with the Non-Federal Sponsor and, as appropriate, other concerned agencies, shall finalize the plan for *monitoring* of the *Project*. The *monitoring* plan shall describe the specific parameters to be monitored; how these parameters relate to achieving the desired outcomes; methods for measuring those parameters; frequency and duration of *monitoring* of the *Project*; criteria for measuring the success of the *Project*; preparation and distribution of *monitoring* reports and other coordination requirements; and estimated *monitoring* costs. As of the effective date of this Agreement, the costs of *monitoring* for the *Project* are estimated to be $_____.

J. Upon notification from the District Engineer in accordance with paragraph D. of this Article that the *Project* is complete, the Non-Federal Sponsor shall perform *monitoring* of the *Project* in accordance with the *monitoring* plan for a period of 5 consecutive years from the date of such notification. The Non-Federal Sponsor's performance of *monitoring* shall be concurrent with the Non-Federal Sponsor's performance of operation, maintenance, repair, rehabilitation, and replacement for the completed *Project*. The *monitoring* of the *Project* by the Non-Federal Sponsor shall end prior to the expiration of such 5 year period upon the occurrence of either of the following events: (1) the award of the next contract for *monitoring* of the *Project*, or continuation of *monitoring* of the *Project* using the Non-Federal Sponsor's own forces,

Draft

would result in the costs incurred for *monitoring* of the *Project* exceeding 1 percent of the amount equal to *total project costs* minus the costs for *monitoring* of the *Project*; or (2) the District Engineer determines that continued *monitoring* of the *Project* is not necessary. Any costs of *monitoring* incurred by the Non-Federal Sponsor pursuant to this paragraph shall be included in the costs for *non-Federal work* subject to an audit in accordance with Article IX.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs.

K. The Non-Federal Sponsor shall prevent obstructions or encroachments on the *Project* (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on *Project* lands, easements, and rights-of-way or the addition of facilities which might reduce the outputs produced by the *Project*, hinder operation and maintenance of the *Project*, or interfere with the *Project's* proper function.

L. The Non-Federal Sponsor shall not use the *Project*, or the lands, easements, and rights-of-way required pursuant to Article III of this Agreement, as a wetlands bank or mitigation credit for any other project.

M. In addition to the ongoing, regular discussions of the parties in the delivery of the Project, the Government and the Non-federal Sponsor may establish a Project Coordination Team to discuss significant issues or actions. The Government's costs for participation on the Project Coordination Team shall not be included in the design and construction costs that are not cost shared. The Non-Federal Sponsor's costs for participation on the Project Coordination Team shall not be included in the design and construction costs that are cost shared and shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

Draft

## ARTICLE III - LANDS, EASEMENTS, RIGHTS-OF-WAY, RELOCATIONS, DISPOSAL AREA IMPROVEMENTS, AND COMPLIANCE WITH PUBLIC LAW 91-646, AS AMENDED

A. The Government, after consultation with the Non-Federal Sponsor, shall determine the lands, easements, and rights-of-way required for construction, operation, and maintenance of the *Project*, including those required for *relocations*, the borrowing of material, and the disposal of dredged or excavated material. The Government in a timely manner shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of the lands, easements, and rights-of-way that the Government determines the Non-Federal Sponsor must provide, in detail sufficient to enable the Non-Federal Sponsor to fulfill its obligations under this paragraph, and shall provide the Non-Federal Sponsor with a written notice to proceed with acquisition of such lands, easements, and rights-of-way. Prior to the issuance of the solicitation for each Government contract for construction of the *Project*, or prior to the Government initiating construction of a portion of the *Project* using the Government's own forces, the Non-Federal Sponsor shall acquire all lands, easements, and rights-of-way the Government determines the Non-

Federal Sponsor must provide for that work and shall provide the Government with authorization for entry thereto. Furthermore, prior to the end of the *period of design and construction*, the Non-Federal Sponsor shall acquire all lands, easements, and rights-of-way required for construction, operation, and maintenance of the *Project*, as set forth in such descriptions, and shall provide the Government with authorization for entry thereto. The Non-Federal Sponsor shall ensure that lands, easements, and rights-of-way that the Government determines to be required for the *Project* and that were provided by the Non-Federal Sponsor are retained in public ownership for uses compatible with the authorized purposes of the *Project*.

B. The Government, after consultation with the Non-Federal Sponsor, shall determine the *relocations* necessary for construction, operation, and maintenance of the *Project*, including those necessary to enable the borrowing of material or the disposal of dredged or excavated material. The Government in a timely manner shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of such *relocations* in detail sufficient to enable the Non-Federal Sponsor to fulfill its obligations under this paragraph, and shall provide the Non-Federal Sponsor with a written notice to proceed with such *relocations*. Prior to the issuance of the solicitation for each Government contract for construction of the *Project*, or prior to the Government initiating construction of a portion of the *Project* using the Government's own forces, the Non-Federal Sponsor shall prepare or ensure the preparation of plans and specifications for, and perform or ensure the performance of, all *relocations* the Government determines to be necessary for that work. Furthermore, prior to the end of the *period of design and construction*, the Non-Federal Sponsor shall perform or ensure performance of all *relocations* as set forth in such descriptions.

C. The Government, after consultation with the Non-Federal Sponsor, shall determine the improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material associated with construction, operation, and maintenance of the *Project*. Such improvements may include, but are not necessarily limited to, retaining dikes, wasteweirs, bulkheads, embankments, monitoring features, stilling basins, and de-watering pumps and pipes. The Government in a timely manner shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of such improvements in detail sufficient to enable the Non-Federal Sponsor to fulfill its obligations under this paragraph, and shall provide the Non-Federal Sponsor with a written notice to proceed with construction of such improvements. Prior to the issuance of the solicitation for each Government contract for construction of the *Project*, or prior to the Government initiating construction of a portion of the *Project* using the Government's own forces, the Non-Federal Sponsor shall prepare plans and specifications for all improvements the Government determines to be required for the disposal of dredged or excavated material under that contract, submit such plans and specifications to the Government for approval, and provide such improvements in accordance with the approved plans and specifications. Furthermore, prior to the end of the *period of design and construction*, the Non-Federal Sponsor shall provide all improvements set forth in such descriptions.

Draft

D. The Non-Federal Sponsor shall comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 C.F.R. Part 24, in acquiring lands, easements, and rights-of-way required for construction, operation, and maintenance of the *Project*, including those required for *relocations*, the borrowing of material, or the disposal of dredged or excavated material, and shall inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

## ARTICLE IV - CREDIT FOR VALUE OF LANDS, EASEMENTS, RIGHTS-OF-WAY, RELOCATIONS, AND DISPOSAL AREA IMPROVEMENTS

A. The Government shall include in *total project costs* and afford credit toward the Non-Federal Sponsor's share of *total project costs* for the value of the lands, easements, and rights-of-way that the Non-Federal Sponsor must provide pursuant to Article III.A. of this Agreement; for the value of the *relocations* that the Non-Federal Sponsor must perform or for which it must ensure performance pursuant to Article III.B. of this Agreement; and for the value of the improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material that the Non-Federal Sponsor must provide pursuant to Article III.C. of this Agreement. However, no amount shall be included in *total project costs*, no credit shall be afforded, and no reimbursement shall be provided for the value of any lands, easements, rights-of-way, *relocations*, or improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material that have been provided previously as an item of cooperation for another Federal project, including the *Existing Project*. In addition, no amount shall be included in *total project costs*, no credit shall be afforded, and no reimbursement shall be provided for the value of lands, easements, rights-of-way, *relocations*, or improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material that were acquired or performed using *Federal program funds* unless the Federal agency providing the funds verifies in writing that such funds are authorized to be used to carry out the *Project*.

B. The Non-Federal Sponsor in a timely manner shall provide the Government with such documents as are sufficient to enable the Government to determine the value of any contribution provided pursuant to Article III.A., Article III.B., or Article III.C. of this Agreement. Upon receipt of such documents, the Government in a timely manner shall determine the value of such contributions for the purpose of including such value in *total project costs* and for determining the amount of credit to be afforded or reimbursement to be provided in accordance with the provisions of this Agreement.

C. For the purposes of determining the value to be included in *total project costs* and the amount of credit to be afforded or reimbursement to be provided in accordance with this Agreement and except as otherwise provided in paragraph G. of this Article, the value of lands, easements, and rights-of-way, including those required for *relocations*, the borrowing of material, and the disposal of dredged or excavated material, shall be the fair

Draft

market value of the real property interests, plus certain incidental costs of acquiring those interests, as determined in accordance with the provisions of this paragraph.

1. Date of Valuation.

a. The fair market value of lands, easements, or rights-of-way owned by the Non-Federal Sponsor on the effective date of this Agreement shall be the fair market value of such real property interests as of the date the Non-Federal Sponsor provides the Government with authorization for entry thereto. However, for lands, easements, or rights-of-way owned by the Non-Federal Sponsor on the effective date of this Agreement that are required for the *non-Federal work*, fair market value shall be the value of such real property interests as of the date the Non-Federal Sponsor awarded the first construction contract for the *non-Federal work*, or, if the Non-Federal Sponsor performed the construction with its own forces, the date that the Non-Federal Sponsor began construction of the *non-Federal work*.

b. The fair market value of lands, easements, or rights-of-way acquired by the Non-Federal Sponsor after the effective date of this Agreement shall be the fair market value of such real property interests at the time the interests are acquired.

2. General Valuation Procedure. Except as provided in paragraph C.3. or paragraph C.5. of this Article, the fair market value of lands, easements, or rights-of-way shall be determined in accordance with the provisions of this paragraph.

a. The Non-Federal Sponsor shall obtain, for each real property interest, an appraisal that is prepared by a qualified appraiser who is acceptable to the Non-Federal Sponsor and the Government. The Non-Federal Sponsor shall provide the Government with the appraisal no later than 6 months after the Non-Federal Sponsor provides the Government with an authorization for entry for such real property interest. The appraisal must be prepared in accordance with the applicable rules of just compensation, as specified by the Government. The fair market value shall be the amount set forth in the Non-Federal Sponsor's appraisal, if such appraisal is approved by the Government. In the event the Government does not approve the Non-Federal Sponsor's appraisal, the Non-Federal Sponsor may obtain a second appraisal, and the fair market value shall be the amount set forth in the Non-Federal Sponsor's second appraisal, if such appraisal is approved by the Government. In the event the Government does not approve the Non-Federal Sponsor's second appraisal, the Non-Federal Sponsor chooses not to obtain a second appraisal, or the Non-Federal Sponsor does not provide the first appraisal as required in this paragraph, the Government shall obtain an appraisal, and the fair market value shall be the amount set forth in the Government's appraisal, if such appraisal is approved by the Non-Federal Sponsor. In the event the Non-Federal Sponsor does not approve the Government's appraisal, the Government, after consultation with the Non-Federal Sponsor, shall consider the Government's and the Non-Federal Sponsor's appraisals and determine an amount based thereon, which shall be deemed to be the fair market value.

Draft

b. Where the amount paid or proposed to be paid by the Non-Federal Sponsor for the real property interest exceeds the amount determined pursuant to paragraph C.2.a. of this Article, the Government, at the request of the Non-Federal Sponsor, shall consider all factors relevant to determining fair market value and, in its sole discretion, after consultation with the Non-Federal Sponsor, may approve in writing an amount greater than the amount determined pursuant to paragraph C.2.a. of this Article, but not to exceed the amount actually paid or proposed to be paid. If the Government approves such an amount, the fair market value shall be the lesser of the approved amount or the amount paid by the Non-Federal Sponsor, but no less than the amount determined pursuant to paragraph C.2.a. of this Article.

3. Eminent Domain Valuation Procedure. For lands, easements, or rights-of-way acquired by eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal Sponsor, prior to instituting such proceedings, shall submit to the Government notification in writing of its intent to institute such proceedings and an appraisal of the specific real property interests to be acquired in such proceedings. The Government shall have 60 calendar days after receipt of such a notice and appraisal within which to review the appraisal, if not previously approved by the Government in writing.

a. If the Government previously has approved the appraisal in writing, or if the Government provides written approval of, or takes no action on, the appraisal within such 60 day period, the Non-Federal Sponsor shall use the amount set forth in such appraisal as the estimate of just compensation for the purpose of instituting the eminent domain proceeding.

b. If the Government provides written disapproval of the appraisal, including the reasons for disapproval, within such 60 day period, the Government and the Non-Federal Sponsor shall consult in good faith to promptly resolve the issues or areas of disagreement that are identified in the Government's written disapproval. If, after such good faith consultation, the Government and the Non-Federal Sponsor agree as to an appropriate amount, then the Non-Federal Sponsor shall use that amount as the estimate of just compensation for the purpose of instituting the eminent domain proceeding. If, after such good faith consultation, the Government and the Non-Federal Sponsor cannot agree as to an appropriate amount, then the Non-Federal Sponsor may use the amount set forth in its appraisal as the estimate of just compensation for the purpose of instituting the eminent domain proceeding.

c. For lands, easements, or rights-of-way acquired by eminent domain proceedings instituted in accordance with paragraph C.3. of this Article, fair market value shall be either the amount of the court award for the real property interests taken, to the extent the Government determined such interests are required for construction, operation, and maintenance of the *Project*, or the amount of any stipulated settlement or portion thereof that the Government approves in writing.

4. Incidental Costs. For lands, easements, or rights-of-way acquired by the Non-Federal Sponsor within a five year period preceding the effective date of this

Draft

Agreement, or at any time after the effective date of this Agreement, the value of the interest shall include the documented incidental costs of acquiring the interest, as determined by the Government, subject to an audit in accordance with Article IX.B. of this Agreement to determine reasonableness, allocability, and allowability of such costs. In the event the Government modifies its determination made pursuant to Article III.A. of this Agreement, the Government shall afford credit for the documented incidental costs associated with preparing to acquire the lands, easements, or rights-of-way identified in the original determination, subject to an audit in accordance with Article IX.B. of this Agreement to determine reasonableness, allocability, and allowability of such costs. Such incidental costs shall include, but not necessarily be limited to, closing and title costs, appraisal costs, survey costs, attorney's fees, plat maps, mapping costs, actual amounts expended for payment of any relocation assistance benefits provided in accordance with Article III.D. of this Agreement, and other payments by the Non-Federal Sponsor for items that are generally recognized as compensable, and required to be paid, by applicable state law due to the acquisition of a real property interest in accordance with Article III of this Agreement. The value of the interests provided by the Non-Federal Sponsor in accordance with Article III.A. of this Agreement also shall include the documented costs of obtaining appraisals pursuant to paragraph C.2. of this Article, as determined by the Government, and subject to an audit in accordance with Article IX.B. of this Agreement to determine reasonableness, allocability, and allowability of such costs.

5. Waiver of Appraisal. Except as required by paragraph C.3. of this Article, the Government may waive the requirement for an appraisal pursuant to this paragraph if it determines that an appraisal is unnecessary because the valuation is uncomplicated and that the estimated fair market value of the real property interest is $10,000 or less based upon a review of available data. In such event, the Government and the Non-Federal Sponsor must agree in writing to the value of such real property interest in an amount not in excess of $10,000.

D. After consultation with the Non-Federal Sponsor, the Government shall determine the value of *relocations* in accordance with the provisions of this paragraph.

1. For a *relocation* other than a *highway*, the value shall be only that portion of *relocation* costs that the Government determines is necessary to provide a functionally equivalent facility, reduced by depreciation, as applicable, and by the salvage value of any removed items.

2. For a *relocation* of a *highway*, the value shall be only that portion of *relocation* costs that would be necessary to accomplish the *relocation* in accordance with the design standard that the State of California would apply under similar conditions of geography and traffic load, reduced by the salvage value of any removed items.

3. *Relocation* costs shall include, but not necessarily be limited to, actual costs of performing the *relocation*; planning, engineering and design costs; supervision and administration costs; and documented incidental costs associated with performance of the *relocation*, as determined by the Government. *Relocation* costs shall not include any costs

Draft

due to *betterments*, as determined by the Government, nor any additional cost of using new material when suitable used material is available. *Relocation* costs shall be subject to an audit in accordance with Article IX.B. of this Agreement to determine reasonableness, allocability, and allowability of such costs.

E. The value of the improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material shall be the costs of the improvements, as determined by the Government, subject to an audit in accordance with Article IX.B. of this Agreement to determine reasonableness, allocability, and allowability of such costs. Such costs shall include, but not necessarily be limited to, actual costs of providing the improvements; planning, engineering and design costs; supervision and administration costs; and documented incidental costs associated with providing the improvements, but shall not include any costs due to *betterments*, as determined by the Government.

F. Any credit afforded or reimbursement provided under the terms of this Agreement for the value of *relocations*, or improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material, performed within the *Project* boundaries is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (labor standards originally enacted as the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland Anti-Kickback Act). Notwithstanding any other provision of this Agreement, credit or reimbursement may be withheld, in whole or in part, as a result of the Non-Federal Sponsor's failure to comply with its obligations under these laws.

G. Where the Government, on behalf of the Non-Federal Sponsor pursuant to Article II.H.1. of this Agreement, acquires lands, easements, or rights-of-way, performs *relocations*, or constructs improvements required on lands, easements, or rights-of-way to enable the disposal of dredged or excavated material, the value to be included in *total project costs* and the amount of credit to be afforded or the amount of reimbursement provided in accordance with this Agreement shall be the costs of such work performed or provided by the Government that are paid by the Non-Federal Sponsor in accordance with Article V.D. of this Agreement. In addition, the value to be included in *total project costs* and the amount of such credit to be afforded or the amount of reimbursement provided in accordance with this Agreement shall include the documented costs incurred by the Non-Federal Sponsor in accordance with the terms and conditions agreed upon in writing pursuant to Article II.H.1. of this Agreement subject to an audit in accordance with Article IX.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs.

## ARTICLE V - METHOD OF PAYMENT

A. In accordance with the provisions of this paragraph, the Government shall maintain current records and provide to the Non-Federal Sponsor current projections of

Draft

costs, financial obligations, contributions provided by the parties, the value included in *total project costs* for lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material determined in accordance with Article IV of this Agreement , the costs included in *total project costs* for the *non-Federal work* determined in accordance with Article II.B.4. of this Agreement, and the credit to be afforded for the *non-Federal work* pursuant to Article II.B.5. of this Agreement.

1. As of the effective date of this Agreement, *total project costs* are projected to be $_____; the value included in *total project costs* for lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material determined in accordance with Article IV of this Agreement is projected to be $_____; the value of the Non-Federal Sponsor's contributions under Article IX, and Article XIII.A. of this Agreement is projected to be $_____; the Non-Federal Sponsor's contribution of funds required by Article II.B.2. of this Agreement is projected to be $_____; the costs included in *total project costs* for the *non-Federal work* determined in accordance with Article II.B.4. of this Agreement are projected to be $_____; the credit to be afforded for the *non-Federal work* pursuant to Article II.B.5. of this Agreement is projected to be $_____; the Non-Federal Sponsor's contribution of funds required by Article II.C.2. of this Agreement is projected to be $_____; the *non-Federal proportionate share* is projected to be _____ percent; the Non-Federal Sponsor's contribution of funds required by Article XVI.C.4. of this Agreement is projected to be $_____; the Non-Federal Sponsor's contribution of funds required by Article II.M. of this Agreement is projected to be $_____; and the Government's total financial obligations for the additional work to be incurred and the Non-Federal Sponsor's contribution of funds for such costs required by Article II.H. of this Agreement are projected to be $_____. These amounts and percentage are estimates subject to adjustment by the Government, after consultation with the Non-Federal Sponsor, and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

2. By June 30, 2016 and by each quarterly anniversary thereof until the conclusion of the *period of design and construction* and resolution of all relevant claims and appeals and eminent domain proceedings, the Government shall provide the Non-Federal Sponsor with a report setting forth all contributions provided to date and the current projections of the following: *total project costs*; the value included in *total project costs* for lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material determined in accordance with Article IV of this Agreement; the value of the Non-Federal Sponsor's contributions under Article XIII.A. of this Agreement; the Non-Federal Sponsor's total contribution of funds required by Article II.B.2. of this Agreement; the costs included in *total project costs* for the *non-Federal work* determined in accordance with Article II.B.4. of this Agreement; the credit to be afforded for the *non-Federal work* pursuant to Article II.B.5. of this Agreement; the Non-Federal Sponsor's contribution of funds required by Article II.C.2. of this Agreement; the *non-Federal proportionate share*; the Non-Federal Sponsor's total contribution of funds required by Article XVI.C.4. of

Draft

this Agreement; the total contribution of funds required from the Non-Federal Sponsor for the upcoming contract and upcoming *fiscal year*; and the Government's total financial obligations for additional work incurred and the Non-Federal Sponsor's contribution of funds for such costs required by Article II.H. of this Agreement.

B. The Non-Federal Sponsor shall provide the contributions of funds required by Article II.B.2., Article II.C.2., and Article XVI.C.4. of this Agreement in accordance with the provisions of this paragraph.

1. Not less than 30 calendar days prior to the scheduled date for issuance of the solicitation for the first contract for design of the *Project* or commencement of design of the *Project* using the Government's own forces, the Government shall notify the Non-Federal Sponsor in writing of such scheduled date and the funds the Government determines to be required from the Non-Federal Sponsor , after consideration of any credit the Government projects will be afforded for the *non-Federal work* pursuant to Article II.B.5. of this Agreement, to meet: (a) the *non-Federal proportionate share* of *financial obligations for design and construction* incurred prior to the commencement of the *period of design and construction*; (b) the projected *non-Federal proportionate share* of *financial obligations for design and construction* to be incurred for such contract; (c) the projected *non-Federal proportionate share* of *financial obligations for design and construction* using the Government's own forces through the first *fiscal year of the Non-Federal Sponsor*; (d) the Non-Federal Sponsor's share of the projected financial obligations for data recovery activities associated with historic preservation pursuant to Article XVI.C.4. of this Agreement to be incurred for such contract; and (e) the Non-Federal Sponsor's share of the projected financial obligations for data recovery activities associated with historic preservation pursuant to Article XVI.C.4. of this Agreement using the Government's own forces through the first *fiscal year of the Non-Federal Sponsor*. Not later than such scheduled date, the Non-Federal Sponsor shall provide the Government with the full amount of such required funds by delivering a check payable to "FAO, USAED, San Francisco District, L3" to the District Engineer, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited such required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

2. Thereafter, until the construction of the *Project* is complete, the Government shall notify the Non-Federal Sponsor in writing of the funds the Government determines to be required from the Non-Federal Sponsor, and the Non-Federal Sponsor shall provide such funds in accordance with the provisions of this paragraph.

a. The Government shall notify the Non-Federal Sponsor in writing, no later than 60 calendar days prior to the scheduled date for issuance of the solicitation for each remaining contract for the *Project*, of the funds the Government determines to be required from the Non-Federal Sponsor, after consideration of any credit the Government projects will be afforded for the *non-Federal work* pursuant to Article II.B.5. of this Agreement, to meet: (a) the projected *non-Federal proportionate share* of

Draft

*financial obligations for design and construction* to be incurred for such contract and (b) the Non-Federal Sponsor's share of the projected financial obligations for data recovery activities associated with historic preservation pursuant to Article XVI.C.4. of this Agreement to be incurred for such contract. No later than such scheduled date, the Non-Federal Sponsor shall make the full amount of such required funds available to the Government through any of the payment mechanisms specified in paragraph B.1. of this Article.

b. The Government shall notify the Non-Federal Sponsor in writing, no later than 60 calendar days prior to the beginning of each *fiscal year of the Non-Federal Sponsor* in which the Government projects that it will make *financial obligations for design and construction* of the *Project* using the Government's own forces or financial obligations for data recovery activities associated with historic preservation pursuant to Article XVI.C.4. of this Agreement using the Government's own forces, of the funds the Government determines to be required from the Non-Federal Sponsor , after consideration of any credit the Government projects will be afforded for the *non-Federal work* pursuant to Article II.B.5. of this Agreement, to meet: (a) the projected *non-Federal proportionate share* of *financial obligations for design and construction* using the Government's own forces for that *fiscal year of the Non-Federal Sponsor* and (b) the Non-Federal Sponsor's share of the projected financial obligations for data recovery activities associated with historic preservation pursuant to Article XVI.C.4. of this Agreement using the Government's own forces for that *fiscal year of the Non-Federal Sponsor*. No later than 30 calendar days prior to the beginning of that *fiscal year of the Non-Federal Sponsor*, the Non-Federal Sponsor shall make the full amount of such required funds for that *fiscal year of the Non-Federal Sponsor* available to the Government through any of the payment mechanisms specified in paragraph B.1. of this Article.

3. The Government shall draw from the funds provided by the Non-Federal Sponsor such sums as the Government deems necessary , after consideration of any credit the Government projects will be afforded for the *non-Federal work* pursuant to Article II.B.5. of this Agreement, to cover: (a) the *non-Federal proportionate share* of *financial obligations for design and construction* incurred prior to the commencement of the *period of design and construction*; (b) the *non-Federal proportionate share* of *financial obligations for design and construction* as *financial obligations for design and construction* are incurred; and (c) the Non-Federal Sponsor's share of financial obligations for data recovery activities associated with historic preservation pursuant to Article XVI.C.4. of this Agreement as those financial obligations are incurred. If at any time the Government determines that additional funds will be needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor's share of such financial obligations for the current contract or to cover the Non-Federal Sponsor's share of such financial obligations for work performed using the Government's own forces in the current *fiscal year of the Non-Federal Sponsor*, the Government shall notify the Non-Federal Sponsor in writing of the additional funds required and provide an explanation of why additional funds are required. Within 60 calendar days from receipt of such notice, the Non-Federal

Draft

Sponsor shall provide the Government with the full amount of such additional required funds through any of the payment mechanisms specified in paragraph B.1. of this Article.

C. Upon the District Engineer's determination that, except for *monitoring*, the entire *Project* is complete and all relevant claims and appeals and eminent domain proceedings have been resolved, the Government shall conduct an interim accounting and furnish the results to the Non-Federal Sponsor. Further, upon conclusion of the *period of design and construction* and resolution of all relevant claims and appeals and eminent domain proceedings, the Government shall amend the interim accounting to complete the final accounting and furnish the results to the Non-Federal Sponsor. If outstanding relevant claims and appeals or eminent domain proceedings prevent a final accounting from being conducted in a timely manner, the Government shall conduct an interim accounting or amend the previous interim accounting, as applicable, and furnish the Non-Federal Sponsor with written notice of the results of such interim or amended interim accounting, as applicable. Once all outstanding relevant claims and appeals and eminent domain proceedings are resolved, the Government shall complete the final accounting and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. The interim or final accounting, as applicable, shall determine *total project costs* and the costs of any data recovery activities associated with historic preservation. In addition, for each set of costs, the interim or final accounting, as applicable, shall determine each party's required share thereof, and each party's total contributions thereto as of the date of such accounting.

1. Should the interim or final accounting, as applicable, show that the Non-Federal Sponsor's total required shares of *total project costs* and the costs of any data recovery activities associated with historic preservation exceed the Non-Federal Sponsor's total contributions provided thereto, the Non-Federal Sponsor, no later than 90 calendar days after receipt of written notice from the Government, shall make a payment to the Government in an amount equal to the difference by delivering a check payable to "FAO, USAED, San Francisco District, L3" to the District Engineer or providing an Electronic Funds Transfer in accordance with procedures established by the Government.

2. Should the interim or final accounting, as applicable, show that the total contributions provided by the Non-Federal Sponsor for *total project costs* and the costs of any data recovery activities associated with historic preservation exceed the Non-Federal Sponsor's total required shares thereof, the Government, subject to the availability of funds and as limited by Article II.B.6. of this Agreement, the *Section 1135 Project Limit*, and the *Section 1135 Annual Program Limit*, shall refund or reimburse the excess amount to the Non-Federal Sponsor within 90 calendar days of the date of completion of such accounting. In the event the Non-Federal Sponsor is due a refund or reimbursement and funds are not available to refund or reimburse the excess amount to the Non-Federal Sponsor, the Government shall seek such appropriations as are necessary to make the refund or reimbursement.

Draft

D. The Non-Federal Sponsor shall provide the contribution of funds required by Article II.H. of this Agreement for additional work in accordance with the provisions of this paragraph.

1. Not less than 60 calendar days prior to the scheduled date for the first financial obligation for additional work, the Government shall notify the Non-Federal Sponsor in writing of such scheduled date and of the full amount of funds the Government determines to be required from the Non-Federal Sponsor to cover the costs of the additional work. No later than 30 calendar days prior to the Government incurring any financial obligation for additional work, the Non-Federal Sponsor shall provide the Government with the full amount of the funds required to cover the costs of such additional work through any of the payment mechanisms specified in paragraph B.1. of this Article.

2. The Government shall draw from the funds provided by the Non-Federal Sponsor such sums as the Government deems necessary to cover the Government's financial obligations for such additional work as they are incurred. If at any time the Government determines that the Non-Federal Sponsor must provide additional funds to pay for such additional work, the Government shall notify the Non-Federal Sponsor in writing of the additional funds required and provide an explanation of why additional funds are required. Within 30 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds through any of the payment mechanisms specified in paragraph B.1. of this Article.

3. At the time the Government conducts the interim or final accounting, as applicable, the Government shall conduct an accounting of the Government's financial obligations incurred for additional work and furnish the Non-Federal Sponsor with written notice of the results of such accounting. If outstanding relevant claims and appeals or eminent domain proceedings prevent a final accounting of such financial obligations for additional work from being conducted in a timely manner, the Government shall conduct an interim accounting of such financial obligations for additional work and furnish the Non-Federal Sponsor with written notice of the results of such interim accounting. Once all outstanding relevant claims and appeals and eminent domain proceedings are resolved, the Government shall amend the interim accounting of such financial obligations for additional work to complete the final accounting of such financial obligations for additional work and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. Such interim or final accounting, as applicable, shall determine the Government's total financial obligations for additional work and the Non-Federal Sponsor's contribution of funds provided thereto as of the date of such accounting.

Draft

## ARTICLE VI - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to both parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

## ARTICLE VII - OPERATION, MAINTENANCE, REPAIR, REHABILITATION, AND REPLACEMENT (OMRR&R)

A. Upon receipt of the notification from the District Engineer in accordance with Article II.D. of this Agreement and for so long as the *Project* remains authorized, the Non-Federal Sponsor, pursuant to Article II.E. of this Agreement, shall operate, maintain, repair, rehabilitate, and replace the entire *Project* or *functional portion of the Project*, at no cost to the Government. The Non-Federal Sponsor shall conduct its operation, maintenance, repair, rehabilitation, and replacement responsibilities in a manner compatible with the *Project's* authorized purposes and in accordance with applicable Federal and State laws as provided in Article X of this Agreement and specific directions prescribed by the Government in the interim or final OMRR&R Manual and any subsequent amendments thereto.

B. The Non-Federal Sponsor hereby gives the Government a right to enter, at reasonable times and in a reasonable manner, upon property that the Non-Federal Sponsor now or hereafter owns or controls for access to the *Project* for the purpose of inspection and, if necessary, for the purpose of completing, operating, maintaining, repairing, rehabilitating, or replacing the *Project*. If an inspection shows that the Non-Federal Sponsor for any reason is failing to perform its obligations under this Agreement, the Government shall send a written notice describing the non-performance to the Non-Federal Sponsor. If, after 30 calendar days from receipt of such written notice by the Government, the Non-Federal Sponsor continues to fail to perform, then the Government shall have the right to enter, at reasonable times and in a reasonable manner, upon property that the Non-Federal Sponsor now or hereafter owns or controls for the purpose of completing, operating, maintaining, repairing, rehabilitating, or replacing the *Project*. No completion, operation, maintenance, repair, rehabilitation, or replacement by the Government shall relieve the Non-Federal Sponsor of responsibility to meet the Non-Federal Sponsor's obligations as set forth in this Agreement, or to preclude the Government from pursuing any other remedy at law or equity to ensure faithful performance pursuant to this Agreement.

Draft

## ARTICLE VIII – HOLD AND SAVE

Subject to the provisions of Article XVIII of this Agreement, the Non-Federal Sponsor shall hold and save the Government free from all damages arising from design, construction, *monitoring*, operation, maintenance, repair, rehabilitation, and replacement of the *Project* and any *betterments*, except for damages due to the fault or negligence of the Government or its contractors.

## ARTICLE IX - MAINTENANCE OF RECORDS AND AUDIT

A. The parties shall develop procedures for the maintenance by the Non-Federal Sponsor of books, records, documents, or other evidence pertaining to costs and expenses for a minimum of three years after the final accounting. The Non-Federal Sponsor shall assure that such materials are reasonably available for examination, audit, or reproduction by the Government.

B. The Government may conduct, or arrange for the conduct of, audits of the Project. Government audits shall be conducted in accordance with applicable Government cost principles and regulations. The Government's costs of audits shall not be included in total project costs.

C. To the extent permitted under applicable Federal laws and regulations, the Government shall allow the Non-Federal Sponsor to inspect books, records, documents, or other evidence pertaining to costs and expenses maintained by the Government, or at the request of the Non-Federal Sponsor, provide to the Non-Federal Sponsor or independent auditors any such information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of non-Federal audits shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

Draft

## ARTICLE X – APPLICABLE FEDERAL LAWS AND REGULATIONS

In carrying out its obligations under this Agreement, the Non-Federal Sponsor shall comply with all requirements of applicable Federal laws and implementing regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto; the Age Discrimination Act of 1975 (42 U.S.C. 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Army Regulation 600-7 issued pursuant thereto; and 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (labor standards originally enacted as the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland Anti-Kickback Act).

## ARTICLE XI - RELATIONSHIP OF PARTIES

A. In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.

B. In the exercise of its rights and obligations under this Agreement, neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights the other party may have to seek relief or redress against that contractor either pursuant to any cause of action that the other party may have or for violation of any law.

## ARTICLE XII - TERMINATION OR SUSPENSION

A. If at any time the Non-Federal Sponsor fails to fulfill its obligations under this Agreement, the Assistant Secretary of the Army (Civil Works) shall terminate this Agreement or suspend future performance under this Agreement unless the Assistant Secretary of the Army (Civil Works) determines that continuation of work on the *Project* is in the interest of the United States or is necessary in order to satisfy agreements with any other non-Federal interests in connection with the *Project*.

B. In the event future performance under this Agreement is suspended pursuant to Article II.C. of this Agreement, such suspension shall remain in effect until such time that the Government notifies the Non-Federal Sponsor in writing that sufficient Federal funds are available to meet the Federal share of *total project costs* and the Federal share of costs for data recovery activities associated with historic preservation in accordance with Article XVI.C.3. and Article XVI.C.4. of this Agreement the Government projects to be incurred through the then-current or upcoming *fiscal year*, or the Government or the Non-Federal Sponsor elects to terminate this Agreement.

C. In the event that the Government and the Non-Federal Sponsor determine to suspend future performance under this Agreement in accordance with Article XIII.C. of this Agreement, such suspension shall remain in effect until the Government and the Non-Federal Sponsor agree to proceed or to terminate this Agreement. In the event that the Government suspends future performance under this Agreement in accordance with Article XIII.C. of this Agreement due to failure to reach agreement with the Non-Federal Sponsor on whether to proceed or to terminate this Agreement, or the failure of the Non-Federal Sponsor to provide funds to pay for cleanup and response costs or to otherwise discharge the Non-Federal Sponsor's responsibilities under Article XIII.C. of this Agreement, such suspension shall remain in effect until: 1) the Government and Non-Federal Sponsor reach agreement on how to proceed or to terminate this Agreement; 2) the Non-Federal Sponsor provides funds necessary to pay for cleanup and response costs and otherwise discharges its responsibilities under Article XIII.C. of this Agreement; 3)

Draft

the Government continues work on the *Project*; or 4) the Government terminates this Agreement in accordance with the provisions of Article XIII.C. of this Agreement.

D. If after completion of the design portion of the *Project* the parties mutually agree in writing not to proceed with construction of the *Project*, the parties shall conclude their activities relating to the *Project* and conduct an accounting in accordance with Article V.C. of this Agreement.

E. In the event that this Agreement is terminated pursuant to this Article or Article XIII.C. of this Agreement, both parties shall conclude their activities relating to the *Project* and conduct an accounting in accordance with Article V.C. of this Agreement. To provide for this eventuality, the Government may reserve a percentage of total Federal funds made available for the *Project* and an equal percentage of the total funds contributed by the Non-Federal Sponsor in accordance with Article II.B.2., Article II.C.2., and Article XVI.C.4. of this Agreement as a contingency to pay costs of termination, including any costs of resolution of contract claims and contract modifications.

F. Any termination of this Agreement or suspension of future performance under this Agreement in accordance with this Article or Article II.C. or Article XIII.C. of this Agreement shall not relieve the parties of liability for any obligation previously incurred. Any delinquent payment owed by the Non-Federal Sponsor shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

Draft

## ARTICLE XIII - HAZARDOUS SUBSTANCES

A. After execution of this Agreement and upon direction by the District Engineer, the Non-Federal Sponsor shall perform, or ensure performance of, any investigations for hazardous substances that the Government or the Non-Federal Sponsor determines to be necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601-9675; hereinafter "CERCLA"), that may exist in, on, or under lands, easements, and rights-of-way that the Government determines, pursuant to Article III of this Agreement, to be required for construction, operation, and maintenance of the *Project*. However, for lands, easements, and rights-of-way that the Government determines to be subject to the navigation servitude, only the Government shall perform such investigations unless the District Engineer provides the Non-Federal Sponsor with prior specific written direction, in which case the Non-Federal Sponsor shall perform such investigations in accordance with such written direction.

B. In the event it is discovered through any investigation for hazardous substances or other means that hazardous substances regulated under CERCLA exist in, on, or under any lands, easements, or rights-of-way that the Government determines, pursuant to Article

III of this Agreement, to be required for construction, operation, and maintenance of the *Project*, the Non-Federal Sponsor and the Government, in addition to providing any other notice required by applicable law, shall provide prompt written notice to each other, and the Non-Federal Sponsor shall not proceed with the acquisition of the real property interests until the parties agree that the Non-Federal Sponsor should proceed.

C. The Government and the Non-Federal Sponsor shall determine whether to initiate construction of the *Project*, or, if already in construction, whether to continue with construction of the *Project*, suspend future performance under this Agreement, or terminate this Agreement for the convenience of the Government, in any case where hazardous substances regulated under CERCLA are found to exist in, on, or under any lands, easements, or rights-of-way that the Government determines, pursuant to Article III of this Agreement, to be required for construction, operation, and maintenance of the *Project*. Should the Government and the Non-Federal Sponsor determine to initiate or continue with construction of the *Project* after considering any liability that may arise under CERCLA, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for the costs of cleanup and response, including the costs of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall not be considered a part of *total project costs*. In the event the Non-Federal Sponsor does not reach agreement with the Government on whether to proceed or to terminate this Agreement under this paragraph, or fails to provide any funds necessary to pay for cleanup and response costs or to otherwise discharge the Non-Federal Sponsor's responsibilities under this paragraph upon direction by the Government, the Government, in its sole discretion, may either terminate this Agreement for the convenience of the Government, suspend future performance under this Agreement, or continue work on the *Project*.

D. The Non-Federal Sponsor and the Government shall consult with each other in accordance with this Agreement in an effort to ensure that responsible parties bear any necessary cleanup and response costs as defined in CERCLA. Any decision made pursuant to paragraph C. of this Article shall not relieve any third party from any liability that may arise under CERCLA.

E. As between the Government and the Non-Federal Sponsor, the Non-Federal Sponsor shall be considered the operator of the *Project* for purposes of CERCLA liability. To the maximum extent practicable, the Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and replace the *Project* in a manner that will not cause liability to arise under CERCLA.

## ARTICLE XIV - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or sent by telegram or mailed by first-class, registered, or certified mail, as follows:

Draft

If to the Non-Federal Sponsor:

Sonoma County Water Agency
General Manager
404 Aviation Boulevard
Santa Rosa, CA 95403

If to the Government:

U.S. Army Corps of Engineers
San Francisco District
Deputy for Project Management
1455 Market St., 16th floor
San Francisco, CA 94103-1398

B. A party may change the recipient or address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

C. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed.

Draft

## ARTICLE XV - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

## ARTICLE XVI - HISTORIC PRESERVATION

A. Except as provided in paragraph B. below, the Government shall perform any identification, survey, or evaluation of historic properties that it determines is necessary for the *Project*. Any costs incurred by the Government for such work shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

B. In the event that the Government determines that any identification, survey, or evaluation of historic properties is required for construction of the *non-Federal work*, and if the Government and the Non-Federal Sponsor agree in writing that the Non-Federal Sponsor should perform such identification, survey, or evaluation of historic properties, the Non-Federal Sponsor shall perform such identification, survey, or evaluation in accordance with this paragraph and other written directions of the Government.

1. The Non-Federal Sponsor shall ensure that its studies are conducted by qualified archaeologists, historians, architectural historians and historic architects, as appropriate, who meet, at a minimum, the Secretary of the Interior's Professional Qualifications Standards. The Non-Federal Sponsor shall submit study plans and reports to the Government for review and approval and the Non-Federal Sponsor shall be responsible for resolving any deficiencies identified by the Government.

2. Any costs of identification, survey, or evaluation of historic properties incurred by the Non-Federal Sponsor pursuant to this paragraph shall be included in the costs for *non-Federal work* subject to an audit in accordance with Article IX.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs.

C. Except as provided in paragraph C.2. below, the Government, as it determines necessary for the *Project*, shall perform or ensure the performance of any mitigation activities or actions for historic properties or that are otherwise associated with historic preservation including data recovery activities.

1. Any costs incurred by the Government for such mitigation activities, except for data recovery activities associated with historic preservation, shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

2. In the event that the Government determines that mitigation activities or actions other than data recovery activities associated with historic preservation are required for construction of the *non-Federal work*, and if the Government and the Non-Federal Sponsor agree in writing that the Non-Federal Sponsor should perform such activities or actions, the Non-Federal Sponsor shall perform such activities or actions in accordance with the written directions of the Government. The Non-Federal Sponsor shall perform the agreed upon activities or actions prior to construction of the *non-Federal work*. Any costs incurred by the Non-Federal Sponsor in accordance with the provisions of this paragraph shall be included in the costs for *non-Federal work* subject to an audit in accordance with Article IX.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs.

3. In accordance with 54 U.S.C. 312507, the costs of data recovery activities associated with historic preservation shall be borne entirely by the Government and shall not be included in *total project costs*, up to the statutory limit of one percent of the *Section 1135 Project Limit*.

4. In the event that costs associated with data recovery of historic properties exceed one percent of the total amount authorized to be appropriated for the *Project*, the Government and Non-Federal Sponsor shall consult with each other and reach an agreement on how to fund such data recovery costs. Upon agreement in accordance with 54 U.S.C. 312508, the Government may seek a waiver from the one percent limitation under 54 U.S.C. 312507.

Draft

D. If, during its performance of *relocations*, construction of improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material in accordance with Article III of this Agreement, or performance of the *non-Federal work*, the Non-Federal Sponsor discovers historic properties or other cultural resources that have not been evaluated in accordance with this Article, the Non-Federal Sponsor shall provide prompt written notice to the Government of such discovery. The Non-Federal Sponsor shall not proceed with performance of the *relocation*, construction of the improvement, or performance of the *non-Federal work* that is related to such discovery until the Government provides written notice to the Non-Federal Sponsor that it should proceed with such work.

ARTICLE XVII - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not party to this Agreement.

ARTICLE XVIII - OBLIGATIONS OF FUTURE APPROPRIATIONS

A. Nothing herein shall constitute, nor be deemed to constitute, an obligation of future appropriations by the Board of Directors of the Sonoma County Water Agency of Sonoma County, California, where creating such an obligation would be inconsistent with Section 53-11 of Chapter 53 of the California Water Code Appendix.

B. The Non-Federal Sponsor intends to fulfill its obligations under this Agreement. The Non-Federal Sponsor shall include in its budget request or otherwise propose appropriations of funds in amounts sufficient to fulfill these obligations for that year, and shall use all reasonable and lawful means to secure those appropriations. The Non-Federal Sponsor reasonably believes that funds in amounts sufficient to fulfill these obligations lawfully can and will be appropriated and made available for this purpose. In the event funds are not appropriated in amounts sufficient to fulfill these obligations, the Non-Federal Sponsor shall use its best efforts to satisfy any requirements for payments or contributions of funds under this Agreement from any other source of funds legally available for this purpose. Further, if the Non-Federal Sponsor is unable to fulfill these obligations, the Government may exercise any legal rights it has to protect the Government's interests related to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Engineer.

| DEPARTMENT OF THE ARMY | SONOMA COUNTY WATER AGENCY |
|---|---|
| BY: _____ | BY: _____ |
| John C. Morrow | Grant Davis |
| Lieutenant Colonel, US Army | General Manager |

Draft

District Engineer

DATE: _____ DATE: _____

Draft

CERTIFICATE OF AUTHORITY

I, Adam Brand, do hereby certify that I am the principal legal officer of the Sonoma County Water Agency, that the Sonoma County Water Agency is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the Sonoma County Water Agency in connection with the Continuing Authorities Program Section 1135 Dry Creek, California Ecosystem Restoration Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement and that the persons who have executed this Agreement on behalf of the Sonoma County Water Agency have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this _____ day of _____ 20____.

_____

Adam Brand
Deputy County Counsel

Draft

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Draft

_____

Grant Davis
General Manager

DATE: _____

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 9**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Directors, Sonoma County Water Agency

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Sonoma County Water Agency

**Staff Name and Phone Number:**
Dennis Daly 547-1984

**Supervisorial District(s):**

**Title:** Change Order for the Dry Creek Habitat Enhancement Phase II Project

**Recommended Actions:**

Approve and authorize the General Manager to execute a Change Order to the contract with McCullough Construction, Inc. totaling $95,958 and granting a 28-day time extension due to a delay in the issuance of an Army Corp of Engineers Permits.

**Executive Summary:**

The Dry Creek Habitat Enhancement Phase II Project (Project) consists of construction of habitat modifications within the Dry Creek Valley along approximately 0.6 miles of Dry Creek outside the limits of the City of Healdsburg. The Project includes, but is not limited to, excavating backwater alcoves and side channels into the floodplain areas of Dry Creek, installation of habitat and stabilization of banks, planting riparian vegetation and trees, removal of nuisance non-native riparian vegetation, construction of in-channel features such as boulder fields and riffles, dewatering during construction, and isolation of work areas from the creek. The Project is required by the Russian River Biological Opinion. The original contract price for the Project is $3,243,639.58. This agenda item seeks the Board's approval of a change order totaling $95,958.00 due to a permitting delay.

**Discussion:**

On February 9, 2016, the Sonoma County Water Agency (Water Agency) submitted permit applications for a California Fish and Game Code Section 1602 Streambed Alteration Agreement to the California Department of Fish and Wildlife, a Clean Water Act Section 404 Permit (404 Permit) to the U.S. Army Corps of Engineers (Army Corps), and a Clean Water Act Section 401 Permit to the North Coast Regional Water Quality Control Board for the Dry Creek Habitat Enhancement Miles 2-3 Project. At that time, the Project designs were being finalized and the staff were preparing the bid documents for the Project. Due to the extremely tight timeline set by the Russian River Biological Opinion, it was not possible to wait for the permit applications to be processed and the permits issued prior to putting the Project out to bid. Losing a year of construction would likely put the Water Agency at risk of not meeting the required schedule for completing three miles of habitat by 2018 as required by the Russian River Biological Opinion. Based on prior experience obtaining the same types of permits for earlier projects, such as the Dry Creek

Habitat Enhancement Demonstration Project, and conversations between Water Agency staff and regulatory staff processing the permit applications, Water Agency staff felt that there would be a sufficient amount of time for the permit applications to be processed and issued prior to the start of construction (typically no earlier than June 15th for creek projects).

On May 10, 2016, the Water Agency received its 401 Water Quality Certification for the Project from the North Coast Regional Water Quality Control Board. On June 21, 2016, the Water Agency received its 1602 Streambed Alteration Agreement for the Project from the California Department of Fish and Wildlife. However, the 404 Permit authorization from the Army Corps was not received by the Water Agency until July 26, 2016. The unanticipated delay in issuing the 404 Permit authorization was due to protracted negotiations and regulatory procedures between the Army Corps, the State Historic Preservation Office, and local Native American tribes.

Justification for Additional Compensation to Contractor Due to Delay in Issuance of the 404 Permit

The contractor for Project, McCullough Construction (Contractor), commenced construction operations on June 15, 2016. On June 30, 2016, Contractor was directed to cease work in the riparian areas of the project due to delays in the issuance of the required 404 Permit. Because issuance of this permit was expected to take just a few days, Contractor was directed to leave all equipment onsite, rather than incur the cost of demobilizing the remobilizing equipment to and from the Contractor's home office in Arcata, California. Since equipment rental is a large part of Contractor's revenue stream, and the equipment was not available to rent or to utilize on other projects, Contractor lost a substantial amount of revenue while the equipment sat idle on the jobsite. On July 26, 2016, the 404 Permit was issued and Contractor went back to work in the riparian areas on July 28, 2016, a total delay of 28 days.

The attached spreadsheet shows a cost accounting of all equipment which was idle on the Project during the delay. The costs were established using Contractor's advertised monthly rental rates, along with applicable invoices for miscellaneous costs. Contractor also provided copies of correspondence during the delay period which included equipment rental orders that the Contractor could not fill due to the idle equipment. The total agreed amount of the delay claim is $95,958, with a total contract time extension of 28 calendar days.

**Prior Board Actions:**

05/10/2016: Authorized the Chair to execute a contract with McCullough Construction for $3,243,639 for the construction of the Dry Creek Phase II, Part 1 Enhancement Project.

02/02/2016: Authorized General Manager to execute agreements between the Water Agency and the lowest bidders for the purchase of Large Woody Debris for the Dry Creek Habitat Enhancement Project Miles 2 and 3.

11/17/2015: Adopted a resolution certifying and approving Final Environmental Impact Report for Dry Creek Habitat Enhancement Project Miles 2-6 and providing Notice of Determination for the Project in accordance with the California Environmental Quality Act.

**Strategic Plan Alignment** Goal 2: Economic and Environmental Stewardship

The Dry Creek Habitat Enhancement Project as a whole promotes economic and environmental stewardship by restoring critical habitats for endangered salmonids in the Russian River Watershed,

satisfying the requirements of the Biological Opinion in the most economically, efficient and environmentally beneficial manner, and securing the ability to use Dry Creek to effectively convey water from Warm Springs Dam at flow rates that meet present and future needs. The Project also benefits the local and regional economy by providing jobs, demand for materials and equipment, and potential to attract visitors to the sites.

Water Agency Water Supply Goals and Strategies, Goal 1: Work with water contractors to retain and improve the reliability of the water supply production and distribution systems, including during short-term emergencies, such as earthquakes, and during long-term challenges caused by extended droughts and global climate change.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | $95,958 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **$95,958** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | $95,958 | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$95,958** | | |

**Narrative Explanation of Fiscal Impacts:**

FY 16/17 appropriations of $95,958 from the Warm Springs Dam Revenue. No Additional appropriations are required.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

| **Attachments:** |
| --- |
| McCullough Cost Details |
| **Related Items "On File" with the Clerk of the Board:** |
| |

Dry Creek Mile 2 - Final Costs for Permit Delay per RFI #19

| Equipment | Rate | Unit | Amount | Total | Remarks |
|---|---|---|---|---|---|
| Komatsu PC 400 LC-7 | $13,500 | month | 1 | $ 13,500 | McCullough 2016 Rental Rate |
| Komatsu PC 290 LC-11 | $12,200 | month | 1 | $ 12,200 | McCullough 2016 Rental Rate |
| Komatsu PC 50MR-2 | $1,200 | week | 2 | $ 2,400 | McCullough 2016 Rental Rate |
| John Deere 350D Haul Truck 35T | $12,000 | month | 1 | $ 12,000 | McCullough 2016 Rental Rate |
| John Deere 350D Haul Truck 35T | $12,000 | month | 1 | $ 12,000 | McCullough 2016 Rental Rate |
| Cat D6NXL Dozer | $8,700 | month | 1 | $ 8,700 | McCullough 2016 Rental Rate |
| Superpac 8421 Vibratory Padfoot Compactor | $6,700 | month | 1 | $ 6,700 | McCullough 2016 Rental Rate |
| Cat 420F Backhoe | $3,500 | month | 1 | $ 3,500 | McCullough 2016 Rental Rate |
| 5000 Gallon Water Truck | $6,500 | month | 1 | $ 6,500 | McCullough 2016 Rental Rate |
| 10,500 Gallon water Tower | $6,500 | month | 1 | $ 6,500 | McCullough 2016 Rental Rate |
| 20' Shipping Container | $220 | month | 1 | $ 220 | |
| 14' Equipment Trailer | $705 | month | 1 | $ 705 | |
| 3" Trash Pump | $684 | month | 1 | $ 684 | |
| 3" Trash Pump | $684 | month | 1 | $ 684 | |
| 2" Trash Pump | $625 | month | 1 | $ 625 | |
| 2" Trash Pump | $625 | month | 1 | $ 625 | |
| 4 Wheeler | $500 | month | 1 | $ 500 | |
| 20' Office Trailer | $350 | month | 1 | $ 350 | |
| Portable Toilet/Wash Sink | $125 | month | 1 | $ 125 | |
| 420 LF Temp Fence | $840 | month | 1 | $ 840 | |
| Rental House | $5,100 | month | 1 | $ 5,100 | Includes rental and utilities |
| Sheet Piling Rental | | | | | No payment. This was purschased, not rented. |
| Pipe Rental | | | | | No payment. This was purschased, not rented. |
| High cub End-Dump Trailer | $1,500 | month | 1 | $ 1,500 | |
| | | | | $ 95,958 | |

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 10**
(This Section for use by Clerk of the Board Only.)

**To:** Boards of Directors: Sonoma County Water Agency, Occidental, Russian River, Sonoma Valley, and South Park County Sanitation Districts

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Sonoma County Water Agency, Occidental, Russian River, Sonoma Valley, and South Park County Sanitation Districts

**Staff Name and Phone Number:**
Anjenette Hayre / (707) 521-1830

**Supervisorial District(s):**

**Title:** Inspection and Maintenance for Generators

**Recommended Actions:**

Authorize the Water Agency's General Manager to execute an amended agreement with Peterson Power Systems to provide inspection, maintenance, and emergency services for large generators, increasing the amount by $50,000, enabling Peterson Power Systems to perform necessary engine maintenance, for a new not-to-exceed agreement total of $140,000 and no change to end date of July 31, 2018.

**Executive Summary:**

The Sonoma County Water Agency maintains generators throughout Sonoma County in order to standby power for water and wastewater facilities in the event of a power outage. This item requests authorization for the Sonoma County Water Agency 's General Manager to execute an amended agreement with Peterson Power Systems (Peterson) to provide large generator maintenance. Existing equipment is aging and requires additional maintenance, testing, and replacement of components to continue the level of operations required to operate facilities in a safe, reliable manner.

**Discussion:**

HISTORY OF ITEM/BACKGROUND

Generators located throughout Sonoma County provide the Sonoma County Water Agency (Water Agency) with standby power generation for water and wastewater facilities and office buildings.

The Water Agency and Peterson entered into an agreement for as-needed inspection, maintenance, and emergency services for large generators, dated December 10, 2013, in the amount of $90,000 with an end date of July 31, 2018. Based on inspections, Peterson advised the Water Agency that additional, unforeseeable large engine maintenance is required.

SELECTION PROCESS

In August 2013, the Water Agency and its affiliated sanitation districts sent a Request for Qualifications to the following three firms:

1) Leete Generators, Santa Rosa, California
2) Peterson Power Systems, Rosa, California
3) California Generator Service, Inc., San Leandro, California

The solicitation was also posted on the Water Agency's website.

After review of qualifications, Peterson was selected to provide service for larger units based on familiarity with Water Agency's equipment, as well as its certifications, response time, and expertise.

SERVICES TO BE PERFORMED

Under the proposed amended agreement, Peterson will perform large engine maintenance, which is more significant than initially anticipated. This is part of the continuation of the original scope of work, which encompasses routine inspection, maintenance, and repair services for larger generator units (approximately 10 units, over 500 kilowatts). The routine inspections, maintenance, recommendations, repairs, and emergency services rendered by Peterson ensure emergency power is available to facilities when utility power is lost.

The additional cost for large generator maintenance is $50,000, for a new not-to-exceed agreement total of $140,000. There is no change to end date of July 31, 2018.

RECOMMENDATIONS

Water Agency staff recommends that the Board authorize the Water Agency's General Manager to execute an amended agreement with Peterson to provide inspection, maintenance, and emergency services for large generators, increasing the amount by $50,000, enabling Peterson to perform engine maintenance, for a new not-to-exceed agreement total of $140,000 and no change to end date of July 31, 2018.

**Prior Board Actions:**

12/10/2013: Approved agreement between Water Agency and Peterson for large engine inspection, maintenance, and emergency services. Cost $90,000; term end July 31, 2018.

**Strategic Plan Alignment** Goal 1: Safe, Healthy, and Caring Community

County Goal 3: Invest in the Future. Strive to be fiscally responsible by maintaining standby generator operation at critical facilities. Ensure water will be available to customers during utility power outages.

Water Agency Water Supply Goals and Strategies, Goal 1: Work with Water Contractors to retain and improve the reliability of the water supply production and distribution systems, including during short-term emergencies, such as earthquakes, and during long-term challenges caused by extended droughts and global climate change. These agreements aim to ensure water generators operate safely and reliably to provide power to water production and distribution facilities and waste water facilities located throughout Sonoma County. Annual maintenance of vital electrical equipment helps ensure the production and delivery of clean, safe drinking water to approximately 600,000 people in Sonoma and

Marin counties and that wastewater is processed and treated even during the event of a short-term emergency when utility power is lost.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | 140,000 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **140,000** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | 140,000 | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **140,000** | | |

**Narrative Explanation of Fiscal Impacts:**

Budgeted amount of $170,000 is available from FY 2016/2017 appropriations for the water transmission fund. No additional appropriation is required.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Amended Agreement (one copy)

**Related Items "On File" with the Clerk of the Board:**

# First Amended Agreement for As-Needed Inspection, Maintenance and Emergency Services for Large Generators

This first amended agreement ("First Amended Agreement" or "Agreement") is by and between **Sonoma County Water Agency, Occidental County Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, and South Park County Sanitation District**, (collectively referred to as "Water Agency") and **Peterson Power Systems, Inc.**, a California corporation("Service Provider"). The Effective Date of this Agreement is the date the Agreement is last signed by the parties to the Agreement, unless otherwise specified in Article 7 (Term of Agreement).

## RECITALS

A. Service Provider represents that it is a duly qualified firm with certified engine generator technicians, experienced in generator maintenance and related services.
B. Generators located throughout Sonoma County provide the Water Agency with standby power generation for water and wastewater facilities and office buildings.
C. It is necessary to employ the services of Service Provider to perform major maintenance and repair and troubleshooting of approximately 10 stationery and portable generators larger than 500kW.
D. Sonoma County Water Agency owns and operates Airport/Larkfield/Wikiup Sanitation Zone, Geyserville Sanitation Zone, Penngrove Sanitation Zone, and Sea Ranch Sanitation Zone ("Zones").
E. Sonoma County Water Agency operates the Occidental County Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, and South Park County Sanitation District ("Districts") under contract with the Districts. References to District employees are understood to be Sonoma County Water Agency employees acting on behalf of the Districts.
F. Water Agency and Service Provider first entered into this Agreement on December 10, 2013 ("Original Agreement").
G. In addition to the Original Agreement amount of $90,000, $50,000 is needed to enable Service Provider to perform unforeseen engine maintenance, for a new not-to-exceed total of $140,000.
H. This First Amended Agreement supersedes all previous agreements between the parties.

In consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

## AGREEMENT

### 1. RECITALS

1.1. The above recitals are true and correct.

## 2. LIST OF EXHIBITS

2.1. The following exhibits are attached hereto and incorporated herein:

a. Exhibit A: Scope of Work
b. Exhibit B: Agreement Memorandum
c. Exhibit C: Schedule of Costs
d. Exhibit D: Insurance Requirements

## 3. WATER AGENCY'S REQUEST FOR SERVICES

3.1. *Initiation Conference:* The Water Agency's Agreement Administrator, Anjenette Hayre, will initiate all requests for services through an Initiation Conference, which may be in person, by telephone, or by email. During the Initiation Conference, the Project Manager and Service Provider will establish and agree on the project information shown in Exhibit B.

3.2. *Agreement Memorandum:* Water Agency will prepare an Agreement Memorandum setting forth the terms for the subject project as established during the Initiation Conference. The Agreement Memorandum will be in the form as set forth in Exhibit B and will be executed by both parties prior to commencement of work.

3.3. *Amount of Work:* Water Agency does not guarantee a minimum or maximum amount of work.

## 4. SCOPE OF SERVICES

4.1. *Service Provider's Specified Services:* Service Provider shall perform the services listed in Exhibit A or as requested in the Agreement Memorandum, within the times or by the dates provided in the Agreement Memorandum and pursuant to Article 11 Prosecution of Work. Service Provider shall provide all necessary manpower and equipment required to carry out the requested services in a professional and expeditious manner.

4.2. *Contact Information:*

| Water Agency | Service Provider |
|---|---|
| Agreement Administrator:<br>Anjenette Hayre | Brian Williams |
| 404 Aviation Boulevard | 3710 Regional Parkway |
| Santa Rosa, CA 95403-9019 | Santa Rosa, CA 95403 |
| Phone: 707-521-1830 | Phone: 866-796-5610 |
| Email:<br>Anjenette.Hayre@scwa.ca.gov | bwilliams@petersonpower.com |
| **Remit invoices to:**<br>Susan Bookmyer<br>Same address as above or<br>email susan.bookmyer@scwa.ca.gov | **Remit payments to:**<br>Same address as above<br>Attn: Accounts Receivable |

4.3. *Cooperation with Water Agency:* Service Provider shall coordinate the work with the Project Manager named in the Agreement Memorandum.

4.4. *Performance Standard and Standard of Care:* Service Provider hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with the requirements of applicable federal, state and local laws, it being understood that acceptance of Service Provider's work by Water Agency shall not operate as a waiver or release. Water Agency has relied upon the professional ability and training of Service Provider as a material inducement to enter into this Agreement. Service Provider hereby agrees that its work will be performed and its operations conducted in accordance with the standards of a reasonable professional having specialized knowledge and expertise in the services provided under this Agreement. If Water Agency determines that any of Service Provider's work is not in accordance with such level of competency and standard of care, Water Agency, in its sole discretion, shall have the right to do any or all of the following: (a) require Service Provider to meet with Water Agency to review the quality of the work and resolve matters of concern; (b) require Service Provider to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 8 (Termination); or (d) pursue any and all other remedies at law or in equity.

4.5. *Assigned Personnel:*

a. Service Provider shall assign only competent personnel to perform work hereunder. In the event that at any time Water Agency, in its sole discretion, desires the removal of any person or persons assigned by Service Provider to perform work hereunder, Service Provider shall remove such person or persons immediately upon receiving written notice from Water Agency.

b. Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by Water Agency to be key personnel whose services were a material inducement to Water Agency to enter into this Agreement,

and without whose services Water Agency would not have entered into this Agreement. Service Provider shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of Water Agency.

c. Key personnel shall be as listed in the applicable Agreement Memorandum.

d. In the event that any of Service Provider's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness, or other factors outside of Service Provider's control, Service Provider shall be responsible for timely provision of adequately qualified replacements.

## 5. SAFETY

5.1. *Site Safety Officer.* Prior to commencement of work, Service Provider shall designate a Site Safety Officer (SSO) and alternate SSO for this work and shall provide the names, telephone and/or cellular/pager numbers of both SSOs to Project Manager. Both SSOs shall be employees of Service Provider.

5.2. *Safety Orders.* All work shall be performed in accordance with the California Code of Regulations (CCR) Title 8, Division 1, Chapter 4 - Industrial Safety Orders and all other applicable laws to ensure the safety of the public and those performing the work.

5.3. *Safety Plan and Program.*

a. *Scope:* Service Provider shall furnish a copy of an Injury and Illness Prevention Program (IIPP), a Site-Specific Safety and Health Plan (SSHP), for this work. Service Provider shall also provide copies of applicable Material Safety Data Sheets and information regarding the SSO as described below. All plans, programs, and other information described herein shall be furnished to Water Agency's Project Manager prior to commencement of work.

b. *Injury and Illness Prevention Program:* Service Provider's IIPP shall conform with the General Industrial Safety Orders (CCR Title 8, Division 1, Chapter 4, Subchapter 7, Section 3203), and the California Labor Code (Section 6401.7).

c. *Site-Specific Safety and Health Plan and Monitoring:* The SSHP shall describe health and safety procedures to be implemented during all phases of work in order to ensure safety of the public and those performing the work. The SSHP shall be modeled after the guidelines for a SSHP listed in CCR Title 8, Division 1, Chapter 4, Subchapter 7, Section 5192, Item (b)(4).

## 6. PAYMENT

6.1. *Total Costs*: Total costs under this agreement shall not exceed $140,000.

6.2. *Method of P*ayment: Service Provider shall be paid in accordance with the following terms:

a. Service Provider shall be paid on a time and material/expense basis in accordance with the rates set forth in Exhibit C.

6.3. *Invoices:* Service Provider shall submit its bills in arrears on a monthly basis, based on work completed for the period, in a form approved by Water Agency's Project Manager. The bills shall show or include:

a. Service Provider name
b. Name of Agreement
c. Water Agency's Project-Activity Code(s) as listed in the applicable Agreement Memorandum.
d. Task performed with an itemized description of services rendered by date
e. Time in quarter hours devoted to the task
f. Hourly rate or rates of the persons performing the task
g. Summary of work performed by subconsultants, as described in Paragraph 16.4
h. List of reimbursable materials and expenses
i. Copies of receipts for reimbursable materials and expenses

6.4. *Funding:*

a. Funding for this Agreement is as follows:

| Current Fiscal Year | Budgeted Appropriation |
|---|---|
| 2013/2014 | $30,000 |
| | |
| Subsequent Fiscal Years | Planned Appropriation |
| 2014/2015 | $30,000 |
| 2015/2016 | $30,000 |
| 2016/2017 | $50,000 |

b. Availability of Funding in Subsequent Fiscal Years:

i. Water Agency's performance under this Agreement in subsequent years is contingent upon appropriation of funds by Water Agency's Board of Directors. Water Agency shall have no liability under this Agreement if sufficient funds are not appropriated in subsequent fiscal years by Water Agency's Board of Directors for the purpose of this Agreement.

ii. If funding for this Agreement for any fiscal year is reduced or eliminated by Water Agency's Board of Directors, Water Agency shall have the option to either terminate this Agreement in accordance with Article 8 (Termination) or offer an amendment to Service Provider to reflect the reduced amount.

## 7. TERM OF AGREEMENT

7.1. This Agreement shall remain in effect until depletion of the not-to-exceed amount listed in paragraph 6.1, or until July 31, 2018, whichever occurs first, unless terminated earlier in accordance with the provisions of Article 8 (Termination).

## 8. TERMINATION

8.1. *Termination Without Cause:* Notwithstanding any other provision of this Agreement, at any time and without cause, Water Agency shall have the right, in its sole discretion, to terminate this Agreement by giving 5 days written notice to Service Provider.

8.2. *Termination for Cause:* Notwithstanding any other provision of this Agreement, should Service Provider fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, Water Agency may immediately terminate this Agreement by giving Service Provider written notice of such termination, stating the reason for termination.

8.3. *Delivery of Work Product and Final Payment Upon Termination:* In the event of termination, Service Provider, within 14 days following the date of termination, shall deliver to Water Agency all materials and work product subject to Paragraph 13.8 and shall submit to Water Agency an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

8.4. *Payment Upon Termination:* Upon termination of this Agreement by Water Agency, Service Provider shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Service Provider bear to the total services otherwise required to be performed for such total payment; provided, however, that if services are to be paid on a per-hour or per-day basis, then Service Provider shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to termination times the applicable hourly or daily rate; and further provided, however, that if Water Agency terminates the Agreement for cause pursuant to Paragraph 8.2, Water Agency shall deduct from such amounts the amount of damage, if any, sustained by Water Agency by virtue of the breach of the Agreement by Service Provider.

8.5. *Authority to Terminate:* Water Agency’s right to terminate may be exercised by Water Agency's General Manager.

## 9. INDEMNIFICATION

9.1. Service Provider agrees to accept all responsibility for loss or damage to any person or entity, including Water Agency and Occidental County Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, and South Park County Sanitation District, and to indemnify, hold harmless, and release Water Agency and Districts, their officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Service Provider, that arise out of, pertain to, or relate to Service Provider's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Service Provider agrees to provide a complete defense for any claim or action brought against Water Agency or Districts based upon a claim relating to Service Provider's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Service Provider's obligations under this Article 9 apply whether or not there is concurrent negligence on the part of Water Agency or Districts, but, to the extent required by law, excluding liability due to conduct of Water Agency or Districts. Water Agency and Districts shall have the right to select their legal counsel at Service Provider's expense, subject to Service Provider's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Service Provider or its agents, employees, contractors, subcontractors, or invitees under workers' compensation acts, disability benefits acts, or other employee benefit acts.

## 10. INSURANCE

10.1. With respect to performance of work under this Agreement, Service Provider shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit D.

## 11. PROSECUTION OF WORK

11.1. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for Service Provider's performance of this Agreement shall be extended by a number of days equal to the number of days Service Provider has been delayed.

11.2. When work is requested of Service Provider by Water Agency, all due diligence shall be exercised and the work accomplished without undue delay, within the performance time specified in the Agreement Memorandum(s).

## 12. EXTRA OR CHANGED WORK

12.1. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Minor changes, which do not increase the amount paid under the Agreement, and which do not significantly change the scope of work or significantly lengthen time schedules may be executed by the Water Agency's General Manager in a form approved by County Counsel. The parties expressly recognize that Water Agency personnel are without authorization to order all other extra or changed work or waive Agreement requirements. Failure of Service Provider to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Service Provider shall be entitled to no compensation whatsoever for the performance of such work. Service Provider further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of Water Agency.

## 13. REPRESENTATIONS OF SERVICE PROVIDER

13.1. *Status of Service Provider:* The parties intend that Service Provider, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Service Provider is not to be considered an agent or employee of Water Agency and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits Water Agency provides its employees. In the event Water Agency exercises its right to terminate this Agreement pursuant to Article 8 (Termination), Service Provider expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

13.2. *Taxes:* Service Provider agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Service Provider agrees to indemnify and hold Water Agency harmless from any liability which it may incur to the United States or to the State of California or to any other public entity as a consequence of Service Provider's failure to pay, when due, all such taxes and obligations. In case Water Agency is audited for compliance regarding any withholding or other applicable taxes, Service Provider agrees to furnish Water Agency with proof of payment of taxes on these earnings.

13.3. *Records Maintenance:* Service Provider shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to Water Agency for inspection at any

reasonable time. Service Provider shall maintain such records for a period of four (4) years following completion of work hereunder.

13.4. *Conflict of Interest:* Service Provider covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Service Provider further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if required by law or requested to do so by Water Agency, Service Provider shall submit a completed Fair Political Practices Commission Statement of Economic Interests (Form 700) with Water Agency within 30 calendar days after the Effective Date of this Agreement and each year thereafter during the term of this Agreement, or as required by state law.

13.5. *Statutory Compliance/Living Wage Ordinance*. Service Provider agrees to comply, and to ensure compliance by its subconsultants or subcontractors, with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Service Provider expressly acknowledges and agrees that this Agreement is subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

13.6. *Nondiscrimination:* Service Provider shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

13.7. *Assignment of Rights:* Service Provider assigns to Water Agency all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Service Provider in connection with this Agreement. Service Provider agrees to take such actions as are necessary to protect the rights assigned to Water Agency in this Agreement, and to refrain from taking any action which would impair those rights. Service Provider's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as Water Agency may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written

permission of Water Agency. Service Provider shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of Water Agency.

13.8. *Ownership and Disclosure of Work Product:* All reports, original drawings, graphics, plans, studies, and other data or documents ("documents"), in whatever form or format, assembled or prepared by Service Provider or Service Provider's subcontractors, consultants, and other agents in connection with this Agreement shall be the property of Water Agency. Water Agency shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Service Provider shall promptly deliver to Water Agency all such documents, which have not already been provided to Water Agency in such form or format as Water Agency deems appropriate. Such documents shall be and will remain the property of Water Agency without restriction or limitation. Service Provider may retain copies of the above described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of Water Agency.

13.9. *District Liability:* Districts are separate legal entities from Sonoma County Water Agency, operated under contract by Sonoma County Water Agency. To the extent any work under this Agreement relates to District activities, Service Provider shall be paid exclusively from District funds. Service Provider agrees that it shall make no claim for compensation for Service Provider's services against Sonoma County Water Agency funds and expressly waives any right to be compensated from other funds available to Sonoma County Water Agency.

13.10. *Zone Liability*: Work under this Agreement may be performed on behalf of the residents of Sonoma County Water Agency's Sanitation Zones. To the extent any work under this Agreement relates to Zone activities, Service Provider shall be paid exclusively from Zone funds. Service Provider agrees that Service Provider shall make no claim for compensation for Service Provider's services against other funds available to Sonoma County Water Agency and Service Provider expressly waives any right to be compensated from other funds available to Sonoma County Water Agency. In addition, Service Provider acknowledges that West's Annotated California Codes Water Code Appendix Chapter 53-8 provides that certain judgments or claims against Sonoma County Water Agency based on causes of action arising from Zone activities may be made only from funds of that Zone.

## 14. PREVAILING WAGES

14.1. *General:* Service Provider shall pay to any worker on the job for whom prevailing wages have been established, in an amount equal to or more than the general prevailing rate of per diem wages for (1) work of a similar character

in the locality in which the work is performed and (2) legal holiday and overtime work in said locality. The per diem wages shall be an amount equal to or more than the stipulated rates contained in a schedule that has been ascertained and determined by the Director of the State Department of Industrial Relations and Water Agency to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this Agreement. Service Provider shall also cause a copy of this determination of the prevailing rate of per diem wages to be posted at each site work is being performed, in addition to all other job site notices prescribed by regulation. Copies of the prevailing wage rate of per diem wages are on file at Water Agency and will be made available to any person upon request.

14.2. *Compliance Monitoring and Registration:* This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Consultant shall furnish and shall require all subcontractors to furnish the records specified in Labor Code section 1776 (e.g. electronic certified payroll records) directly to the Labor Commissioner in a format prescribed by the Labor Commissioner at least monthly (Labor Code section 1771.4(a)(3)). Consultant and all subcontractors performing work that requires payment of prevailing wages shall be registered and qualified to perform public work pursuant to Labor Code section 1725.5 as a condition to engage in the performance of any services under this Agreement.

14.3. *Subcontracts:* Service Provider shall insert in every subcontract or other arrangement which Service Provider may make for performance of such work or labor on work provided for in the Agreement, provision that Subcontractor shall pay persons performing labor or rendering service under subcontract or other arrangement not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed in the Labor Code. Pursuant to Labor Code Section 1775(b)(1), Service Provider shall provide to each Subcontractor a copy of Sections 1771, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code.

14.4. *Compliance with Law:* Service Provider stipulates that it shall comply with all applicable wage and hour laws, including without limitation Labor Code Sections 1725.5, 1776, 1777.5, 1813, and 1815 and California Code of Regulations, Title 8, Section 16000, et seq.

## 15. DEMAND FOR ASSURANCE

15.1. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially

reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance. Nothing in this Article 15 limits Water Agency's right to terminate this Agreement pursuant to Article 8 (Termination).

## 16. ASSIGNMENT AND DELEGATION

16.1. *Consent:* Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

16.2. *Subcontracts:* Notwithstanding the foregoing, Service Provider may enter into subcontracts with the subconsultants specifically identified herein. If no subconsultants are listed, then no subconsultants will be utilized in the performance of the work specified in this Agreement.

16.3. *Change of Subcontractors or Subconsultants:* If, after execution of the Agreement, parties agree that subconsultants not listed in Paragraph 16.2 will be utilized, Service Provider may enter into subcontracts with subconsultants to perform other specific duties pursuant to the provisions of this Paragraph 16.3. The following provisions apply to any subcontract entered into by Service Provider other than those listed in Paragraph 16.2 above:

a. Prior to entering into any contract with subconsultant, Service Provider shall obtain Water Agency approval of subconsultant. Water Agency's Board of Directors must approve the selection of any subconsultant if the amount payable to subconsultant under the agreement exceeds $25,000. In connection with such approval, Service Provider shall provide Water Agency with copies of the responses to Service Provider's Request for Proposals (RFP) to subconsultants, the names of key personnel who will be performing work under the agreement, and an explanation of Service Provider's reasons for choosing the recommended subconsultant based upon the criteria in the RFP.

b. All agreements with subconsultants shall (a) contain indemnity requirements in favor of Water Agency in substantially the same form as that contained in Article 9, (b) contain language that the subconsultant may be terminated with or without cause upon reasonable written notice, and (c) prohibit the assignment or delegation of work under the agreement to any third party.

16.4. *Summary of Subconsultants' Work:* No less than quarterly, Service Provider shall provide Water Agency with a summary of all work performed by all subconsultants during the preceding three months. Such summary shall identify the individuals performing work on behalf of subconsultants and the total amount paid to subconsultant, broken down by the tasks listed in the Scope of Work.

## 17. METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS, AND MAKING PAYMENTS

17.1. *Method of Delivery:* All notices, bills, and payments shall be made in writing and shall be given by personal delivery or by U.S. Mail or courier service. Notices, bills, and payments shall be addressed as specified in Paragraph 4.2.

17.2. *Receipt:* When a notice, bill, or payment is given by a generally recognized overnight courier service, the notice, bill, or payment shall be deemed received on the next business day. When a copy of a notice, bill, or payment is sent by electronic means, the notice, bill, or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill, or payment is deposited in the U.S. mail and postmarked on the date of the electronic transmission (for a payment, on or before the due date), (2) the sender has a written confirmation of the electronic transmission, and (3) the electronic transmission is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills, and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this Article 17.

## 18. MISCELLANEOUS PROVISIONS

18.1. *No Bottled Water:* In accordance with Water Agency Board of Directors Resolution No. 09-0920, dated September 29, 2009, no Water Agency funding shall be used to purchase single-serving, disposable water bottles for use in Water Agency facilities or at Water Agency-sponsored events. This restriction shall not apply when potable water is not available.

18.2. *No Waiver of Breach:* The waiver by Water Agency of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.

18.3. *Construction:* To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Service Provider and Water Agency

acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Service Provider and Water Agency acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

18.4. *Consent:* Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

18.5. *No Third-Party Beneficiaries:* Except as provided in Article 9 (Indemnification), nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

18.6. *Applicable Law and Forum:* This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or in the forum nearest to the city of Santa Rosa, in the County of Sonoma.

18.7. *Captions:* The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

18.8. *Merger:* This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

18.9. *Survival of Terms:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

18.10. *Time of Essence:* Time is and shall be of the essence of this Agreement and every provision hereof.

/
/
/
/
/
/

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date last signed by the parties to the Agreement.

TW 13/14-056A

Reviewed as to funds:

By: _____
Water Agency Division Manager - Administrative Services

Approved as to form:

By: _____
[Name], Deputy County Counsel

Insurance Documentation is on file with Water Agency

Date/TW Initials: 10/11/16 JC

**Sonoma County Water Agency, Occidental County Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, and South Park County Sanitation District**

By: _____
Grant Davis
Water Agency General Manager
Authorized per Boards of Directors Action on _____[date]

Date: _____

**Peterson Power Systems, Inc.**, a California corporation

By: _____

_____
(Please print name here)

Title: _____

Date: _____

# Exhibit A

**Scope of Work- Generator Systems**

## 1. REQUESTED SERVICES:

| Requested services may include, but are not limited to the following: | |
|---|---|
| Belts, hoses, and plumbing connections: Inspect for worn, broken or loose, and adjust | |
| Cooling System: Check and maintain engine oil and coolant levels. Check concentration of coolant conditioner. | |
| Cooling System: Check for proper mixture of Antifreeze | |
| Cooling System: Check all; replace as required: Belts, flexible hoses and clamps, coolant, radiator cap | |
| Extended life coolants will be upgraded after the first 3 years and replaced after 6 years. Test prior to determine what's needed | |
| Jacket Water Heater: Check and record blockage; check thermostat operation | |
| Add Block heater isolation ball valves if needed | |
| Engine Crankcase: Change Oil and Filters (take sample for analysis) | |
| Governor: check for proper operation | |
| Fuel System: Inspect for leaks and unusual noises. From day tank supply lines to the engine and from the aboveground fuel tank to the day tank. | |
| Fuel System: Change Fuel Filters | |
| Day Tank: Inspect for float and pump operation, record fuel level and alarm settings. Calibrate floats per manufacturer's recommendations | |
| Batteries: Maintain electrolyte level and check connections for tightness and voltage | |
| Battery Charger: Inspect for proper operation (adjust if necessary). Record battery charger voltage | |
| Gauges: Inspect the condition of gauges, control panel and alarm lights | |
| Start Engine: Run the engine approx. 15-min (up to operating temperature). Record output voltage, frequency, amperage, temperatures and pressures. | |
| Generator: Torque loose bolts and check vibration isolators | |
| Oil Pressure: Inspect for proper oil pressure and record readings | |
| Fuel Pressure: Inspect for proper fuel pressure and record readings | |
| Fuel Pressure gauges: Calibrate gauges | |
| Generator Site: Inspect and record leaks (oil, coolant, fuel, air, exhaust) in and around generator appurtenances. | |
| Enclosures: Inspect for leaks, corrosion, and damage; inspect louvers, air filters and screens for blockages | |
| Perform a temperature scan using thermal imaging on all contactors, power connections, fuses and associated controls. Report all abnormal readings | |

| | |
|---|---|
| Perform a complete visual inspection of the equipment including subassemblies, wiring harnesses, contactors, cables and major components. Report abnormal readings/sounds | |
| Advise when fuel tank is below 3/4 full | |
| Dispose of solvents, chemicals and materials reclaimed during the service in compliance with EPA standards off site | |
| Use only manufacturer-approved parts and fluids for all maintenance or repair | |

## 2. DELIVERABLES:

2.1. Service Report/Review: Submit one hard copy and one searchable PDF electronic copy of the reports

a. Submit checklist of the readings and notes on the condition of units for all tasks performed to Water Agency Project Manager (as designated by the agreement memorandum).

b. Report **in writing,** any changed conditions.

c. Advise Water Agency of potential problems, malfunctions, or discrepancies which will require further attention. Make recommendations as needed and provide quote for any additional work.

## 3. PROCEDURE:

3.1. Additional deliverables may be specified in the Agreement Memoranda.

3.2. The Water Agency will assist in isolating the generator(s) for maintenance as requested by Service Provider. Service Provider shall provide 48 hours' notice prior to beginning work.

3.3. Use only manufacturer-approved parts and fluids for maintenance or repairs. Dispose of chemicals, solvents, fluids, and other materials reclaimed during service in compliance with EPA standards

## 4. EMERGENCY REPAIRS OR SERVICES

4.1. Provide 24-hour-per-day, 365-day-per-year, and emergency service and repair of Water Agency's large generators at no additional cost beyond the rates shown in Exhibit C. Response time for emergencies shall meet the following criteria:

a. Emergencies involving only the Water Agency facilities shall receive on-site response within approximately 30 minutes of Water Agency notification.

# Exhibit B

## Agreement Memorandum

Service Provider shall perform the services as outlined in Exhibit A of the Agreement and as modified below, if applicable, within the times or by the dates provided for herein:

A. Date of Initiation Conference: _____

B. Project Manager Name: _____

C. Project Manager Phone: _____

D. Project Manager E-mail: _____

E. Project Name: _____

F. Project Location/AP Number: _____

G. Project-Activity Code: _____

H. Schedule for receipt of deliverables: _____

I. Not-to-exceed amount for this Agreement Memorandum: _____

J. List of key personnel or authorized subcontractors, if applicable: _____

K. Modifications to Article 4 (Scope of Services) or additional requirements (or attach additional sheet): _____

L. Deliverables: Submit one hard copy and one searchable PDF electronic copy of the one electronic copy in PDF format (emailed or on CD) and three hard copies of each final deliverable to Water Agency.

**Peterson Power Systems, Inc.**

By: _____

Title: _____

Date: _____

☐ Sonoma County Water Agency
☐ _____County Sanitation District

Reviewed by Project Manager:

_____
Name
By:_____
Anjenette Hayre, Agreement Administrator

C: SCWA Accounting and Records, Joan Hultberg, Jake Spaulding

Date: _____

# Exhibit C

## Schedule of Costs

PETERSON POWER SYSTEMS

CAT

**Power Service Charge Out Rates**
**Store – 27MS**
**Effective 01/01/2013**

| Labor Codes Description | S/T | O/T | D/T |
|---|---|---|---|
| SHP | $110.00 | $165.00 | $220.00 |
| FLD | $120.00 | $180.00 | $240.00 |
| TVL | $105.00 | $157.50 | $210.00 |

- Service Truck Mileage Income: $2.50 PER MILE
- Approved Warranty Labor Rate $ To be determined PER HOUR
- No emergency call out fees all calls will be handled on a hourly basis.

# STANDBY GENERATOR MAINTENANCE
## BASIC PRICING 2013

| KW | ANN. SVC. | * LOAD TEST | INSPECT | PM-3 | MEGGAR |
|---|---|---|---|---|---|
| 1-50 | $885.00 | $725.00 | $385.00 | $1,275.00 | $165.00 |
| 51-100 | $1,025.00 | $725.00 | $385.00 | $1,765.00 | $165.00 |
| 101-200 | $1,150.00 | $780.00 | $385.00 | $1,825.00 | $165.00 |
| 201-400 | $1,300.00 | $1,005.00 | $495.00 | $2,430.00 | $245.00 |
| 401-600 | $1,665.00 | $1,215.00 | $495.00 | $2,630.00 | $245.00 |
| 601-800 | $1,820.00 | $1,700.00 | $495.00 | $2,990.00 | $365.00 |
| 601-800 KW 3508 CAT | $2,295.00 | $1,700.00 | $495.00 | $3,135.00 | $365.00 |
| 801-1000 | $2,725.00 | $2,125.00 | $550.00 | $3,555.00 | $365.00 |
| 1001-1300 | $3,035.00 | $2,575.00 | $550.00 | $3,790.00 | $425.00 |
| 1301-1500 | $3,185.00 | $2,750.00 | $575.00 | $4,015.00 | $425.00 |
| 1501-2000 | $3,505.00 | $2,980.00 | $575.00 | $4,185.00 | $485.00 |

1) **PRICING BASED ON THE FOLLOWING:**
   A) 120-480 VOLT AC
   B) NORMAL WORKING HOURS. (MON. – FRI. 7:00AM – 4:00PM)
   C) PARKING SERVICE TRUCK AND LOAD BANK (WHEN NEEDED) BY UNIT. WITHIN 50 FT. MAX.
   D) REQUIRES ONE TECHNICIAN. (TWO MEN ON 1001 KW AND ABOVE)
   E) WITHIN 60 MILE ROUND TRIP.

2) **INCLUDED ARE THE FOLLOWING:**
   A) ANNUAL SERVICES. (PER PETERSON ANNUAL P.M. SERVICE CHECKLIST)
   B) *** Optional*** LOAD TESTING. (TWO HOURS RESISTIVE LOAD BANKS)
   C) INSPECTIONS. ** SAME AS "A", **LESS LINE #3, ITEMS VI. THROUGH XII**

3) **ADDITIONAL CHARGES FOR THE FOLLOWING:**
   A) AFTER HOURS, WEEKENDS AND HOLIDAYS
   B) UNITS ON ROOF TOPS, BASEMENTS, ETC.
   C) ADDITIONAL TECHNICIANS
   D) BUILDING TRANSFERS
   E) TRANSFER SWITCH INSPECTION (Visual)Same as Item "A"
   F) Medium and High Voltage Load testing

4) **PM-3 Services**
   A) INCLUDES REPLACEMENT OF FAN AND ALTERNATOR DRIVE BELTS
   B) INCLUDES REPLACEMENT OF ENGINE COOLING SYSTEM HOSES
   C) BLOCK HEATER HOSES TO BE REPLACED WITH HIGH TEMP SILICON HOSE
   D) INCLUDES REPLACEMENT OF STANDARD ETHEYLENE GLYCOL COOLANT.
   E) EXTENDED LIFE COOLANT WILL BE REUSED OR REPLACED BASED ON MANUFACTURERS RECOMMENDATIONS

# PETERSON POWER RENTAL RATES

*GENERATOR RENTAL RATES*

| Kilowatts | Three Day Rate 0-24 Hours | Weekly Rate 0-40 Hours | Monthly Rate 0-180 Hours |
|---|---|---|---|
| 20 | 265 | 480 | 1200 |
| 25 | 270 | 500 | 1250 |
| 30 | 300 | 550 | 1350 |
| 50 | 330 | 600 | 1400 |
| 60 | 360 | 650 | 1570 |
| 80 | 410 | 750 | 1730 |
| 100 | 460 | 810 | 1950 |
| 150 | 550 | 920 | 2380 |
| 175 | 610 | 1080 | 2800 |
| 200 | 660 | 1200 | 3030 |
| 250 | 810 | 1460 | 3680 |
| 300 | 900 | 1600 | 4220 |
| 350 | 1080 | 1950 | 4860 |
| 400 | 1250 | 2250 | 5600 |
| 500 | 1500 | 2650 | 6500 |
| 600 | 1850 | 3200 | 7500 |
| 750 | 2300 | 4100 | 9600 |
| 800 | 2400 | 4280 | 10700 |
| 1000 | 3090 | 5580 | 14000 |
| 1250 | 3570 | 6440 | 16100 |
| 1500 | 4060 | 7300 | 18300 |
| 1750 | 4320 | 8000 | 20000 |
| 2000 | 5400 | 8640 | 23000 |
| 5200 | *Turbines* | *Call for quote* | 8/1/2005 |

| *Cable* | | | | *NET* |
|---|---|---|---|---|
| Size | Three Day Rate | Weekly Rate | Monthly Rate | Free air ampacity |
| 444 mcm | $0.60/FT | $0.60/FT | $1.40/FT | 600 Amp |
| 4/0 Cable | $0.60/FT | $0.60/FT | $1.40/FT | 400 Amp |
| #2/4 Cable | $0.60/FT | $0.60/FT | $1.20/FT | 80 Amp |
| MV Cable | $1.75/FT | $1.75/FT | $3.50/FT | 400 Amp |

* Note: All cables are provided in 25 ft., 50 ft., and 100 ft. lengths.

| *Resistive load banks* | | | *LIST* |
|---|---|---|---|
| Size | Three Day Rate | Weekly Rate | Monthly Rate |
| 250 kW | $400 | $1,200 | $3,100 |
| 400 kW | $600 | $1,400 | $3,700 |
| 600 kW | $800 | $1,900 | $4,800 |
| 1000 kW | $1,000 | $2,500 | $7,000 |
| 1500 kW | $1,500 | $3,500 | $10,000 |
| 2000 kW | $2,000 | $4,500 | $13,000 |
| 2500 kW | $2,500 | $5,500 | $16,000 |
| 3000kW | $3,000 | $6,500 | $19,000 |

| *Reactive load banks* | | | *LIST* |
|---|---|---|---|
| Size | Three Day Rate | Weekly Rate | Monthly Rate |
| 1000 kVA | $1,500 | $3,500 | $10,000 |
| 1500 kVA | $2,000 | $4,500 | $13,000 |
| 2000 kVA | $2,500 | $5,500 | $16,000 |
| 2500 kVA | $3,000 | $6,500 | $19,000 |
| 3000 kVA | $3,500 | $7,500 | $21,000 |

| *Transformers* | | | | | | *LIST* |
|---|---|---|---|---|---|---|
| Size | Three Day Rate | Weekly Rate | Monthly Rate | Primary Voltage | Secondary Voltage | Cooling Medium |
| 500kVA | $250 | $250 | $600 | 277/480 | 120/208 | Air |
| 1000kVA | $500 | $500 | $1,250 | 277/480 | 120/208 | Oil |
| 1500kVA | $750 | $750 | $1,750 | 277/480 | 2400/4160 | Oil |
| 2500kVA | $1,250 | $1,250 | $3,000 | 277/480 | 4160-14400 | Oil |

| *ATS'* | | *NET* |
|---|---|---|
| Size | Weekly Rate | Monthly Rate |
| 300 Amp | $250 | $500 |
| 400 Amp | $300 | $600 |
| 600 Amp | $400 | $800 |
| 800 Amp | $500 | $1,000 |
| 1200 Amp | $600 | $1,200 |
| 3000 Amp | $2,000 | $4,000 |

| *Cable Ramp* | *LIST* |
|---|---|
| Weekly Rate | Monthly Rate |
| $35.00 | $90.00 |

| *Strip chart recorder* | | *NET* |
|---|---|---|
| Three Day Rate | Weekly Rate | Monthly Rate |
| $600 | $800 | $2,400 |

| *Fuel tanks* | | | *NET* |
|---|---|---|---|
| Size | Three Day Rate | Weekly Rate | Monthly Rate |
| 500 US gal | $200 | $250 | $600 |
| 1000 US gal | $300 | $300 | $1,000 |

# Exhibit D

## Insurance Requirements

With respect to performance of work under this Agreement, Service Provider shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

Water Agency reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Service Provider from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

## 1. INSURANCE

### 1.1. Workers Compensation and Employers Liability Insurance

a. Required if Service Provider has employees.

b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.

c. Employers Liability with minimum limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.

d. Required Evidence of Insurance: Certificate of Insurance

e. If Service Provider currently has no employees, Service Provider agrees to obtain the above-specified Workers Compensation and Employers' Liability insurance should any employees be engaged during the term of this Agreement or any extensions of the term.

### 1.2. General Liability Insurance

a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office form CG 00 01.

b. Minimum Limits: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Umbrella Liability Insurance. If Service Provider maintains higher limits than the specified minimum limits, Water Agency requires and shall be entitled to coverage for the higher limits maintained by Service Provider.

c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by Water Agency. Service Provider is responsible for any deductible or self-insured retention and shall fund it

upon Water Agency's written request, regardless of whether Service Provider has a claim against the insurance or is named as a party in any action involving the Water Agency.

d. Sonoma County Water Agency, Occidental County Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, and South Park County Sanitation District, their officers, agents, and employees, shall be additional insured(s) for liability arising out of operations by or on behalf of the Service Provider in the performance of this Agreement.

e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.

f. The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in Insurance Services Office form CG 00 01, or equivalent).

g. The policy shall cover inter-insured suits between the additional insureds and Service Provider and include a "separation of insureds" or "severability" clause which treats each insured separately.

h. Required Evidence of Insurance:

   i. Copy of the additional insured endorsement or policy language granting additional insured status, and

   ii. Certificate of Insurance.

1.3. **Automobile Liability Insurance**

a. Minimum Limits: $1,000,000 combined single limit per accident.

b. Insurance shall apply to all owned autos. If Service Provider currently owns no autos, Service Provider agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.

c. Insurance shall apply to hired and non-owned autos.

d. Required Evidence of Insurance: Certificate of Insurance.

1.4. **Standards for Insurance Companies**

a. Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

1.5. **Documentation**

a. The Certificate of Insurance must include the following reference: TW 13/14-056.

b. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Service Provider agrees to maintain current Evidence of Insurance on file with Water Agency for the entire term of this Agreement

and any additional periods if specified in Sections 1.1, 1.2, 1.3, 1.4 or 1.5 above.

c. The name and address for mailing Additional Insured endorsements and Certificates of Insurance is: Sonoma County Water Agency, Occidental County Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, and South Park County Sanitation District, their officers, agents, and employees, c/o Sonoma County Water Agency, 404 Aviation Boulevard, Santa Rosa, CA 95403-9019

d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

e. Service Provider shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.

f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

1.6. **Policy Obligations**

a. Service Provider's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

1.7. **Material Breach**

a. If Service Provider fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. Water Agency, at its sole option, may terminate this Agreement and obtain damages from Service Provider resulting from said breach. Alternatively, Water Agency may purchase the required insurance, and without further notice to Service Provider, Water Agency may deduct from sums due to Service Provider any premium costs advanced by Water Agency for such insurance. These remedies shall be in addition to any other remedies available to Water Agency

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 11**
(This Section for use by Clerk of the Board Only.)

**To:** Boards of Directors, Sonoma County Water Agency, Occidental Sanitation District, Russian River Sanitation District; and County Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Sonoma County Water Agency
Department of Transportation and Public Works

**Staff Name and Phone Number:**

Carrie Pollard, 547-1968
Susan Klassen, 565-2440

**Supervisorial District(s):**

All

**Title:** Northern Sonoma County Water Conservation Program

**Recommended Actions:**

A) Authorize the Water Agency's General Manager to execute a Proposition 84 Sub-Grantee Agreement with County of Humboldt for the Northern Sonoma County Water Conservation Program ($475,031; agreement terminates 8/31/2020).

B) Authorize the Water Agency's General Manager to execute agreements with cities of Santa Rosa ($116,250), Cotati ($30,000), Rohnert Park ($60,000), Healdsburg ($51,938), and Cloverdale ($51,938); County of Sonoma Department of Transportation and Public Works ($22,734); Town of Windsor ($46,875); and Sweetwater Springs Sanitation District ($3,750); agreements terminate 8/31/2020.

C) Authorize the Director of the Department of Transportation and Public Works to execute an agreement with the Water Agency to receive grant funds ($22,734) in coordination with County Counsel.

**Executive Summary:**

The purpose of the Northern Sonoma County Water Conservation Program (Program) is to reduce demands, increase local resiliency, and expand water conservation programs for water utilities in northern Sonoma County that are affected by drought conditions. The Program will provide rebates and direct customer education on actions to save water. High levels of participation are expected based on past programs. The Program focuses on drought-affected areas that historically have not implemented water conservation programs by providing incentives directly to customers.

This item requests authority for the Water Agency's General Manager to execute the Proposition 84 Sub-Grantee Agreement with County of Humboldt ($475,031) for the Program and execute agreements with the Cities of Santa Rosa, Cotati, Rohnert Park, Healdsburg, and Cloverdale; County of Sonoma Department

of Transportation and Public Works, Town of Windsor, and the Sweetwater Springs Sanitation District in order to pass through funds designated for these Program partners under the grant agreement. In addition, the Program will serve area well users outside the Program partners' service areas, and sanitation districts and zones managed by the Water Agency. Finally, this item also requests authority for the Director of Transportation and Public Works to execute an agreement with the Water Agency to receive grant funds. All agreements will be in a form similar to the sample agreement in Attachment B. Any changes to the standard agreement will be subject to review and approval as to form by County Counsel before they are executed by the parties.

**Discussion:**

**Background**

The Integrated Regional Water Management Grant Program, administered by the California Department of Water Resources, provides funding for projects that assist local public agencies to meet long-term water needs of the state, including the delivery of safe drinking water and the protection of water quality and the environment. The 2015 Integrated Regional Water Management Grant is funded by Proposition 84, The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84). Eligible projects must be consistent with an adopted Integrated Regional Water Management Plan (PRC §75026(a)). Approximately $231.6 million was available for grant awards statewide, of which a total of $11,047,939 was awarded to the North Coast Region through the 2015 solicitation. The 2015 Integrated Regional Water Management Grant solicitation is intended to be the final solicitation of the Proposition 84 Implementation Grant Program.

The North Coast Regional Partnership is a coalition of seven diverse counties and more than 100 public agencies, Tribes, watershed groups, non-governmental organizations, and interested stakeholders who take a shared, regional approach to water resources planning. The North Coast Integrated Regional Water Management Plan (North Coast Plan) was adopted by the Board of Directors of the Water Agency and County Board of Supervisors in 2004, and updates were adopted in in 2007 and 2014.

**The Northern Sonoma County Water Conservation Program (Program)**

The Program is one of 26 projects funded under the 2015 Proposition 84 Integrated Regional Water Management Plan Implementation Grant awarded to the North Coast Regional Partnership and administered by the County of Humboldt. The Program provides rebates and direct customer education on actions to save water. Rebate programs will be expanded to the region for the installation of high-efficiency clothes washers, high-efficiency toilets and urinals, and turf conversions. In addition, the Program will launch a Residential Water Audit Program, which provides site-specific assistance to homeowners on ways to save (check for leaks, provide an appropriate irrigation schedule, and prequalify customers for rebates) and allows business customers the opportunity to receive in-depth service to achieve significant water savings per the Governor's water reduction mandate. The intended purpose is to reduce demand, increase local resiliency, and expand water conservation programs for these water utilities that are impacted by long-term drought conditions. High levels of participation are expected based on past programs. The Water Agency will mentor Program partners to help establish conservation programs in their service areas, which partner agencies will eventually manage independently. The Program focuses on residential and commercial water customers in the most vulnerable communities that historically have been precluded from such conservation programs. An estimated 260 acre-feet of water will be conserved annually.

The Grant funds will be used to expand water efficiency funding for areas that already have conservation programs in place (primarily the Sonoma-Marin Saving Water Partnership retailers) and allow for new program implementation in areas where rebate programs have not been launched (primarily in the Upper River region). The Water Agency received Proposition 84 funding in 2014 which allowed the High Efficiency Fixture Direct Installation Program and the turf rebate program to be launched in the Upper River region at that time. The Program's performance measures are tracked and reported monthly to the County of Humboldt and quarterly to the California Department of Water Resources. As of November 29, 2016 a total of 870 toilets at 475 sites have been replaced in the Upper River and 352,358 square feet of turf have been transformed to low water use landscapes.

The Water Agency will receive $52,500 for education and outreach efforts and $22,733 for well users who are not served by one of the Program partners. In addition, the Water Agency-managed Sanitation Zones and Districts will receive funding as follows: Russian River County Sanitation District ($6,750), Airport/Larkfield/Wikiup Sanitation Zone ($7,125), Occidental County Sanitation District ($1,125), Geyserville Sanitation Zone ($563), and Sea Ranch Sanitation Zone ($750).

The Program represents a regional collaboration where each partner is directly contributing funds. A total of $577,028 in matching funds will be leveraged. The Water Agency match is $415,679, the match for the Sanitation Districts and Zones is $12,175, and the match for the Department of Transportation and Public Works match amount is $10,248. The match for the remaining participating partners is $138,596, for a total of $577,028.

**Prior Board Actions:**

08/19/2014: Concurrent Resolution of the Board of Supervisors of the County of Sonoma and the Board of Directors of the Sonoma County Water Agency adopting the 2014 Updated North Coast Integrated Regional Water Management Plan and authorizing the Water Agency General Manager to file a Notice of Exemption from the California Environmental Quality Act.

**Strategic Plan Alignment** Goal 3: Invest in the Future

County Goal 3: Invest in the Future. The program invests in the future by teaching water conservation strategies to members of the general public.
Water Agency Organizational Goals and Strategies, Goal 3: Increase outreach to community and employees. The Program focuses on drought-affected areas that historically have not implemented water conservation programs by providing incentives directly to customers.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | 639,194 | 273,940 |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | 639,194 | 273,940 |
| **Funding Sources** | | | |
| General Fund/WA GF | | 278,724 | 119,454 |
| PW-Small Water Systems Assistance Fund (34020300) | | 7,174 | 3,074 |
| CA Proposition 84 Grant - State/Federal | | 332,522 | 142,509 |
| Fees/Other | | 20,773 | 8,903 |
| | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | 639,194 | 273,940 |

**Narrative Explanation of Fiscal Impacts:**

The total cost of the project is $1,052,059, including $913,134 budgeted for Water Agency, Transportation and Public Works, Sanitation Zones and Districts, as well as $138,926 in matching funds from Participating Partners (not shown in Fiscal Summary table above). The California State Proposition 84 grant will provide $475,031, and the remaining $577,028 will come from match funds from various sources:

- The Water Agency's General fund will provide match funds of $398,178
- The Department of Transportation and Public Works' PW-Small Water Systems Assistance Fund will provide match funds of $10,248.
- Match listed in Fees/Other includes $12,175 for the Sanitation Districts and Zones (which will come from each of their respective operations funds) and $17,500 from the Water Conservation sub-fund.
- Participating Partners (other than Water Agency, Department of Transportation and Public Works and Sanitation Districts and Zones) will provide $138,926 in match funds.

The grant funding is on a reimbursable basis. The anticipated invoicing frequency is quarterly, and the time between expense and reimbursement is expected to be between 135 and 180 days.

| Staffing Impacts | | | |
|---|---|---|---|
| **Position Title**<br>(Payroll Classification) | **Monthly Salary Range**<br>(A – I Step) | **Additions**<br>(Number) | **Deletions**<br>(Number) |
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Attachment A - Sub-Grantee Agreement with County of Humboldt
Attachment B - Sample Partner Agreement Template

**Related Items "On File" with the Clerk of the Board:**

SCH:S:\Agenda\agrees\12-13-2016 WA Northern Sonoma County Water Conservation Program_summ.docm

CF/47-0-20 Humboldt, County of (Grant Application for North Coast Resource Partnership 2015 Integrated Regional Water Management Program) FP-00101 (ID 5448)

**PROPOSITION 84 SUB-GRANTEE AGREEMENT**
**BY AND BETWEEN**
**THE COUNTY OF HUMBOLDT**
**AND**
**Sonoma County Water Agency**
**FOR THE PROJECT ENTITLED: Northern Sonoma County Water Conservation Program**

This Agreement, entered into this ____ day of _____, 20__, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and Sonoma County Water Agency, a body corporate and politic of the State of California, hereinafter referred to as "SUB-GRANTEE," is made upon the following considerations:

WHEREAS, COUNTY has agreed to receive grant funding from the California Department of Water Resources ("DWR") pursuant to Proposition 84 Integrated Regional Water Management Implementation Grant Agreement No. 4600011484, dated September 2, 2016 ("Proposition 84 Implementation Agreement"), which is attached hereto as Exhibit A – Proposition 84 Implementation Agreement and incorporated herein by reference; and

WHEREAS, SUB-GRANTEE is one of several parties intended to receive grant funding from COUNTY pursuant to said Proposition 84 Implementation Agreement for work to be completed by SUB-GRANTEE as set forth in said Proposition 84 Implementation Agreement; and

WHEREAS, such work to be completed by SUB-GRANTEE, and other specific information pertaining to the Norther Sonoma County Water Conservation Program ("Project"), is set forth in both the Proposition 84 Implementation Agreement and in this Agreement as Exhibit B – Work Plan, Schedule and Budget, which is attached hereto and incorporated herein by reference; and

WHEREAS, the parties acknowledge that COUNTY intends to merely administer the distribution of grant funds pursuant to the Proposition 84 Implementation Agreement and SUB-GRANTEE intends to complete all other aspects of the Project, as set forth in the Proposition 84 Implementation Agreement and Exhibit B to this Agreement, in a manner that will insure COUNTY's compliance with the Proposition 84 Implementation Agreement; and

WHEREAS, COUNTY is relying on SUB-GRANTEE's performance hereunder in order for COUNTY to comply with its obligations set forth in the Proposition 84 Implementation Agreement; and

WHEREAS, the parties desire to set forth the terms and conditions under which SUB-GRANTEE is to receive grant funds from COUNTY.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. <u>INCORPORATION BY REFERENCE</u>:

The above recitals are incorporated herein by reference.

2. <u>RIGHTS AND OBLIGATIONS OF SUB-GRANTEE</u>:

A. <u>Scope of Work</u>. SUB-GRANTEE shall perform all work pertaining to the Project, and provide the documentation required of COUNTY or other sub-grantees, in a timely manner as set forth in the applicable provisions of the Proposition 84 Implementation Agreement and Exhibit B to this Agreement.

B. Provision of Requested Documentation and Project Access. To enable COUNTY to confirm SUB-GRANTEE's compliance with this Agreement, SUB-GRANTEE shall provide COUNTY with any requested documentation and access to any work sites, or other areas associated with the Project.

3. RIGHTS AND OBLIGATIONS OF COUNTY:

A. Disbursement. Subject to the receipt of grant funds from DWR, as a result of a particular request for disbursement submitted by SUB-GRANTEE, and the other terms and conditions set forth herein, COUNTY shall remit to SUB-GRANTEE such funds it receives from DWR. SUB-GRANTEE shall not be entitled to disbursement of grant funds as set forth herein, if COUNTY does not receive grant funds from DWR in connection with SUB-GRANTEE's request for disbursement.

B. Remedies. In the event SUB-GRANTEE violates any provision of this Agreement that could potentially result in a violation of the Proposition 84 Implementation Agreement, COUNTY may take any and all appropriate measures to prevent any such violation of the Proposition 84 Implementation Agreement, or to mitigate any damages COUNTY could incur as a result thereof, including, but not limited to, performing any work required of SUB-GRANTEE hereunder. SUB-GRANTEE shall be liable for any costs reasonably incurred by COUNTY in connection with any such violation of this Agreement or the Proposition 84 Implementation Agreement.

4. DISBURSEMENT OF GRANT FUNDS:

A. Disbursement Requests. SUB-GRANTEE hereby acknowledges that the Eligible Project Costs related to the Project are limited to those set forth in the applicable provisions of the Proposition 84 Implementation Agreement and Exhibit B to this Agreement. SUB-GRANTEE shall not request disbursement for any cost until such cost has been incurred, and has been paid, or is due and payable, by SUB-GRANTEE.

B. Matching Funds. SUB-GRANTEE hereby acknowledges that it is required to obtain matching funds for the Project as set forth in the applicable provisions of the Proposition 84 Implementation Agreement.

C. Invoices. In order to receive disbursement of grant funds, SUB-GRANTEE shall submit to COUNTY monthly invoices itemizing all work completed, and Eligible Project Costs incurred, by SUB-GRANTEE. Invoices shall be in a format approved by, and shall include backup documentation as specified by, the Humboldt County Department of Public Works and the Humboldt County Auditor-Controller. All invoices submitted by SUB-GRANTEE shall be sent to COUNTY at the following address:

COUNTY: Humboldt County Department of Public Works – Natural Resources Division
Attn: Devin Theobald, Administrative Analyst
1106 Second Street
Eureka, CA 95501

D. Retention of Grant Funds. SUB-GRANTEE acknowledges that COUNTY may withhold the disbursement of any grant funds that may be necessary to satisfy the retention requirements set forth in the applicable provisions of the Proposition 84 Implementation Agreement.

E. Conditions and Limitations. Notwithstanding any other provision of this Agreement, no

disbursement of grant funds shall be required at any time or in any manner which:

1. Violates, or conflicts with, the Proposition 84 Implementation Agreement or any local, state or federal laws, rules or regulations.

2. May require any rebates to the federal government pursuant to any applicable local, state or federal laws or regulations.

3. May result in the loss of tax-free status on state bonds pursuant to any applicable local, state or federal laws or regulations.

F. Refunds. If COUNTY is required to refund to DWR any disbursement made to SUB-GRANTEE, due to a violation of the Proposition 84 Implementation Agreement by SUB-GRANTEE, SUB-GRANTEE shall refund to COUNTY such disbursement amount plus any interest or penalties required to be paid by COUNTY in connection with such refund.

5. TERM:

This Agreement shall begin upon execution by both parties and shall remain in full force and effect until August 31, 2020 or until all of the parties' obligations hereunder are fully satisfied, whichever occurs earlier.

6. TERMINATION:

A. Breach of Contract. If, in the reasonable opinion of COUNTY, SUB-GRANTEE fails to adequately perform it obligations hereunder, within the time limits set forth in the applicable provisions of the Proposition 84 Implementation Agreement and Exhibit B to this Agreement, or otherwise fails to comply with any term or condition of this Agreement, or violates any ordinance, regulation or other law applicable to its performance herein, COUNTY may terminate this Agreement after compliance with the DISPUTE RESOLUTION requirements set forth in paragraph 25 of this Agreement.

B. Without Cause. This Agreement may be terminated by COUNTY without cause upon thirty (30) days advance written notice. Such notice shall state the effective date of the termination.

C. Insufficient Funding. COUNTY's obligations under this Agreement are contingent upon the availability of local, state and/or federal funds. In the event such funding is reduced or eliminated, COUNTY shall, at its sole discretion, determine whether this Agreement shall be terminated. COUNTY shall provide SUB-GRANTEE seven (7) days advance written notice of its intent to terminate this Agreement due to insufficient funding.

D. Compensation Upon Termination. In the event of any termination of this Agreement, SUB-GRANTEE shall be entitled to compensation for uncompensated Eligible Project Costs incurred hereunder through and including the effective date of such termination. However, this provision shall not limit or reduce any damages owed to COUNTY due to a breach of this Agreement by SUB-GRANTEE.

7. NOTICES:

Any and all notices required to be given pursuant to the terms of this Agreement shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

COUNTY: Humboldt County Department of Public Works – Natural Resource Division
Attn: Devin Theobald, Administrative Analyst
1106 Second Street
Eureka, CA 95501

SUB-GRANTEE: Sonoma County Water Agency
Attention: Joan Hultburg
404 Aviation Blvd.
Santa Rosa, CA 95403

8. RECORD RETENTION AND INSPECTION:

A. Maintenance and Preservation of Records. SUB-GRANTEE agrees to timely prepare accurate and complete performance records relating to the Project, and to maintain and preserve said records for at least seven (7) years from the expiration date of this Agreement, except that if any litigation, claim, negotiation, audit or other action is pending, the records shall be retained until completion and resolution of all issues arising therefrom.

B. Inspection of Records. SUB-GRANTEE hereby agrees to make all performance records relating to the Project available during normal business hours to inspection, audit and reproduction by COUNTY and any other duly authorized local, state and/or federal agencies. SUB-GRANTEE further agrees to allow interviews of any persons who might reasonably have information related to such records by COUNTY and any other duly authorized local, state and/or federal agencies. All examinations and inspections conducted under this section shall be strictly confined to those matters connected with the performance of this Agreement.

9. MONITORING:

SUB-GRANTEE agrees that COUNTY has the right to monitor all activities related to this Agreement, including, without limitation, the right to review and monitor SUB-GRANTEE's records, programs or procedures, at any time, as well as access any work sites, or other areas associated with the Project, in order to ensure compliance with the terms and conditions of this Agreement. However, COUNTY is not responsible, and will not be held accountable, for overseeing or evaluating the adequacy of the results of work performed by SUB-GRANTEE.

10. CONFIDENTIAL INFORMATION:

In the performance of this Agreement, SUB-GRANTEE may receive confidential information. SUB-GRANTEE hereby agrees to protect all such confidential information in conformance with any and all applicable local, state and federal laws and regulations.

11. NUCLEAR FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE:

By executing this Agreement, SUB-GRANTEE certifies that is not a Nuclear Weapons Contractor, in that SUB-GRANTEE is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components, as defined by the Nuclear Free Humboldt County Ordinance. SUB-GRANTEE agrees to notify COUNTY immediately if it becomes a Nuclear Weapons Contractor as defined above. COUNTY may immediately terminate this Agreement if it determines that the foregoing certification is false, or if SUB-GRANTEE subsequently becomes a Nuclear Weapons Contractor.

12. NON-DISCRIMINATION COMPLIANCE:

A. Professional Services and Employment. In connection with the execution of this Agreement, SUB-GRANTEE shall not unlawfully discriminate in the provision of professional services or against any employee or applicant for employment because of race, religion or religious creed, color, age (over forty (40) years of age), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics), mental or physical disability (including HIV status and AIDS), political affiliation, military service or any other classifications protected by local, state and federal laws and regulations. Nothing herein shall be construed to require employment of unqualified persons.

B. Compliance with Anti-Discrimination Laws. SUB-GRANTEE further assures that it will abide by the provisions of: Title VI and Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Food Stamp Act of 1977; Title II of the Americans with Disabilities Act of 1990; the California Fair Employment and Housing Act; California Civil Code Sections 51, et seq.; California Government Code Sections 4450, et seq.; California Welfare and Institutions Code Section 10000; Division 21 of the California Department of Social Services Manual of Policies and Procedures; United States Executive Order 11246, as amended and supplemented by United States Executive Order 11375 and 41 C.F.R. Part 60; and any other applicable local, state and/or federal laws and regulations, all as may be amended from time to time. The applicable regulations of the California Fair Employment and Housing Commission implementing California Government Code Section 12990, set forth in Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

13. INDEMNIFICATION:

A. Hold Harmless, Defense and Indemnification. Each party to this Agreement (the "Indemnifying Party") agrees to accept all responsibility for loss or damage to any person or entity, and to defend, indemnify, hold harmless and release the other party (the "Indemnified Party"), and the Indemnified Party's supervisors, directors, officers, agents, and employees, from and against any and all liabilities, actions, claims, damages, disabilities, or expenses that may be asserted by any person or entity, including the Indemnifying Party, to the extent resulting from the Indemnifying Party's breach of any material term of or representation make in this Agreement, or Indemnifying Party's negligence or willful misconduct in connection with this Agreement, but excluding liabilities, actions, claims, damages, disabilities, or expenses to the extent arising from Indemnified Party's breach of any material term of this Agreement, or Indemnified Party's negligence or willful misconduct in connection with the performance of this Agreement. The Indemnified Party shall have the right to select its legal counsel at the Indemnifying Party's expense, subject to the Indemnifying Party's approval, which shall not be unreasonably withheld.

B. Effect of Insurance. Acceptance of insurance, if required by this Agreement, does not relieve SUB-GRANTEE from liability under this provision. This provision shall apply to all claims for damages related to the services performed by SUB-GRANTEE pursuant to the terms and conditions of this Agreement regardless if any insurance is applicable or not. The insurance policy limits set forth herein shall not act as a limitation upon the amount of indemnification or

defense to be provided by SUB-GRANTEE hereunder.

14. INSURANCE:

Without limiting SUB-GRANTEE's indemnification obligations provided for herein, SUB-GRANTEE will maintain in full force and effect, at its own expense, any and all appropriate comprehensive general liability insurance, comprehensive automobile insurance and workers' compensation policies.

15. RELATIONSHIP OF PARTIES:

It is understood that this Agreement is by and between two (2) independent entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or any other similar association. Both parties further agree that SUB-GRANTEE shall not be entitled to any benefits to which COUNTY employees are entitled, including, but not limited to, overtime, retirement benefits, leave benefits or workers' compensation. SUB-GRANTEE shall be solely responsible for the acts or omissions of its agents, officers, employees, assignees and subcontractors.

16. WARRANTIES AND REPRESENTATIONS:

SUB-GRANTEE hereby makes all of the warranties, representations, covenants and certifications that are otherwise made by COUNTY with respect to the Project, as set forth in the applicable provisions of the Proposition 84 Implementation Agreement.

17. COMPLIANCE WITH LAWS:

SUB-GRANTEE agrees to comply with any and all applicable local, state and federal laws and regulations, in performance of its obligations hereunder. SUB-GRANTEE further agrees to comply with any and all applicable provisions of the Proposition 84 Implementation Agreement. In the event that any applicable law, regulation or contractual provision is amended during the term of this Agreement, the parties agree to comply with the amended law, regulation or contractual provision as of the effective date of such amendment.

18. PROVISIONS REQUIRED BY LAW:

This Agreement is subject to any additional local, state and federal restrictions, limitations, or conditions that may affect the provisions, terms, conditions or funding of this Agreement. This Agreement shall be read and enforced as though all legally required provisions are included herein, and if for any reason any such provision is not included, or is not correctly stated, the parties agree to amend this Agreement to make such insertion or correction.

19. SEVERABILITY:

If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

20. ASSIGNMENT:

SUB-GRANTEE shall not delegate its duties or assign its rights, obligations, or interests hereunder, either in whole or in part, without COUNTY's prior written consent. Any assignment in violation of

this provision shall be void, and shall be cause for immediate termination of this Agreement. This provision shall not be applicable to service agreements or other arrangements usually or customarily entered into by SUB-GRANTEE to obtain supplies, technical support or professional services.

21. AGREEMENT SHALL BIND SUCCESSORS:

All terms and conditions of this Agreement shall be fully binding upon, inure to the benefit of, and be enforceable by, the parties hereto and to each of their heirs, executors, administrators, legal representatives, successors and permitted assigns.

22. WAIVER OF DEFAULT:

The waiver of any breach of this Agreement by either party shall not be deemed a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

23. NON-LIABILITY OF OFFICIALS AND EMPLOYEES:

No official or employee of COUNTY or SUB-GRANTEE shall be personally liable for any default or liability under this Agreement.

24. AMENDMENT:

This Agreement may be amended at any time during the term of this Agreement upon the mutual consent of both parties. No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

25. DISPUTE RESOLUTION:

If a dispute arises involving the interpretation, implementation or enforcement of this Agreement, the parties shall meet, in person and in good faith, to make every reasonable attempt to resolve the problem within thirty (30) days of discovering a material dispute. The parties agree that informal dispute resolution, including mediation, should an in-person meeting prove unsuccessful, shall be attempted prior to seeking recourse from the courts.

26. JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder, or relating hereto, shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.

27. ADVERTISING AND MEDIA RELEASE:

All informational material related to this Agreement shall receive approval from COUNTY prior to being used as advertising or released to the media, including, but not limited to, television, radio, newspapers and internet. SUB-GRANTEE shall inform COUNTY of all requests for interviews by media related to this Agreement before such interviews take place; and COUNTY is entitled to have a representative present at such interviews. All notices required by this provision shall be given to the Humboldt County Public Works Director.

28. SUBCONTRACTS:

SUB-GRANTEE shall obtain prior written approval from COUNTY before subcontracting any of its obligations hereunder. Any and all subcontracts will be subject to all applicable provisions of this Agreement. SUB-GRANTEE shall remain legally responsible for the performance of all terms and conditions of this Agreement, including work performed by third parties under subcontracts, whether approved by COUNTY or not.

29. ATTORNEYS' FEES:

If either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any provision of this Agreement from being performed, the prevailing party in said action or proceeding shall be entitled to recover court costs and reasonable attorneys' fees, including the reasonable value of services rendered by the Humboldt County Counsel's Office or the Sonoma County Counsel's Office, to be fixed by the court, and such recovery shall include court costs and attorney's fees on appeal, if applicable. As used herein, "prevailing party" means the party who dismisses an action or proceeding in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

30. SURVIVAL:

The duties and obligations of the parties set forth in Section 6(D) – Compensation Upon Termination, Section 8 –Record Retention and Inspection, Section 10 – Confidential Information and Section 13 – Indemnification shall survive the expiration or termination of this Agreement.

31. CONFLICTING TERMS OR CONDITIONS:

In the event of any conflict in the terms or conditions set forth in any other agreements in place between the parties hereto and the terms and conditions set forth in this Agreement, the terms and conditions set forth herein shall have priority.

32. INTERPRETATION:

This Agreement, as well as its individual provisions, shall be deemed to have been prepared equally by both of the parties hereto, and shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

33. INDEPENDENT CONSTRUCTION:

The titles of the sections, subsections and paragraphs set forth in this Agreement are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

34. FORCE MAJEURE:

Neither party hereto shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include, but not be limited to, acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism or other disasters, whether or not similar to the foregoing.

35. ENTIRE AGREEMENT:

This Agreement contains all of the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties hereto. In addition, this Agreement shall supersede in its entirety any and all prior agreements, promises, representations, understandings and negotiations of the parties, whether oral or written, concerning the subject matter of this Agreement. Any and all acts which may have already been consummated pursuant to the terms and conditions of this Agreement are hereby ratified.

36. AUTHORITY TO EXECUTE:

Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such party's obligations hereunder have been duly authorized.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first written above.

*TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:*
1. *CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND*
2. *SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR TREASURER.*

**Sonoma County Water Agency:**

By: _____ _ Date: _____

Name: ___Grant Davis_____

Title: ____General Manager_____

By: _____ Date: _____

Name: _____

Title: ____Deputy County Counsel_____

**COUNTY OF HUMBOLDT:**

By: _____ Date: _____
Thomas K. Mattson, Director
Humboldt County Department of Public Works
Pursuant to the authority delegated by the
Board of Supervisors on July 28, 2015

**LIST OF EXHIBITS:**

Exhibit A – Proposition 84 Implementation Agreement
Exhibit B – Work Plan, Budget, and Schedule

**Exhibit A DWR Agreement 4600011484**

## Exhibit B Workplan, Budget, and Schedule

**PROJECT 21: Northern Sonoma County Water Conservation Program**

**IMPLEMENTING AGENCY: Sonoma County Water Agency**

PROJECT DESCRIPTION: This purpose of this project is to implement BMPs including rebate programs for the purchase and installation of high-efficiency clothes washers, toilets and urinals and for the conversion of turf to climate appropriate low water use plants. This project will also launch a Water Audit Program to provide guidance on ways to save water, as well as, an education component consisting of classes and outreach events in the project area targeted at both residents and landscape professionals. This project is estimated to conserve approximately 161 acre-feet of water per year.

### Task 21.1 Direct Project Administration: Budget Category (a)

Task 21.1.A Project Management

Manage grant agreement including compliance with grant requirements, and preparation and submission of supporting grant documents and coordination with IRWM Regional Manager, Humboldt County (Grantee). Prepare invoices including relevant supporting documentation for submittal to DWR via the Grantee. Enter into a sub-agreement with the Grantee for work to be completed on this project. This task also includes administrative responsibilities associated with the project such as coordinating with partnering agencies and managing consultants/contractors.

**Deliverables:**

- ☐ Environmental Information Form (EIF)
- ☐ Financial Statements
- ☐ Invoices
- ☐ Other Applicable Project Deliverables

Task 21.1.B Labor Compliance Program

Take all measures necessary to ensure compliance with applicable California Labor Code requirements, including, preparation and implementation of a labor compliance program or including any payments to the Department of Industrial Relations under Labor Code Section 1771.3.

**Deliverables:**

- ☐ Proof of labor compliance upon request

Task 21.1.C Reporting

Prepare progress reports detailing work completed during reporting period as outlined in Exhibit (G) of this Agreement. Submit reports to the Grantee for review and inclusion in a progress report to be submitted to DWR.

Prepare Draft Project Completion Report and submit to DWR via the Grantee for DWR Project Manager's comment and review no later than 90 days after project completion. Prepare Final Report addressing Grantee/DWRs comments. The report shall be prepared and presented in accordance with the provision of Exhibit G.

**Deliverables:**

- Project Progress Reports
- Draft and Final Project Completion Report

Task 21.1.D Project Monitoring Plan

Develop and submit a Project Monitoring Plan. Along with the Project Performance Measures Table provided by DWR Project Manager, the Project Monitoring Plan (as described in Exhibit J) will include baseline conditions, a brief discussion of monitoring systems to be used, methodology of monitoring, frequency of monitoring, and location of monitoring points.

**Deliverables:**

- Project Monitoring Plan

## Task 21.2 Land Purchase/Easement: Budget Category (b)

Task 21.2.A Land Purchase/Easement

No land acquisition or easement is anticipated for this project.

## Task 21.3 Planning/Design/Engineering and Environmental Documentation: Budget Category (c)

Task 21.3.A Program Development

Develop programs for high-efficiency fixture rebate program, turf replacement rebate program, and Residential Water Audit Program. This task includes program coordination efforts including the coordination of meetings and conference calls with project partners. Design, develop, and produce marketing and outreach materials.

**Deliverables:**

- Program Marketing and Outreach Materials

Task 21.3.B Partner Training

Coordinate and schedule trainings for partner agencies on how to implement the Turf Replacement Rebate Program. Trainings will provide guidance on the following: eligibility verification, pre- and post-site inspections, rebate process, and any other program components.

**Deliverables:**

- Partner Outreach and Training Materials

Task 21.3.C CEQA Documentation

Complete all required environmental compliance and environmental documentations as necessary.

**Deliverables:**

- ☐ Copy of applicable environmental documents

## Task 21.4 Construction/Implementation: Budget Category (d)

Task 21.4.A Construction/Implementation Activities

Implementation activities may include, but are not limited to the following:

(1) Turf Replacement Rebate Program:

Provide rebate incentive of approximately $0.50/square foot to residential and commercial customers to replace more than 465,250 square feet of high water use landscaping (turf) with low water use plants. The maximum rebate for a commercial customer will be $5,000 and the maximum rebate for a residential customer will be $500. The exact amount will be set by each individual water provider participating in the Program. Complete implementation activities such as process and forward applications for participation to appropriate partners; perform pre- and post- site inspections, and process rebates.

(2) High Efficiency Toilet and Urinal Program:

Provide a rebate of up to $100/toilet or urinal as an incentive for the installation of at least 1,600 0.8 gallon per flush high-efficiency residential toilets, 1.28 gallon per flush (or less) commercial toilets and/or 0.125 gallon per flush urinals in order to decrease the amount of potable water used by residential and commercial customers. Approve participation for program applicants, and monitor and track installations.

(3) High Efficiency Washer Program:

Provide a rebate of up to $50/HE clothes washer as an incentive for the installation of at least 1,975 high-efficiency clothes washers in order to decrease the amount of potable water used by residential and commercial customers. Approve participation for program applicants and monitor and track installations.

(4) Water Assessment Program:

Perform a site evaluation of indoor and outdoor water-using fixtures for residential and commercial customers. A customized report will be provided with a list of water savings recommendations and details on the available incentives. The Water Agency will coordinate with each Project Proponent and provide program management including but not limited to eligibility verification, tracking participation, developing marketing/outreach materials, and scheduling program related appointments. The Water Agency will provide the partner City with copies of the Participant reports.

(5) Education and Outreach Program:

Implement an Education and Outreach Program to promote water use efficiency through three specific programs detailed below:

- **The Community Resilience Challenge** is a collaboration of non-profits, municipalities, businesses and individuals working together to bring awareness to the need for local solutions to drought, food insecurity and climate change. Challenge participants register an action online to save water, grow food, conserve energy and build community. It is anticipated that 7,000 actions will be taken annually and at least 70,000 square feet of grass will be converted. The number of actions registered, and the square footage of turf removed will be reported to DWR.

- **Garden Sense** is an in-garden consultation, free to homeowners which provides information about how to convert lawn to low water use plants, replace sprinkles with drip irrigation, and manage soil to conserve water. It is estimated to provide 30 consultations per month. The number of appointments and the square footage removed by customers will be reported.

- **Qualified Water Efficient Landscaper (QWEL)** a 21-hour training program which covers water efficient plants, soils, and water management for those in the landscape industry. The training is available in English and Spanish and includes specialty modules such as Graywater, Advanced Water Management and Rainwater Harvesting. Grant funds will allow the Advanced Water Management module to be translated to Spanish and is anticipated to provide eight trainings with 20 graduates per class annually. The number of trainings and attendees as well as the square feet of turf removed will be reported to DWR.

**Deliverables:**

- ☐ Photographic documentation
- ☐ High-efficiency fixture tracking spreadsheets
- ☐ Turf replacement rebate program tracking spreadsheets
- ☐ Education and Outreach materials

| **Project 21: Northern Sonoma County Water Conservation Program<br>Implementing Agency: Sonoma County Water Agency** | | | | | |
|---|---|---|---|---|---|
| **Category** | | **Grant Amount** | **Funding Match** | **Additional Cost Share** | **Total Cost** |
| (a) | Direct Project Administration | $ - | $ 31,000 | $ - | $ 31,000 |
| (b) | Land Purchase/Easement | $ - | $ - | $ - | $ - |
| (c) | Planning/Design/Engineering/Environmental Documentation | $ - | $ 44,000 | $ - | $ 44,000 |
| (d) | Construction/Implementation | $ 475,031 | $ 502,028 | $ - | $ 977,059 |
| | **Total** | **$ 475,031** | **$ 577,028** | **$ -** | **$ 1,052,059** |

| **Project 21: Northern Sonoma County Water Conservation Program<br>Implementing Agency: Sonoma County Water Agency** | | | |
|---|---|---|---|
| **Task** | | **Start Date** | **End Date** |
| **Budget Category (a): Direct Project Administration** | | **May-16** | **Sep-18** |
| 21.1.A | Project Management | May-16 | Sep-18 |
| 21.1.B | Labor Compliance Program | May-16 | Jun-18 |
| 21.1.C | Reporting | May-16 | Jul-18 |
| 21.1.D | Project Monitoring Plan | May-16 | Dec-16 |
| **Budget Category (b): Land Purchase/Easement** | | **N/A** | **N/A** |
| 21.2.A | Land Purchase/Easement | N/A | N/A |

| Budget Category (c): Planning/Design/Engineering and Environmental Documentation | | Jan-16 | Jun-18 |
|---|---|---|---|
| 21.3.A | Program Development | May-16 | Jun-18 |
| 21.3.B | Partner Training | Jan-16 | Jun-18 |
| 21.3.C | CEQA Documentation | May-16 | Oct-16 |
| **Budget Category (d): Construction/Implementation** | | **May-16** | **Jul-18** |
| 21.4.A | Construction/Implementation Activities | May-16 | Jul-18 |

# SAMPLE Cooperative Agreement for Implementation of the Northern Sonoma County Water Conservation Program

This agreement ("Agreement") is by and between **Sonoma County Water Agency**, a body corporate and politic of the State of California ("Water Agency"), and **[Other Party]**, type of entity* _____ ("[City or District]"). The Effective Date of this Agreement is the date the Agreement is last signed by the parties to the Agreement.

## RECITALS

A. Sonoma County is facing drought conditions after more than four consecutive dry years, including the driest year on record in 2013. The need for water efficiency has never been greater.
B. The Northern Sonoma County Water Conservation Program (Program) focuses on residential and commercial water customers in the most vulnerable communities that historically have been precluded from such conservation programs. An estimated 260 acre-feet of water will be conserved annually.
C. The Program consists of rebates and direct customer education on actions to save water. Rebate Programs will be expanded to the region for the installation of high efficiency clothes washers, high efficiency toilets and urinals, and turf conversions, as well as site specific assistance to homeowners and businesses on a myriad of ways to save water to achieve significant water savings per the Governor's water reduction mandate.
D. The Program is one of 26 projects funded under the 2015 Proposition 84 Integrated Regional Water Management Plan Implementation Grant awarded to the North Coast Regional Partnership and administered by the County of Humboldt. The grant award is $475,031.
E. [City or District] desires Water Agency's assistance in developing and implementing the [City or District] water use efficiency Program as described in Exhibit A.
F. The Project is designed to provide immediate, long-term water savings and allow the [City or District] to transition into an ongoing conservation program, eventually managed by the [City or District].
G. Water Agency and [City or District] do mutually desire to cooperate in the implementation of Project.

In consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

SAMPLE

# A G R E E M E N T

## 1. RECITALS

1.1. The above recitals are true and correct.

## 2. LIST OF EXHIBITS

2.1. The following exhibits are attached hereto and incorporated herein:

a. Exhibit A: Project Summary

b. Exhibit B: Insurance Requirements

## 3. DEFINITIONS

3.1. For the purposes of this Agreement the following terms and definitions shall be used:

a. Participant(s): [City or District]-approved water customer(s) who apply to participate in individual Programs as described in Exhibit A.

b. Programs: Components of the Project as identified in Exhibit A.

c. Project: Collectively, the water conservation Programs described in Exhibit A and related activities [City or District] and Water Agency have agreed to perform in cooperation. The Project offers immediate drought relief and long-term water savings which will increase water use efficiency throughout the Russian River Watershed.

d. Site: The location where Program(s) will be implemented.

e. Water Agency Representative: Water Agency staff assigned to perform Water Agency's responsibilities.

f. [City or District] Representative: [City or District] staff assigned to perform [City or District]'s responsibilities.

g. Water Agency-run Program: Water conservation Programs described in Exhibit A and implemented for [City or District] by Water Agency.

h. [City or District]-run Program: Water conservation Programs described in Exhibit A and implemented by [City or District].

## 4. COORDINATION

4.1. [City or District] shall coordinate work with Water Agency. Contact information:

| Water Agency | [City or District] |
|---|---|
| Water Agency Representative:<br>Carrie Pollard, or assigned personnel<br>Phone: 707-547-1968<br>Email: Carrie.Pollard@scwa.ca.gov<br>404 Aviation Boulevard<br>Santa Rosa, CA 95403-9019 | [City or District] Representative:<br>[insert name], or assigned personnel<br>Phone: _____<br>Email: _____<br>[address] |

SAMPLE

| Water Agency | [City or District] |
|---|---|
| **Remit invoices to:**<br>Susan Bookmyer<br><br>Same address as above or<br>Email:<br>susan.bookmyer@scwa.ca.gov<br>**Remit payments to:**<br>Justin Adalio<br>Same address as above or<br>Email: justin.adalio@scwa.ca.gov | **Remit invoices or payments to:**<br>[Attn: Accounts Receivable] OR [Same as Above]<br>_____<br>_____ |

## 5. [CITY OR DISTRICT]'S RESPONSIBILITIES

5.1. Administration: Administer [City or District]-run Programs as described in Exhibit A.

5.2. Applicant Review: Review the Water Agency-submitted list of applicants requesting to participate in Project to determine if applicant is a qualified Participant to participate in Project.

5.3. Communication: Provide regular communication monthly via email or phone with Water Agency Representative on budget tracking and other issues as required.

5.4. Monthly Status Reports: Provide Water Agency Representative with monthly status reports of [City or District]-run Programs in a form acceptable to Water Agency, including work progress, a complete cost accounting by Program with backup documentation, and electronic copies of marketing materials.

5.5. Insurance: With respect to performance of work under this Agreement, [City or District] shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit B (Insurance Requirements).

5.6. Record Keeping: Maintain complete and accurate records of all transactions in compliance with generally accepted accounting principles for enterprise accounting as promulgated by the American Institute of Certified Public Accountants and the Governmental Accounting Standards Board. Such records shall be available to Water Agency at all reasonable times for inspection and analysis.

5.7. Payment: Make payment(s) to Water Agency as specified in Paragraph 7.

SAMPLE

## 6. WATER AGENCY'S RESPONSIBILITIES

6.1. Administration: Administer Water Agency-run Programs as described in Exhibit A.

6.2. Coordination: Coordinate, document, and report on the Programs that Water Agency performs, including management, administration, budget, and follow-up of the Programs described in Exhibit A, and respond to incoming calls from [City or District] customers, as needed.

6.3. Collateral Materials: Design Project brochures, applications, and other outreach materials and provide electronic files to [City or District].

6.4. Contract Administration: Administer contracts with Contractors hired by Water Agency.

6.5. Quarterly Reports: Prepare quarterly reports summarizing status of Programs completed by Water Agency and submit the report to [City or District].

6.6. Record Keeping: Water Agency will maintain complete and accurate records of all Water Agency costs and transactions associated with performance of Water Agency's responsibilities under this Agreement in compliance with generally accepted accounting principles for enterprise accounting as promulgated by the American Institute of Certified Public Accountants and the Governmental Accounting Standards Board. Such records will be available to City at all reasonable times for inspection and analysis.

## 7. FUNDING

7.1. Project Maximum Obligation: The amount of [City or District]'s obligation under this Agreement shall not exceed $_____.

a. *Water Agency-run Programs:* Estimated amount for Water Agency-run Programs: $_____.

b. *[City or District]-run Programs:* Estimated amount for [City or District]-run Programs: $_____.

7.2. Payment to Water Agency:

a. Amount: [City or District] shall pay Water Agency for services and materials incurred by Water Agency under this Agreement. Reimbursement amount shall be determined based on actual costs of expenses: applicable materials and services, including plumber services.

b. Invoices: Water Agency will invoice [City or District] monthly for reimbursement of expenses incurred by Water Agency for Project. Invoices submitted to [City or District] by Water Agency shall include a complete cost accounting by Program and be clearly marked with "Cooperative Agreement for Implementation of the Sonoma-Mendocino Immediate Drought Relief Project, Project-Activity Code ____." Upon receipt, review, and approval of

SAMPLE

invoice, [City or District] shall pay Water Agency for costs as authorized herein and itemized in said invoice(s).

7.3. If costs run over the amount listed in paragraph 7.1 above for [City or District]-run Programs, [City or District] shall pay for services and materials incurred.

## 8. TERM OF AGREEMENT

8.1. This Agreement shall remain in effect until depletion of available funds as specified in the Agreement, unless terminated earlier in accordance with the provisions of Article 9 (Termination). **OR** This Agreement shall remain in effect until depletion of available funds as specified in the Agreement, or until _____[date], whichever occurs first, unless terminated earlier in accordance with the provisions of Article 9 (Termination).

## 9. TERMINATION

9.1. This Agreement may be terminated by either party for any reason upon thirty calendar days' written notice. Water Agency's right to terminate may be exercised by Water Agency's General Manager. Water Agency shall be reimbursed for all expenses incurred up to the date of termination.

## 10. AUTHORITY TO AMEND AGREEMENT

10.1. Changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Notwithstanding this authority, neither Water Agency nor [City or District] is under any obligation to approve such amendments.

## 11. INDEMNIFICATION

[For public entities use: (mutual indemnification, version from Steve Shupe)]

11.1. Each party shall defend, indemnify, hold harmless, and release the other, its officers, agents, and employees, from and against any and all actions, claims, damages, liabilities, or expenses that may be asserted by any person or entity, including the parties, to the extent that such actions, claims, damages, liabilities, or expenses arise out of the negligence or willful misconduct of the indemnifying party in connection with its performance under this Agreement. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for the indemnifying party or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

## 12. MISCELLANEOUS PROVISIONS

12.1. *No Bottled Water:* In accordance with Water Agency Board of Directors Resolution No. 09-0920, dated September 29, 2009, no Water Agency funding

SAMPLE

shall be used to purchase single-serving, disposable water bottles for use in Water Agency facilities or at Water Agency-sponsored events. This restriction shall not apply when potable water is not available.

12.2. *No Waiver of Breach:* The waiver by Water Agency of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.

12.3. *Construction:* To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. [City or District] and Water Agency acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. [City or District] and Water Agency acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

12.4. *Consent:* Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

12.5. *No Third-Party Beneficiaries:* Except as provided in Article __ (Indemnification), nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

12.6. *Applicable Law and Forum:* This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or in the forum nearest to the city of Santa Rosa, in the County of Sonoma.

12.7. *Captions:* The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

12.8. *Merger:* This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

SAMPLE

12.9. *Survival of Terms:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

12.10. *Time of Essence:* Time is and shall be of the essence of this Agreement and every provision hereof.

/

/

/

/

/

/

/

/

/

/

/

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date last signed by the parties to the Agreement.

TW **Error! Unknown document property name.**

Reviewed as to funds:

By: _____
Water Agency Division Manager - Administrative Services

Approved as to form:

By: _____
[Name], Deputy County Counsel

Insurance Documentation is on file with Water Agency

Date/TW Initials: _____

**Sonoma County Water Agency**

By: _____

**[Other Party]**, a [type of entity]

By: _____

SAMPLE

Grant Davis
Water Agency General Manager
Authorized per Water Agency's Board of Directors Action on _____[date]

Date: _____

_____
(Please print name here) [OR for sole proprietors:] (Please print Owner's name here) [not required for individuals]

Title: _____[not required for individuals]

Date: _____

SAMPLE

# Exhibit A

**Project Summary**

## 1. PROJECT DESCRIPTION

The Northern Sonoma County Water Conservation Program will implement Best Management Practices (BMPs) to reduce water demands to address the ongoing, limited water supply in Lake Mendocino and ensure Lake Sonoma supplies are used prudently. The program will consist of rebates and direct customer education on actions to save water. Rebate programs will be established and expanded in the Project Area to provide incentives directly to customers for the purchase and installation of high-efficiency clothes washers, toilets and urinals and for the conversion of turf to climate appropriate low water use plants. In addition, the project will launch a Residential Water Audit Program to provide site specific guidance to homeowners on ways to save water including checking for leaks, assessing existing water using fixtures and appliances, and irrigation scheduling. An education component will fund classes and outreach events in the Project Area targeted at both residents and landscape professionals.
The project focuses on drought-affected areas that historically have not implemented water conservation programs by providing incentives directly to customers. The Water Agency will assist and mentor [City or District] with the implementation of the project.
The intended purpose is to reduce demands, increase local resiliency, and expand water conservation programs for these water utilities that are severely drought stricken.

## 2. [CITY OR DISTRICT]-RUN PROGRAMS

### 2.1. High-Efficiency Toilet and Urinal Rebate Program

Approve participation for program applicants, and monitor and track installations. Provide rebates as an incentive for the installation 0.8 gallon per flush high-efficiency residential toilets, 1.28 gallon per flush (or less) commercial toilets and/or 0.125 gallon per flush urinals in order to decrease the amount of potable water used by residential and commercial customers.

### 2.2. High-Efficiency Clothes Washer Rebate Program

Approve participation for program applicants and monitor and track installations. Provide rebates as an incentive for the installation of high-efficiency clothes washers in order to decrease the amount of potable water used by residential and commercial customers.

### 2.3. Turf Replacement Rebate Program

Provide incentives to residential and commercial customers to replace high water use landscaping (turf) with low water use plants. Complete implementation activities such as process and forward applications for participation to appropriate Partners, perform pre- and post- site inspections, and process rebates.

## 3. WATER AGENCY-RUN PROGRAMS

### 3.1. Water Audit Program

SAMPLE

Implement Water Assessment Program. Water Agency staff will perform a site evaluation of indoor and outdoor water-using fixtures for residential and commercial customers. A customized report will be provided with a list of water savings recommendations and details on the available incentives.

Water Agency will coordinate with [City or District] and provide program management including but not limited to eligibility verification, tracking participation, developing marketing/outreach materials, and scheduling program related appointments.
Water Agency will provide [City or District] with copies of the Participant reports.

SAMPLE

# Exhibit B

## Insurance Requirements

[For public entities use:]

[City or District] and Water Agency shall maintain insurance and/or self-insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. The insurance shall be maintained for the entire term of this Agreement.

1. **Workers Compensation and Employers Liability Insurance**
   - **a.** Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
   - **b.** Employers Liability with minimum limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.
   - **c.** *Required Evidence of Insurance*: Certificate of Insurance.

2. **General Liability Insurance**
   - **a.** Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
   - **b.** Minimum Limits: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate.
   - **c.** Any deductible or self-insured retention shall be shown on the Certificate of Insurance.
   - **d.** Each party's insurance and/or self-insurance program shall be endorsed to cover the other party as an additional insured for liability arising out of operations under this Agreement. This coverage shall apply be primary to, and non-contributory with, any insurance or self-insurance program maintained by the additional insured.
   - **e.** The policy shall cover inter-insured suits between the parties and include a "separation of insureds" or "severability" clause which treats each insured separately.
   - **f.** *Required Evidence of Insurance*:
     - **i.** Copy of the additional insured endorsement or policy language granting additional insured status; and
     - **ii.** Certificate of Insurance.

3. **Automobile Liability Insurance**
   - **a.** Minimum Limits: $1,000,000 combined single limit per accident.
   - **b.** Insurance shall apply to all owned, hired and non-owned vehicles.
   - **c.** *Required Evidence of Insurance*: Certificate of Insurance.

4. **Documentation**
   - **a.** The Certificate of Insurance must include the following reference: TW # __ Sonoma-Mendocino Immediate Drought Relief Project.

SAMPLE

**b.** All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Each party agrees to maintain current Evidence of Insurance on file with the other for the entire term of this Agreement.

**c.** Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

**d.** Each party shall provide the other with immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.

**5. Policy Obligations**

The indemnity and other obligations of the parties shall not be limited by the foregoing insurance requirements.

[For non-public entities use:]

**Section I – Insurance to be Maintained by [City or District]**

[City or District] shall maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. The insurance shall be maintained for [insert time period] _____ after all funds have been disbursed.

Water Agency reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve [City or District] from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

**1. Workers Compensation and Employers Liability Insurance**

**a.** Required if [City or District] has employees.

**b.** Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.

**c.** Employers Liability with minimum limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.

**d.** *Required Evidence of Insurance*: Certificate of Insurance.

If Recipient currently has no employees, Recipient agrees to obtain the above-specified Workers Compensation and Employers Liability insurance should any employees be engaged during the term of this Agreement or any extensions of the term.

SAMPLE

2. **General Liability Insurance**
   a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
   b. Minimum Limits: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Umbrella Liability Insurance. If [City or District] maintains higher limits than the specified minimum limits, Water Agency requires and shall be entitled to coverage for the higher limits maintained by [City or District].
   c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by Water Agency. [City or District] is responsible for any deductible or self-insured retention and shall fund it upon Water Agency's written request, regardless of whether [insert name of recipient] has a claim against the insurance or is named as a party in any action involving the Water Agency.
   d. Sonoma County Water Agency shall be additional insureds for liability arising out of [City or District]'s ongoing operations (ISO endorsement CG 20 26 or equivalent).
   e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.
   f. The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in ISO form CG 00 01, or equivalent).
   g. The policy shall cover inter-insured suits between Water Agency and [City or District] and include a "separation of insureds" or "severability" clause which treats each insured separately.
   h. *Required Evidence of Insurance*:
      i. Copy of the additional insured endorsement or policy language granting additional insured status; and
      ii. Certificate of Insurance.

3. **Automobile Liability Insurance**
   a. Minimum Limits: $1,000,000 combined single limit per accident.
   b. Insurance shall apply to all owned vehicles if recipient owns vehicles.
   c. Insurance shall apply to hired and non-owned vehicles.
   d. *Required Evidence of Insurance*: Certificate of Insurance.

4. **Professional Liability/Errors and Omissions Insurance** *(Only required of recipients whose normal operations include professional services.)*
   a. Minimum Limit: $1,000,000 per claim or per occurrence.
   b. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by Water Agency.
   c. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.

SAMPLE

**d.** *Required Evidence of Insurance*: Certificate of Insurance.

5. **Standards for Insurance Companies**
   Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

6. **Documentation**
   **a.** The Certificate of Insurance must include the following reference: TW# __ Sonoma-Mendocino Immediate Drought Relief Project.
   **b.** All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. [City or District] agrees to maintain current Evidence of Insurance on file with Water Agency for the required period of insurance.
   **c.** The name and address for Additional Insured endorsements and Certificates of Insurance is: Sonoma County Water Agency, its officers, agents, and employees, 404 Aviation Boulevard, Santa Rosa, CA 95403-9019.
   **d.** Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
   **e.** [City or District] shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.
   **f.** Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

7. **Policy Obligations**
   [City or District]'s indemnity and other obligations shall not be limited by the foregoing insurance requirements.

**Section II – Insurance to be Maintained by Water Agency**

1. **Workers Compensation and Employers Liability Insurance**
   **a.** Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
   **b.** Employers Liability with minimum limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.
   **c.** *Required Evidence of Insurance*: Certificate of Insurance.

2. **General Liability Insurance**
   **a.** Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
   **b.** Minimum Limits: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate.
   **c.** Any deductible or self-insured retention shall be shown on the Certificate of Insurance.
   **d.** The insurance shall be endorsed to cover [City or District] as an additional insured for liability arising out of operations under this Agreement. This coverage shall apply be

SAMPLE

primary to, and non-contributory with, any insurance maintained by the additional insured.

**e.** The policy shall cover inter-insured suits between the additional insureds and include a "separation of insureds" or "severability" clause which treats each insured separately.

**f.** *Required Evidence of Insurance*:

**i.** Copy of the additional insured endorsement or policy language granting additional insured status; and

**ii.** Certificate of Insurance.

**3. Automobile Liability Insurance**

**a.** Minimum Limits: $1,000,000 combined single limit per accident.

**b.** Insurance shall apply to all owned, hired and non-owned vehicles.

**c.** *Required Evidence of Insurance*: Certificate of Insurance.

**4. Documentation**

**a.** The Certificate of Insurance must include the following reference: TW#__ Sonoma-Mendocino Immediate Drought Relief Project.

**b.** All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Water Agency agrees to maintain current Evidence of Insurance on file with the [City or District] for the entire term of this Agreement.

**c.** Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

SAMPLE

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number:** 12
(This Section for use by Clerk of the Board Only.)

**To:** County of Sonoma Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Auditor-Controller-Treasurer-Tax Collector

**Staff Name and Phone Number:**

Kanchan Charan (707) 565-8300

**Supervisorial District(s):**

**Title:** Sonoma County CAL-Card Program Countywide Audit Follow-up

**Recommended Actions:**

Review and accept the Sonoma County CAL-Card Program Countywide Audit Follow-up Report for the period July 1, 2010 through June 30, 2012 as of Report Date August 30, 2016.

**Executive Summary:**

As part of the 2015/2016 Annual Audit Plan, the Internal Audit Division of the Sonoma County Auditor-Controller-Treasurer-Tax Collector's Office (ACTTC) conducted a follow-up audit of the CAL-Card Program Countywide Audit report dated December 2013.

In February of 2013, the Sonoma County (County) Board of Supervisors adopted the CAL-Card review plan which required the County Administrator, the County Auditor-Controller Treasurer-Tax Collector (ACTTC), and the General Services Department (GS) to implement an action plan to ensure continued compliance with County policies and the effectiveness of the CAL-Card program. The initial audit report dated December 2013 was part of that plan and covered CAL-Card purchase transactions from July 1, 2010 – June 30, 2012. The primary audit objectives were to determine whether:

- The CAL-Card policies, procedures, and controls were adequately designed and functioning effectively to prevent or detect fraudulent, improper, and abusive transactions.
- Purchases made on the CAL-Cards were in compliance with the CAL-Card procedures and relevant purchasing guidelines.

The objective of this follow-up audit was to determine the implementation status of recommendations contained in the CAL-Card Program Countywide Audit report dated December 2013 and, where applicable, the impact of actions taken by management.

| **Discussion:** |
| --- |
| The original report contained 13 recommendations which were accepted by management and planned to implement. The recommendations focused on internal controls over the CAL-Card program.<br><br>The following observations are noted as a result of this follow-up:<br><br>• Six recommendations have been implemented.<br>• Two recommendations are in the process of being implemented.<br>• Five recommendations have not been implemented at this time, for various reasons detailed in the report; management will consider implementing them in the future.<br><br>The Department made significant progress in addressing a majority of the issues identified in the audit, improving the effectiveness of the CAL-Card program and reducing the risk of non-compliance with the program policies.<br><br>It is the practice that follow-up audits be conducted until all significant recommendations previously accepted by management have been implemented. In that seven of the thirteen recommendations have yet to be implemented, a second follow-up is warranted. As part of the second follow up audit procedures will be conducted to assess the degree to which CAL-Card policies and procedures were complied with and, where possible, determine the impact of non-compliance. |
| **Prior Board Actions:** |
| May 20, 2014 – Accepted the original CAL-Card Program Countywide Audit Report |
| **Strategic Plan Alignment** Goal 4: Civic Services and Engagement |
| Professionally managed county organization that is accessible, transparent, fiscally responsible & accountable to the public. |

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

The recommendations contained in the report have no fiscal impact.

| Staffing Impacts | | | |
|---|---|---|---|
| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

None

**Attachments:**

Attachment A-Sonoma County CAL-Card Program Countywide Audit Follow-up Report.

| Related Items “On File” with the Clerk of the Board: |
| --- |
| None |

Sonoma County

Auditor-Controller-Treasurer-Tax Collector

Internal Audit Report

ATTACHMENT A-1

# Follow-Up:
# CAL-Card Program Countywide Audit

For the Period: July 1, 2010 through June 30, 2012

Engagement No: 3108
Report Date: August 30, 2016

**Donna M. Dunk, CPA**
Auditor-Controller-Treasurer-Tax Collector

# Table of Contents

**Follow-up:**
**CAL-Card Program Countywide Audit**
**Engagement No. 3108**
**For the Period July 1, 2010 to June 30, 2012**

Page

Executive Summary ..... 1

Background, Objective, Scope and Methodology ..... 2

Prior Recommendations and Current Status ..... 3

Staff Acknowledgement ..... 6

## Executive Summary

As part of the 2015/2016 Annual Audit Plan, the Internal Audit Division of the Sonoma County Auditor-Controller-Treasurer-Tax Collector's Office (ACTTC) conducted a follow-up audit of the CAL-Card Program Countywide Audit report dated December 2013. The original report contained 13 recommendations which were accepted by management. The following observations are noted as a result of this follow-up:

- Six recommendations were implemented.
- Two recommendations are in the process of being implemented.
- Five recommendations have not been implemented at this time.

The Department made significant progress in addressing a majority of the issues identified in our audit, improving the effectiveness of the CAL-Card program and reducing the risk of non-compliance with the program policies. Our procedures did not include sufficient testing to assess the degree to which the policies and procedures were complied with. We will, as part of our second follow up, perform additional tests to assess compliance with CAL-Card policies and procedures and, where possible, determine the impact of non-compliance.

# Background, Objective, Scope and Methodology

## Background

In February of 2013, the Sonoma County (County) Board of Supervisors adopted the CAL-Card review plan which required the County Administrator, the County Auditor-Controller Treasurer-Tax Collector (ACTTC), and the General Services Department (GS) to implement an action plan to ensure continued compliance with County policies and the effectiveness of the CAL-Card program. Our initial audit report dated December 2013 was part of that plan and covered CAL-Card purchase transactions from July 1, 2010 – June 30, 2012. Our primary objectives were to determine if:

- The CAL-Card policies, procedures, and controls are adequately designed and functioning effectively to prevent or detect fraudulent, improper, and abusive transactions.
- Purchases made on the CAL-Cards were in compliance with the CAL-Card procedures and relevant purchasing guidelines.

## Objective

The objective of this follow-up audit was to determine the status of implementation of recommendations contained in the CAL-Card Program Countywide Audit report dated December 2013 and, where applicable, the impact of actions taken by management.

## Scope

Our procedures were limited to reviewing evidence supporting the actions taken by the Purchasing Division of GS (Purchasing) and ACTTC, towards implementation of the report recommendations as of December 31, 2015. We reviewed Purchasing's and ACTTC's records and conducted interviews with their staff and management. Where available, we reviewed documentation supporting implementation of the recommendations.

## Methodology

We conducted the follow-up audit in accordance with the International Standards for the Professional Practice of Internal Auditing (Standards). These Standards require that we identify, analyze, evaluate, and document sufficient information and evidence to achieve audit objectives. We believe that the evidence obtained provides a reasonable basis for the conclusions contained in our audit report. The Standards require that we establish a follow-up process to monitor and ensure that management has effectively implemented actions or that senior management has accepted the risk of not taking actions.

## Prior Recommendations and Current Status

The following is a discussion of the status of implementation of the prior audit report recommendations. Each recommendation is referenced to the prior audit report.

**Recommendation No. 1.** Purchasing should implement a framework for misuse of cards and assure consistent and prompt application of disciplinary and administrative penalties countywide. A policy should be developed to include deactivating, suspending, or cancelling accounts of repeat violators.

**Current Status: Implemented:**

GS has drafted a proposed policy addressing the consequences for misusing CAL-Cards, which has been approved for implementation by the County Administrator's Office (CAO.) In April 2016, GS submitted a memo updating the County Board of Supervisors with the addition of consequences for misuse of card privileges pursuant to Board resolution 99-1550. GS made changes to the CAL-Card training video and CAL-Card User Manual (Manual) to include the new information.

**Recommendation No. 2.** Purchasing should set clear expectations and establish accountability for Approving Officials (AOs). AOs should be formally appointed through acknowledgment forms which outline their basic responsibilities and duties, and emphasize the critical function they will be responsible for.

**Current Status: Implemented:**

Purchasing has updated training materials clearly describing the expectations and accountability of AOs in the CAL-Card Training Program. AOs are now required to sign a form when approving purchases acknowledging that they understand and take the responsibilities assigned to them per the County's CAL-Card policies. AOs are also required to acknowledge that they have viewed the training video and understand their responsibilities.

**Recommendation No. 3.** Purchasing should provide resources and tools to AOs to identify and correct a variety of issues including unallowable purchases or other misuse of cards. A checklist for identifying violations of policies and procedures would be an example.

**Current Status: Implemented:**

Purchasing has created a list of "Dos and Don'ts" that provides AOs guidance in identifying unallowable purchases, misuse of cards and other policies and procedures. This list is a part of the material used for training the AOs and is available on the Intranet.

**Recommendation No. 4.** Purchasing and ACTTC should collaborate to execute periodic performance reviews of the CAL-Card program. The CAL-Card policy violations identified, relevant statistical data and other information should be summarized and reported to management.

**Current Status: Implemented:**

ACTTC's Accounting Division currently reviews 100 percent of CAL-Card transactions and produces a CAL-Card Report. This report includes expense by merchant and by department and past due transactions by month and by merchant. This report also identifies transactions that potentially violate CAL-Card policies. The report is reviewed by the GS Deputy Director and a Senior Purchasing Agent. GS contacts respective departments to address the violations and start the misuse of card process if warranted.

**Recommendation No. 5.** The County should re-assess its employee meal reimbursements policies and better define allowable practices and documentation standards (e.g. itemized receipts). A review should be performed periodically and reimbursement rates adjusted as necessary to better align with the actual cost. CAL-Card meal purchases that do not meet the County requirements should be considered unallowable after adequate training has been provided to the CAL-Card users and AOs.

**Current Status: Not Implemented:**

GS management had discussions with Human Resources and ACTTC management. GS management will continue discussions with the County management and recommend full implementation of this recommendation.

Pages 19 and 20 of the audit report dated December 2013 outline the deficiencies noted in the current meal policy, weaknesses in internal controls, and their impact. The three primary areas for improvements were 1) meal allowance rates, 2) justification for business meals and 3) proper support for claims submitted. The impact of these deficiencies and potential savings resulting from the full implementation of this recommendations were also described.

We continue to recommend management implement the changes identified in the original report.

**Recommendation No. 6.** ACTTC should develop a risk-based audit approach for the CAL-Card review process to effectively target potential problem areas. Examples of audit sample criteria are listed below but not limited to:

| Target Group | The Nature of Risk |
|---|---|
| Department Head | The Approving Official is under his/her supervision |
| First-Time User | The Cardholder may not fully understand the procedures |
| Top Spender | The Cardholder may potentially be misusing the card |
| Repeat Violators | The Cardholder may have the tendency to violate the procedures |
| High Risk Items | Items easily convertible to private use such as in town meals |

Auditing a sample of transactions selected based on risk and coupled with a policy to deactivate, suspend or cancel accounts of repeat violators would be a more cost effective alternative to the current practice.

**Current Status: Not Implemented:**

The ACTTC – Accounting Division has not implemented a risk-based approach to reviewing CAL- Card transactions. It continues to review 100% of the transactions which provides a higher level of assurance than the risk-based approach.

A risk-based approach has been implemented for other accounts payable transactions. ACTTC plans to fully implement this recommendation when comprehensive risk-based audit guidelines are developed for CAL-Card transactions.

**Recommendation No. 7.** Purchasing should monitor card usage and, in consultation with the user departments, deactivate infrequently used cards that no longer have a business purpose. Individual and monthly spend limits should also be reviewed and adjusted based on need.

**Current Status: Not Implemented:**

GS management stated procedures were put in place to review CAL-Card usage bi-annually with all Departments to identify and deactivate infrequently used cards and to verify that card limits are adequate and reasonable. However, due to the departure of the Senior Account Clerk, the bi-annual review has not been reinstated as of July 2016.

GS management intends to reinstate this process once the staffing issue is resolved.

**Recommendation No. 8.** Purchasing should re-evaluate the CAL-Card parameters to better address the County's current needs in consultation with the user departments. The user departments should be encouraged to use the CAL-Card for purchases that meet the CAL-Card requirements.

**Current Status: Implemented:**

As discussed in the status for recommendation number 7 above, GS has implemented procedure to verify that card limits are adequate and reasonable. The current single-transaction limit is set at $2,500 per transaction for CAL-Card purchases. The Buyers in Purchasing have higher transaction limits and, where appropriate, use CAL-Card instead of the Purchase Order process to finalize payments. When necessary, other CAL-Card holders' limits are increased temporarily to allow using CAL-Cards instead of the Purchase Order process.

**Recommendation No. 9.** Purchasing should utilize CAL-Card purchase data to identify areas where the County could potentially negotiate discounts resulting from routine and/or large volume of acquisition.

**Current Status: Implemented:**

Purchasing has modified its monthly report to identify vendors with highest dollar value transactions and use it to negotiate discounts.

**Recommendation No. 10.** Purchasing should identify items covered under Blanket Purchase Orders (BPO) and Western State Contracting Alliance (WSCA) agreements to provide the user departments with such information. BPO and WSCA eligible transactions charged to the CAL-Card program should be monitored and reported to department management.

**Current Status: In Process:**

Purchasing is in the planning stages of development of new training specifically for AOs to include information regarding restrictions on transactions made when existing BPO and/or WSCA agreements are already in place. Purchasing plans to have the new training implemented by end of FY 2016.

**Recommendation No. 11.** Purchasing should explore means for obtaining discounts for CAL-Card purchases covered under BPO and WSCA agreements. Arrangements could be made with respective vendors to allow users to identify appropriate agreements at the time of the purchases to receive discounts. An easy to use method for identifying items covered under these agreements should be provided to the users. An ongoing monitoring of BPO and WSCA eligible transactions will ensure continued effectiveness of the procedures listed above.

**Current Status: Not Implemented:**

This recommendation was not implemented due to a lack of resources. GS will consider implementation once resources become available.

**Recommendation No. 12.** Purchasing should periodically identify CAL-Card eligible transactions processed through Accounts Payable (AP) and work with the user departments to expand the CAL-Card use where appropriate. Opportunities for process efficiencies such as "ghost" card usage for the payment of monthly or periodic charges should be investigated.

**Current Status: In Process:**

The Buyers in Purchasing currently review AP payment transactions in the County's Enterprise Financial System (EFS) and process those using CAL-Cards that are eligible per the County's CAL-Card policies. However, due to the transaction limits on user department cards, departments have not been recommended to process these transactions via CAL-Card on an ongoing basis.

Purchasing management has found that setting up "ghost" cards would be difficult and does not have resources to further investigate the strategy.

We continue to recommend that management implement this recommendation to fully benefit from the CAL-Card program.

**Recommendation No. 13.** Purchasing should explore features such as automated accounts payable and general ledger interface that purchasing card vendors currently provide. Purchasing should establish standards of evaluating and selecting a provider who is able to combine compliance, discounts and strategic buying that balance efficiency with control to optimize operations.

**Current Status: Not Implemented:**

GS is currently exploring the feasibility of issuing a Request for Proposal for the CAL-Card program with an emphasis on automating AP and a general ledger interface.

## Staff Acknowledgement

We would like to thank GS and ACTTC staff for their helpfulness and cooperation in conducting this follow-up audit. If you have any further questions regarding this report, please contact the auditor-in-charge, Ryan Burns at (707) 565-8304.

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 13**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** November 15, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Auditor-Controller-Treasurer-Tax Collector

**Staff Name and Phone Number:**

Paul Cocking 565-2858
Cathy Patton 565-2073

**Supervisorial District(s):**

All

**Title:** Deferred Compensation Service Provider Agreement

**Recommended Actions:**

Authorize the Auditor-Controller-Treasurer-Tax Collector to negotiate and execute an agreement with Nationwide Retirement Solutions for deferred compensation provider services from the effective date of the new agreement for a period of ten years for an amount not to exceed $3,700,000 over the term of the contract, and to execute a 4th Amendment to an agreement to extend the existing contract pending completion of the negotiations, up to 180 days.

**Executive Summary:**

The Auditor-Controller-Treasurer-Tax Collector (ACTTC) manages the County's 457(b), 401(a), and Part-Time Seasonal Temporary (PST) deferred compensation plans. The combined plan assets total $345 million and has approximately 5,000 participants, including current and separated employees, and retirees, enrolled in the program. The plan is presently being administered by Nationwide Retirement Solutions (Nationwide).

Originally, the plan was administered by a predecessor to Nationwide, and through a series of mergers Nationwide became the plan provider. Nationwide began working with the County in 1994. At that time the County had two deferred compensation providers. In 2010 ACTTC staff conducted a Request for Information (RFI) with Nationwide to assure that the County was receiving the best possible service at a reasonable cost. The conclusion of the RFI process was that Nationwide continued to provide timely and effective services and was financially stable. However it was concluded that the cost of the service should be renegotiated. As a result, an agreement was negotiated with costs savings of approximately 20% annually for employees, and that agreement expires on December 31, 2016.

The Auditor-Controller-Treasurer-Tax Collector completed a Request For Proposal for Deferred Compensation Services Provider on August 15, 2016 and selected Nationwide Retirement Solutions from

the five proposals received. Staff recommends an extension of the current contract terms for 180 days or until services are transitioned to a new contract, whichever comes first.

**Discussion:**

In August 2016, the ACTTC formed a 5 person Request for Proposal (RFP) committee comprised of the Assistant Auditor-Controller-Treasurer-Tax Collector, the Investment & Debt Manager, and one (1) staff member each from the CAO, Sheriff's Department, and the Water Agency. The RFP was prepared with the assistance of purchasing staff and was issued on August 15, 2016 to approximately 12 vendors, with responses due September 15, 2016. The committee received and reviewed five (5) responses.

Criteria used in the selection process were :

- The ability to meet the County's minimum requirements to enter into an agreement and provide plan services
- Organizational and financial strength
- Client servicing
- Education
- Price
- Local Preference

During the presentation of the 2011 Pension Report, the Board expressed an interest in increasing the financial literacy of employees. As a result, additional weight was placed on education and client servicing in the evaluation process, as these are key to advancing the goal of assisting County employees to plan and save for their retirement.

Of the five proposals, the committee members each independently rated Nationwide Retirement Solutions highest overall, and determined they could best fulfill all of the RFP requirements. Once the board approves award of the contract to Nationwide, staff will work to finalize a contract with them.

Under the new proposal, Nationwide will provide a fulltime representative to the County who will conduct individual consultations with participants, as well as group meetings. This is a continuation of the current relationship, which has resulted in approximately 5,000 of the one-on-one sessions having taken place at County offices since 2013. In addition, the representative supports the County's retirement readiness educational events including those held during National Save for Retirement Week, which an additional 500 participants have attended. During this same period, 200 individual financial planning sessions with enrolled employees and their spouses/partners have also occurred. When first launched, the financial planning sessions were targeted at enrolled employees nearing retirement and has been steadily expanded to include all employees. These planning sessions are held approximately every quarter, over a three day period.

The cost of the Deferred Comp plan is paid directly by participants. Staff anticipates terms of the new contract will not be substantially different from the existing contract, and proposes a 10-year agreement, which saves participants an estimated $29,000 per year or approximately $290,000 over the 10-year agreement, that would not be offered for a shorter term agreement. Discounts to plan participants for longer terms is not uncommon - the County of Marin recently completed a Deferred

Compensation Service Provider RFP and selected Nationwide and also is taking advantage of a 10 year pricing discount.

Under the terms of the current contract, the Plan costs $698,000 annually of which $211,000 reimburses the County for the cost of plan administration. These costs are collected via the normal fees that are collected by the mutual funds offered in the plan. The costs of the new contract are approximately $370,000 annually of which $219,000 reimburses the County for the cost of plan administration. Capping the total value of the contract, rather than an annual limit, allows the program to accommodate minor fluctuations in administrative costs over the 10 year term. One potential change will be considering moving to a more transparent fee collection model. An advantage to adopting this fee collection method is the County would be adopting an industry best practice and adding clarity to how program participation costs effect participants. If adopted, costs will be distributed evenly across all investment options and will be easily identified. The administrative oversight of the plan is net cost neutral to the general fund.

Nationwide is an American company that is focused on helping employees prepare for and live in retirement. They have more than 43 years of service working with public sector plan sponsors and over $76 billion in public sector retirement plan assets for 1.6 million participants nationally. Closer to home, Nationwide serves 560 public sector plans in the State of California, including Marin, Solano, Fresno and Riverside Counties.

Nationwide has been the County's Deferred Compensation provider for the past 22 years. During this time, the Department has established an efficient process, emphasizing teamwork with Nationwide, and in the Committee's opinion, it is in the County's best interest to continue to contract with them.

Staff requests authorization for the Auditor-Controller-Treasurer-Tax Collector to negotiate and execute an agreement with Nationwide Retirement Solutions for deferred compensation provider services from the effective date of the new agreement for a period of ten years for an amount not to exceed $3,700,000 over the term of the contract, and to execute a 4th Amendment to an agreement to extend the existing contract pending completion of the negotiations, up to 180 days.

**Prior Board Actions:**

02-21-12 – Plan Document Amendment
12-24-10 – Nationwide Contract Amendment
05-22-07 – Nationwide Contract Extension
05-28-02 – Deferred Compensation Plan Modification (Resolution #02-0568)
01-07-02 – Non-Board Amendment (TTC)

**Strategic Plan Alignment** Goal 3: Invest in the Future

Providing and maintaining a deferred compensation plan for employees allows them the opportunity to save additional funds for retirement and helps attract and retain qualified employees.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **None** | **None** | **None** |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **None** | **None** | **None** |

**Narrative Explanation of Fiscal Impacts:**

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| None | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

None

**Attachments:**

Fourth Amendment to the Restated and Amended Plan Administration Agreement

**Related Items "On File" with the Clerk of the Board:**

**Fourth Amendment to the Restated and Amended Plan Administration Agreement**

This Fourth Amendment to the Administrative Services Agreement that commenced as of March 7, 2002 ("Agreement") by and between County of Sonoma, California ("Employer") and Nationwide Retirement Solutions, Inc. ("Nationwide") is made effective on the _____ day of _____, 2016

**WHEREAS**, the Employer, and Nationwide executed the above referenced Agreement; and

**WHEREAS**, the Employer and Nationwide amended the Agreement by First Amendment effective July 1, 2007; and

**WHEREAS**, the Employer and Nationwide amended the Agreement by Second Amendment effective January 1, 2011; and

**WHEREAS**, the Employer and Nationwide amended the Agreement by Third Amendment effective August 1, 2015; and

**WHEREAS**, pursuant to Section 24 of the Agreement, effective as of the day and year first written above the parties' desire to amend the Agreement.

**NOW THEREFORE**, in consideration of the mutual obligations and covenants set forth herein, the parties hereto agree as follow:

**1. <u>TERM</u>**

This agreement shall remain in effect for the earlier of June 30, 2017 or until services are transitioned to a new contract, whichever comes first. The Agreement may be terminated by either party with or without "Cause" as the term is defined in the Agreement, and with out obligation, upon the giving of one hundred (120) days' written notice to the other party.

**IN WITNESS WHEREOF**, the parties hereto have executed this Fourth Agreement as of the day and year first written above.

NATIONWIDE RETIREMENT SOLUTIONS, Inc. (NATIONWIDE)

By: _____

Name/Title: _____

COUNTY OF SONOMA, CALIFORNIA

By: _____

Name/Title: _____

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 14**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Board of Supervisors

**Staff Name and Phone Number:**
Supervisor Susan Gorin, 565-2241

**Supervisorial District(s):**
First

**Title:** Disbursement of FY 16/17 First District Advertising Funds.

**Recommended Actions:**

Approve Advertising Program grant awards and authorize the County Administrator to execute a contract with the following non-profit entities for advertising and promotions activities for FY 16/17: Sonoma Valley Education Foundation, $2,500; Sonoma Valley Chorale, $2,000; Children's Museum of Sonoma County, $500; and ArtEscape, $2,000.

**Executive Summary:**

Category E – Local Events and Organizations of the Advertising and Promotions Program Policy provides grant allocations to each Supervisor, to be distributed at the Supervisor's discretion. The First District has reviewed the applications and wishes to recommend the following FY 16/17 advertising grant awards:

1.) Sonoma Valley Education Fund for advertising and promotion of the 2017 Red & White Ball benefiting public schools of the Sonoma Valley; grant award of $2,500.
2.) Sonoma Valley Chorale for advertising and promotion of the 2016-2017 concert series; grant award of $2,000.
3.) Children's Museum of Sonoma County for advertising and promotion of their 2016-2017 events; grant award of $500.
4.) ArtEscape for advertising and promotion of their 2016-2017 program, classes and events; grant award of $2,000.

**Discussion:**

The Sonoma County Advertising Program utilizes a portion of the Transient Occupancy Tax (TOT) to encourage tourism, economic development and community engagement through a variety of grant award and funding avenues. The Program provides various grants to community non-profits for advertising and promoting events and the county as a visitor destination with the goal of advancing economic growth through tourism. Additionally the program provides grants to promote agricultural

promotion as well as address impacts on safety due to tourism. The Program also provides funding to the Regional Parks Department as well as the Economic Development Department and a number of other county department activities, all with the focus of encouraging tourism and awareness of Sonoma County.

The Advertising Program Policy is divided into different categories. Category E is "Local Events, Organizations and Economic Development." The Board established this category to assist small cultural, artistic, and countywide events and organizations as well as events occurring during the off peak tourism season (November 15 through April 15) with funding for advertising and economic development efforts that promote Sonoma County and encourage visitors to frequent the county throughout the entire year. Funding for these events and organizations is provided at the discretion of each Supervisorial District based on an overall allocation of $170,000 where 50% of the amount is divided equally across each district as baseline funding and the remaining 50% is divided by the percent of TOT collections by district in the previous fiscal year. Events and organizations make requests throughout the year to the Supervisorial District in which their event/organization exists.

Funds will be distributed upon approval of these awards by the Board and execution of the Advertising grant agreement contract by the entity. The contracts will be executed by the County Administrator. The contracts will require the County logo on promotional materials produced using the grant award and will require submission to the County Administrator's Office of advertising and promotional activity receipts up to the total amount of the grant award.

**Prior Board Actions:**

7/19/2016 -- Awarded FY 16/17 Category E grants.

| **Strategic Plan Alignment** | Goal 2: Economic and Environmental Stewardship |
|---|---|

Grant funds allow non-profit partners to advertise and grow local events and encourage tourism thereby promoting economic development and growth.

| Fiscal Summary - FY 16-17 | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | 7,000 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **7,000** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | 7,000 | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **7,000** | | |

**Narrative Explanation of Fiscal Impacts:**

Funds are included in the FY 16/17 budget.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

None.

**Related Items "On File" with the Clerk of the Board:**

FY 16/17 Advertising Program Grant Award Agreement

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 15**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Board of Supervisors

**Staff Name and Phone Number:**
Supervisor James Gore, 565-2241

**Supervisorial District(s):**
Fourth

**Title:** Disbursement of FY 16/17 Fourth District Advertising Funds.

**Recommended Actions:**

Approve Advertising Program grant awards and authorize the County Administrator to execute a contract with the following non-profit entities for advertising and promotions activities for FY 16/17: Children's Museum of Sonoma County, $500; Cloverdale Ram Sale, $500; Geyserville Community Foundation, $1,000; Wine Growers of Dry Creek Valley, $1,000; Cloverdale Cultural Committee, $500.

**Executive Summary:**

Category E – Local Events and Organizations of the Advertising and Promotions Program Policy provides grant allocations to each Supervisor, to be distributed at the Supervisor's discretion. The Fourth District has reviewed applications and wishes to recommend FY 16/17 advertising grant awards to the following non-profits:

1.) Children's Museum of Sonoma County for advertising and promotion of the 2016-2017 yearly programs; grant award of $500.
2.) Cloverdale Ram Sale for advertising and promotion of the 2017 Ram Sale; grant award of $500.
3.) Geyserville Community Foundation for advertising and promotion of The Sculpture Trail; grant award of $1,000.
4.) Wine Growers of Dry Creek Valley for advertising and promotion of Passport to Dry Creek Valley; grant award of $1,000.
5.) Cloverdale Cultural Committee for advertising and promotion of Cloverdale Latino Independence Day; grant award of $500.

**Discussion:**

The Sonoma County Advertising Program utilizes a portion of the Transient Occupancy Tax (TOT) to encourage tourism, economic development and community engagement through a variety of grant award and funding avenues. The Program provides various grants to community non-profits for advertising and promoting events and the county as a visitor destination with the goal of advancing

economic growth through tourism. Additionally the program provides grants to promote agricultural promotion as well as address impacts on safety due to tourism. The Program also provides funding to the Regional Parks Department as well as the Economic Development Department and a number of other county department activities, all with the focus of encouraging tourism and awareness of Sonoma County.

The Advertising Program Policy is divided into different categories. Category E is "Local Events, Organizations and Economic Development." The Board established this category to assist small cultural, artistic, and countywide events and organizations as well as events occurring during the off peak tourism season (November 15 through April 15) with funding for advertising and economic development efforts that promote Sonoma County and encourage visitors to frequent the county throughout the entire year. Funding for these events and organizations is provided at the discretion of each Supervisorial District based on an overall allocation of $170,000 where 50% of the amount is divided equally across each district as baseline funding and the remaining 50% is divided by the percent of TOT collections by district in the previous fiscal year. Events and organizations make requests throughout the year to the Supervisorial District in which their event/organization exists.

Funds will be distributed upon approval of these awards by the Board of Supervisors and execution of the Advertising grant agreement contract by the entity. The contracts will be executed by the County Administrator. The contracts will require the County logo on promotional materials produced using the grant award and will require submission to the County Administrator's Office of advertising and promotional activity receipts up to the total amount of the grant award.

| **Prior Board Actions:** | |
|---|---|
| 9/13/16 - Awarded FY 16/17 Category E grants. | |
| **Strategic Plan Alignment** | Goal 2: Economic and Environmental Stewardship |
| Grant funds allow non-profit partners to advertise and grow local events and encourage tourism thereby promoting economic development and growth. | |

| Fiscal Summary - FY 16-17 | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | 3,500 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **3,500** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | 3,500 | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **3,500** | | |

**Narrative Explanation of Fiscal Impacts:**

Funds are included in the FY 16/17 budget.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

None.

**Related Items "On File" with the Clerk of the Board:**

FY 16/17 Advertising Program Grant Award Agreement

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 16**
(This Section for use by Clerk of the Board Only.)

**To:**

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** BOS

**Staff Name and Phone Number:**
Supervisor Efren Carrillo 565-2241

**Supervisorial District(s):**
Fifth District

**Title:** Action honoring Sebastopol Serviceman Rudy Theiller

**Recommended Actions:**

Approve action honoring Rudy Theiller by naming the athletic fields at Ragle Ranch Regional Park as The Rudy Theiller Memorial Athletic Fields, and Approve the use of $2,500 in contingencies to purchase signs for the renamed fields.

**Executive Summary:**

December 7, 2016 commemorated the 75th anniversary of Pearl Harbor, and the loss of Sebastopol serviceman Rudy Theiller who perished on the USS Arizona on that day. Former Supervisor Bob Theiller lost his older brother that day. During Supervisor Theiller's service to Sonoma County, Regional Parks acquired Ragle Ranch which has become a much loved Sebastopol Regional Park. This action will name the athletic fields in memory of Rudy Theiller's service and the ultimate sacrifice that he made for our country.

**Discussion:**

Regional Parks estimates the cost of signage and a dedication ceremony, to be scheduled in consultation with the Theiller family, to be approximately $2,500.

**Prior Board Actions:**

None.

**Strategic Plan Alignment** Goal 4: Civic Services and Engagement

Naming the fields at Ragle Ranch Regional Park for Rudy Theiller honors that brave individual and helps show Sonoma County's respect and support for its veterans.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | $2,500 | | |
| **Total Expenditures** | **$2,500** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | $2,500 | | |
| **Total Sources** | **$2,500** | | |

**Narrative Explanation of Fiscal Impacts:**

The costs of installing signage for the newly named fields and holding a dedication ceremony are estimated at $2,500 which would be paid from contingencies.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Parks naming policy is attached.

**Related Items "On File" with the Clerk of the Board:**

# NAMING POLICY

*Effective Date: 07-1-11*

*Issued By:* Parks Manager *Approved By:*
*Manager* *Director*

## I. PURPOSE:

**The purpose of this policy is to establish a guideline for the naming of parks and/or park features; and to provide guidelines to members of the public interested in participating in park naming.**

## II. POLICY

A. New names must be noticeably different than all existing park names to avoid duplication or confusion.

B. Names may result as a stipulation of a donation, and agreed upon between the land management agency and the donor.

C. Features of parks may be named separately from the entire park as long as the name complies with general naming requirements and the feature is distinct enough to warrant its own name.

D. Park names should fall into one of the following categories, with preference given to geographic and historic/indigenous names:
   i. Geographic
   ii. Historic/Indigenous
   iii. Natural Features
   iv. A person or community group

E. Requirements for naming a park after a person:
   i. Parks and/or park features may not be named after an individual while that person is alive.
   ii. The individual must have made a significant contribution to the park, parks department, or community as a whole.

F. Park naming requests must be submitted in writing and demonstrate how the name is consistent with the Naming Policy.

G. Names are subject to approval/denial by any one or a combination of the following entities: the Parks and Recreation Advisory Commission, the Sonoma County Board of Supervisors, and the Director of the

Regional Parks Department. Names for Parks will be determined and approved as part of the master plan process for a new park.

## III. PROCEDURE

A. Public participation in naming parks and facilities is encouraged, especially from those individuals or groups that may have been influential in the acquisition of the property.

B. Names will be assigned to new properties as soon as possible after acquisition.

C. Names that have a long-established use in reference to an area of the park or the park itself are the most easily established and adopted.

D. Names that are derogatory or highly offensive to a particular racial or ethnic group, gender, or religious group may not be used; regardless of whether or not they are well established.

E. Names shall not be overly long, clumsily constructed, or overly difficult to pronounce and/or spell.

F. Commemorative names may be more suitable for features within a park than the park itself due to the fact that a commemorative name may not provide any clues to park users as to the park location and features.

G. Ideally, names will contain the following attributes:
   i. Provide a sense of location
   ii. Park names that provide information about what can be expected at the park

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 17**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** County Clerk-Recorder-Assessor; County Administrator's Office; Permit and Resource Management Department

**Staff Name and Phone Number:**

William F. Rousseau (County Clerk), 707-565-1876
Hannah Euser (CAO), 707-565-3783
Misti Harris (PRMD), 707-565-1352

**Supervisorial District(s):**

All

**Title:** Consolidated Presidential General Election Official Canvass.

**Recommended Actions:**

A. Adopt resolution adopting the official canvass of the vote for the November 8, 2016 Consolidated Presidential General Election.
B. Determine that Measure L, amending Section 12-11 of the Sonoma County Code to increase the Transient Occupancy Tax rate from nine percent (9%) to twelve percent (12%), was duly adopted by a 4/5 vote of the Board on August 9, 2016, and approved by a majority vote of the qualified voters of the County of Sonoma on November 8, 2016, and direct the Clerk of the Board to attach a certification to Ordinance No. 6173 attesting to the vote on Measure L as shown in the official canvass.
C. Determine that Measure K, the Community Separators Protection Ordinance, was duly placed on the ballot by unanimous vote of the Board on August 2, 2016, and approved by a majority of the qualified voters of the County of Sonoma on November 8, 2016, direct the Clerk of the Board to assign a number to said Ordinance, authorize and direct the Chair to sign the ordinance, and direct the Clerk of the Board to attest thereto.

**Executive Summary:**

The canvass for the November 8, 2016 Consolidated Presidential General Election has been completed and certified by the County Clerk. The Clerk is now submitting the official canvass to the Board of Supervisors for adoption as provided by law. In addition, two measures placed on the ballot by the Board of Supervisors received the required majority vote of the qualified voters of the County of Sonoma. The County Administrator's Office and the Permit and Resource Management Department are submitting those measures to the Board for certification and formal adoption.

**Discussion:**

Pursuant to Elections Code §1000, the Consolidated Presidential General Election was held on November 8, 2016. The results thereof have been certified by the County Clerk, and the certification must be adopted by the Board of Supervisors as the governing body. Elections Code §15372 provides that the Clerk shall canvass the returns within 30 days following the election, and Elections Code §15302 requires the Clerk to submit a certified statement of the results to the governing body (the Board of Supervisors) for adoption. The canvass has been completed, and the Statement of the Votes Cast, on file with the Clerk of the Board, is submitted to the Board for adoption as provided by law. The Board shall, pursuant to Elections Code §15400, declare elected to each office voted on at each election under its jurisdiction, the person having the highest number of votes for that office, or the person who was elected or nominated under the exceptions noted in §15452. The Board shall also declare the results of each election under its jurisdiction as to each measure. In addition, those incumbent candidates for judicial office whose names did not appear on the ballot in either the Primary or the General Election, due to insufficient nominees and the lack of a write-in campaign, shall be declared elected by the elections official (County Clerk) as of the date of the General Election.

Prior to the newly elected officeholders assuming office, the elections official shall issue and deliver certificates of election to those candidates so declared. The official canvass is also transmitted to the appropriate cities, as well as school and special districts, for adoption by their governing bodies. Additionally, final results have been reported to the Secretary of State as required for state-certified contests.

Additionally, two measures the County placed on the November 8, 2016 ballot received the required majority vote to the qualified voters of the County of Sonoma casting votes at said election. Measure L (the Sonoma County Tourist Tax) sought approval to increase the County's transient occupancy tax from nine percent (9%) to twelve percent (12%). Measure K (The Community Separators Protection Ordinance) sought voter approval to modify the General Plan's community separator policies and to extend and confirm those policies for an additional 20 years. Based on the official canvass, both measures received the required majority vote to pass. Staff request that the Board make the necessary determinations to formally enact these two measures.

On August 9, 2016, the Board enacted Ordinance No. 6173 amending Section 12-11of the Sonoma County Code to increase the Transient Occupancy Tax rate from nine percent (9%) to twelve percent (12%). That proposed tax increase was submitted to the voters as Measure L at the November 8, 2016 General Election. The County's Transient Occupancy Tax is a general tax and, pursuant to Article 13 C, §2(b) of the California Constitution, must be approved by a majority of the County's qualified voters casting ballots at the election. As shown by the official canvass, Measure L received more than 68 percent approval with 149,472 "Yes" votes and 69,666 "No" votes. Staff requests that the Board declare Measure L received the required majority vote of the County electorate and direct the Clerk of

the Board to attach certification included in the packet to Ordinance No. 6173 attesting to the vote on Measure L as shown in the official canvass.

On June 19, 2016, the Board conducted a public hearing and considered the continued and expanded protection of Community Separators lands that function to separate cities and other communities, to contain urban development, and to provide city and community identity by providing visual relieve form continuous urbanization. Based on input received at that meeting, the Board directed certain revisions to the proposed ordinance. At its August 2, 2016 meeting, the Board reviewed the revised ordinance and formally placed it on the November 8, 2016 ballot as Measure K. As shown by the official canvass, Measure K received overwhelming support with more than 81 percent approval (173,309 "Yes" votes and 39,596 "No" votes). Staff requests that the Board declare Measure L received the required majority vote of the qualified voters of the County of Sonoma on November 8, 2016, direct the Clerk of the Board to assign a number to the Community Separators Protection Ordinance, authorize and direct the Chair to sign the ordinance, and direct the Clerk of the Board to attest thereto.

**Prior Board Actions:**

Resolution 16-0357, dated September 20, 2016; authorized consolidation of elections to be held in conjunction with the November 8, 2016, General Election; Resolution 16-0360, dated September 20, 2016, approved appointment of nominees to their respective offices.

On August 9, 2016, the Board enacted Ordinance No. 6173 amending Section 12-11of the Sonoma County Code to increase the Transient Occupancy Tax rate from nine percent (9%) to twelve percent (12%) and adopted Resolution No. 16-0295 submitting the proposed tax to the voters at the November 8, 2016 General Election.

On August 2, 2016, the Board adopted Resolution No. 16-0283 placing Measure K (The Community Separators Protection Ordinance) on the November 8, 2016 ballot.

| **Strategic Plan Alignment** | Goal 4: Civic Services and Engagement |
|---|---|

The Board's adoption of the Official Canvass of the Vote and declaration of the results of the election are, by law, necessary to put into effect the votes cast at the election.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

There are no fiscal impacts associated with his item.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Resolution,
Resolution Exhibit A: Summary of Official Results.
Ordinance No. 6173
Certification for Ordinance No. 6173
Community Separators Protection Ordinance

**Related Items "On File" with the Clerk of the Board:**

Statement of the Vote.

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Adopting the Official Canvass of the Vote for the November 8, 2016 Consolidated Presidential General Election.**

**Whereas,** The Consolidated Presidential General Election was held on November 8, 2016, and

**Whereas,** the County Clerk is directed to canvass the returns of said election pursuant to Elections Code Sections 15301, 15302, and 15372; and

**Whereas,** the County Clerk has completed the canvass of said election and submitted to the Board of Supervisors the Official Statement of the Vote;

**Now, Therefore, Be It Resolved** that the official canvass of votes cast at the Consolidated Presidential General Election held on November 8, 2016, is hereby adopted in accordance with law, and the results of each election under the jurisdiction of the County of Sonoma as to each office and each measure are hereby declared. A copy of the Statement of the Vote is provided herewith.

**Supervisors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

### President and Vice President

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Clinton/Kaine Dem | 160,435 | 68.8% |
| Trump/Pence Rep-AI | 51,408 | 22.0% |
| Johnson/Weld Lib | 8,987 | 3.9% |
| Stein/Baraka Grn | 7,347 | 3.1% |
| Write-in candidate(s) | 4,447 | 1.9% |
| La Riva/Banks PF | 679 | 0.3% |

### United States Senator

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Kamala D. Harris | 147,532 | 73.0% |
| Loretta L. Sanchez | 54,600 | 27.0% |

### U S Representative 2nd District

Complete Precincts: 202 of 202

| | | |
|---|---|---|
| Jared W. Huffman | 69,572 | 76.6% |
| Dale K. Mensing | 21,311 | 23.4% |

### U S Representative 5th District

Complete Precincts: 257 of 257

| | | |
|---|---|---|
| Mike Thompson | 95,625 | 76.9% |
| Carlos Santamaria | 28,734 | 23.1% |

### State Senator 3rd District

Complete Precincts: 92 of 92

| | | |
|---|---|---|
| Bill Dodd | 37,986 | 63.9% |
| Mariko Yamada | 21,488 | 36.1% |

### Member of Assembly 2nd District

Complete Precincts: 207 of 207

| | | |
|---|---|---|
| Jim Wood | 68,209 | 76.1% |
| Ken Anton | 21,450 | 23.9% |

### Member of Assembly 4th District

Complete Precincts: 71 of 71

| | | |
|---|---|---|
| Cecilia M. Aguiar-Curry | 20,028 | 69.9% |
| Charlie Schaupp | 8,610 | 30.1% |

### Member of Assembly 10th District

Complete Precincts: 181 of 181

| | | |
|---|---|---|
| Marc Levine | 53,857 | 63.0% |
| Veronica 'Roni' Jacobi | 31,623 | 37.0% |

### Sonoma County Board of Education Area 1

Complete Precincts: 109 of 109

| | | |
|---|---|---|
| Gina Cuclis | 26,171 | 62.6% |
| Jason Carter | 15,626 | 37.4% |

### So Co Jr College Dist Santa Rosa Area

Number To Vote For: 2

Complete Precincts: 135 of 135

| | | |
|---|---|---|
| Mariana G. Martinez | 39,696 | 35.7% |
| Don Edgar | 37,791 | 34.0% |
| Richard W. (Rick) Call | 33,753 | 30.3% |

### Calistoga Joint Unified School District

Number To Vote For: 3

Complete Precincts: 4 of 4

| | | |
|---|---|---|
| Julie Elkeshen | 135 | 25.0% |
| Martin Hunt | 122 | 22.6% |
| Mark Galindo | 106 | 19.7% |
| Brian Fennen | 89 | 16.5% |
| Matthew Reid | 87 | 16.1% |

### Cloverdale Unified School District

Number To Vote For: 3

Complete Precincts: 6 of 6

| | | |
|---|---|---|
| Preston W. Addison | 2,562 | 23.3% |
| Eric Higgenbotham | 2,200 | 20.0% |
| Cecile F. Peters | 2,009 | 18.3% |
| Dianna MacDonald | 1,516 | 13.8% |
| Karen Scalabrini | 1,516 | 13.8% |
| Vickie Hegarty | 1,175 | 10.7% |

### Cotati-Rohnert Park Unif School District

Number To Vote For: 2

Complete Precincts: 23 of 23

| | | |
|---|---|---|
| Tim Nonn | 9,300 | 31.2% |
| Jennifer Wiltermood | 7,060 | 23.7% |
| Chrissa Gillies | 6,725 | 22.6% |
| Susan H. Adams | 6,678 | 22.4% |

*Healdsburg Unified School District*
Number To Vote For: 3
Complete Precincts: 22 of 22

| | | |
|---|---|---|
| Judy Velasquez | 3,323 | 18.3% |
| Aracely Romo-Flores | 3,121 | 17.2% |
| Jami Sue Kiff | 3,114 | 17.2% |
| Cindy Beth | 2,831 | 15.6% |
| Judith Sanderson | 2,418 | 13.4% |
| Thomas K. Rackerby | 1,850 | 10.2% |
| Daniel Sebastian Novella | 1,454 | 8.0% |

*Sonoma Vly Unif Sch Dist Sassarini Area*
Complete Precincts: 45 of 45

| | | |
|---|---|---|
| John Kelly | 9,161 | 56.1% |
| Gary Desmet | 7,162 | 43.9% |

*Windsor Unified School District F/T*
Number To Vote For: 2
Complete Precincts: 19 of 19

| | | |
|---|---|---|
| George R. Valenzuela | 7,119 | 42.0% |
| Bill Adams | 5,535 | 32.7% |
| Mitchell Egan | 4,287 | 25.3% |

*Windsor Unified School District S/T*
Complete Precincts: 19 of 19

| | | |
|---|---|---|
| Esther Lemus | 6,850 | 64.6% |
| Alex Egan | 3,759 | 35.4% |

*Petaluma Jt Union High School District*
Number To Vote For: 2
Complete Precincts: 61 of 61

| | | |
|---|---|---|
| Ellen Webster | 17,356 | 36.8% |
| Frank Lynch | 16,800 | 35.6% |
| Mary S. Johnson | 13,023 | 27.6% |

*City of Santa Rosa High School District*
Number To Vote For: 4
Complete Precincts: 179 of 179

| | | |
|---|---|---|
| Laurie Fong | 49,998 | 23.4% |
| Jenni Klose | 42,612 | 19.9% |
| Ed Sheffield | 33,412 | 15.6% |
| Evelyn Anderson | 33,020 | 15.5% |
| Laura Gonzalez | 30,050 | 14.1% |
| Caroline Bañuelos | 24,561 | 11.5% |

*West Sonoma County Union High School Dist*
Number To Vote For: 2
Complete Precincts: 79 of 79

| | | |
|---|---|---|
| Diane Landry | 12,040 | 32.6% |
| Ted Walker | 11,428 | 31.0% |
| Jeanne Bassett Fernandes | 7,729 | 20.9% |
| Eric Kirchmann | 5,716 | 15.5% |

*Bellevue Union School District*
Number To Vote For: 2
Complete Precincts: 27 of 27

| | | |
|---|---|---|
| Joy Bruce | 1,990 | 22.1% |
| Adele Walker | 1,979 | 22.0% |
| Santiago F. Ortega | 1,943 | 21.6% |
| Yvonne L. Kennedy | 1,852 | 20.6% |
| Sharon Ligon | 1,223 | 13.6% |

*Forestville Union School District F/T*
Number To Vote For: 2
Complete Precincts: 6 of 6

| | | |
|---|---|---|
| Josh Nultemeier | 1,760 | 37.7% |
| Jean Bullard | 1,633 | 35.0% |
| Otho 'Jake' Vivian | 1,277 | 27.3% |

*Gravenstein Union School District*
Number To Vote For: 2
Complete Precincts: 14 of 14

| | | |
|---|---|---|
| Steve Schwartz | 1,596 | 42.6% |
| Desiree Beck | 1,298 | 34.6% |
| Gregory Leon Appling | 855 | 22.8% |

*Harmony Union School District*
Number To Vote For: 2
Complete Precincts: 7 of 7

| | | |
|---|---|---|
| Henry E. Goff | 1,146 | 37.7% |
| Mariah Lander | 954 | 31.4% |
| Eurydice Rorick | 940 | 30.9% |

*Old Adobe Union School District*
Number To Vote For: 2
Complete Precincts: 17 of 17

| | | |
|---|---|---|
| Jonathan Lenz | 6,579 | 43.9% |
| Heather Burton | 5,091 | 33.9% |
| Marilyn Cohoe | 3,327 | 22.2% |

*Rincon Valley Union School District*
Number To Vote For: 2
Complete Precincts: 42 of 42

| | | |
|---|---|---|
| Mike Cook | 11,330 | 43.0% |
| Carol Lynn Wood | 11,101 | 42.1% |
| Lisa Brown | 3,916 | 14.9% |

*County Supervisor 5th District*
Complete Precincts: 100 of 100

| | | |
|---|---|---|
| Lynda Hopkins | 23,259 | 54.3% |
| Noreen Evans | 19,610 | 45.7% |

*Member, City Council Santa Rosa*
Number To Vote For: 4
Complete Precincts: 74 of 74

| | | |
|---|---|---|
| Jack Tibbetts | 40,788 | 21.1% |
| Julie Combs | 38,628 | 20.0% |
| Chris Rogers | 35,019 | 18.1% |
| Ernesto Olivares | 33,776 | 17.5% |
| Don Taylor | 23,775 | 12.3% |
| Brandi Asker | 21,017 | 10.9% |

*Member, City Council Cloverdale*
Number To Vote For: 2
Complete Precincts: 3 of 3

| | | |
|---|---|---|
| Mary Ann Brigham | 1,074 | 17.0% |
| Melanie Bagby | 901 | 14.3% |
| Keith King | 885 | 14.0% |
| James Luchini | 823 | 13.0% |
| Robert (Bob) Cox | 782 | 12.4% |
| Jason Turner | 771 | 12.2% |
| Paula Wrenn | 563 | 8.9% |
| Alejandrina Crayford | 508 | 8.1% |

*Member, City Council Cotati*
Number To Vote For: 3
Complete Precincts: 3 of 3

| | | |
|---|---|---|
| Susan Harvey | 1,658 | 21.0% |
| John Dell'Osso | 1,603 | 20.3% |
| Wendy Skillman | 1,463 | 18.5% |
| Eris Weaver | 1,289 | 16.3% |
| George Barich | 947 | 12.0% |
| Jason Goebel | 937 | 11.9% |

*Member, City Council Healdsburg*
Number To Vote For: 3
Complete Precincts: 5 of 5

| | | |
|---|---|---|
| Shaun F. McCaffery | 2,797 | 21.0% |
| David Hagele | 2,341 | 17.6% |
| Joe Naujokas | 2,219 | 16.7% |
| Gary W. Plass | 2,199 | 16.5% |
| Tim Meinken | 2,043 | 15.3% |
| Mel Amato | 1,714 | 12.9% |

*Member, City Council Petaluma*
Number To Vote For: 3
Complete Precincts: 25 of 25

| | | |
|---|---|---|
| Mike Healy | 16,962 | 29.4% |
| Kathy Miller | 14,715 | 25.5% |
| Gabe Kearney | 13,169 | 22.8% |
| Bill Wolpert | 12,894 | 22.3% |

*Member, City Council Sebastopol*
Number To Vote For: 2
Complete Precincts: 3 of 3

| | | |
|---|---|---|
| Neysa Hinton | 2,674 | 38.9% |
| Michael Anthony Carnacch | 1,639 | 23.8% |
| Write-in candidate(s) | 1,421 | 20.7% |
| Jonathan Greenberg | 1,142 | 16.6% |

*Member, City Council Sonoma*
Number To Vote For: 2
Complete Precincts: 7 of 7

| | | |
|---|---|---|
| Amy Harrington | 3,340 | 34.5% |
| David Cook | 2,446 | 25.3% |
| Laurie Gallian | 2,213 | 22.9% |
| Jack Wagner | 1,684 | 17.4% |

*Member, Town Council Windsor*
Number To Vote For: 2
Complete Precincts: 11 of 11

| | | |
|---|---|---|
| Debora Fudge | 4,980 | 25.3% |
| Bruce G Okrepkie | 4,189 | 21.3% |
| Michael Wall | 4,140 | 21.0% |
| Rosa Reynoza | 3,813 | 19.3% |
| Julia Donoho | 2,585 | 13.1% |

*Gold Ridge Fire Protection Dist F/T*
Number To Vote For: 3
Complete Precincts: 35 of 35

| | | |
|---|---|---|
| Joe Petersen | 4,261 | 28.7% |
| Al Fiori | 4,063 | 27.4% |
| Charlie Lachman | 3,393 | 22.9% |
| Ronald L. Balzer | 3,121 | 21.0% |

*Roseland Fire Protection Dist*
Number To Vote For: 2
Complete Precincts: 12 of 12

| | | |
|---|---|---|
| Sandra C. Bassignani | 1,116 | 39.8% |
| Alice D. Petty-Hannum | 940 | 33.5% |
| Michael Hilber | 748 | 26.7% |

*Palm Drive Health Care District*
Number To Vote For: 3

Complete Precincts: 83 of 83

| | | |
|---|---|---|
| Gail G. Thomas | 12,595 | 26.2% |
| Eira I. Klich-Heartt | 10,991 | 22.9% |
| Jim Horn | 8,556 | 17.8% |
| Marsha Sue Lustig | 8,178 | 17.0% |
| Robert Cary | 7,709 | 16.1% |

*PROP 51-School Bonds*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 124,588 | 56.0% |
| No | 97,722 | 44.0% |

*PROP 52-State Fees on Hospitals*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 157,303 | 71.6% |
| No | 62,370 | 28.4% |

*PROP 53-Revenue Bonds*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 84,500 | 39.1% |
| No | 131,426 | 60.9% |

*PROP 54-Legislature. Legislation&Proceedings*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 127,767 | 59.6% |
| No | 86,783 | 40.4% |

*PROP 55-Tax Extension Fund Ed. & Healthcare*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 149,241 | 67.2% |
| No | 72,749 | 32.8% |

*PROP 56-Cigarette Tax*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 155,868 | 67.8% |
| No | 74,008 | 32.2% |

*PROP 57-Criminal Sentenc Juvenile Proceedings*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 156,090 | 69.7% |
| No | 67,839 | 30.3% |

*PROP 58-English Language Education*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 174,690 | 77.8% |
| No | 49,925 | 22.2% |

*PROP 59-Campaign Finance Voter Instruction*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 136,286 | 63.8% |
| No | 77,325 | 36.2% |

*PROP 60-Adult Films. Condoms. Health Req.*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 81,209 | 37.4% |
| No | 135,646 | 62.6% |

*PROP 61-State Prescript Drug Purchases. Pricing*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 113,040 | 52.0% |
| No | 104,368 | 48.0% |

*PROP 62-Death Penalty*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 122,533 | 55.0% |
| No | 100,364 | 45.0% |

*PROP 63-Firearms. Ammunitions Sales*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 146,122 | 64.8% |
| No | 79,500 | 35.2% |

*PROP 64-Marijuana Legalization*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 136,358 | 59.1% |
| No | 94,475 | 40.9% |

*PROP 65-Carry-Out Bags. Charges*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 102,280 | 45.6% |
| No | 122,036 | 54.4% |

*PROP 66-Death Penalty. Procedures*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 90,929 | 42.6% |
| No | 122,274 | 57.4% |

*PROP 67-Ref. to Overturn Ban on Single-Use Bags*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 152,594 | 67.5% |
| No | 73,520 | 32.5% |

*Measure C-Cotati-Rohnert Pk Unif Sch Dist 55%Bond*

Complete Precincts: 23 of 23

| | | |
|---|---|---|
| Bonds Yes | 12,897 | 64.4% |
| Bonds No | 7,117 | 35.6% |

*Measure D-Healdsburg Unif Sch Dist 55% Bond*

Complete Precincts: 22 of 22

| | | |
|---|---|---|
| Bonds Yes | 5,455 | 66.1% |
| Bonds No | 2,792 | 33.9% |

*Measure E-Sonoma Valley School District 55% Bond*

Complete Precincts: 45 of 45

| | | |
|---|---|---|
| Bonds Yes | 12,845 | 70.4% |
| Bonds No | 5,401 | 29.6% |

*Measure F-Windsor Unif School District 55% Bond*

Complete Precincts: 19 of 19

| | | |
|---|---|---|
| Bonds Yes | 7,880 | 62.0% |
| Bonds No | 4,837 | 38.0% |

*Measure G-Guerneville School District 55% Bond*

Complete Precincts: 6 of 6

| | | |
|---|---|---|
| Bonds Yes | 1,861 | 71.6% |
| Bonds No | 737 | 28.4% |

*Measure H-Rincon Valley Union Sch Dist Parcel Tx*

Complete Precincts: 42 of 42

| | | |
|---|---|---|
| Yes | 14,400 | 70.9% |
| No | 5,923 | 29.1% |

*Measure I-Wilmar Union School Dist Parcel Tax*

Complete Precincts: 4 of 4

| | | |
|---|---|---|
| Yes | 1,160 | 65.7% |
| No | 605 | 34.3% |

*Measure J-Co. of Sonoma Parks&Water Qual Imp Tax*

Complete Precincts: 313 of 313

| | | |
|---|---|---|
| Yes | 45,444 | 65.1% |
| No | 24,346 | 34.9% |

*Measure K-Co. of Sonoma Community Separators*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 173,309 | 81.4% |
| No | 39,596 | 18.6% |

*Measure L-Co. of Sonoma Tourist Tax*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 149,472 | 68.2% |
| No | 69,666 | 31.8% |

*Measure M-Co. of Sonoma Transgenic Contamination*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 122,399 | 57.4% |
| No | 90,947 | 42.6% |

*Measure N-City of SR Services Sales Tax Exten*

Complete Precincts: 74 of 74

| | | |
|---|---|---|
| Yes | 50,114 | 72.5% |
| No | 19,001 | 27.5% |

*Measure O-City of SR*
*Pub Safety Spending Lvls*

Complete Precincts: 74 of 74

| | | |
|---|---|---|
| Yes | 47,950 | 72.2% |
| No | 18,502 | 27.8% |

*Measure P-City of Clover*
*Cannabis Business Tax*

Complete Precincts: 3 of 3

| | | |
|---|---|---|
| Yes | 2,742 | 73.8% |
| No | 975 | 26.2% |

*Measure Q-City of Cotati*
*Urban Growth Boundary*

Complete Precincts: 3 of 3

| | | |
|---|---|---|
| Yes | 2,267 | 69.6% |
| No | 991 | 30.4% |

*Measure R-City of HB*
*Growth Mgmt Ordin Amend*

Complete Precincts: 5 of 5

| | | |
|---|---|---|
| Yes | 2,304 | 40.7% |
| No | 3,362 | 59.3% |

*Measure S-City of HB*
*Transient Occ Tax Adj*

Complete Precincts: 5 of 5

| | | |
|---|---|---|
| Yes | 3,814 | 68.4% |
| No | 1,760 | 31.6% |

*Measure T-City of HB*
*Fluoridation Water Supp*

Complete Precincts: 5 of 5

| | | |
|---|---|---|
| Yes | 2,433 | 43.0% |
| No | 3,223 | 57.0% |

*Measure U-City of Sonoma*
*Sales Tax Extension*

Complete Precincts: 7 of 7

| | | |
|---|---|---|
| Yes | 4,306 | 73.3% |
| No | 1,568 | 26.7% |

*Measure V-City of Sonoma*
*Leaf Blower Regulations*

Complete Precincts: 7 of 7

| | | |
|---|---|---|
| Yes | 2,975 | 50.2% |
| No | 2,956 | 49.8% |

*Measure W-City of Sonoma*
*Smoking and Tobacco Regs*

Complete Precincts: 7 of 7

| | | |
|---|---|---|
| Yes | 4,156 | 70.7% |
| No | 1,725 | 29.3% |

*Measure X-Sch Facility*
*Improv Sch Dist 55% Bond*

Complete Precincts: 5 of 5

| | | |
|---|---|---|
| Bonds Yes | 628 | 66.5% |
| Bonds No | 317 | 33.5% |

*Measure Y-Sonoma County*
*Library Sales Tax*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Yes | 159,857 | 72.0% |
| No | 62,208 | 28.0% |

*Registration and Turnout*
*Sonoma County Totals*

Complete Precincts: 459 of 459

| | | |
|---|---|---|
| Total Registered Voters | 273,701 | |
| Precinct Registration | 273,701 | |
| Precinct Ballots Cast | 56,642 | 20.7% |
| Absentee Ballots Cast | 180,716 | 66.0% |
| Total Ballots Cast | 237,358 | 86.7% |

**Ordinance No. _____R**

**An Ordinance Of The County Of Sonoma, State Of California, Amending The Sonoma County General Plan To Require Voter Approval Of Amendments To The Boundaries Of Urban Service Areas Of Unincorporated Communities To Include Lands Within Community Separators, And Amendments To The Boundaries Of Community Separators Or The Land Use Designations Or Densities Of Lands Within Community Separators, Until December 31, 2036, And Repealing Ordinance 5145R.**

The People of the County of Sonoma ordain as follows:

Section 1. Title.

This ordinance shall be known and may be cited as the Community Separators Protection Ordinance.

Section 2. Statement of Purpose.

A. Community Separators are rural open space and agricultural and resource lands around cities and unincorporated communities in Sonoma County that maintain community identities, prevent sprawl, protect natural resources, and provide visual separation between cities and unincorporated communities. Community Separators are designated on the maps in the Open Space and Resource Conservation Element of the Sonoma County General Plan.

B. Twenty years ago, the voters of Sonoma County approved Ordinance 5003R requiring voter approval of certain revisions of or amendments to the boundaries of or land use regulations applicable to Community Separators. Eighteen years ago, the voters of Sonoma County approved Ordinance 5145R requiring voter approval of any increase in the allowed density or intensity of land uses allowed within the expanded Petaluma/Novato Community Separator, specifying certain highway design criteria, and providing for bicycle lanes. Ordinance 5003R and its voter approval protections will expire at the end of 2016, and Ordinance 5145R and its voter approval protections will expire at the end of 2018. The purpose of this ordinance is to renew and strengthen the voter approval protections of Ordinances 5003R and 5145R, and to apply those protections to all Community Separators designated in the Sonoma County General Plan. This ordinance is intended to continue to give a higher level of assurance that Community Separators designated in the Sonoma County General Plan will be maintained and that their land use designations will not be changed to increase the allowed density or intensity of development. This ordinance is further intended to encourage the County's cities to establish and maintain voter-approved urban growth boundaries that do not encroach into Community Separators.

C. Community Separators implement a long-standing policy of the Sonoma County General Plan that the physical development of the County should be city-centered. The city-centered growth policy further implements several state level policies, including:

(1) Article XIII, section 8 of the California Constitution encouraging the "conservation, preservation and continued existence of open space lands" for "recreation, enjoyment of scenic beauty, use or conservation of natural resources, or production of food or fiber."

(2) Articles XIIIA and XIIIB of the California Constitution limiting local government tax revenues and spending and thereby encouraging the efficient physical development of communities that will reduce expenditures for public safety, streets, utilities, and other publicly financed, operated and maintained improvements.

(3) The Planning and Zoning Law (Government Code section 65562) assuring "that cities and counties recognize that open-space land is a limited and valuable resource which must be conserved wherever possible" and that they will "prepare and carry out open-space plans."

(4) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code section 56000 et seq.) discouraging annexations and other changes in organization that result in urban sprawl and its implementation in Sonoma County by Resolution No. 2119, dated May 7, 1992, of the Sonoma County Local Agency Formation Commission.

Section 3. Addition of General Plan Policy LU-3e.

This ordinance hereby adds, and adopts until December 31, 2036, Policy LU-3e of the Land Use Element of Sonoma County General Plan 2020 adopted September 23, 2008, as amended through August 2, 2016, as indicated below (text to be added is shown in ***bold italics***):

> ***Policy LU-3e: Until December 31, 2036, the boundaries of Urban Service Areas of unincorporated communities as shown on the Land Use Maps shall not be amended to include lands within Community Separators as shown on the Open Space Maps unless such amendment is approved by the voters of Sonoma County.***
>
> ***For the purposes of this policy, approval by the voters of Sonoma County shall be accomplished when a general plan amendment is placed on the ballot through any procedure provided for in the Elections Code, and a majority of the voters vote in favor of it. The Board of Supervisors may adopt a general plan amendment prior to securing the approval of the voters of Sonoma County; provided, however, that whenever the Board of Supervisors adopts an amendment requiring approval of the voters of Sonoma County pursuant to the provisions of this policy, the Board action shall have no effect until after such a vote is held and a majority of the voters vote in favor of it. The Board of Supervisors shall follow the provisions of the Elections Code in all matters pertaining to such an election.***

Section 4. Amendment of General Plan Policy OSRC-1k.

This ordinance hereby amends, and readopts as amended until December 31, 2036, Policy OSRC-1k of the Open Space and Resource Conservation Element of Sonoma County General Plan 2020 adopted September 23, 2008, as amended through August 2, 2016, as indicated below (text to be added is shown in ***bold italics***, text to be deleted is shown in ~~strikethrough~~):

> **Policy OSRC-1k:** Until ~~the expiration of Ordinance No. 5145R (2018), the General Plan land use regulations for the lands within the Petaluma/Novato Community Separator shall not be changed so as to increase either the allowed intensity or density of development by changing the land use designations in Figure LU-2h of the Land Use Element without the prior approval of the voters of Sonoma County~~ ***December 31, 2036, the boundaries of Community Separators as shown on the Open Space Maps and the land use designations and densities of lands within Community Separators as shown on the Land Use Maps shall not be amended unless such amendment is approved by the voters of Sonoma County, except that the following types of amendments may be approved by the Board of Supervisors pursuant to its usual procedures and without the approval of the voters of Sonoma County:***
>
> ***(1) An amendment designating additional lands as Community Separator.***
>
> ***(2) An amendment reducing the allowed density or intensity of development within a Community Separator.***
>
> ***(3) An amendment both adding and removing lands from a Community Separator, where there is no net loss in land area within the Community Separator.***
>
> ***(4) An amendment correcting a mapping error, where lands that do not meet the designation criteria for Community Separators have been inadvertently included within a Community Separator.***
>
> ***For the purposes of this policy, approval by the voters of Sonoma County shall be accomplished when a general plan amendment is placed on the ballot through any procedure provided for in the Elections Code, and a majority of the voters vote in favor of it. The Board of Supervisors may adopt a general plan amendment prior to securing the approval of the voters of Sonoma County; provided, however, that whenever the Board of Supervisors adopts an amendment requiring approval of the voters of Sonoma County pursuant to the provisions of this policy, the Board action shall have no effect until after such a vote is held and a majority of the voters vote in favor of it. The Board of Supervisors shall follow the provisions of the Elections Code in all matters pertaining to such an election.***

Section 5. Applicability.

The provisions of Sections 3 and 4 of this ordinance shall apply to all Community Separators shown on the Open Space Maps of the Sonoma County General Plan on the effective date of this ordinance, and to any additional lands designated as Community Separator during the term of this ordinance.

Section 6. Implementation.

A. Upon the effective date of this ordinance, the provisions of Section 3 of this ordinance are hereby inserted into the Land Use Element of the Sonoma County General Plan and the provisions of Section 4 of this ordinance are hereby inserted into the Open Space and Resource Conservation Element of the Sonoma County General Plan, as amendments thereto. At such time as these General Plan amendments are inserted in the Sonoma County General Plan, any provisions of the Sonoma County Zoning Ordinance, as reflected in the ordinance itself or in the Sonoma County Zoning Database, that are inconsistent with these General Plan amendments shall not be enforced.

B. The Sonoma County General Plan, including the provisions added or amended and readopted by this ordinance, may be reorganized, and individual provisions may be renumbered or reordered, in the course of ongoing amendments or updates of the Sonoma County General Plan in accordance with the requirements of State law; provided, however, that the substance of Policy LU-3e, as added by this ordinance, and Policy OSRC-1k, as amended and readopted by this ordinance, shall continue to be included in the Sonoma County General Plan until December 31, 2036, unless earlier repealed or amended by the voters of Sonoma County.

C. All County plans, policies, ordinances, rules, and regulations constituting legislative acts shall be amended as necessary as soon as possible and in the time and manner required by any applicable State law to ensure consistency between those policies and the provisions adopted in this ordinance.

D. Upon the date of insertion of the provisions of Sections 3 and 4 of this ordinance into the Sonoma County General Plan, all General Plan amendments, rezonings, specific plans, tentative subdivision maps, parcel maps, conditional use permits, building permits, or other ministerial or discretionary entitlements for use not yet approved or issued shall not be approved or issued unless consistent with the policies and provisions of this ordinance.

Section 7. Severability and Interpretation.

This ordinance shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this ordinance is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The voters hereby declare that this ordinance, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion thereof

would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this ordinance is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this ordinance that can be given effect without the invalid application. This ordinance shall be broadly construed in order to achieve the purposes stated in this ordinance. It is the intent of the voters that the provisions of this ordinance shall be interpreted by the County in a manner that facilitates the protection of lands within Community Separators.

Section 8. Amendment or Repeal.

This ordinance may be amended or repealed only by the voters of Sonoma County.

Section 9. Repeal of Ordinance 5145R.

Ordinance 5145R shall be repealed on the effective date of this ordinance.

Section 10. Effective Date.

This ordinance shall be in full force and effect from and after January 1, 2017.

Section 11. Expiration.

This ordinance shall be of no further force or effect after December 31, 2036.

APPROVED BY THE FOLLOWING VOTE OF THE VOTERS OF SONOMA COUNTY AT THE GENERAL ELECTION HELD ON NOVEMBER 8, 2016.

YES 173,309 (81.4%)

NO 39,596 (18.6%)

_____
Chair, Board of Supervisors
County of Sonoma

**Attest:**
Sheryl L. Bratton,
Clerk of the Board of Supervisors

By: _____
Chief Deputy Clerk of the Board

Certification of Voter Approved Tax

The foregoing ordinance (Ordinance No. 6173) was introduced in regular session of the Board of Supervisors of the County of Sonoma on the 19th day of July, 2016, and finally passed and adopted on the 9th day of August, 2016, by the required 4/5 vote. Pursuant to Election Code section 9140, the proposed tax was duly submitted to the voters of Sonoma County at the November 8, 2016 Consolidated Presidential General Election and received the following vote:

YES 149,476 (68.2%)

NO 69,666 (31.8%)

Pursuant to Article 13 C, §2(b) of the California Constitution, the proposed tax was approved by a majority of the county electorate.

_____

Sheryl L. Bratton, County Administrator and
Clerk of the Board of Supervisors.

# ORDINANCE NO. 6173

## AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING THE PROVISIONS OF SECTION 12-11 OF THE SONOMA COUNTY CODE TO INCREASE THE TRANSIENT OCCUPANCY TAX RATE FROM NINE (9) PERCENT TO TWELVE (12) PERCENT

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

**Section 1. Amendment of Sonoma County Code Section 12-11.**

Section 12-11 of the Sonoma County Code is amended to read as follows:

"Section 12-11. Imposition of tax-payment of tax by transient.

For the privilege of occupancy at any lodging, each transient is subject to and shall pay a tax in the amount of twelve (12) percent of the rent charged. Said tax constitutes a debt owed by the transient to the county which is extinguished only by payment to the Operator or to the county. The transient shall pay the tax to the Operator of the lodging at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space at the lodging. It is the responsibility of the Operator to collect the tax. If, for any reason, the Operator fails to collect the tax due at the time the rent is collected, the Operator becomes liable for the tax due."

**Section 2. Nature of Tax.**

If approved by a majority of the electorate voting on the measure, the ordinance will increase the transient occupancy tax rate from nine (9) percent to twelve (12) percent of rent charged. The transient occupancy tax is a tax imposed upon transients for the privilege of occupying lodging located within the unincorporated territory of Sonoma County. The tax increase would be collected by operators, in the same manner as the current transient occupancy tax is collected. The collection of the tax from operators would be administered by the Sonoma County Tax Collector as provided in Chapter 12, Article III of the Sonoma County Code.

**Section 3. General Tax.**

The transient occupancy tax imposed by this ordinance is a general tax within the meaning of Government Code §53721 and Article XIII C, §1(a) of the California Constitution. The revenue generated by this general tax is available for general governmental purposes. To that end, the Auditor-Controller is instructed to deposit the

revenue from the tax into the County General Fund and to include her estimate of the revenue from this general tax, together with her estimates of other revenue sources, in the tabulation that she is annually required to prepare by Government Code §29060. The revenue from this general tax shall be available to the Board of Supervisors for annual appropriations in the County's budget for any lawful expenditure. Nothing in this ordinance nor in any other ordinance, advisory measure, resolution, or policy shall be construed as limiting, in any way, the amount or the objects of the appropriations and expenditures that can be made from the revenue of the tax nor be construed as creating a continuing appropriation.

**Section 4. Severability.**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**Section 5. Election.**

An election shall be held on November 8, 2016, on the issue of increasing the transient occupancy tax rate from nine (9) percent to twelve (12) percent.

**Section 6. Effective and Operative Dates.**

This ordinance shall take effect immediately upon its adoption by a majority of the electorate voting on the ordinance at the November 8, 2016, general election. The operative date of Section 1 shall be January 1, 2017.

**Section 7. Compliance with the California Environmental Quality Act (CEQA).**

Pursuant to CEQA Guidelines Section 15378(b)(4), adoption of this ordinance as a government funding mechanism is not a project subject to the requirements of CEQA.

In regular session of the Board of Supervisors of the County of Sonoma introduced on the 19th day of July, 2016, and finally passed and adopted this 9th day of August, 2016, on regular roll call of the members of said Board by the following vote:

**SUPERVISORS:**

Gorin: Aye Rabbitt: Absent Zane: Aye Gore: Aye Carrillo: Aye

Ayes: 4 Noes: 0 Abstain: 0 Absent: 1

**WHEREUPON,** the Chair declared the above and foregoing ordinance duly adopted and

**SO ORDERED.**

Chair, Board of Supervisors
County of Sonoma

ATTEST:

Veronica A. Ferguson

Veronica Ferguson, County Clerk and
Clerk of the Board of Supervisors.
by Roxanne Epstein

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 18**
(This Section for use by Clerk of the Board Only.)

| | |
|---|---|
| **To:** | Board of Supervisors of Sonoma County |
| **Board Agenda Date:** | December 13, 2016 |
| **Vote Requirement:** | Majority |
| **Department or Agency Name(s):** | County Administrator's Office |
| **Staff Name and Phone Number:** | Sheryl Bratton 565-2431 |
| **Supervisorial District(s):** | All |
| **Title:** | Regional Parks Department Personal Services Agreement |

**Recommended Actions:**

Authorize the Chair of the Board to execute the First Amendment to the Personal Services Agreement with Caryl Hart as the Director of the Sonoma County Regional Parks Department, with the agreement term of November 12 2016 through November 12, 2018.

**Executive Summary:**

On October 26, 2010 the Board of Supervisors approved a 3-year Personal Services Agreement with Caryl Hart as Director of the Sonoma County Regional Parks Department (Regional Parks) and on November 5, 2013 they approved a new three-year agreement for her in this position. The attached amendment to the agreement will provide for an additional 2-year term, ending November 12, 2018. Among the changes in this agreement, Caryl Hart will move to 67% of a full-time work schedule, and will have additional changes to compensation and vacation accrual.

**Discussion:**

Attached for Board approval is the First Amendment to the Personal Services Agreement with Caryl Hart as Director of Regional Parks (Amendment). Dr. Hart has served as Director of Regional Parks since November of 2010, and has overseen an expanding Regional Parks system and an increased focus on active parks usage even while facing difficult budget times.

The Amendment places Dr. Hart on a part-time schedule equivalent to 67% of a full-time schedule. Salary and benefits will be prorated for this, where applicable under the Sonoma County Salary Resolution 95-0926, as amended (Salary Resolution). In the event that either the County or the Director determines that Regional Park's operational needs cannot be met under a part-time work schedule for the Director, a second amendment to the contract will be brought back to the Board which returns Dr. Hart to a full-time schedule.

The Amendment places Dr. Hart at 2.5% above the "I" step in the salary range for Regional Parks Director, which is $175,529 annually. This salary will be prorated for the part-time work schedule and

will be approximately $117,656 on the current schedule. Total Salary, benefits, and taxes for the position will be approximately $207,713. The Amendment enables Dr. Hart to receive other fringe benefits such as sick and vacation accrual, and health and welfare benefits where eligibility is met pursuant to the Salary Resolution. In addition, the Amendment grants Dr. Hart additional vacation time at a rate equivalent to 2.5% above the "I" step salary (which is approximately 51 vacation hours per year).

**Prior Board Actions:**

November 5, 2013 – Approve a Personal Services Agreement with Caryl Hart as Director of the Sonoma County Regional Parks Department, with a term of 3-years.

October 26, 2010 – Approve a Personal Services Agreement with Caryl Hart as Director of the Sonoma County Regional Parks Department, with a term of 3-years.

**Strategic Plan Alignment** Goal 2: Economic and Environmental Stewardship

This position provides management support in order to provide recreational services at the County's Regional Parks and other recreational facilities.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | $207,713 | $207,713 | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | $207,713 | $207,713 | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

Total labor cost including salary, benefits, and taxes for the position will be approximately $207,713 when prorated for the part-time work schedule. This includes $117,656 in salary, $13,164 in allowances, $66,919 in benefits, and $9,974 in taxes paid by the employer. Costs associated with this position are included in the Regional Parks budget, and there will be net savings due to the part-time schedule.

| Staffing Impacts | | | |
|---|---|---|---|
| **Position Title**<br>(Payroll Classification) | **Monthly Salary Range**<br>(A – I Step) | **Additions**<br>(Number) | **Deletions**<br>(Number) |
| | | | |
| | | | |
| **Narrative Explanation of Staffing Impacts (If Required):** | | | |
| | | | |
| **Attachments:** | | | |
| First Amendment to the Personal Services Agreement | | | |
| **Related Items "On File" with the Clerk of the Board:** | | | |
| Personal Services Agreement with Caryl Hart as Director of Sonoma County Regional Parks | | | |

**FIRST AMENDMENT TO AGREEMENT FOR PERSONAL SERVICES**

**DIRECTOR OF REGIONAL PARKS DEPARTMENT**

This First Amendment to the Agreement for Personal Services by and between, the County of Sonoma, a political subdivision of the State of California (hereinafter "COUNTY") and Caryl Hart (hereinafter called "EMPLOYEE") is entered into this ___ day of December, 2016. (COUNTY and EMPLOYEE shall collectively be referred to as the "Parties.")

WITNESSETH:

WHEREAS, COUNTY and EMPLOYEE entered into a personal services agreement (the "Original Agreement") for the position of Director of Regional Parks dated October 26, 2010, through November 11, 2013; and

WHEREAS, COUNTY and EMPLOYEE entered into a new personal services agreement for the position of Director of Regional Parks Department ("Agreement,") on November 4, 2013; and

WHEREAS, the Agreement provides for a term of employment for a period of three (3) years, commencing on November 11, 2013, and ending on November 11, 2016; and

WHEREAS, the Parties desire to further extend the Agreement for another period of two (2) years commencing on November 12, 2016, and ending on November 12, 2018, and to make other changes, including a salary increase of 5% of which 2.5% will be in the form of salary and 2.5 % in the form of vacation accrual, and a reduction of working hours to .67 full time equivalent ("FTE") schedule;

NOW, THEREFORE, BE IT AGREED by and between the Parties as follows:

1. Section 1., "Term of Employment," of the Agreement is replaced as follows:

Term of Employment. COUNTY hereby employs EMPLOYEE in the position of Director of Regional Parks Department for a period of two (2) years, commencing on November 12, 2016, and ending on November 12, 2018, subject, however, to termination as otherwise provided in the Agreement.

2. Section 2., "Duties," is replaced as follows:

Duties. EMPLOYEE shall perform the duties of Director of Regional Parks Department, as set forth in the County job specification attached to the Agreement as Exhibit A, as it now provides or may hereafter be amended, and such other duties as may be prescribed by the COUNTY. Commencing on December 20, 2016, EMPLOYEE's pay and work schedule shall be based on a part-time schedule equivalent to a .67 FTE, or 67% of a full-time schedule, equating to 26.7 hours per week. Where applicable, EMPLOYEE's benefits shall be pro-rated pursuant to Sonoma County Salary Resolution 95-0926 ("Salary Resolution"), as amended. Except as to added vacation time as set forth in Section 3, EMPLOYEE shall use accrued vacation and sick

time as warranted. EMPLOYEE understands that the part-time schedule is subject to discontinuance should the Department's operational needs necessitate a full-time schedule during the contract period. In the event that COUNTY determines that change to a full-time schedule is needed, COUNTY will deliver written notice to EMPLOYE. EMPLOYEE may also initiate a request to return to a full-time schedule through written notice to COUNTY. EMPLOYEE's pay and benefit will return to calculation based on a full-time schedule as of the next pay period following receipt of written notice.

3. Section 3., "Compensation," is replaced as follows:

Compensation:

(a) EMPLOYEE's salary shall be set at 2.5% above that of the "I" step for the position of Director of Regional Parks Department as set forth in the Salary Resolution and as may be amended from time to time during the term of the Agreement. The current "I" step salary range is $82.05/hour before the 2.5% adjustment, and the adjustment to .67 FTE.

(b) Except as provided in subsection (c) below, EMPLOYEE shall be entitled to the same fringe benefits generally available to COUNTY department heads, as specified in the Salary Resolution, on a pro-rated basis consistent with the .67 FTE work schedule.

(c) EMPLOYEE shall receive 51 hours of added vacation time available for her use on December 20, 2016, and EMPLOYEE shall receive the second pay period in December 2017, an additional 51 hours.

4. Except to the extent the Agreement is specifically amended or supplemented hereby, the Agreement, together with all exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall be construed to modify, invalidate or otherwise affect any provision of the Agreement or any right of County arising thereunder.

ATTEST:

_____
Clerk of the Board

COUNTY OF SONOMA

By_____
Chair, Board of Supervisors

EMPLOYEE

_____
Caryl Hart

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 19**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** County Administrator's Office
County Counsel

**Staff Name and Phone Number:**

Sita Kuteira, 565-2241
Jeff Brax, 565-2421

**Supervisorial District(s):**

Second

**Title:** Graton Casino Type 47 Liquor License Premises Expansion

**Recommended Actions:**

Authorize the Chair to execute a Memorandum of Agreement with the Federated Indians of Graton Rancheria to limit access by persons under twenty-one years of age at bars in the Graton Casino.

**Executive Summary:**

The attached Memorandum of Agreement would add an additional layer of protection against potential underage drinking and gaming, by prohibiting persons under twenty-one years of age from being present in any room or area in which gaming activities are being conducted, and any bars that serve alcohol but do not serve food, subject to limited exceptions.

**Discussion:**

The Federated Indians of Graton Rancheria (Tribe) has applied to the California Department of Alcoholic Beverage Control to expand its Type 47 liquor license to the entire Graton Casino and newly-opened hotel. To address potential concerns, the Tribe and County staff have negotiated the attached Memorandum of Agreement, in which the Tribe has agreed that it will not permit persons under twenty-one years of age from being present in any room or area in which gaming activities are being conducted, and any bars that serve alcohol but do not serve food, unless en route to a non-gaming area or employed at the facility.

Persons under twenty-one may be present in areas that serve food, such as the bar to be located at the hotel swimming pool, and in the bar lounge area of the hotel lobby bar when accompanied by a parent or person over twenty-one years of age. Any disputes arising under the agreement are subject to dispute resolution, and the Tribe has waived its sovereign immunity to allow for enforcement.

These provision benefit the County by providing an additional layer of enforceable protection against any possible future underage gaming or drinking at the facility.

| **Prior Board Actions:** | |
|---|---|
| None. | |
| **Strategic Plan Alignment** | Goal 1: Safe, Healthy, and Caring Community |
| | |

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Memorandum of Agreement

| Related Items “On File” with the Clerk of the Board: |
| --- |
| |

# MEMORANDUM OF AGREEMENT

TYPE 47 LIQUOR LICENSE PREMISES EXPANSION

This Memorandum of Agreement ("Agreement") is entered into by and between the Federated Indians of Graton Rancheria (the "Tribe") and the County of Sonoma (the "County"), a political subdivision of the State of California, acting by and through its Department of Health Services, regarding the Tribe's application to the California Department of Alcoholic Beverage Control for a Type 47 premises expansion, pursuant to that certain Intergovernmental Mitigation Agreement between the County and the Tribe dated October 23, 2012.

## RECITALS

WHEREAS, the Tribe is a federally-recognized Indian tribe; and

WHEREAS, on October 1, 2010, the Bureau of Indian Affairs of the United States Department of the Interior accepted a 254-acre parcel of land located within the County (the "Reservation") into trust for the benefit of the Tribe; and

WHEREAS, in October, 2010, the National Indian Gaming Commission issued a Record of Decision, concluding that the Reservation was eligible for gaming under the Indian Gaming Regulatory Act; and

WHEREAS, on October 23, 2012, the Tribe and the County entered into an Intergovernmental Mitigation Agreement (the "IMA") under which the Tribe made certain commitments to mitigate potential impacts of its development of a Gaming Facility on the Reservation; and

WHEREAS, the IMA includes significant measures to mitigate the potential impacts of alcohol service at the Gaming Facility, including full alcohol awareness training and certification for employees, taxi and free transportation services, and a limitation on free or reduced-price beverage promotions; and

WHEREAS, the Tribe has developed and is operating its Gaming Facility, the Graton Resort & Casino, on its Reservation; and

WHEREAS, the Tribe is currently constructing a hotel as part of the Gaming Facility; and

WHEREAS, Section 6(d)(xiv) of the IMA stipulates that the Tribe shall notify the County at least ten (10) days before making any application to the Department of Alcoholic Beverage Control ("ABC") and, if requested to do so, meet in good faith with the County within seven (7) days of the request to discuss the application; and

WHEREAS, on or about August 26, 2016, the Tribe provided notice to the County of its intention to file an application with ABC for a premises expansion for the Tribe's Type 47 liquor license (the "Tribe's Application"); and

WHEREAS, on or about September 9, 2016, the Tribe filed the Tribe's Application; and

WHEREAS, the County does not have legal authority to approve or deny the Tribe's liquor licenses operative within the Gaming Facility within the Reservation; and

WHEREAS, the County is not approving or denying the Tribe's liquor licenses operative within the Gaming Facility within the Reservation; and

WHEREAS, the County, like any other entity or member of the public, is entitled to comment to ABC on any pending liquor license application; and

WHEREAS, the County and the Tribe are jointly committed to continuing their efforts to maintain a respectful, long-term government-to-government relationship by meeting and conferring on issues of concern regarding the IMA; and

WHEREAS, the Parties wish to have a clear mutual understanding on practices and policies that will apply to bars within the Gaming Facility so that the County can be fully supportive of the Application.

NOW, THEREFORE, the Parties hereby agree as follows:

1. Definitions

The terms not defined elsewhere in this Agreement shall have the following meanings:

"Compact" means the Tribal-State Compact between the State and the Tribe, as executed on March 27, 2012 by the State and March 26, 2012 by the Tribe, considered to have been approved by the Secretary pursuant to 25 U.S.C. § 2710(d)(8)(C), notice of which was published in the Federal Register on July 12, 2012 (a correction to the notice was published July 23, 2012), as the same may be amended from time to time.

"County" means the County of Sonoma, California, a political subdivision of the State, and its departments and subdivisions.

"Gaming Activities" means the class III gaming activities authorized by section 3.1 of the Compact.

"Gaming Device" means any slot machine within the meaning of section 2.10 of the Compact.

"Gaming Facility" means any building in which Gaming Activities or any Gaming Operations occur, in which the business records, receipts, or funds of the Gaming Operation are maintained (excluding offsite facilities dedicated to storage of those records and financial institutions), and all rooms, buildings, and areas, including hotels, parking lots, and walkways, a principal purpose of which is to serve the activities of the Gaming Operation rather than providing that operation with an incidental benefit.

"Gaming Operations" means the operation of Gaming Activities, whether exclusively or otherwise as defined under section 2.12 of the Compact.

"Minors" means persons under the age of twenty-one (21) years.

"Parties" mean the Tribe and the County.

"Party" means the Tribe or the County.

"Reservation" means certain contiguous parcels totaling approximately 254 acres of land, including approximately 249 acres currently located within the unincorporated area of the County and identified by the legal description set forth in Exhibit A, or any portion of such land, which is held by the United States of America in trust for the benefit of the Tribe.

"Tribe" means the Federated Indians of Graton Rancheria, a federally recognized Indian tribe.

2. Liquor Service

The Tribe's proposed premises expansion of its Type 47 liquor license, currently applicable to the Tony's of North Beach Restaurant located within the Gaming Facility, to the area shown on Exhibit A, including all of the new hotel to be opened within the Gaming Facility, will have the effect of converting certain areas of the Gaming Facility where liquor is served and where Gaming Activities are conducted, from a Type 48 to a Type 47 license. As such, under the laws of the State of California and ABC regulations, persons under twenty-one (21) years of age ("Minors") would be permitted to be present in such areas. Notwithstanding such laws and regulations, the Tribe and the County agree that the Tribe will not permit Minors to be present at any bar, bar top counter, or similar area within the Gaming Facility that does not serve food, except as provided herein, or in any room or area that is otherwise off-limits to Minors pursuant to the terms of the Compact and IMA, unless such person is en route to a non-gaming area of the Gaming Facility or is employed at the Gaming Facility in a capacity other than for the sales or service of alcoholic beverages.

The intent of this provision is to prohibit Minors from being present in any room or area in which Gaming Activities are being conducted and at any bars, bar top counters, or similar areas that serve alcohol but do not serve food, including but not limited to the G Bar, Sky center bar, and 8 VIP lounge, except for Minors en route to a non-gaming area of the Gaming Facility or employed at the Gaming Facility in a capacity other than for the sales or service of alcoholic beverages.

The occasional service of alcohol in compliance with the Tribe's Type 47 liquor license at the spa, conference and event facilities, or hotel rooms shall not require the exclusion of Minors from such areas.

Minors shall be permitted to be present at the bar, including the bar top counter and pool bar lounge, to be located at the swimming pool within the Gaming Facility, provided such bar serves food as well as alcoholic beverages.

The Parties further agree that the Tribe shall prohibit Minors from being present at the bar top counter located at the Hotel Lobby Bar in the Gaming Facility, which is shown in Exhibit B, and shall place signs to this effect in front of the bar top counter. Minors shall be permitted to walk through or remain in the Bar Lounge area of the Hotel Lobby Bar, which is shown in Exhibit B. Minors accompanied by their parents or a person over 21 years of age shall be permitted to remain in the Bar Lounge area of the Hotel Lobby Bar. The consumption of food shall be permitted in the Bar Lounge area of the Hotel Lobby Bar.

In the event that Gaming Devices are ever installed in the hotel lobby, Hotel Lobby Bar, Bar Lounge area of the Hotel Lobby Bar, pool bar, or pool bar lounge, Minors will not be permitted in such areas unless en route to a non-gaming area of the Gaming Facility or employed at the Gaming Facility in a capacity other than for the sales or service of alcoholic beverages.

3. Tribe's Application

In consideration for the Tribe's agreement to adhere to the conditions set forth in the preceding section of this Agreement, the County shall not oppose or submit negative comments to ABC regarding the Tribe's Application.

4. Dispute Resolution

Any disputes between the Parties hereto shall be resolved pursuant to the Dispute Resolution provisions of Section 12 of the IMA, which is incorporated into this Agreement by reference as though fully set forth herein.

5. No Third Party Beneficiaries

This Agreement is not intended to, and shall not be construed to, create any right on the part of any third party to bring any action or otherwise enforce any of its terms.

6. Notice

All notices required by this Agreement shall be deemed to have been given when made in writing and delivered or mailed to the respective Parties and their representatives at their respective addresses as set forth below or such other addresses as they may provide to the other Party from time to time:

For the County:
County Administrator
575 Administration Drive
Santa Rosa, CA 95403
Telephone: (707) 565-2431
Fax: (707) 565-3778

With copies to:
County Counsel
Office of the Sonoma County Counsel
575 Administration Drive, Room 105A

Santa Rosa, CA 95403
Telephone: (707) 565-2421
Fax: (707) 565-2624

For the Tribe:
Federated Indians of Graton Rancheria
6400 Redwood Drive, Suite 300
Rohnert Park, CA 94928
Attn: Chairperson
Telephone: (707) 566-2288
Fax: (707) 566-2291

With copies to:
Maier Pfeffer Kim Geary & Cohen, LLP
1440 Broadway, Suite 812
Oakland, CA 94612
Attn: James Cohen, Esq.
Telephone: (310) 573-7809
Fax: (510) 835-3040

7. Governing Law

This Agreement shall be governed by, and construed in accordance with, the law of the State of California.

8. Waiver of Sovereign Immunity

Pursuant to General Council Resolution No. 16-53, and subject to the provisions of this section, the Tribe expressly and irrevocably waives sovereign immunity (and any defenses based thereon) in favor of the County, but not as to any other person or entity, as to any dispute which specifically arises under this Agreement and not as to any other action, matters or disputes. The Tribe does not waive its sovereign immunity with respect to (i) actions by third parties; or (ii) disputes between the Tribe and the County which do not specifically arise under this Agreement. The Tribe further agrees that exhaustion of administrative remedies, including before any tribal court, shall not be required prior to proceeding to dispute resolution under section 4 of this Agreement. Nothing in this Agreement shall waive, amend, or affect any prior waivers of sovereign immunity by the Tribe in favor of the County. This Agreement shall become effective as of the date of the last signature below.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the effective date set forth above.

SONOMA COUNTY, CALIFORNIA

Date: _____, 2016

By: _____
Supervisor Efren Carrillo
Chairman, Sonoma County Board of Supervisors

APPROVED AS TO FORM BY COUNTY COUNSEL

Date: _____, 2016

By: _____
Jeffrey M. Brax, Esq.
Chief Deputy County Counsel

FEDERATED INDIANS OF GRATON RANCHERIA

Date: Oct 21, 2016

By: _____
Greg Sarris
Chairperson

APPROVED AS TO FORM BY LEGAL COUNSEL FOR THE TRIBE

Date: OCT 21, 2016

By: _____
James E. Cohen, Esq.
Maier Pfeffer Kim Geary & Cohen, LLP

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 19A**
(This Section for use by Clerk of the Board Only.)

| | |
|---|---|
| **To:** | Board of Supervisors, Community Development Commission Board of Directors |
| **Board Agenda Date:** | December 13, 2016 |
| **Vote Requirement:** | Majority |
| **Department or Agency Name(s):** | County Administrator's Office, County Counsel's Office |
| **Staff Name and Phone Number:** | Rebecca Wachsberg 565-3782 |
| **Supervisorial District(s):** | Fourth |
| **Title:** | Lytton Rancheria Fee-to-Trust Comment Letter |

**Recommended Actions:**

Authorize the Chair to sign and submit comments to the Federal Bureau of Indian Affairs on the November 17, 2016, Notice of Application for the proposed Lytton Rancheria 124-acre Fee-to-Trust conveyance.

**Executive Summary:**

The Bureau of Indian Affairs (BIA) has solicited comments on the Lytton Rancheria of California's (Tribe) application to the federal government to have 124 acres just outside of the Town of Windsor taken into trust. The County and the Tribe have a Memorandum of Agreement (MOA) in place to mitigate any negative off-reservation impacts that may be caused by the land going into trust and subsequent development. The proposed comment letter from the County states the County's support for the land going into trust and urges the BIA to analyze the application in light of the MOA and to support the intergovernmental agreement.

**Discussion:**

Background

The Lytton Rancheria of California (Tribe) is a federally recognized tribe that originally had its Rancheria north of Healdsburg. In 1958, with the passage of the federal Rancheria Act, the Tribe and its Rancheria were dissolved and the land was distributed by the BIA. In 1991, following litigation by the Tribe against the Department of Interior, it was fully restored as a federally recognized tribe as part of a judicial settlement and today has approximately 300 members. As a part of the 1991 settlement the County made a commitment to assist in helping the Tribe find suitable lands for tribal housing and economic development. In 2007, the tribe applied to the federal government to have 124 acres southwest of the Town of Windsor taken into trust. Today the Tribe holds approximately 500 acres including and surrounding those potential trust lands. The Tribe plans to construct a housing development and community facilities for its members, and maintain the opportunity to build a winery and resort

Memorandum of Agreement

When land is taken into trust, that area is essentially annexed by the federal government and local governments lose all land use and taxing authority. In order to address this, the County has worked with tribes to negotiate intergovernmental agreements that ensure mitigation of off-reservation impacts caused by the land being taken into trust and subsequently developed. The County was initially critical of the Tribe's fee-to-trust application and subsequent environmental reviews because impacts were not sufficiently analyzed and mitigated. In March 2015, the County and Tribe entered into a MOU with a term of 22 years to address those impacts, including the following provisions:

- Prohibition on gaming;
- Mitigation payments in-lieu of property tax, transient occupancy tax, and impact fees;
- County General Plan and Zoning Ordinance consistency;
- Environmental review and mitigation for future development;
- Independent mitigation monitoring;
- Water and sewer mitigation provisions;
- Building and fire code applicability; and
- Waiver of sovereign immunity to insure judicial enforceability.

In addition to the BIA's administrative process, land may be taken into trust through federal legislation. Under the MOA, the County agreed to be supportive of federal legislation to take tribal lands into trust. On May 21, 2015, Congressman Jared Huffman introduced The Lytton Rancheria Homelands Act (H.R. 2538) to take the Tribe's 500 acres into trust. The bill is currently under consideration in the House of Representatives.

Comment Letter

The BIA set a deadline of November 23, 2016, to receive comments on the trust application. The MOU addresses the areas of concern upon which the BIA has requested comments. While the fee to trust process remains deeply flawed both substantively and procedurally, due to the comprehensive judicially enforceable mitigation agreement with the Tribe, the County offers its support of the trust application. The County comments encourage the BIA to honor the intergovernmental agreement and to consider its terms as part of its analysis of the fee-to-trust application. The BIA has not indicated when it will make its final determination on the application.

**Prior Board Actions:**

The MOA was approved by the Board on March 10, 2015. Comments on the original trust application and environmental analysis were authorized in 2009, 2011, and 2012.

**Strategic Plan Alignment** Goal 4: Civic Services and Engagement

This comment letter fulfills obligations under the MOA and promotes a mutually beneficial government-to-government relationship.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Attachment A: Proposed Comment Letter
Attachment B: Memorandum of Agreement Between the County of Sonoma and Lytton Rancheria of California

**Related Items "On File" with the Clerk of the Board:**

COUNTY OF SONOMA
BOARD OF SUPERVISORS
575 ADMINISTRATION DRIVE, RM. 100A
SANTA ROSA, CALIFORNIA 95403
(707) 565-2241
FAX (707) 565-3778

MEMBERS OF THE BOARD
EFREN CARRILLO
CHAIR
SHIRLEE ZANE
VICE CHAIR
SUSAN GORIN
DAVID RABBITT
JAMES GORE

December 13, 2016

Amy Dutschke
Regional Director
Bureau of Indian Affairs
Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825

RE: November 17, 2016 Notice of Fee-to-Trust Application filed by the Lytton Rancheria of California.

Dear Ms. Dutschke:

Thank you for the opportunity to provide comments on the proposed acceptance of title to real property in trust by the United States of America for the Lytton Rancheria of California ("Tribe") in Sonoma County, California. The County has devoted significant resources to developing and maintaining a government-to-government relationship with the Tribe, and has long been engaged with the Tribe to understand the potential environmental and financial impacts of its Trust Project. This has included working with the Tribe to analyze its Environmental Assessment and determine mitigation measures to address the Trust Project's impacts. The Tribe and the County of Sonoma expended tremendous effort to reach a Memorandum of Agreement ("Agreement") to ensure that the agreed upon mitigation of off-reservation impacts is judicially enforceable. That Agreement is attached. Based on the Agreement, the County supports the Tribe's Fee-to-Trust application.

The Agreement, executed on March 10, 2015, represents the County and the Tribe's intention to create a framework for building and maintaining a mutually beneficial government-to-government relationship, and to formalize our commitments and procedure for mitigating impacts to the County caused by the trust land acquisition and the development of projects on trust lands in the future. Importantly, the Agreement provides that the Tribe agrees not to engage in any gaming or gaming activities in Sonoma County during the 22-year term of the Agreement, and the Parties also agree that an extension of this provision will be specifically considered at such time that an extension of the Agreement is considered. The Tribe also agrees to comply with the Sonoma County General Plan for land not included in the residential development project, and to implement mitigation measures and best management practices for its residential development project, as set forth in the Agreement. In the case that the Tribe chooses to develop a winery and/or resort on trust lands, the Tribe agrees to prepare an Environmental Impact Statement, as defined in NEPA,

to determine off-trust land impacts and mitigation measures. Finally, the Agreement provides for mitigation payments to address direct and cumulative impacts to County roads, parks, and native oak woodlands, as well as the reimbursement of costs to implement the Agreement.

The County of Sonoma respects tribal sovereignty and supports the Tribe's efforts to ensure self-reliance. The County encourages the Department of the Interior Bureau of Indian Affairs to analyze the Tribe's present Fee-to-Trust Application in light of the Agreement between the County and the Tribe. The County urges the BIA to support the County and Tribe's Agreement, which represents the results of the positive and productive government-to-government relationship and recognizes and addresses those unique local and tribal concerns at issue with this proposed trust land acquisition.

Thank you for the opportunity to provide comments for this Fee-to-Trust application. The County has a significant interest in the Fee-to-Trust process and appreciates every opportunity to be involved. We are happy to provide any specific information the BIA may need to make its decision. Please feel free to contact Bruce Goldstein, County Counsel, at bruce.goldstein@sonoma-county.org or by phone at (707) 565-2421 should you have additional questions.

Respectfully,

Efren Carrillo, Chair
Board of Supervisors
County of Sonoma

# MEMORANDUM OF AGREEMENT

# BETWEEN

# THE COUNTY OF SONOMA

# AND

# THE LYTTON RANCHERIA OF CALIFORNIA

# FEE TO TRUST LANDS

# March 10, 2015

This Memorandum of Agreement ("Agreement") is effective as of March 10, 2015, by and between the County of Sonoma (the "County") and the Lytton Rancheria of California (the "Tribe") (referred to herein collectively as "the Parties" and as to each as a "Party"). The terms "County" and Tribe" as used herein shall include the Parties' members, governmental entities, departments and officials unless otherwise stated.

**RECITALS**

WHEREAS, Lytton Rancheria of California is a federally-recognized Indian Tribe whose traditional lands lie within Sonoma County; and

WHEREAS, the Tribe is currently seeking to have lands placed into federal trust status to reestablish a Tribal homeland and to diversify its tribal economy; and

WHEREAS, based on its historical ties to the area, the County's prior commitment to assist the Tribe find suitable housing, and the Tribe's voluntary agreement to generally comply with County land use guidelines, the County desires to assist the Tribe in reestablishing a homeland for its members in the County; and

WHEREAS, it is also anticipated that the Tribe will in the future seek to place additional lands into federal trust status; and

WHEREAS, the Tribe has proposed that the federal government take into trust 14 parcels consisting of 124.12 acres of land for the development of a residential community, a community center and associated facilities (Residential Development Project) ; and

WHEREAS, the Tribe is seeking proposed federal legislation to place into trust approximately 500 acres of land that includes the Residential Development Project;

WHEREAS, the Tribe prepared and the Bureau of Indian Affairs ("BIA") circulated an Environmental Assessment ("EA") and final Environmental Assessment ("Final EA") for the Residential Development Project; and

WHEREAS, the Bureau of Indian Affairs issued a Finding of No Significant Impact ("FONSI") for the Residential Development Project on June 5, 2012; and

WHEREAS, the Tribe desires to construct and operate the Residential Development Project in a manner that benefits the Tribe, its members, and the community as a whole, and the County recognizes the mutual benefit that can be derived if those goals are achieved; and

WHEREAS, the Tribe and the County have participated in a series of joint meetings to address potential off-site environmental impacts and possible mitigation measures that might be taken with respect to the Residential Development Project and other potential Tribal development, consistent with the Tribe's sovereignty and applicable law; and

WHEREAS, the Parties wish to enter into this Agreement that would address the potential impacts to the County of any present and future trust land acquisitions by the federal government for the benefit of the Tribe, while at the same time allowing the Tribe to reestablish its homeland and exercise its authority as a sovereign government; and

WHEREAS, the Residential Development Project and other potential Tribal development are not County projects and are not subject to the discretionary approval of the County, and, absent this Agreement, the County has limited opportunity to influence mitigation measures or seek compensation for adverse environmental impacts; and

WHEREAS, the parties acknowledge that, given the scope of the Residential Development Project and other potential developments, specific impacts are not always subject to precise measurement and that the mitigation measures agreed upon below are intended as good faith approximate mitigation of identified impacts; and

WHEREAS, the Parties intend this Agreement to address commitments and procedure for mitigating impacts to the County caused by the taking of lands into trust on behalf of the Tribe and the development of projects on lands taken into trust in the future whether legislatively or through the federal administrative process; and

WHEREAS, the Parties recognize that this Agreement is an important step in furthering a government-to-government relationship and building trust, mutual respect and cooperation that is intended to benefit the Tribe, its members, and the entire Sonoma County community;

NOW THEREFORE, the Parties agree as follows:

## AGREEMENT

### I. PURPOSE OF AGREEMENT

1.1 The purpose of this Agreement is to:

1.1.1 Memorialize understandings that are intended to resolve and settle disputes between the Tribe and the County;

1.1.2 Assure the implementation of measures for mitigating the off-site trust lands impacts of the Residential Development Project and other identified tribal projects whether lands go into trust by legislative or administrative process;

1.1.3 Establish a mutually agreeable process to identify and mitigate potential environmental impacts of potential future Tribal projects;

1.1.4 Create a process to resolve future disputes that may arise between the County and the Tribe under this Agreement;

1.1.5 Create a framework for building and maintaining a mutually beneficial government-to-government relationship between the Tribe and the County; and

1.1.6 Identify ways for the Tribe and the County to work together to provide services and benefits to the Tribal community and Sonoma County residents.

## II. DEFINITIONS

The following terms shall be defined in this Agreement as set forth in this subdivision.

2.1 "Agreement" means this Memorandum of Agreement, as the same may be amended by written agreement of the Parties from time to time.

2.2 "County" means the County of Sonoma California, a political subdivision of the State, and its respective departments and subdivisions.

2.3 "Effective Date" means the latter date upon which this Agreement is formally approved by the County Board of Supervisors and the Tribal Council of the Tribe in forms substantially similar to Exhibits D and E.

2.4 "Final Environmental Assessment" or "Final EA" means the May 2011 Lytton Property Residential Development Final Environmental Assessment prepared for the Tribe by Analytical Environmental Services (AES).

2.5 "Gaming" or "Gaming Activities" means Class II and/ or Class III gambling activities as defined under the Indian Gaming Regulatory Act (Pub. L. 100-49, 25 U.S.C. (§2701 et seq.)

2.6 "NEPA" means the National Environmental Policy Act of 1969 (P.L. 91-190, 42 U.S.C. § 4347), and any amendments thereto, and the regulations promulgated thereunder, as the same may be amended or modified from time to time.

2.7 "NEPA Guidelines" means NEPA, final NEPA guidance documents issued by the Council of Environmental Quality, and the United States Bureau of Indian Affairs NEPA Guidebook, as the same may be amended or modified from time to time intended to identify off-trust land significant impacts of tribal development projects and appropriate mitigation measures to reduce the impacts to less than significant.

2.8 "Party" means the Tribe or County.

2.9 "Parties" means the Tribe and the County.

2.10 "Residential Development Project" means the Lytton Rancheria of California Fee-to-Trust and Residential Development Project, as described in the FONSI filed with the Department of the Interior in connection with the Tribe's application to take into trust 14 parcels consisting of 124.12 acres of land and Section II of this Agreement.

2.11 "Resort" shall mean an up to 200 room lodging facility with associated amenities, including, but not limited to, restaurants, spa, wedding area, meeting and banquet facilities and gift shops.

2.12 "Trust Lands" means lands located within the geographic borders of Sonoma County and held by the federal government for the benefit of the Tribe.

2.13 "Winery" shall mean a tribal facility in Sonoma County involving a 200,000 case winery, event center, and all typically associated uses, such as, but not limited to a wine tasting facility.

## III. THE RESIDENTIAL DEVELOPMENT PROJECT

3.1 The Residential Development Project shall be constructed and operated as described in this Agreement and the Final EA which is incorporated herein by reference. Among other things, the Residential Development Project includes construction of up to 147 residential units, consisting of 95 single-family detached houses of approximately 2,400 square feet; 24 cottage-style homes of approximately 1,410 square feet; 12 single-story townhomes of approximately 1,400 square feet; and 16 two-story townhomes of approximately 1,450 square feet, on locations identified in Section 2.0 and Figures 2-1 and 2-2 of the Final EA. The Parties recognize that use of the residential units is for Tribal members and their families. The residential units will not be available for rent or

lease to the general public except that a limited number of units may be leased or rented to Tribal employees. These rentals or leases shall not exceed 10% (10 percent) of the 147 residential units planned or constructed.

3.2 The Residential Development Project also includes development of an 18,809 square foot community center, 2,500 square foot round house, and 2,707 square foot retreat, as set forth in Section 2.0 and Figures 2-1 and 2-2 of the Final EA. Uses shall be as described in Section 2.1.3 of the Final EA.

## IV. OFF -TRUST LANDS IMPACT MITIGATION

4.1 For Residential Development Project mitigation, the Tribe agrees to implement the Mitigation Measures and Best Management Practices as set forth in this Agreement including its Exhibit A. Pursuant to Section V, the Tribe agrees to inform the County of the status of the implementation of such measures.

4.2 The Tribe agrees to comply with the Sonoma County General Plan and Zoning Ordinance, as they exist on the Effective Date of this Agreement, for uses related to the land parcels listed in Exhibit B, which are not included in the Residential Development Project, and placed into trust for the benefit of the Tribe either through legislation or the federal administrative process with the following exceptions:

4.2.1 If the Tribe chooses to develop a Winery and/or a Resort the Tribe agrees to prepare an Environmental Impact Statement(s) (EIS), as defined in NEPA, to determine the off-trust land impacts and the appropriate off trust land mitigations. The Parties shall mutually agree on the consultant to prepare the EIS. Commensurate with the scope of the project, the Tribe and the County shall meet and confer and agree upon a mutually-beneficial public benefit. Should the Parties disagree whether the environmental analysis, level of review, proposed off trust land mitigations, or proposed public benefits are adequate, the Parties agree to first attempt informal negotiations pursuant to Section 14.1. Should the negotiations fail to resolve the dispute, the Parties

agree to submit the dispute to binding arbitration pursuant to Sections 4.4 and XIV. The Tribe agrees to give the County written notice of project construction commencement, and if arbitration is triggered within sixty (60) days of receipt of notice, the Winery and/or Resort Project construction will not commence until resolution of the arbitration proceedings.

4.2.2 The Tribe shall be allowed, consistent with the Town of Windsor General Plan, to change the use of parcel numbers, 066-050-040, 066-050-047, 066-191-007, 066-040-008 and 066-040-001 listed in Exhibit B and currently within the Town of Windsor Urban Growth Boundary (UGB) to construct up to 214 units of residential housing and Tribal community buildings not to exceed 60,000 sq. ft. The Tribe will conduct an environmental analysis and comply with NEPA Guidelines for the project. The Parties recognize that use of the residential units is for Tribal members and their families. The residential units will not be available for rent or lease to the general public except that a limited number of units may be leased or rented to Tribal employees. These rentals or leases shall not exceed 10% (10 percent) of the 214 residential units planned or constructed.

4.2.3 In the event the Tribe intends to call upon County or Windsor fire emergency services for any of its development projects, it will make available design plans for review by County Fire Emergency Services personnel and consider suggestions or recommendations intended to increase fire or building safety. The Tribe shall provide Certificates of Occupancy prepared by Tribal inspectors to County Fire Emergency Services within a reasonable time following issuance. Design and construction shall meet standards equivalent to the Uniform Fire Code and the California Building Code. Should the Parties disagree as to whether proposed off trust land mitigation for said development was adequate or was properly analyzed pursuant to NEPA Guidelines, the Parties agree to first attempt informal negotiations. Should the negotiations fail to resolve the dispute, the Parties agree to submit the disagreement to binding arbitration pursuant to Section 4.4 and Section 14.

4.3 If the Tribe purchases additional lands within the area identified in Exhibit C and chooses to seek to place such lands into trust for the benefit of the Tribe either through legislation or the federal administrative process, the Tribe agrees to 1) conduct any environmental review that may be necessary according to NEPA Guidelines; and 2) comply with the Sonoma County General Plan and Zoning Ordinance as they exist on the Effective Date of this Agreement for uses related to the lands taken into trust on behalf of the Tribe. Should the Parties disagree as to whether proposed off trust land mitigation for said development was adequate or was properly reviewed pursuant to NEPA Guidelines, the Parties agree to first attempt informal negotiations. Should the negotiations fail to resolve the dispute, the Parties agree to submit to binding arbitration pursuant to Section 4.4 and Section 14.

4.4 Only the Parties may demand arbitration. As provided for in Section XIV, arbitration shall be before a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association with respect to any remaining disputes arising from, connected with, or related to the adequacy of the environmental analysis or sufficiency of mitigation for off-trust land impacts. If arbitration is demanded under the authority of this subparagraph, each Party shall exchange with the other, within five (5) days of the demand for arbitration, a last best written offer to resolve the dispute. The arbitrator shall schedule a hearing to be heard within thirty (30) days of his or her appointment unless the parties agree to extend the time. The arbitrator shall, if requested, consider the adequacy of the environmental analysis and, if sufficient, shall be limited to awarding only one or the other of the two offers submitted, without modification. The arbitrator shall choose the proposal which best provides feasible mitigation for any off-trust land impact by the development and most reasonably compensates for any additional public services required, without unduly interfering with the principal objectives of the development or imposing mitigation measures which are different in nature or scale from the type of measures that have been required to mitigate impacts of a similar scale of other developments in the surrounding area, to the extent there are such other developments. In addition, for those projects subject to compliance with NEPA Guidelines, the arbitrator shall take into consideration whether the environmental

document prepared pursuant to the NEPA Guidelines provides the data and information necessary to enable the arbitrator to determine whether the proposed mitigation measures are sufficient to address any significant off-trust land effects of the development. If the arbitrator determines the environmental document is not sufficient to determine significant off-trust land environmental impacts, the arbitrator shall order additional information to be presented sufficient to conduct that analysis. In this instance, the arbitrator shall give the Parties the opportunity to review and amend their last best offer. If a Party does not submit its last best offer as required by this sub-paragraph or does not participate in the arbitration, the arbitrator shall nonetheless conduct the arbitration.

4.5 The Parties may file suit to compel arbitration and enforce an arbitration award. Judicial review of any arbitration award made within this Section is waived by the Parties.

## V. MITIGATION MONITORING AND REPORTING

5.1 During the construction and operation of the Residential Development Project and/or any other development pursuant to this Agreement, and continuing until all agreed to mitigation measures are implemented, the Tribe shall prepare and provide the County a mitigation monitoring report on at least a quarterly basis that summarizes the implementation of all agreed-to mitigation measures and their effectiveness in reducing the related impact. Mitigation reports shall, at a minimum, identify the status and degree of measure implementation, and the date of completion, and provide a signature of completion of each measure.

5.2 The mitigation reports shall be prepared by an independent, qualified consulting firm or individual mutually agreed upon by the Tribe and the County, hired and compensated by the Tribe and provided to the County. The consultant(s) engaged by the Tribe shall have a contractual independent duty to provide current and accurate unbiased timely reports to the County. The consultants engaged in the monitoring shall have the

necessary planning experience and/or engineering degrees and other expertise necessary to monitor the mitigation measures contained in this Agreement.

## VI. TRIBAL DEVELOPMENT AND USE OF TRUST LAND

6.1 The County recognizes that the County General Plan and Zoning Ordinance will not be applicable to the Tribe's Trust Lands except as specifically stated in this Agreement. The Tribe recognizes that the County General Plan is an important and valued exercise of County authority and agrees that for any future new Tribal development projects on Trust Lands in the County the Tribe shall give meaningful consideration to the County General Plan and Zoning Ordinance in trust applications and other Tribal planning activities.

6.2 The County recognizes that the Tribe intends to develop a Winery and/or Resort on those parcels specifically designated in Exhibit B, not including the Residential Development Project lands.

6.3 The Tribe agrees not to engage in any Gaming or Gaming Activities in Sonoma County during the term of this Agreement. The Parties specifically agree that extension of this provision will be considered at such time as extension or modification of this Agreement is considered, as provided for in Section 9.2.

6.4 The Tribe agrees to use the County's approved franchised hauler for solid waste so long as rates are similar to those charged to other residential or commercial (for Winery and/or Resort) customers in the unincorporated Town of Windsor vicinity as set forth in the County's franchise agreement.

6.5 The Tribe agrees to maintain the rural nature of Windsor River Road through the use of landscape screening and open wire fencing.

6.6 The Tribe agrees that, should any Trust Lands create a circumstance whereby tribal trust land surrounds non-tribal land, the non-tribal land shall be guaranteed all appropriate ingress and egress rights as well as necessary easements and access for utilities and other services.

## VII. MITIGATION COSTS

7.1 The Parties agree that the County does not have permitting authority over development on the Trust Lands and that the payments made under this Agreement do not constitute taxes, exactions or fees but payments by the Tribe to address potential off trust land impacts of development

7.2 In addition to the other mitigation measures the Tribe has and will implement, and any donations to the local community and government, the Tribe shall make a one-time payment to the County of six-million dollars ($6,000,000) for mitigation of impacts, including but not limited to direct and cumulative impacts to County roads, Riverfront Regional Park and other County parks, and native oak woodlands, including regenerating blue oak woodlands as more specifically spelled out in Exhibit A. Any disputes regarding the Tribe's compliance with the agreed upon mitigation measures and best management practices in the FONSI shall be subject to the dispute resolution provisions of this Agreement. Any disputes regarding the Tribe's compliance with the conditions added by the County (those underlined in Exhibit A) shall be resolved through a meet and confer process.

7.3 The Tribe shall also make a one-time payment to the County of one hundred thousand dollars ($100,000) to reimburse the County for general administrative overhead cost incurred by County staff and consultants to negotiate, prepare, and implement this Agreement.

7.4 The payments identified in Sections 7.2 and 7.3 shall be paid within sixty (60) days from the date the Residential Development Project Lands and the lands within the

Town of Windsor Urban Growth Boundary (UGB) or lands of equivalent acreage to the UGB and Residential Development Project lands are taken into trust for the benefit of the Tribe. If the lands taken into trust for the benefit of the Tribe differ from the Residential Development Project Lands and lands within the Town of Windsor Urban Growth Boundary (UGB) as specifically described herein, but are substantially equivalent, then the payments identified herein shall be paid. If there is a dispute as to the payment obligations provided for herein, it shall be the subject of arbitration as provided for in this Agreement.

7.5 Notwithstanding any federal or state law, once the land is taken into Trust, the Tribe agrees to allow the County Assessor's Office representative access to the Trust Lands for the purposes of establishing an assessed market valuation as of the date of establishment based on the use of the property at that time. Beginning April 10th after the establishment of the Trust, the Tribe shall pay to the County 30% of 1% of the assessed market valuation. If the Tribe disputes the assessed market valuation it may do so through the Agreement's arbitration provisions outlined herein.

7.5.1 The payment, once established, shall be fixed for an additional four payments on each successive April 10th. On or before the fifth payment, and every five years thereafter during the term of this Agreement, the Tribe shall again grant the Assessor access to all Trust Lands for the purposes of establishing a new assessed market valuation based on the new uses or development of the property at that time. Once established, the Tribe shall pay the County 30% of 1% of the assessed market valuation for the following five years through the term of the Agreement.

7.5.2 The payments shall not include any additional state taxes or assessments for the water, schools or any other districts or projects which may be appended to the County's typical property bill. All payments are solely the County's funds and may be used for any purpose at the discretion of the County and shall be paid by the Tribe as long as the property remains in trust for the Term of this Agreement.

7.6 In addition to the payments described above, the Tribe shall pay to the County a fee in-lieu of the County transit occupancy tax in the amount of 9% of the rents collected on occupied hotel rooms and vacation rentals. This fee shall be paid on a quarterly basis to the County. If there is a dispute as to the assessment fee payments and supporting computations, the Tribe will provide the information/receipts to verify payment and the supporting basis for the computation. The payments shall be made for the Term of this Agreement unless the assessed property is removed from federal trust at an earlier date. Any disputes regarding the payment amount shall be subject to the dispute resolution provisions of this Agreement. The Tribe and County agree that should the County approve an increase or decrease in the transient occupancy tax, the Tribe will pay and apply the same equivalent in-lieu tax for its occupied hotel room and vacation rentals to the County.

7.7 All payments made pursuant to this Agreement shall be made payable to the County of Sonoma and sent to the Office of the County Administrator, County of Sonoma.

7.8 Use of any funds received by the County from the Tribe pursuant to this Agreement is subject to the sole discretion of the County Board of Supervisors.

## VIII. COUNTY COVENANTS/COMMITMENT TO SUPPORT

8.1 In return for the commitments made by the Tribe in this Agreement, the County agrees to actively support the Tribe's efforts whether legislatively or through the federal administrative process to take into trust the lands listed in Exhibit B. The County agrees, at a minimum, to write a support letter to the authors /sponsors of any legislation that takes the lands listed in Exhibit B into trust. The County will also issue correspondence to the appropriate state and federal agencies supporting any applications to the federal government to take the lands listed in Exhibit B into trust for the benefit of the Tribe. The County further agrees not to challenge any administrative decision to place these lands listed in Exhibit B into federal trust for the benefit of the Tribe through either

administrative or judicial appeals and refrain from judicially challenging any legislation requiring land to be placed into federal trust for the benefit of the Tribe. The County reserves the right to submit comments as part of the NEPA process on particular aspects of projects proposed by the Tribe.

8.2 For lands described in Exhibit C, the Tribe hereby agrees that the uses of those properties will comply with the County General Plan and Zoning Ordinance. Based on this Agreement the County agrees not to oppose the Tribe's efforts whether legislatively or through the federal administrative process, to take up to 800 acres of these lands into federal trust for the benefit of the Tribe. In such an instance, the County also agrees not to issue any negative comments or correspondence concerning any application or legislation taking the above-described lands into federal trust for the benefit of the Tribe. Under the conditions of this section, the County further agrees not to challenge any administrative decision to place the above- described lands into federal trust for the benefit of the Tribe through either administrative or judicial appeals and refrain from judicially challenging any legislation requiring land to be placed into federal trust for the benefit of the Tribe. The County reserves the right to submit comments as part of the NEPA process on particular aspects of projects proposed by the Tribe.

## IX. TERM

9.1 This Agreement shall be in full force and effect for twenty-two (22) years from the Effective Date.

9.2 Not later than one hundred eighty (180) prior days to the date of termination, the Parties shall meet, confer and renegotiate with regard to the potential extension or modification of this Agreement.

9.3 Any arbitration proceeding or issue subject to dispute procedures under Section XIV at the time of Termination shall remain in effect past the Term until finally resolved.

In addition, mitigation measures contained in Exhibit A or included in the Final EA or in an arbitrator's order shall remain in effect beyond the Term of the Agreement.

## X. GENERAL PROVISIONS

10.1 No Third Party Beneficiaries. This Agreement is not intended to, and will not be construed to, confer a benefit or create any right on a third party, or the power or right to bring an action to enforce any of its terms.

10.2 Amendments. This Agreement may be amended only by written instrument duly signed and executed by the County and the Tribe.

10.3 Waiver. The waiver by either Party of any of its officers, agents or employees, or the failure of either Party or its officers, agents or employees to take action with respect to any right conferred by, or any breach of any obligation or responsibility of this Agreement, will not be deemed to be a waiver of such obligation or responsibility, or subsequent breach of same, or any terms, covenants or conditions of this Agreement, unless such waiver is expressly set forth in writing in a document signed and executed by the appropriate authority of the County and of the Tribe.

10.4 Severability. The provisions of this Agreement are severable, and the invalidity of any provision or portion of this Agreement shall not in and of itself affect the validity of any other provision or portion of this Agreement, and the remaining provisions of the Agreement shall remain in full force and effect. If any provisions of this Agreement were determined to be invalid or unenforceable, then the Parties agree to promptly use good faith efforts to amend this Agreement to reflect the original intent of the Parties in accordance with applicable law. If the Parties are unable to reach agreement, the Parties will resolve the dispute in accordance with the Dispute Resolution Sections of this Agreement. Notwithstanding the above, in the event that the intent of Sections 4.2, 4.2.1, 4.2.2, 4.3, 6.3, 7.2, or 7.5.1 could not be effectuated, the County commitments in Sections 8.1 and 8.2 would no longer be applicable.

10.5 Construction of Agreement. This Agreement shall be construed and enforced in accordance with the laws of the United States, and the State of California.

10.6 Force Majeure. In the event of a forced delay in performance by either the Tribe or the County due to cause beyond the reasonable control of that party, including epidemics, embargoes, war, acts of war (whether or not war declared), insurrections, riots, civil commotion, acts of God, acts or inaction by the other party its employees or agents, unusual delay in transportation, unavailability of materials, the time for performance shall be extended for the period of the forced delay.

10.7 Entire Agreement. This Agreement constitutes the entire agreement between the County and the Tribe and supersedes all prior negotiations, representations, or other agreements, whether written or oral.

10.8 No Presumption. In the event of a dispute between the Parties as to the language of this Agreement or the construction or meaning of any of its term, this Agreement will be deemed to have been drafted by the Parties in equal parts so that no presumption or inferences concerning its terms or interpretation may be construed against any Party to this Agreement.

10.9 Confidentiality. Other than reports prepared to comply with NEPA Guidelines, any information or documents obtained, directly or indirectly under this Agreement or preceding negotiations, shall be deemed confidential to the extent allowed under law and shall not be shared with any third party. The County shall promptly provide the Tribe notice of any Public Records Act request relate to this Agreement and afford the Tribe, within the time limits allowed under the Act, an opportunity to seek an injunction by the Court against any such disclosure.

10.10 Authority Over Tribal Activities. Nothing in this Agreement is intended to confer or expand the jurisdiction of any local, state or federal agency or other governmental

body, nor is this Agreement intended to infringe or otherwise usurp the authority of any regulatory body including local, state, federal or Tribal agencies that may have jurisdiction over or related to Tribal activities, development or projects. Further, nothing in this Agreement shall be construed to relieve the BIA's or Tribe's obligation to comply with NEPA as may be required a part of any trust application or any other Project requirement. The County acknowledges that to the extent required by applicable law, activities that normally require county permitting are exempt from such requirements when they take place on Trust Lands. The Tribe similarly acknowledges and agrees that its development projects located on fee lands located within the County's geographical boundaries shall conform to County permitting, taxation, and other regulatory requirements and laws.

10.11 Duplicate Originals. At least two sets of this Agreement shall be signed and exchanged by the Parties each of which shall be considered an original document.

10.12 Obligation on Related Entities. This Agreement binds the Parties and their departments, affiliates, agents, representatives, successors, contractors, officials and related entities which such Agreement shall also be reflected in a resolution of each Party's respective governing body approving the Agreement.

10.13 Tribal-County Meetings. The County and Tribe agree that members of the Tribal Council and Board of Supervisors shall meet at least once a year and as often as necessary for Tribal and County development consultation provided for hereunder and to discuss items of mutual interest, build and maintain a mutually-beneficial government-to-government relationship, and identify ways to work together to provide services and benefits to the Tribal community and Sonoma county residents.

10.14 Prior Agreement. Unless specifically addressed in this Agreement, nothing in this Agreement shall modify any of the rights or responsibilities of the Parties under their 1991 agreement, entitled a Stipulation for Entry of Judgment in *Scotts Valley Band of*

*Pomo Indians of the Sugar Bowl Rancheria v. United States*, Case No. C-86-3660 WWS (N.D. Cal. 1991).

## XI. NOTICES

11.1 Notices and service of process shall be sent to the contacts listed below or to such other person or address as shall be provided in writing by the party. Service of process in any judicial or arbitration proceeding is waived in favor of delivery of documents by Certified Mail – Return Receipt Requested to the following:

For the Tribe:

Tribal Chairperson
Lytton Rancheria of California
437 Aviation Blvd.
Santa Rosa, CA 95403
Tel: (707) 575-5917

With a copy simultaneously delivered to:

Lawrence R. Stidham
Counsel for the Tribe
Stidham Law Offices
210 5th Street
Ramona, CA 92065
Tel: (760) 788-4560

For the County:

Sonoma County Administrator
575 Administration Drive
Santa Rosa, CA 95403
Tel: (707) 565-2431

With a copy simultaneously delivered to:

County Counsel
575 Administration Drive, Room 105A
Santa Rosa, CA 95403
Tel: (707) 565-2421

## XII. REPRESENTATIONS AND WARRANTIES

12.1 Each Party hereby represents, warrants and covenants to the other Party as follows:

12.1.1 Authority. Such Party has the legal power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.

12.1.2 Due Authorization. The approval, execution, and delivery of this Agreement, and the performance by such Party of its obligations under this Agreement, have been authorized by all requisite actions of such Party.

12.1.3 Due Execution and Delivery. The persons executing this Agreement on behalf of such Party are duly authorized to execute and deliver this Agreement in the name of and on behalf of such Party.

12.1.4 Enforceability. This Agreement constitutes the legal, valid and binding obligation of each Party, enforceable against each Party in accordance with its terms, and, once executed and delivered, cannot be invalidated pursuant to any subsequent action of the respective Board of Supervisors of the County or the Tribal Council or General Council of the Tribe, as applicable.

12.1.5 No Conflict. The approval, execution, delivery and performance of this Agreement does not conflict with any other agreement to which each Party is a party and does not violate or require any action which has not been taken under any law, statues, rule, regulation, ordinance, general plan, specific plan or court order or decree applicable to such Party.

## XIII. CEQA

13.1 The Tribe's Trust Land activities and the Parties' approving, executing and performing this Agreement, currently and in the future, are not activities that, within the

meaning of the California Environmental Quality Act ("CEQA"), California Public Resources Code §21000 *et seq.*; (a) are directly undertaken by the County or surrounding communities, (b) are supported, in whole or in part, through contracts, grants, subsidies loans or other forms of assistance by the County, or (c) involve the issuance of a lease, permit, license, certificate or other entitlement for use by the County. This Agreement does not commit the County to making any specific physical changes in the environment. If CEQA compliance will be required with respect to any activities related to this Agreement, the County shall comply with CEQA at that time.

13.2 By approving, executing and performing this Agreement, the County has not and is not, making any commitment to a) issue a lease, permit, license, certificate, or other entitlement for use, or b) develop, construct or improve any facilities or cause any other physical change in the environment. This Agreement should be construed as primarily a government payment and funding mechanism that does not commit the County to make any specific physical changes in the environment.

13.3 Notwithstanding the above, if the County is sued for failure to comply with CEQA related to approval of this Agreement, the Tribe agrees to indemnify and defend the County, including its officers, agents and employees in any such third party actions. The County will vigorously defend any such actions and shall have the right to select its own counsel at local prevailing rates, at the expense of the Tribe but the Tribe shall have the right to review counsel fees and costs and to be informed as to the progress of the litigation.

## XIV. DISPUTE RESOLUTION

14.1 Prior to pursuing any arbitration, each party shall, whenever possible, attempt to resolve any grievance, complaints or disputes that are brought to its attention by the other party. Each Party shall notify the other party in writing of any material dissatisfaction with the other party's performance at that party's address of record. Within ten (10) days

of receipt of such notice, unless the problem has been resolved, the Parties shall meet and confer in good faith to determine what remedial action is necessary.

14.2 If, after meeting and conferring in person, the Parties are unable to reach an informal resolution of the dispute they may proceed to arbitration. If the Parties are unable to agree upon an arbitrator, then each Party shall name one arbitrator and the two arbitrators shall select a third arbitrator who shall be a retired Superior Court or United States District Court Judge; provided however, if a Party fails to select an arbitrator within fourteen (14) days of delivery of the request for arbitration, then the arbitrator selected by the other Party shall conduct the arbitration. The arbitration shall be binding and conducted pursuant to the Commercial Rules of the American Arbitration Association. Each Party shall initially pay its own arbitration costs and expenses, but the arbitrator may in its discretion, include such costs and expenses, together with reasonable attorneys' fees, as part of the award to the prevailing Party.

14.3 Either Party may seek judicial enforcement of the arbitration decision. Such enforcement actions shall be brought in the United States District Court for the Northern District of California, the United States Court of Appeals for the Ninth Circuit, and the United States Supreme Court. If the United States District Court for the Northern District of California determines that it lacks jurisdiction, the Parties shall be entitled to file in the appropriate trial court for the State of California. The awards of any arbitration if brought in Federal Court shall be governed by the Federal Arbitration Act codified in Title 9 of the United States Code, except as the same may be changed or limited by the provisions of this Agreement.

14.4 The arbitrator and appropriate Court shall have the authority not only to make or confirm any order or decision of the arbitrator, but to issue all orders necessary, including, but not limited to: the issuance of temporary or permanent injunctions to prohibit the parties from engaging in conduct that violates the provision of this Agreement; specific performance; otherwise compelling the Parties to comply with the provisions of this Agreement; and/or requiring the Parties to pay over any income, or

profits. In the case of disputes regarding adequacy of mitigation or public benefits, it is anticipated that the arbitrator's award will consist of picking the last best offer of one of the Parties as provided for in Section 4.4.

14.5 Judicial remedies are specifically limited to the enforcement of a determination by an arbitrator pursuant to this Agreement as provided for in Section 14.4 above.

## XV. TRIBAL WAIVER OF SOVEREIGN IMMUNITY

15.1 The Parties acknowledge that Lytton is a federally recognized Indian tribe and, as such, possesses sovereign immunity from suit. Nothing in this Agreement is or shall be deemed to be a waiver of the Tribe's sovereign immunity from suit, which immunity is expressly asserted, except that the Tribe expressly and irrevocably agrees to waive its immunity (and any related defenses) as against the County only and for the limited and sole purpose of compelling arbitration and of enforcing an arbitration decision rendered pursuant to the terms of and conditions of this Agreement. The waiver shall be evidenced, in part, by a resolution of the Tribal Council as provided in Exhibit D. The Tribe further agrees that exhaustion of administrative remedies, including before any Tribal Court, shall not be required prior to proceeding to arbitration or court action as described in Section XIV.

## XVI. EXHIBITS.

16.1 Exhibits A, B, C, D, and E are attached and incorporated as if fully set forth in the Agreement.

## XVII. REVIEW BY THE DEPARTMENT OF THE INTERIOR AND OTHER ACTIONS FOLLOWING EXECUTION

17.1 The Tribe agrees to submit this Agreement to the United States Department of the Interior ("DOI") for either: a) approval pursuant to 25 U.S.C. § 81; b) written response

that this Agreement does not require approval under 25 U.S.C. § 81; or c) a conditional approval of the Agreement pending the land going into trust.

17.2 The County, at its sole discretion, has the right to withdraw its support for the Agreement if it is not submitted to the Department of the Interior pursuant to this Section within sixty (60) days following the Effective Date.

17.3 The Tribe agrees to request and support the inclusion of language, in any proposed legislation taking land into trust on behalf of the Tribe, to both ratify this Agreement and state that this Agreement is not subject to the review or approval of the Secretary pursuant to 25 U.S.C. § 81 in order to be effective.

17.4 This Agreement shall be in full force and effect regardless of any review that might be required pursuant to 25 U.S.C. § 81 or any other law. If the Department of the Interior determines that portions of this Agreement violate 25 U.S.C. § 81 or are otherwise invalid, the severability provisions set forth in this Agreement shall govern. If this Agreement is ratified or approved by Congress pursuant to Section 17.3, the severability provisions set forth in this Agreement may not apply.

IN WITNESS WHEREOF, the Parties execute and enter into this Agreement with the intent to be bound thereby through their authorized representatives whose signatures are affixed below.

LYTTON RANCHERIA OF CALIFORNIA Date: 3/9/15

Margie Mejia, Tribal Chairperson

APPROVED AS TO FORM BY LEGAL COUNSEL FOR THE TRIBE Date: 3/10/15

By: _____
Larry Stidham, Esq.

COUNTY OF SONOMA

Date: 3/10/15

Susan Gorin

Susan Gorin, Chair, Board of Supervisors

APPROVED AS TO FORM BY

COUNTY COUNSEL

Date: 3/12/15

By: Jeff Brax

Jeff Brax, Chief Deputy
Sonoma County Counsel

## Exhibit A

## Development Project Mitigation Measures

Pursuant to the Memorandum of Agreement between the County of Sonoma and the Lytton Rancheria of California regarding Fee-to-Trust Lands (Agreement), the Parties have agreed that the responsibilities for the following mitigation measures and best management practices are divided between the Tribe, the County and those being addressed by the Town of Windsor (Town) in accordance with a separate agreement between the Town and the Tribe. Any disputes regarding compliance with these measures and practices shall be subject to dispute resolution as set forth in the Agreement. (See, Sections 4.4, 4.5, and XIV).

**Responsibilities of the County**

A. Mitigation of impacts to the Riverfront Regional Park and other County parks.

B. Direct and cumulative impacts to County roads.

C. Native oak trees permanently removed as a result of project construction will be mitigated through re-planting of removed trees at a 1:1 ratio, as detailed herein, or alternatively, preserving and equivalent area of oak woodland.

- Replacement oak trees will be planted on Tribally-owned land and/or other parcels in the vicinity of the project site.
- Oak trees may be established by planting in replacement areas trees salvaged from construction impact zones, 15 gallon-sized trees, 24-inch boxes, 36-inch boxes, saplings, propagated seedlings, acorns or any combination of these sizes or stages.
- To ensure the success of planted oak trees, the trees shall be monitored annually by a qualified biologist for a period of five years, with a survival target goal of 60 percent by the third year. If it is determined after the third year of monitoring that the 60 percent survival rate is not being met, additional trees shall be planted to meet an 80 percent survival goal near the end of five years.

**Responsibilities of the Town of Windsor**

A. The Tribe shall pay a proportionate share for necessary intersection improvements at the intersection of Windsor River Road and Bell Road (Final EA Intersection #6). The improvements shall include, but not limited to, installation of a traffic signal if and when the Town of Windsor determines a signal is warranted.

B. The Tribe shall pay a proportionate share for intersection improvements at the intersection of Old Redwood Highway and the Northbound U.S. 101 Off- Ramp at Lakewood Drive (Final EA Intersection #9). Improvements would include the construction of an additional southbound left turn lane, an additional southbound right turn lane, and restriping the northbound approach to include a shared through-left lane. The project's equitable share of any planned improvements at this intersection shall be calculated based on the methodology set forth in Appendix "B" of the California Department of Transportation "Guide for the Preparation of Traffic Impact Studies" and determined in consultation with Sonoma County, Town of Windsor and the Tribe.

**Responsibilities of the Tribe**

**1. Land Resources**

a. All structures shall meet design standards equivalent to the California Building Code (CBC) requirements for the site, including the seismic design criteria of the most recent edition of the Uniform Building Code (UBC) for Seismic Zone 4.

b. Protective coatings for buried steel facilities shall be used for construction on corrosive soil.

c. All site preparation and earthwork construction in the field shall be performed by licensed contractors.

d. Suitability of earth and construction materials shall be determined by a licensed professional employing geotechnical/soils laboratory testing standards according to standard engineering practice.

e. All grading plans, subsurface investigations, and slope stability and seismic design calculations as well as all foundation, paving, and building design parameters shall be produced under the supervision of appropriate licensed professionals.

f. Construction on expansive soil shall be mitigated by using specialized grading techniques or designing structural foundations to withstand expansion pressures.

g. The effects of soil movement shall be mitigated by strengthening the soils during grading and/or designing and constructing satisfactory foundation support.

h. Prior to finalization of the grading and development plans for the property, design-level geotechnical specifications addressing the specific grading and development plans shall be developed. The specifications shall include, but not be limited to, the following:

- Site, building and facility-specific grading recommendations regarding site preparation, clearing and grubbing.

- Select grading procedures, remedial grading procedures, material suitability and compaction criteria.
- Cut and fill slope stability analyses, recommended slope configurations and inclinations.
- Evaluation of soil expansion and corrosion potential.
- Building-specific foundation design parameters.
- Site-specific seismic design parameters.
- Lateral earth pressure parameters for retaining wall design, if any.
- Pavement design specifications.

**2. Water Resources**

a. Areas outside of buildings and roads shall be kept as permeable surfaces to the extent practicable; either as vegetation or high infiltration cover, such as mulch, gravel, or turf block. Pedestrian pathways shall use a permeable surface where possible, such as crushed aggregate or stone with sufficient permeable joints (areas between stone or brick if used).

b. Existing native vegetation shall be retained where possible.

c. Roof down spouts shall be directed to splash blocks and not to underground stormdrain systems.

d. Runoff from rooftops, and other impervious areas shall be directed to vegetated areas to help treat and infiltrate stormwater prior to leaving the site.

e. Runoff from roadways shall filter though rock-lined swales and bio-swales.

f. All storm drains shall be equipped with silt and grease traps to remove oils, debris, and other pollutants. Storm drain inlets shall also be labeled "No Dumping – Drains to Streams and Rivers."

g. Permanent energy dissipaters shall be included for drainage outlets.

h. Rock rip-rap energy dissipaters shall be installed at the point of release of concentrated flow.

i. High water-demand plants shall be minimized in landscaping plans. Native and drought-tolerant plant species (trees, shrubs, and ground cover) landscaping shall be emphasized.

j. Water-efficient fixtures and appliances shall be installed in residences and community facilities.

k. Water conservation standards at least equivalent to Sonoma County design standards shall be implemented in the residential and community buildings.

l. Implementation of check dams, rain gardens, and bio-swales shall be used to reduce stormwater velocities as recommended in the preliminary drainage plan in Appendix A of the Final EA.

m. The Tribe shall obtain a National Pollutant Discharge Elimination System permit (NPDES General Permit) from the USEPA for construction site runoff during the construction phase in compliance with the Clean Water Act (CWA). The Tribe shall prepare, implement, and maintain a Storm Water Pollution and Prevention Plan (SWPPP) throughout the construction phase of the development, consistent with General Permit requirements. The SWPPP shall detail the BMPs to be implemented during construction and post-construction operation of the Proposed Project. The BMPs shall include, but are not limited to, the following:

- Straw wattle placement on cut and fill slopes.
- Straw wattle check dam installation within drainage swales.
- Covering disturbed areas with plastic, hydro-seed applications, or straw.
- Construction entrance installation to reduce off-site sediment transport.
- Revegetation following construction activities.

n. For all alternatives, the nested monitoring well constructed for the hydrogeologic investigation shall be maintained and used for groundwater- level monitoring.

o. If Alternative B is chosen, the Tribe shall obtain a NPDES permit for surface discharge of treated effluent. An energy dissipater that does not result in any fill of waters of the U.S. shall be installed at the effluent discharge outfall.

*If Alternative B or C is chosen:*

p. The Tribe shall construct a tertiary wastewater treatment and reclamation plant facility (WTRF) as described in Appendix B of the Final EA. Salt-based chemicals shall not be used whenever feasible in the wastewater treatment process. Water softeners that dispose of salt into the wastewater system shall be prohibited.

q. Wastewater effluent discharge shall be reduced or eliminated, if possible, during the issuance of an Urban and Small Streams Flood Advisory by the National Weather Service for the receiving waters into which project effluent is discharged.

r. Community education programming shall be conducted to educate residents of the importance of reducing chemical product use and disposal in the home and minimizing release of medicines and other contaminants into wastewater.

s. All effluent discharge basins shall maintain a minimum vertical distance of two feet freeboard between the high water level and pond levee crowns. Storage basins shall be gated to restrict access. All basins shall be equipped with draining systems and level monitors.

t. If used, spray drift from the spray disposal irrigation areas shall be monitored daily during operation by qualified personnel. Spray drift shall not be allowed to migrate outside of the irrigation area. Spray irrigation shall cease when winds exceed 30 miles per hour.

u. The Tribe shall adopt standards equivalent to the landscape irrigation standards in the State Water Resources Control Board Recycled Water Policy (as referenced in Resolution No. 2009-0011).

v. A wastewater contingency plan shall be developed that ensures untreated wastewater is not discharged to the environment in the event of WTRF failure or malfunction.

w. Sodium hypochlorite, caustic soda and/or citric acid shall be stored in the chemical room of the WTRF. The storage and metering facilities shall be located inside a chemical spill containment area, sized to contain 150 percent of the storage volume in case of an unintentional release.

x. The sodium hypochlorite shall be stored in a 55-gallon drum and the citric acid shall be stored as dry material and then in a 50-gallon mixing tank when needed.

y. The WTRF shall incorporate an active odor control system, consisting of a packaged biofilter with an active carbon absorption unit.

z. All treated effluent storage dimensions have been calculated to hold 100-year rainfall event precipitation amounts.

aa. Disposal of treated wastewater to irrigation areas shall be adjusted based on weather conditions in order to prevent surface runoff.

bb. Potential groundwater impacts from irrigation and effluent storage shall be minimized through treatment of effluent through nitrogen and salinity reduction processes.

cc. Operation and maintenance of the wastewater utility from house service laterals, through the wastewater and effluent system, to treatment and disposal shall be by the Tribe utilizing contract services. Individual residents will have no responsibility regarding operation and maintenance of any aspect of the wastewater treatment and conveyance systems. The residents' sole responsibility shall be to follow Tribal guidance on what should and should not be flushed down sinks and toilets. Community education shall be promoted to reduce needless contaminants to wastewater.

dd. The effluent storage basins and irrigation areas shall be located and designed so that they are well-drained and readily accessible.

ee. Implementation of the following measures shall be incorporated during design and operation of the wastewater and effluent system to minimize chances of system failures:

- Solvent welded plastic house services;

- Above grade cleanouts;
- Dual (redundant) discharge pumps;
- High water alarms;
- Adherence to recommended septic tank pump-out frequency;
- Maintaining records of pumping, inspections, and other maintenance activities;
- Flushing of solvent, paint, paper towels, diapers, feminine hygiene products, cigarette butts, pesticides, and fertilizer shall be discouraged by recurring outreach notices to the residents. The frequency of the noticing shall be based on the results of ongoing system inspections.

**3. Air Quality**

a. Construction vehicles, delivery, and commercial vehicles shall not idle for more than five minutes.

b. The Tribe shall designate an onsite Air Quality Construction BMP Manager (AQCBM), who shall be responsible for directing compliance with BMPs for the project construction heavy-duty equipment.

c. Heavy, diesel-powered equipment idling shall be limited to two minutes.

d. The Tribe shall use heavy duty construction equipment equipped with a diesel particulate matter filter.

e. The Tribe shall fully fund a program to encourage and facilitate the use of 'carpools' by construction workers, including providing an off-site location for construction workers to park their vehicles and meet to carpool.

f. If possible, the Tribe shall use heavy duty construction equipment, which meets CARB's most recent certification standards.

g. The Tribe shall provide a storage area for recyclables and green waste during construction.

h. The Tribe shall recycle 50 percent or more of construction waste.

i. The Tribe shall use environmentally preferable materials to the extent practical for construction of facilities. Buildings shall be designed to meet LEED or equivalent certification standards, except with respect to indoor smoking allowed in certain restricted areas.

j. The AQCBM shall be responsible for directing compliance with the following BMPs for fugitive dust control practices during project construction:

- For any earth moving which is more than 100 feet from all property lines, conduct watering as necessary to prevent visible dust emissions from exceeding 100 feet in length in any direction.
- For all disturbed surface areas apply dust suppression in a sufficient quantity and frequency to maintain a stabilized surface; any areas,

which cannot be stabilized, as evidenced by wind driven dust, must have an application of water at least twice per day to at least 80 percent of the unstabilized area.

- Establish a vegetative ground cover as soon as feasible after active operations have ceased.
- For all unpaved roads either water all roads used for any vehicular traffic as often as necessary to minimize dust; or apply chemical stabilizer to all unpaved road surfaces in sufficient quantity and frequency to maintain a stabilized surface.
- Provide track-out control to minimize tracking of soil onto neighboring roadways.
- For all off site haul vehicles, cover loads.
- Grading activities shall not occur when winds exceed 25 miles per hour(mph).
- Speed on unpaved roads shall be limited to 15 mph.

**4. Climate Change**

a. Buildings shall be sited to take advantage of aspect, shade, prevailing winds, and sun screens to reduce energy use.

b. Buildings shall be designed to include efficient lighting and lighting control systems.

c. Energy efficient heating and cooling systems as well as appliances shall be installed in residences and community facilities.

d. Solar or wind power systems shall be utilized where feasible.

e. The Tribe shall use solar hot water heaters where possible for all project components.

f. The Tribe shall seal all residential and other buildings heating, ventilation, and air conditioning ducts.

g. The Tribe shall purchase 1,716.44 metric tons of carbon credits from a carbon credit exchange or trading entity.

**5. Biological Resources**

**A. Waters of the U.S.**

a. Mixed riparian habitat, wetlands and drainages shall be avoided to the maximum extent feasible.

b. The Tribe shall establish a 50-foot setback, where possible, around each potentially jurisdictional wetland features within the project development and no development shall occur within the setback areas.

c. Prior to the onset of construction activities, these wetland avoidance setbacks shall be established around jurisdictional wetland features using high-visibility fencing. A qualified biologist shall be present during construction activities that ensue within the vicinity of the wetland

avoidance buffer zones. The qualified biologist shall monitor during construction to make sure that the fencing remains intact and that construction activities do not penetrate the wetland avoidance buffer zones. When project development is completed, the high-visibility fencing may be removed.

d. Temporary fencing shall be installed around riparian habitats. Fencing shall be in place prior to the initiation of any construction activities and no encroachment into the fenced areas shall be permitted. Fencing shall remain in place until all construction activities have ceased.

e. Any proposed construction activities that would occur within the vicinity 50 feet of jurisdictional waters of the U.S. shall be conducted during the dry season (i.e., April 15 through October 15) to further reduce sedimentation within the watershed.

f. If complete avoidance of waters of the U.S. is not possible and impacts to wetland features cannot be avoided, authorization from the USACE is required. A Section 404 CWA permit shall be obtained from the USACE and mitigation ratios defined within the permit conditions shall be implemented. Typical Nationwide Permits (NWP) mitigation occurs at a ratio of 1:1 acres created versus impacted and 2:1 acres preserved versus impacted. Individual permit conditions may vary. A CWA Section 401 Water Quality Certification permit from the U.S. EPA would also be required.

**B. Native Trees**

a. All identified heritage trees shall be preserved to the maximum extent feasible.

b. Native trees with greater than nine inches diameter at breast height (DBH) within the Sonoma County valley oak habitat (VOH) Combining District shall be preserved to the maximum extent feasible.

c. Native trees with greater than nine inches DBH within mixed riparian habitats shall be preserved to the maximum extent feasible.

d. Trees of notable size (i.e., heritage trees exceeding 33 inches diameter at breast height) shall be preserved to the greatest extent feasible.

e. Impacts to valley oak trees within the Valley Oak Habitat Combining District shall be avoided to the maximum extent feasible.

f. Protection of tree crowns and root zones shall be required for all trees planned for retention in the vicinity of the construction footprint.

**C. Special Status Animals**

a. The remaining aquatic surveys for the California Tiger Salamander (CTS) and California Red-Legged Frog (CRLF) are currently being conducted within the stock pond located on parcel 066-050-047. If

either CTS or CRLF is found, facilities proposed in the area upland of the pond shall be restricted or shall require additional mitigation.

**D. Special-Status Plants**

a. The remaining floristic surveys for Sonoma sunshine, Sebastopol meadowfoam, Burke's goldfields, and many-flowered navarretia (Final EA Section 4.1.4; Attachment E to Appendix E) shall be conducted within the required areas of the project site in accordance with the Santa Rosa Plain Conservation Strategy protocol prior to groundbreaking on those parcels.

b. If the protocol-level floristic survey results are positive, then formal consultation with USFWS must be initiated. Upon consultation, an appropriate course of action shall be established.

c. Prior to the onset of construction activities, an avoidance plan must be formulated, submitted, and approved by the USFWS. It is likely entail the following basic principles:

- Prior to the onset of construction activities the areas where the plants occur shall be delineated with avoidance buffers via high visibility fencing. The avoidance buffers may be 50 feet in width, unless otherwise specified by USFWS.
- A qualified botanist shall be present during construction activities that ensue within the vicinity of the special-status plant avoidance buffer zones and monitored to ensure that the fencing remains intact and that construction activities do not penetrate the special-status plant avoidance buffer zones.
- When project development is completed, the high-visibility fencing may be removed. However, future development shall not occur within the setback buffer areas.

d. If complete avoidance of the Santa Rosa Plain special-status plants is not feasible, the Tribe shall mitigate for impacts to the plants according to the mitigation ratios in Table 5-1 of the Final EA, which are outlined in the P*rogrammatic Consultation for USACE 404 Permitted Projects that May Affect Four Endangered Plant Species on the Santa Rosa Plain, California* (File Number 223420N) (USFWS, 2007).

**E. Nesting Migratory Birds**

a. If any construction activities are scheduled to occur during the nesting season (February 15 – August 31), pre-construction bird surveys shall be conducted. Preconstruction surveys for any nesting bird species shall be conducted by a qualified wildlife biologist, throughout all areas of suitable trees and habitat that are within 500 feet of any proposed construction activity, including oak trees slated for removal. The surveys shall occur no more than 14 days prior to the scheduled onset of construction activities. If construction is delayed or halted for more than

14 days, another preconstruction survey for nesting bird species shall be conducted. If no nesting birds are detected during the pre- construction surveys no additional surveys or mitigation measures are required.

b. If migratory nesting bird species are observed within 500 feet of the construction area during the surveys, appropriate avoidance setbacks shall be established by the qualified biologist. The size and scale of nesting bird avoidance setbacks is dependent upon the species of nesting bird observed and the habitat that the nest occurs. Avoidance setbacks shall be established around all active nest locations via stakes and high visibility fencing. The nesting bird setbacks shall be completely avoided during the duration of construction activities and the fencing must remain intact. The qualified biologist shall also determine an appropriate monitoring plan and shall decide if construction monitoring is necessary during the duration of construction activities. Again, monitoring requirements are dependent upon the species of nesting birds observed, the habitat in which the nests are contained, and the number of nests observed. The setback fencing may be removed when the qualified biologist confirms that the nest(s) are no longer occupied and all young have fledged.

c. If impacts (i.e., take) to migratory nesting bird species are unavoidable, consultation with USFWS shall be initiated. Through consultation, an appropriate and acceptable course of action shall be established.

**6. Cultural Resources**

a. Should any buried cultural materials (archaeological or paleontological) be uncovered during ground-disturbing project activities, such activities shall cease within 100 feet of the find. Prehistoric archaeological indicators include: obsidian or chert flakedstone tools and waste flakes (debitage) resulting from the toolmaking process; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles); and locally darkened midden soils containing any of the previously listed items plus fragments of faunal bone or shell, fire-affected rocks, and/or unusual amounts of charcoal. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structural and feature remnants such as building foundations, privy pits, wells, irrigation ditches, and refuse dumps; and old trails. The Lytton Rancheria shall be notified of the discovery and a professional archeologist (or paleontologist, as appropriate) shall be retained to evaluate the find and recommend appropriate treatment measures in consultation with the Lytton Rancheria. Project-related activities shall not resume within 100 feet of the find until all mitigation measures have been approved and completed.

b. If suspected human remains are encountered, work shall halt in the vicinity and the Sonoma County Coroner shall be notified immediately. At the same time, the BIA and a qualified archaeologist shall be

contacted to evaluate the find. If human remains are determined to be of Native American origin, the Coroner must notify the NAHC within 24 hours of this identification. Construction activities shall not resume within 100 feet of the find until the NAHC-designated Most Likely Descendant (MLD) and the Tribe approves and implements a strategy for the appropriate disposition of the remains.

c. Should paleontological resources be unearthed, a paleontological resource impact mitigation plan (PRIMP) shall be created prior to further earthmoving in the vicinity of the find. The PRIMP shall detail the procedures for collecting and preserving the discovered fossils. Any fossils discovered during construction shall be accessioned in an accredited scientific institution for future study.

**7. Public Services**

a. Structural fire protection shall be provided through compliance with Fire Code requirements for commercial structures of this size. The Tribe shall ensure that appropriate water supply and pressure is available for emergency fire flows.

b. The community center shall be equipped with an early detection system that ensures an initial response to any fire alarm (automatic, local or report). This would rely on automatic sprinkler systems in the occupied areas and smoke detection, along with automatic sprinkler systems in the areas of the facility that are normally unoccupied, such as storerooms and mechanical areas.

c. All structures shall be constructed in accordance with design standards equivalent to all Building Codes, as adopted or supplemented by Sonoma County.

d. To minimize the risk of fire and the need for fire protection services during construction, any construction equipment that normally includes a spark arrester shall be equipped with a spark arrester in good working order. This includes, but is not limited to, vehicles, heavy equipment, and chainsaws.

e. During construction, staging areas, welding areas, or areas slated for development using spark-producing equipment would be cleared of dried vegetation or other materials that could serve as fire fuel. To the extent feasible, the contractor would keep these areas clear of combustible materials in order to maintain a firebreak.

f. Fire extinguishers shall be maintained onsite and inspected on a regular basis.

g. An evacuation plan shall be developed for the proposed development in the event of a fire emergency.

h. Fire hydrants shall be spaced in accordance current fire codes.

i. Fire alarm and suppression systems installed shall conform to design standards equivalent to the requirements of the California Building and Fire Codes as amended and adopted by Sonoma County.

j. On-site development shall be generally consistent with Sonoma County Fire Safe Standards Sections 13-54 through 13-59.

k. A vegetation management plan shall be prepared by a qualified professional prior to occupation of any residences. The plan shall include, at a minimum, defensible space zones, identification of vegetation types, replacement of non-native flammable vegetation with fire resistive vegetation, and a maintenance program for all vegetation. The Tribe shall approve the plan and pass a resolution that requires that it will be implemented and maintained. Prior to approving the plan, the Tribe shall submit it to the County Fire Chief for review.

l. The Tribe shall arrange and coordinate with local law enforcement and emergency services if needed to assist with large events held at the proposed community center.

m. If Alternative A is selected, the Tribe and the Town of Windsor shall enter into a mutually agreeable binding service contract for the provision of water and sewer service to the project.

**8. Noise**

a. To the extent feasible, houses shall be designed to locate outdoor spaces away from the sound path of travel in order to minimize noise levels for existing offsite houses in the vicinity of the project site.

b. Construction activities shall be limited to normal daytime hours (7 a.m. to 7 p.m.), Monday through Saturday, with no work performed on Sundays or federal holidays.

c. The Tribe shall ensure that construction equipment used at the project site shall be equipped with the best available noise reduction technology feasible, including the use of mufflers on motorized equipment according to the manufacturer's specifications.

d. All existing residences within 200 feet of the project site shall be notified at least one day in advance of construction that is proposed to take place within 300 feet of the residence.

e. Stationary noise-producing equipment such as compressors and generators shall be placed as far as practical from homes, and shielding shall be provided between any such equipment and homes when it is necessary to operate the equipment closer than 200 feet from a home.

f. On-site water reclamation facility equipment shall be shielded or enclosed.

**9. Hazardous Materials**

a. Potentially hazardous materials, including fuels, shall be stored away from drainages and secondary containment shall be provided for all hazardous materials during construction.

b. A spill prevention and countermeasure plan shall be developed which shall identify proper storage, collection, and disposal measures for potential pollutants (such as fuel storage tanks) used onsite, as well as the proper procedures for cleaning up and reporting of any spills.

c. Vehicles and equipment used during construction shall be provided proper and timely maintenance to reduce potential for mechanical breakdowns leading to a spill of materials into water bodies. Maintenance and fueling shall be conducted in an area that meets the criteria set forth in the spill prevention plan.

d. Before development begins on the Property or the parcels are taken into trust, all items of non-hazardous debris shall be removed for the site and properly disposed of or recycled an appropriate off-site facility.

e. A hazardous materials storage and disposal plan shall be prepared that contains an inventory of hazardous materials stored and used on site, maintains an emergency response plan for a release and disposal of unused hazardous materials, and provides provisions specifying employee training in safety and emergency response procedures.

**10 Visual Resources**

a. Signage for all streets and community facilities shall be subtly incorporated into the landscape.

b. Lighting would only occur at street intersections and parking areas for the community facilities. Lighting shall consist of pole mounted lights limited to 18 feet and shall have cut-off lenses.

**11. Green Building**

a. The Tribe shall incorporate the "Build it Green" 2005 Green Building Guidelines for New Home Construction along with the Leadership in Energy and Environmental Design (LEED) for Homes criteria for all the residential units on the project site (U.S. Green Building Council, 2010). In addition, the Tribe shall obtain LEED certification for the community center and retreat buildings.

b. Roadways shall be generally designed as narrow country lanes with surface runoff diverted into vegetated bioswales.

c. Individual homes shall have limited personal planting areas with a portion of the watering needs satisfied from captured rainwater or reclaimed water.

d. Indoor plumbing shall use the highest efficiency fixtures and fittings available.

e. All homes shall be designed for efficient use of energy and natural resources and shall be sized below the median standard based on the LEED for Homes rating system. Each plan shall be oriented to maximize access to solar energy and natural daylight. Operable windows shall be placed to provide efficient natural ventilation, taking advantage of prevailing breezes.

f. All appliances and heating, ventilation, and air conditioning (HVAC) equipment shall be Energy Star Certified for optimal performance.

g. During construction, all waste material shall be separated and sorted into individual bins for recycling.

h. Upon completion, the community center shall have trash enclosures for separation of recyclable materials and newspapers.

i. The communal buildings shall meet all Americans with Disabilities Act (ADA) accessibility requirements. Pathways shall meet required slopes and roadway crossings would include textured paving and indicators for the visually impaired.

j. At least 75 percent of the residences built shall be single story to minimize visual effects.

k. The single story retreat building shall be located on the site of an existing two- story home.

l. Building envelopes shall be designed to maximize performance of HVAC, lighting, and other energy systems. Equipment and appliances shall meet or exceed California state, Title 24 energy requirements.

m. HVAC equipment shall have no chlorofluorocarbon (CFC) refrigerants.

n. To the extent possible, building materials with recycled content shall be specified for use during construction.

o. Building and landscape elements shall be designed to give preference to materials that are produced regionally or within 500 miles of the project.

p. Wood materials and products used in construction shall be specified to be Forest Stewardship Council (FSC) certified from suppliers who practice responsible and sustainable forest management.

q. During construction, on-site absorptive materials shall be protected from moisture damage.

r. All paints, coatings, adhesives and sealants used on the interiors of buildings shall have a low Volatile Organic Compound (VOC) limits to reduce odor and harmful indoor air contaminants.

s. Carpets, cabinets, and other interior finishes shall be selected, in part, on minimizing their potential to off-gas or adversely affect indoor air quality.

**Additional Conditions Tribe Agrees to Follow**

The Tribe agrees to follow the following additional conditions submitted by the County. Should there be any dispute regarding the Tribe's compliance with such conditions, the parties agree to meet and confer to resolve such dispute. In the event the Tribe decides to build its own Wastewater Treatment Facility, items i-ix hereunder shall be subject to the provisions of Sections 4.4, 4.5, and XIV, but only to the extent such items have not then been included in a written agreement between the Town of Windsor and the Tribe.

**Water Resources**

i. Before constructing the project, the Tribe shall submit to the County for its review and comment a final Grading and Drainage Plan set, including an Erosion Control Plan, that shows the location, number, size, dimensions, depth, and other details of proposed check dams, rain gardens, bio-swales, and other BMPs. The Tribe shall incorporate all feasible County comments and suggestions.

ii. Wastewater shall be treated on-site to tertiary recycled water standards described in Chapter 3, Division 4, Title 22, California Code of Regulations, Section 60304, et seq. (Title 22). Treatment shall be provided by a flow equalized, nitrification/denitrification, MBR process, followed by UV disinfection.

iii. All effluent discharge basins shall be lined with 60 mil high density polyethylene (HDPE) liner above a clay foundation constructed in accordance with applicable regulations.

iv. Spray irrigation may be used only if drip, aerosol, and similar measures are infeasible. Spray irrigation shall be set back at least 100 feet from all areas of public access, including public roads and sidewalks and non-Tribal residences.

v. The Tribe shall employ WRTF chief and shift operators in compliance with certificate and all other Title 22 requirements.

vi. The Tribe shall maintain equipment that automatically shuts off treated wastewater used for irrigation if a significant leak occurs in the irrigation system equipment.

vii. The Tribe shall notify the County within 24 hours of notifying the EPA of any unlawful discharge of wastewater effluent.

viii. The Tribe shall shut down the WRTF in the event of a significant leak or discharge of wastewater effluent, and not resume operations until the leak or cause of discharge is corrected.

ix. The Tribe shall prepare, submit to the County for review, and implement a 10- year plan every 10 years for operation, maintenance, and repair of the WTRF, including depreciation of equipment, expected replacement times for equipment components, and the financial reserves necessary to meet operational issues.

x. The Tribe agrees to contact and meet and confer with the County before deciding to apply for an NPDES permit for the discharge of treated wastewater. The Parties will make good-faith efforts to resolve any concerns regarding the Tribe's wastewater operations. Nothing herein shall be read to limit any rights or remedies with regard to an NPDES permit application.

*If Alternative B or C is chosen*:

xi. If arsenic-containing wastes and water treatment residuals meet the State of California's definition of hazardous waste, then they shall be manifested and disposed of in accordance with California law as hazardous waste.

xii. If the wastes and residuals do not meet California's definition of hazardous waste (including the California toxic leaching test: Toxicity Characteristic Leaching Procedure, SW-846 Method 1311), the wastes and residuals shall be dried such that the thickened solids may be disposed of in the regional landfill.

**Air Quality**

i. Remove any dust or mud tracked on to public roads daily using wet power vacuum sweepers.

ii. Post a publicly visible sign with the name and telephone number of the person to contact regarding dust complaints. That person shall respond to complaints and take corrective actions within 48 hours.

**Climate Change**

i. All refuse, solid waste, recycling and construction and demolition debris shall be collected by Windsor Refuse and Recycling for disposal and/or processing at County-owned solid waste facilities. Residents shall be provided with three roll out bins for garbage, organic wastes, and recyclables. The Tribe shall pay Windsor Refuse and Recycling for such collections and disposal services in accordance with the rates authorized in the County-approved franchise agreement.

ii. The Tribe may, as an alternative to purchasing carbon credits, fund project(s) in Sonoma County that offset 1,716.44 metric tons of carbon. The County has a wide range of identified GHG mitigation projects, including energy conservation, renewable energy, cogeneration, bikeways and riparian restoration projects.

**Public Services**

i. Structural fire protection shall be provided through compliance with California Fire Code requirements, as adopted or supplemented by Sonoma County, for commercial structures of this size.

ii. The community center shall be equipped with a manual, automatic, or manual and automatic fire alarm system and fire sprinkler system installed in accordance with the provisions of the California Fire code as adopted and amended by the Sonoma County Code.

iii. Fire hydrants shall be spaced in accordance with the provisions of Appendix C of the California Fire Code as adopted and amended by Sonoma County.

**Noise**

i. Construction activities shall be limited to normal daytime hours (7 a.m. to 7 p.m.), Monday through Saturday, with no work performed on Sundays or federal holidays.

ii. The Tribe shall not allow amplified music, WRTF equipment, or other operational noise sources to exceed the noise level performance standards in Table 3-17 of the Final EA at any non-Tribal residence.

iii. A publicly visible sign shall be posted with the telephone number and person to contact regarding noise complaints. That person shall respond and take corrective actions within 48 hours.

**Visual Resources**

i. To reduce visibility of the project from public viewpoints, the Tribe shall preserve existing native trees to the maximum extent feasible and plant additional native oak trees. All structures shall be setback 200-feet from the centerline of Windsor River Road or be substantially screened with existing topography and vegetation such that Windsor River Road retains its scenic and rural character. The Tribe shall screen the residential units proposed for the APN 066-300-017 and the northern portion of APN 066-300-031 such that the structures are not visible from Windsor River Road.

ii. Residential units and other structures shall substantially conform to the materials, color, size, height, and lighting shown in the Final EA and reviewed with County staff.

# EXHIBIT B

## Trust Parcels

Residential Project Parcel Numbers

| | |
|---|---|
| 066-050-040 | 066-191-021 |
| 066-050-047 | 066-191-022 |
| 066-191-016 | 066-300-017 |
| 066-191-017 | 066-300-023 |
| 066 -191-018 | 066-300-028 |
| 066-191-019 | 066-300-031 |
| 066-191-020 | 066-300-033 |

Urban Growth Boundary Parcel Numbers

066-040-001
066-040-008
066-050-040
066-050-047
066-191-007

Potential Winery and Resort Parcel Numbers

[066-200-015]- now divided into:
066-200-034
066-200-035
066-290-027
066-290-041
066-290-055
066-290-056

Remainder Parcel Numbers

| | |
|---|---|
| 066-191-044 | 066-290-008 |
| 066-191-001 | 066-290-021 |
| 066-191-002 | 066-290-029 |
| 066-200-017 | 066-300-038 |
| 066-200-020 | 066-300-039 |

# Exhibit C

## Potential Additional Lands for the Unincorporated Area Around the Town of Windsor

Beginning at the centerline of Eastside Road in the unincorporated area of the County of Sonoma, State of California with the extension of the northerly line of Assessor's Parcel Number 066-300-062 and 066-300-066, Lands of Jorna Investments LLC as described in Document Number 2015-006456, Sonoma County Records; thence easterly and southerly along the northerly line of said lands to the northwesterly corner of Assessor's Parcel Number 066-300-068, Lands of Jorna Investments LLC as described in Document Number 2015-006022, Sonoma County Records; thence easterly along said lands to the northwesterly corner of Assessor's Parcel Number 066-300-058, Lands of Emery Andrew Mc Guire and Katherine Mc Guire, trustees or their successors in trust of the McGuire Family Trust as said lands are described in Document Number 2005-164017, Sonoma County Records; thence easterly and along the northerly line of said lands, to the northwesterly corner of Assessor's Parcel Number 066-040-001, Lands of Lytton Rancheria of California, a Tribal Government as described in Document Number 2011-051391, Sonoma County Records; thence easterly and along said northerly line to the northwesterly corner of Assessor's Parcel Number 066-040-008, Lands of Lytton Rancheria of California, a Tribal Government as described in Document Number 2011-042026, Sonoma County Records; thence easterly and along said northerly line to the northeasterly corner of said lands; thence southerly and along said easterly line to the southeasterly corner of said lands; thence westerly and along said southerly line of said lands to the northeasterly corner of Assessor's Parcel Number 066-050-047, Lands of Lytton Rancheria of California, a Tribal Government as described in Document Number 2010-048484, Sonoma County Records; thence southerly and along said easterly line of said lands and its extension to the centerline of Windsor River Road; thence easterly and along said centerline of said road, to the extension of the easterly line of Assessor's Parcel Number 066-191-025, Lands of Esther Mae Caster, Leland L. Caster, and Drew D. Caster as to each a 1/3 interest in said property, described in Document Number 3110 Official Records, page 732, Sonoma County Records, with the centerline of said road; thence southerly and along said extension and easterly line of said lands, to the northeasterly corner of Assessor's Parcel Number 066-191-026, Lands of Daniel E. Rebich and Josephine Rebich, as Trustees of the Daniel E. Rebich and Josephine Rebich Revocable Intervious Trust as said lands are described in Document Number 1991-0044501, Sonoma County Records; thence southerly and along said easterly line to the southeasterly corner of said lands also being on the northerly line of Assessor's Parcel Number 066-191-007, Lands of Lytton Rancheria of California, a Tribal Government as described in Document Number 2010-114867, Sonoma County Records; thence easterly and along said northerly line and its extension to the centerline of Starr Road; thence southerly and westerly along said centerline of Starr Road to the westerly extension of Assessor's Parcel Number 066-200-035, Lands of Lytton Rancheria

of California, a Tribal Government as described in Document Number 2012-061684, Sonoma County Records; thence continuing westerly along said centerline of Starr Road, also being the southerly border of Assessor's Parcel Number 066-200-009, to the angle point in said Starr Road, which said roads then heads southerly; thence north to the southerly line of Assessor's Parcel Number 066-200-009, Lands of Robert E. Hopkins and Toni Turner Hopkins, Trustees of the Hopkins Family Trust, Dated June 23, 1992 as said lands are described in Document Number 2006-102136, Sonoma County Records; thence westerly and continuing along said southerly line of said lands, to the southwesterly corner of said lands, also being the southeasterly corner of Assessor's Parcel Number 066-230-036, Lands of Robert E. Hopkins and Susan H. Coolidge as sole Co-Trustees of the Revocable Trust F/B/O Kathleen Hopkins Roberts dated October 30, 1995, also known as the Kathleen Hopkins Roberts Trust dated October 30, 1995, as said lands are described in the Document Number 2009-116291, Sonoma County Records; thence continuing westerly and along said southerly line and its extension to the centerline of Eastside Road; thence northerly and along the meanderings of the centerline of said Eastside Road to the Point of Beginning.

This legal description was intended to describe an area of interest around a location in the unincorporated area of the County of Sonoma, State of California. It is also intended, in places, along the northerly and easterly borders to follow the Town Limit Boundary.

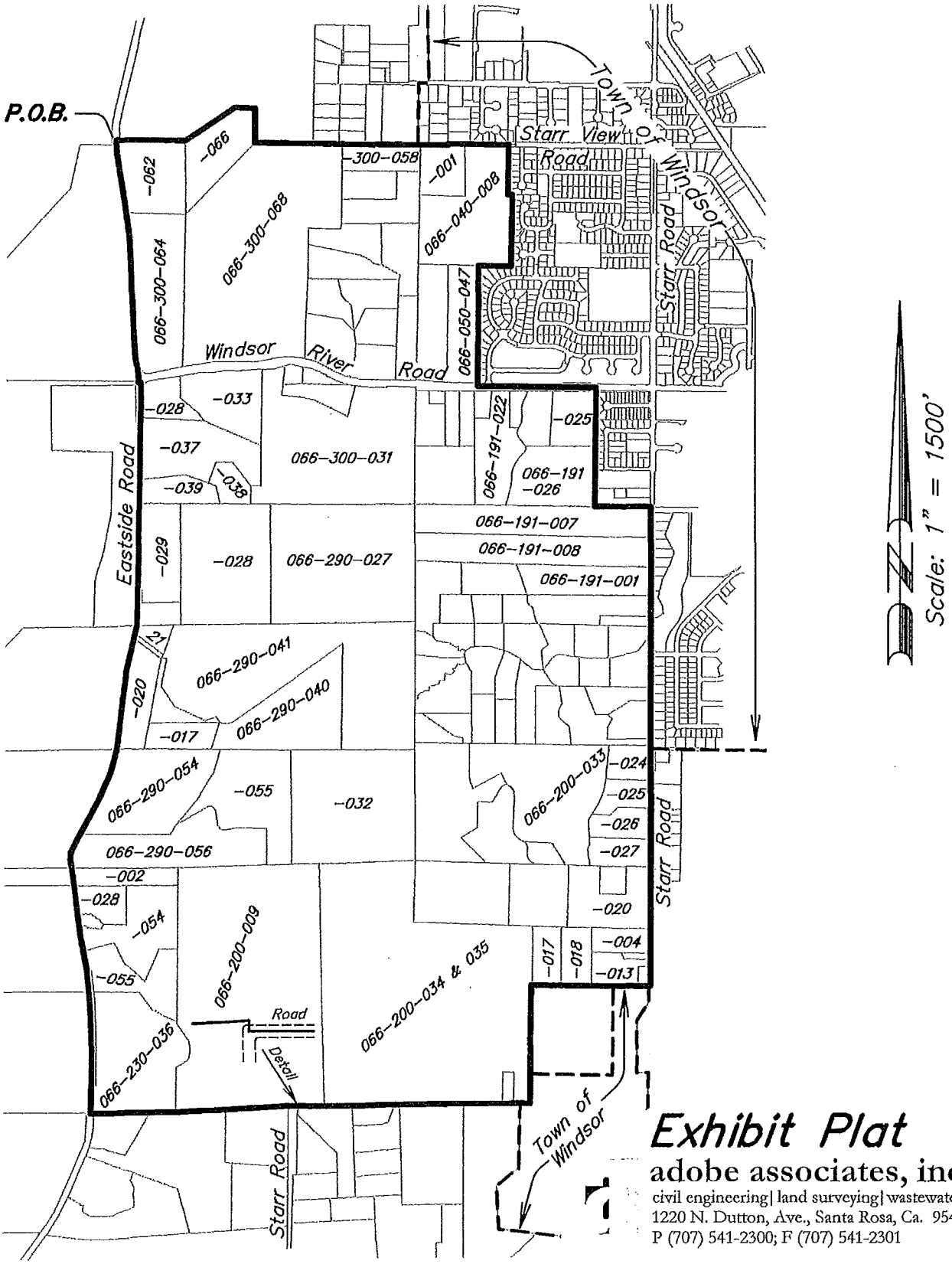
It is the intent of this description to provide direction as to the perimeter location of the area of interest utilizing roads, streets and exterior parcel boundaries. This legal description is not intended to be used for the precise location of boundary lines for streets, roads or private property holdings.

PROFESSIONAL LAND SURVEYOR
AARON R. SMITH
No. L7901
Exp. 12-31-15
STATE OF CALIFORNIA

Prepared by: Aaron R. Smith Date: March 3, 2015

Aaron R. Smith, PLS 7901
My license expires 12/31/2015

# Exhibit C-1




# Exhibit Plat


adobe associates, inc.
civil engineering| land surveying| wastewater
1220 N. Dutton, Ave., Santa Rosa, Ca. 95401
P (707) 541-2300; F (707) 541-2301


Job No. 08174.01

March 3, 2015

**RESOLUTION OF THE TRIBAL COUNCIL**
**OF**
**LYTTON RANCHERIA OF CALIFORNIA**

**RE: Approval of Memorandum of Agreement Between the County of Sonoma and the Lytton Rancheria of California.**

**RESOLUTION NO. _____**

WHEREAS: The Lytton Rancheria Tribal Council ("Tribal Council") is the governing body of the Lytton Rancheria of California ("Tribe") pursuant to Article III of the Tribe's Constitution; and

WHEREAS: The Tribal Council has the authority and power to negotiate and execute contracts with local governments and waive the immunity of the Tribe pursuant to Article XIII, Subsection 13.1(a) of the Tribe's Constitution; and

WHEREAS: The Tribal Council has negotiated a Memorandum of Agreement between the County of Sonoma and the Tribe addressing trust land acquisition by the Tribe ("Agreement"); and

WHEREAS: The Tribal Council has determined that it is in the best interests of the Tribe to approve and sign said Agreement; and

WHEREAS: The Tribal Council agrees to waive the immunity of the Tribe to allow enforcement of the terms contained in said Agreement.

NOW THEREFORE BE IT RESOLVED: That the Tribal Council hereby approves the Agreement entitled "Memorandum of Agreement between the County of Sonoma and the Lytton Rancheria Fee to Trust; and

BE IT FUTHER RESOLVED: That the Tribal Council waives the immunity of the Tribe pursuant to the terms set forth in the Agreement. The Tribal Council specifically recognizes that exhaustion of administrative remedies including before any Tribal Court, shall not be required prior to proceeding to arbitration or court action; and

BE IT FINALLY RESOLVED: That the Tribal Council authorizes Chairperson Margie Mejia to sign and execute said Agreement on behalf of the Tribe.

## CERTIFICATION

On _____ _____, 2015, the Tribal Council of the Lytton Rancheria of California , at a duly called meeting at which a quorum was present, did pass the attached Resolution:

**RE: Approval of Memorandum of Agreement Between the County of Sonoma and the Lytton Rancheria of California.**

by a vote of _____ ayes; _____nays; _____abstentions.

_____
MARGIE MEJIA, TRIBAL CHAIRPESON

_____
DANNY OCAMPO, TRIBAL SECRETARY

Item Number: _____

Date: March 10, 2015 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Authorizing The Chair To Sign A Memorandum Of Agreement Between The County of Sonoma And The Lytton Rancheria Of California Regarding Development of Tribal Homelands in Sonoma County.**

**Whereas,** Sonoma County has a government-to-government relationship with all five federally recognized tribes in the County, respects their tribal sovereignty, and understands the significance of their status as federally recognized tribes; and

**Whereas,** the County has a long history of advocating for a thorough environmental review and appropriate mitigation of any environmental impacts of tribal development projects that otherwise would be borne by County residents; and

**Whereas,** Lytton Rancheria of California is a federally-recognized Indian Tribe whose traditional lands lie within Sonoma County; and

**Whereas,** the Tribe is currently seeking to have lands placed into federal trust status to reestablish a Tribal homeland and to diversify its tribal economy; and

**Whereas,** the Tribe has proposed that the federal government take into trust 14 parcels consisting of 124.12 acres of land for the development of a residential community, a community center and associated facilities (Residential Development Project) ; and

**Whereas,** the Tribe is seeking proposed federal legislation to place into trust approximately 500 acres of land that includes the Residential Development Project;

**Whereas,** it is anticipated that the Tribe will in the future seek to place additional lands into federal trust status; and

**Whereas,** the Tribe and the County have negotiated an agreement to address issues including gaming, potential off-site environmental impacts, and possible mitigation measures regarding the Residential Development Project and other potential Tribal development, consistent with the Tribe's sovereignty and applicable law; and

time allowing the Tribe to reestablish its homeland and exercise its authority as a sovereign government; and

**Whereas,** the Residential Development Project and other potential Tribal development are not County projects and are not subject to the discretionary approval of the County, and, absent this Agreement, the County has limited opportunity to influence mitigation measures or seek compensation for adverse environmental impacts; and

**Whereas,** the Tribe has reached separate agreements with the Windsor Unified School District and Windsor Fire Protection District, and is negotiating with the Town of Windsor toward an agreement regarding water and sewer services.

**Now, Therefore, Be It Resolved** that the Chair is hereby authorized to sign the Memorandum of Agreement Between the County of Sonoma and the Lytton Rancheria of California regarding Fee to Trust Lands (March 10, 2015).

**Be It Further Resolved** that entry of the Memorandum of Agreement is not a project subject to the California Environmental Quality Act. By approving, executing and performing the Agreement, the County has not and is not, making any commitment to issue a lease, permit, license, certificate, or other entitlement for use, or develop, construct or improve any facilities or cause any other physical change in the environment.

**Be It Further Resolved** that the original copy of the Memorandum of Agreement shall be kept by the Clerk of the Board. This document may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

**Supervisors:**

| | | | | |
|---|---|---|---|---|
| Rabbitt: | Zane: | Gore: | Carrillo: | Gorin: |

| | | | |
|---|---|---|---|
| Ayes: | Noes: | Absent: | Abstain: |

**So Ordered.**

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 20**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Economic Development Board

**Staff Name and Phone Number:**
Ben Stone, 565-7170

**Supervisorial District(s):**
Countywide

**Title:** North Bay North Coast Broadband Consortium Grant and Memorandum of Understanding

**Recommended Actions:**

A. Accept California Advanced Services Fund Rural and Urban Regional Grant ($250,000) for the North Bay North Coast Broadband Consortium (NBNCBC) including Sonoma, Marin, Napa and Mendocino Counties.
B. Approve Memorandum of Understanding with Sonoma, Marin, Napa and Mendocino Counties for NBNCBC Grant Coordination.

**Executive Summary:**

This item requests the Board of Supervisors accept a California Advanced Service Fund (CASF) Rural and Urban Regional 2 year grant award totaling $250,000 for the North Bay North Coast Broadband Consortium (NBNCBC), comprised of Sonoma, Marin, Napa and Mendocino counties. In addition, this item requests the Board approve an updated Memorandum of Understanding with Marin, Napa and Mendocino counties for grant coordination, previously approved by all four counties in 2014.

**Discussion:**

Broadband is a critical means of access for rural communities and a vital connection to an increasingly national and global economy. Rural communities continue to have little or no access to broadband, with many residents and businesses still relying upon dial-up modems as their primary connection to the Internet. The lack of adequate broadband access is a problem impacting residents, businesses, and agricultural/farm communities. Government services including fire and emergency medical providers are also affected without a consistent, high quality and reliable means to communicate with one another.

The North Bay North Coast Broadband Consortium (NBNCBC) consisting of Marin, Napa, Mendocino and Sonoma counties, was formed by a Memorandum of Understanding (MOU) in 2014 to oversee and manage broadband planning activities in the four county region. The NBNCBC has been funded by a two

year California Public Utilities Commission Advanced Services Fund (CASF) grant in the total amount of $250,000. The grant term expired June 30, 2016. Over the last two years the four counties working as the NBNCBC, have collaborated successfully to establish the current state of broadband deployment in each county, to identify deployment opportunities, locate plausible funding sources, and help broadband service providers take advantage of funding to address broadband opportunities. The NBNCBC has also worked effectively with local, state and federal officials and agencies to review and support regulations and policies to expand broadband deployment to rural areas.

On December 1, 2016, the Californian Public Utilities Commission (CPUC) awarded the NBNCBC a $250,000, 2-year grant from the CASF, a portion of which will be used to fund county-specific broadband planning. This essentially is an extension of the CASF grant previously approved by the CPUC in 2014. Each county will receive an equal share of the grant funds. Each county's share is $55,000 for the 2 year program ($27,500 annually). In addition, the NBNCBC will receive $30,000 for regional projects ($15,000 annually). Expenses for administration of the grant will be reimbursed to the EDB by the grant. The grant budget includes $10,000 ($5,000 annually) for the EDB's expenses. The required budgetary adjustments for the first year grant funding of $125,000 will be processed with the 2nd Quarterly Consolidated Adjustments.

| | **FY 16-17** | **FY 17-18** | **Total Grant Funds** |
|---|---|---|---|
| Member County Funds | $105,000 | $105,000 | $210,000 |
| NBNCBC Funds | $15,000 | $15,000 | $30,000 |
| EDB Adm. Funds | $5,000 | $5,000 | $10,000 |
| **Total** | **$125.000** | **$125,000** | **$250,000** |

County-specific funds will be used to prepare a county broadband strategic plan, and to stimulate improved broadband deployment and adoption throughout each county. NBNCBC will also conduct regional planning activities for all counties in the consortium, will provide common services such as mapping and data management, and will provide county-specific services, as needed.

The MOU is required to define each counties role as part of their participation in the NBNCBC. Sonoma County will continue to be the fiscal agent for the grant because of the EDB's engagement regional broadband program. As fiscal agent, the MOU authorizes acceptance and administration of the grant funds. Grant related expenses will be reimbursed to NBNCBC members upon approval of quarterly reports and payment requests by the CPUC.

The MOU also authorizes continuation of the NBNCBC Oversight Committee which is comprised of a board of supervisor's member from each county. The Oversight Committee meets quarterly to monitor progress with the grant work plan, interface with NBNCBC boards of supervisors and facilitate common issues affecting all member counties. Board members that are currently active in member county broadband efforts include Marin County Supervisor Steve Kinsey, Napa County Supervisor Brad Wagenknecht, Mendocino County Supervisor Dan Hamburg and Sonoma County Supervisor Efren

Carrillo. In 2017 your Board will select a new Oversight Committee member to replace Supervisor Carrillo.

**Prior Board Actions:**

July 29, 2014 – Board accepts CASF grant for (250,000) and approves MOU for NBNCBC grant coordination.

December 10, 2013 – Board approved a resolution endorsing the County's membership in the North Bay North Coast Broadband Consortium.

February 21, 2012 – Board directed the EDB and ISD to perform studies to determine infrastructure needs and seek funding opportunities for broadband programs.

**Strategic Plan Alignment** Goal 3: Invest in the Future

High speed reliable broadband infrastructure in rural area is needed to provide residents, students, businesses, and fire and emergency services providers with effective and efficient means of communicating with one another. In addition, broadband will provide rural residents and businesses with enhanced economic development opportunities by making connections to the national and global economies.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | 125,000 | 125,000 | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **125,000** | **125,000** | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | 125,000 | 125,000 | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **125,000** | **125,000** | |

**Narrative Explanation of Fiscal Impacts:**

Total CPUC/CASF grant totals $250,000 over two years, to be distributed in Fiscal Year 2016-17 in the amount of $125,000 and again in Fiscal Year 2017-18 in the amount of $125,000. EDB's administrative

| |
|---|
| cost for distributing grant funds for Marin, Napa, and Mendocino counties totaling $10,000 ($20,000 for 2 years) will be reimbursed by the grant. |

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Memorandum of Understanding between the County of Sonoma, the County of Marin, the County of Mendocino, and the County of Napa as part of their participation in the North Bay North Coast Broadband Consortium

**Related Items "On File" with the Clerk of the Board:**

N/A

**MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF SONOMA AND THE COUNTY OF MARIN, THE COUNTY OF MENDOCINO AND THE COUNTY OF NAPA AS PART OF THEIR PARTICIPATION IN THE NORTH BAY NORTH COAST BROADBAND CONSORTIUM**

This Memorandum of Understanding ("MOU") is made by and between the County of Sonoma ("Sonoma"), the County of Marin ("Marin"), the County of Mendocino ("Mendocino") and the County of Napa ("Napa") (collectively referred to as the "Parties") and is dated for convenience as of January 1, 2017.

## RECITALS

**Whereas,** providers of broadband access and services claim they provide standard or above broadband capacity and services to the citizens and entities in the region of Marin, Mendocino, Napa and Sonoma ("North Coast Region"); and

**Whereas,** broadband access below the Federal Communication Commission ("FCC") standard speeds, in any portion of the North Coast Region damages the local economy, impairs the quality of life for residents, degrades visitor experience, and discourages economic development; and

**Whereas**, it is in the public interest that the Parties coordinate their efforts to improve broadband access in the North Coast Region; and

**Whereas,** Parties have successfully completed work on a two-year, $250,000 grant from the California Public Utilities Commission's ("CPUC") Rural and Urban Regional Broadband Consortia Grant Account, as the North Bay/North Coast Broadband Consortium ("NBNCBC"), that involved gathering data regarding the following: (1) immediate and future broadband needs and demands of residents and entities that are located in the North Coast Region; (2) reliability and accuracy of the regional broadband data compiled by CPUC and National Telecommunications and Information Administration ("NTIA"); and (3) assist broadband providers by giving providers access to this data so the providers can ensure standard or broadband access is made available throughout the North Coast Region; and,

**Whereas,** the CPUC staff has recommended Resolution T-17544 to the CPUC Commissioners for adoption approving a new $250,000 two-year grant of funds (up to $125,000 per year) to enable Marin, Mendocino, Napa and Sonoma counties to continue work together as NBNCBC to implement the CPUC approved **NBNCBC Action Plan and Budget** for each year; and,

**Whereas,** Government Code section 6500 et seq. authorizes Parties to enter this MOU to coordinate efforts to improve broadband access to the North Coast Region; and

## OPERATIVE PROVISIONS

**Now, Therefore, Be It Understood** as follows:

1. The Parties authorize the County of Sonoma to accept grant funds from the CPUC Advanced Services Fund Rural and Urban Regional Broadband Grant Program ("Grant") of up to $250,000 (up to $125,000 per year) from the CPUC and to distribute the funds to each of the Parties as set forth in the budget of the **NBNCBC Action Plan and Budget**, which has been approved by the CPUC.

2. The Parties authorize the continuation of the North Bay North Coast Broadband Consortium Oversight Committee ("Oversight Committee") comprised of one supervisor from each county and the NBNCBC Project Manager. Each county Board of Supervisors has designated one of its supervisors to serve on the Oversight Committee. The NBNCBC Project Manager shall be a non-voting member of the Oversight Committee. Each of the Oversight Committee Members ("Committee Members") shall serve at the pleasure of the governing board of the Party who appointed the Committee Member, and may be removed by such governing body at any time. If at any time a vacancy occurs on the Committee, a replacement shall be appointed to fill the position of the previous Committee Member within 90 days of the date that such position becomes vacant.

The roles of the NBNCBC Oversight Committee include:

A. Monitor the progress of the **NBNCBC Action Plan and Budget**

Specifically, the **Action Plan** will focus on the following:

- Work with communities and providers to facilitate the development and implementation of "last mile" projects for priority areas identified by previous grant work programs.
- Sonoma and Mendocino County teams will work with all the stakeholders, facilitating the development, adoption and launching of a countywide strategic broadband plan.
- The **NBNCBC** team will work with all the stakeholders, facilitating the development, adoption and launching of a Route 101 Corridor Middle-Mile Infrastructure linking the countywide backbones together to enhance the growth and economic development in this part of California.
- County boards of supervisors will consider approving policy for the development of broadband infrastructure throughout the county.

B. Act as the common interface to the NBNCBC counties and their Boards of Supervisors

- As part of this role, analyze and consider formalization of this consortium into a JPA structure to provide ongoing leadership in the development and deployment of broadband capabilities and services that will drive economic development in the region and to better serve the residents, businesses and anchor institutions.

C. Provide unified representation of the interests of the four counties with the major incumbent and potential broadband/Internet providers

- To ensure the broadband goals and needs of this region are met NBNCBC will represent the interests of the counties, subject to the authority limitations stated in the next paragraph.

The NBNCBC Oversight Committee does not have authority to set public policy. Public policy broadband issues and plans that affect a NBNCBC county are to be made by the appropriate county governing bodies within that county. When public policy broadband issues and broadband plans cross over NBNCBC counties the four county Boards of Supervisors will work towards consensus. A majority of the Committee Members shall constitute a quorum of the Committee, except that less than a quorum may adjourn from time to time in accordance with law.

3. The Oversight Committee meets quarterly and receives quarterly reports from the NBNCBC Management Team. All meetings of the Oversight Committee shall comply with the Ralph M. Brown Act (Government Code section 54950 et seq.), the California Public Records Act (Government Code section 6250 et seq.) and all federal and state conflicts of interest laws, including grant requirements and the California Political Reform Act (Government Code section 81000 et seq.).

4. The Oversight Committee is authorized to adopt bylaws to otherwise govern its procedures. The Oversight Committee shall not have authority to make and enter contracts. The Oversight Committee shall not have authority to employ agents and employees. The Oversight Committee shall not have authority to acquire, contract, manage, maintain, and operate any buildings, infrastructure, works or improvements. The Oversight Committee shall not have authority to acquire property by eminent domain. The Oversight Committee shall not have authority to lease property. The Oversight Committee shall not have authority to sue or be sued in its own name. The Oversight Committee shall not have authority to incur debts, liabilities and obligations.

5. Reimbursement of Expenses. Committee Members shall serve without compensation, but may be paid actual expenses incurred in the performance of their duties. Payment of expenses shall fully comply with the terms of the grant as set forth in the CPUC California Advanced Services Fund Rural and Urban Regional Broadband Grant Program: Administrative Manual ("Administrative Manual").

6. The Sonoma County Economic Development Board shall serve as the fiscal agent ("Fiscal Agent") for the Parties for purposes of the Grant. The Fiscal Agent shall perform limited financial services associated with the administration of the Grant as set forth in Administrative Manual. The Fiscal Agent shall establish a bank account solely for Grant funds as recommended by the Administrative Manual. The Fiscal Agent and the County of Sonoma shall not be responsible for paying any reimbursement requests that have not been approved by the CPUC. The Fiscal Agent and the County of Sonoma shall not be responsible for reviewing

accuracy of each Party's invoices or compliance with the grant terms. Each Party shall be responsible for its own compliance with the terms of the Grant and shall sign a declaration of accuracy and completeness with each payment request. A copy of the declaration is attached hereto as Exhibit A.

7. Effective Date and Term. This MOU shall become effective January 1, 2017. The MOU shall terminate June 30, 2019 or until this MOU is terminated in accordance with Section 8, subject to the rights of the Parties to withdraw in accordance with Section 9.

8. Mutual Termination. This MOU may be terminated only by the mutual agreement of all of the Parties. Upon termination of this MOU, Parties shall mutually agree upon the disposition of the grant funds in compliance with the terms of the rant. If the Parties are unable to reach an agreement on such disposition, the funds shall be apportioned pursuant to each Party's proportionate share which shall be determined by the Fiscal Agent in accordance with the terms of the Grant.

9. Withdrawal. Individual Parties may withdraw from this MOU without affecting the continuing participation by the remaining Parties.

10. Indemnification. Each Party shall indemnify, defend, protect, hold harmless, and release the other, its officers, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees and witness costs) arising from or in connection with, or caused by any act, omission, or negligence of such indemnifying party or its agents, employees, contractors, subcontractors, or invitees. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages or compensation payable to or for the indemnifying party under workers' compensation acts, disability benefit acts, or other employee benefit acts. This indemnity provision survives the MOU.

11. Amendment of this MOU. This MOU may be amended only by the written agreement of all Parties.

12. Severability. If one or more clauses, sentences, paragraphs or provisions of this MOU shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the Parties that the remainder of the MOU shall not be affected thereby. Such clauses, sentences, paragraphs or provisions shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.

13. All reports, documents, payment requests and declarations shall be mailed to the Fiscal Agent at the following address:

Valeria Rose, Administrative Aide
Sonoma County Economic Development Board
141 Stony Circle, Suite 110
Santa Rosa, CA 95404

Each Party shall submit invoices to the Fiscal Agent quarterly on the following dates: March 31, June 30, September 30 and December 31 of the applicable years. The Party shall include a signed declaration with each invoice ensuring the accuracy of the payment request and the compliance with the terms of the Grant. A copy of the declaration is attached hereto as Exhibit A.

14. Federal, State and Local Payroll Taxes. Neither federal, state nor local income tax nor payroll tax of any kind shall be withheld or paid by Fiscal Agent on behalf of the Parties or employees of the Parties. Parties' employees or representatives shall not be treated as employees of the Fiscal Agent with respect to the services performed hereunder for federal, state or local tax purposes. Each Party shall fully comply with all federal, state and local laws, rules, executive orders and regulations that may be applicable to this MOU, including compliance with prevailing wage laws set forth in California Labor Code section 1720, if applicable. At the request of Fiscal Agent or the Oversight Committee, each Party shall furnish certificates to the effect that it has complied with said laws, rules and regulations.

15. Complete MOU. This MOU constitutes the full and complete agreement of the Parties with respect to the subject matter hereof. All prior negotiations and written and/or oral agreements between the Parties with respect to the subject matter of this MOU are merged into this MOU.

16. Execution in Counterparts. This MOU may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument and as if all signing Parties had signed the same instrument.

**In Witness Whereof,** Parties have executed this MOU as set forth below.

County of Sonoma

By: _____
Chair, Board of Supervisors

ATTEST:

_____
Clerk of the Board of Supervisors

**In Witness Whereof,** Parties have executed this MOU as set forth below.

County of Marin

By: _____
Chair, Board of Supervisors

ATTEST:

_____
Clerk of the Board of Supervisors

County of Mendocino

By: _____
Chair, Board of Supervisors

ATTEST:

_____
Clerk of the Board of Supervisors

County of Napa

By: _____
Chair, Board of Supervisors

ATTEST:

_____
Clerk of the Board of Supervisors

**Exhibit A to MOU**

**North Bay North Coast Broadband Consortium (NBNCBC) Quarterly Report and Payment Request Transmittal Letter and Declaration**

To: County of Sonoma Economic Development Board

From NBNCBC Member County:
Name: _____
Title:_____
County:_____

Attached are the Quarterly Report and/or Payment Request for:

Work Plan Yr/Qtr #_____

I declare under penalty of perjury under the laws of the State of California that, to the best of my knowledge, all of the statements and representations made in this Quarterly Report are true and correct and any and all payment requests hereby submitted fully comply with the terms of the CASF Grant Administrative Manual ***(California Advanced Services Fund Rural and Urban Regional Broadband Consortium Grant Program Administrative Manual, Version 3, January 2014 - http://www.cpuc.ca.gov/NR/rdonlyres/FFD83784-5136-47A8-A001-6D85C2C9DB45/0/AdminManualConsortia2014a.pdf )***

Signature_____
Print Name_____
Date_____

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 21**
(This Section for use by Clerk of the Board Only.)

| | |
|---|---|
| **To:** | Board of Supervisors |
| **Board Agenda Date:** | December 13, 2016 |
| **Vote Requirement:** | Majority |
| **Department or Agency Name(s):** | Economic Development Board/Sonoma Mendocino Economic Development District |
| **Staff Name and Phone Number:** | Ben Stone, 565-7170 |
| **Supervisorial District(s):** | Countywide |
| **Title:** | Sonoma Mendocino Economic Development District Comprehensive Economic Development Strategy |

**Recommended Actions:**

Adopt a Resolution accepting the Sonoma Mendocino Comprehensive Economic Development Strategy and endorsing the Sonoma Mendocino Economic Development District to apply to the U.S. Economic Development Administration (EDA) for Economic Development District designation.

**Executive Summary:**

The Sonoma Mendocino Economic Development District completed a Comprehensive Development Strategy (CEDS) which was approved by the District Board of Directors on November 2, 2016. This item requests acceptance of the CEDS and endorsement for the District to apply to the EDA for Economic Development District designation. Formal designation as an Economic Development District requires the District file an application to the EDA with an approved CEDS.

**Discussion:**

Sonoma County and Mendocino County share similar economic opportunities and challenges which can be addressed more efficiently and effectively working together on a regional basis. In July 2015 a joint powers agreement (JPA) was approved by both counties to create the Sonoma Mendocino Economic Development District to oversee the collaboration. A 9 member board of directors, representing both counties, manages the District.

The EDA, an agency within the Commerce Department, offers a program that recognizes multi-county regions working together as Economic Development Districts (District).

The primary administrative benefit of District designation is to become eligible for federal grant funding under EDA's Planning Program, which can provide approximately $75,000 per year to implement the region's CEDS. The Sonoma Mendocino Economic Development District (SMEDD) plans to submit a grant application to the EDA for that funding after it receives EDD designation. Becoming a designated District

will also make the Sonoma-Mendocino region more competitive for other EDA and multi-agency grant programs, which can provide funding for community and economic development and workforce training efforts.

The District is requesting endorsement by the Board to apply to EDA for District designation. Application to the EDA requires a CEDS, Board of Supervisor resolutions (Sonoma and Mendocino), a letter of support from the California Governor's Office of Business and Economic Development (GO-Biz) and other supporting documentation. EDD designation is managed by the EDA Seattle Regional Office and requires approval from EDA headquarters staff in Washington, DC. Economic Development Board (EDB) staff is working closely with EDA staff to submit the required materials on behalf of the District.

**Comprehensive Development Strategy (CEDS) Development and Overview** The District has been working with a consultant since January, 2016 to complete a CEDS that encompasses both counties. Each county had completed a CEDS in the past, but applying for designation as a federally-funded District requires that a current CEDS be completed that covers the entire region.

Extensive public participation went into completing the Sonoma-Mendocino CEDS, titled "*Innovate, Sustain, and Compete",* including an online community survey (English and Spanish) that received 353 responses, 55 public sector and private sector organizations gave input through interviews, and two public workshops, held in Santa Rosa and Ukiah, attended by 80 people total. In addition, drafts of the CEDS have been posted online on Sonoma and Mendocino County web sites for public review 30 days, and District board meetings were open to the public. Sonoma and Mendocino Workforce Investment Board (WIB) members, also on the District participated actively in preparing and reviewing the CEDS.

The Sonoma-Mendocino CEDS focuses on four core themes: (1) economic diversification; (2) human capital; (3) innovation and entrepreneurship; and (4) inclusive economic development, or the idea that true economic development happens only when as many residents as possible are able to fully participate in it. There are nine goals identified under those four core themes, all critical to achieve the vision of a sustainable, inclusive, and diverse economy, especially with a greater focus on workforce development. While the regional economy may be working well for residents who have the education, training, and wages to keep up with the rising cost of living, a large and increasing share of our residents do not.

*What do we expect to achieve through this effort?*
The CEDS is a high-level roadmap for future economic development of the two-county region. If EDA approves District designation and awards funding, then resources will be in place to implement the CEDS. At that time, the designated and funded District will need to create a workplan detailing how CEDS implementation will be achieved. Workforce development is likely to be an early priority.

The CEDS includes three specific goals that will establish targets for CEDS implementation:

1. Exceed the U.S. rate of population in the primary working age group (age 25-64) to achieve healthy and sustainable expansion of the Sonoma-Mendocino labor force.
2. Raise the postsecondary completion rate for the 25-64 age group until Sonoma-Mendocino again exceeds the US rate.

3. Close the postsecondary completion gap between Sonoma County and Mendocino County in the age 25-64 group.

Early implementation efforts are likely to include coordinating with education, workforce training, and other service providers on how best to achieve those three measurable goals.

The District also issued a solicitation of ideas for projects and/or programs from members of the public to include in the CEDS, per EDA guidelines. Submissions were reviewed by the District and included in the CEDS under the appropriate theme. These projects and/or programs could form the basis of EDA grant applications after District is designated and funded.

**Prior Board Actions:**

December 8, 2015 – Board appointing 4 Sonoma County representatives as the SMEDD Directors
December 8, 2015 – Board approval of contract with Civic Analytics to prepare the CEDS
June 9, 2015 – Board approval of revised SMEDD JPA
November 14, 2014 – Board approval of revised SMEDD JPA
August 19, 2014 – Board approval of SMEDD JPA
January 2012 – Board approval Comprehensive Sonoma County Economic Development Strategy (CEDS)

**Strategic Plan Alignment** Goal 3: Invest in the Future

The recommended action aligns with Strategic Plan Goal 3, “Invest in the Future”, as the formation of the SMEDD is expected to serve as a conduit for marshalling available resources and incentives through Federal agencies and programs. In doing so, the County will have an opportunity to join with Mendocino County to improve competitiveness, help create jobs and foster economic growth. The formation of an EDD is also consistent with Sonoma County CEDS Goal 3, to “strengthen the economic vitality of Sonoma County to ensure a sufficient flow of public revenues to pay for critical community services and promote environmental preservation and other important public initiatives.”

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

N/A

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

A. Resolution
B. Sonoma Mendocino Comprehensive Economic Development Strategy

**Related Items "On File" with the Clerk of the Board:**

N/A

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, ACCEPTING THE SONOMA-MENDOCINO COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY AND ENDORSING THE SONOMA-MENDOCINO ECONOMIC DEVELOPMENT DISTRICT APPLICATION TO THE U.S. ECONOMIC DEVELOPMENT ADMINISTRATION FOR ECONOMIC DEVELOPMENT DISTRICT DESIGNATION**

**Whereas,** Sonoma County and Mendocino County are facing many similar challenges and opportunities related to regional economic development, including topics such as economic diversification, workforce development, entrepreneurship, and equity;

**Whereas,** Sonoma County and Mendocino County have entered into a joint powers agreement to create the Sonoma-Mendocino Economic Development District (SMEDD) to work together on regional economic development initiatives;

**Whereas,** the Sonoma-Mendocino Economic Development District has completed a comprehensive economic development strategy (CEDS)—*Innovate, Sustain, and Compete*—identifying goals and strategies that will result in measurable improvement to the Sonoma-Mendocino regional economy and quality of life for residents.

**Whereas,** SMEDD proposes to apply to the U.S. Economic Development Administration (EDA) to be designated as a federally-recognized Economic Development District, which will make the Sonoma-Mendocino region eligible to apply for funding under EDA's Partnership Planning program to implement the CEDS.

**Whereas,** the boundaries of the proposed designated Economic Development District will include Sonoma County and Mendocino County;

**Now, Therefore, Be It Resolved** that the Board of Supervisors hereby accepts the Sonoma-Mendocino CEDS and endorses SMEDD's application to EDA for designation as a federally-recognized Economic Development District.

**Supervisors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

# Innovate, Sustain, and Compete

*Sonoma-Mendocino CEDS | November 2016*

Point Arena-Stornetta, California

*Prepared by Civic Analytics LLC for the Sonoma-Mendocino Economic Development District*

# Table of Contents


| | |
|---|---|
| Executive Summary | 4 |
| Background | 7 |
| Call to Action | 13 |
| SWOT Analysis | 30 |
| Strategy | 33 |
| Priority Projects | 36 |
| Appendix | 37 |

Fort Ross, California

# Commonly Used Acronyms and Terms

| | |
|---|---|
| **CEDS** | Comprehensive Economic Development Strategy |
| **Diversification** | An economy with varied industries comprising its base; avoiding overreliance on any one sector |
| **EDA** | Economic Development Administration |
| **EDD** | Economic Development District |
| **GDP** | Gross Domestic Product—the total value of goods and services produced in an economy |
| **MSA** | Metropolitan Statistical Area—an urbanized area designated by the Federal Government |
| **PCI** | Per Capita Income (Total Income / Population) |
| **Resilience** | A community's ability to prevent, withstand, and recover from a major economic disruption |
| **STEAM** | Science, Technology, Engineering, Arts, Math |
| **SWOT** | Strengths, Weaknesses, Opportunities, Threats – a commonly used strategic plan framework for identifying issues impacting a community |

# Executive Summary

Sonoma County and Mendocino County, California, (Sonoma-Mendocino) constitute a region of immense natural beauty, quality of life, and economic drivers that attract visitors from around the world. The region's storied history of technology innovation and strategic geographic positioning in proximity to San Francisco and the rest of the Bay Area provide for a wide array of economic development opportunities. Locally grown and organic food, natural products and healthy living industries, clean energy, and, potentially, legal cannabis, are other drivers that will play an increasingly important role in diversifying and strengthening the economy in the future.

However, as the region continues along the path of recovery from the Great Recession, it is clear that many residents are not fully participating in opportunities created by a growing economy. Many residents lack the postsecondary education and/or training required to compete for living wage jobs that pay enough to make housing affordable, an equity concern that falls disproportionately on minority residents. Inclusive economic development and broad-based prosperity are by no means challenges unique to Sonoma-Mendocino, but will undermine the region's long-term economic prospects if not addressed in direct and deliberate ways.

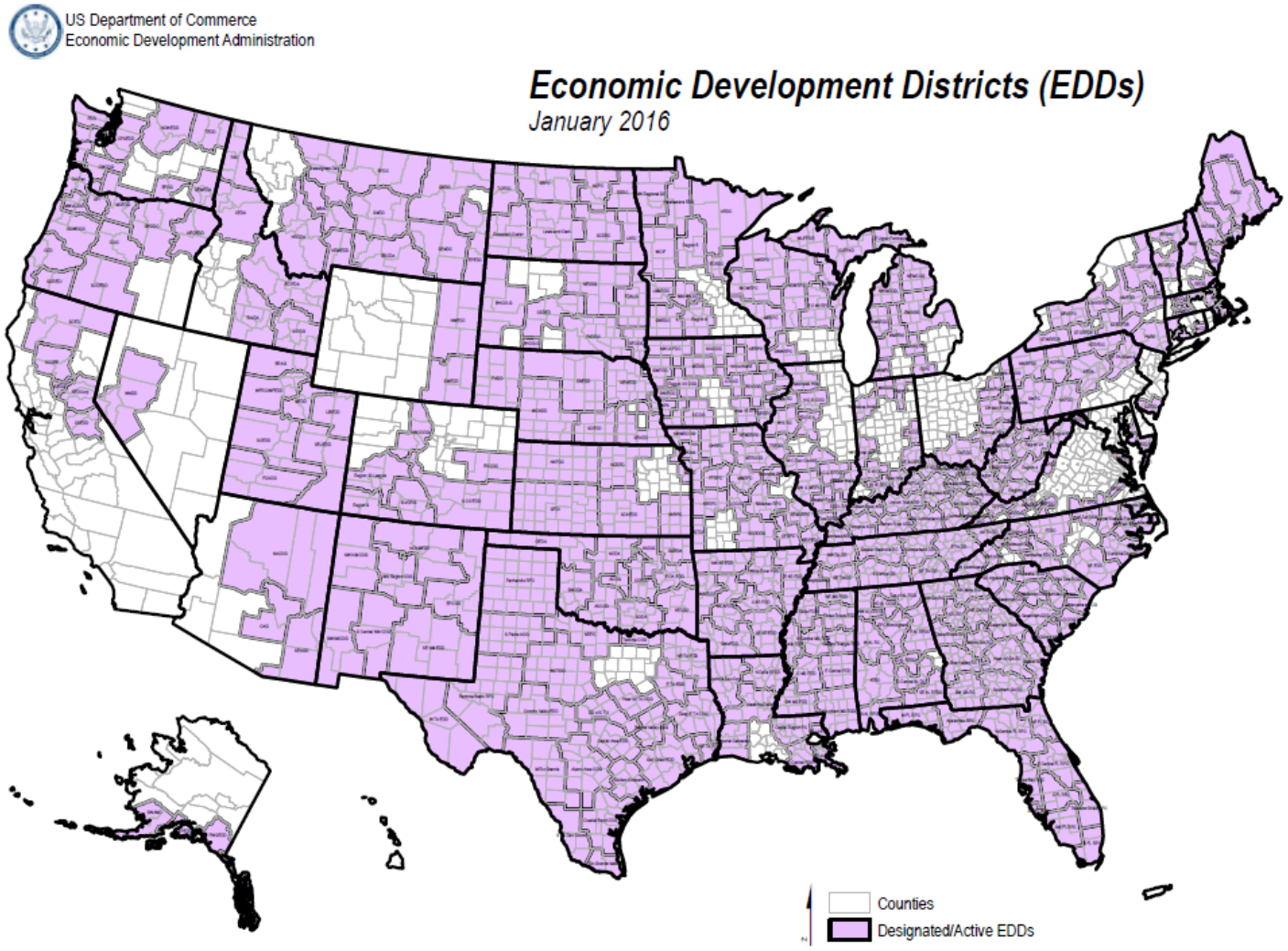
Sebastiani Theatre; Sonoma, California

# Executive Summary

Sensing an opportunity to collaborate on issues impacting the entire region, Sonoma County and Mendocino County formed a joint powers agreement in 2015 to create the Sonoma-Mendocino Economic Development District and launch *Innovate, Sustain, and Compete*, a comprehensive economic development strategy (CEDS) built around four core themes: economic diversification (resilience), human capital, innovation and entrepreneurship, and inclusive economic development. The call to action was clear:

- Sonoma-Mendocino must diversify its economy to build resilience against downturns in consumer confidence, discretionary spending, and real estate investment.
- Educational attainment, a traditional strength for the region, has not kept pace with US gains and now trails the national average for postsecondary completion.
- Average earnings are not keeping up with housing costs, creating a disproportionate impact on minority workers.

The Sonoma-Mendocino Economic Development District (EDD) intends to apply to the U.S. Economic Development Administration for designation as a federally-funded EDD, which, if approved, will provide funding for implementing *Innovate, Sustain, and Compete*.



# Executive Summary

**Vision Statement**

Sonoma-Mendocino is a sustainable, inclusive, and diverse economy.

**Economic Diversification (Resilience)**

Goals:

- Expand the non-tourism/real estate share of regional GDP to bolster Sonoma-Mendocino's resilience to economic downturns.
- Grow the region's green economy – renewable energy, clean tech, and related enterprises – to become a national leader in sustainability.

**Human Capital**

Goals:

- Exceed the US rate of population growth in the primary working age cohort (25-64) to achieve healthy and sustainable expansion of the Sonoma-Mendocino labor force.
- Raise the postsecondary completion rate for the 25-64 age cohort until Sonoma-Mendocino again exceeds the US rate.
- Close the postsecondary completion gap between Sonoma County and Mendocino County in the age 25-64 cohort.

**Innovation and Entrepreneurship**

Goals:

- Continue to exceed the US average on the Kauffman Foundation's core measures of entrepreneurial activity*

**Inclusive Economic Development**

Goals:

- Reduce the number of economically distressed communities in the region, as defined by EDA investment eligibility criteria.
- Close the gaps in earnings by race/ethnicity to ensure that all workers can compete for living wage jobs that make housing affordable.
- Achieve parity with US average earnings.

These goals outline what CEDS implementation will accomplish and how success will be measured in terms of outcomes – i.e. how the region will be improved as a result of CEDS implementation.

No one organization is responsible for achieving all the goals in a CEDS. Rather, the intent of a CEDS is for organizations to work together, each pursuing its own mission and programs, but all aligned toward a set of common, measurable outcomes achieved over time through successful implementation of the strategy. This model, sometimes referred to as collective impact, is the foundation of an effective CEDS.

* See p. 24 for definition.

# Background

EDA's Partnership Planning program provides EDDs with approximately $75,000 in annual funding for CEDS implementation. This funding is typically matched on a 1:1 basis by the EDD, providing total funding of approximately $150,000 per year.

EDA can invest in CEDS implementation projects benefiting economically distressed areas, defined as an area with less than or equal to 80% of US per capita income and/or an unemployment rate that is greater or equal to one percentage point higher than the US rate for the most recent twenty-four month period. EDA grants for public works related projects are typically in the $1 million-$3 million range, while smaller grants are available for short-term planning projects, feasibility studies, and technical assistance initiatives.

EDA is the governing agency for the EDD program, but should not be viewed as the only audience for the CEDS. The CEDS should be a vehicle for driving public-private partnerships of all types, regardless of potential fit for an EDA grant application. EDA is only one of many potential investors for economic development initiatives in a region.

IN THIS SECTION:

- Overview
- EDA's 50th Anniversary
- Leadership
- *Investment Programs*
- Multi-Agency Initiatives
- Investment Priorities
- Office of Innovation and Entrepreneurship
- Disaster Recovery
- Resources for Grantees
- EDA Job Opportunities!

RESOURCES DIRECTORY

## INVESTMENT PROGRAMS

***Public Works:***
Empowers distressed communities to revitalize, expand, and upgrade their physical infrastructure to attract new industry, encourage business expansion, diversify local economies, and generate or retain long-term, private sector jobs and investment.
Printable Public Works Program (PDF)

***Economic Adjustment:***
Assists state and local interests in designing and implementing strategies to adjust or bring about change to an economy. The program focuses on areas that have experienced or are under threat of serious structural damage to the underlying economic base. Under Economic Adjustment, EDA administers its Revolving Loan Fund (RLF) Program, which supplies small businesses and entrepreneurs with the gap financing needed to start or expand their business.
Printable Economic Adjustment Program (PDF)

***Partnership Planning:***
Supports local organizations (Economic Development Districts, Indian Tribes, and other eligible areas) with long-term planning efforts. The Comprehensive Economic Development Strategy (CEDS) Content Guidelines, provides suggestions, tools, and resources for developing comprehensive economic development strategies.
Printable Partnership Planning Program (PDF)

https://www.eda.gov/about/investment-programs.htm

# Background

Generally, Wine Country is perceived as a higher-income region, but nearly 30% of communities in Sonoma-Mendocino qualify as economically distressed, according to EDA's eligibility criteria of low per capita income relative to the US.

As a whole, per capita income (PCI) in the two-county region is $31,902, approximately 12% higher than the US. Yet, there are many pockets of economic distress, defined by EDA as PCI of 80% or lower than US PCI, in the region, including:

- 29% of all cities and places (17/59)
- 21% of all zip codes (12/56)
- 21% of all census tracts
- 20% of all census block groups

Sonoma County exceeds EDA's threshold for per capita income (117% of US), but some economic distress is evident along the 101 corridor, where the county is more densely populated. Economic distress is more evident in Mendocino County, where 28% of residents live in an eligible area.

** For reasons of geography, data sources, and definition used for economic distress, this list of communities may differ from what is reported in other studies, such as Portrait of Sonoma (2014).*

Economically Distressed Communities in Sonoma-Mendocino, 2014
Census Designated Place (CDP)

| PLACE NAME | PCI | % US PCI | POPULATION | COUNTY |
|---|---|---|---|---|
| Valley Ford CDP | $9,490 | 33.2% | 167 | Sonoma |
| Philo CDP | $11,234 | 39.3% | 317 | Mendocino |
| Boonville CDP | $14,796 | 51.8% | 1,090 | Mendocino |
| Laytonville CDP | $15,235 | 53.4% | 1,227 | Mendocino |
| Manchester CDP | $16,462 | 57.7% | 193 | Mendocino |
| Covelo CDP | $17,585 | 61.6% | 1,444 | Mendocino |
| Willits city | $18,502 | 64.8% | 4,853 | Mendocino |
| Point Arena city | $18,534 | 64.9% | 405 | Mendocino |
| Leggett CDP | $18,922 | 66.3% | 54 | Mendocino |
| Talmage CDP | $20,095 | 70.4% | 1,335 | Mendocino |
| Roseland CDP | $20,167 | 70.6% | 5,556 | Sonoma |
| Fort Bragg city | $20,585 | 72.1% | 7,274 | Mendocino |
| Hopland CDP | $21,892 | 76.7% | 587 | Mendocino |
| Geyserville CDP | $22,451 | 78.6% | 879 | Sonoma |
| Calpella CDP | $22,521 | 78.9% | 424 | Mendocino |
| Redwood Valley CDP | $22,656 | 79.3% | 1,814 | Mendocino |
| Brooktrails CDP | $22,821 | 79.9% | 3,589 | Mendocino |

Source: US Census Bureau, 2014 American Community Survey, Five-Year Estimates.

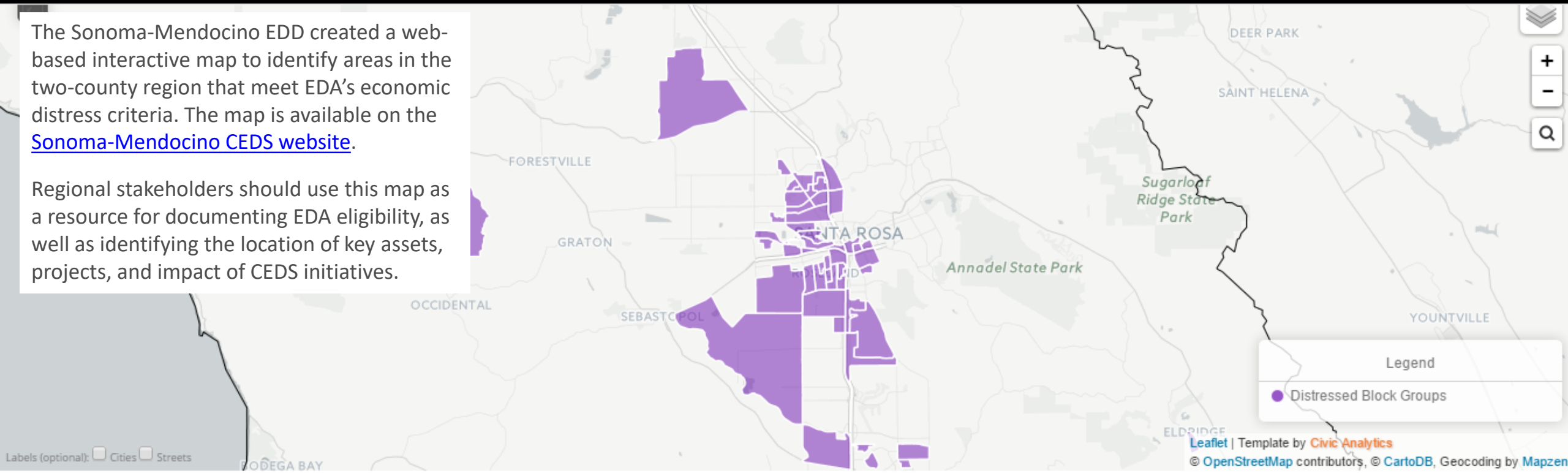
# SONOMA-MENDOCINO ECONOMIC DEVELOPMENT DISTRICT

http://www.sonomamendocinoceds.com/regional-web-map/

HOME | ABOUT | LEADERSHIP | OUR REGION | PARTICIPATE

The Sonoma-Mendocino EDD created a web-based interactive map to identify areas in the two-county region that meet EDA's economic distress criteria. The map is available on the Sonoma-Mendocino CEDS website.

Regional stakeholders should use this map as a resource for documenting EDA eligibility, as well as identifying the location of key assets, projects, and impact of CEDS initiatives.




ECONOMICALLY DISTRESSED BLOCK GROUPS

Show 10 entries

Search:

| GEOGRAPHY | GEOID | PERCENT OF | PERCENT BE | PER CAPITA |
|---|---|---|---|---|
| Block Group 1, Census Tract 105, Mendocino County, California | 060450105001 | 73.5% | 19.7% | $20,981 |
| Block Group 1, Census Tract 106, Mendocino County, California | 060450106001 | 70.4% | 22.5% | $20,092 |

# Background

EDA published revised CEDS content guidelines in January 2015. There are five requirements for the CEDS, outlined in the red box to the right, and the new content guidelines provide for a great deal of flexibility in how regions want to format the CEDS, as long as the required topics are addressed.

Trained planners think in terms of SWOT analysis, action plans, and frameworks. Most stakeholders for a CEDS process are not trained planners. They typically have three basic questions:

1. Why are we doing this?
2. What will it accomplish?
3. How will we get there?

Sonoma-Mendocino CEDS arranges EDA's required topics into this *why, what, how* framework :

| | |
|---|---|
| Summary Background<br>SWOT Analysis<br>Economic Resilience | Call to Action (Why) |
| Evaluation Framework | Goals (What) |
| Strategic Direction | Strategy (How) |

IN THIS SECTION:

- Overview
- Content
  - Summary Background
  - SWOT Analysis
  - Strategic Direction/ Action Plan
  - Evaluation Framework
  - Economic Resilience
- Format
- Preparation
- Equivalent/Alternative Plans
- Full Report (PDF)

RESOURCES DIRECTORY

STAY CONNECTED
*Click here to subscribe to EDA's monthly e-newsletter*

## CONTENT

A CEDS should be developed with broad based community participation and result in a document that is readily accessible to regional stakeholders. Potential partners for developing a CEDS could include government agencies, private sector interests, education providers, non-profits, community and labor groups, workforce boards, utilities, etc. Stakeholders should be able to use it as a guide to understanding the regional economy and to take action to improve it. The CEDS should take into account and, where appropriate, incorporate or leverage other regional planning efforts, including the use of available federal funds, private sector resources, and state support which can advance a region's CEDS goals and objectives. Its quality should be judged by its usefulness as a tool for regional economic development decision-making.

There are four main elements of a CEDS: 1) summary background, 2) SWOT analysis, 3) strategic direction/action plan, and 4) evaluation framework. The background should provide an overview of the region's economic situation. Building on data from the summary background, the SWOT analysis should assess the state of the regional economy, including the opportunities and threats posed by internal and external trends and forces, and the availability of resources for economic development. The region's vision, goals, and measurable objectives, together with an appraisal of the region's competitive advantages, should form the basis of the strategic direction and action plan. The evaluation framework should establish criteria and performance measures for evaluating the region's implementation of the strategic direction and progress toward goals and measurable objectives. The elements of the CEDS, seen through a lens of economic resiliency, should logically build upon and/or shape each other to result in a coherent, targeted document.

***Recommended Resource**: See South Florida's 2012 CEDS with the "six pillars" statewide framework which provides a clearly articulated, unifying framework across EDDs in the state: http://www.sfrpc.com/CEDS/SouthFloridaCEDS2012-17.pdf (PDF).*

Below are recommendations for what should be included in each of the required sections, and suggested tools, resources and examples to help in each section's development:

- A. Summary Background: A summary background of the economic development conditions of

# Background

EDD Board CEDS Kickoff Meeting
*February 19, 2016*

CEDS Community Survey
*March 23-April 25, 2016*

CEDS Stakeholder Interviews
*April 26-May 13, 2016*

CEDS Public Workshops
*May 17, 2016 (Santa Rosa)*
*May 18, 2016 (Ukiah)*

EDD Board Draft CEDS Work Session
*July 21, 2016*

CEDS Call for Projects
*August 15-September 30, 2016*

Draft CEDS Public Comment Period
*August 15-September 30, 2016*

EDD Board Final CEDS Adopted
*November 2, 2016*

Sonoma-Mendocino Economic Development District Board of Directors at February 2016 meeting in Geyserville, California. Members: Robin Bartholow, Workforce Investment Board (Sonoma); Pam Chanter, VANTREO Insurance Brokerage (Sonoma); Steve Herron, Exchange Bank (Sonoma); John Kuhry, Economic Development & Financing Corporation (Mendocino); Mike Nicholls, North Bay North Coast Broadband Consortium (Sonoma); Robert Pinoli, Skunk Train (Mendocino); Trish Steel, Broadband Alliance of Mendocino County (Mendocino); Joe Webb, Foursight Wines (Mendocino); Also pictured: County staff and Malinda Matson, EDR, EDA Seattle. Not Pictured: Paul Castro, California Human Development (Sonoma/Mendocino).

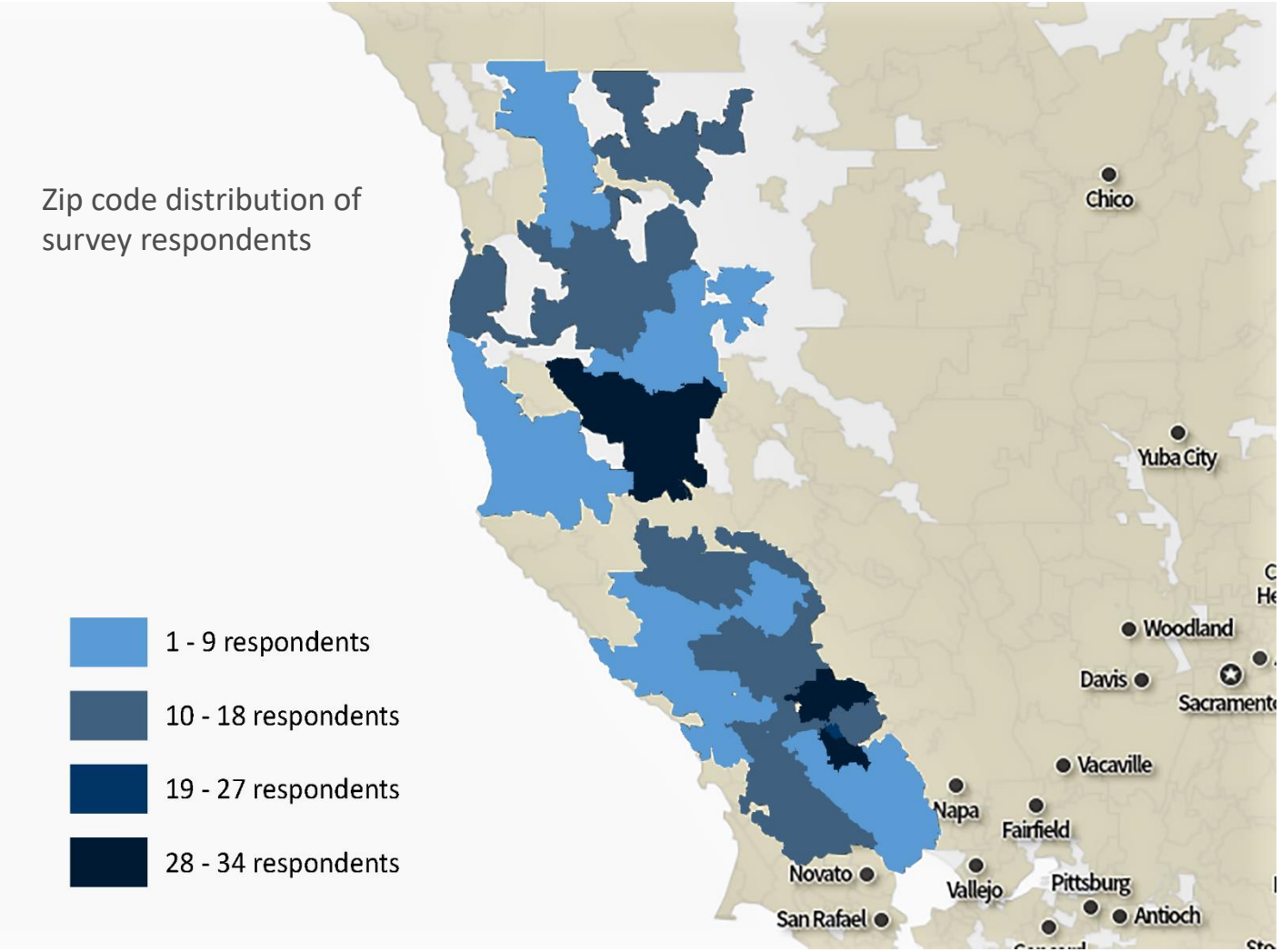
# Background

Forming a complete picture of a regional economy requires analysis of secondary data, statistics from the US Census Bureau and other federal and state sources, as well as primary data, insight generated from surveys, interviews, and public participation.

The goal of primary data collection is two-fold: (1) to provide a reality-check on secondary research – i.e. do community perceptions of important trends align with what secondary data appears to suggest – and (2) to create as many opportunities as possible for public participation in the CEDS process.

Primary data for the Sonoma-Mendocino CEDS was collected through a community survey, available on the CEDS website in English and Spanish, March 23 to April 25. The survey received 353 responses, 251 from Sonoma County, 102 from Mendocino County. In addition, interviews were completed with thirty public and private sector leaders, including several major employers. Finally, approximately 80 people participated in two public workshops held in Santa Rosa and Ukiah in May.

Most of the secondary research was completed in January-March.



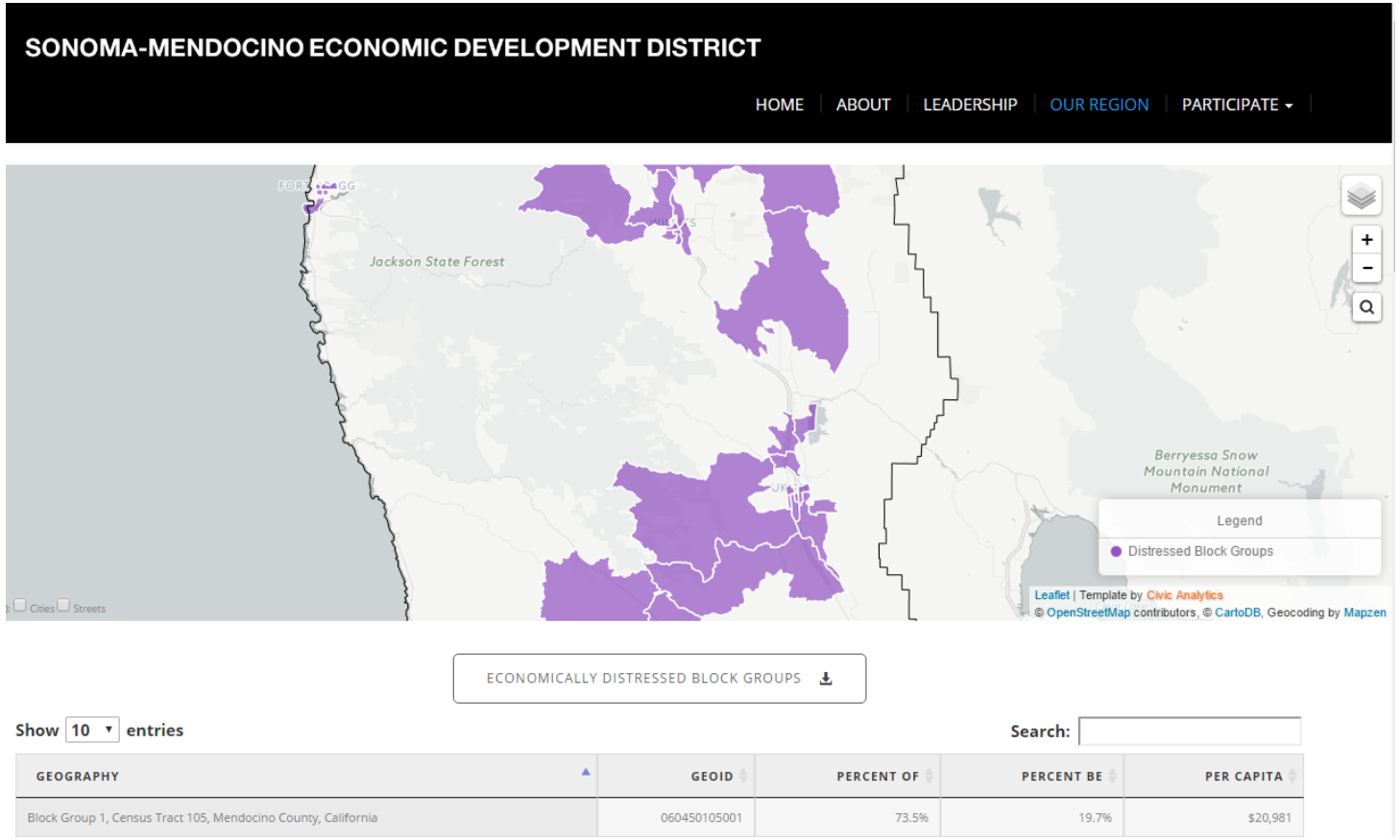
# Call to Action

A call to action is a key research finding that clearly demonstrates why a strategy is needed in the first place – a compelling answer to the question, why are we doing a CEDS? Effective calls to action are concise, compelling presentations of information about important trends that should inform CEDS goals and strategies, as well as drive participation and buy-in during planning and implementation.

This section of the document articulates the call to action for Sonoma-Mendocino. Drawing on analysis of secondary data and input collected through the survey, interviews, and public workshops, Sonoma-Mendocino's CEDS focuses on four key themes:

- Economic diversification (resilience)
- Human capital
- Innovation and entrepreneurship
- Inclusive economic development

This section concludes with a summary of strengths, weaknesses, opportunities, and threats, highlighting input from residents who participated in the CEDS workshops held in Santa Rosa and Ukiah in May.



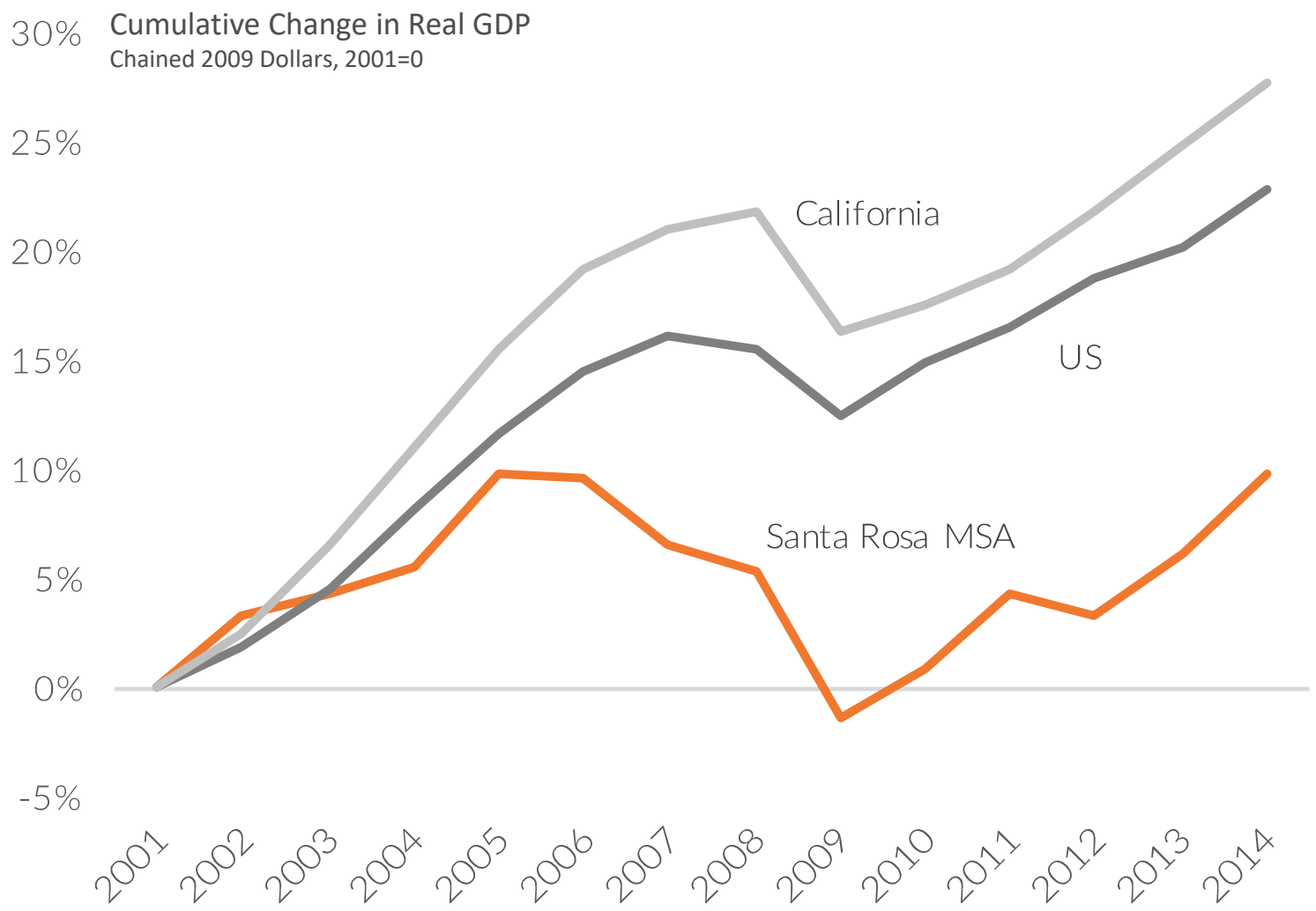

Partial map of EDA eligible areas in Mendocino County (2014 ACS, Five-Year Estimates)

# Economic Diversification (Resilience)

**Sonoma-Mendocino must diversify its economic drivers to build resilience against downturns that impact consumer confidence, discretionary spending, and real estate investment.**

The financial and housing crises and subsequent recession had a profound impact on the Sonoma-Mendocino economy because of the region's high concentration of economic activity in industries (tourism, wine) fueled by consumer confidence and spending, particularly among higher-income households, as well as housing investment.

The 2008 recession had a dramatic effect on the Sonoma-Mendocino region, but Gross Domestic Product (GDP) data suggests that the region was already in decline as early as 2005-2006. Sonoma-Mendocino lost more than $2 billion in real GDP in 2005-2009, a 10% decline compared to a loss of less than 1% for the state and national economies. In fact, on an inflation-adjusted basis, the regional economy was smaller in 2009 than it was in 2001.




Source: Bureau of Economic Analysis (BEA). BEA does not publish GDP estimates for counties, only metropolitan statistical areas (MSAs). County estimates here are Moody's data available on NACo County Explorer. Moody's estimates current county-level GDP at $23.9 billion in Sonoma County and $3.8 billion in Mendocino County.

# Economic Diversification (Resilience)

Construction and real estate combined lost $1.4 billion in real output in 2005-2009. Put another way, for every $1 in GDP lost, $0.62 can be traced to losses in construction and real estate. Real output in other consumer discretionary spending sectors, such as arts/entertainment, food, recreation, and accommodation, declined by $166 million in 2005-2009, a small figure compared to the losses in construction and real estate, but twice (-18%) the statewide rate (-9%) and also well above the US rate (-7%).

Construction is still below pre-recession levels, but real estate and visitor spending industries in the region have rebounded sharply. In 2014, real estate had its second-best year, measured by real output growth, since 2001. Arts and entertainment, recreation, hotels, and food services combined reached an all-time high of $967 million in real value added to GDP.

The majority of interviewees concurred with the secondary research, reporting that, overall, the economy has recovered and is healthy.

But survey results revealed stark differences in perceptions between Sonoma and Mendocino.* Sixty-nine percent of respondents in Sonoma reported that economic circumstances are better today compared to five years ago, versus only 29% in Mendocino. Looking ahead, when asked how the economy would be performing five years from now, Mendocino residents were slightly more optimistic, with 41% expecting the economy to improve, but Sonoma respondents were much less confident about the future, at least compared to current state. Despite the seemingly broad consensus about the current health of the regional economy, only a slight majority (53%) of Sonoma respondents said they expect the economy to improve.

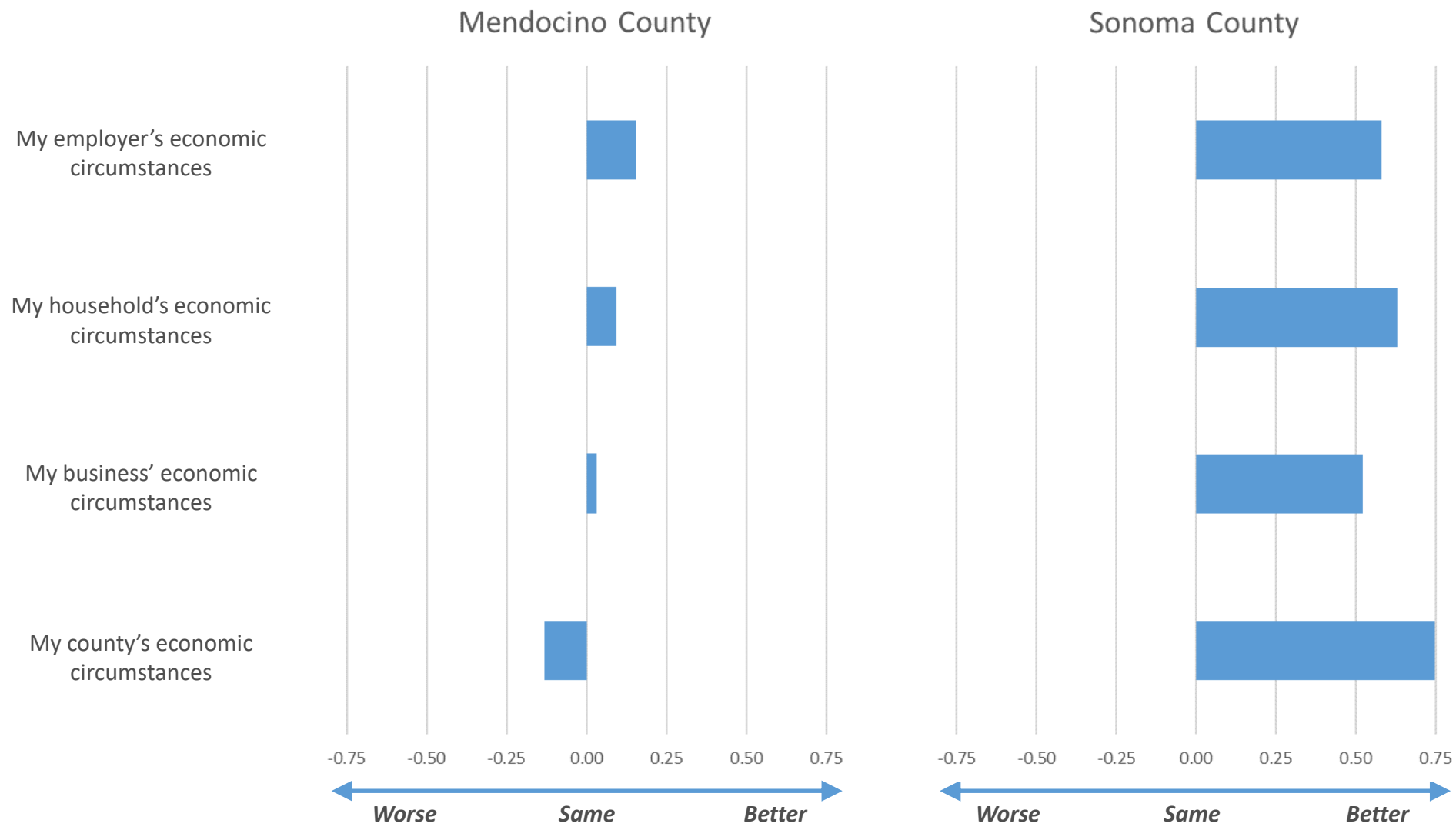
One possible interpretation says people see the need for economic diversification, but there is no consensus on where that diversification will come from. Indeed, in the survey, diversifying the economy got the fourth-highest number of votes among the economic priorities selected, and an analysis of secondary data on economic trends during the recovery validates that choice. Thirty-five percent of economic growth in 2009-2014 in Sonoma-Mendocino can be attributed to real estate—$779 million of the $2.2 billion gained in inflation-adjusted GDP—compared to real estate's share of 15% across all US metro areas. By contrast, the professional/business services sector, where many high-wage, high-demand jobs in tech and related industries are concentrated, has accounted for about 24% of inflation-adjusted GDP growth across all metro areas during the recovery, compared to 3% in Sonoma-Mendocino.

In short, economic recovery thus far in Sonoma-Mendocino has been fueled by the very same industries that magnified the impact of the last recession, making diversification a key priority for the Sonoma-Mendocino CEDS.

*Sonoma and Mendocino are used throughout this report as shorthand and refer to the counties unless otherwise noted.

# Survey: How do the following economic factors compare to five years ago?

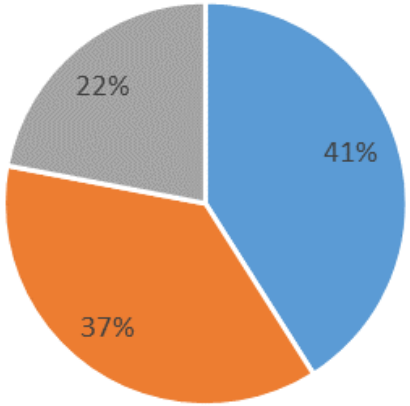
| County | Worse | Same | Better |
|---|---|---|---|
| S | 15% | 25% | 60% |
| M | 18% | 44% | 38% |
| S | 15% | 25% | 60% |
| M | 27% | 38% | 35% |
| S | 15% | 32% | 54% |
| M | 23% | 48% | 29% |
| S | 10% | 21% | 69% |
| M | 37% | 35% | 29% |



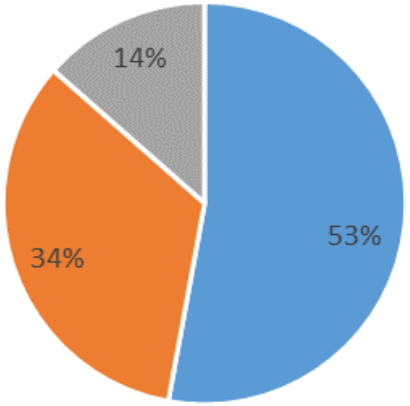

Source: Sonoma-Mendocino CEDS Survey (Q4). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

# Survey: Five years from now, do you believe your economy will decline, stay the same, or improve?

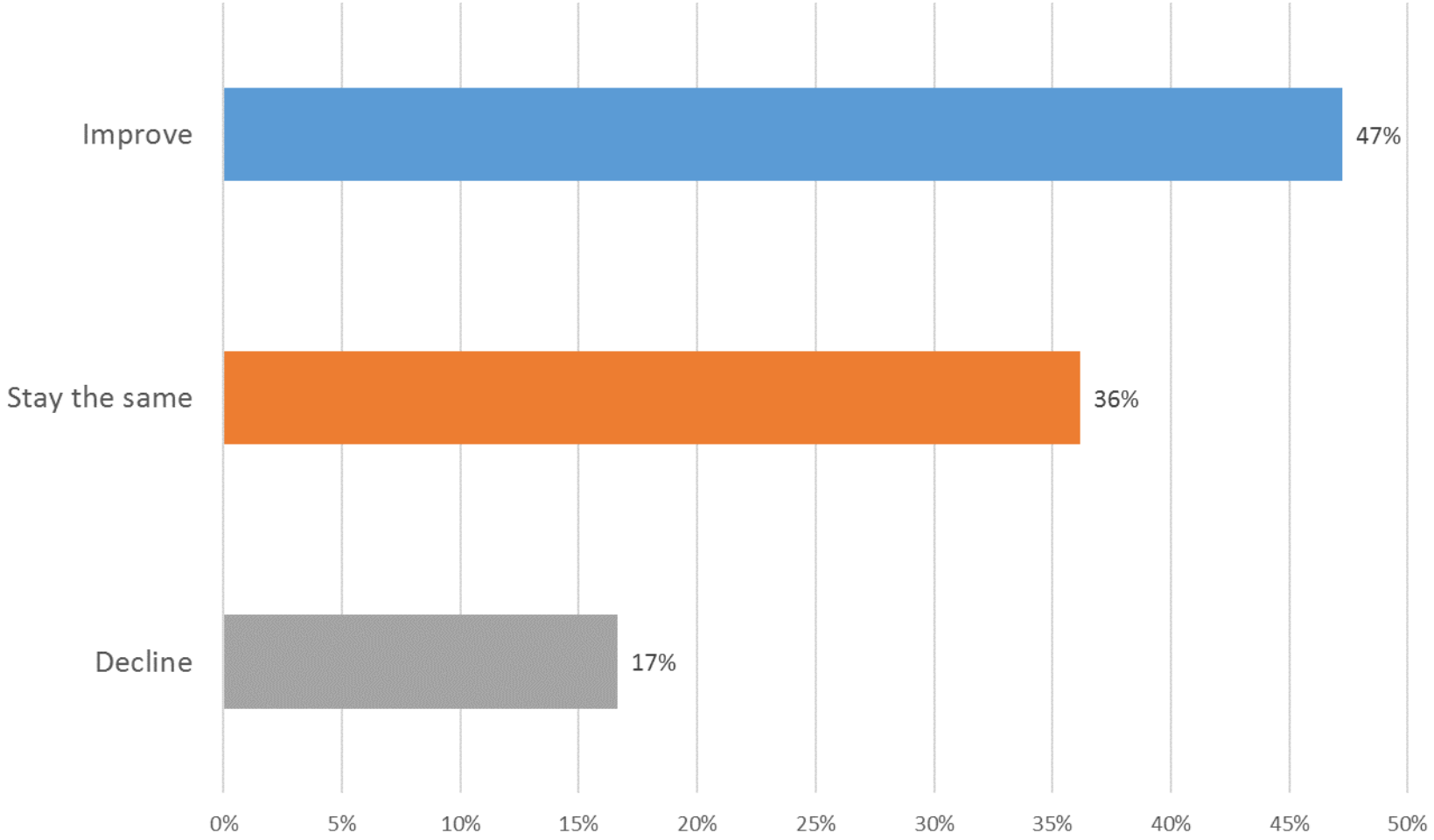
Mendocino County




Sonoma County




Sonoma-Mendocino State of the Economy




Source: Sonoma-Mendocino CEDS Survey (Q5). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

# Economic Diversification (Resilience)

**Traded clusters represent 4,000 establishments, 60,000 jobs, and approximately $8 billion of GDP in the Sonoma-Mendocino economy.**

Clusters are geographic concentrations of related firms and supporting institutions operating in common markets and sharing specialized input and infrastructure needs. Notable examples are energy in Houston, finance in New York, tech in Silicon Valley, and aerospace in Seattle. *Traded* clusters are groups of industries engaged primarily in exporting goods and services to other regions or internationally. Economic developers typically focus on the traded economy (sometimes referred to as a region's economic *base*) because exporting industries attract "new" money to a region from outside its borders, resulting in a net increase of income in a region. This new money can then be circulated locally through spending at local firms, donated to local non-profits, etc. Further, wages paid to workers in traded industries are higher, on average, than wages in local serving industries.

Critically for Sonoma-Mendocino, traded clusters also provide a framework for thinking about how the region can diversify. Rows in bold in the tables on this page and the next indicate clusters that have a strong* presence in both counties and could provide opportunities for collaboration on diversification strategies. While many of the bolded clusters are traditional strengths (e.g., wine, tourism), and therefore not necessarily appropriate targets for diversification, further research as part of CEDS implementation could reveal industry opportunities relevant to both counties, such as Specialty Foods ($87 million industry) and Dairy Products ($56 million).

CEDS implementation should include a strategy focused on exploring these clusters relevant to both counties that could bolster resilience and achieve greater industry diversification.

Cluster descriptions can be found on Harvard's Cluster Mapping Project website.

Traded Clusters in Sonoma-Mendocino with at least $100 Million in GDP

| | GDP (Value-Added) 2013 | Establishments 2015 | Employment 2015 | Strong Sonoma | Strong Mendocino |
|---|---|---|---|---|---|
| **Food/Wine Processing & Manufacturing** | **$1,558,718,731** | **429** | **9,906** | **x** | **x** |
| Distribution & Electronic Commerce | $1,171,978,128 | 652 | 7,731 | | |
| Info Tech & Analytical Instruments | $594,287,551 | 68 | 2,603 | x | |
| Financial Services | $585,182,399 | 316 | 2,037 | | |
| Medical Devices | $471,600,979 | 20 | 1,484 | x | |
| **Hospitality and Tourism** | **$420,790,294** | **400** | **6,896** | **x** | **x** |
| Marketing, Design, and Publishing | $299,168,486 | 199 | 2,234 | x | |
| **Agricultural Inputs and Services** | **$133,374,933** | **130** | **2,599** | **x** | **x** |
| **Performing Arts** | **$120,333,500** | **71** | **1,435** | **x** | **x** |

Source: US Cluster Mapping Project, Institute for Strategy and Competitiveness, Harvard Business School (cluster definitions), EMSI (GDP, establishments, jobs). Establishments are physical locations of businesses. *See Cluster Mapping Project website for explanation of Harvard's methodology for identifying strong clusters based on concentration and minimum size thresholds.

# Economic Diversification (Resilience)

CIVIC ANALYTICS

*Cannabis*

Mendocino is one of three counties (Humboldt, Trinity) in the Emerald Triangle, reportedly one of the largest cannabis-producing regions in the country. Nearly every interviewee, and many of the workshop participants, offered thoughts on potential impacts of legal cannabis, and resulting opportunities for the two counties to collaborate on a regional strategy for vertical integration and cluster development. Very little hard data exists on the industry in its current state; therefore, it is difficult to know if or how legal cannabis will contribute to economic diversification. Several options are discussed in the strategy section of this document for CEDS implementation.

*Green Economy*

Sonoma-Mendocino's green economy is another opportunity for diversifying the region's industry base in a way that is consistent with community values of sustainability and preservation.

There is no consensus on a precise way to define the green economy, but one of the most frequently cited sources is the 2011 Green Goods and Services (GGS) survey, conducted by the Bureau of Labor Statistics.

Traded Clusters in Sonoma-Mendocino with $25 Million – $99 Million in GDP

| | GDP (Value-Added) 2013 | Establish 2015 | Jobs 2015 | Strong Sonoma | Strong Mendocino |
|---|---|---|---|---|---|
| Wood Products | **$78,246,541** | **48** | **1,135** | | **x** |
| Aerospace Vehicles and Defense | $67,379,217 | 5 | 120 | | |
| Printing Services | $53,052,775 | 55 | 516 | | |
| Forestry | $47,967,390 | 59 | 576 | | x |
| Plastics | $47,809,723 | 17 | 392 | | x |
| Furniture | $41,260,889 | 51 | 587 | x | |
| Fishing and Fishing Products | $39,508,867 | 28 | 317 | | x |
| Vulcanized and Fired Materials | $37,966,474 | 14 | 370 | x | |
| Recreational and Small Electric Goods | $33,192,044 | 27 | 290 | x | |
| **Environmental Services** | **$32,633,285** | **10** | **356** | **x** | **x** |

Traded Clusters in Sonoma-Mendocino with up to $25 Million in GDP

| | GDP (Value-Added) 2013 | Establish 2015 | Jobs 2015 | Strong Sonoma | Strong Mendocino |
|---|---|---|---|---|---|
| Lighting and Electrical Equipment | **$22,382,904** | **10** | **150** | | |
| Downstream Chemical Products | $20,921,938 | 10 | 83 | x | |
| Music and Sound Recording | $13,351,348 | 2 | 31 | x | |
| Jewelry and Precious Metals | $5,929,850 | 4 | 57 | x | |
| Leather and Related Products | $4,620,686 | 6 | 69 | x | |

Source: US Cluster Mapping Project, Institute for Strategy and Competitiveness, Harvard Business School (cluster definitions), EMSI (GDP, establishments, jobs).

# Economic Diversification (Resilience)

**The green economy in Sonoma-Mendocino includes a total of 400 business establishments, 5,000 jobs, and $450 million in GDP.**

BLS defined green jobs in the GGS survey as "jobs in businesses that produce goods and provide services that benefit the environment or conserve natural resources" and identified green activity in sampled companies according to five categories: (1) energy from renewable sources; (2) energy efficiency; (3) pollution reduction and removal, greenhouse gas reduction, and recycling and reuse; (4) natural resources conservation; and (5) environmental compliance, education and training, and public awareness.

Using the GGS definition, Sonoma-Mendocino's green economy is made up of 428 establishments, 5,076 jobs, and $455 million in GDP. Leading green industries in Sonoma-Mendocino ranked by number of jobs and value-added contribution to GDP include:

- Forestry, logging, and wood product manufacturing
- Agriculture and support activities for crop production
- Environmental remediation, waste treatment, and disposal
- Residential construction and finishing/specialty contractors
- Navigation, measuring instruments manufacturing

Sonoma County has a center to advance climate protection as part of its commitment to reducing climate change and advancing new, green solutions to regional challenges, among other assets that can be leveraged for improving diversification and resilience.

Source: Bureau of Labor Statistics, Green Goods and Services survey. See GGS page on BLS website for methodology and estimates of green activity by NAICS industry. The statistics on this page are based on GGS estimates for four-digit NAICS industries. Establishment (2015), employment (2016), and GDP (2014) data is from EMSI.

# Human Capital

**Population and labor force growth in Mendocino County is stagnating, which may limit the region's future economic development opportunities.**

There is no "ideal state" for population growth in Sonoma-Mendocino or anywhere else. Generally, economic development and labor market analysts tend to focus on change in the primary working age population (25-64) and look for replacement-level growth, at minimum. In other words, a rate at which population is growing fast enough to replace retirees and others exiting the labor force. The US rate is typically used as a benchmark, meaning growth in the local population should keep pace with US growth as a sign of a healthy economy.

As a share of total number of residents, the 25-64 age cohort in Sonoma-Mendocino is comparable to the US population as a whole, approximately 55%. The 25-64 growth rate is much slower in Sonoma-Mendocino compared to the US, but in line with the region's slower overall population growth.

However, the two counties are headed in opposite directions. After historically slow population growth in the 2000s, Sonoma County's growth rate since 2010 has trended back toward the US average. Mendocino County, by contrast, is stagnating, and could even show a net loss in residents when the US Census Bureau releases the 2015 population estimates for counties. Further, Labor force participation in Mendocino has plateaued to a level not seen since the 1990s, while Sonoma is back to a pre-recession participate rate.

Growth Rate by Decade of Primary Working Age (25-64) Population

| | 1970s | 1980s | 1990s | 2000s |
|---|---|---|---|---|
| Sonoma-Mendocino | 61% | 37% | 19% | 6% |
| Sonoma County | 66% | 40% | 21% | 6% |
| Mendocino County | 40% | 24% | 10% | 5% |
| US | 19% | 19% | 16% | 11% |

Estimated Average Annual Growth in Primary Working Age (25-64) Population, 2010-2014

| | 2010 | 2014 | AVG ANN CHANGE | AVG ANN GROWTH |
|---|---|---|---|---|
| Mendocino County | 47,821 | 47,880 | 15 | 0.03% |
| Sonoma County | 264,392 | 272,916 | 2,131 | 0.81% |
| Sonoma-Mendocino | 312,213 | 320,795 | 2,145 | 0.69% |

Source: US Census Bureau, Decennial Census (growth rate by decade), Population Estimates (2010-2014), 2014v accessed on 02/16/14 (subject to future revision). Estimate uses age 25-64 share of total population in 2010 and assumes no change in that share during 2010-2014. US Bureau of Labor Statistics, Local Area Unemployment Statistics (labor force growth 2010-2014).

# Human Capital

Lagging population growth is a recent feature of Sonoma-Mendocino, in demographic terms. As recently as the 1990s, Sonoma was growing at a faster rate than the US. Population growth in Mendocino started tapering off earlier, but as recently as the 1980s was double the national rate. A confluence of factors – tighter land use controls, higher housing costs, a slightly older age distribution – produced slower growth in the 2000s. Mendocino's population increased by only 2% during the entire decade. Sonoma's growth rate was one-third of the 1990s rate.

While many people work before age 25 as well as after 64, analysts tend to focus on the 25-64 cohort to minimize the effect of students and potential retirees when assessing workforce availability. As of 2010, Sonoma-Mendocino's combined primary working age population was 311,827 people, or 55% of the total population, slightly higher than the US at 53%. The primary working age population makes up roughly the same share of total population in Sonoma and Mendocino, and there was not much difference in county growth rates in that age cohort during the 2000s. However, slower growth rates during 2000-2010 were likely noticed more in Sonoma, given the steep decline from the 1990s: the 25-64 cohort grew by 21% in the 1990s, compared to only 6% in the 2000s. That rapid deceleration likely reshaped perceptions of labor availability in Sonoma for many existing local employers.

Population growth in Sonoma may be trending upward slightly, which is a positive sign in terms of labor availability. Sonoma's population grew by 3% during 2010-2014, roughly keeping pace with the US growth rate. Mendocino County, by contrast, appears to be continuing on its long-run, downward trajectory. In fact, the number of residents in Mendocino in 2014 was virtually unchanged from 2010. That divergence is also evident in the labor force. Total regional labor force grew rapidly during the recovery, 3.2% in 2010-2014 compared to 1.3% for the US—but, again, Sonoma (4.0%) and Mendocino (-1.0%) were headed in opposite directions.

Growth management is an important priority in Sonoma-Mendocino, and, accordingly, stagnant population growth, may not be well understood or appreciated as a threat that should inform an economic development strategy.

But a healthy, resilient economy, where most income is earned through work rather than rent, investment, and government transfer payments, requires at least a replacement level of population growth in the primary working age cohort to provide a stable labor pool for employers. If the recession taught any lessons, surely among the most important in Sonoma-Mendocino is what can happen in a community as a result of too much dependence on industries fueled by consumer discretionary spending and the wealth effect of appreciating land and home values. Sustainable growth is a result of a diverse economic base that provides sufficient living wage employment to residents. Targeting growth in the 25-64 cohort is a human capital strategy that should be considered as a key element of CEDS implementation.

*Sonoma and Mendocino are used throughout this report as shorthand and refer to the counties unless otherwise noted.

# Human Capital

**Educational attainment, a traditional strength for Sonoma-Mendocino, now trails US rates.**

Human capital is the fuel for innovation-based economic development. Companies are only as successful as the talent they can recruit to help innovate and grow. But not all residents of the region are adequately prepared with the right types of education and training necessary to compete for jobs in the innovation economy.

Most living wage jobs in Sonoma-Mendocino, or anywhere else in the US, require some type of postsecondary education, varying from short-term certificates to PhDs. Postsecondary education is especially critical in high-cost areas like Sonoma-Mendocino, where the probability of maintaining a standard of living is greatly reduced with only a high school diploma, or less.

Human capital, in the form of completion rates of postsecondary education, in Sonoma-Mendocino is lagging. In 2000, 38% of the 25-64 cohort had at least an associate's degree, compared to 34% for the US. By 2014, that advantage was gone: the US had reached 40%; Sonoma-Mendocino, 39%.

Measuring the Skills Gap in Sonoma-Mendocino: A Comparison of Population Age 25-64 with Associate's Degree or Higher to Projected Job Openings Requiring Associate's Degree or Higher

| | Average Annual Change in Associate's Degree+ Population, Age 25-64 | Expected Number of Annual Job Openings for Associate's Degree+ Workers |
|---|---|---|
| Mendocino | 35 | 191 |
| Sonoma | 834 | 1,744 |

Further, there is disparity in postsecondary completion rates between the two counties. Sonoma-Mendocino, as a whole, looks much like the US: 39.4% of the 25-64 cohort has at least an associate's degree, 39.6% for the US. In Sonoma, 41% of the 25-64 cohort has at least an associate's degree, compared to only 29% in Mendocino, where no gain is evident in the data since 2000. Similarly, Sonoma's rate has improved by only two percentage points, 39% in 2000 to 41% in 2014, whereas the US rate has increased by six points, 34% to 40%.

Completion rates for four-year degrees and up show a similar pattern. In Mendocino, 20% of the 25-64 cohort had a bachelor's or higher in 2014, unchanged from 2000. In Sonoma, 32% of the 25-64 cohort had a bachelor's or higher, up from 30% in 2000, but increasing at a rate that was only about one-half the US rate.

Boosting postsecondary completion rates will be critical if Sonoma-Mendocino hopes to fill job openings with existing residents. Nearly 2,000 job openings requiring an associate's or higher will need to be filled per year in 2015-2025. If the 25-64 cohort with an associate's or higher grows at the same pace it did in 2000-2014, only 43% of those 2,000 job openings could be filled with existing population.

Source: US Census Bureau, Decennial Census (2000), 2014 American Community Survey, Five-Year Estimates. Margin of error in the ACS estimates make it difficult to say for sure whether Sonoma-Mendocino has actually fallen below the US, but the gap certainly has closed compared to 2000. Population change is based on 2000-2014. Employment forecast is for 2015-2025 (EMSI).

# Innovation and Entrepreneurship

Research from the Kauffman Foundation, a leading national think tank on entrepreneurship, indicates that new or young firm density, typically defined as firms younger than five years relative to a region's population size, is an important indicator of startup ecosystem development and a region's capacity for high-growth entrepreneurship.

Data for Santa Rosa MSA* suggests that Sonoma-Mendocino is a fertile environment for entrepreneurship. There are 5.1 new/young firms per 1,000 population in Santa Rosa MSA, a density score on par with leading centers of innovation and entrepreneurship, such as Raleigh-Durham, and well above the US rate (4.5). Further, employment at new/young firms accounts for approximately 10% of total employment in the region, also comparable to Raleigh-Durham, and about one percentage point higher than the US.

The region's entrepreneurial economy, combined with assets already in place for market research (e.g., EDB, SSU), access to capital (e.g., EDFC, West Company), and development of the entrepreneurial ecosystem (e.g., SOMO Village), suggest that entrepreneurship can be leveraged as a core strategy in the CEDS to promote economic diversification.

There are approximately 2,500 firms less than five years old in the Santa Rosa MSA, employing more than 15,000 workers.

"A diversity of small business types fanned out across multiple economic clusters provides us with a more resilient base to withstand downward market dynamics and exploit the upward swings. The handfuls of clusters for which we already excel represent the building blocks to start a culture of encouragement and support for entrepreneurs starting smaller businesses. All along the supply chains are ample opportunities for smaller businesses to take root. To succeed, we need to drive the development of more clusters. The number of businesses and their diversity strengthen the root system by injecting competition and growing competencies of the workforce. The latter makes a significant difference in our future development opportunities. It's easier to grow with an ample population of trained workers. Core business establishments, or resident business with less than 100 employees serving the local market, represent 66% of all jobs. We have to keep the pipeline full by ensuring the capability of starting new business at a steady pace."

*Local Entrepreneur*

Source: Bureau of Economic Analysis (Population), US Census Bureau, Business Dynamics Statistics (Firms). *Firm by age data is not available for counties from the source, only MSAs. Kauffman's approach is detailed in Measuring an Entrepreneurial Ecosystem and in the annual Kauffman Index.

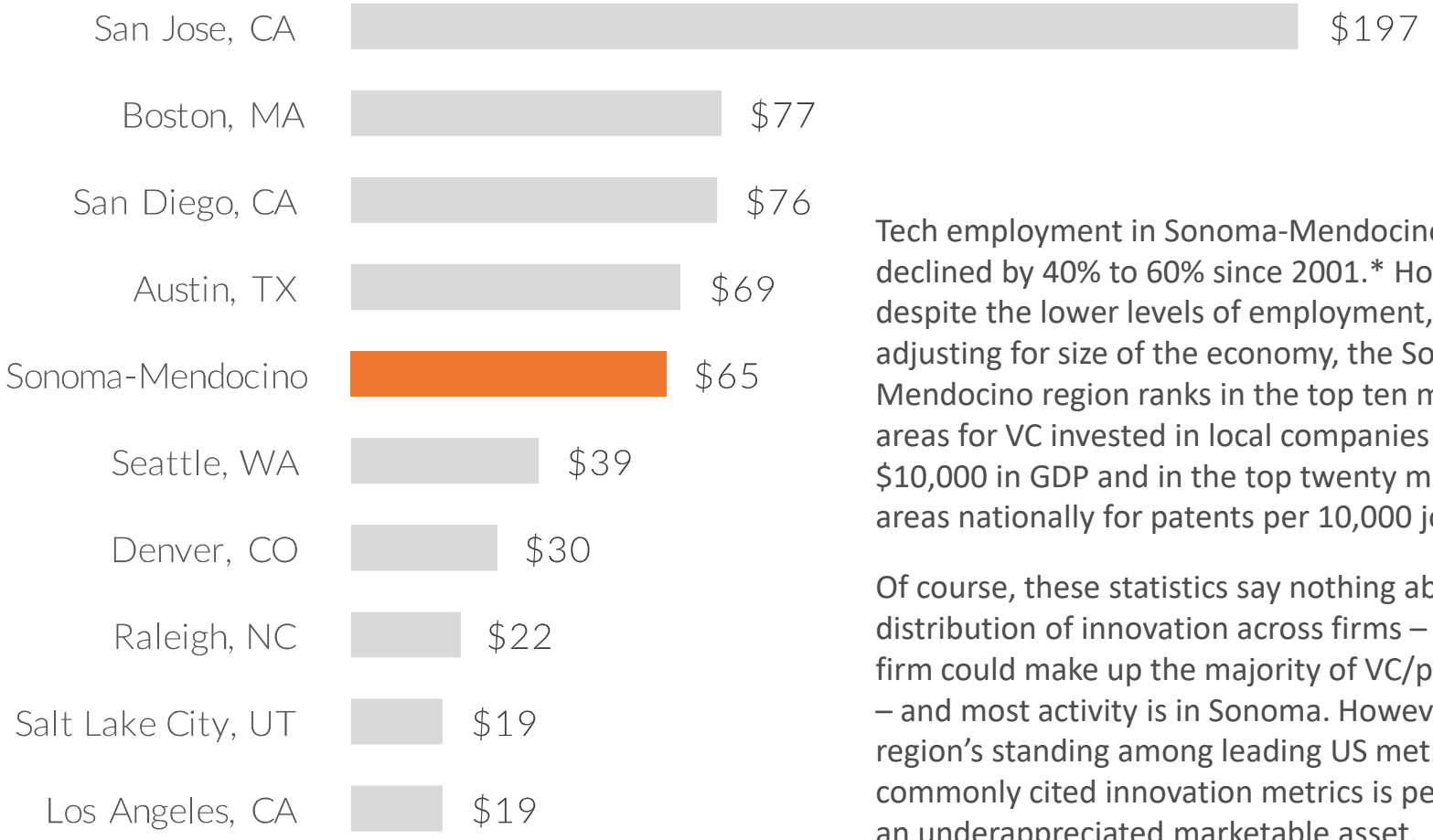
# Innovation and Entrepreneurship

**Sonoma-Mendocino is a center of regional innovation, ranking competitively on a per capita basis with some of the most notable innovation hubs nationally.**

Innovation capacity is the foundation of the knowledge economy. For sole proprietors, small businesses, and global companies alike, innovation fuels business formation and expansion, productivity, exports, and wealth creation. Sonoma-Mendocino is not a low-cost environment and therefore "low-road" strategies for economic development will not work. Companies, and the region as a whole, must innovate to compete.

There is no perfect measure of innovation. Researchers typically use venture capital (VC) or patents as proxies, or signals, for innovation. VC usually finds growth-stage companies inventing new products and services and competing successfully.

Average Annual Venture Capital Investment Per $10,000 in GDP, 2005-2012




Tech employment in Sonoma-Mendocino has declined by 40% to 60% since 2001.* However, despite the lower levels of employment, when adjusting for size of the economy, the Sonoma-Mendocino region ranks in the top ten metro areas for VC invested in local companies per $10,000 in GDP and in the top twenty metro areas nationally for patents per 10,000 jobs.

Of course, these statistics say nothing about the distribution of innovation across firms – i.e. one firm could make up the majority of VC/patents – and most activity is in Sonoma. However, the region's standing among leading US metros on commonly cited innovation metrics is perhaps an underappreciated marketable asset.

Source: US Cluster Mapping Project, Institute for Strategy and Competitiveness, Harvard Business School. Chart shows where Sonoma-Mendocino would rank among the top ten metropolitan statistical areas (MSAs) where data is available from the source. Patent performance is based on rank among MSAs during 1998-2011. *Depends on industry definition used for tech.

# Inclusive Economic Development

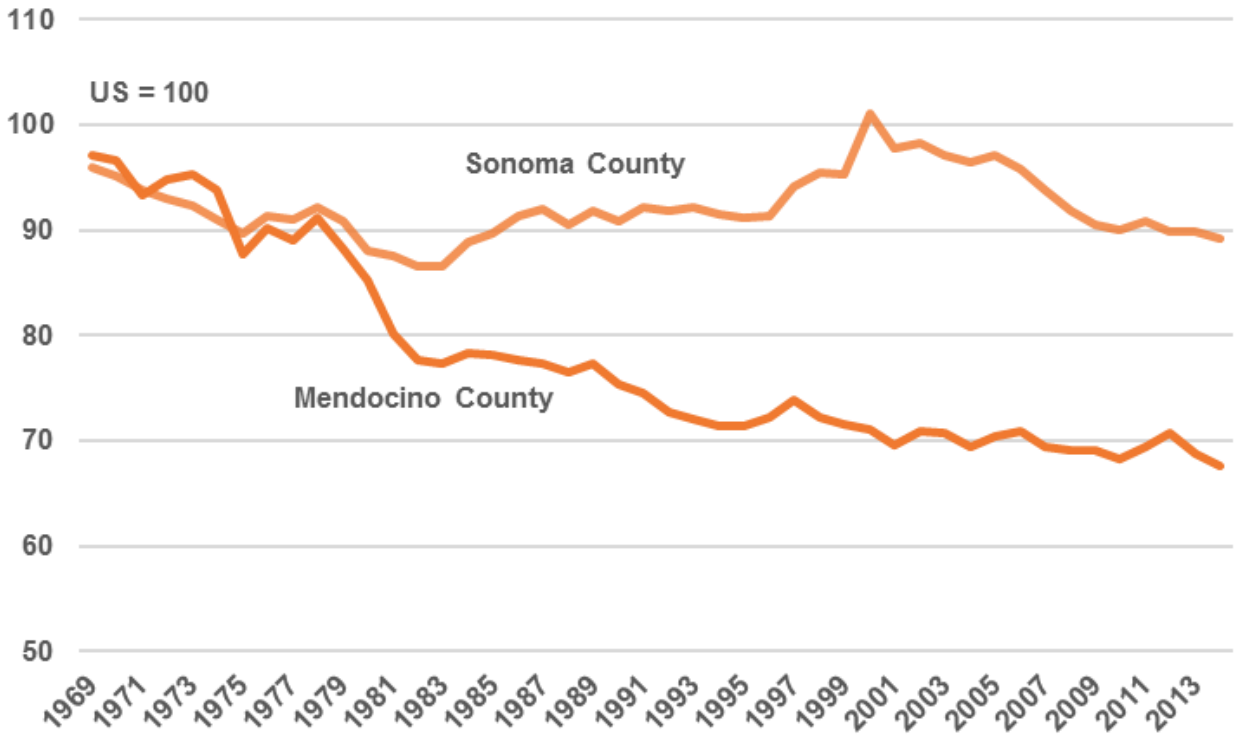
**Average earnings are falling relative to the US.**

Average earnings relative to the US have been on a downward trajectory since the early 1980s in Mendocino and the early 2000s in Sonoma. Wage stagnation, of course, is not unique to Sonoma-Mendocino; many US regions are struggling with it. But wage stagnation is of particular concern in Sonoma-Mendocino given the high and rising cost of housing.

Wage stagnation is exacerbating the affordability challenge in the region. Average earnings per job* in Sonoma County were $50,796 in 2014, 89% of the US average. Average earnings in Sonoma relative to the US peaked in 2000 (101%) before the dot-com recession, and have grown by only 14% in real terms since 1969. Average earnings per job in Mendocino County were $38,503 in 2014, 68% of the US average, and 17% *lower* than inflation-adjusted average earnings in 1969.

Sonoma-Mendocino fares better when looking at household income, but not enough to make up for dramatically higher housing costs. Median household income in the region as a whole was $59,992 in 2014, 12% higher than the US median. Meanwhile, the median value of owner-occupied housing in Sonoma-Mendocino was more than twice as high as the US median in 2014, and median rents were 35% higher.

Average Earnings Per Job in Sonoma-Mendocino Relative to US Average (100)




More recent data available from privately run services, such as Zillow, suggest that owner-occupied housing values in Sonoma may now be as much as three times higher than US values, and rents may be twice as high. Housing costs in Mendocino are more moderate, but still well above US values.

Source: Bureau of Economic Analysis. *Average earnings are wages, salaries, and nonfarm proprietor income.

# Inclusive Economic Development

**Housing affordability is a challenge for most lower-middle income workers, but the rising cost of living is disproportionately impacting minority residents of Sonoma-Mendocino.**

The goals of economic development should be wealth creation and rising living standards for *all* residents, but a significant share of people in Sonoma-Mendocino are not prepared to fully participate in the regional economy.

Economic and workforce development can no longer exist in silos. Inclusive participation in an innovation-based regional economy is possible only through human capital development that positions people of all backgrounds to compete effectively for opportunities. Disparity in higher education attainment and skills development leads to economic segregation in regions with higher housing costs, as well-educated, higher-income residents are able to afford high-quality housing in proximity to employment centers and lower-income residents with no postsecondary education are displaced to lower opportunity areas with lower housing costs.

Housing Affordability for Workers Age 25+ by Educational Attainment and Race/Ethnicity

| | SONOMA COUNTY | | MENDOCINO COUNTY | |
|---|---|---|---|---|
| | AVERAGE EARNINGS | MAXIMUM AFFORDABLE HOUSING COST (MONTH) | AVERAGE EARNINGS | MAXIMUM AFFORDABLE HOUSING COST (MONTH) |
| Bachelor's Degree+ | $74,964 | $1,874 | $50,376 | $1,259 |
| Some College/Associate's | $50,928 | $1,273 | $37,764 | $944 |
| High School Diploma | $42,636 | $1,066 | $33,780 | $845 |
| No High School Diploma | $35,244 | $881 | $28,308 | $708 |
| Asian | $56,364 | $1,409 | $40,512 | $1,013 |
| White | $50,532 | $1,263 | $35,892 | $897 |
| Native Hawaiian/Pacific Islander | $39,156 | $979 | $30,948 | $774 |
| Black | $37,188 | $930 | $28,764 | $719 |
| American Indian/Alaska Native | $36,336 | $908 | $29,376 | $734 |
| Hispanic/Latino | $36,024 | $901 | $28,464 | $712 |

Median rent list price (2BR, May 2016) - $2,000 per month in Sonoma County (Mendocino County N/A)

Using the standard affordability definition of spending no more than 30% of income on housing, list prices on 2BR rentals in Sonoma County have increased to the point where only workers with a bachelor's or advanced degree earn enough, on average, to afford housing that could reasonably accommodate a family.

Of the priorities selected by survey respondents, "making sure all workers can afford to live in the county" was the top priority by a wide margin, especially in Sonoma County.

Source: US Census Bureau, Longitudinal Employer-Household Dynamics (LEHD), Quarterly Workforce Indicators, 2015Q1. Maximum affordable housing cost is calculated using standard definition of no more than 30% of monthly income. Housing costs include mortgage/rent, utilities, and related expenses. Median rent list price is from Zillow Research. Mendocino data was not available from source.

# Survey: Which of the following do you view as the top three economic priorities for your county?

CIVICANALYTICS

**Making Sure All Workers Can Afford to Live In County**
**218** votes
18% of Mendocino votes
22% of Sonoma votes

**Growing Existing Local Companies**
**141** votes
13% of Mendocino votes
14% of Sonoma votes

**Improving Workforce Skills**
**128** votes
10% of Mendocino votes
13% of Sonoma votes

**Diversifying the Economy**
**118** votes
14% of Mendocino votes
10% of Sonoma votes

**Attracting New Companies or Workers to County**
**107** votes
10% of Mendocino votes
10% of Sonoma votes

**Growing According To Sustainability Principles**
**94** votes
10% of Mendocino votes
9% of Sonoma votes

**Helping Entrepreneurs Start New Companies**
**78** votes
10% of Mendocino votes
7% of Sonoma votes

**Improving Postsecondary Education Completion Rates**
**57** votes
6% of Mendocino votes
5% of Sonoma votes

**Reducing Unemployment**
**52** votes
4% of Mendocino votes
5% of Sonoma votes

**Other Priorities**
**51** votes
6% of Mendocino votes
4% of Sonoma votes

Others say…

*"Allowing more land development."*

*"Improving wages."*

*"Public Transportation to connect rural areas."*

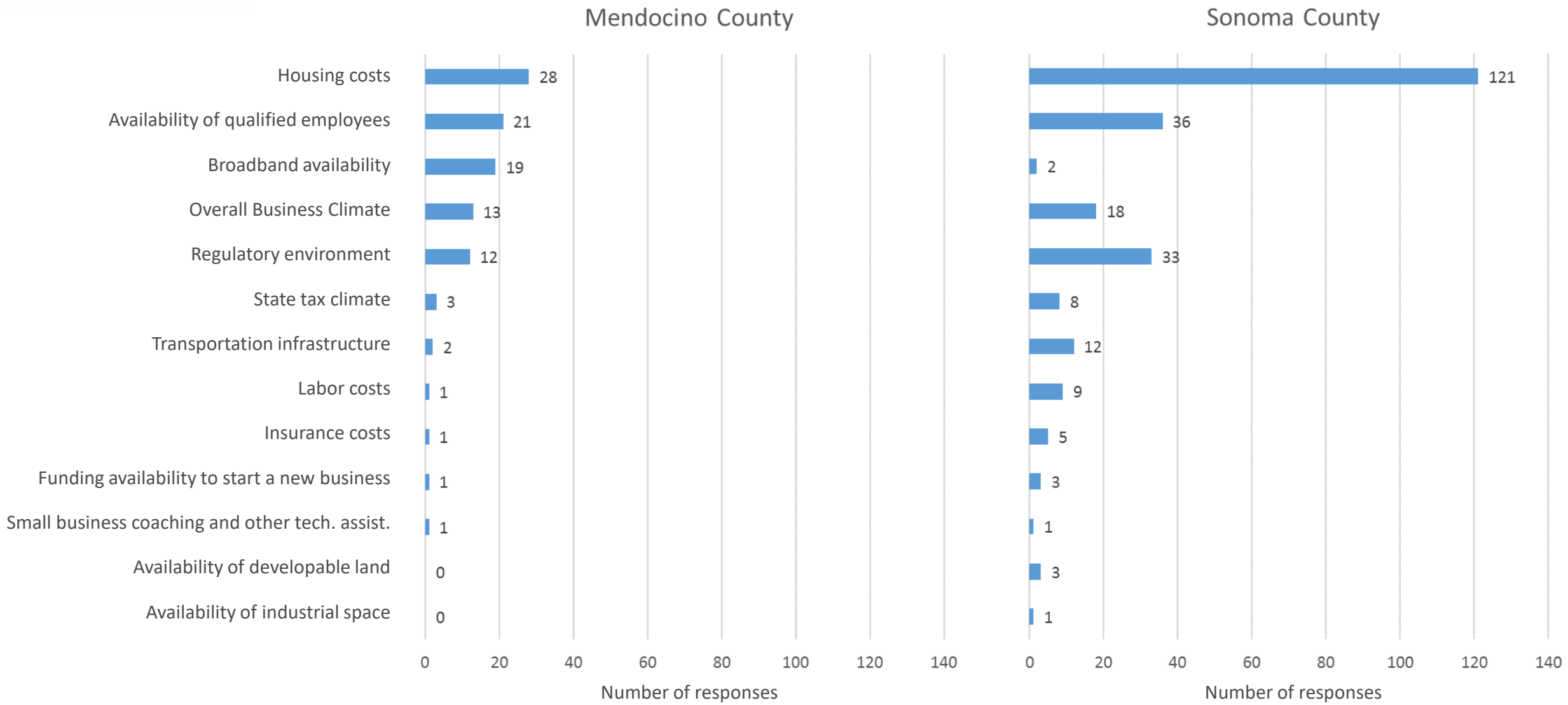
*"Lowering costs of postsecondary education."*

*"Reducing restrictions and costs for current businesses."*

*"Improving road infrastructure." [specifically 101]*

Source: Sonoma-Mendocino CEDS Survey (Q6). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

# Survey: What is your top concern about the future competitiveness of your county's economy?




Source: Sonoma-Mendocino CEDS Survey (Q8). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

# SWOT Analysis

The Sonoma-Mendocino EDD convened public workshops in May 2016 to engage stakeholders in a strengths, weaknesses, opportunities, and threats (SWOT) analysis, an EDA CEDS requirement. Approximately 80 people attended the workshops and provided input. In addition to the workshops, public input was collected through the CEDS survey and 30 interviews with public and private sector leaders in the region.

This section summarizes themes that emerged throughout the public participation process, which were used to shape the goals, strategies, and initiatives included in the CEDS.

**Strengths**

- Scenic, natural beauty, good climate.
- Strategic location to San Francisco and Bay Area – can leverage agglomeration effects and economic opportunities but at much slower pace that appeals to young, active workforce.
- Desirable quality of life, particularly in contrast to San Francisco and the rest of the higher-cost Bay Area.
- Rich stock of non-profits.
- Availability of quality instruction at community colleges.
- Hospitality and tourism: wine, coast, parks, recreation.
- Tech manufacturing and support programs (Maker Movement).

| | HELP | HINDER |
|---|---|---|
| INTERNAL | **S** STRENGTH | **W** WEAKNESS |
| EXTERNAL | **O** OPPORTUNITY | **T** THREAT |

# SWOT Analysis

**Strengths (cont'd)**

- Natural resources.
- Demand for healthy lifestyle related businesses.
- Market information provided by Sonoma County EDB.
- Attractive destination for retirees.
- Sonoma Clean Power, Sonoma Mountain Village, and generally strong recognition and commitment to sustainability.
- Ukiah-based Family Medicine Residency Program, UC Davis sponsor.
- Gaming industry attracting money from outside the region.
- At least eight certified B Corporations.*

**Weaknesses**

- Culture that is resistant to change (e.g., attitudes toward housing density even when recognizing affordability challenge).
- Lack of affordable housing and other cost of living drivers like child care, health care, and reliance on car ownership for commuting.
- Insufficient workforce availability to meet industry needs.
- Inadequate broadband availability, especially in rural areas.
- Not aggressive enough in marketing the region and telling its economic development story; lack of awareness among tech entrepreneurs and investors in Bay Area and nationally.
- Highway infrastructure; insufficient long-term planning.
- Underdeveloped entrepreneurial ecosystem (North Bay Angels is an exception; strong for low level of density in regional activity).
- Lack of peer group interaction for professionals in their 30s.
- Schools performing below national averages.
- Insufficient large, institutional donor support for the arts.
- Insufficient career and technical education (CTE) available in K-12.
- Inadequate awareness of existing programs.
- Lack of industry diversity.
- Homelessness.
- Low wages relative to cost of living.
- Aging population and professional class.
- Shallow labor market – recruits balk when they consider what they will do if the first job does not work out.
- Difficult permitting and approvals – "When push comes to shove, we're not making it easy for businesses to start, expand, or move in."
- Sacrifices required for high-growth entrepreneurship are not well understood by community or aspiring entrepreneurs. Most new businesses are lifestyle in nature.

* http://clearbluecommercial.com/tag/b-corporation/

# SWOT Analysis

**Opportunities**

- Cannabis related tourism – appellation contrôlée style branding and management to appeal to discerning, higher-end market.
- Transit oriented development and other "reimagining" of downtowns spurred by operation of SMART train.
- Community colleges located in both counties for coordination and co-management of postsecondary education and training aligned to the hiring needs of industry.
- Specialized cannabis training program modeled after Wine Business Institute at Sonoma State University.
- Revenue sharing agreements between local governments.
- Scaling successful career and technical education (CTE) programs at CTE Foundation, county offices of education, and community colleges, as well as initiatives like Builders Exchange's CHOICES program.
- Recreation and tourism impacts of complete bicycle and pedestrian trail in SMART right-of-way.
- Accessory dwelling units ("granny" or "alley" flats) could increase housing supply and density without high-rise development, which encounters opposition in many communities.
- Underdeveloped retail in Mendocino (Costco has been planning to locate a store but has faced legal challenges).
- Public art, creative place-making.
- Recruiting professional services firms priced out of San Francisco.

**Threats**

- Job displacement resulting from automation of low-wage, low-skill jobs that are prevalent in the region.
- Legalization resulting in outside corporations (high volume) taking over the cannabis industry from small, family-owned enterprises.
- Migration of cannabis producers to lower-cost locations, such as the Central Valley, after legalization.
- Water availability: unknown impact of legal cannabis on demand and ongoing demands from external sources.
- State wage regulation (e.g., overshooting on minimum wage increase).
- Impact of global warming on agriculture.
- High and rising student debt will reduce likelihood of postsecondary education or training; exacerbates housing affordability challenge.
- California Coastal Commission's restrictions on land use limit the development potential in coastal communities.
- Onerous regulations stifling commercial fishing.
- Absentee landlords are not maintaining buildings in some central business districts, keeping vacancy rates unnecessarily high.
- Impact of rising costs and other economic pressures on small hospitals with emergency rooms, especially in non-urbanized areas of region.

# Strategy

**Economic Diversification (Resilience)**

Goals:

- Expand the non-tourism/real estate share of regional GDP to bolster Sonoma-Mendocino's resilience to economic downturns.
- Grow the region's green economy – renewable energy, clean tech, and related enterprises – to become a national leader in sustainability.

Strategies:

- Develop the non-wine portion of Food Processing and Manufacturing to leverage the region's strengths in organic foods and related natural products that support healthy living.
- Market the region as a lower-cost alternative to Bay Area companies that fill gaps in traded cluster value chains.
- Create a blueprint for the cannabis cluster that leverages the unique strengths of each county, and mitigates negative effects, in the event of statewide legalization.
- Support ongoing business retention and expansion programs to retain existing businesses and jobs and encouraging sustainable business growth and job creation.
- Support business diversity by working with the minority business community and other underserved markets to provide a tool box of resources to start, grow, and expand their businesses.
- Support the ongoing development of regional transportation infrastructure projects like the Sonoma County Airport, Sonoma-Marin Area Rapid Transit (SMART), and the Interstate Hwy 101 expansion project.
- Support key economic clusters by providing research and targeted industry assistance to grow and expand the jobs base for those industries.

**Human Capital**

Goals:

- Exceed the US rate of population growth in the primary working age cohort (25-64) to achieve healthy and sustainable expansion of the Sonoma-Mendocino labor force.
- Raise the postsecondary completion rate for the 25-64 age cohort until Sonoma-Mendocino again exceeds the US rate.
- Close the postsecondary completion gap between Sonoma County and Mendocino County in the age 25-64 cohort.

Strategies:

- Support employer-driven, agency-inclusive workforce development strategies focused on the current and future needs of area employers.

# Strategy

**Human Capital (cont'd)**

- Continue support for Career Technical Education programs and scale successful models to reach more students in both counties, while at the same time increasing graduation rates.
- Offer work-readiness programs like WorkKeys region-wide to address shortages in soft skills and related preparation for successful careers.
- Prioritize STEAM education, grow the maker movement, and increase the number of maker certified educators.
- Implement a certified career coach program to help students and their families make informed choices about career pathways.
- Evaluate the necessity and feasibility of a Kalamazoo Promise-like program to expand access to local community colleges to augment tuition assistance available through BOG Fee Waivers.
- Explore the feasibility of piloting a two-generation program applying best practices from the *Ascend* program at the Aspen Institute.
- Develop arts education interventions for students in underserved and underachieving neighborhoods, following on research that significant arts exposure leads to increased GPA's, High School and College graduation rates.

**Innovation and Entrepreneurship**

Goals:

- Continue to exceed the US average on the Kauffman Foundation's core measures of entrepreneurial activity.

Strategies:

- Launch an Innovation Fund modeled after the CreateHere program in Chattanooga to seed entrepreneurial ventures in public, private, arts, and civic sectors of the regional economy.
- Implement an import substitution strategy that links purchasers and suppliers in-region to prevent money from "leaking" outside.
- Expand capacity of "buy local" and local investment programs.
- Promote entrepreneurship development by assisting startups with navigating the regulatory and permit process, offering small business assistance workshops, and market intelligence to provide a toolbox of resources to give our businesses that competitive edge.
- Develop expanded access to capital resources to support local entrepreneurs with the funding needed to purchase equipment, inventory and personnel to launch and grow new business ventures.
- Explore the feasibility of developing a creative incubator to expand creative business and the creative economy employee base.

# Strategy

**Inclusive Economic Development**

Goals:

- Reduce the number of economically distressed communities in the region, as defined by EDA investment eligibility criteria.
- Close the gaps in earnings by race/ethnicity to ensure that all workers can compete for living wage jobs that make housing affordable.
- Achieve parity with US average earnings.

Strategies:

- Develop partnerships with local educational institutions, cities, trade groups, small business development centers, SCORE, Chambers of Commerce, and minority serving organizations that encourage and support economic inclusion through coordinated job training, skills certification, and business development efforts.
- Increase access to broadband in underserved and economically distressed areas of the region.
- Build direct and deliberate bridges between women and minority owned businesses and purchasing needs of anchor institutions and larger employers.
- Develop a zoning and parcel map on the Sonoma-Mendocino CEDS interactive map to identify and create awareness of where housing needs are greatest and where new units can be built.
- Evaluate and benchmark utility hookup fees and related development costs to ensure they are not a barrier to increasing housing supply.
- Increase awareness and utilization of customized training and on-the-job training available through workforce investment boards.
- Develop a Creative Apprenticeship Program with key local businesses, maker spaces, and SRJC/SSU targeting young high school and/or college graduates, with a particular focus on at-risk minority communities.

Redwoods Railroad

# Priority Projects

The Sonoma-Mendocino Economic Development District published a Call for Projects on August 15, 2016, to identify existing or planned initiatives that could be incorporated into the action plan for this CEDS. Thirty-three projects were submitted from public and private sector stakeholders from around the Sonoma-Mendocino region—a testament to the high level of interest and engagement in the CEDS process. These projects will provide a starting point for a work plan if the Sonoma-Mendocino EDD's request for designation and funding (expected 2017) is approved by EDA. Further, inclusion in the CEDS indicates that these priority projects conform to the CEDS goals and strategies and thus would be expected to help the region achieve the goals of the CEDS upon successful implementation.

If awarded designation and funding by EDA, the Sonoma-Mendocino EDD expects to work with the organizations represented in this priority project list to further develop the proposals, identify and pursue funding sources, and provide other types of technical assistance as requested.

The Sonoma-Mendocino EDD Board of Directors would like to express its gratitude to all the organizations that submitted proposals and would like to encourage those not selected for inclusion in the CEDS to apply again if designation and funding are approved by EDA.

For more information about the role of the project list or action plan in a CEDS, please consult EDA's CEDS Content Guidelines.

- City of Fort Bragg – Mill Site Rezoning and Infrastructure Project
- Creative Sonoma – Roadside Culture Stands
- Kashia Band of Pomo Indians – Post-Secondary Education Scholarships
- Local Works – Regional Distribution System
- MidPen Housing – Roseland Village Neighborhood Center
- North Bay Makers – 180 Studios
- North Bay-North Coast Broadband Consortium – Deploy Fiber-Based Middle-Mile Broadband Infrastructure: Santa Rosa to Laytonville
- North Bay-North Coast Broadband Consortium – Deploy Fiber-Based Middle-Mile Broadband Infrastructure: Route 20-Fort Bragg to Willits
- North Coast Opportunities, Inc. – Community Kitchens Project
- Noyo Center for Marine Science – Building an Educational Pipeline for Green Jobs and Place-Based Research
- Noyo Harbor District – Noyo Harbor Sustainability Plan
- Redwood Community Services, Inc. – Arbor Youth Resource Center Youth Education and Employment Center
- SoCo Nexus – SoCo Nexus Accelerator
- Sustainable North Bay – Heirloom Skills Incubator
- West Company – Rural Entrepreneur-in-Residence Program

# Appendix – Stakeholder Input

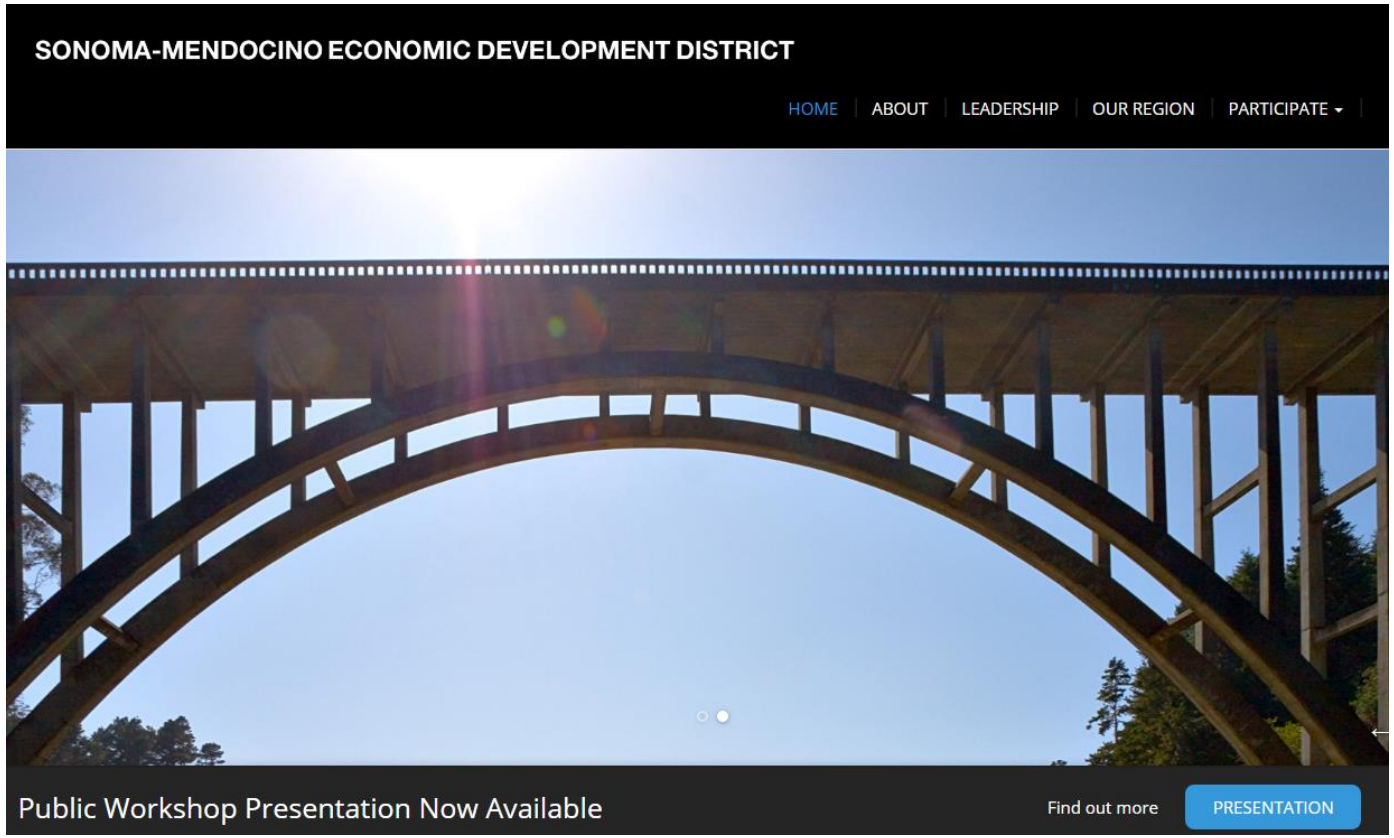
As with most CEDS projects across the country, public input was collected through a community survey, available on the Sonoma-Mendocino CEDS website in English and Spanish from March 23 to April 25, 2016. The survey received 353 responses, 251 from Sonoma and 102 from Mendocino.

The survey was advertised through a variety of channels, including county websites, press releases, local radio and print publications, and social media. In addition, the survey was distributed via email by local chambers of commerce, non-profit associations, and various other organizations representing diverse stakeholders in the counties.

In addition to the survey, 55 organizations, listed on p. 36, were invited to participate in phone interviews to provide input on strengths, weaknesses, opportunities, and threats facing Sonoma-Mendocino.

Finally, approximately 80 people participated in two public workshops held in Santa Rosa and Ukiah.

Public outreach was intended to be as inclusive as possible in soliciting participation, given the limited resources available.



# Appendix – Stakeholder Input

**Interviewees (Invited)**

Anderson Trucking/Logging
Arts Council of Mendocino County
Baechtel Creek Inn
Bear Republic Brewing Company
Century 21
City of Fort Bragg
City of Petaluma
City of Point Arena
City of Santa Rosa
City of Ukiah
City of Willits
Creative Sonoma
Employers Council
Endologix, Inc.
Factory Pipe
Federated Indians of Graton Rancheria
Howard Hospital
IBEW Local 51
Kaiser Permanente
Keegan and Coppin
La Luz Center
La Tortilla Factory
Little River Inn
MAC Thin Films
Mendocino Coast Chamber
Mendocino College
Mendocino County Farm Bureau
Mendocino County Office of Education
Mendocino Winegrowers Alliance
Napa-Sonoma Small Business Development Center
Navarro Vineyards & Winery
North Coast Builders Exchange
Oliver's Market
Perry, Johnson, Anderson, Miller & Moskowitz
The Press Democrat
Redwood Credit Union
Redwood Forest Foundation, Inc.
Santa Rosa Chamber of Commerce
Santa Rosa Junior College
Sonic
Sonoma Clean Power
Sonoma County Farm Bureau
Sonoma County Hispanic Chamber of Commerce
Sonoma County Office of Education
Sonoma County Winegrowers
Sonoma State University
St. Joseph's Health Care
Starks Restaurants
Town of Windsor
Traditional Medicinals
Ukiah Valley Chamber of Commerce
Ukiah Valley Medical Center
Vintners Inn/John Ash
West Company
Working Solutions

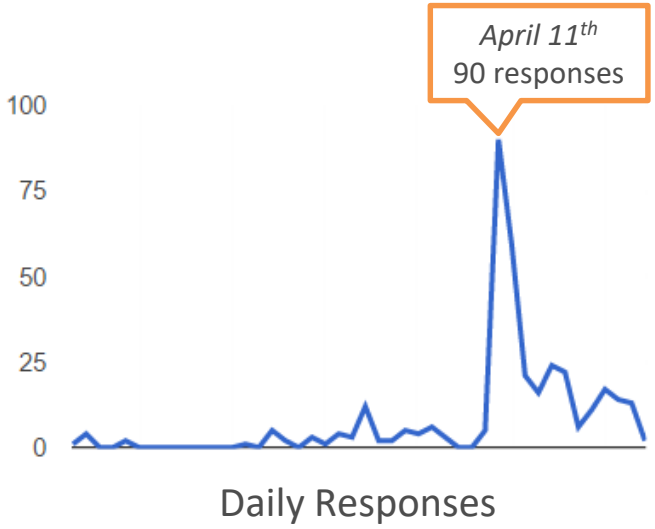
# CEDS Survey Results

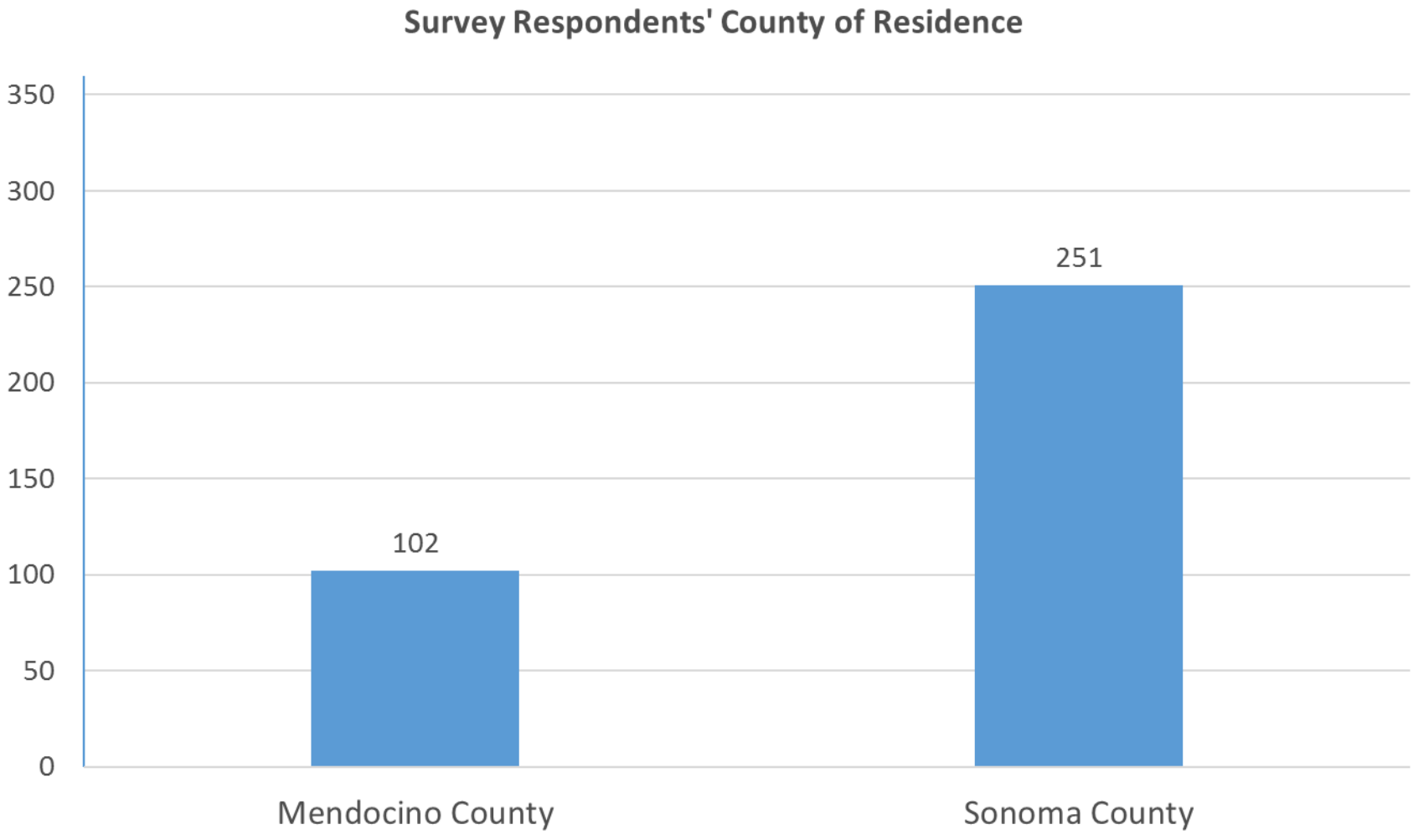
# Which county do you live in?

| | Respondents |
|---|---|
| Sonoma | 71% |
| Mendocino | 29% |

251 - .05% of Sonoma total pop

102 - .12% of Mendocino total pop



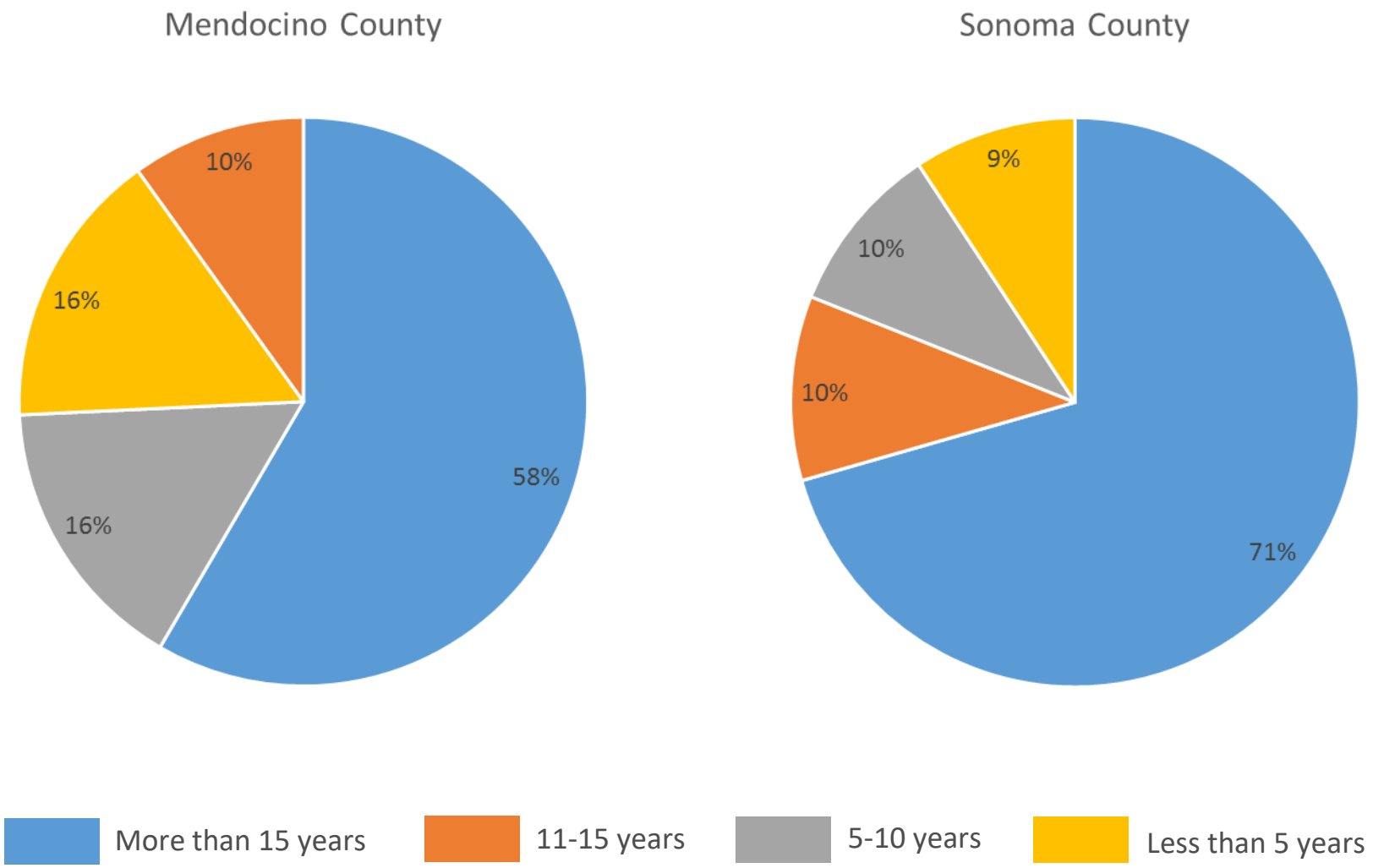




Source: Sonoma-Mendocino CEDS Survey (Q1). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

# How many years have you lived in your county?

| Years Lived in Mendocino | |
|---|---|
| More than 15 years | 59 |
| 11-15 years | 10 |
| 5-10 years | 16 |
| Less than 5 years | 16 |

| Years Lived in Sonoma | |
|---|---|
| More than 15 years | 175 |
| 11-15 years | 26 |
| 5-10 years | 24 |
| Less than 5 years | 23 |

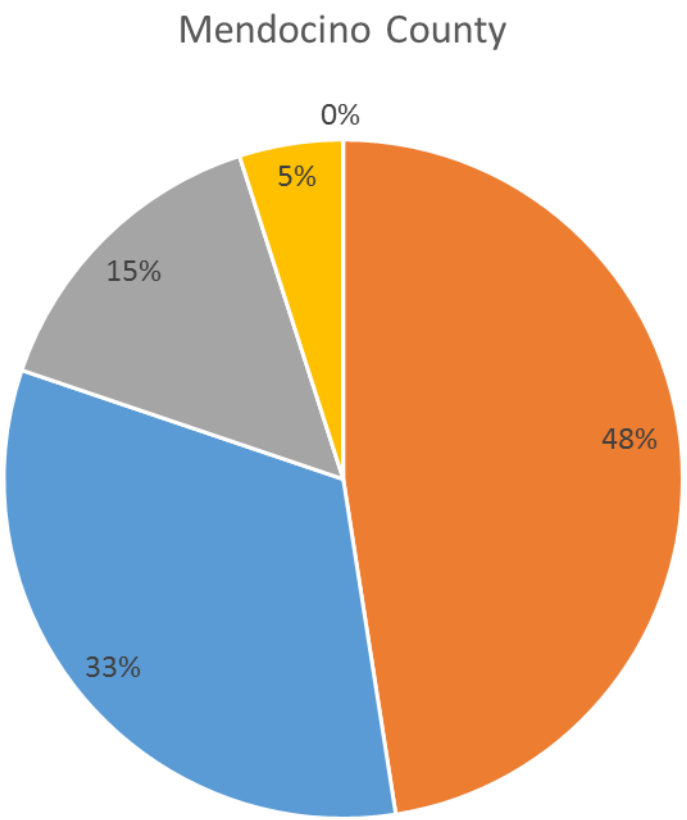


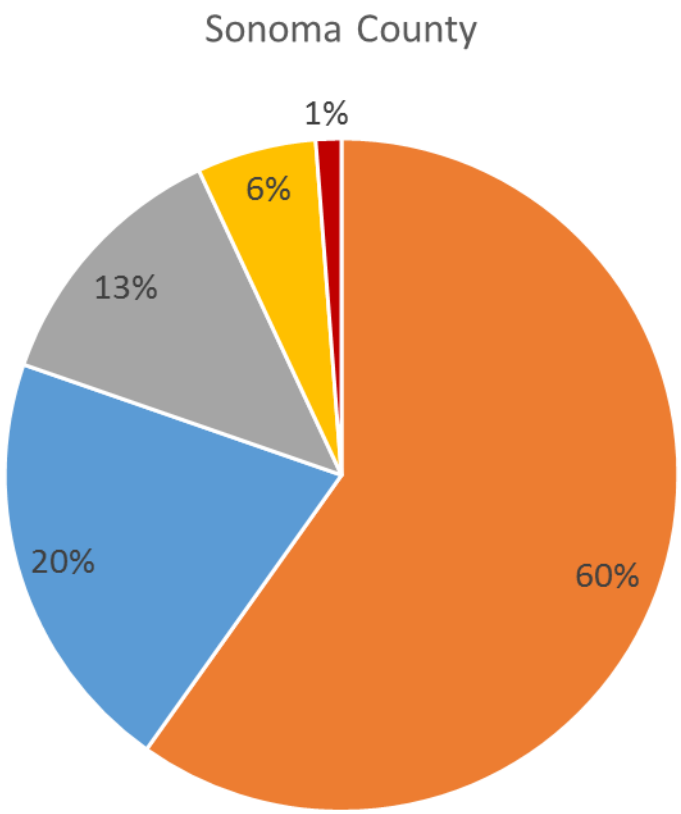

Source: Sonoma-Mendocino CEDS Survey (Q18). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 349.

# What is your age?

| Mendocino | |
|---|---|
| 18-24 | 0 |
| 25-34 | 5 |
| 35-44 | 15 |
| 45-64 | 48 |
| 65 and older | 33 |
| I choose not to answer | 1 |

| Sonoma | |
|---|---|
| 18-24 | 3 |
| 25-34 | 14 |
| 35-44 | 31 |
| 45-64 | 146 |
| 65 and older | 50 |
| I choose not to answer | 7 |

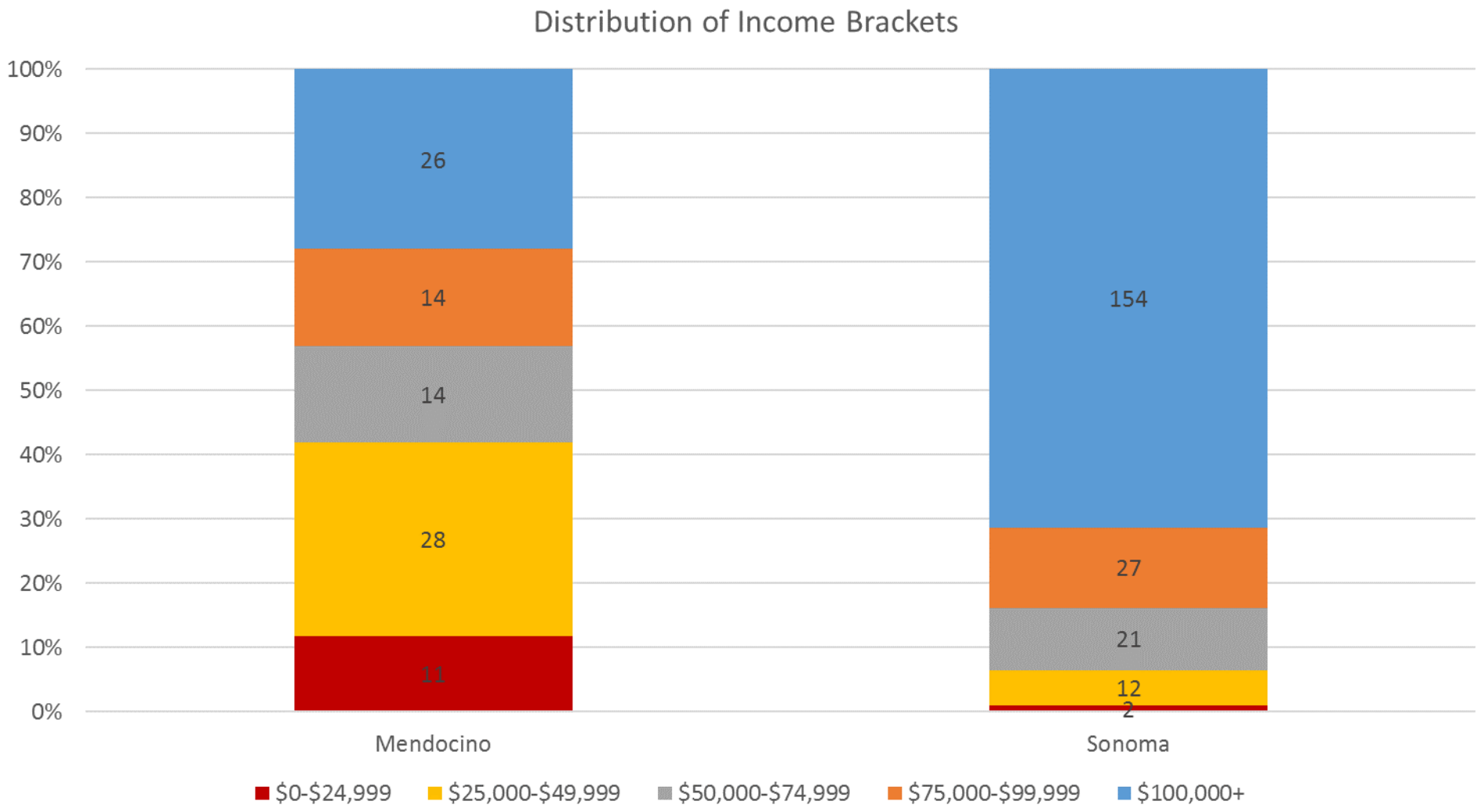



65 and older | 45-64 | 35-44 | 25-34 | 18-24

Source: Sonoma-Mendocino CEDS Survey (Q19). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

# What is your annual household income?




Source: Sonoma-Mendocino CEDS Survey (Q21). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353. "I choose not to answer" not shown in chart.

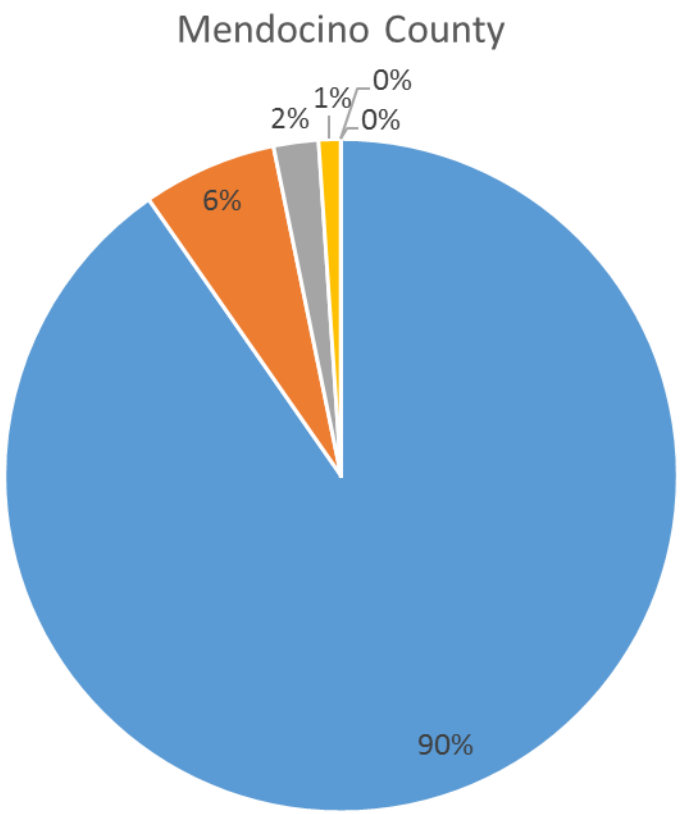
# What is your race/ethnicity?

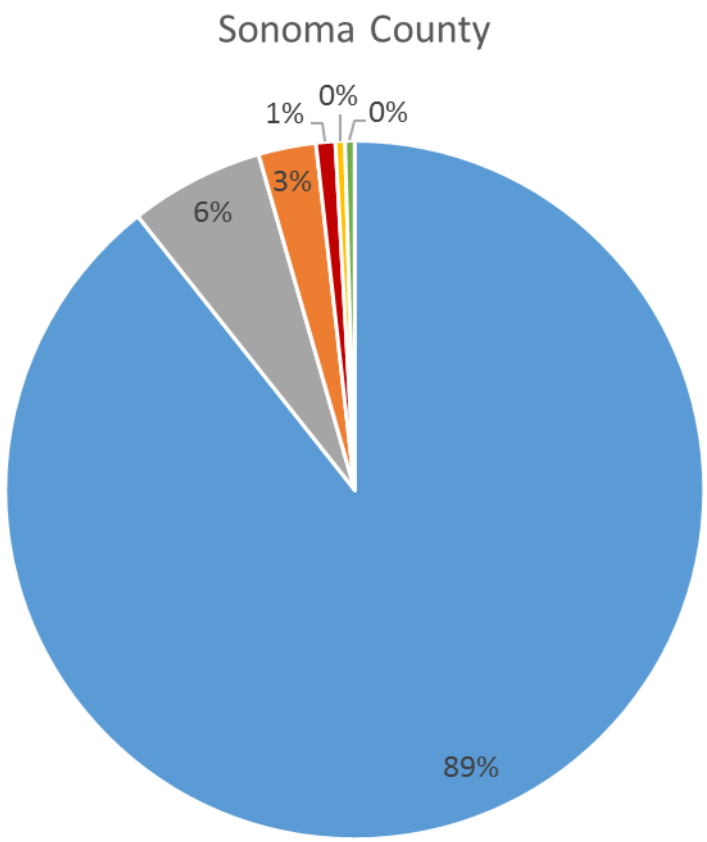
**Mendocino**

| | |
|---|---|
| White | 84 |
| Mixed race/Heritage | 6 |
| Hispanic/Latino | 2 |
| Black or African-American | 1 |
| Asian | 0 |
| Native Hawaiian or Other Pacific Islander | 0 |

**Sonoma**

| | |
|---|---|
| White | 201 |
| Mixed race/Heritage | 6 |
| Hispanic/Latino | 14 |
| Black or African-American | 1 |
| Asian | 2 |
| Native Hawaiian or Other Pacific Islander | 1 |



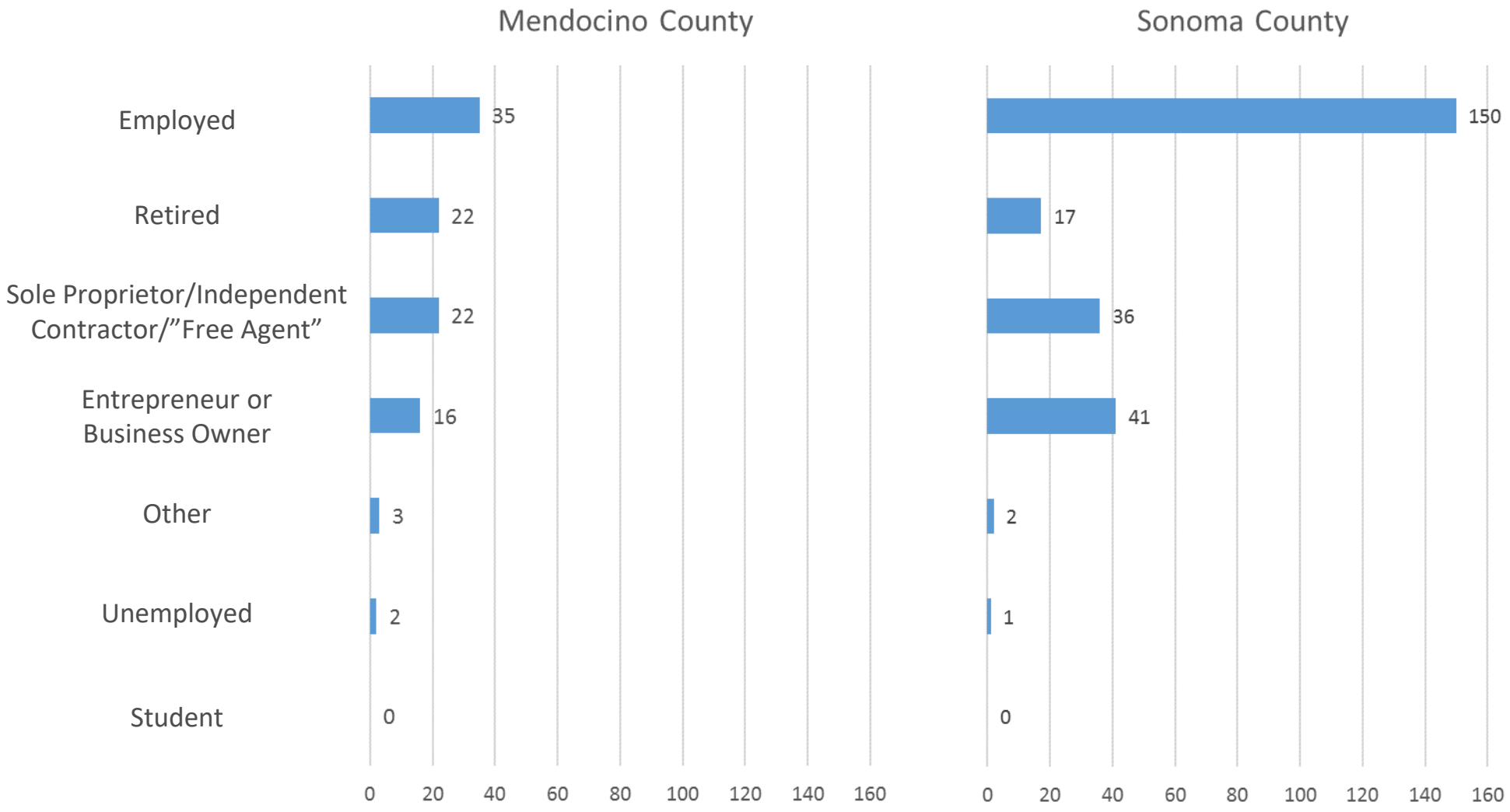




White | Mixed race/ Heritage | Hispanic/ Latino | Black or African-American | Asian | Native Hawaiian or Other Pacific Islander

Source: Sonoma-Mendocino CEDS Survey (Q22). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353. “I choose not to answer” not shown in chart or table.

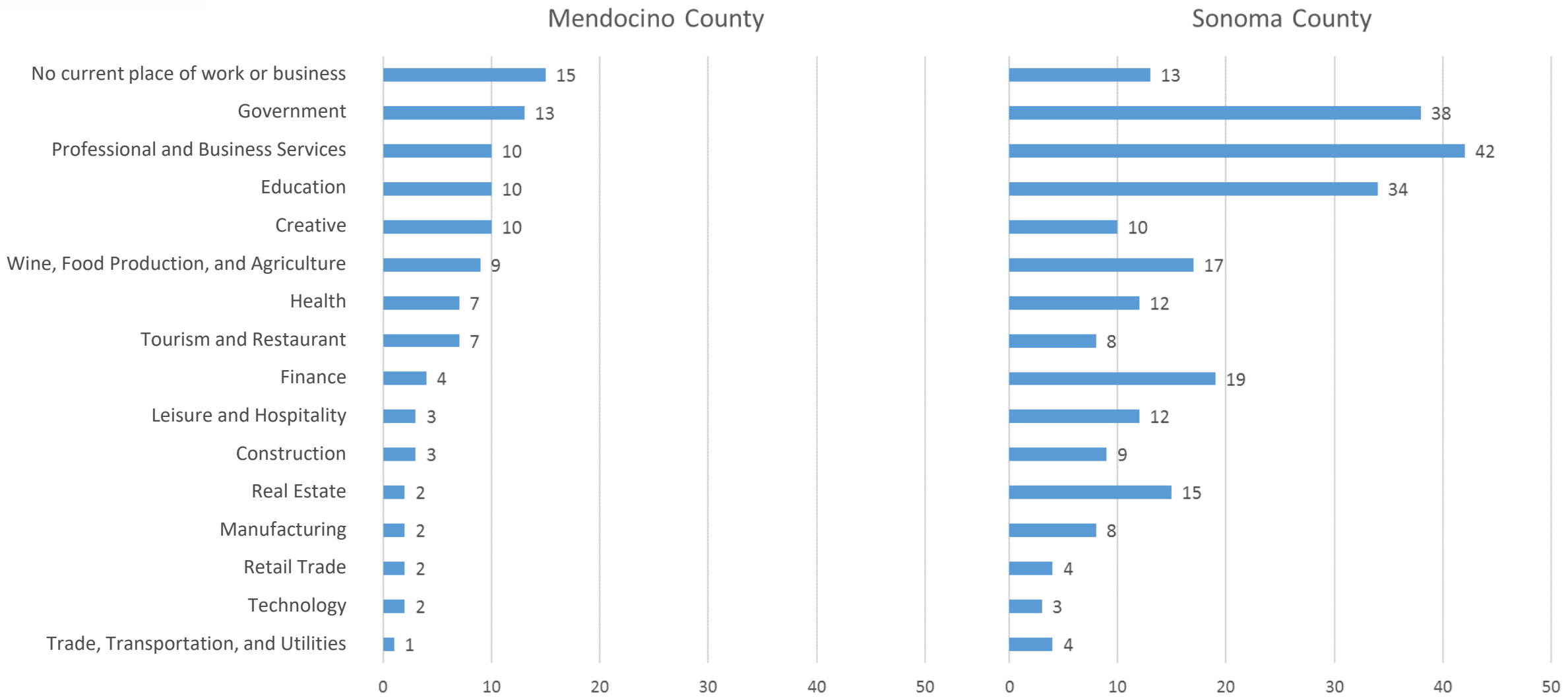
# How would you describe your employment status?

| Status | M | S |
|---|---|---|
| Employed | 35% | 61% |
| Retired | 22% | 7% |
| Sole Proprietor/ Independent Contractor/ "Free Agent" | 22% | 15% |
| Entrepreneur or Business Owner | 16% | 17% |
| Other | 3% | 1% |
| Unemployed | 2% | 0% |
| Student | 0% | 0% |




Source: Sonoma-Mendocino CEDS Survey (Q17). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 347.

# Which industry categories best describes the main focus of your place of work or business?



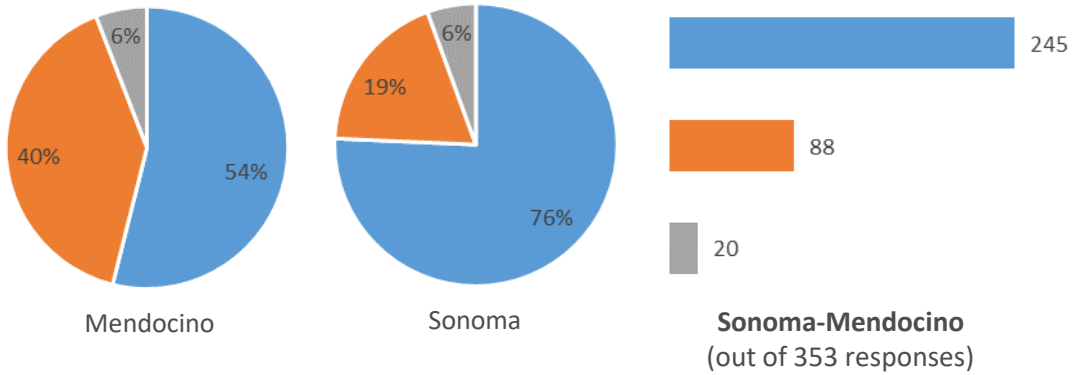

Source: Sonoma-Mendocino CEDS Survey (Q20). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 347.

# How would you complete the following statements?

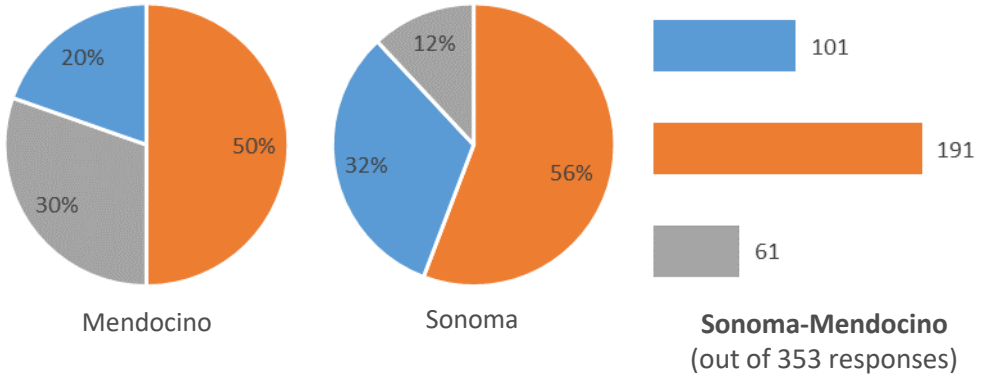
*"I am…*

Very likely | Somewhat likely | Not likely

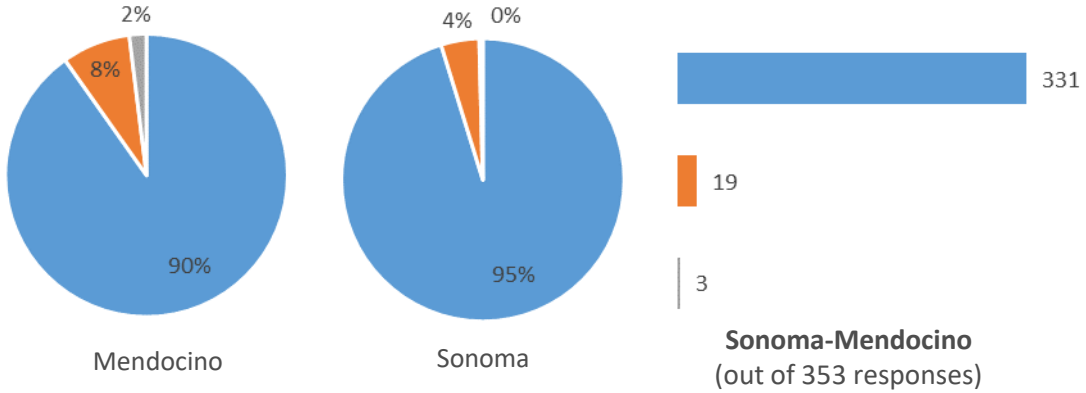
… to recommend my county as a place to **live**?"



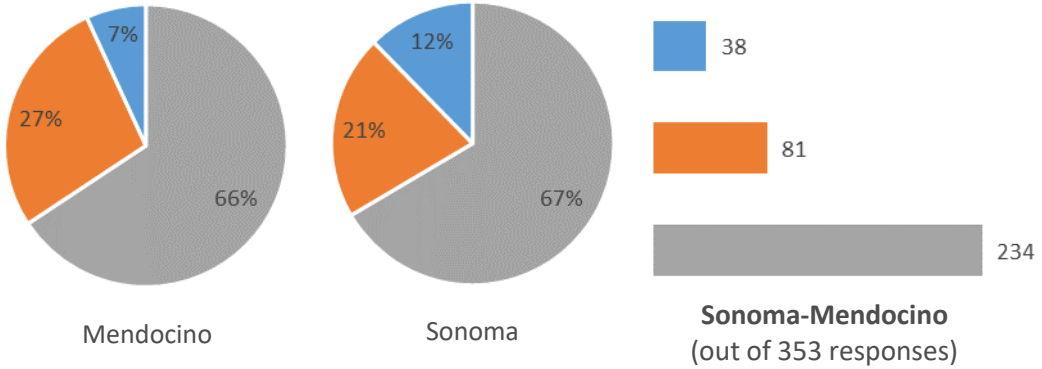

… to recommend my county as a place to start a **business**?"




… to recommend my county as a place to **visit**?"



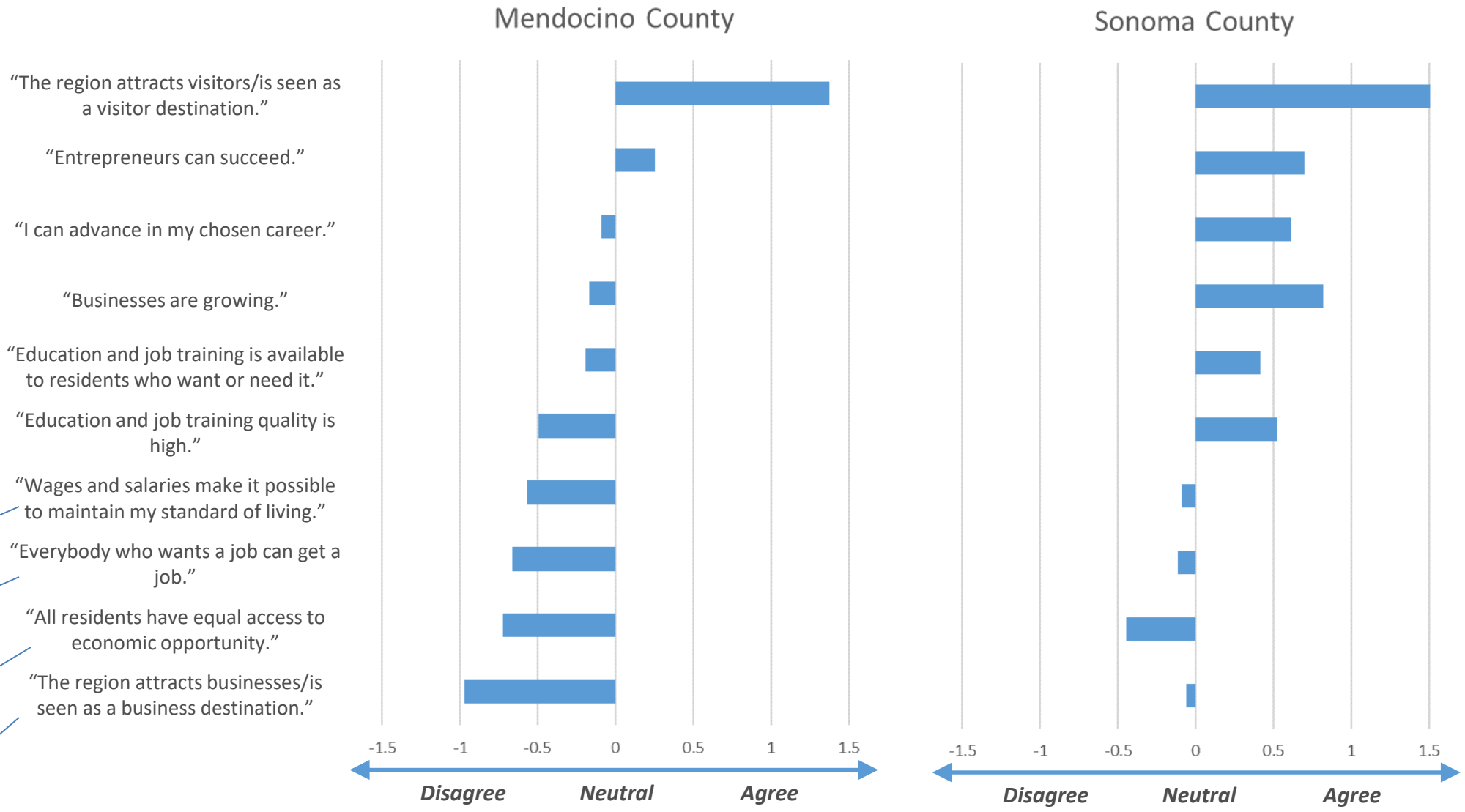

… to consider **relocating** to a county other than Mendocino or Sonoma?"




Source: Sonoma-Mendocino CEDS Survey (Q2). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

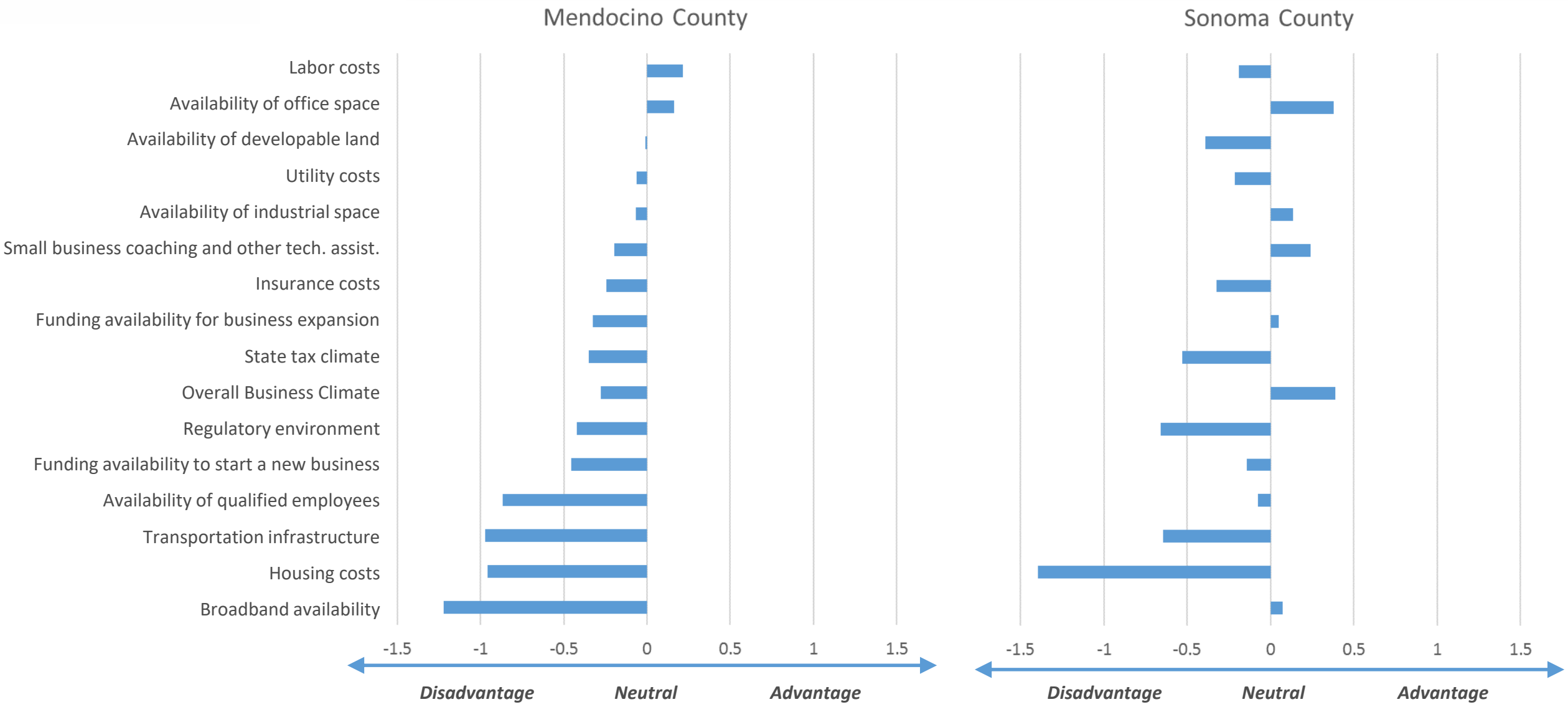
# To what extent do you agree or disagree with these statements about your county's economy?

| County | Disagree | Neutral | Agree |
|---|---|---|---|
| S | 0% | 0% | 99% |
| M | 2% | 6% | 92% |
| S | 8% | 23% | 68% |
| M | 26% | 26% | 48% |
| S | 13% | 27% | 61% |
| M | 35% | 35% | 31% |
| S | 6% | 19% | 75% |
| M | 39% | 33% | 27% |
| S | 19% | 28% | 53% |
| M | 43% | 29% | 27% |
| S | 13% | 34% | 53% |
| M | 51% | 37% | 12% |
| S | 40% | 22% | 39% |
| M | 55% | 28% | 17% |
| S | 43% | 22% | 35% |
| M | 66% | 16% | 18% |
| S | 55% | 25% | 20% |
| M | 67% | 22% | 11% |
| S | 33% | 35% | 32% |
| M | 75% | 20% | 6% |




Source: Sonoma-Mendocino CEDS Survey (Q3). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

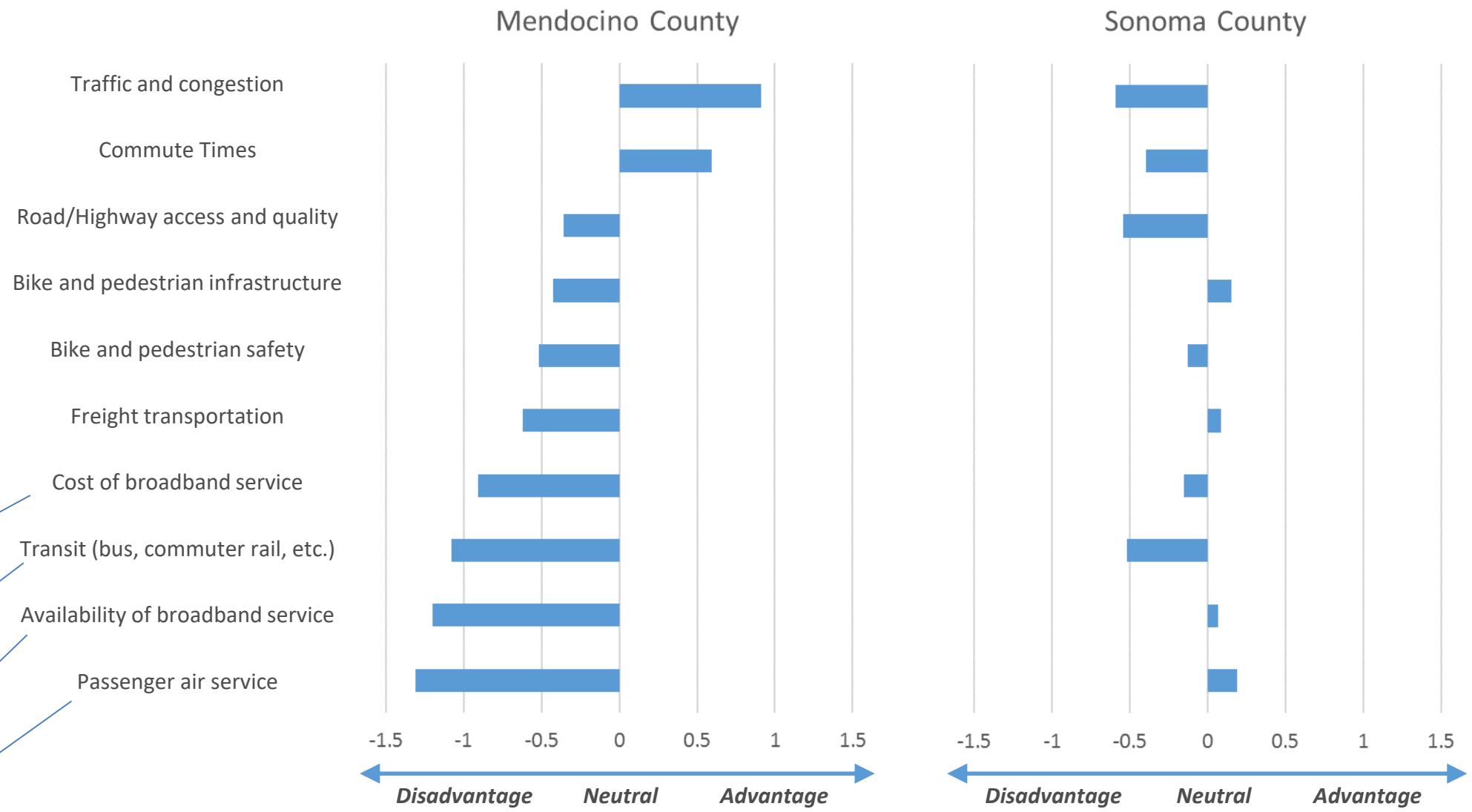
# When it comes to your county's business climate, how would you rate the following?




Source: Sonoma-Mendocino CEDS Survey (Q7). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

# When it comes to infrastructure availability and quality, how would you rate the following?

| County | Disadv. | Neutral | Adv. |
|---|---|---|---|
| S | 58% | 31% | 11% |
| M | 8% | 21% | 71% |
| S | 50% | 30% | 20% |
| M | 15% | 26% | 59% |
| S | 57% | 26% | 16% |
| M | 48% | 31% | 21% |
| S | 25% | 33% | 41% |
| M | 49% | 33% | 19% |
| S | 35% | 38% | 27% |
| M | 52% | 30% | 18% |
| S | 16% | 59% | 25% |
| M | 52% | 45% | 3% |
| S | 28% | 53% | 19% |
| M | 68% | 29% | 3% |
| S | 54% | 31% | 15% |
| M | 85% | 14% | 1% |
| S | 23% | 45% | 32% |
| M | 76% | 23% | 1% |
| S | 30% | 24% | 46% |
| M | 83% | 15% | 2% |




Source: Sonoma-Mendocino CEDS Survey (Q9). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

# Please rate the following aspects of your community's quality of life. (Mendocino)

Mendocino County's overall quality of life "grade":

***B***

| | Grade |
|---|---|
| Arts and cultural facilities and programs | B |
| Commute times and transportation options | B - |
| Diversity and Inclusiveness | B - |
| Entertainment, nightlife, and dining | C+ |
| Environment and sustainability programs | B |
| Family and child-friendly options | B - |
| Human and social services affordability and availability | C+ |

| | Grade |
|---|---|
| Outdoor recreation and public parks | A- |
| Philanthropic and community development activity | B |
| Retail and shopping destinations | C |
| Sense of personal and property safety | B |
| Sense of community, connectedness, and civic participation | B+ |
| Housing Affordability | C- |

Source: Sonoma-Mendocino CEDS Survey (Q10). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

# Please rate the following aspects of your community's quality of life. (Sonoma)

Sonoma County's overall quality of life "grade":

***B+***

| | Grade |
|---|---|
| Arts and cultural facilities and programs | A- |
| Commute times and transportation options | C+ |
| Diversity and Inclusiveness | C+ |
| Entertainment, nightlife, and dining | B |
| Environment and sustainability programs | B+ |
| Family and child-friendly options | B |
| Human and social services affordability and availability | B - |

| | Grade |
|---|---|
| Outdoor recreation and public parks | A |
| Philanthropic and community development activity | B+ |
| Retail and shopping destinations | B |
| Sense of personal and property safety | B+ |
| Sense of community, connectedness, and civic participation | B+ |
| Housing Affordability | D+ |

Source: Sonoma-Mendocino CEDS Survey (Q10). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

# Please rate the following statements on your county's diversity and openness.

| County | Disagree | Neutral | Agree |
|---|---|---|---|
| S | 12% | 19% | 69% |
| M | 14% | 25% | 61% |
| S | 14% | 27% | 59% |
| M | 14% | 36% | 50% |
| S | 10% | 31% | 59% |
| M | 17% | 33% | 50% |
| S | 19% | 31% | 50% |
| M | 23% | 28% | 50% |
| S | 29% | 31% | 41% |
| M | 33% | 29% | 37% |

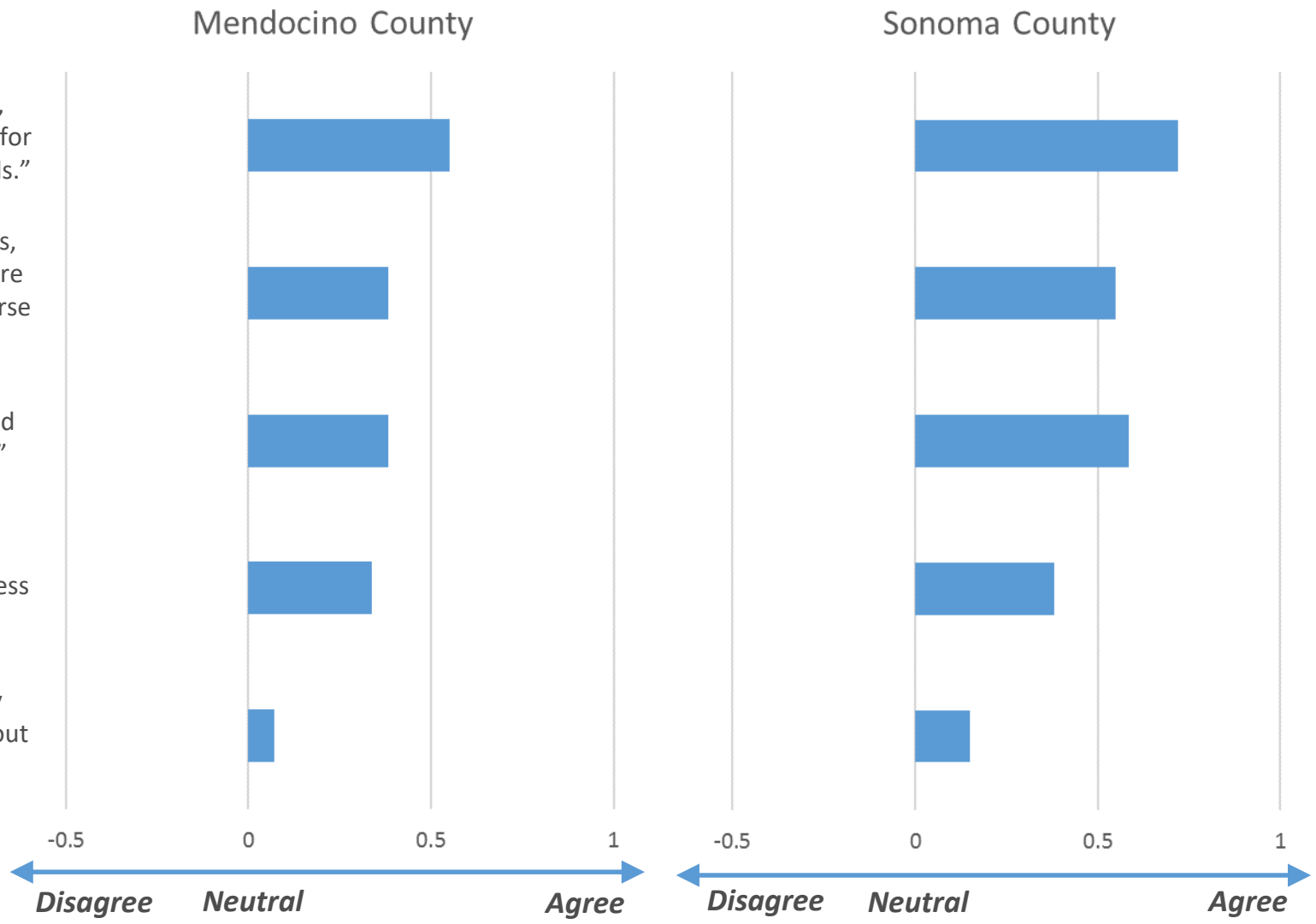
"My county is a welcoming, tolerant, and attractive place for people of diverse backgrounds."

"Opportunities, communities, and networks in my county are accessible and open to a diverse range of people."

"Minority and women owned businesses can thrive here."

"New residents can easily integrate into civic and business circles here."

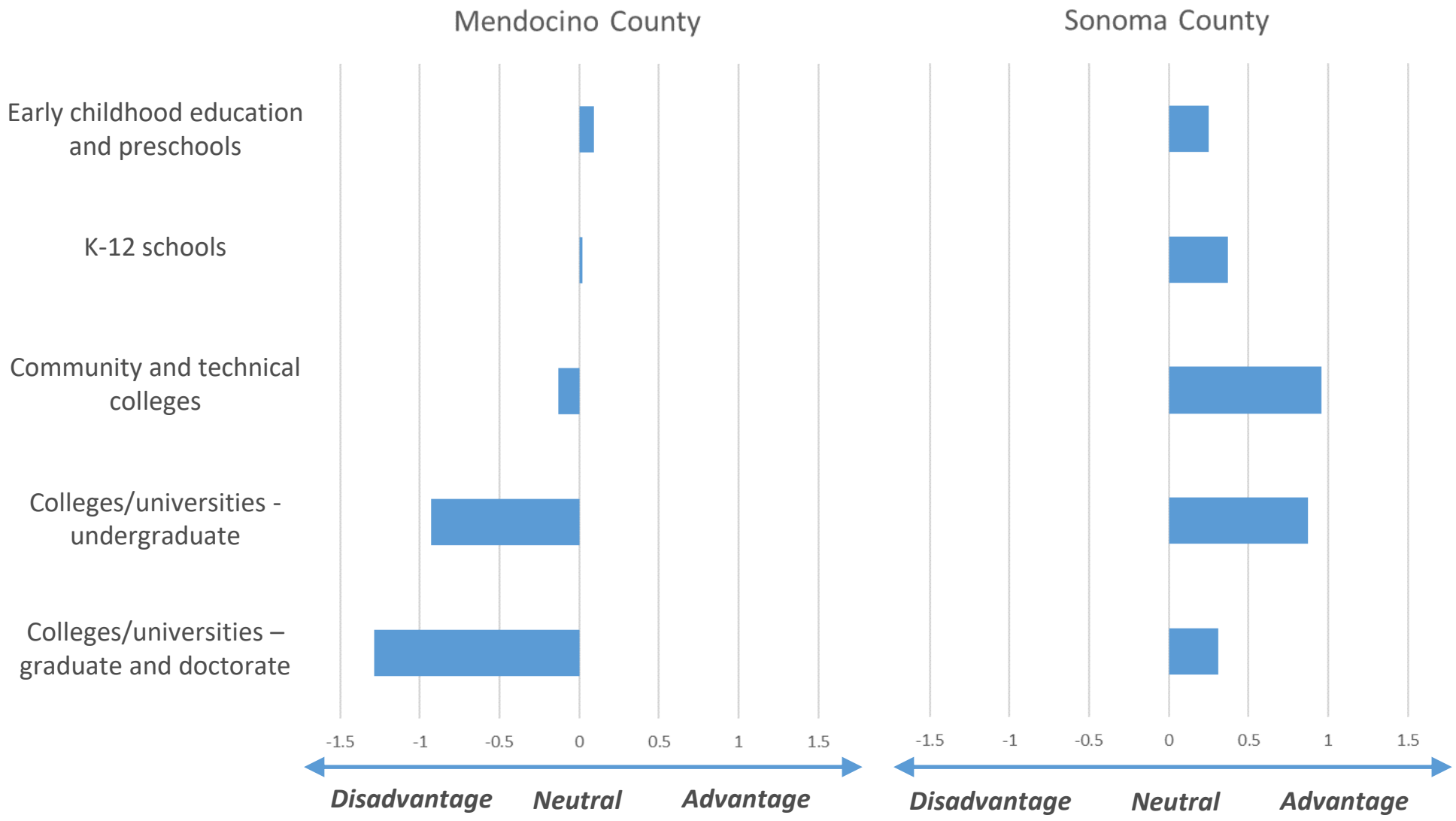
"People of all ages are fully included in conversations about the future direction of my county."




Source: Sonoma-Mendocino CEDS Survey (Q11). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

# When it comes to education in your county, how would you rate the following?

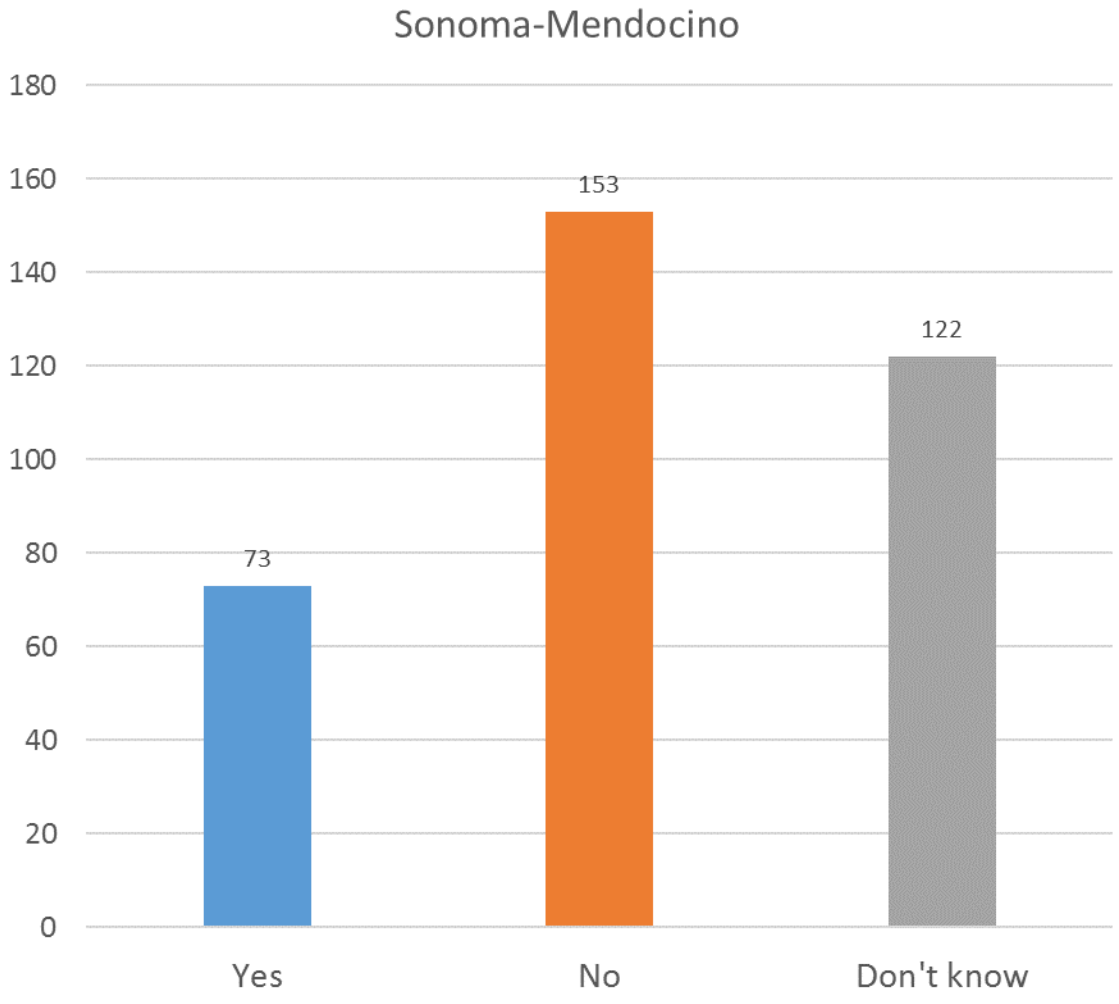
| County | Disadv. | Neutral | Adv. |
|---|---|---|---|
| S | 17% | 44% | 39% |
| M | 17% | 53% | 30% |
| S | 17% | 36% | 47% |
| M | 20% | 57% | 23% |
| S | 11% | 16% | 73% |
| M | 38% | 29% | 34% |
| S | 6% | 20% | 75% |
| M | 70% | 22% | 8% |
| S | 23% | 29% | 48% |
| M | 84% | 14% | 2% |

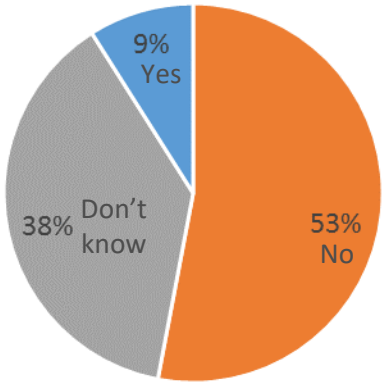


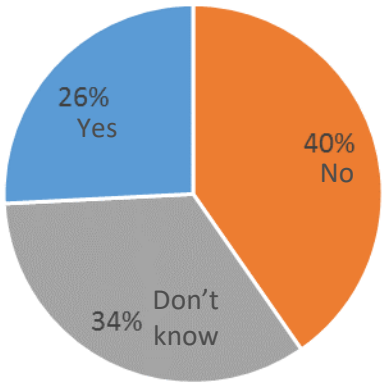

Source: Sonoma-Mendocino CEDS Survey (Q12). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

# Are students graduating from schools adequately prepared to enter the workforce?

| **Responses** *(out of 348)* | |
|---|---|
| Yes | 21% |
| No | 44% |
| Don't Know | 35% |



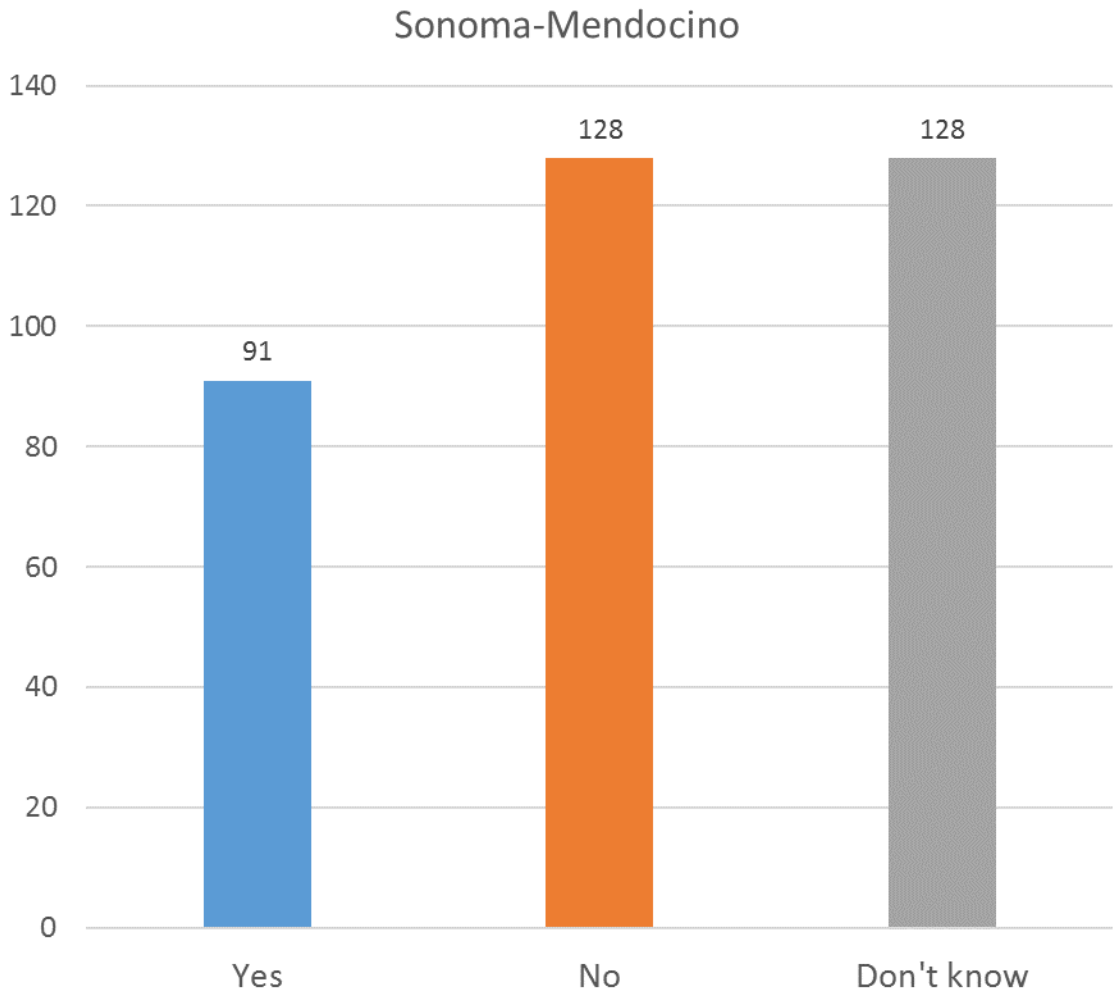



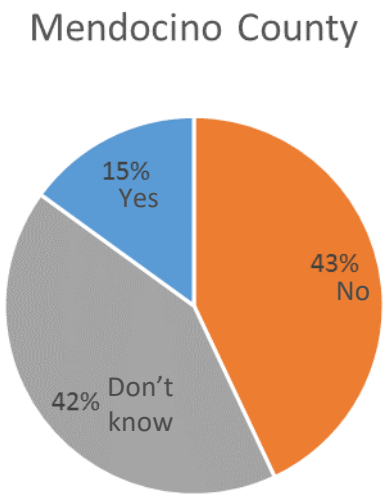



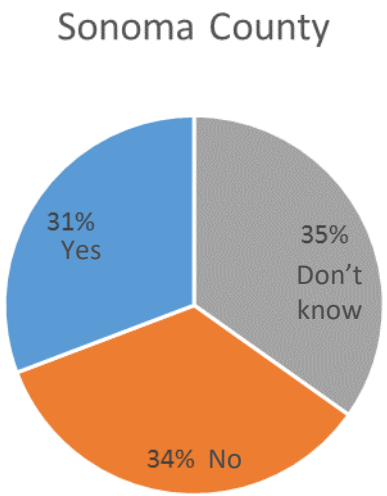

Source: Sonoma-Mendocino CEDS Survey (Q13). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 348.

# Is career and technical education a priority for school districts in your county?

| **Responses** *(out of 347)* | |
|---|---|
| Yes | 26% |
| No | 37% |
| Don't Know | 37% |

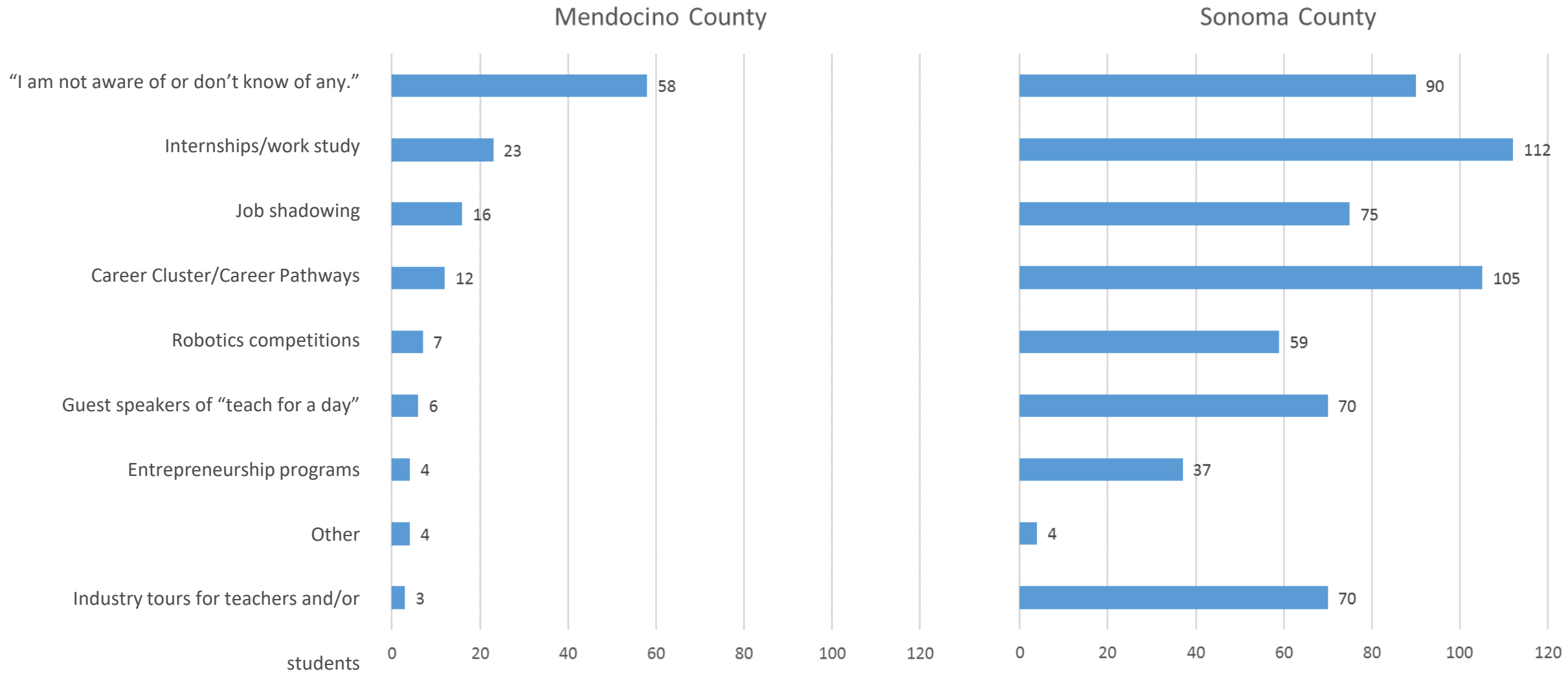



Source: Sonoma-Mendocino CEDS Survey (Q14). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 347.

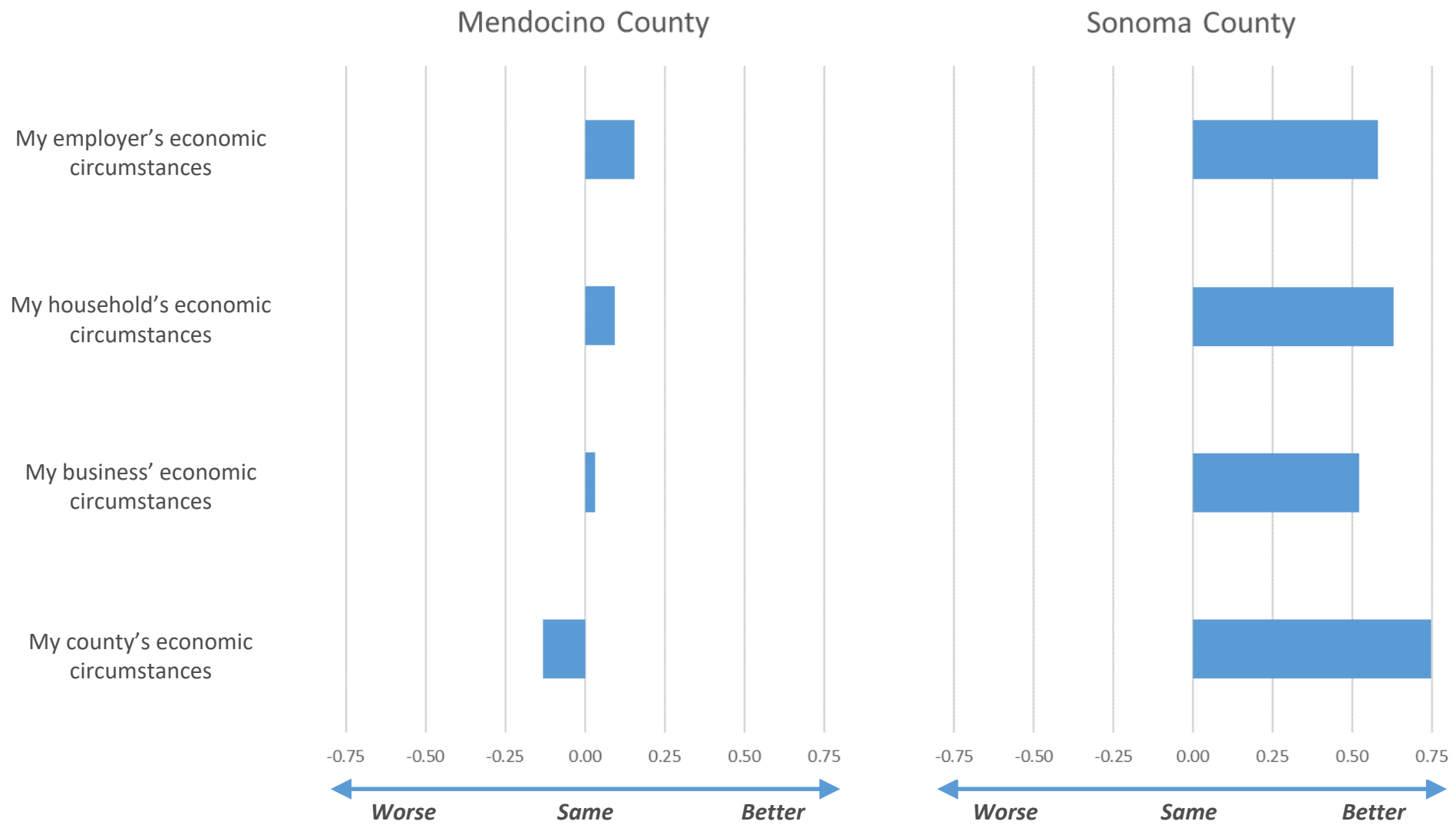
# What types of career and technical education (CTE) programs are available at schools?




Source: Sonoma-Mendocino CEDS Survey (Q15). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353. Respondents could choose all that apply.

# How do the following economic factors compare to five years ago?

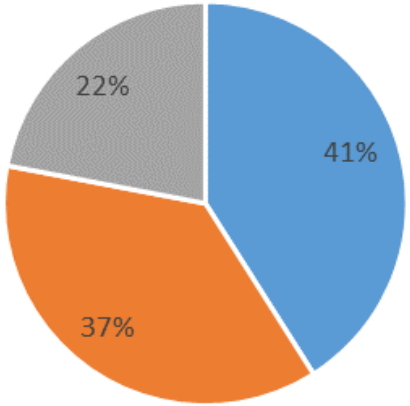
| County | Worse | Same | Better |
|---|---|---|---|
| S | 15% | 25% | 60% |
| M | 18% | 44% | 38% |
| S | 15% | 25% | 60% |
| M | 27% | 38% | 35% |
| S | 15% | 32% | 54% |
| M | 23% | 48% | 29% |
| S | 10% | 21% | 69% |
| M | 37% | 35% | 29% |



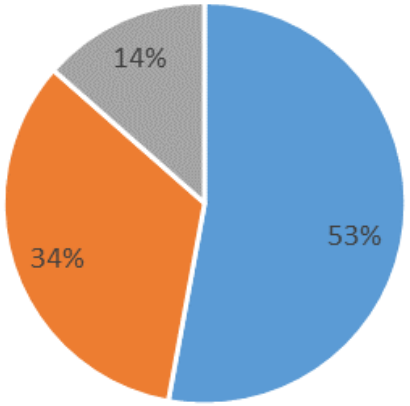

Source: Sonoma-Mendocino CEDS Survey (Q4). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

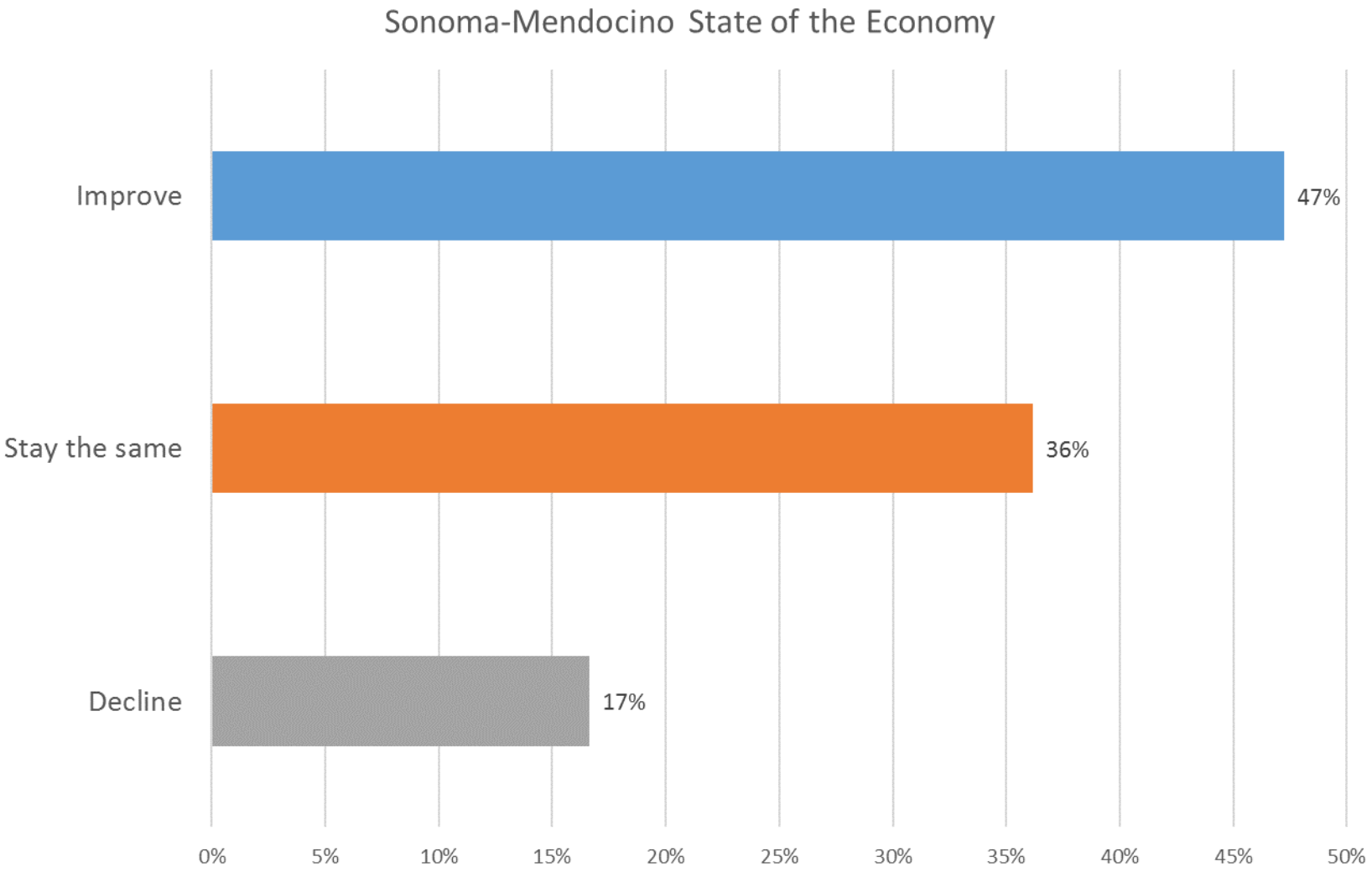
# Five years from now, do you believe your economy will decline, stay the same, or improve?

Mendocino County



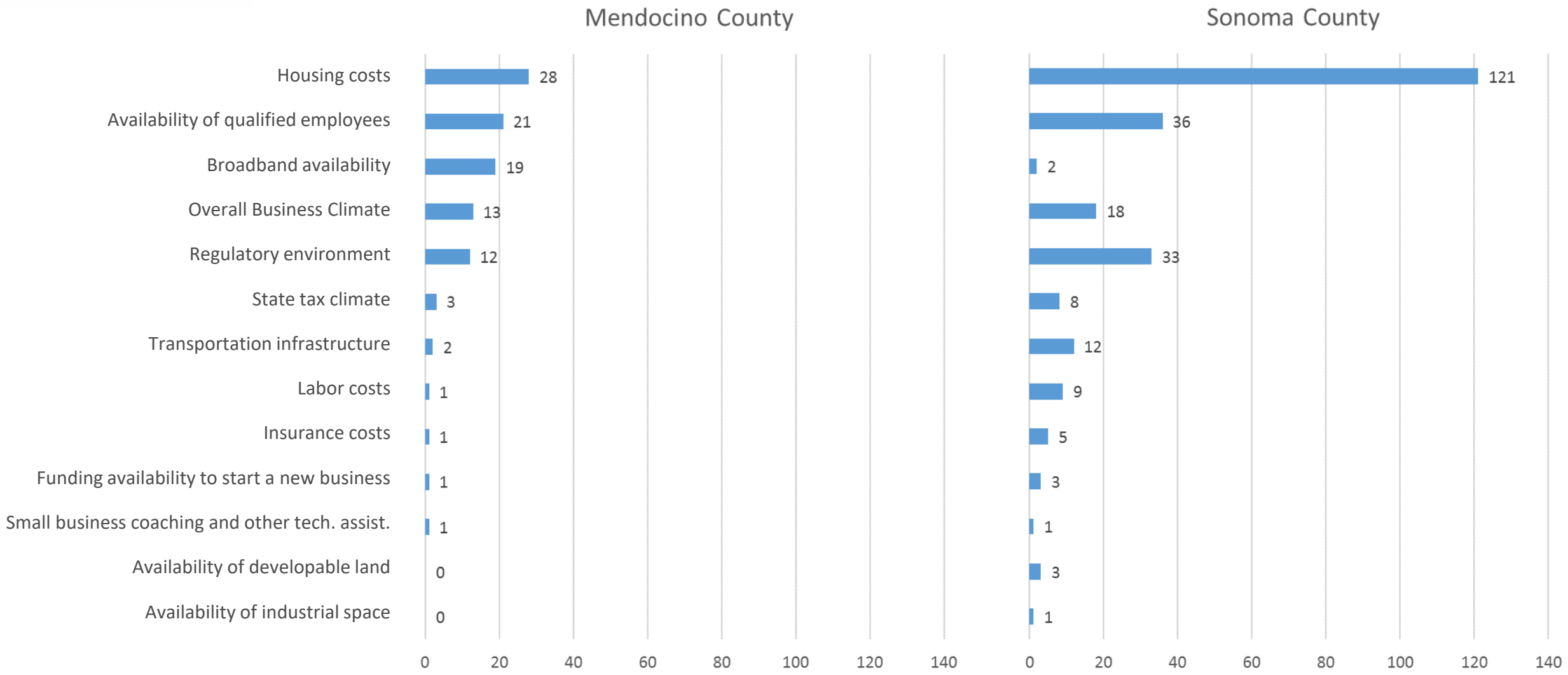

Sonoma County




Source: Sonoma-Mendocino CEDS Survey (Q5). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

# What is your top concern about the future competitiveness of your county's economy?




Source: Sonoma-Mendocino CEDS Survey (Q8). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

# Which of the following do you view as the top three economic priorities for your county?

CIVICANALYTICS

**Making Sure All Workers Can Afford to Live In County**
**218** votes
18% of Mendocino votes
22% of Sonoma votes

**Growing Existing Local Companies**
**141** votes
13% of Mendocino votes
14% of Sonoma votes

**Improving Workforce Skills**
**128** votes
10% of Mendocino votes
13% of Sonoma votes

**Diversifying the Economy**
**118** votes
14% of Mendocino votes
10% of Sonoma votes

**Attracting New Companies or Workers to County**
**107** votes
10% of Mendocino votes
10% of Sonoma votes

**Growing According To Sustainability Principles**
**94** votes
10% of Mendocino votes
9% of Sonoma votes

**Helping Entrepreneurs Start New Companies**
**78** votes
10% of Mendocino votes
7% of Sonoma votes

**Improving Postsecondary Education Completion Rates**
**57** votes
6% of Mendocino votes
5% of Sonoma votes

**Reducing Unemployment**
**52** votes
4% of Mendocino votes
5% of Sonoma votes

**Other Priorities**
**51** votes
6% of Mendocino votes
4% of Sonoma votes

Others say…

*"Allowing more land development."*

*"Improving wages."*

*"Public Transportation to connect rural areas."*

*"Lowering costs of postsecondary education."*

*"Reducing restrictions and costs for current businesses."*

*"Improving road infrastructure." [specifically 101]*

Source: Sonoma-Mendocino CEDS Survey (Q6). March 23 – April 25, 2016. Percentages may not sum to 100 due to rounding. N = 353.

CIVICANALYTICS

512.596.2133

HOME | WHO WE ARE | WHAT WE DO | INSIGHTS | CONTACT

# We help organizations make the data-driven decisions that will shape communities and economies for years to come.

COMMUNITY AND REGIONAL PLANNING

LEARN MORE

4101 Medical Parkway
Suite 116
Austin, TX 78756
civicanalytics.com

Brian Kelsey, Principal
brian@civicanalytics.com

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 22**
(This Section for use by Clerk of the Board Only.)

| | |
|---|---|
| **To:** | Sonoma County Board of Supervisors |
| **Board Agenda Date:** | December 13, 2016 |
| **Vote Requirement:** | Majority |
| **Department or Agency Name(s):** | Economic Development Board |
| **Staff Name and Phone Number:** | Ben Stone: (707) 565-7170 / EDB<br>Paula Johnson: (707) 522-5808 / SCT |
| **Supervisorial District(s):** | |
| **Title:** | 2016 Sonoma County Tourism Annual Report and 2017 Marketing Plan and Continuing the Program and Assessments as Levied Without Change for Sonoma County Tourism Business Improvement Area Through June 30, 2017. |

**Recommended Actions:**

Resolution confirming the Sonoma County Tourism Board's Annual Report for 2016 and the 2017 Marketing Plan and continuing the program and assessments as levied without change for the Sonoma County Tourism Business Improvement Area (SCTBIA) through June 30, 2017.

Authorize staff to extend the Agreement for Services between the County of Sonoma and Sonoma County Tourism Board through June 30, 2017 to carry out projects, programs that specifically benefit the lodging establishments within the SCTBIA and promote tourism.

**Executive Summary:**

Staff recommends the Board approve the annual resolution confirming the Annual Report for 2016 and the 2017 Marketing Plan prepared by the Sonoma County Tourism Board and pursuant to Streets and Highways Code section 36535(d) continuing the program and assessments as levied without change for the SCTBIA through the remainder of the fiscal year 2016-2017. In addition, Staff recommends extending the Agreement for Services with the Sonoma County Tourism Board until June 30, 2017 to carry out the services, activities and programs promoting tourism funded by the assessments for the special benefit of the lodging establishments within the SCTBIA. Staff recommends reviewing the ordinance and updating the contract for the next fiscal year.

**Discussion:**

On November 2, 2004, the Sonoma County Board of Supervisors (Board) adopted the ordinance creating the Sonoma County Tourism Business Improvement Area (SCTBIA). Under the ordinance, lodging establishments generating annual room revenue of $350,000 or more must pay an assessment equal to 2% of such revenue.

In January 2005, the Board appointed five members to the Sonoma County Tourism Business Improvement Area Advisory Board which is charged with advising the Board of Supervisors on the amount of the Area's Assessments and on the services, programs and activities to be funded by the Assessments, and in February 2005, appointed eight (8) of the 22-member body to the Sonoma County Tourism Bureau (SCTB) Board of Directors. SCTB is a private, non-profit organization dedicated to increasing overnight stays in Sonoma County. In June 2005, the Board executed an agreement with the SCTB to carry out services, activities, and programs promoting tourism to the SCTBIA, funded by assessments from within the SCTBIA. SCTB receives the assessments and uses the revenue to pay for marketing and other promotional activities to increase overnight visitors to the lodging establishments within the Sonoma County Tourism Bureau Improvement Area.

In 2011, the Sonoma County Board of Supervisors amended the ordinance that formed the SCTBIA, appointing SCTB's board of directors to also serve as the advisory board for the SCTBIA. This decision was based on recommendations of the 2010 County audit of the organization.

The SCTB has submitted to the Board an Annual Report for 2016. The Report contains information regarding the activities carried out in 2016 and the activities to be carried out in 2017. The Report also contains a budget showing that the revenues from assessments and all other sources sufficient to carry out the services, programs, and activities set forth in the plan. The SCTB also has submitted its audited financial statements and independent auditor's report which provides a detailed description of the organization's revenue and expenses and the special benefit provided to the lodging establishments within the SCTBIA. The following are some highlights of SCTB's marketing and promotional activities:

**Accomplishments and Objectives**:

2016 Accomplishments

SCTB exists to market and sell Sonoma County as an overnight destination to visitors traveling for leisure or business. In 2016, the team was successful in the following ways:

- Successful Super Bowl 50 installation: 78 million editorial impressions; 1.1 million visitors to Super Bowl City
- Sales team exceeded goals by 5 percent; hosted 56 site tours to interested meeting planners; offered cash incentives to 24 meetings, with an economic impact of $3.8 million during need periods.
- Increased presence in international programs to promote multi-day stays.
- Promoted Sonoma County with paid media, earned public relations, and online campaigns to potential overnight visitors in major markets. Web traffic increased 33 percent over previous year, requests for printed material were up 4 percent.
- Marketing partnerships with groups in San Francisco and Silicon Valley generated opt-ins and leads for future travel.

- Partnered with local marketing organizations like Sonoma County Winegrowers, Sonoma County Vintners, and regional visitor centers to further engage in marketing efforts and promotional activities that specially benefit the lodging establishments in the SCTBIA.
- More than 1,800 hospitality professionals have gone through the Certified Tourism Ambassador program.

2017 Initiatives

In the next year, major initiatives include:

- Continue to provide marketing and promotional activities to specially benefit the lodging establishments in the SCTBIA.
- Implement community engagement program that listens to stakeholders and shows the value of tourism to the local economy.
- Increase investment in meetings and groups, with an emphasis on Sacramento and Silicon Valley.
- Strategic marketing and PR programs and partnerships to yield overnight visits during need periods (mid-week and shoulder season) as well as maintain visits during peak season. Concentration on main geographic markets (California and West Coast, as well as large cities nationally) for direct-to-consumer marketing. Continue with the new campaign that builds on success of SCT. Appeal to new customers in emerging demographics.
- Maintain Certified Tourism Ambassador program and invest in front-line service levels.

Pursuant to Streets and Highways Code section 36535(d), staff recommends the Board approve the resolution confirming the Annual Report for 2016, the Marketing Plan for 2017 and the continuation of the program and assessments as levied without change for the SCTBIA to remain effective through the remainder of the fiscal year 2016-2017.

In April 2017, SCTB will prepare a formal presentation and submit an Annual Report which sets forth its upcoming proposed activities in compliance with Streets and Highways Code section 36533 and California Constitution Article XIII C §1 to support the continuation of this assessment through the 2017-2018 fiscal year. Pursuant to Streets and Highways Code section 36533 and the County's contractual requirements, the Annual Report must describe the proposed improvements and activities to be provided for that fiscal year, an estimate of cost for providing the improvements and activities, the method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his/her business for that fiscal year, the amount of any surplus or deficit revenues to be carried over from the current fiscal year, and the amount of any contributions to be made from sources other than assessments. The Annual Report must document how the continued assessments will specifically benefit the lodging establishments in the SCTBIA in fiscal year 2017-2018.

County Staff will work with SCT prior to April 2017 to review the ordinance and update the contract for the next fiscal year.

| **Prior Board Actions:** | |
|---|---|
| 12/15/15 - Annual resolution approving the 2015 SCTB Annual Report and levy of assessment (2005-2015) | |
| **Strategic Plan Alignment** | Goal 2: Economic and Environmental Stewardship |
| The Sonoma County Tourism Bureau strives to enhance the value of local, domestic, and international demand for Sonoma County produced goods and to promote tourism and growth in Sonoma County. | |

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

N/A

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Attachment A: Resolution

| |
|---|
| Attachment B: 2016 Sonoma County Tourism Bureau Annual Report and 2017 Marketing Plan. |
| **Related Items "On File" with the Clerk of the Board:** |
| Attachment C: Business Improvement Area Ordinance No. 5525.<br>Attachment D: Sonoma County Tourism Bureau Financial Statements and Independent Auditor's Report<br>Attachment E: Agreement for Services with Sonoma County Tourism Bureau, Inc. and proposed six-month extension of Agreement for Services. |

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Confirming The Sonoma County Tourism Bureau Board's Annual Report for 2016 and the Marketing Plan for 2017 and Continuing Without Change the Levy of the Assessment for the Sonoma County Tourism Business Improvement Area for the Remainder of the Fiscal Year 2016-2017**

**Whereas,** the Sonoma County Tourism Bureau Board ("Tourism Board") is a private, non-profit organization dedicated to increasing overnight stays in Sonoma County; and

**Whereas**, in June 2005, the Sonoma County Board of Supervisors entered into a contract with the Tourism Board to carry out services, activities and programs promoting tourism in the Sonoma County Tourism Business Improvement Area ("SCTBIA"); and

**Whereas**, Tourism Board receives assessments levied pursuant to the Parking and Business Improvement Area Law of 1989 (Streets and Highways Code sections 36500 et seq.) and Chapter 33 of the Sonoma County Code and uses the revenue to pay for marketing and other promotional activities to increase overnight visitors to the lodging establishments within the SCTBIA; and

**Whereas,** the Tourism Board has submitted an Annual Report for 2016 and Marketing Plan for 2017, Financial Statements and Independent Auditor's Report (collectively referred to as "Annual Report") to comply with Streets and Highways Code section 36533; and

**Whereas,** the Annual Report demonstrates the marketing, promotion and special services provided for the lodging establishments within the SCTBIA; and

**Whereas,** the Annual Report does not propose any change in the amount of assessments to be levied under the Business Improvement Area Ordinance or any changes in the boundaries of the SCTBIA and complies with the California Constitution, Article XIII C §1; and

**Whereas**, the Annual Report recommends, pursuant to Streets and Highways Code section 36535(d), the continuation of the program and assessments as levied without change for the SCTBIA for the remainder of the fiscal year 2016-2017; and

**Whereas**, in April 2017, the Tourism Bureau will prepare a formal presentation and Annual Report pursuant to Streets and Highways Code section 36533 and California Constitution, Article XIII C §1 to support the continuation of the levy of the assessment in fiscal year 2017-2018.

**Now, Therefore, Be It Resolved** the Board of Supervisors of the County of Sonoma hereby resolves, determines, and finds as follows:

1. Recitals: the recitals set forth above are true and correct.

2. Confirmation of Annual Report: the Board confirms the Annual Report as submitted by the Tourism Board and hereby continues the program and assessments as levied without change through the remainder of the fiscal year 2016-2017.

3. Effective Date: this Resolution is effective upon its adoption.

**Supervisors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

# 2016AR/2017MP
## ANNUALREPORT/MARKETINGPLAN

SONOMA COUNTY
TOURISM

# 2016AR

## ABOUT SONOMA COUNTY TOURISM

**Sonoma County Tourism (also known as SCT) is the official destination marketing organization dedicated to promoting Sonoma County as an overnight destination.**

SCT is a private, non-profit 501(c)6 organization, staffed by professionals in the fields of sales, marketing, communications, and administration. It is governed by a volunteer board of directors, with input from committees, stakeholders, and the general public.

The core values of SCT are accountability, innovation, leadership, transparency, and diversity. These values drive our strategic planning and affect decisions for marketing, sales, and operations.

The majority of SCT's funding comes from a 2 percent assessment on applicable lodging rooms within the Sonoma County Tourism Business Improvement Area. SCT also receives funds from the County of Sonoma's Advertising Award Program, in order to promote nearly 2,300 non-lodging businesses.

Tourism in Sonoma County has a direct economic impact of more than $1.82 billion annually, and represents 19,710 local jobs. Taxes collected from visitors mean nearly $150 million in government revenues and those funds are used for general funds for government, regional parks, arts and cultural organizations, affordable housing and public safety.

SCT's efforts are divided into three main segments of travelers: leisure travelers; meetings and groups; and tour and travel, which are the buyers of packaged travel like tour operators and travel agents. Combining these three segments provides a balanced portfolio of potential travelers, so SCT can bring more overnight business throughout the year.

/ 2017MP

# TABLE OF CONTENTS


Message from Board Chairs and President/CEO 4

Summaries of Annual Report/Marketing Plan 5

Sonoma County Tourism Board of Directors 6

Sonoma County Supervisorial Districts 7

SCT Staff, SCT Promise 8

MEETINGS, GROUP SALES, TOUR AND TRAVEL

- 2016 Annual Report 9
- 2017 Marketing Plan 13

PUBLIC RELATIONS, MARKETING, AND PARTNERSHIPS

- 2016 Annual Report 17
- 2017 Marketing Plan 23

FINANCIAL

- 2016 Annual Report 28
- 2017 Budget 29

APPENDIX 31

- History of SCT 32
- SCT Board and Program Committees 33

Travel Research 34

Annual Tourism Report 35

Hospitality Industry Acronyms 60

Current Ad Campaign 61

# PASSION
## FOR THE ROAD AHEAD . . .

**How people decide on where to travel and how they book – the travel ecosystem – is rapidly changing. And Sonoma County Tourism continually seeks innovative ways to achieve sustainable success and be bold leaders in our industry.**

**We recognize that tourism is an important economic driver for Sonoma County, and has been for more than a century. SCT is investing in the future by producing a 10-year strategic plan that will outline steps to ensure a vital and thriving hospitality industry for years to come.**

**We are proud of the dedication and vision of our board, stakeholders, and staff that helps us keep our edge as a leading destination marketing organization.**

## SUCCESS IN 2016

In 2016, SCT introduced travelers to our destination in a variety of ways. These efforts resulted in the highest annual average daily rate (ADR), at $156.88, and occupancy rate, 77 percent, since SCT began tracking this. In the coming year, three new hotels are slated to open. According to the county Economic Development Board, there are 29 hotel projects (full builds and renovations) in the pipeline, with the potential of 1,914 new rooms.

The hospitality economy generates $1.82 billion in spending and brings in nearly $150 million in taxes. It directly supports 19,710 jobs – one in 10 – a number that continues to grow each year.

One of our biggest collaborative successes with Sonoma County Vintners and Sonoma County Winegrowers was our involvement in Super Bowl 50. Here are some of the final results:

- 1.1 million people visited Super Bowl City at San Francisco's Embarcadero between Jan. 30 and Feb. 7, having the opportunity to visit the Taste of Sonoma Lounge or buy Sonoma County wines throughout the venue.
- 78,000,000 editorial impressions via positive travel stories that appeared in 29 media outlets meant millions of potential travelers saw Sonoma County's message.
- 100-plus volunteers: Sonoma County Certified Tourism Ambassadors (CTAs) managed the traffic flow at the lounge, answered questions, and encouraged visitation to Sonoma County.

## LOOKING FORWARD TO A SUCCESSFUL 2017

As the success of Sonoma County as a destination has grown, SCT strives to balance the promotion of the area with the story of the hospitality industry locally.

Leisure travel is the largest driver of overnight business to Sonoma County and remains the main focus of SCT's marketing efforts.

Meanwhile, the meetings and groups segment, which includes weddings, is used to fill rooms during need periods. Lodging occupancy can swing by as much as 30 percentage points between Wednesday and Saturday. Filling rooms on weeknights and the shoulder season helps protect hospitality jobs and allows Sonoma County businesses to maintain revenue streams.

**Daniel Christensen, CTA**
Board of Directors Chair

**Pauline Wood, CTA**
Board of Directors Past Chair

## THE FACES OF TOURISM

Hospitality is an industry that can't be outsourced. More than 90 percent of tourism businesses are locally owned and 82 percent have fewer than 25 employees. These tourism professionals work and live here, volunteer their time, give back, and are an integral part of our community.

## SUPPORTING HOSPITALITY EDUCATION AND ENTREPRENEURSHIP

Hospitality is an opportunity industry. Employees can move from the front line to supervisor and into management. Former employees become successful entrepreneurs, starting their own businesses and hiring employees, starting the cycle again.

We recognize the importance of workforce development. This year, we worked with area colleges and high schools to offer the Sonoma County Certified Tourism Ambassador (CTA) program as part of their curriculum.

## NEW OPPORTUNITIES

Working with local governments, we are constantly looking at new ways to bring in visitors and move them around the destination.

When the SMART train starts service, SCT will promote it as a viable transportation option for visitors. The airport attraction committee, of which SCT is a member, continues its efforts to bring in new flights and carriers to meet the rising demand for air travel to the region.

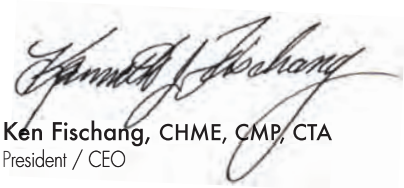
SCT serves on the Sonoma County Cannabis Task Force, which is tasked with exploring future economic impacts and opportunities.

## FROM THE ARTS TO ZINFANDEL – WE PROMOTE YOU

Sonoma County Tourism will continue to promote tourism assets and attractions in the county, from the arts to zinfandel and everything in between. We concentrate on attracting visitors from areas likely to yield the best return on sales and marketing efforts.

In the past year, we partnered with Sonoma County Regional Parks and outdoor recreation businesses; Creative Sonoma and artists, galleries, and performing arts venues; as well as nearly 2,300 local non-lodging hospitality businesses to show visitors the full range of what we have to offer.

We recommend that the SCT BIA continue with its present boundaries and the current method and basis of levying assessments. We are stronger together as we collaborate to make 2017 the best year ever for tourism.



**Ken Fischang, CHME, CMP, CTA**
President / CEO

# EXECUTIVE SUMMARY MPAR16

In 2016, Sonoma County Tourism introduced travelers to Sonoma County in a variety of ways. These efforts resulted in the highest annual average daily rate (ADR), at $156.88, and occupancy rate, 77 percent, since SCT began tracking this.

The increase in overnight visitors brought new customers to more than 2,500 hospitality businesses and provided jobs for 19,710 local residents.

Sonoma County Tourism, mindful that tourism comprises one in 10 jobs in Sonoma County and is a major driver of government revenue, worked to promote tourism that sustained local businesses and respected the local community. The tourism economy generated $1.82 billion in spending and brought in nearly $150 million in taxes.

Sonoma County Tourism promotes Sonoma County as an overnight destination and showcases the diversity of this unique place.

## ACCOMPLISHMENTS: 2016

SCT exists to market and sell Sonoma County as an overnight destination to visitors traveling for leisure or business. In 2016, the team was successful in the following ways:

- Successful Super Bowl 50 installation: 78 million editorial impressions; 1.1 million visitors to Super Bowl City
- Sales team exceeded goals by 5 percent; hosted 56 site tours to interested meeting planners; offered cash incentives to 24 meetings, with an economic impact of $3.8 million during need periods.
- Increased presence in international programs to promote multi-day stays.
- Promoted Sonoma County with paid media, earned public relations, and online campaigns to potential overnight visitors in major markets. Web traffic increased 33 percent over previous year, requests for printed material were up 4 percent.
- Marketing partnerships with groups in San Francisco and Silicon Valley generated opt-ins and leads for future travel.
- Partnered with local marketing organizations like Sonoma County Winegrowers, Sonoma County Vintners, and regional visitor centers to expand marketing reach of SCT.
- More than 1,800 hospitality professionals have gone through the Certified Tourism Ambassador program.

## PLANS: 2017

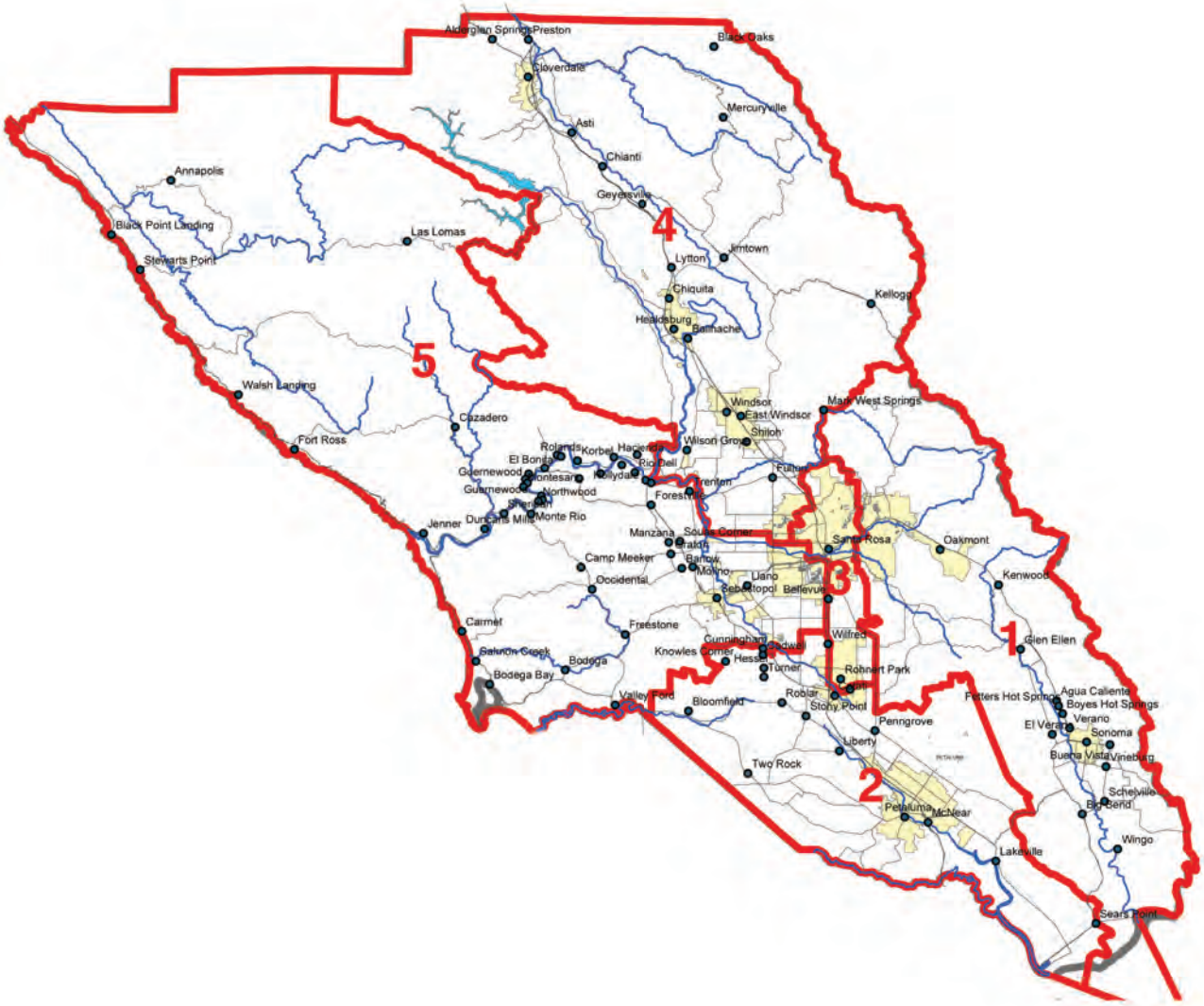
In the next year, major initiatives include:

- Implement community engagement program that listens to stakeholders and shows the value of tourism to the local economy.
- Deployed full-time professionals in the Bay Area/Silicon Valley and Sacramento to enhance meeting and group sales.
- Strategic marketing and PR programs and partnerships to yield overnight visits during need periods (mid-week and shoulder season) as well as maintain visits during peak season. Concentration on main geographic markets (California and West Coast, as well as large cities nationally) for direct-to-consumer marketing. Continue with the new campaign that builds on success of SCT. Appeal to new customers in emerging demographics.
- Maintain Certified Tourism Ambassador program and invest in front-line service levels.

# 2017 SCT BOARD OF DIRECTORS

| | |
|---|---|
| Joe Bartolomei | **Farmhouse Inn & Restaurant,** Owner |
| Tom Birdsall | **Hampton Inn-Windsor,** Partner Owner |
| Percy Brandon, *CTA* | **Vintners Inn,** General Manager |
| Sheryl Bratton | **Sonoma County Administrator** |
| Jennifer Buffo, *CTA* | **Pure Luxury Transportation,** Owner/COO |
| Thera Buttaro | **Bodega Bay and Beyond,** Owner |
| Dan Christensen, *CTA, Chair* | **Geyserville Inn,** Owner |
| Jonathan Coe, *CTA* | **Santa Rosa Chamber of Commerce,** President |
| Hannah Euser<br>*Alternate to Sheryl Bratton* | **Administrator Analyst,** County Administrator Office |
| Michelle Heston, *Vice Chair* | **Fairmont Sonoma Mission Inn & Spa,** Regional Director of Public Relations |
| Keo Hornbostel, *Treasurer* | **Safari West,** General Manager |
| Lowell Johnson, *CTA* | **Sonoma County Lodging Association,** President |
| Steve Jung, *CTA* | **Doubletree by Hilton,** General Manager |
| Karissa Kruse, *CTA* | **Sonoma County Winegrowers,** President |
| Rachel LeGrand, *CTA* | **Russian River Getaways,** Owner |
| Crista Luedtke | **Boon Hotel & Spa,** Owner |
| James Luchini, *CTA* | **Francis Ford Coppola Winery,** Manager Hospitality Training & Development |
| Kristen Madsen<br>*Alternate to Ben Stone* | **Director, Creative Sonoma** |
| Tim McGregor, *CTA, Secretary* | **Bodega Bay Lodge,** General Manager |
| Dan Parks, *CTA* | **Sonoma Creek Inn,** Owner |
| Bert Rangel, *CTA* | **Rivers End Restaurant & Inn,** Owner |
| Jennifer Richards | **Hyatt Vineyard Creek,** General Manager |
| Gary Saperstein | **Out in the Vineyard,** General Manager |
| Scott Satterfield | **Sheraton Sonoma County Petaluma,** General Manager |
| Ben Stone | **Sonoma County Economic Development Board** |
| Jonny Westom, *CTA* | **Sonoma Valley Visitors Bureau,** Executive Director |
| Pauline Wood, *CTA, Past Chair* | **Petaluma KOA,** General Manager |

# SUPERVISORIAL DISTRICTS



SONOMA COUNTY TOURISM

# PROMISE

**As professionals living and working in this region, the Sonoma County Tourism (SCT) team is committed to moving Sonoma County forward and growing the economy through tourism.**

**We are committed to these core values that drive our passion for this industry, our organization, and our community:**

## INTEGRITY

We accept only the highest ethical standards in all of our activities, including sales, marketing, public relations, and accountability.

## PARTNERSHIP

We engage our region in building relationships to further our mission and promote a stronger hospitality industry.

## SERVICE

We commit to delighting our customers by going above and beyond their expectations.

## INNOVATION

We are leaders in innovative programming, sales, marketing, and technology, leading the charge in positive destination marketing and economic growth.

## PASSION

We enthusiastically promote our destination and organization, inspiring community pride in our region's diverse assets.

# SCT STAFF

| | |
|---|---|
| Nicole Bradin, *CTA* | Director of Operations and Community Engagement |
| Chyrl Collins, *CMP, CTA, CTIS* | Tourism Sales Manager |
| Erika Costa, *CTA* | National Sales Manager, Sacramento/Northwest U.S. |
| Mark Crabb, *CMP, CTA, FCDME* | Chief Sales Officer |
| Ken Fischang, *CHME, CMP, CTA* | President/CEO |
| Nancy Garvey, *CGMP, CTA* | National Sales Manager, Southern California/Southwestern U.S. |
| Gilda Gonzales, *CTA* | Accountant |
| Mariah Harkey, *CTA* | Digital Marketing Coordinator |
| Ariane Hiltebrand, *CTA* | Digital Marketing Manager |
| Paula Johnson, *CMP, CTA* | Director of Administration |
| Bill Judson, *CTA* | Chief Financial Officer |
| Deleyse Langdale, *CTA* | Director of International Sales |
| Charmaine Louzao, *CTA* | Meeting Sales and Services Manager |
| Tina Luster, *CTA* | Communications Manager |
| Tanya Matthews, *CTA* | Executive Assistant |
| Kila McCollister, *CTA* | Sales Coordinator |
| Susan Montes, *CTA* | National Sales Manager, Bay Area/Silicon Valley |
| Ginger Myrick, *CTA* | Advertising Traffic Coordinator |
| Barbara Quigley, *CTA* | National Sales Manager, Midwest/Northeast U.S. |
| Sandy Shuster, *CTA* | Customer Service/CTA Coordinator |
| Beth Snow, *CTA* | Marketing Manager |
| Kristin Treiber, *CTA* | Marketing Operations Manager |
| Jill VandenHeuvel, *CDME, CTA* | Director of Advertising and Industry Relations |
| Birgitt Vaughan, *CTA* | Public Relations Manager |
| Jamie Ward, *CMP, CTA* | National Sales Manager, Texas/Southeast U.S. |
| Tim Zahner, *CTA* | Chief Marketing Officer |

# SUPPORT SERVICES

Bill Arnone
Merrill, Arnone & Jones, LLP
Legal Counsel

Dillwood Burkel & Millar, LLP
Auditing

Maile Hartsook
Sonoma County Economic Development Board
Research

Robyn Bramhall
North Bay Human Resources

Mo McElroy, *CTA*
Certified Tourism Ambassador Program

(To align with lodging partners' calendars, SCT's sales team operates on a July 1 – June 30 fiscal year.)

# OVERVIEW

SCT's sales team exceeded its overall goals in 2016. At the end of the 2015-16 fiscal year, lead distribution was up 5.3 percent, booking 123 future meetings and 14,300 room nights, with an overall economic impact of $40.6 million.

The cash incentive program is a hit with planners. Through this program, 24 meetings were booked during need periods, generating 4,400 room nights with an economic impact of $3.8 million.

The wedding market continues to be strong. Through SonomaCounty.com, couples are able to reach out to venues and accommodations to book their dream wedding. The team created a new sales piece.

The tour and travel market continues its growth with a trend towards buying rooms through professional travel buyers. Even with the strong dollar, there has been a marked increase in international requests for ready-made luxury accommodation and experiences. There is an increased demand in domestic tour series and independent international travel with expanded air service into San Francisco and Oakland airports.

Working with the Sonoma County Vintners and Sonoma County Winegrowers, SCT scored big at Super Bowl 50. The Trio created a one-of-a-kind branded event in Super Bowl City, serving more than 20,000 glasses of wine and creating a memorable event for the fans. The estimated economic impact to the Bay Area was $240 million dollars.

Guided by feedback from a survey of local lodging properties that host meetings and groups, the team deployed full-time sales professionals in the Bay Area/Silicon Valley and Sacramento.

# OBJECTIVES

**The sales team books overnight stays in Sonoma County, with an emphasis on groups, meetings, and the tour and travel industry during need periods. The team provides exceptional customer service, strengthens relationships, upholds the brand, and exhibits professionalism at all times.**

*More than 1 million people were introduced to Sonoma County at Super Bowl City. Wine partners, staff, and Certified Tourism Ambassadors assisted visitors throughout the venue.*

*A client in Japan shows off her Sonoma County bag.*

## MEETINGS, GROUP MARKETS

**Goal: Meet or exceed the previous year team goals of leads, leads turned definite, and room nights for the meetings and group markets.**

RESULT: Exceeded team goals by 5 percent.

RESULT: Distributed leads up 5.3 percent
- Last year: 434 leads; this year: 457 leads
- Room night opportunities were up 2 percent

RESULT: Definite total leads were down 18 percent, the result of a large booking (television show crew) the previous year.
- Last year: 151 leads; this year: 123 leads
- Definite rooms nights down 16 percent
- The number of room nights sent as leads was 75,597, of which 14,303 were booked

RESULT: The sales team held more than 650 one-on-one appointments with qualified event planners.

RESULT: 59 percent of leads come from face-to-face meetings, repeat business, and industry referrals; and 26 percent of the leads were generated from partnerships with third-party planners.

RESULT: The cash incentive program brought in 24 meetings and groups that had an economic impact of $3.8 million during need periods.

RESULT: SCT hosted 56 site visits for interested meeting planners.

*SCT's Mark Crabb discusses booking to Sonoma County at IPW in New Orleans.*

*SCT staff (Charmaine Louzao, Paula Johnson, and Suzy Montes) and hospitality partners hosted an event that introduced Silicon Valley meetings professionals to Sonoma County.*

## TOUR AND TRAVEL MARKET

**Goal: Meet or exceed the previous year team goals of leads, leads turned definite, and room nights for the tour and travel market.**

RESULT: Definite room nights up 10 percent.

RESULT: Booked two domestic coach series with 26 dates, resulting in 1,352 room nights; and lured another series away from a competing destination for 2017.

RESULT: Featured in 52 United Kingdom tour operator brochures. Sonoma County hotels were featured 33 times across multiple brochures (up 3 percent), and total pages were up 17 percent – 37.7 total pages.

RESULT: Hosted 146 travel professionals from seven different countries. These included tour operator and travel agent delegates who experienced Sonoma County on familiarization tours.

RESULT: Built on the success of programs – Northern California Triangle, Sip & Ski 365!, and California Wine, Waves & Whales. These were a result of a partnership with Sacramento and South Lake Tahoe. These itineraries continue to be promoted to international travel professionals.

RESULT: The sales team developed 10 new marketing campaigns that ran in the UK, Germany, Australia, and Scandinavia. Two international direct-to-consumer campaigns also ran in Australia.

RESULT: Increased travel trade database to 7,500 recipients, who are sent quarterly e-newsletters.

RESULT: SCT continued to partner with Brand USA, Visit California, and its United Kingdom and German offices at World Travel Market and ITB, Europe's two largest travel shows.

RESULT: The sales team held more than 370 one-on-one appointments, and trained and networked with 2,500-plus travel agents/operator staff and 4,500 consumers during international sales missions and trade shows offered by Visit California and San Francisco Travel. Events: Japan, Korea, China, WTM (London), Australia, New Zealand, Copenhagen, ITB (Berlin), and Canada.

RESULT: Contracted in-market travel trade representation in Scandinavia and Japan. This complements existing in-market representation in UK and Ireland, Germany, Austria, Switzerland, and Australia.

## FACES OF TOURISM

**DUSTIN DALLI**
*Adventure Guide – Getaway Adventures in Santa Rosa*

"This is the perfect job for me," said Dustin Dalli. " I love being outdoors and working with people. And in this job they come from all over the world — Canada, Germany, you name it."

Described as a "guide extraordinaire" by his boss at Santa Rosa-based Getaway Adventures, Dustin leads Sonoma County visitors on hiking, biking, and kayaking adventures custom-designed around the guests' interests.

"I like to take people off the beaten path, to small mom and pop wineries, to places they probably wouldn't know about," Dustin said. "I really want our visitors to feel like locals."

Dustin's tour itineraries is designed to allow visitors to experience the beauty of Sonoma County — Armstrong Woods for redwoods, Goat Rock Beach for tide-pooling, the Kortum Trail for hiking …

"I'm happy to be doing what I do and go beyond what the tour requires — go that extra mile," Dustin explained. "You know, when I wake up in the morning I always wonder who I'll meet that day. I'm always excited about what's ahead."

## MEGAN PERKINS

*Account Manager – Russian River Vacation Homes in Guerneville*

After seven years as an account manager at Guerneville's Russian River Vacation Homes, Megan Perkins can't imagine being happier.

"I really love my job," she said. "We manage about 60 vacation homes, and rent to people who want to vacation on the Russian River — families, large groups of friends. People on vacation tend to be happy, and that makes me happy."

Russian River Vacation Homes has a small international clientele, mostly from Europe, but most guests hail from the U.S., with the majority coming from Northern California.

There's an art to helping people put together an ideal vacation, Megan believes. "They know they're coming here," Megan said, "but they don't necessarily know anything about the Russian River or Sonoma County. That's where everyone in our office, being local, makes a real difference."

## WEDDING MARKET

**Goal: Create a better brand awareness for couples to choose Sonoma County for their destination wedding.**

RESULT: Staff responded to more than 500 requests for information about weddings.

RESULT: Developed new wedding collateral to attract couples.

RESULT: Created an online wedding guide with detailed information about venues, accommodations, and wedding suppliers.

## PROMOTE AIR SERVICE TO SONOMA COUNTY

**Goal: Assist the Charles M. Schulz – Sonoma County Airport (STS) in attracting new air service into Sonoma County.**

RESULT: SCT worked with STS staff on marketing current flights. The team promoted the new flights from Orange County, California; Las Vegas, Nevada; and Mesa, Arizona, at STS and in their originating destination.

RESULT: SCT dedicated marketing and sales dollars to help the airport promote existing and attract new air service.

RESULT: Ridership into STS increased 32.3 percent, year-to-date from 2015 to 2016. (January through August, the latest figures available at publication.)

RESULT: A flight and lodging co-op was created with Alaska Airlines for the 2015-16 shoulder season, which showed a significant increase in activity.

*Sonoma County Tourism staff was joined by Snoopy in welcoming new passengers from Orange County to Sonoma County – Charles M. Schulz Airport.*

# OVERVIEW

The renovation of the Moscone Center in San Francisco is slated to be completed by the end of 2018. Due to the lack of citywide conventions in San Francisco, SCT's sales team will compete directly with San Francisco properties for the same-sized meetings.

New hotels, slated to open in early 2017, will add new meeting spaces and rooms for the team to sell.

Guided by feedback from a survey of local lodging properties that host meetings and groups, the team deployed full-time sales professionals in the Bay Area/Silicon Valley and Sacramento.

The cash incentive, which had a $3.8 million economic impact in 2015-16, will continue through December 2017.

International and wedding markets serve to diversify potential visitor markets. The strong dollar may affect international travelers, but the weddings market shows no signs of slowing down.

The sales team will strengthen partnerships with gateway cities San Francisco Travel and Visit Oakland, as well as Visit California, and Brand USA to showcase Sonoma County to international tour operators, travel agents, and media who influence visitors to come to the destination.

# OBJECTIVES

**Book midweek overnight business from meetings, tour and travel, and weddings markets. Offer a meeting incentive to qualified groups to increase shoulder season and midweek business.**

*Couples connect with Sonoma County wedding businesses through the new wedding guide.*

TOURISM IN THE COMMUNITY

## DEBORAH KLEIN

*Marketing Director of Sonoma Canopy Tours, Occidental*

In 2009, Occidental's Alliance Redwoods Conference Grounds, a non-profit founded in 1940 to serve schools and churches, needed a massive facility upgrade.

When Alliance Redwoods explored the feasibility of constructing a zip-line, said Marketing Director Deborah Klein, "We were told that, given our terrain, the uniqueness of our coastal redwoods, our proximity to San Francisco and the wine country, we could end up being one of the best canopy tours in the world."

The high initial costs of building the infrastructure has since been recovered, and Sonoma Canopy Tours now devotes considerable time and money to philanthropic and educational causes. For example, for every flight booked, one dollar is donated to a fund that provides at-risk youth an outdoor adventure experience. To date, more than $310,000 has gone to non-profit organizations located in Sonoma, Marin, Napa, and Lake counties.

Non-profits that complete a donation form can receive two weekday flights (total value $198), which can be used to raise funds by live or silent auction, or a raffle to their attendees. About 250 of these donations are given each year.

# MEETINGS, GROUP MARKETS

**Goal: Meet or exceed previous year team goals of leads, leads turned definite, and room nights for the meetings and group markets.**

TACTIC: Continue to develop existing markets and generate new opportunities during need periods.

TACTIC: Attend hosted-buyer trade shows and produce client events to generate requests for proposals.

TACTIC: Promote Sonoma County as a meetings and group destination with emphasis on booking midweek November through April, by using qualified site tours, sales calls, client events, and online marketing tools.

TACTIC: Partner with third-party vendors to increase their awareness of Sonoma County as a desirable meeting destination in order to bring in new business.

TACTIC: Market the cash incentive program to entice meeting and incentive planners to book in need periods. Engage lodging partners to market this program to their clients.

TACTIC: Generate group opportunities through the Sonoma County Vintners' and Sonoma County Winegrowers' contacts, business relationships, and events such as Sonoma in the City.

# TOUR AND TRAVEL MARKET

**Goal: Meet or exceed the previous year goals of leads, leads turned definite, and room nights for the tour and travel market.**

TACTIC: Work with domestic receptive operators to extend overnight stays and series programs.

TACTIC: Market Sonoma County through trade shows, newsletters, and SCT's international representation offices in the United Kingdom, Germany, Australia, Scandinavia, and Japan.

TACTIC: Encourage multiple-night bookings through creative social media and marketing campaigns with a measurable return on investment for international markets and operators.

TACTIC: Expand SCT's reach into international markets:
Canada, Mexico, Germany, United Kingdom, Australia, New Zealand, Scandinavia, Japan, and Korea, and explore new opportunities in emerging markets.

TACTIC: Expand into more product catalogs internationally and domestically for stronger brand awareness.

TACTIC: Work collaboratively with SCT's marketing team to complement sales efforts.

TACTIC: Participate with Brand USA through marketing opportunities to give Sonoma County maximum exposure.

TACTIC: Continue cooperation with Visit California and SF Travel at travel shows and participate in familiarization tour opportunities from Visit California's international offices.

*Deleyse Langdale brought European tour operators to Armstrong Woods.*

446 USA WESTEN · KALIFORNIEN · SONOMA

Sonoma County Weinregion

Tipps und Infos

Natur und Kultur
- Die ersten Weinreben in Kalifornien wurden hier einst von Missionaren gezüchtet
- Traumhafte 90 km lange Pazifikküste
- Über 400 kleine idylische Weingüter und viele Farmen, die Weinbergtouren, Weinproben und Köstlichkeiten aus eigenem Anbau anbieten
- Endlos scheinende Wanderwege
- Buena Vista Winery and Vineyards: die älteste Weinkellerei Kaliforniens
- Charles M. Schulz Museum in Santa Rosa: Museum des Erfinders von „Snoopy, Linus, Schroeder, Charlie Brown" und weiteren „Peanuts"
- Sonoma County Harvest Fair: 3-tägiges Event im Oktober mit vielen Bier- und Weinproben der Region
- Jack London State Park: von Juni bis September werden hier auf Freiluftbühnen musikalische Broadwayklassiker wiedergegeben
- Kayaktouren auf dem beschaulichen Russian River

Shopping und Lifestyle
- Laid-back Northern California Lifestyle
- Sonoma bietet viele kleine Läden und Galerien, die zum Bummeln und Verweilen einladen
- Premium Shopping Center Santa Rosa Plaza mit über 120 Boutiquen
- Bei Buchung eines Hotels in Sonoma County erhalten Sie mit Ihren Reiseunterlagen einen Gutschein für 1 Free **VIP Couponbuch** für das **Petaluma Premium Outlet** mit über 60 Outlet Stores
- The Barlow in der verschlafenen Kleinstadt Sebastopol: eine bezaubernde Ansammlung von kleinen Restaurants, die ihre Speisen mit frischen Zutaten von den lokalen Farmen kreieren, Boutiquen, Galerien und familiären Weingütern. Schauen Sie den Künstlern beim Malen zu und probieren Sie von den köstlichen unter der kalifornischen Sonne gereiften Weinen

Info

*SCT markets Sonoma County internationally through inclusion in travel catalogs and brochures.*

## CATHY AND MARTIN

Visitors: *Cathy Corbisiero and Martin Skrocki, From Long Island, New York*

A long-held appreciation for wine, buttressed by a love of travel, inspired Cathy Corbisiero and Martin Skrocki to journey from their home in New York State to Sonoma County at harvest time.

"It's our first time here," Martin said. "We live on Long Island's North Fork, where there's a fairly new but thriving wine industry. We enjoy the wine and belong to four local wine clubs. The idea of visiting Sonoma County to learn more about wine just appealed to us."

At the suggestion of a friend who visited the area a year ago, the couple chose the city of Sonoma as a base.

"It's charming," Cathy said, "with the town square, restaurants and shops. We like visiting wineries, but don't want to spend entire days going tasting. Here we can have a good breakfast at our hotel, and then walk around to look at historic houses, tour the Mission, or browse the shops. In the afternoon we visit wineries."

Two days into their five-day Sonoma Valley visit, they had spent time at Buena Vista, Benziger, and Imagery wineries.

"We liked all three," Martin said. "Benziger has an extensive behind-the-scenes tour and right now, at harvest, the grapes were being processed. We hadn't seen that before. We're used to six- or seven-acre wineries on the North Fork, so coming here and seeing Benziger and Buena Vista with 40, 50 or 60 acres of vineyards, the beautiful landscaping ... it's a treat for us."

Cathy and Martin were both widowed when they met in 2005 and started dating. In September 2015, they bought a house together and married a month later, so they were edging up on their first anniversary during their Sonoma visit.

Both are retired from government jobs. Cathy worked for 34 years as a Suffolk County employee, and Martin served 37 years as a public information officer with the U. S. Maritime Administration. A sax player, he's always played in bands on the side.

"Now we just travel," Martin said. "We'd love to come back here — and we'll have to if we want to finish visiting all the wineries!"

## WEDDING MARKET

**Goal: Create more awareness, offer assistance, and generate room nights.**

TACTIC: Encourage couples to book weddings during need periods.

TACTIC: Attend bridal shows, use social media and marketing avenues to promote Sonoma County as a wedding destination.

## PROMOTE AIR SERVICE TO SONOMA COUNTY

**Goal: Assist the Charles M. Schulz – Sonoma County Airport (STS) in attracting new air service into Sonoma County.**

TACTIC: Participate in the airline attraction committee, which is charged with driving more air service to STS.

TACTIC: Work with airlines to promote shoulder season for overnight stays in order to increase room nights.

TACTIC: Provides sales and marketing support to STS and airlines opening routes to Sonoma County, including in-person meetings.

# OVERVIEW

Millions of potential travelers discovered Sonoma County via the efforts of SCT's public relations, marketing, and partnerships team. The past year brought increases in all sectors:

- Web traffic up 33 percent
- Visitors guide and map requests up 4 percent
- Email opt-in list tripled in size to more than 150,000 subscribers
- Facebook grew to more than 195,000 fans, up 25 percent
- A content strategy that emphasized diverse stories, itineraries, and a new video almost every three weeks

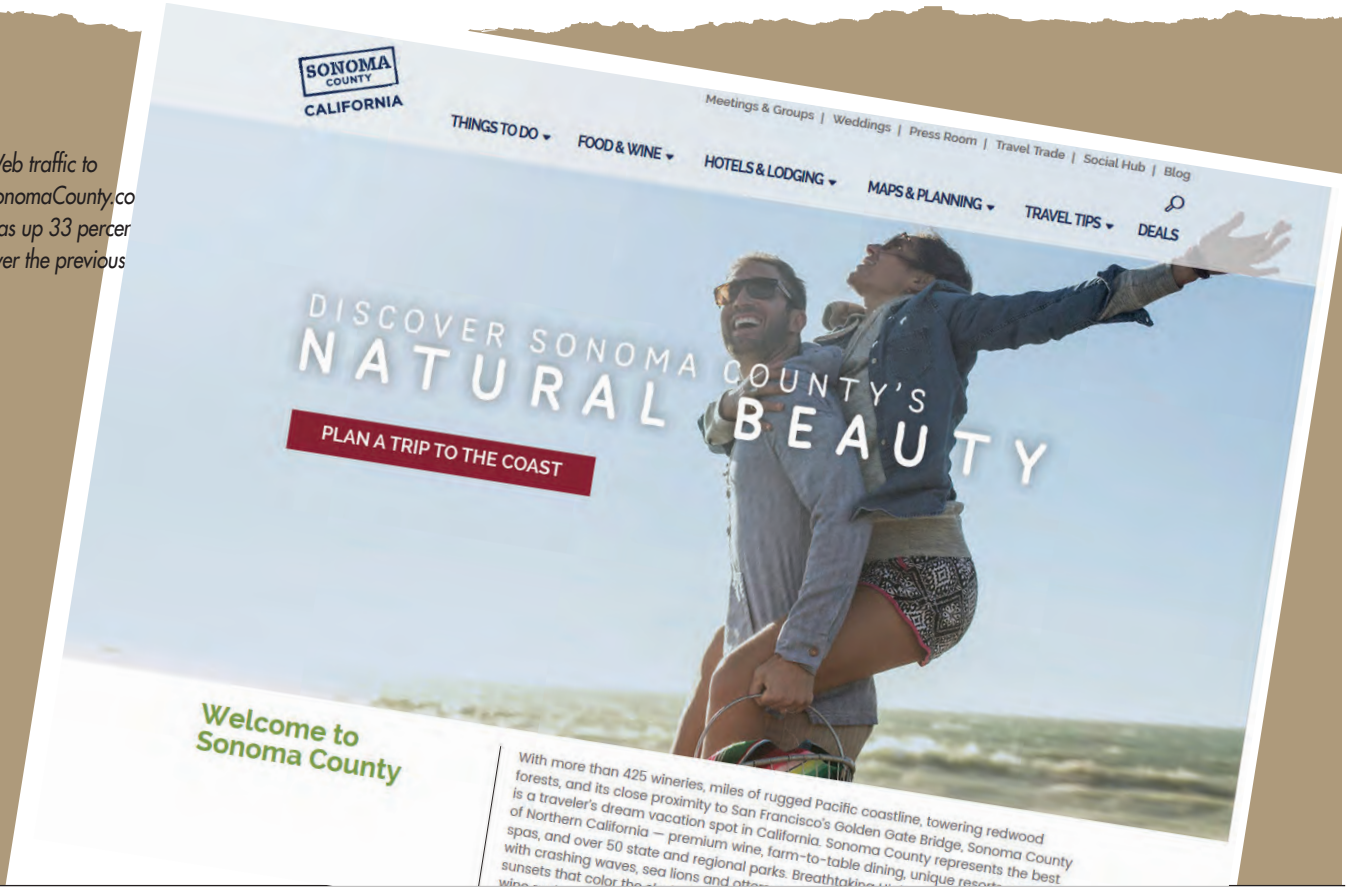
Visitors found the Sonoma County message through both paid advertising and positive travel stories written by more than 300 journalists. Because of strong marketing, advertising, and PR programs, millions chose to visit Sonoma County, helping to bring in $1.82 billion in destination spending.

The team played a crucial role in highlighting Sonoma County's involvement at Super Bowl 50, as well as supporting the Bay Area's Local Host Committee in reaching their communications goals.

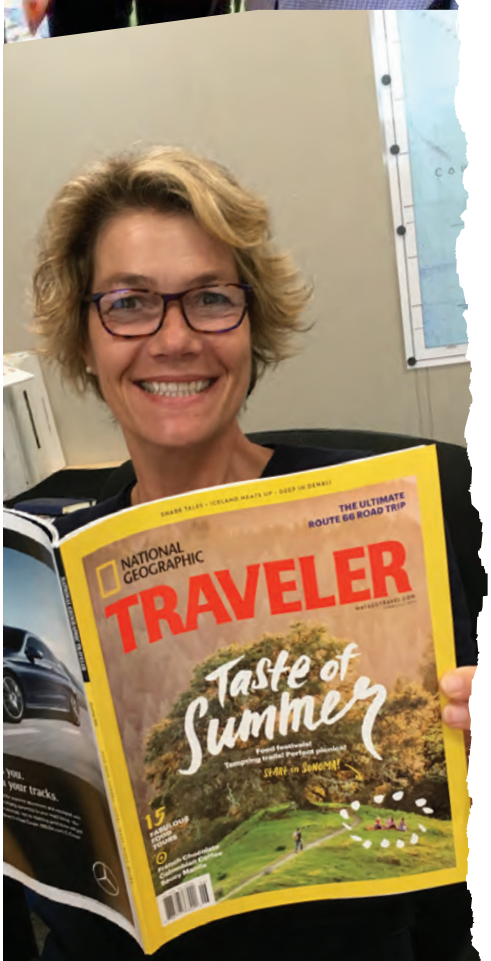
# OBJECTIVES

**Bring more overnight visitors to Sonoma County using public relations, marketing, and partnerships. Inform local communities about what SCT does and what impact tourism has on the local economy.**

*Web traffic to SonomaCounty.co was up 33 percer over the previous*



*The wine enticed guests at the Oakland Wine Festival grab some information about Sonoma County.*




*SCT's Birgitt Vaughan savors the Sonoma County cover story in National Geographic Traveler. Sonoma County also was featured in the British and German versions.*

**Goal: Communicate that Sonoma County provides a genuine, independent, and adventurous experience to increase overnight stays.**

RESULT: More than 525 stories about Sonoma County were written in the past year, an average of 10 a week. Top outlets include:

- National Geographic Traveler: Three years of building relationships with the U.S. communications director resulted in an editorial package worth $60,000. In 2016, separate articles about Sonoma County was also featured in both National Geographic Traveller U.K., and in the German edition.
- Chicago Tribune posted an article on Sonoma County titled "How to enjoy Sonoma County beyond the vines," written by Alan Solomon, who was hosted in May. The article is expected to run in print mid-December and has been syndicated to seven additional outlets, including Los Angeles Times, Baltimore Sun, Orlando Sentinel, and Hartford Courant.
- Ted Loos' feature article, "Suddenly Sonoma," in the October 2016 issue of Travel + Leisure. This is the result of ongoing outreach assisting with Loos' trip a few years ago. The coverage spans more than three full pages.
- As a result of SCT's presence at the Super Bowl, there were more than 78 million media impressions of Sonoma County.

RESULT: A personal connection with top-ranked journalists builds relationships, which results in positive coverage for Sonoma County. Media visits completed domestically in Aspen, Austin, Chicago, Dallas, Houston, Los Angeles, New Orleans, New York, Portland, Sacramento, San Diego, San Francisco, and Seattle. International visits included Australia, Berlin, Calgary, Copenhagen, Dublin, Frankfurt, Japan, London, New Zealand, Paris, and Vancouver.

RESULT: Media training for partners included a workshop with Andrew Nelson, contributing writer for National Geographic, on how to attract journalists to your business. The team also produced and distributed weekly updates on media coverage and results of media visits.

RESULT: More than 175 journalists visited Sonoma County to research stories, with the assistance of SCT.

RESULT: Produced and distributed more than 200 press releases, advertorials, pitches, and fact-checking to journalists and publications worldwide.

RESULT: The team collectively visited more than 150 partner businesses in order to learn more about them in order to better promote them through SCT's marketing and PR channels.

RESULT: Sonoma Insider, monthly newsletter (customer-relationship management, CRM) program, went out to approximately 150,000 opt-in subscribers monthly, worth $255 each in destination spending.

RESULT: Digital strategy employed social media, customer relationship management, search marketing, website content optimization, and online targeting.

**RESULT:** Integrated editorial calendar provided the basis for new, diverse content on an almost-daily basis that showcases Sonoma County experience pillars.

**RESULT:** The website received a facelift/reskin and additional features to drive customer engagement and conversions:

- New branded color scheme
- Larger pictures
- Tiled content pieces and modern design
- Streamlined navigation
- Large homepage map with interactive towns feature
- "Plan Your Trip," "Tool boxes," and "Quick Links" for homepage and microsites (weddings, meetings, travel trade, media)
- Social media integration feeds available on homepage and microsites (weddings, meetings, travel trade, media)
- My Map feature to save itinerary map to smartphone
- More effective visitor guide order form
- Published more than 500 new blog posts and articles and updated existing articles.
- 12 professional local writers contribute new content to SonomaCounty.com, covering 15 separate topics.
- Created microsite for Sonoma County Restaurant Week.

**RESULT:** Increased Sonoma County content distribution by using native advertising, content push to popular travel platforms, and the addition of Chinese, Japanese, and Spanish online guides.

## JACK JOHNSON

Visitors: *Jack Johnson (and family members); from Manchester, England*

In mid-September, three branches of a far-flung family flew to Seattle from their homes in England, Singapore, and New Jersey, piled into a rented RV, and took off on a fun-filled mobile family reunion.

Along the way they curbed the RV's wheels for three days at the KOA Campground in Petaluma.

"It's great," said Jack Johnson, a veterinary surgeon from Manchester, England. "It's the perfect location to check all the boxes of what we'd like to do. We get to see Wine Country, go wine tasting, and use Petaluma as a base to explore San Francisco."

Jack traveled from England to Seattle with his fiancée, Natasha Wilkinson, also a veterinarian. A third RVer is his cousin, Alexander Ananiadis. Born in Manchester and now a New Jersey resident, he just graduated from college and will soon start a software engineering job in New York.

Closing up the family's RV ranks are Jack's uncle and aunt, Maurice and Camille Baker. They live in Singapore, where Maurice, born in Liverpool, has his own telecommunications business and Camille, originally from Montreal, is in container shipping.

"Traveling in an RV with family has been a great experience," Jack said. "My uncle put it together — he said if you can get yourself to Seattle you'll have a free RV to travel in. We hadn't seen each other in years."

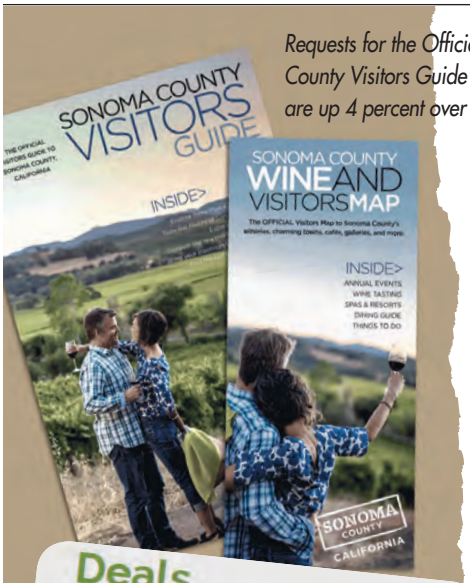
"It's been eight years since I saw you," Alexander pointed out. "And I'd never seen Natasha."

"We're driving in teams," Jack added, "and we've got a hire car in tow, so we just pitch up with the RV and take off in the car. That's really handy, because we go places where it would be difficult to park the RV. We've done something really interesting every day."

"So far it's been absolutely great," Camille said.

As the family has traveled south, the weather has grown warmer and sunnier. "It's been fantastic," said Jack.

"I really like California. I didn't realize there was so much going on, so much variety. I realize now why people like it so much."




*Requests for the Official Sonoma County Visitors Guide and Wine Map are up 4 percent over last year.*

*Nearly 45,000 potential travelers checked out the Deals page on SonomaCounty.com.*

*Videographer George Dondero sets up a shot at Costeaux Bakery as part of another potentially award-winning video that will entice travelers to visit the area.*

RESULT: Developed and published Weddings E-book and updated Meetings E-book and Travel Trade E-book on website.

RESULT: Developed and published 25 destination videos, including the "Sonoma A-Z" video series.

RESULT: Expanded available b-roll video for broadcast and online journalists.

RESULT: A comprehensive, multi-media, advertising program was implemented in all market segments to complement sales and public relations initiatives. The program included seasonal campaigns to encourage visitation during the shoulder season, which resulted in dramatic growth in the opt-in list.

Annual Campaign highlights:

- Facebook grew 25 percent to more than 195,000 fans.
- Trip Advisor sponsor pages continued to be developed and updated, resulting in highly engaged website traffic.
- Winter promotion resulted in growing the SCT opt-in list with more than 100,000 qualified new opt-ins
- The team continued its partnership with Brand USA, and enhanced its international advertising presence. SCT continued robust advertising programs with Visit California and SF Travel.
- Sneakaway campaign: Promoted off-season deals from SCT partners and generated 18.5 million ad impressions and nearly 45,000 unique visitors to the deals page showing high engagement. Positive feedback was received from lodging properties indicating booking success as a result of this campaign.
- Fall/Winter Promotion: Implemented late fall promotion for shoulder and winter seasons.

RESULT: Implemented sophisticated search engine optimization and content creation/distribution strategy using content calendar, analytics platforms, online targeting, and specialist vendor recommendations. Tactics increased website traffic by 33 percent year-over-year.

RESULT: The Official Sonoma County Visitor Guide and Map is distributed to 1,550 sites throughout California. The weekly requests (via website and ad reader requests) totaled 31,382 for the past 12 months. The website weekly requests increased 4 percent from 2015. Total distribution is 150,000 visitor guides and 350,000 maps.

RESULT: Reached out to consumers and trade professionals via shows and events in Aspen, Oakland, San Francisco, and Silicon Valley. Nearly 4,000 potential travelers opted in to receive more information about the destination.

**Goal: Communicate to local communities what SCT does and the importance of the hospitality industry to the Sonoma County economy.**

RESULT: Produced and distributed five press releases that explain tourism's role in Sonoma County's overall economy.

RESULT: Planned and produced Sonoma County Tourism's annual meeting, which is open to the public and let people know how tourism affects the local economy.

RESULT: Produced regular communication to partners:

- Tourism Update: Outlines SCT's business results and tourism news
- Visitors Chronicle: Offers information, including calendar of events, to front-line employees in Sonoma County
- Media Handbook: Offers opportunities to get business deals in front of visiting journalists
- What's New press release: Allows local hospitality businesses to submit informationand be included in this quarterly press release that is sent to more than 3,000 journalists
- Publicity and Media Opportunities: As needed to offer partners a chance to respond to media and marketing requests

**Goal: Get community partners involved with assisting media and telling the Sonoma County story.**

RESULT: Over the course of the program, more than 1,800 front-line hospitality professionals, County of Sonoma employees, and Sonoma County residents have gone through the process to become certified tourism ambassadors (CTAs).

RESULT: Offered regularly scheduled partner information presentations, which allowed 32 businesses to present their information to staff and learn more about SCT and how to leverage its free marketing services.

*Sonoma County Tourism helps hospitality professionals stay informed with the Visitors Chronicle.*

*Tourism Update outlines SCT's business results, the state of the hospitality industry, and tourism news and statistics.*

*Accepting the 2015 Tourism Champion award are Greg Probst, California State Parks, Donna Roper and Marcy Beck of Stewards of the Coast and Redwoods. The award was presented by, second row, from left, Sup. Susan Gorin, and from Sonoma County Tourism, Ken Fischang, Pauline Wood, and Michelle Heston.*

*SCT's annual meeting brought the hospitality together. This was perfect time to roll out a new farm market bag.*

TOURISM IN THE COMMUNITY

## JULIE PEDRONCELLI

*Julie Pedroncelli St. John, Pedroncelli Winery, Geyserville*

Julie Pedroncelli St. John, a third-generation family member/owner of Geyserville's Pedroncelli Winery, grew up at the winery from the age of 5.

She began working in the winery after college. "I started in the tasting room and worked my way into marketing and sales," she said.

Philanthropy is entwined with the Pedroncelli Winery's history. "I'd love to estimate the amount of time, talent, and treasure we have donated over the years," Julie said. "Being in the business 89 years, it would really add up. But we've never kept track."

Among Sonoma County recipients of Pedroncelli's largesse are the Fund in Need for the Sonoma Wine Country Weekend Auction; local schools; 4H and animal rescue organizations; community foundations, homeless projects, agricultural groups, scholarships, "and any other type of fundraising that's near and dear to our hearts."

Julie herself volunteers for North Sonoma County Services and the Redwood Empire Food Bank, and is currently active on two community/non-profit boards: The Geyserville Community Foundation and Friends of the Sonoma County Wine Library. Her husband, Ed St. John, serves on the board of North Sonoma County Services, which helps people struggling with homelessness or at risk of becoming homeless.

Last and certainly not least, Julie said, "We have staff that do the same on their own time, especially with the Redwood Empire Food Bank."

FACES OF TOURISM

**Goal: Identify who is visiting Sonoma County, where they are coming from, and how they are deciding to come here. Use this information to tailor sales and marketing efforts to increase visitation to Sonoma County.**

RESULT: Contracted for credit card data to better understand domestic and international visitors.

RESULT: Worked with Sonoma County Economic Development Board to develop a research plan, using a dedicated research fellow.

RESULT: Other research projects include return on investment for advertising and marketing campaigns, competitive set analysis, Annual Tourism Report, and others.

**Goal: Invest in industry training for SCT staff.**

RESULT: Team members attended conferences throughout the year. These included Cal Travel Summit, Content Marketing World, Destination Marketing Association International, DMA West Tech Summit, DMAI Technology, ESTO, E-Tourism Summit, Public Relations Society of America, San Francisco Travel annual meeting, Simpleview Summit, Visit California Outlook Forum, and others.

# OVERVIEW

With the success of Sonoma County as a destination, SCT's marketing team is mindful of the need to balance the promotion of the area with the story of the hospitality industry locally.

In the coming year, SCT's marketing team will use effective storytelling (advertising, marketing, and public relations) to inspire travelers to choose Sonoma County for an overnight visit.

Creative advertising and marketing campaigns, a robust media relations program, and digital marketing strategies introduce Sonoma County to potential travelers in markets that are likely to yield visitation.

Decisions on where to spend marketing and advertising dollars are based on a research program that looks at where potential customers are and how to best reach them. Programs will also be evaluated for return on investment in order to better allocate future resources or change tactics as needed.

The data management system, a record of all local hospitality businesses, is continually updated. This information is the foundation of all marketing and sales efforts.

In the coming year, the marketing team will continue to offer opportunities for the community – Sonoma County government bodies, residents, local media, and tourism stakeholders – to engage with SCT about the impact tourism has on the local economy, infrastructure, and the overall lifestyle in Sonoma County.

# OBJECTIVES

**Bring more overnight visitors to Sonoma County using marketing, public relations, communications, and partnerships. Also, inform local communities about what Sonoma County Tourism does and what impact tourism has on the local economy.**

*SCT gives back to the community. From left Maureen Tunheim, Bill Judson, Deleyse Langdale, Kila McCollister, and Mark Crabb helped bag carrots at the Redwood Empire Food Bank.*

## RHONDA GUTENBERG

Visitors: *Rhonda Gutenberg, From Shanghai, China*

Management consultant Rhonda Gutenberg lives in Shanghai, where she heads an office of a British firm. A one-time North Bay resident, she returns to the Bay Area once a year to visit with friends.

"I love to be outdoors," she said. "So when I'm here I spend a lot of time hiking or biking. One of my favorite things to do is hike the Kortum Trail from Goat Rock Beach, and then go up the road a bit to Jenner to get something to eat and enjoy that amazing view from River's End. Biking is great here, too — one of my favorite rides is through Alexander Valley, stopping at wineries along the way. That's so much fun.

"Another thing I'm fond of doing when I'm in Sonoma County is going to wineries, although not necessarily for wine tasting," Rhonda added. "So many now have art exhibits or beautiful grounds and gardens. That's a great thing to do."

On her yearly visit this October, Rhonda's brother Kenny flew out from the Midwest to see her. They were joined by their sister, Carrie, who lives in Los Angeles (and her fiance, Zack), both of whom happened to be in Sonoma for a wedding.

"Kenny and I met them in Sonoma for lunch," Rhonda said. "We tried to get into Girl + The Fig, but it was too long a wait, so we went to the Sunflower Caffe instead, and sat outside overlooking the Plaza. It was perfect."

Rhonda considers the fast pace of life in Shanghai to be exhilarating. However, as a sports enthusiast she often thinks of being out and about on Sonoma County's rolling hills and vineyards, of cycling along the Russian River or standing atop Bodega Head gazing out at the sea.

"I love it here," she said.

**Goal: Communicate that Sonoma County provides a genuine, independent, and adventurous experience to increase overnight stays.**

TACTIC: Continue with the integrated "Sonoma Passion" campaign. Showcase the diversity of the area (coast, redwoods and rivers, vineyards and valleys) and experiences to extend visitor stays. Encourage visitors to see more of the total county during their stay.

TACTIC: Advertise in markets likely to yield overnight visits. Drive consumers to trackable channels to increase marketing opt-ins. Place more paid content modules vs. traditional ads, increase engagement with social media platforms, and increase alignment with key advertising partners: San Francisco Travel, Visit California, Brand U.S.A., airline partners, and more.

TACTIC: Create compelling collateral to market the destination.

TACTIC: Visit media in select markets, offer media tours to qualified travel and lifestyle writers, share national public relations representation with Sonoma County Vintners and Sonoma County Winegrowers. Partner with other in-county organizations to better extend media reach.

TACTIC: Invest in a comprehensive digital strategy to inspire, inform, and instigate travel or requests for information. Stay current with visual storytelling platforms backed up by a robust content calendar.

TACTIC: Continue to reach out to partners to ensure business information is up to date in order to provide accurate information to potential travelers.

TACTIC: SCT, Sonoma County Vintners, and Sonoma County Winegrowers will partner in marketing, branding, and public relations initiatives when appropriate.

TACTIC: Form partnerships with organizations and/or events that extends SCT's message to generate overnight stays, while providing SCT with opt-in information of potential travelers.

**Goal: Communicate what SCT does and the importance of the hospitality industry to the Sonoma County economy.**

TACTIC: Use e-newsletters, partner information presentations, and local media outreach to tell SCT's business message.

TACTIC: Continue to grow community engagement: Listen to stakeholders in the tourism economy. Develop and implement a communications engagement plan that spotlights tourism businesses, their philanthropy, and contributions to the local economy.

TACTIC: Engage local media about the impact tourism has on the Sonoma County economy; what SCT is doing locally and industrywide.

**Goal: Get community partners involved with assisting media and telling the Sonoma County story.**

TACTIC: Engage with partners to become spokespeople to tell the Sonoma County story to visiting media.

TACTIC: Encourage partners to submit deals to the Sonoma County Journalists Handbook.

TACTIC: Offer the Sonoma County Certified Tourism Ambassador program to local businesses, schools, and organizations.

## FACES OF TOURISM

### RICK YOUNG

*Waiter – River's End Restaurant in Jenner*

Rick Young has been a waiter at Jenner's River's End Restaurant since 2012.

"It's perched on a bluff with gorgeous views," he says, "and the food is spectacular. I love this place."

Rick does everything possible to help make a guest's entire visit to Sonoma County memorable, handing out brochures, maps, and contacts — and, most important, offering lots of verbal help.

"People arrive at River's End overloaded," he said. "There's so much to do here, they're not sure where to begin. That's when I jump in as a CTA (Certified Tourism Ambassador) and hone in on their specific needs. You like inns? Here's a great one when you're in Dry Creek. You can't beat Bodega Head for whale watching. This winery up the road has the kind of casual atmosphere you're looking for. Here's a safe beach on the river that's perfect for families ...

"I'm lucky to meet tourists from around the nation and the globe. It's an honor to represent a trusted establishment with amazing food, a great customer experience, stunning ocean views and a management that supports and encourages us."

*Birgitt Vaughan meets with representatives from Visit California's German office at ITB Germany.*

**Goal: Identify who is visiting Sonoma County, where they are coming from, and how they are deciding to come here. Use this information to tailor sales and marketing efforts to increase visitation to Sonoma County.**

TACTIC: Research visitor origination and motivation to fine tune SCT marketing and sales efforts.

TACTIC: Work with Sonoma County Economic Development Board and outside vendors for quality research.

TACTIC: Research the return on investment for marketing, advertising, and public relations projects and programs.

**Goal: Implement culture of "learning-organization" that invests in latest marketing, communications, and management best-practices for professional development.**

TACTIC: Offer staff educational and professional development opportunities.

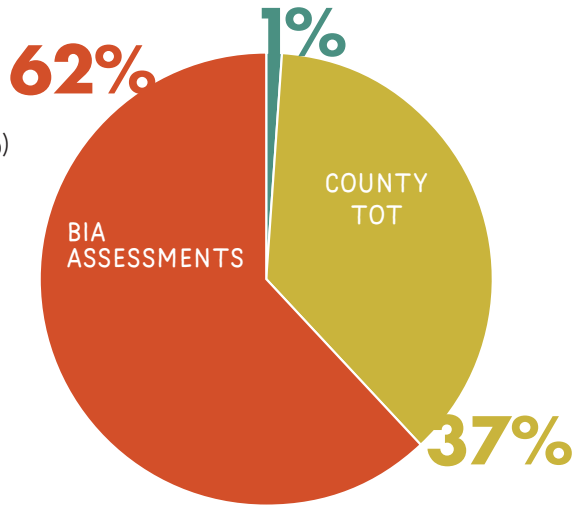
*Wine fans at the Oakland Wine Festival were introduced to some of Sonoma County's finest wines.*

# OVERVIEW

**The primary goal of the finance department is improving fiscal and administrative efficiency, accountability, and transparency while enabling other departments to focus their efforts on the sales and marketing mission of Sonoma County Tourism.**

**Audited financial statements are submitted annually to the County of Sonoma.**

## 2016 FISCAL YEAR REVENUES (October 2015 – September 2016)



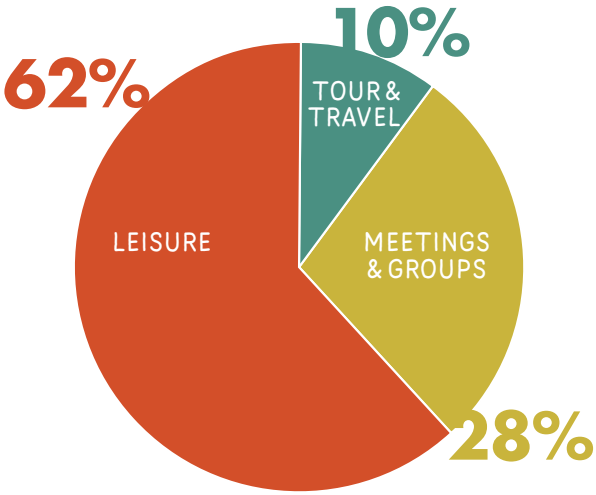

FY 2016 County Transient Occupancy Tax (TOT) revenue for the period from October 2015 through September 2016 was $2,763,204, 1 percent ($38,735) more than the prior year. TOT revenue is allocated to countywide advertising, and marketing support.

Business Improvement Area (BIA) assessments were $4,689,942, 10 percent ($410,322) more than the prior year. BIA revenues are used for expenses other than countywide advertising and marketing.

**Revenue Sources**

| | | |
|---|---|---|
| $7,505,372 | Total | |
| $4,689,942 | BIA Assessments | 62 percent |
| $2,763,204 | County TOT | 37 percent |
| $52,226 | Other Income | 1 percent |

## 2016 PROGRAM EXPENSE ALLOCATIONS




2016 Program Expense Allocations closely followed the approved budget for the year. After allocating general and administrative, and sales general expenses into the three program areas, the expense percentages are:

| | |
|---|---|
| Leisure | 62 percent *(61 percent in 2015)* |
| Meetings and Groups | 28 percent *(29 percent in 2015)* |
| Tour and Travel | 10 percent *(the same as 2015)* |

# OVERVIEW

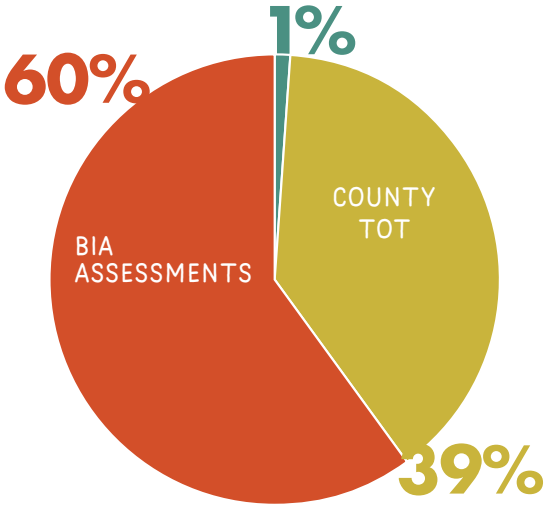
**Increasing tourism within Sonoma County has led to increased tax collections and revenues for Sonoma County Tourism. Use of these additional revenues has been budgeted to expand sales and marketing efforts designed to increase tourism. The program allocations are consistent with previously established ratios of 60 percent leisure, 30 percent meetings and groups, and 10 percent tour and travel.**

## 2017 REVENUES

The 2017 revenue budget was developed based on the current year's business improvement area (BIA) collections, feedback from the SCT board of directors, and contracted service agreements.

**Revenue Sources**

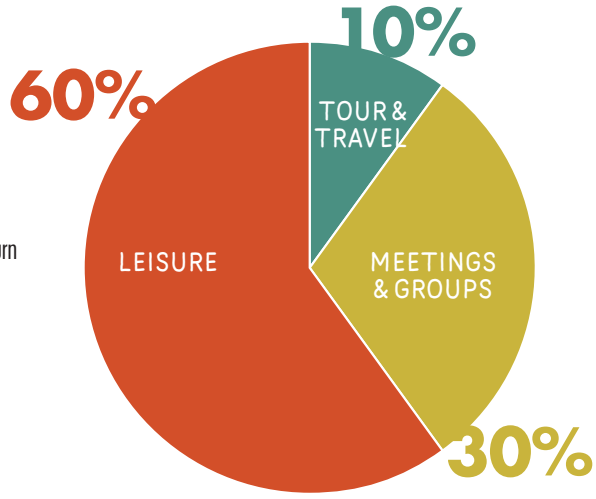
| | | |
|---|---|---|
| $8,195,975 | Total | |
| $4,908,195 | BIA Assessments | 60 percent |
| $3,235,700 | County TOT | 39 percent |
| $52,080 | Other Income | 1 percent |

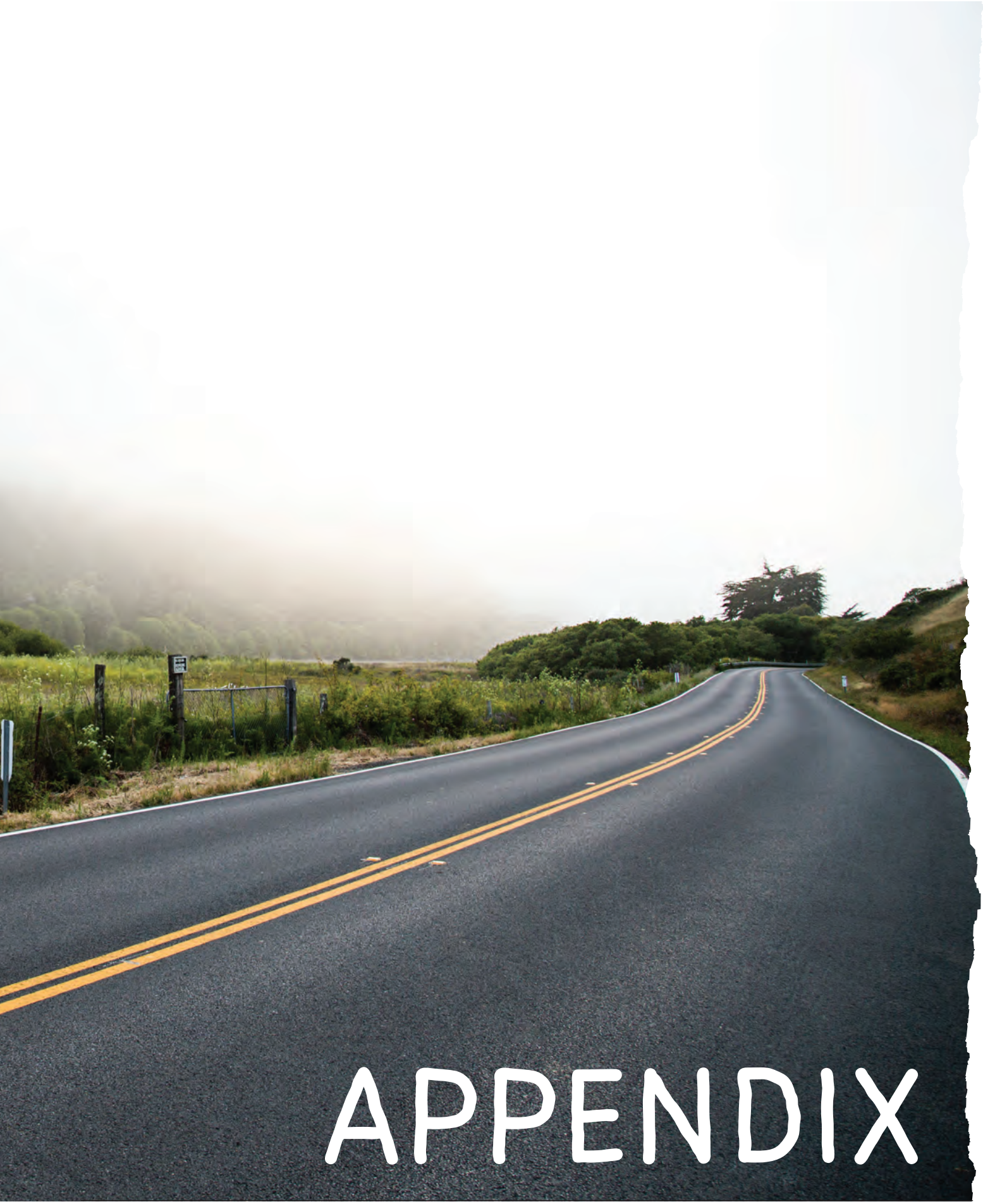



## 2017 PROGRAM EXPENSE ALLOCATIONS

2017 Program Expense Allocations reflect a trend from prior years to maximize the return on investment as it relates to tourism for Sonoma County. After allocating general and administrative and sales general expenses into the three program areas, the 2017 budgeted expense percentages are the same as budgeted in 2016:

| | |
|---|---|
| Leisure | 60 percent |
| Meetings and Groups | 30 percent |
| Tour and Travel | 10 percent |





# APPENDIX

# HISTORY AND FORMATION OF SONOMA COUNTY TOURISM

**With an annual economic impact of more than $1.82 billion, the tourism industry in Sonoma County has emerged as a vital component in sustaining the local economy.**

**In recognition of its importance, a public/private collaborative process was initiated to develop a structure to support and increase the vitality of this industry sector. From this collaborative process, the Sonoma County Tourism Bureau was created as the destination marketing organization for Sonoma County.**

**In March 2001,** leaders in the tourism industry and the public sector began to formulate ideas and investigate ways of creating a funding structure to support a comprehensive tourism marketing program. In these discussions, the idea of creating a special countywide tourism business improvement area emerged.

The Sonoma County Lodging Association (SCLA) became the lead organization advocating the development of a new business improvement area. In 2004, SCLA promoted the development of the business improvement area to its members, community leaders, public officials, and tourism-related organizations. In November 2004, SCLA saw their vision become reality when the Sonoma County Board of Supervisors established the Sonoma County Tourism Business Improvement Area (SCTBIA).

Soon after the establishment of the SCTBIA, the organizational framework for the Sonoma County Tourism Bureau (SCTB) was developed, including articles of incorporation and by-laws.

**On Jan. 1, 2005,** a new era in funding Sonoma County tourism marketing began as the SCTBIA went into effect. The development of the new Sonoma County Tourism Bureau took a significant step forward in February 2005 as the 22-member board of directors was appointed and had its inaugural meeting.

**In June 2005,** the Board of Supervisors ratified a contract with SCTB to market Sonoma County and promote overnight visitors. On July 1, 2005, the SCTB officially became the destination marketing organization for Sonoma County.

**In August 2012,** Sonoma County Tourism joined Sonoma County Vintners and Sonoma County Winegrowers to establish a common identity for Sonoma County. The two-year planning and brand exploration led the three organizations to discover what the name "Sonoma County" stands for and how it is different from other wine regions throughout the world.

The character of this region is defined as genuine, independent, and adventurous. Likewise, the core audience can be described as "experience seekers;" confident, independent thinkers with natural curiosity and a sense of discovery, exploration and experimentation that leads to making informed choices.

# 2017 BOARD COMMITTEES

## BOARD COMMITTEES

### Executive Committee

Joe Bartolomei
*PR/Marketing Committee Chair*
Farmhouse Inn & Restaurant

Jennifer Buffo, *CTA*
*Group Business Development Committee Co-Chair*
Pure Luxury Transportation

Dan Christensen, *CTA*
*Board Chair*
Geyserville Inn

Michelle Heston
*Vice Chair*
Fairmont Sonoma Mission Inn

Keo Hornbostel
*Treasurer - Finance & Legal Committee Chair*
Safari West

Steve Jung, *CTA*
*Group Business Development Committee Co-Chair*
Doubletree by Hilton Sonoma Wine Country

Rachel LeGrand, *CTA*
*Governance/HR Committee Chair*
Russian River Getaways

Tim McGregor, *CTA*
*Secretary*
Bodega Bay Lodge & Spa

Pauline Wood, *CTA*
*Past Chair*
San Francisco North / Petaluma KOA

### Finance and Legal

Gary Buffo
Pure Luxury Transportation

Dan Christensen, *CTA*
Geyserville Inn

Keo Hornbostel, *Chair*
Safari West

Lowell Johnson, *CTA*
Sonoma County Lodging Association

Rick Nowlin, *CTA*
Luther Burbank Center for the Arts

Ben Osgood, *CTA*
Hampton Inn & Suites Windsor

Jennifer Richards
Hyatt Vineyard Creek

Jonny Westom, *CTA*
Sonoma Valley Visitors Bureau

### Governance /HR Committee

Percy Brandon, *CTA*
Vintners Inn

Jennifer Buffo, *CTA*
Pure Luxury Transportation

Jonathan Coe, *CTA*
Santa Rosa Chamber of Commerce

Michelle Heston
Fairmont Sonoma Mission Inn

Lowell Johnson, *CTA*
Sonoma County Lodging Association

Rachel LeGrand, *CTA, Chair*
Russian River Getaways

Tim McGregor, *CTA*
Bodega Bay Lodge & Spa

## PROGRAM COMMITTEES

### PR/Marketing

Joe Bartolomei, *Chair*
Farmhouse Inn & Restaurant

Sonia Byck-Barwick, *CTA*
Paradise Ridge Winery

Jim Caudill
Caudill Communications

Meda Freeman
Sonoma County Regional Parks

Karissa Kruse, *CTA*
Sonoma County Winegrowers

Michelle Heston
Fairmont Sonoma Mission Inn

Rachel LeGrand, *CTA*
Russian River Getaways

Bert Rangel, *CTA*
Rivers End Restaurant & Inn

Pauline Wood, *CTA*
San Francisco North / Petaluma KOA

### Group Business Development

Jennifer Buffo, *CTA, Co-Chair*
Pure Luxury Transportation

Rene Byck, *CTA*
Paradise Ridge Winery

Sion Edwards, *Director of Sales Liaison*
Fairmont Sonoma Mission Inn

Steve Jung, *CTA, Co-Chair*
Doubletree by Hilton

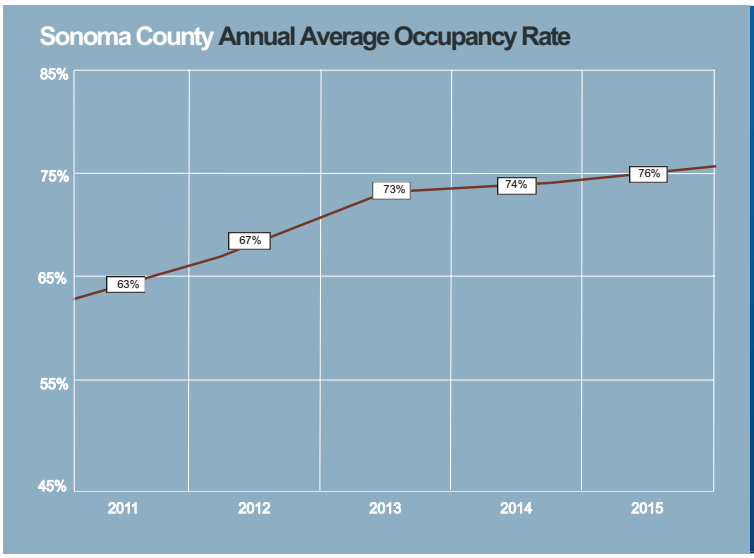
James Luchini, *CTA*
Francis Ford Coppola Winery

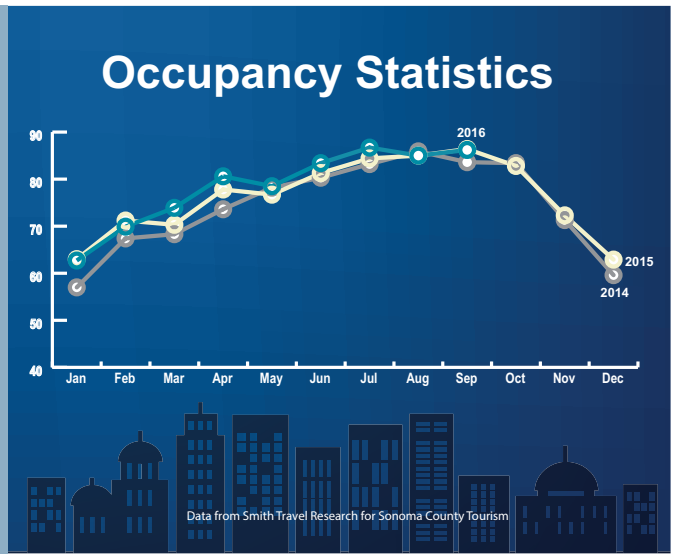
Gary Saperstein
Out in the Vineyard

Scott Satterfield
Sheraton Sonoma County Petaluma

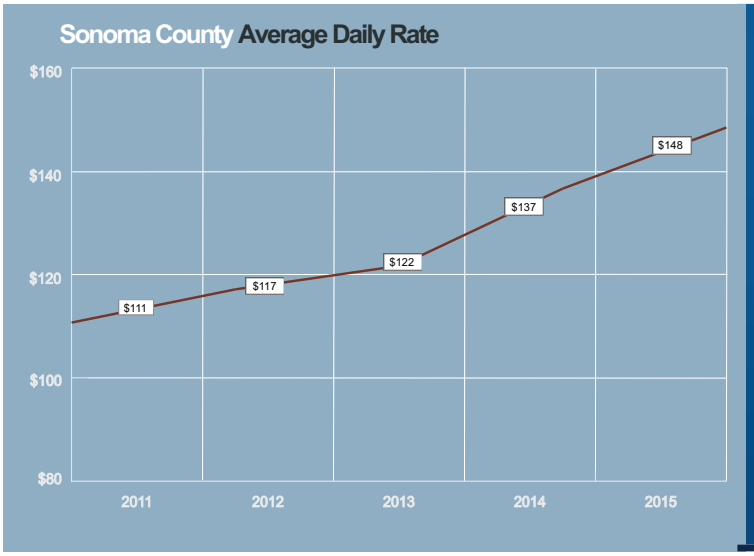
# RESEARCH

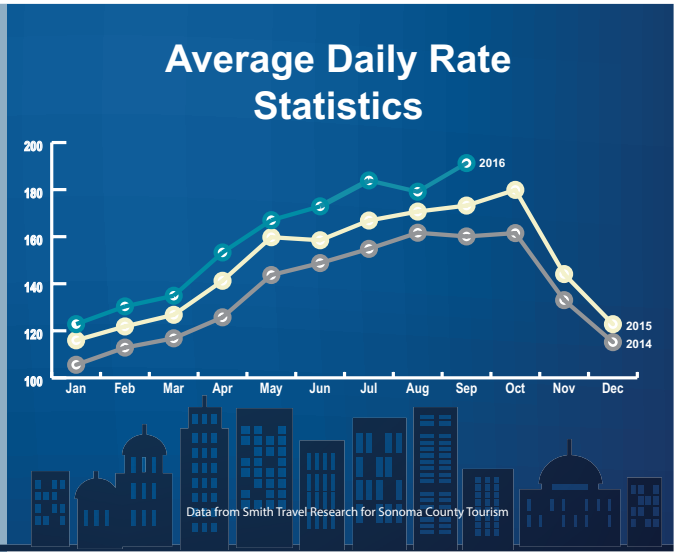
## OCCUPANCY




## RATES




**Updated statistics found at SonomaCounty.com/stats**

# Annual Tourism Report

2016
SONOMA
COUNTY

SONOMA COUNTY EDB ECONOMIC DEVELOPMENT BOARD

SONOMA COUNTY TOURISM

# Table of Contents


**1** Executive Summary

## Moody's Analytics

**2** Moody's Analytics Tourism Analysis

## Tourism Indicators

**6** Tourism Indicators Summary
**7** Destination Spending
**8** Destination Spending Breakdown
**9** Industry Employment
**10** Lodging & Hospitality Assessment
**11** Tourism Generated Taxes
**12** Airport Visitor Intercept Project
**13** Emerging Trends

## Sonoma County Tourism Industry Survey

**14** Tourism Industry Survey Summary
**15** Survey Responder Demographics
**16** Survey Responder Demographics Continued
**17** Industry Confidence & Outlook
**18** Community Service & Charitable Giving
**19** Marketing, Government & Promotional Assistance
**20** Attractions & Potential Market Opportunities
**21** Marketing Initiatives & Agency Involvement

**22** Methodology & Acknowledgements

# Annual Tourism Report

**August 2016**

The Sonoma County Economic Development Board (EDB), in partnership with Sonoma County Tourism, is pleased to bring you the 2016 Annual Tourism Report. The 2016 Annual Tourism Report contains three sections integrating findings on the local tourism industry. The first section contains research conducted by our research partner, Moody's Analytics. The second section of the report highlights key economic indicators produced by the California Travel & Tourism Commission and Smith Travel Research. The third section provides updated results of the EDB Annual Tourism Industry Survey.

Moody's Analytics is a leader in economic research and provides key quantitative and qualitative analysis on Sonoma County's tourism industry. Key findings from Moody's Analytics Tourism Analysis include:

- Sonoma County's tourism industry is maintaining a strong expansion. This marks the continuation of four years of growth in which tourism has outpaced the rest of the economy.
- The long-term outlook for Sonoma County tourism remains strong. The region continues to grow in recognition as a premier tourist destination, and its proximity to Bay Area attractions and airports is driving its expansion.

The California Travel & Tourism Commission provides a 'Travel Impacts by County' report each year. This report provides the latest available economic impact figures on Sonoma County and along with the most recent lodging statistics. These are the primary sources for the Tourism Industry Indicators. Key findings include:

- Key tourism indicators show that travel is booking in Sonoma County following the economic downtown beginning in 2007-2008. Destination spending, transient occupancy tax (TOT) receipts, industry earnings and local and state tax receipts are the highest that Sonoma County has seen in the last decade. Travelers are returning to Sonoma County and supporting the local economy through increased spending.
- Lodging indicators and occupancy rates also increased in 2015.

Each year the EDB conducts an annual tourism industry survey of Sonoma County business owners and executives involved in tourism. The survey focuses on complete industry strength, confidence, and opportunities. Key findings from this survey include:

- Businesses have a positive outlook for tourism in the coming year.
- More businesses expanded operations over the past year than in the year before.

Thank you for your interest in the Economic Development Board's research. For additional information, questions, comments, or suggestions please contact us at (707) 565-7170 or visit www.sonomaedb.org.

Sincerely,

Ben Stone
Executive Director

SONOMA COUNTY EDB ECONOMIC DEVELOPMENT BOARD

*©2016 Sonoma County Economic Development Board. The Economic Development Board (EDB) believes all data contained within this report to be accurate and the most current available, but does not guarantee its accuracy or completeness. Use of data from an outside source does not represent an endorsement of any product or service by the EDB, its members or affiliates. This publication can be made available in alternative formats such as Braille, large print, audiotape, or computer disk. Please direct requests to (707) 565-7170 and allow 72 hours for your request to be processed. This report was prepared by Josue Rivera.*

# Annual Tourism Report: Moody's Analytics Tourism Analysis

## Recent Trends

Sonoma County's tourism industry is stretching its wings after logging one of the strongest years in more than a decade. Visits to Sonoma County ramped up considerably in 2015 thanks to steady improvement in national trends as well as the release of pent-up demand in the area. All signs point to continued growth in the first months of this year. Hotel occupancy rates maintained their steady upward climb over the course of 2015, and greater demand has driven growth in per-room revenues. In response to improving business conditions, hiring by leisure and hospitality establishments has accelerated markedly, and total leisure and hospitality employment stands nearly 25% higher than its prerecession peak.

Rising disposable incomes, firming confidence, and lower energy prices are driving growth in domestic tourism, but the ironclad Bay Area economy has provided a particular boost. Soaring wage growth in the San Francisco and San Jose metro areas has increased the affordability of day trips to Sonoma wineries, and local eating and drinking establishments have also shared in the gains. Sonoma County's tourism industry also received a seasonal boost: The winter of 2016 was much milder than past winters, increasing the total number of travel days for consumers.

Real tourism spending accelerated over the course of 2015, according to the Bureau of Economic Analysis, and greater local spending on both food and accommodations suggest that Sonoma County was no exception. Bed tax revenues grew in double digits in 2015, while taxable retail sales growth is trending higher. Greater tourism spending has spurred investment by local hotel/resort operators and restaurants. The Farmhouse Inn and Restaurant in Western Sonoma County recently completed an $8 million renovation, adding several new suites along with a spa and fitness center, and hotel developer Saggio Hills will soon break ground on a boutique bed and breakfast resort in Healdsburg.

## Macro Drivers

The U.S. economy is steadfastly advancing despite headwinds from falling energy investment and sluggish global growth. While energy and trade will drag on growth in the near term, consumers are stepping up to the plate and will do more to lift the economy over the next year. The housing market recovery is making good progress, and greater construction activity will spur growth in better-paying construction and financial services jobs. The Moody's Analytics forecast calls for the economy to advance by 2.3% this year, sustained by rising consumer spending and a more robust recovery in homebuilding.

The modest outlook for output growth stands in contrast to the white-hot labor market. The economy is adding jobs at a breakneck pace, pulling the unemployment rate below 5% even amid strong labor force growth.

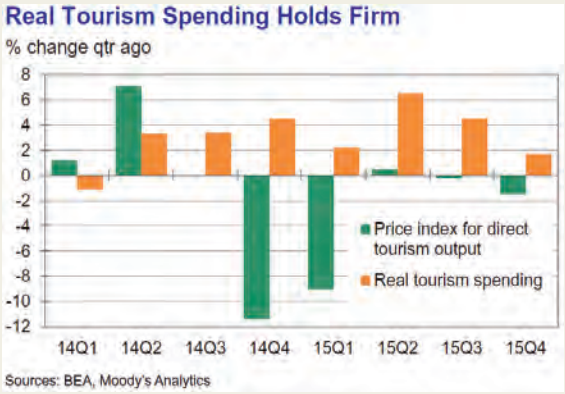
On average, employers have added more than 200,000 jobs in each of the last six months, and at the current rate of job gains the remaining slack in the labor market will be absorbed by summer. The tightening labor market is already beginning to pull up wages: Average hourly earnings growth has trended upward since the fall, while the average workweek is lengthening.

Better wage growth and improving consumer fundamentals bode well for Sonoma's tourism. Real consumer spending growth in 2015 rose at the fastest pace in a decade, and the forecast calls for an encore performance this year as wage growth firms and rising house prices lift household wealth. According to the Conference Board, the share of Americans planning a vacation in the next six months is near a five-year high. Firming wage growth and improving access to credit will clear space in household budgets for larger discretionary purchases.

Despite the hit to energy investment, low oil prices will be a net positive for the economy as a whole and for tourism in particular. Crude prices have fallen by more than 20% in the last six months, leading to significantly lower gasoline prices. Although fuel is the highest input cost in air travel for airlines, airfares tend to be sticky, so the benefits of swooning crude prices are concentrated mostly among vehicle-driving visitors. Although crude prices may have bottomed out, a rebound will be gradual, and gasoline prices will stay low during the peak tourism season in 2016.

**U.S. Tourism Industry Sees Good Times Ahead**

Tourism Output Growth




Source: BEA, Sonoma County, Moody's Analytics

**Chart:** *Though real tourism spending decelerated in the second half of 2015, the fundamentals are positive. Low oil prices explain the overall decline in tourism prices in the second half of the year, and belie strong growth in traveler accommodations such as hotels and restaurants. Rising disposable incomes and an increasing appetite for vacations will boost domestic tourism and will help spending growth. This holds true for Sonoma County; its above-average prices will be more accessible to a number of visitors thanks to lower transportation costs and accelerating income.*

# Annual Tourism Report: Moody's Analytics Tourism Analysis

## Industry Drivers

Consumer confidence has ebbed slightly in recent months, but the overall trend is of steady improvement.
Recent turmoil in financial markets has weighed on consumer expectations and has also tempered appetite for travel and vacations. Nonetheless, the share of Americans planning a vacation in the next six months is still close to its post-recession high at nearly 47%, according to the Conference Board. As the recent chop in financial markets settles, confidence will strengthen, and vacation expectations and tourist visits should improve in kind.

Growth in international visits to California was undeterred by the stronger dollar in 2015, but the dollar's strength will hurt chances for an encore performance. Though international visitors to Sonoma County make up only 10% of tourist visits, visitors from Canada, Mexico and overseas tend to spend more on lodging and food accommodations than domestic vacationers and thus represent an important channel for growth.

Recent trends in tourism spending at the national level are a positive signpost for tourism revenues in Sonoma County. According to the Bureau of Economic Analysis, real spending on travel and tourism came in at 1.7% in the fourth quarter of 2015, a deceleration from the third quarter. Yet, travel and tourism spending for the year was up 4.4%, up more than a percentage point from its growth in 2014. Spending on traveler accommodations is especially strong, and consumers' willingness to spend more on hotel stays will be a boon for Sonoma's smaller bed and breakfast resorts, which tend to be closer to wineries and other outdoor recreation opportunities.

Low gasoline prices will deliver a major boost to Sonoma County tourism, as most visitors, including out of state and international tourists, arrive by car. In response to falling crude oil prices, gasoline prices have fallen steeply and settled around or below $2 per gallon for much of the past year, in contrast to close to $4 per gallon over the course of the recovery. According to the BEA, tourism prices in the fourth quarter fell 1.5% on a year-ago basis, with lower prices for gasoline and transportation services such as auto rentals accounting for the bulk of the decline. Lower spending on gasoline will reduce the cost of tourist visits while clearing space in visitors' budgets for greater spending at local attractions and on accommodations.

Lower airfare will be a further tailwind and will make tourist visits to the North Bay more affordable for both California residents and residents from other states. In years past, airfare has tended to be sticky, but industry analysts are predicting airfare will be 15% lower in 2016 than last year. Once crude prices start to rebound, the price increases will be passed back to consumers. But in the short term, increased air travel will lift tourist visits.

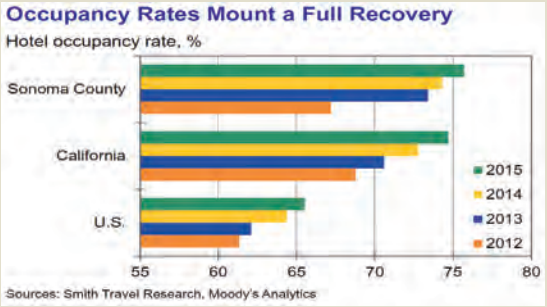
Household cash flow is back on solid ground following a rocky start to the year in the stock market, and the Moody's Analytics forecast calls for private consumption spending to come in a hair above 3% in 2016 after touching down at more than 4% in 2015. Although growth in wages and salaries has underperformed expectations, Sonoma County's likely visitors have above-average exposure to unearned income. Therefore, the belated rise in wage growth will have much smaller impact on the county than in other metro areas.

## Pricing

With tourist visits to Sonoma County on the upswing, hotels are flexing their pricing power with greater comfort. According to Smith Travel Research, average daily rates for Sonoma County hotels rose 9% in 2015 to $149 and grew a further 6% in the first few months of 2016. Demand for Sonoma's wineries and recreation opportunities is highly elastic, as nearby counties also offer similar leisure opportunities. However, an increase in wine tourism is lifting all ships, and despite faster price growth, Sonoma hotels still hold a considerable advantage in cost compared with neighboring Napa County.

Furthermore, while recent efforts to limit hotel size and construction have been thwarted at the ballot box, opposition to large developments remains elevated. This should slow growth in supply, enabling existing hotels and bed and breakfast establishments to maintain pricing power.

**Sonoma Maintains High Occupancy Rates**




Source: Smith Travel Research, Moody's Analytics

**Chart:** *Hotel occupancy rates continue to climb in Sonoma County and California, while room rates have recovered much of the ground ceded in the recession. Robust private sector job growth is driv-ing an upswing in leisure travel at the national and state level, and Sonoma County is sharing in the gains. The emergence of the craft beer scene is drawing new age cohorts to Sonoma's wine country, while the featuring of Sonoma County wines at many Super Bowl events this year has increased the attractiveness the county as a premier travel destination for wine drinkers.*

# Annual Tourism Report: Moody's Analytics Tourism Analysis

## Operating expenses

Labor costs will remain the primary driver of operating costs in the near term. The job market for leisure and hospitality workers is exceedingly tight. Though total leisure and hospitality payrolls are nearly a quarter higher than their prerecession peak and hiring in leisure and hospitality is clocking in north of 6%, recent data from the Quarterly Census of Employment and Wages also point to mounting wage pressures. Large wage gains support anecdotal evidence of a shortage of labor, which could be due to tighter hiring standards for immigrants.

The recent campaign to raise California's minimum wage has gained momentum following successful efforts in Seattle and other West Coast metro areas. Given that work in tourism is relatively labor intensive, a rise in the minimum wage would have a large impact on operating costs.

Falling vacancy rates for industrial space could exert upward price pressure for Sonoma County wineries that are seeking to expand their operations. The industrial vacancy rate has fallen by 2 percentage points over the past year, according to Keegan & Coppin Co., and at 5.8% stands at its lowest point in more than a decade. The long-standing increase in land set aside for preservation in Sonoma County will prevent property developers from satisfying rising demand for commercial real estate, thereby perpetuating price rises.

## Profitability

The trajectory of prices will outstrip the increase in operating costs, helping lift tourism profit margins. Recent wage growth and lower gasoline prices have done much to improve consumer balance sheets. Now that consumers are on a stronger footing, hotels are beginning to raise daily rates. According Smith Travel Research, room rates on average in 2015 totaled $147, 8% higher than in 2014. Furthermore, in 2015 there was no month with an average daily rate below $100. For comparison, in 2011 there were four months with an average daily rate below $100. Overall hotel revenues have risen 75% since 2010 and grew faster than those in neighboring Napa County over the past two years.

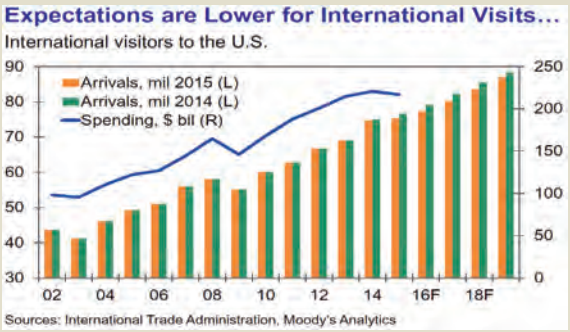
Sonoma's blossoming wine industry coupled with burgeoning growth in craft spirits will do much to boost profits. Sonoma wineries earn nearly four times as much from on-premise sales than through wholesale distributors. Greater on-site traffic at breweries will further aid profit margins, as breweries also earn more from local purchases than from sales at retail stores.

## Long-term Outlook

After several lean years, Sonoma County's tourism industry is back in full swing. Sonoma's wineries, natural beauty, climate, and abundant outdoor recreational opportunities support a positive longterm outlook. As the U.S. economy shifts into high gear, area vintners and tourism-related industries will benefit from favorable consumer fundamentals. Room occupancy rates and hotel revenues recovered to prerecession levels in 2015 and are poised for further gains.

Rising demand for higher-end wines will benefit not only Sonoma County producers but also the county's allure for wine-tasting, which has long been a draw for tourists. Additionally, the new popularity of craft brewing is helping to draw a different demographic to the area and is spurring alcoholic beverage sales. The outlook for consumer spending and wine demand still looks favorable longer term. The cohort born after 1995 and dubbed 'Generation Z' will soon reach drinking age and has indicated a strong preference for wine, according to a survey by Wine Intelligence. This cohort will supplement demand from millennials.

**Emerging Market Tourists Will Benefit California**




Sources: International Trade Administration, Moody's Analytics

**Chart:**
*Though international tourism to California has increased despite the strong dollar, tourist visits at the national level have fared less well, prompting a slight downgrade in the International Trade Ad-ministration's arrivals forecast through the end of the decade. The dollar weighed heavily on international tourist traffic for most of 2015, and will remain a drag for at least the next year. The greenback will rise only slightly in 2016, but the relative strength of the U.S. economy will support a strong dollar for some time to come, making further appreciation a substantial downside risk.*

# Annual Tourism Report: Moody's Analytics Tourism Analysis

## Upside Risks

As long as oil prices stay low, there will be significant lift to tourism. Savings at the pump will fuel visits to popular winetasting sites and fast-growing craft breweries. Previously, rising tourism cost data could be attributed to airfare and travel expenses. Now, the dynamic is shifting toward longer stays and more expensive lodging, resulting in more money staying in the county. Faster than expected wage growth in San Francisco and the broader Bay Area would also go far in boosting day trips to Sonoma County, while faster adoption of ride-sharing services such as Uber could deliver an additional boost by making travel more accessible.

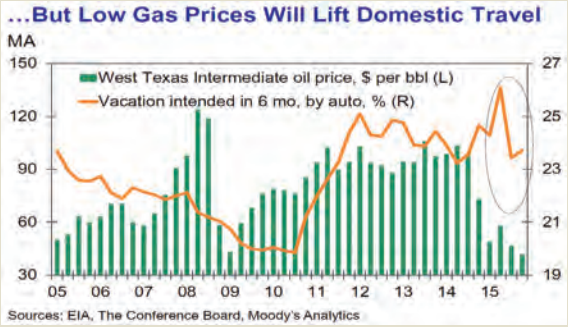
Although the Super Bowl concluded two months ago, the sporting event raised the profile for the area as a prime wine destination. Area wines were at the forefront of many VIP parties and pregame events, increasing the likelihood of return visitors. The outlook for Sonoma County tourism will improve further if consumer and business confidence surpasses expectations, spurring more spending on leisure activities and business travel. Improvements in financial markets would also improve performance, as positive wealth effects from rising stock prices would encourage visitors to spend.

## Downside Risks

Slower than expected normalization of the U.S. dollar poses a significant downside risk and could deter budget-minded international tourists. The dollar is expected to appreciate further through 2016 before coming down the following year. Fewer international tourist arrivals to Sonoma County would reduce occupancy rates at area hotels and result in lower alcoholic beverage and restaurant spending. Efforts to curb hotel construction in Sonoma County have lost steam in recent months, but opposition to larger structures would hurt the outlook should it spur legislative action.

Drought damage to grape quality and vines could deter some oenophiles from visiting Sonoma. Though California's drought has shown signs of easing, persistent dry conditions remain a threat to winemaking and tourism alike. The El Niño weather pattern is bringing much needed rainfall this spring, but even with greater precipitation, the drought will persist and tighter water conservation rules will remain in effect. Grapevine diseases, such as Eutypa and Pierce's disease, are a greater concern and present a significant downside risk to both the quantity and quality of grapes in 2016.

**Oil Price Plunge Reverses Auto Tourism Trend**




Sources: EIA, The Conference Board, Moody's Analytics

**Chart:** *The swift decline in energy prices in 2015 has boosted vacation plans and will continue to do so in the near term as summer ap-proaches. Lower prices at the pump are increasing disposable in-comes and making up for the belated rise in wage growth, support-ing spending on nontra vel costs such as higher-quality lodging and beverages. The cost of driving is much more favorable than that of flying and will draw more budget-minded tourists and boost occu-pancy rates during off-peak months this year.*

Jack Kitchen-
Moody's Analytics

## Sonoma County Tourism Industry Indicators

The Tourism Industry Indicators section is based on data prepared for the California Travel & Tourism Commission by Dean Runyan and Associates, as well as industry data from Smith Travel Research, and Sonoma County's Transient Occupancy Tax receipts. Where applicable, the data and graphs in this section have been adjusted for inflation using the U.S. Bureau of Labor Statistics Consumer Price Index.

Marin and Napa are used as comparison counties because of their similarities in offerings, size, and geographical location. The featured data is the latest available from the California Tour and Travel Commission.

### Key Findings

- In 2015, Sonoma County destination spending, industry earnings and industry employment experienced a year-over increase from 2014 after adjusting for inflation. This follows an increase seen in 2013 over 2014. This suggests travel continues to grow as the U.S. moves out of the recession.
- In 2015, Sonoma County's year-over average daily rate (ADR) for lodging increased 9% when adjusted for inflation. This follows a 14% increase in 2014, further suggesting that travelto Sonoma County remains strong.
- Sonoma County's Transient Occupancy Tax (TOT) receipts totaled $33 million in 2015 after adjusting for inflation. This is the highest level of TOT receipts that Sonoma County has ever received.

# **Annual Tourism Report:** Tourism Industry Indicators

## Destination Spending

Destination spending is the total amount spent by visitors in Sonoma County. This indicator includes all spending for accommodations, wine activities, retail, and other tourism related purchases. The most recent figures show that Sonoma County's destination spending was up 2.3% from $1.78 billion in 2014 to $1.82 billion in 2015.

### Destination Spending by Year

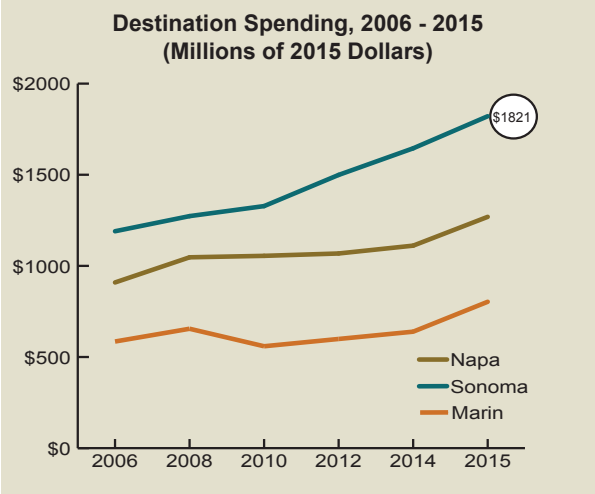
Destination spending is sensitive to the economic climate. As a result, Sonoma County experienced decreases in destination spending in both 2008 and 2009. This was a common trend as all of the competitive destinations also experienced decreases. However, 2015 figures indicate that tourism remains strong in Sonoma County as well as in other destinations.

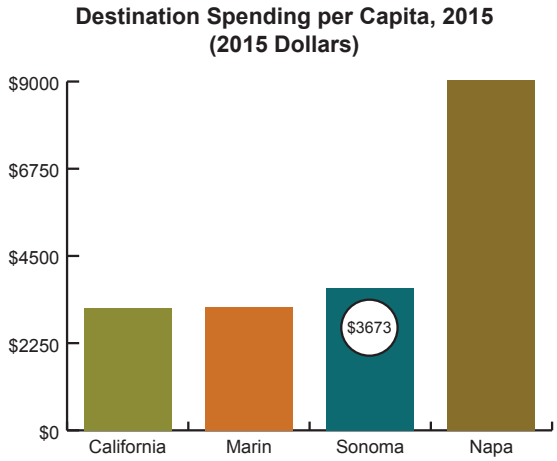
### Destination Spending per Capita

For each of Sonoma County's 495,684 residents, $3,673 in destination spending was generated. Marin County generated $3,181 per-capita and Napa County generated the highest per-capita spending at $9,043. Napa County consistently has high per-capita destination spending due to its relatively small population. Sonoma County's destination spending per-capita fell short of Napa County, but outpaced the statewide average of $3,158 per capita.

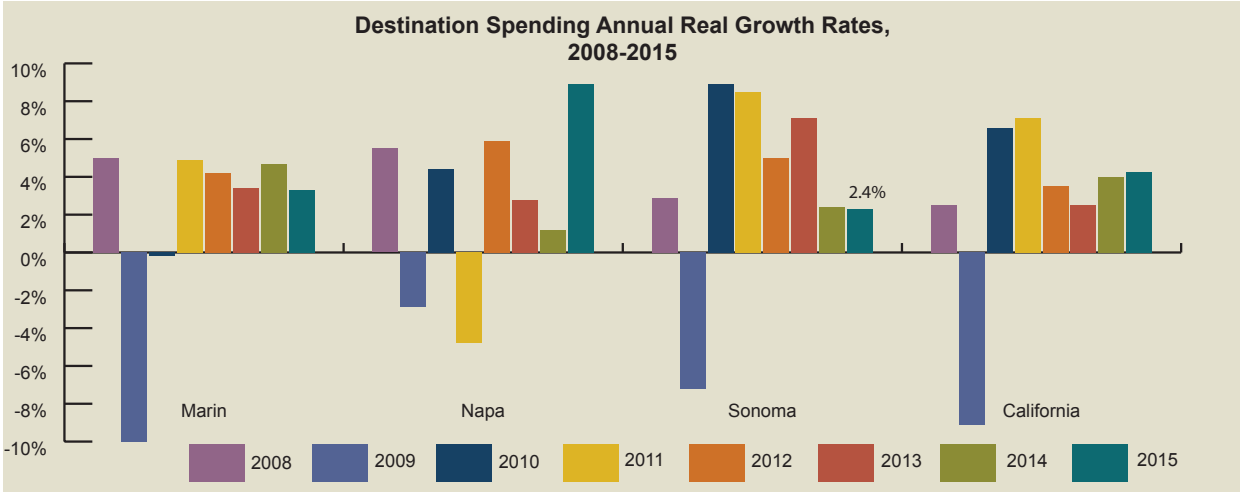
### Destination Spending Annual Real Growth Rates

The 2.3% increase in inflation-adjusted destination spending was a positive indicator for tourism in Sonoma County, following the same increase in the year prior. These increases indicate that direct spending is on track with pre-recession levels.




*Source for all data: California Travel Impacts by County, 2016*



## Destination Spending Breakdown

As in previous years, the overall distribution of commodity based visitor spending in Sonoma County is comparable to the featured competitive counties and the statewide average. However, there are several areas where Sonoma County appears to be somewhat unique.

### Distribution of Visitor Spending by Commodity

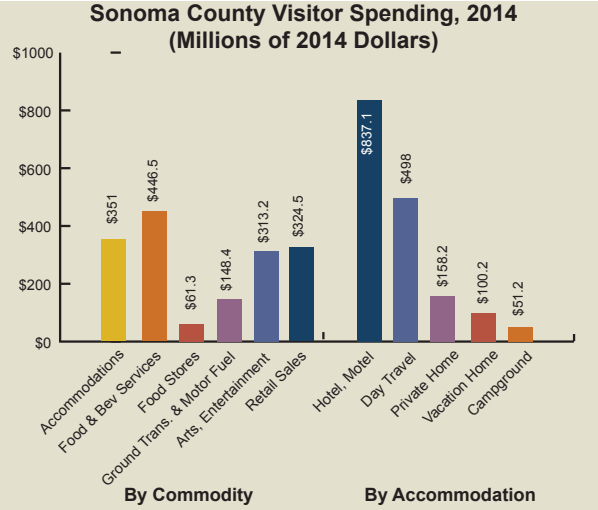
Visitors to Sonoma County devote a smaller share of their spending towards accommodations than other destinations - 21% of all spending, compared to 26% in Marin County and 28% in Napa County. Sonoma County visitors spend an approximately equal share of total spending on accommodations (21%), retail purchases (18%), and arts, recreation & entertainment (18%). They spend the largest amount on food and beverage services (29%) and on retail sales. Visitors to both Napa and Sonoma County spend more than the state average on arts, entertainment & recreation, and retail sales.

### Distribution of Visitor Spending by Accommodation

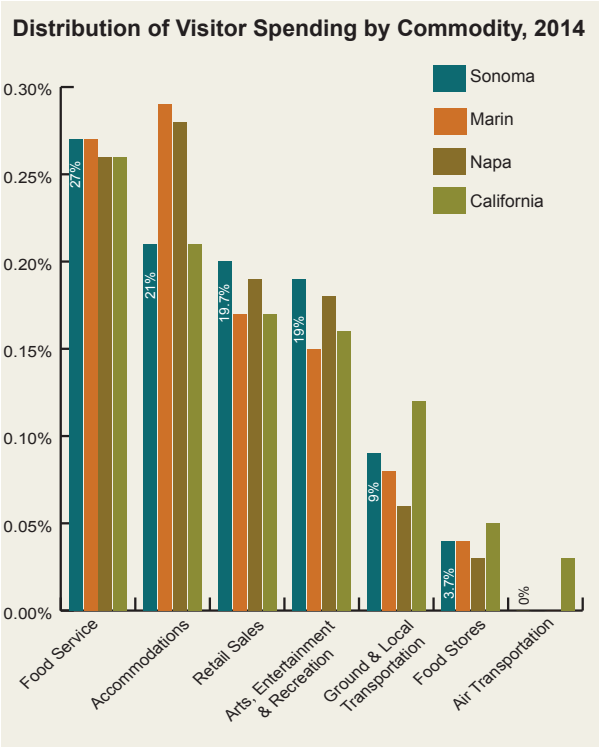
In comparison with the state and other competitive counties, a smaller share of visitor spending in Sonoma County comes from visitors who are staying in a hotel or motel (50.9% compared to 59%, 69%, and 57% for Marin County, Napa County and California, respectively). Instead, a significant share of Sonoma County visitor spending is received from day travelers (30.3%) compared to 17% for Marin, 25% for Napa and 23% for California. A comparatively larger share of spending in Sonoma County comes from visitors who stay in vacation homes (6.1%).

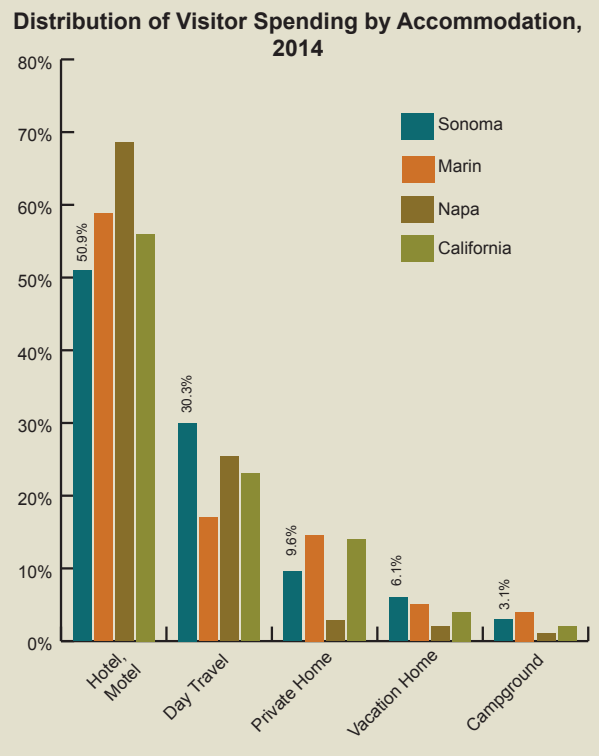
### Sonoma County Visitor Spending

With a total visitor spending equal to $1.64 billion, the majority of the money is spent by visitors who stay at hotels or motels ($837.1 million) and on day travel ($498 million).




*Source for all data: California Travel Impacts by County, 2015*



# **Annual Tourism Report:** Tourism Industry Indicators

## Industry Employment

With 19,350 jobs generated by tourist destination spending, Sonoma County ranks first against comparable counties - Napa had 13,230 tourism jobs and Marin had 7,310 tourism jobs in 2014. Sonoma County's 2014 job figures show a 2.4% increase from 2013, up from a year-over increase of 5.5% from 2012 to 2013.

### Tourism Industry Earnings per Employee, Real Growth Rates

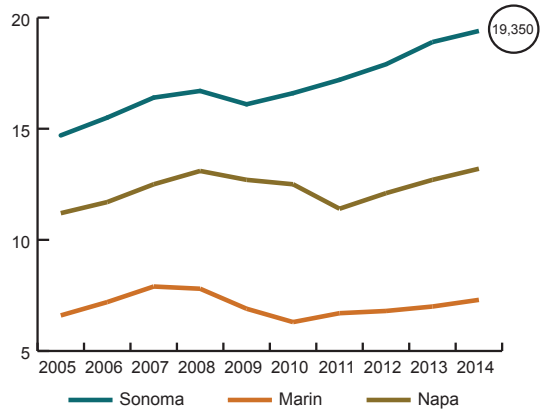
Partly as a result of Sonoma County's decline in destination spending in 2008 and 2009, employment levels in the tourism industry decreased in 2009 and 2010. Businesses are starting to add staff as destination spending returns to pre-recession levels. For 2014, the tourism in Sonoma County accounted for 19,350 jobs. The county employs more tourism industry employees than Napa and Marin, counties where total destination spending consistently outpaces that of Sonoma County. Industry earnings per employee grew for Sonoma as well ($28,733). Because of Marin and Napa's smaller employment base, those counties experience higher earnings per tourism employee. Focusing on Sonoma County, growth in tourism earnings is nearing pre-recession levels.

### Sonoma County Tourism Employment by Industry

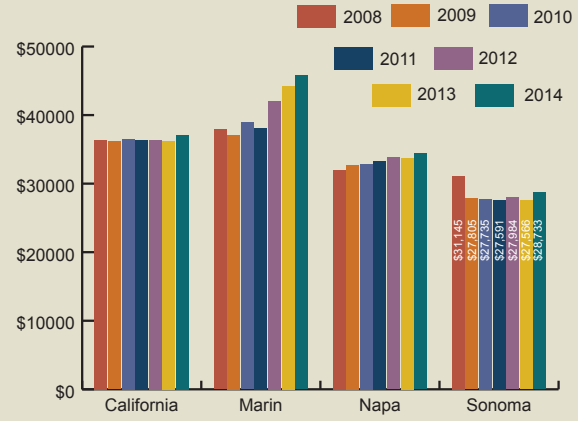
Distribution of employment within Sonoma County's tourism industry is similar to previous years, with 52% of employment in accommodations & food services, 36% in arts, entertainment & recreation, and almost 8% in retail. Ground transportation and air travel (Other Travel) have also increased their share of employment at 2.3% and 1.4%, respectively.

*Source for all data: California Travel Impact by County, 2015*

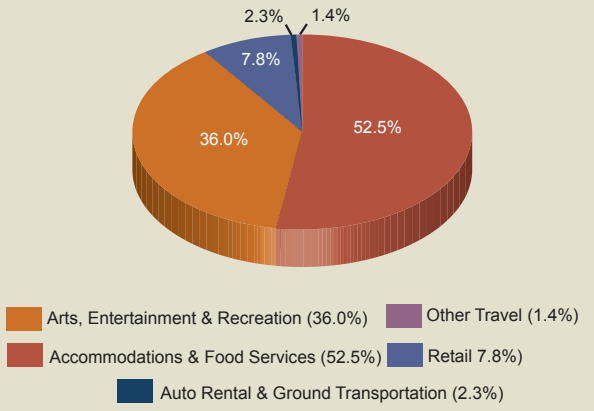
**Employment Generated by Destination Spending, 2005-2014 (Thousands)**



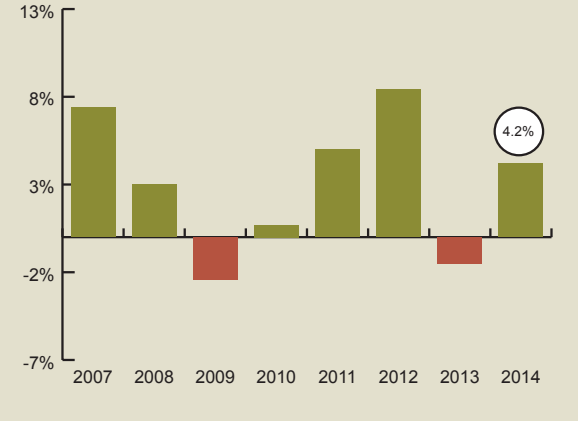

**Tourism Industry Earnings per Employee, 2008-2014 (2015 Dollars)**




**Sonoma County Tourism Employment by Industry, 2014**




**Tourism Industry Earnings per Employee, Real Growth Rates, 2007- 2014**



# **Annual Tourism Report:** Tourism Industry Indicators

## Lodging & Hospitality Assessment

As page 4 illustrates, visitors staying in hotels and motels are the single-largest source of destination spending in Sonoma County, with an estimated $837 million in spending in 2014 (2015 dollars). Lodging figures from 2014 show that travel to Sonoma County continues to grow following the national economic downturn, indicating that we can expect to continue seeing positive trends in destination spending.

### Annual Lodging Occupancy Rates

Sonoma County's occupancy rates stayed relatively stable amid expansion in Sonoma County's room offerings through 2007. During 2008 and 2009, however, average occupancy dropped as the recession decreased discretionary consumer spending. Occupancy rates have been steadily increasing since 2009, surpassing pre-recession levels at 74% in 2014.

### Annual Average Daily Rate (ADR)

Average daily rate (ADR) began to increase following the low seen in 2010 at $118.92 (2014 Dollars). For 2014, the average daily rate improved to $136.64, in line with other positive figures for travel into Sonoma County.

### Revenue per Available Room

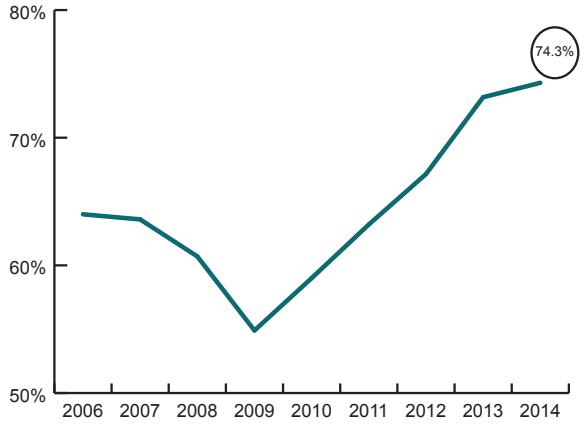
Revenue per available room (RevPAR) for Sonoma County have been increasing since 2009. In 2013, RevPAR surpassed pre-recession levels, highlighting the strengthening tourism industry in Sonoma County.

### Real Growth Rates of RevPAR and ADR

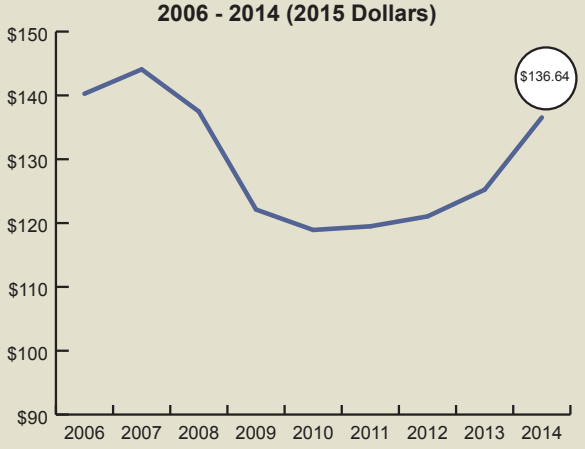
Revenue per available room and average daily rate have both increased from 2010 to 2014. As occupancy rates and average daily rate both increase, revenue per available room is expected to maintain above pre-recession levels.

*Source for all data: Smith Travel Research, 2015*

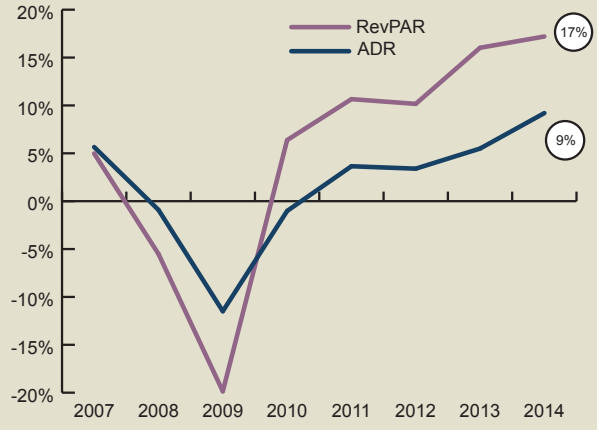
**Annual Lodging Occupancy Rates, Sonoma County, 2006-2014**



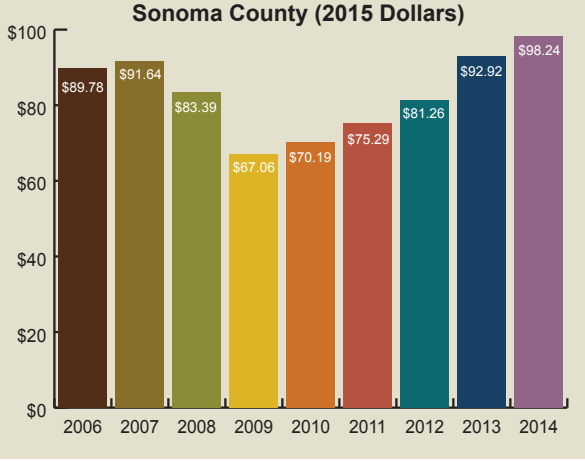

**Annual Average Daily Rate (ADR), Sonoma County, 2006 - 2014 (2015 Dollars)**




**Real Growth Rates of Revenue Per Available Room (RevPAR) & Annual Avg. Daily Rate (ADR), 2007-2014**




**Revenue Per Available Room (RevPAR), Sonoma County (2015 Dollars)**



# **Annual Tourism Report:** Tourism Industry Indicators

## Tourism-Generated Taxes

Transient Occupancy Tax (TOT) is a local tax on room rental revenue in lodging properties located in Sonoma County. The TOT rate varies between 9% and 12% from city to city.

### Annual TOT Collections

TOT revenues in Sonoma County increased 2% to $28 million in 2014 when adjusted for inflation. TOT revenues fell in 2008 and 2009 as the recession began to negatively affect visitor traffic and spending nationwide. This downward trend has been fully reversed with 2014 TOT revenues being the highest ever in Sonoma County.

### TOT Revenue Spending Areas

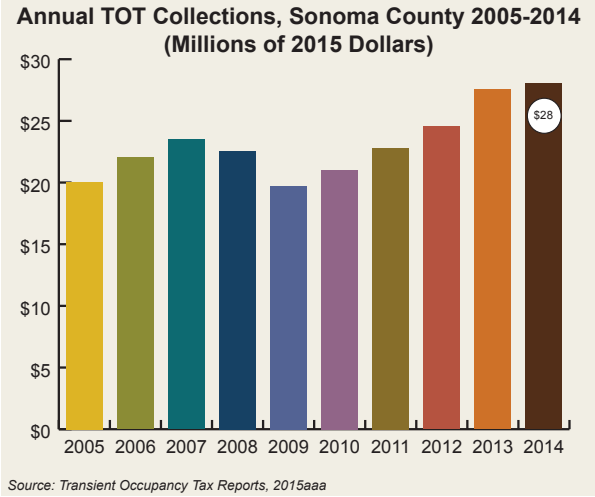
TOT funds are distributed to different spending areas. The majority of TOT funds go to regional park maintenance and operation (20%), tourism marketing (19%), or are transferred to the general fund in each city or area (25%).

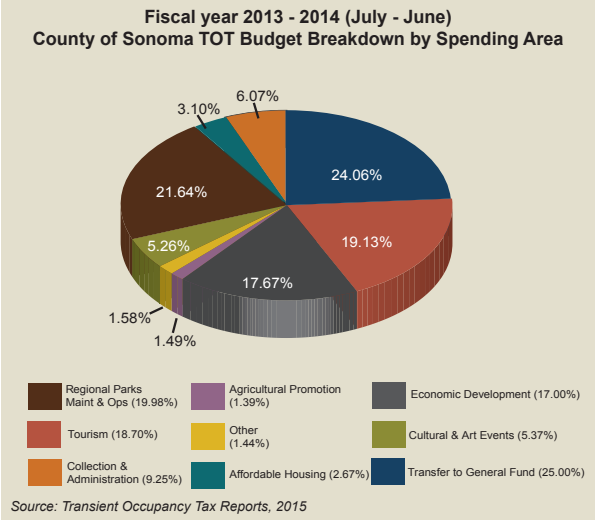
### Tax Receipts Generated by Travel Spending

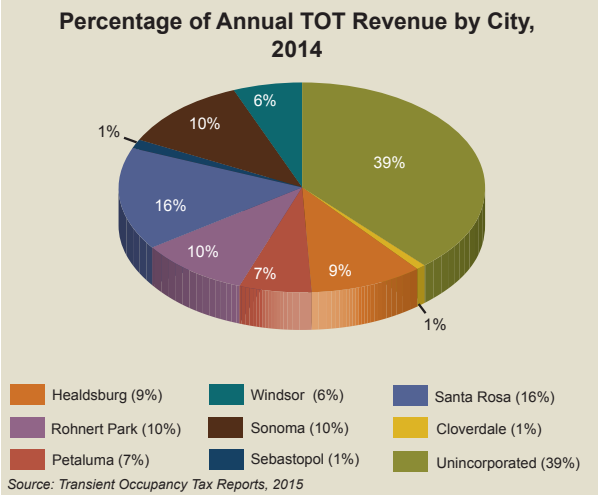
Spending by day travelers and overnight visitors to Sonoma County generates a significant amount of tax for state and local governments. Total local taxes collected, including TOT, from visitors to Sonoma County were estimated at $64 million in 2014, after adjusting for inflation. The state collected $79 million from Sonoma County visitors in 2014, after adjusting for inflation. This is a comparable amount compared to 2013 figures.

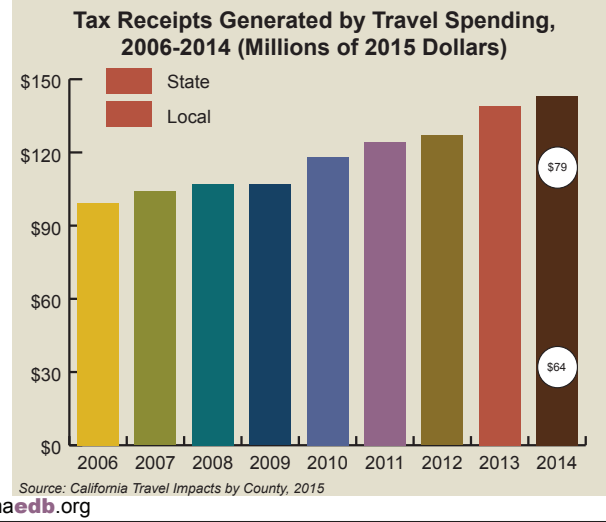
### Percentage of Annual TOT Revenue by City

Revenues from TOT are divided between the County of Sonoma (which receives revenue from lodging properties in unincorporated regions) and the individual cities in the county. Collectively, the incorporated cities generated 61% of all revenue in 2014, while the unincorporated areas of the county generated 39%.



# **Annual Tourism Report:** Tourism Industry Indicators

## 2014-15 Airport Visitor Intercept Survey

Last year, Sonoma County Tourism, in conjunction with the Charles M. Shulz Sonoma County Airport, initiated a year-long visitor intercept survey designed to capture information on tourists visiting Sonoma County as a travel destination and to gain an understanding of their activites while in-market.

The results of this survey, which was administered bi-monthly to travelers departing from the Charles M. Shulz airport between April 2014 and May 2015, are reported below.

On average, visitors spent 4 days in Sonoma County, and had an average travel party size of 2. While in market, the average spending per travel party was $379 per day.

### Reason for Visiting

The most common reason motivating trips to Sonoma County is visitng family and friends (36% of respondents). Another 16% of respondents indicated that their travel was specifically for business, while 15% said they were on vacation. Visitors also indicated coming for weekend getaways (11%), weddings (5%), special events including concerts and festivals (5%), and conferences or tradeshows (8%). Only 2% of travelers surveyed stated that they were just passing through the area.

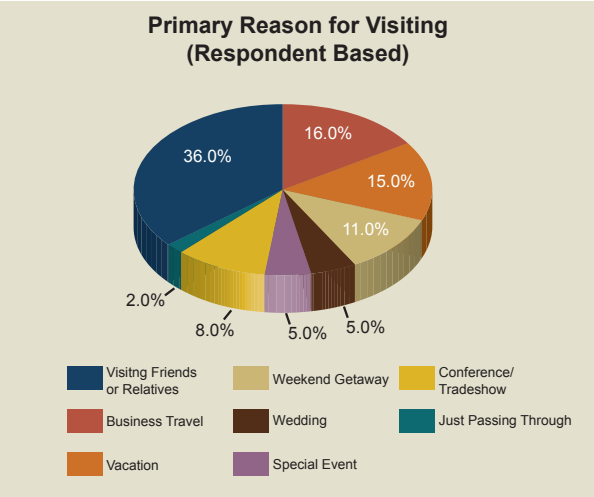
### Overnight Accomodation

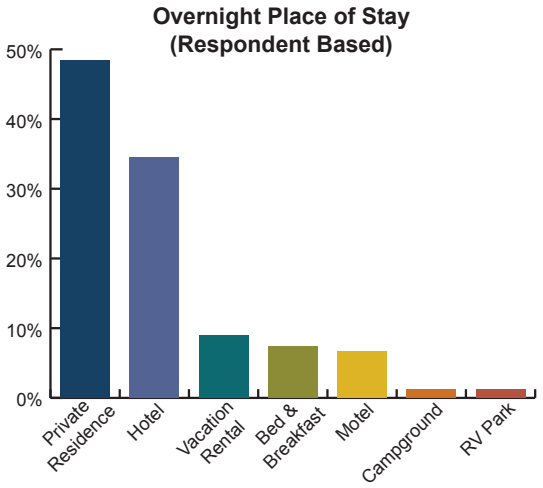
Once in Sonoma County, over 48% of respondents listed that they stayed with friends or family in a private residence. More than 34% booked lodging in hotels, while nearly 9% chose to stay in a vacation home or rental, and 7.4% stayed at bed and breakfasts. Just under 7% stayed in a motel, and roughly 2% camped or utilized an RV park.

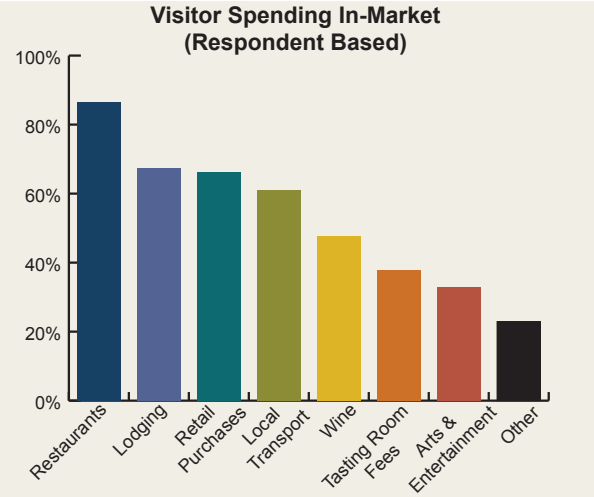
### Destination Spending Breakdown

While in market, visitors reported spending on a vareity of Sonoma County businesses and establishments. Most commonly, survey respondents indicated spending money on local restaurants (87%) and lodging (68%). Retail purchases was the next most popular activity, representing 66% of respondents. Just under 50% purchased wine, while 38% reported spending money on tasting room fees at Sonoma County wineries. A very high percent reported spending on local transportation (61%), likely caputring visitors coming from nearby areas such as San Francisco and Napa. Finally, 33% reported paying for local attractions including arts, entertainment, and sightseeing.

*Source for all data: Sonoma County Airport Visitor Intercept Survey, 2015*



# Annual Tourism Report

## Current Issues

### Short-Term Vacation Rentals

The short-term vacation rental market has changed dramatically in the past few years. In general, vacation rentals are classified as properties intended for permanent occupancy that are rented out for periods of 30 days or less. In Sonoma County, many of these vacation rentals are operated by professionals who manage multiple properties under a single TOT certificate.

However, an increasing number of individual owner-operated short-term rentals are appearing in Sonoma County, and are being promoted through travel websites such as VRBO.com and Airbnb.com. Within these sites, individual owners are able to solicit travelers by listing their properties as either entire-home or private room rentals, despite not being registered for TOT collection within Sonoma County.

In response to this growing issue, the Sonoma County Auditor Treasure Tax Controller conducted an interanl audit of the county's vacation owner-operator population in 2014, in order to identify the number of unregistered short term vacation rental properties.

After cross-referencing the county's registered TOT vacation rentals against those listed for Sonoma County on Airbnb.com, the audit revealed that a total of 404 properties advertised on the website fell within the borders of Sonoma County, with approximately 267 located within unincorporated areas. Looking at the properties in the unincorporated areas, it was determined that at least 54% were not registered on the county's TOT database--revealing an estimated non-filing tax gap between $500,000 to $1.3 million.

### The Thriving Communities and Sharing Economy Act

Earlier this year, California Senator Mike McGuire (D-2nd district) introduced Senate Bill 593, which aims to implement greater regulation on vacation rental properties in the state. Titled the "Thriving Communities and Sharing Economies Act", the bill would require online vacation rental businesses to disclose information about their listed properties to city and county jurisdictions, including addresses of host rentals, number of nights rented, and amount paid by visitors. Additionally, the bill would prohibit such businesses from facilitating any residential rentals that violate local ordinances.

If SB 593 is passed, the legislation would have a significant impact on websites such as Airbnb.com and VRBO.com, by requiring them to cooperate with city and county TOT collection efforts. Currently, the bill is awaiting a vote from the CA Senate.

### Regulatory Responses in Other Regions

#### San Francisco

Recently, San Francisco enacted a law to legalize short-term rentals in the city. The law, which took effect February 1st, 2015, ends San Francisco's longstanding ban on residential rentals of less than 30 days in multi-unit buildings. However, the law imposes a number of restrictions on short-term rentals. Most importantly, rentals must be from permanent residents that have obtained permits from the city planning department to engage in short-term renting. The law specifies that short-term rentals cannot extend past an annual total of 90 days per year, and renters must pay San Francisco's 14% hotel tax. Additionally, online listing websites such as Airbnb are obligated under the ordinance to collect and remit payments for San Francisco's hotel tax.

Currently, San Francisco's Board of Supervisors has proposed amending the ordinance to cap all short-term rentals at 120 days a year, and to create and fund a new city office to register, investigate and enforce short term rental laws. As it stands now, the San Francisco Planning Department is tasked with enforcing the law. There are also efforts to include an amendment requiring online hosting sites, including Airbnb, to disclose addresses and total days rented on all listed properties. The Board of Supervisors will look to settle the proposed amendments in July of 2015.

#### Portland

In January of 2015, the City of Portland approved legislation to grant enforcement tools to the Portland Revenue Bureau to require Airbnb and other online short-term rental brokers to provide the names and addresses of all listed Portland hosts. The ordinance is designed to expand enforcement powers so that the Portland Revenue Bureau can better track permit registration and lodging tax collection.

As of February 2015, only 10% of an estimated 1,600 short-term rental hosts had submitted permit applications to the city of Portland, representing an ongoing challenge to enforce compliance with the new legislation.

*Source: www.skift.com*

# Annual Tourism Report

2015 Tourism Industry Survey

## Tourism Industry Survey: Results Summary

The 2015 Tourism Industry Survey is an annual survey of Sonoma County tourism businesses performed by the Sonoma County Economic Development Board (EDB). Surveys were sent to more than 1,000 Sonoma County business owners, executives and individuals involved in the tourism sector. More than 300 respondents representing local wineries, restaurants, lodging establishments, tours & transportation, spa & wellness services and tourism-related businesses responded to questions regarding economic outlook visitor and business demographics, and marketing strategies, representing a 30% response rate, a very strong rate for a mailed survey.

The source for all data in the following section is the 2015 Annual Tourism Survey

### Key Findings

- Businesses have a positive outlook for tourism in the coming year. More tourism businesses feel optimistic about Sonoma County's tourism industry than reported in previous years, and more businesses expanded operations over the past year than in the year before.
- Most respondents believe that Sonoma County has a high potential to attract visitors overall; and the diversity of attractions and activities, Sonoma County's scenery and climate, and the county's culinary offerings are its greatest assets besides wine reputation/culture.
- The most commonly identified opportunities for Sonoma County tourism in niche markets were Culinary Tourism, Cycling, and Eco-tourism. Craft beverages were also increasingly reported as a niche market.
- Respondents feel local government agencies can make a positive difference in the tourism industry by assisting with licensing and permits and infrastructure improvement. Promotion agencies can best assist respondent businesses through marketing, PR and media visits, and tourist industry trend reports. The majority of respondents feel that countywide and regional marketing initiatives are effective in promoting Sonoma County.

# Annual Tourism Report

## Survey Respondent Demographics

Owners and executives of more than 150 diverse tourism businesses responded to the EDB's 2014 Tourism Industry Survey. The following graphs outline the types of businesses that responded to our survey, Please note: respondents were asked to classify their own business/ operations type.

### Tourism Industry Businesses

'Lodging' and 'Winery' were the most common primary operations of responding businesses at 26% and 25%, respectively. The lodging classification of respondents is broken down further below. Businesses that classified themselves as 'other' include art galleries, museums, visitor centers and retail shops. Other respondents included businesses whose primary operations were 'tour and transportation service or support' (7.7%), 'restaurant' (14.5%), 'recreation service provider or outfitter' (4.3%), and 'spa and wellness' (3.8%).The surveyed businesses reflect the diverse strength of Sonoma County's tourism industry.

### LODGING CLASSIFICATIONS

**1. Full Service Lodging**

Properties offering a full range of on-premises food and beverage service, cocktail lounge, entertainment, conference facilities, shops and recreational activities provided by uniformed staff on duty 24 hours. Of 'lodging' respondents, 17% indicated they were classified as full service.

**2. Vacation Rentals**

These properties are fully-furnished condominiums, town homes or single family homes - featuring amenities such as games, beach equipment, DVD libraries, and a stocked kitchen. These properties are rented on a temporary basis to tourists as an alternative to a hotel. Of 'lodging' respondents, 24% indicated they were classified as vacation rentals.

**3. Bed & Breakfast**

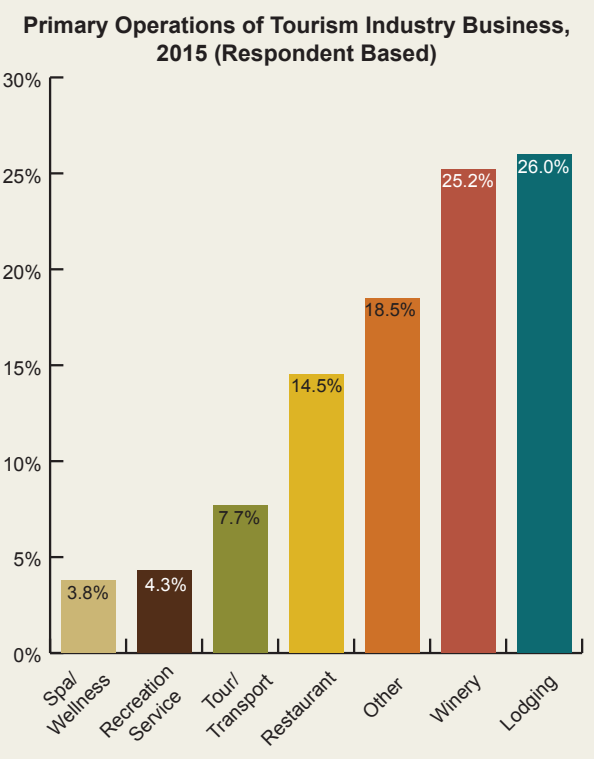
Smaller establishments emphasizing a more personal relationship between operators and guests. Guest units tend to be individually decorated. Rooms may not include some modern amenities and may have a shared bathroom. They are usually owner-operated. A continental or full hot breakfast is included in the room rate. Of 'lodging' respondents, 30% indicated they were classified as bed & breakfasts.

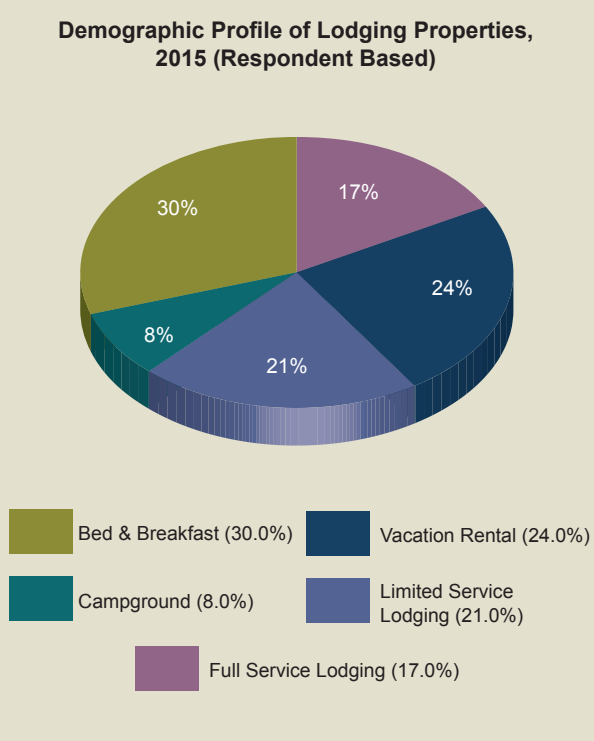
**4. Limited Service Lodging**

Only the basic services and facilities are available and self-service aspects are predominate for limited service lodging. Commonly, a continental breakfast may be offered rather than having a restaurant on premises. Of 'lodging' respondents, 21% indicated they were classified as limited service.

**5. Campground**

A place useful for overnight stay in the outdoors, where an individual, family or group may camp. Consists of open pieces of ground where a camper can pitch a tent or park an RV. Some campsites have amenities including fire pits, picnic tables, utility hookups, shower facilities, and more. Of 'lodging' respondents, 8% indicated they were classified as campground.



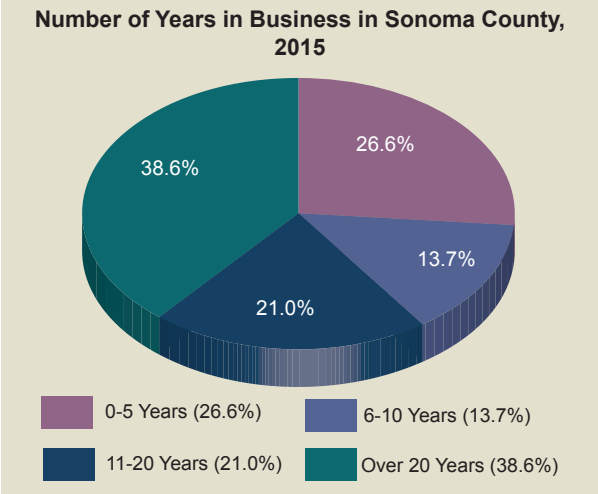
# **Annual Tourism Report:** Industry Survey

## Survey Respondent Demographics (cont.)

From responses given, local tourism industry businesses may be described as independent, long-established and relatively small. The following graphs outline more details about the characteristics of Sonoma County's tourism businesses.

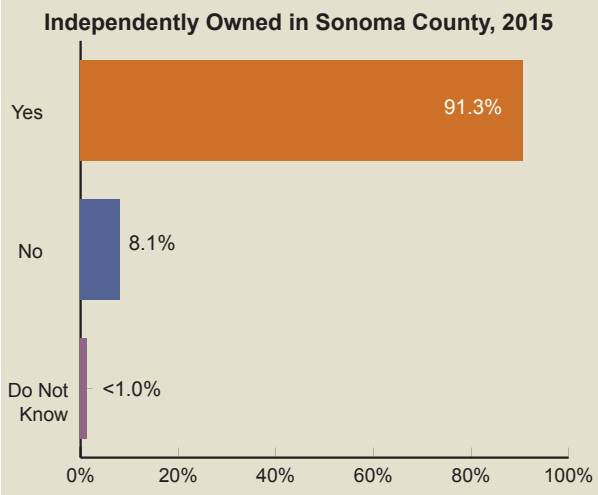
### Number of Years in Business

The majority of respondents indicated they have been in business for more than 20 years (39%). Another 21% of the respondents have been in business for more than 11 years and 14% indicated they have been in business for 6-10 years. Finally, an increasing number of businesses have opened in the last five years than are 0-5 years old (27%).This suggests that there is continued business growth, and that the tourism business is maturing and stabilizing in Sonoma County.



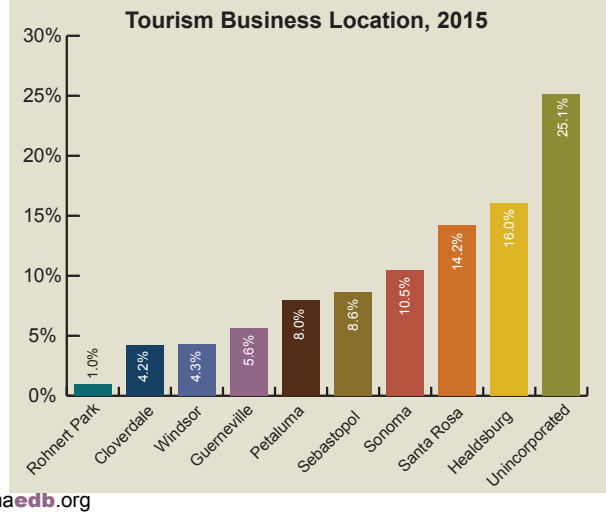

### Independently Owned in Sonoma County

A significant percentage of businesses surveyed indicated that they are independently owned in Sonoma County (91%). Of those that are independently owned in Sonoma County, 2% indicated that they were a franchise.



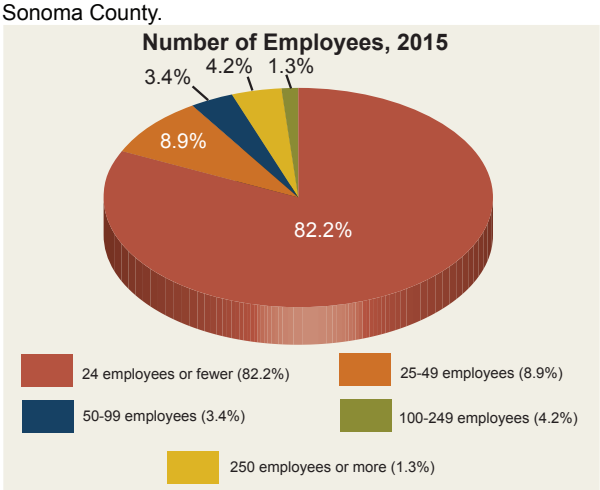

### Tourism Business Location

The majority of Sonoma County's tourism-related businesses that responded are located in unincorporated county (25%), Healdsburg (16%), and Santa Rosa (14%). Other areas of the county represented by respondents include the coastal cities of Bodega Bay, Jenner and the Sea Ranch, as well as smaller towns within Sonoma County.




### Number of Employees

The majority of tourism businesses surveyed in Sonoma County employ 24 or fewer people (82.2%). On average, 47% of employees at businesses who employ 24 or fewer employees are part time or seasonal. There was a significant variance in the reported part-to-full time mix by all respondents, reflecting the diverse employment needs of different industries within Sonoma County.



# **Annual Tourism Report:** Industry Survey

## Industry Confidence & Outlook

Respondents were asked to indicate their perception about the tourism industry and whether they had expanded operations in the past year. Survey responses indicate that local tourism-related businesses are optimistic about the economy and travel industry.

### Tourism Industry Outlook

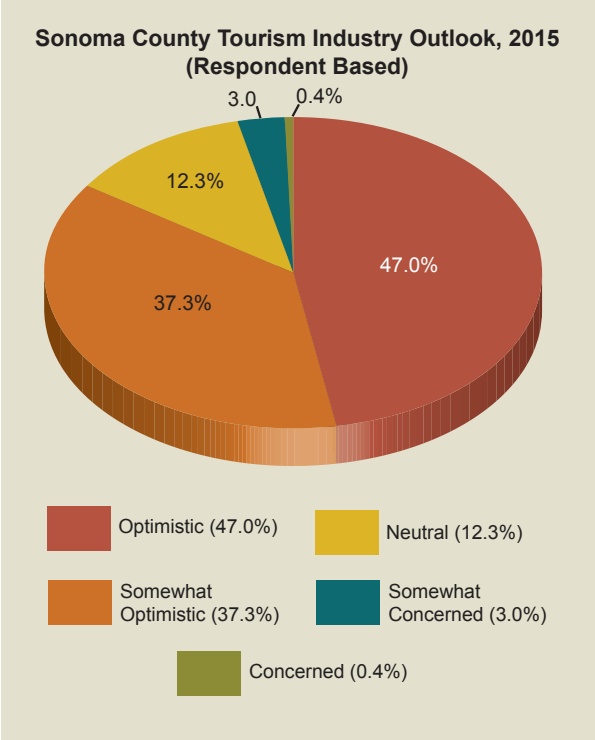
More than 84% of the tourism- related businesses that responded to the survey indicated that they were 'optimistic' (47%) or 'somewhat optimistic' (37%) about the tourism portion of their business in the next year. This is roughly comparable to the percentage of respondents who were optimistic about the tourism industry last year. Less than 4% of respondents indicated that they were 'concerned' (0.4%) or 'somewhat concerned (3.0%) with the tourism portion of their business over the next year.

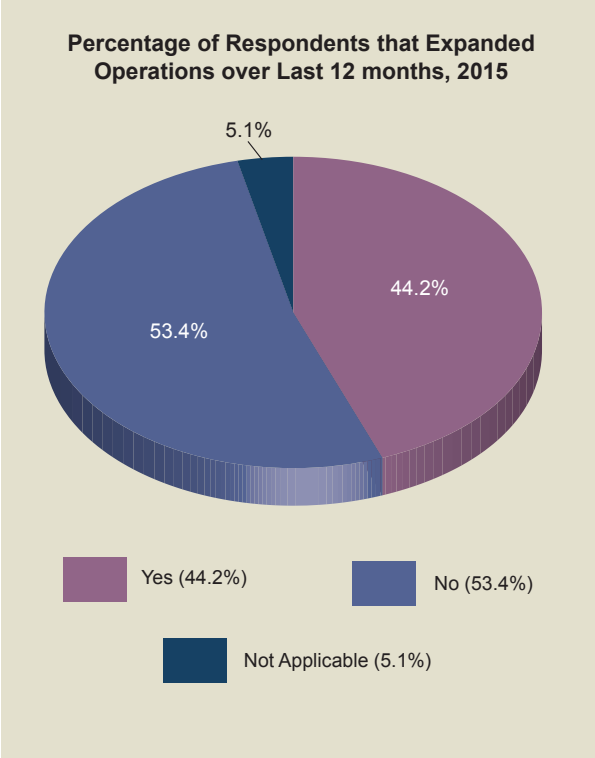
With industry optimism on the rise, this seems to have translated into the decision for businesses to expand their operations in the past year.

### Operation Expansion over Last 12 Months

More tourism-related businesses are expanding their operations as tourism-spending returns to pre-recession levels. Of responding businesses, 44% indicated that they had expanded operations in the time between May 2014 and May 2015. Those that responded cited increased demand and traffic as the main drivers behind their growth. Conversely, the majority of businesses did not expand operations from May 2014 to May 2015 (53.4%).

As travel has continued to improve for Sonoma County, business outlook indicates that local tourism-related businesses are increasingly looking to expand, and are hopeful for sustained economic growth through the future.



# **Annual Tourism Report:** Tourism Industry Indicators

## Community Service & Charitable Giving

Involvement in community philanthropy is an important aspect for Sonoma County's tourism businesses. The majority of these businesses are involved in creating a positive community impact in one way or another.

### Fundraising and Charity

Over 76% of the survey respondents reported that they participated in some form of charitable giving. Of these businesses, 84% give directly to charity organizations, 64% volunteer in the community, 75% participate in fundraising events, and over 83% donate in-kind product or services.

### Support for Local Organizations

In addition to the volunteer efforts described above, Sonoma County tourism-related businesses support a number of local organizations dedicated to improving the surrounding community. While this list is not comprehensive, it gives an idea of the impact that these businesses have on Sonoma County in addition to the jobs they create.

*Source for all data: Sonoma County Annual Tourism Survey, 2015*

### Organizations that are Supported by Sonoma County Tourism Businesses

| | | |
|---|---|---|
| Boy's & Girls Club | Chefs of Tomorrow | Youth First |
| Occidental Center for the Arts | Santa Rosa Rotary Club | CERES |
| Redwood Arts Council | Sonoma Community Center | Face 2 Face |
| Living Room | Sebastiani Theatre | Girl Scouts |
| Russian Riverkeeper | Regional Fire Departments | KRCB Radio |
| Russian River Rotary Club | Redwood Empire Food Bank | Stewards of the Redwoods |
| Guerneville School Garden | Sebastopol Education Foundation | Mentor Me Petaluma |

# **Annual Tourism Report:** Industry Survey

## Marketing, Government & Promotional Assistance

Sonoma County's tourism industry is a diversified market of service-oriented businesses and segmented markets. The diversification results in a wide range of marketing channels and budgets to reach out to customers. There is also a variety of areas where tourism businesses feel they can be assisted by local government agencies and promotion agencies.

### Potential for Local Government Assistance

Tourism-related businesses indicated that the largest potential for government assistance to their business is concerning licensing and permitting (63%), and infrastructure improvement (60%). Respondents also indicated that local government could help them with 'other' things which include destination marketing and parking issues.

### Potential for Local Promotion Agency Assistance

There is potential for local promotion agencies to help tourism-related businesses in several ways. 90% of respondents indicated that marketing would be helpful; 66% of respondents selected PR/ media visits; and 42% of respondents indicated they found trend reports useful.

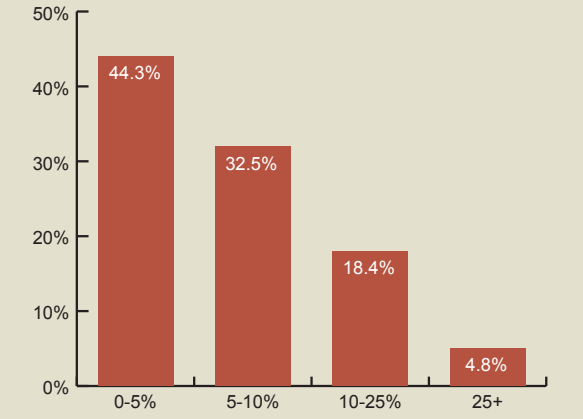
### Marketing Tools Utilized by Tourism Businesses

The most widely used marketing tool among tourism businesses was a business website (91%), this was followed by social media (87%) and then by word of mouth (79%). The least used marketing outlets were television (3%), national magazines (11%) and radio (17.1%).

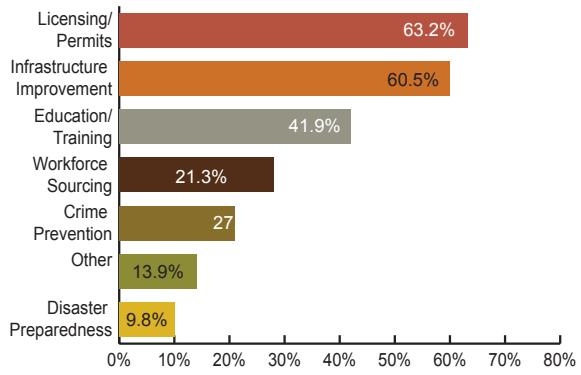
### Percentage of Gross Revenue Spent on Marketing

The majority of tourism-related businesses spend between 0-5% (44%) and 5-10% (33%) of gross revenue on marketing efforts. More respondents indicated spending in the 0-10% brackets than in 2013, with fewer respondents indicating that they spend between 10-25% or more than 25% of their gross revenue on marketing.

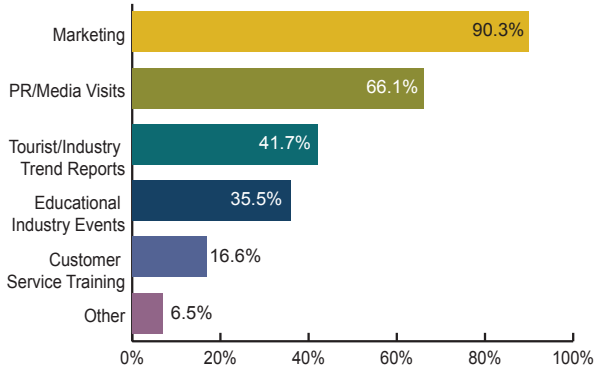
**Percentage of Gross Revenue Spent on Marketing, 2015, (Respondent Based)**



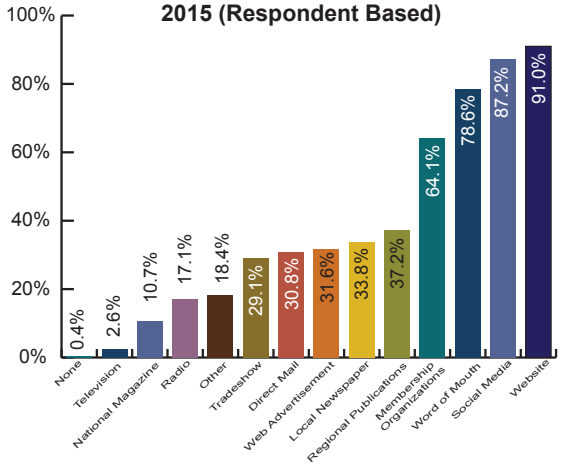

**Potential for Local Government Assistance, 2015 (Respondent Based)**




**Potential for Local Promotion Agency Assistance, 2015 (Respondent Based)**




**Marketing Tools Used by Tourism Businesses, 2015 (Respondent Based)**



# **Annual Tourism Report:** Industry Survey

## Attractions & Potential Market Opportunities

Tourism-related businesses were asked to indicate what tourism assets were most attractive to potential visitors to Sonoma County and in what markets there was room for growth. Please note: respondents were asked to identify which three niche markets they felt were the biggest opportunity for Sonoma County. As a result, the percentage in the corresponding graph indicates the number of times a niche market was selected as a 'top three'.

### Potential for Attracting Visitors

85% of respondents felt that Sonoma County had a high potential to attract visitors. This was largely due to the diversity of services and attractions available to visitors and the climate and scenery. Of those who indicated otherwise, the largest concern was competition from Napa County and the Bay Area.

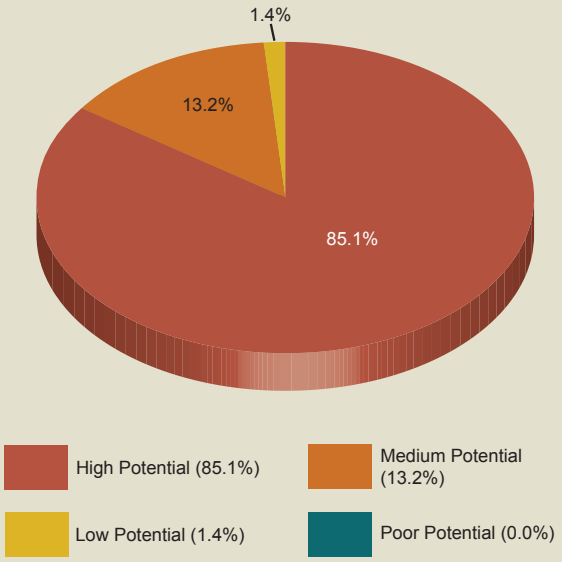
### Pull Attraction in Sonoma County

Tourism-related businesses were asked to rank tourism assets on a scale from one to five, one for a least attractive asset and five for a most attractive asset. Respondents indicated that besides wine reputation, the most attractive assets to visitors are scenery (Average rating of 4.7), culinary offerings (4.6) and outdoor recreational activities (4.4). These top-three assets remain unchanged from 2014, although the score for each category increased. Another category to note with a strong score is the Craft Beer, Cider and Spirits industry (4).

### Niche Market Opportunities for Sonoma County

Markets that tourism businesses felt would be good opportunities for Sonoma County were varied. The most reported niche market was culinary tourism (69%), followed by cycling (56%) and craft beer (47%). Respondents who indicated 'other' (12%) suggested more specific wine marketing and outdoor 'experiences'.

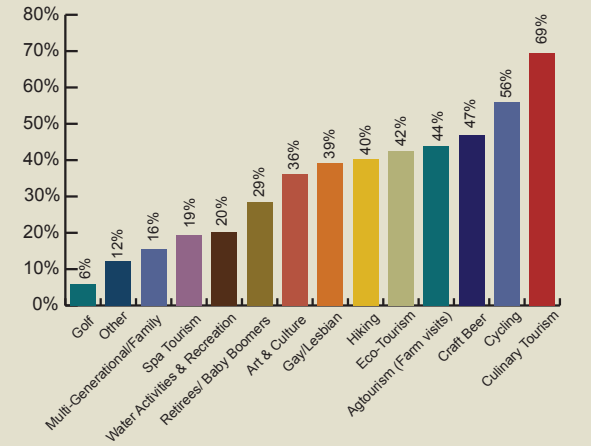
**Potential for Attracting Visitors, 2015 (Respondent Based)**



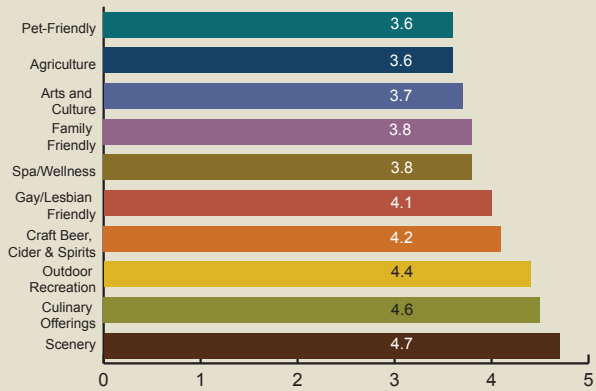

**Reasoning: (Respondent Based)**

- Diversity of services and attractions offered.
- Scenery and good climate
- Proximity to Bay Area
- Culinary offerings and locally sourced food
- Effective Marketing
- Recognition as a wine destination

**Niche Market Opportunities for Sonoma County, 2015 (Respondent - Based)**




**Pull Attractions in Sonoma County, 2015 (Excludes Wine, Respondent Based)**




Note: 5 indicates most attractive and 1 indicates least attractive asset.

# **Annual Tourism Report:** Industry Survey

## Marketing Initiatives & Agency Involvement

Industry respondents cited many marketing opportunities to showcase Sonoma County's tourism assets. Responses indicate that there is more opportunity for businesses to collaborate with promotional agencies like Visitor Centers and Sonoma County Tourism.

### Effectivity of Marketing Initiatives

The majority of respondents indicated that tourism marketing initiatives were 'useful' for countywide marketing (40%) and 'useful' for regional marketing (30%). Very few respondents felt that regional or countywide marketing initiatives were 'somewhat useless' to 'very useless'. However, many respondents indicated suggestions to improve marketing. These included more region-specific marketing, more non-wine activity promotion, and expanding specific niche marketing.

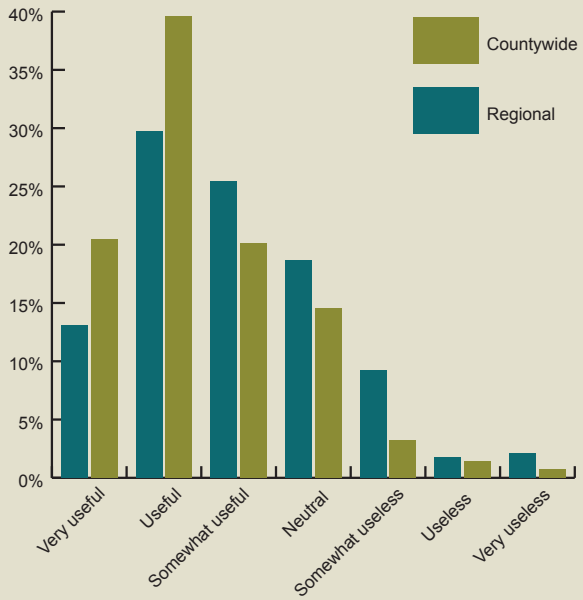
### Involvement with Sonoma County Tourism

Respondents were asked to indicate how involved they were in working with Sonoma County Tourism (SCT). The majority indicated that they are 'somewhat involved' with Sonoma County Tourism (67%). Of those who worked with SCT, a larger percentage felt that regional and countywide marketing initiatives were 'useful' than 'somewhat useless' to 'very useless'.

### Involvement with Sonoma County Visitors Centers

Respondents were also asked to indicate whether they worked with a local Sonoma County visitor center. The majority of respondents indicated that they were 'somewhat involved' in working with Sonoma County Visitor Center (41%). Of those that were not working with a Visitor Center, the majority still felt that the regional and countywide marketing efforts were 'useful'.

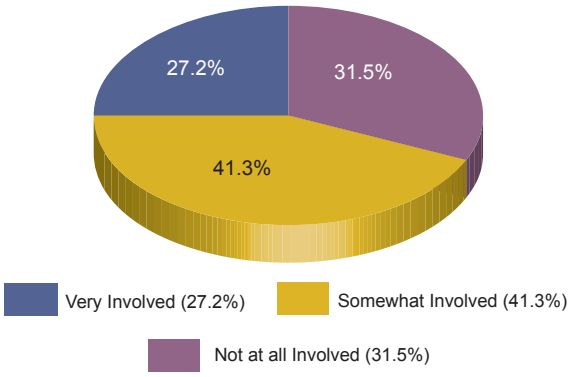
**Effectiveness of Marketing Initiatives, 2015 (Respondent - Based)**



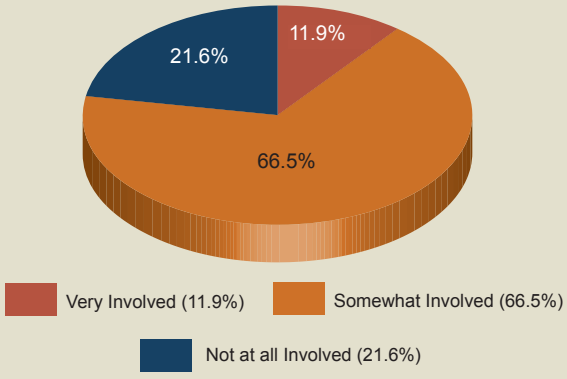

**Respondent Suggestions for Improved Marketing**

- Market craft beverage sector activities
- Market regional diversity and themes throughout county
- Do more promotion of smaller tourism businesses
- Increase specific niche marketing
- Coordinate with local businesses for targeted audience attraction

**Involvement with a Sonoma County Visitor Center, 2015 (Respondent Based)**




**Involvement with Sonoma County Tourism, 2015 (Respondent Based)**



## Methodology

The Sonoma County Economic Development Board (EDB) conducted its 2015 survey of Sonoma County tourism businesses in relation to the tourism industry. Owners and executives of more than 150 tourism businesses rated their confidence in the industry and identified changes and needs they expect at their businesses in the near future. The responses covered businesses in a broad range of tourism establishments. The survey asked tourism-centered businesses to respond to a broad array of questions about their market and marketing efforts, their visitor demographics, their expansion plans, the demographics of the industry, and their opinion on key county tourism policies. This report represents the findings from that survey as well as an analysis of those responses.

In addition to the survey responses, the Sonoma County 2015 Annual Tourism Report includes general background information for the tourism industry on a regional and national level. Statistics presented represent the most recently published data from the Travel Industry Association (TIA), www.tia.org, Smith Travel Research, the California Travel and Tourism Commission's California Travel Impacts by County, prepared by Dean Runyan & Associates and updated May 2014, www.visitcalifornia.com, and Moody's Analytics Tourism Analysis report. The EDB used the U.S. Bureau of Labor Statistics' Consumer Price Index to adjust some data for inflation, http://www.bls.gov/. Lodging classifications were defined by AAA, www.AAA.com. The EDB collected and compiled all TOT data from each Sonoma County jurisdiction.

Please note that all survey data contained in this report is based on the information self-reported by respondents, which was not factually verified by the EDB. The responses were then gathered into a database for analysis. Due to the fact that survey respondents may provide no responses to some questions, the category percentages indicated in the graphs for those questions may not add up to 100%. Where replies are mutually exclusive, percentages may be slightly off due to rounding. Where replies are not mutually exclusive, percentages may total more than 100%. As mentioned above, it was our intention to obtain averages that provide a general "snapshot" of various issues for the hospitality/tourism industry in Sonoma County. Accordingly, the data averages are not weighted by any factor or interest.

## Acknowledgements

The 2015 Annual Tourism Report would not have been possible without the contributions of many individuals.

Most of the credit for this study belongs to the local businesses that participated in the survey. Their responses created the foundation upon which the tourism sector could be studied and analyzed.

Special acknowledgement is also due to Ken Fischang and Tim Zahner at Sonoma County Tourism for their invaluable suggestions and generous provision of statistical data on the tourism sector in Sonoma County.

Finally, Dominic Wiggam, Tourism Project Coordinator with the EDB, contributed a significant amount of time and effort to the report through surveying administration, compilation, and organization of the report, data, and survey findings. Dominic Wiggam updated and consolidated the data sources and statistics from previous years to create this comprehensive analysis, and deserves special thanks.

Ben Stone
Executive Director

SONOMA COUNTY EDB ECONOMIC DEVELOPMENT BOARD

The EDB is pleased to thank the following Signature Sponsors for their support of our important programs.

## PRESENTING LEVEL

Exchange Bank — Invested in you.

PURE LUXURY TRANSPORTATION — Committed to Perfection

Redwood Credit Union

SONOMA RACEWAY

tri counties bank — Service With Solutions

LUTHER BURBANK SAVINGS

## FOUNDATION LEVEL

Pacific Gas and Electric Company

## PREMIER LEVEL

KAISER PERMANENTE®

Sonoma Clean Power — Local. Renewable. Ours.

FRIEDEMANN GOLDBERG — A LIMITED LIABILITY PARTNERSHIP

Bank of Marin

## EXECUTIVE LEVEL

American AgCredit
American River Bank
City of Santa Rosa
Comcast
George Petersen Insurance
Keegan & Coppin Co.
Midstate Construction
NorBAR
Sonoma County Alliance
Summit State Bank
Vantreo Insurance
Zainer Rinehart Clarke

## MEDIA LEVEL

North Bay Business Journal — NORTH SAN FRANCISCO BAY AREA: SONOMA, NAPA, AND MARIN COUNTIES

Sonoma County Board of Supervisors

Economic Development Board
141 Stony Circle, Ste. 110
Santa Rosa, CA 95401
(707)565-7170
www.SonomaEDB.org

# HOSPITALITY INDUSTRY ACRONYMS

| | |
|---|---|
| ABA | American Bus Association |
| ACOM | Association of Convention Operations Managers |
| ADOS | Associate Director of Sales |
| ADR | Average Daily Rate |
| AFOC | Association Forum of Chicagoland |
| AIBTM | American Incentive Business Travel and Meetings Expo |
| ASAE | American Society of Association Executives |
| ATI | American Tours International |
| AVA | American Viticultural Areas |
| A/V | Audio Visual |
| BEO | Banquet Event Order (plus service charge, plus tax) |
| BRC | Business Reply Card |
| CAE | Certified Association Executive |
| CalSAE | California Society of Association Executives |
| CC | Convention Center |
| CDME | Certified Destination Management Executive |
| CHME | Certified Hospitality Marketing Executive |
| CIC | Convention Industry Council |
| CMP | Certified Meeting Professional |
| CONF | Conference Style |
| CPG | Cost per Gallon |
| CPOR | Cost per Occupied Room |
| CSSM | Convention Services Sales Manager |
| CTA | Certified Tourism Ambassador |
| CTP | Corporation for Travel Promotion |
| C/S | Classroom Style |
| CVA | Convention & Visitors Authority |
| CVB | Convention & Visitors Bureau |
| DBL/DBL | Two double beds |
| DMA West | Destination Marketing Association of the West (Formerly Western Association of Convention and Visitors Bureaus (WACVB) |
| DMAI | Destination Marketing Association International |
| DMC | Destination Management Company |
| DOS | Director of Sales |
| EDB | Economic Development Board |
| EI | Economic Impact |
| F&B | Food & Beverage |
| GM | General Manager |
| GSF | Gross Square Feet: total amount of square footage needed for exhibits, incl. aisles |
| GTD | Guaranteed |
| HCEA | Healthcare Convention & Exhibitors Association |
| H/S | Hollow Square |
| HSMAI | Hospitality Sales & Marketing Association International |
| IAAM | International Association of Auditorium Managers |
| IACC | International Association of Conference Centers |
| IAEM | International Association of Exposition Managers |
| IMEX - America | Incentive and Meeting Travel Expo U.S. Travel event, (Formerly IPW International Pow Wow) |
| ITB | Internationale Tourismus-Börse |
| ITME | Incentive Travel and Marketing Executive/Motivation Show |
| JATA | Japanese Association of Travel Agents |
| LGBT | Lesbian, Gay, Bisexual, Transgender |
| MPG | Meeting Planner Guide |
| MPI | Meeting Professionals International |
| MPI CAC | MPI Chicago Area Chapter |
| MPI NCC | Meeting Professionals International Northern California Chapter |
| NCSAE | Northern California Society of Association Executives (a chapter of ASAE) |
| NN | Need need |
| NSF | Net Square Feet: square footage devoted only to exhibit booths, usually 50 percent of gross amount |
| NTA | National Tour Association |
| Occ | Occupancy |
| Opt-ins | Customers who opt in to receive marketing information. Opt-ins for SCT info bring in $255 each in destination spending |
| PCMA | Professional Convention Management Association |
| PP | Per Person |
| Post-Con | Post-convention meeting |
| Pre-Con | Pre-convention meeting |
| PRMC | Public Relations, Marketing & Communications |
| RCMA | Religious Convention Management Association |
| RevPAR | Revenue per Available Room |
| RFP | Request for Proposal |
| RFQ | Request for quote |
| ROI | Return on Investment |
| SCT | Sonoma County Tourism |
| SGL | Single |
| SGMP | Society of Government Meeting Planners |
| SMERF | Social, Military, Educational, Religious & Fraternal Organizations |
| STR | Smith Travel Research |
| SWAG | Stuff we all get |
| TAG | Travel Alternatives Group |
| TRN | The Reunion Network |
| T/S | Theater Style |
| U/S | "U" shape |
| WIB | Workforce Investment Board |
| WTM | World Travel Market |
| 30-day | Reservations due 30 (45 or 60) days before arrival |

# 2016 AD CAMPAIGN

*A comprehensive, multi-media, advertising program was implemented in all market segments to complement sales and public relations initiatives. The program included seasonal campaigns to encourage visitation during the shoulder season, which resulted in dramatic growth in the opt-in list.*

SONOMA COUNTY TOURISM

**Sonoma County Tourism**
400 Aviation Blvd., Suite 500
Santa Rosa, CA 95403
707-522-5800 | 800-576-6662
**www.SonomaCounty.com/partners**

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 23**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors, County of Sonoma

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Fire and Emergency Services

**Staff Name and Phone Number:**
Al Terrell / 565-1152

**Supervisorial District(s):**
All Districts

**Title:** 2016 Volunteer Fire Company Agreement

**Recommended Actions:**

Authorize the Chair to sign Agreements with Bloomfield, Bodega, Camp Meeker, Fort Ross, Knights Valley, Lakeville, Mayacamas, Mountain, San Antonio, Two Rock, Valley Ford, and Wilmar Volunteer Fire Companies to provide delivery of fire protection services in County Service Area #40.

**Executive Summary:**

County Service Area #40 (CSA #40), a dependent fire district of the County, provides fire protection services in areas of the County not otherwise covered by fire protection districts and cities. Primary response in these areas is provided by volunteer fire companies (VFCs), which operate under contract with the Sonoma County Department of Fire and Emergency Services (Department). During the previous agreement, which ended March 31, 2016, the Department and the VFCs determined that changes were needed to improve collaboration and better support the VFCs. While the new agreement was being developed, three three-month extensions were approved. The new agreement has now been finalized and this item requests Board approval of new Agreements with each of the 12 Sonoma County VFCs: Bloomfield, Bodega, Camp Meeker, Fort Ross, Knights Valley, Lakeville, Mayacamas, Mountain, San Antonio, Two Rock, Valley Ford, and Wilmar Volunteer Fire Companies, collectively known as the Sonoma County Volunteer Fire Companies Association (SCVFCA).

**Discussion:**

The County of Sonoma operates a dependent fire district known as County Service Area #40 (CSA #40), which covers all areas of the county not covered by an independent fire protection district or a city fire department. Within this area, fire protection services are provided by public/private partnerships with volunteer fire companies (VFCs), each of which provides service within a designated Fire Service Area. Fire Service Areas are assigned to each of the VFCs as their “first due response area” and are shown in Exhibit “B” of each agreement. The VFCs are only authorized to provide fire protection services under the terms and conditions provided in the agreements. Without a fully executed agreement, each VFC cannot provide fire protection services within the CSA #40 jurisdiction.

The County of Sonoma currently has agreements with each of the 12 VFCs. The current agreement was executed in April of 2011, and provided for an automatic yearly extension through March 31, 2016. Subsequent extensions of the automatic renewal date were executed on March 01, 2016; June 14, 2016; and, September 27 2016. These extensions allowed for the VFCs to continue operating under their current agreement while a new agreement was being developed, without locking the County and VFCs into a long-term extension of the current agreement.

The County and the VFCs have reached an agreement in revisions of the terms of the Agreement to move toward a more effective, efficient and sustainable fire services system in Sonoma County. Some key elements of the agreement were identified and updated, including the establishment of 4 important committees: the Standard Operating Procedures (SOP) Committee; Resource Committee; Training Officers Committee; and, Finance/Budget Committee. Comprised of various volunteers representing a cross section of the VFCs, the goal of these committees is to work closely with CSA #40 to establish common goals and priorities for a more collaborative and efficient fire service delivery within CSA #40. In addition, County Fire is partnering with County Fleet Services to provide a comprehensive Equipment/Apparatus Preventative Maintenance and Repair Program for all of the CSA-40 emergency response equipment, thereby ensuring a safer and more reliable emergency response fleet. The VFCs agreed to discontinue the annual lump sum payment to each VFC of $5,000 to defray operational and maintenance costs in exchange for this new Fuel and Maintenance service agreement with County Fleet Services.

These updated agreements represent the commitment between County Fire and the VFC's towards improved communications and an enhanced working relationship.

The new agreements are for an 18 month period, with an automatic renewal provision from year-to-year thereafter.

**Prior Board Actions:**

09/27/2016: Board executed third amended agreements with Bodega, Camp Meeker, Fort Ross, Knights Valley, Lakeville, Mayacamas, Mountain, San Antonio, Valley Ford, and Wilmar Volunteer Fire Companies; and fourth amended agreements with Bloomfield and Two Rock VFCs to reorganize fire services.
06/14/2016: Board executed second amended agreements with Bodega, Camp Meeker, Fort Ross, Knights Valley, Lakeville, Mayacamas, Mountain, San Antonio, Valley Ford, and Wilmar Volunteer Fire Companies; and third amended agreements with Bloomfield and Two Rock VFCs to reorganize fire services.
03/01/2016: Board executed first amended agreements with Bodega, Camp Meeker, Fort Ross, Knights Valley, Lakeville, Mayacamas, Mountain, San Antonio, Valley Ford, and Wilmar Volunteer Fire Companies; and second amended agreements with Bloomfield and Two Rock VFCs to reorganize fire services.
01/05/2016: Board executed first amended agreements with Bloomfield and Two Rock VFCs to reorganize fire services.
04/01/2011: Board executed agreements VFCs for a 24-month term through 03/31/2013, automatically renewed annually thereafter through 03/31/2016.

**Strategic Plan Alignment** Goal 1: Safe, Healthy, and Caring Community

Execution of these agreements will allow for the continuation of fire response services within CSA #40 service areas to ensure ongoing safety and fire suppression services to the residents of these areas.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | $100,000 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **$100,000** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | $100,000 | | |
| Contingencies | | | |
| **Total Sources** | **$100,000** | | |

**Narrative Explanation of Fiscal Impacts:**

The new agreement provides for CSA #40 to provide more services directly to the VFCs, while reducing direct payments to them. Due to deferred maintenance, the vehicle maintenance program is expected to cost up to $100,000 during FY 16-17, which is included in the CSA #40 budget. In the future, net impact of these changes is expected to be largely neutral.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

None.

**Attachments:**

Sample Agreement (A1)

**Related Items "On File" with the Clerk of the Board:**

Agreements with Bloomfield, Bodega, Camp Meeker, Fort Ross, Knights Valley, Lakeville, Mayacamas, Mountain, San Antonio, Two Rock, Valley Ford, and Wilmar Volunteer Fire Companies (3 copies of each agreement).

# AGREEMENT FOR FIRE AND EMERGENCY SERVICES

This Agreement is made by and between the COUNTY OF SONOMA, a political subdivision of the State of California (hereinafter referred to as "COUNTY"), and the NAME Volunteer Fire Department, Inc., a Non-Profit Public Benefit Corporation (hereinafter "NAME"), who agree as follows:

1. **RECITALS**. This Agreement is made with reference to the following facts and objectives:

   a) COUNTY desires to promote maximum utilization of fire and emergency service resources within Sonoma County.

   b) COUNTY accepted the Vision 2020 County Fire Strategic Plan in 2010 to formalize the organization, operational and funding mechanism for fire operations and training in certain unincorporated areas of Sonoma County.

   c) COUNTY desires to contract with NAME for the performance of primary fire and emergency services within the boundaries of County Fire Service Area No. 40 FSA-NAME (hereinafter "FSA- NAME").

   d) NAME has the facilities, emergency response vehicles**,** equipment and County assigned volunteer personnel required to provide such services to the assigned FSA – NAME, and to the extent that resources are available, the remaining area of County Fire Service Area No. 40, and is willing and able to render such services on the terms and conditions hereinafter set forth, and in accordance with terms and conditions of the California Master Mutual Aid Agreement.

   e) NAME is a Non-Profit Public Benefit Corporation organized pursuant to the laws of the State of California, presently in good standing with the California Secretary of State. The Articles of NAME authorize NAME to perform fire and emergency services, and are consistent with the terms and conditions of this agreement.

2. **DEFINITIONS**. For the purposes of this Agreement, the following terms shall have the meanings respectively ascribed to them by this subparagraph unless it is apparent from the context that a different meaning is intended:

   a) “Collaboration” means cooperation and communication on County Fire SOP’s in which the parties engaged in collaboration work together to reach a mutual agreement. As a recourse in the event there is no mutual agreement, the parties will each select a Chief from the Sonoma County Fire Chief’s Association, who will then select a third Chief, and these three Chiefs will make a decision that is binding on the parties. Collaboration shall not be used to supersede a decision that is at the sole discretion of the Board of Supervisors, including, but not limited to budgeting decisions.

   b) “Consultation” means cooperation and communication in which the Volunteer Fire Companies Association, or its committees, engaged in consultation work together to provide input and recommended solutions, which shall be considered in the decision to be made by COUNTY.

   c) “County Fire” means all of the fire and emergency services provided throughout County Fire Service Area No. 40, by the Fire Operations and Training Division of the County Fire and Emergency Services Department and all the Volunteer Fire Companies that are in contract with Count Fire.

   d) "County Fire Chief" means the Director of the Sonoma County Fire and Emergency Services Department or his or her authorized representative, responsible and accountable for the supervision and management of County Fire.

   e) “County Fire Service Area No. 40” means the unincorporated area of the COUNTY under the jurisdiction of County Fire as shown in the map attached hereto as Exhibit “A” and incorporated herein by this reference.

   f) “County Fire SOP’s” means various operational and administrative standard operating procedures for County Fire, pertaining to fire and emergency services to be rendered under the terms and conditions of this agreement, which shall be developed and updated in collaboration by the County Fire Chief and the VFC Association.

   g) "FSA-NAME" means that portion of the boundaries of County Fire Service Area No. 40 in which NAME will provide primary fire and emergency services in their assigned response

area as shown in the map attached hereto as Exhibit “B” and incorporated herein by this reference.

h) “Fire and emergency services" means the services to be provided under this Agreement as specified in Exhibit “C” attached hereto and incorporated herein by this reference.

i) “Personnel” means the individuals listed on the NAME Certificate of Organization including the Board Members, the Volunteer Fire Chief and all other assigned volunteers.

j) "REDCOM" means the Redwood Empire Dispatch Communications Authority central dispatch operation or other dispatch operation authorized by the County Fire Chief in accordance with applicable County Fire Standard Operating Procedures (SOP).

k) ” Reportable Event" means any call for service that NAME is dispatched to, or has called into REDCOM as an event directly reported to NAME or its member(s), including but not limited to, any type of fire, medical emergency, rescue, hazardous condition, public assistance, or investigation requiring specialized personnel or equipment. See Exhibit C.

l) “Vision 2020” means the Vision 2020 County Fire Strategic Plan developed in consultation by the County Fire Chief and the VFC Association, and accepted by the Sonoma County Board of Supervisors in October 2010.

m) “Volunteer Fire Chief" means the Fire Chief of NAME or his or her authorized representative, responsible and accountable for the supervision and management of NAME within County Fire

n) “Volunteer Fire Company Board of Directors (VFC Board)” means the VFC Board is the locally elected Board of Directors of the NAME community-based Nonprofit Public Benefit Corporation in support of the community based NAME.

o) “Volunteer Fire Companies Association (VFC Association)” means the Sonoma County Volunteer Fire Companies Association, Inc., which is comprised of the currently active Volunteer Fire Companies.

3. **SERVICES TO BE PROVIDED.**

a) NAME agrees to provide primary fire and emergency services within FSA-NAME. The rendition of such services, the standard of performance thereof in accordance with Vision 2020 and applicable County Fire SOP’s, and the immediate control of assigned personnel so employed shall at all times remain the responsibility of the VFC Fire Chief.

b) NAME agrees to require all firefighting personnel to meet the policy, training, safety guidelines and procedures as established in consultation with the County Fire Chief. The County Fire Chief shall provide NAME minimum guidelines and policies in specific County Fire SOPs referenced herein.

c) NAME agrees to immediately notify County Fire Chief, through REDCOM, upon the occurrence of any reportable event in accordance with the County Fire Reporting SOP.

d) NAME agrees to control and preserve the scene of any type of reportable fire until the arrival of a County Fire Investigator should the incident warrant an investigation.

e) NAME agrees to comply with the requirements of the Basic Fire and Emergency Services listed in Exhibit “C”.

f) NAME agrees that County Counsel can provide legal services to be paid for by COUNTY concerning personnel and operations activities as set forth in the conditions and terms of this agreement when NAME is providing fire and emergency services as a County Fire agent.

4. **TERM**. The initial term of this Agreement shall be for eighteen (18) months, commencing on January 1, 2017 and expiring on July 1, 2018, and shall be automatically renewed from year to year thereafter, unless a party to this Agreement gives sixty (60) days written notice to the other party of its intention not to renew this Agreement.

5. **COMPENSATION**.

a) For and in consideration of the rendition of fire and emergency services hereunder, COUNTY shall pay NAME compensation of $50.00 per response, whether inside or outside the County Fire CSA #40 response area, as documented by REDCOM, to be paid semiannually.

b) When emergency response vehicles or personnel from NAME are deployed for extended response to disasters such as fires, earthquakes or other emergencies pursuant to contracts COUNTY has signed with State agencies (Cal Fire and Cal OES), COUNTY shall pass through State or Federal reimbursement payments to NAME, with any administrative rate in excess of the base rate being retained by COUNTY to offset administrative and overhead costs of the volunteer fire program.

6. **FACILITIES, EMERGENCY RESPONSE VEHICLES, EQUIPMENT, AND SUPPLIES.** Except as herein otherwise specified, NAME shall furnish all facilities, emergency response vehicles, equipment, and supplies necessary to perform the fire and emergency services pursuant to this Agreement. The owner of the facility being used by NAME to perform the fire and emergency services pursuant to this Agreement, shall be responsible for maintenance and supplies for such facility. COUNTY and NAME agree to consultation in order to maintain emergency response vehicles and equipment in accordance with County Fire SOPs, State and Federal law, in order to have such available on a 24-hour per day basis.

7. **ADMINISTRATION OF PERSONNEL.** The COUNTY shall be responsible for the administration of personnel, including but not limited to, recruitment, retention, assignment, management, and compensation in accordance with the County Fire Administration SOP's.

a) COUNTY shall not be liable for the direct payment of any salaries, wages, or other compensation to any personnel performing services hereunder for NAME or any liability other than that provided for in this Agreement.

b) Except as herein otherwise specified, COUNTY shall not be liable for compensation or indemnity to any NAME personnel for injury or sickness or other claims arising out of his or her services under this Agreement.

8. **TRAINING.**

a) COUNTY shall provide training to the assigned NAME personnel at a minimum of six- hours of instruction per month. NAME will be responsible for all other training requirements in accordance with County Fire Training SOP's.

b) A training plan shall be maintained that includes State and Federal mandated training requirements. This plan, including but not limited to, the training administration shall be developed in consultation with NAME and COUNTY.

9. **EQUIPMENT.**

a) Personal Protective Equipment (PPE). COUNTY shall provide firefighting protective clothing which meets State of California (Cal OSHA) standards for structural and wildland firefighting for each firefighter, in accordance with County Fire Equipment SOP's.

b) Self-Contained Breathing Apparatus (SCBA). COUNTY shall provide SCBA and spare air cylinders as deemed necessary to NAME. COUNTY shall also provide a system for NAME to refill SCBAs as needed. COUNTY will provide annual regulator maintenance and hydrotesting for COUNTY owned equipment as required by law and in accordance with County Fire Equipment SOP's.

c) Communications Equipment. COUNTY shall provide radio communication devices to NAME as follows: three (3) hand held radios, one (1) mobile radio for the each class vehicle; one (1) hand held radio and one (1) mobile radio for each utility vehicle; and one (1) pager for each Firefighter. COUNTY will provide a maintenance/replacement program for such equipment and/or the equivalent equipment that is provided and owned by NAME, providing the equipment has not been negligently handled or mistreated and radios meet serviceability requirements as determined by NAME and COUNTY; in accordance with County Fire Communications SOP's.

d) Medical Equipment. COUNTY shall provide medical equipment to NAME, in accordance with

County Fire Equipment SOP's.

10. **OPERATIONS AND MAINTENANCE BUDGET.** The COUNTY shall provide, in consultation with NAME, funding for all costs of operation, maintenance, inspections, testing, repair and fuel for emergency response vehicles and equipment for NAME, in accordance with County Fire Equipment SOP's.

11. **REPORTS.** The COUNTY is required to complete and submit reports of all events within County Fire Service Area #40 to the State. NAME is required to complete reports of all events they respond to in accordance with the County Fire Reporting SOP's.

12. **INSURANCE.** With respect to the performance of fire and emergency services hereunder, COUNTY agrees to maintain insurance, in accordance with the County Fire Insurance SOP's, as follows:

    a) COUNTY shall maintain worker's compensation insurance with statutory limits as required by the Labor Code for all personnel, with respect to services rendered by them for fire and emergency services and related public services pursuant to this Agreement and pursuant to Labor Code Section section 3361. Board Members listed on the Certificate of Organization shall be covered when acting in their official capacity as a Board Member.

    b) COUNTY shall maintain a policy of insurance to protect against any liability for bodily injury or property damage arising out of or in connection with the activities of NAME, its Board members, officers, agents, and employees, pursuant to this Agreement. The liability under such policy of insurance shall be not less than the amounts set forth in the County Fire Insurance SOP's. Such liability coverage shall extend to and cover the operation and use of all inventoried equipment and buildings owned or leased by COUNTY or NAME used in the rendition of services under this Agreement, provided, however, that NAME must notify COUNTY in writing regarding the real and personal property to be so covered.

    c) COUNTY shall provide comprehensive auto and collision insurance on all emergency response vehicles which are owned or leased by COUNTY or NAME and used to provide services pursuant to this Agreement provided, however, NAME obtains COUNTY approval for the addition or replacement of any emergency response vehicles.

    d) COUNTY shall provide fire and contents insurance, on buildings or areas of buildings owned or leased by NAME in connection with providing services pursuant to this Agreement provided, however, NAME obtains COUNTY approval for the addition or replacement of any facility.

13. **RECORDKEEPING**. COUNTY and NAME agrees to maintain and make available to the each party, records pertaining to fire and emergency services performed pursuant to this Agreement in accordance with COUNTY Fire Record Keeping SOP's, including, but not limited to, finance, event reporting, emergency response vehicles and equipment maintenance and inventory records, financial records, articles of incorporation, bylaws, and VFC Board meeting minutes only with respect to the services rendered under the terms and conditions of this agreement.

14. **BUDGET PREPARATION**. COUNTY and NAME agrees to consultation in the development of funding priorities, resource allocation and budget preparation pertaining to fire and emergency services for any services to be rendered under the terms and conditions of this agreement.

15. **TERMINATION.**

    a) At any time and without cause, either party shall have the right, in its sole discretion, to terminate this Agreement by giving thirty (30) days written notice to the other party.

    b) If NAME should fail to perform any of NAME's obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, COUNTY shall have the right, in its sole discretion, to order a cessation of activities and services provided by NAME until the situation is satisfactorily remedied, or the contract is terminated as per 15(a) above.

    c) In the event of termination of this Agreement, all amounts that remain due and payable to NAME under this Agreement, shall be prorated to the date of termination and payable to NAME. Final payment shall be based on the proportion that the number of days of service performed under this Agreement bear to the number of days in the initial term or whichever is in effect. Any amounts paid by COUNTY to NAME in advance of services performed by NAME shall be returned to COUNTY based on the proration as provided above.

d) In the event of termination of this Agreement, any vehicles, apparatus and equipment owned by the COUNTY, which is in the possession of NAME shall be returned to COUNTY within thirty (30) days from the date of termination.

16. **METHOD AND PLACE OF GIVING NOTICE, SUBMITTING INVOICES, AND MAKING PAYMENTS**. All notices, invoices, and payments shall be made in writing and may be given by personal delivery or by mail. Notices, invoices, and payments sent by mail shall be addressed as follows:

COUNTY: County Fire Chief/ Department Director
Sonoma County Fire and Emergency Services Department
2300 County Center Drive
Suite 220 B
Santa Rosa, CA 95403

NAME: Board of Directors
NAME Volunteer Fire Department
Address

and when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices, invoices, and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the persons to whom notices, invoices, and payments are to be given by giving notice pursuant to this paragraph.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as set forth below.

COUNTY: COUNTY OF SONOMA

Dated: _____ By: _____
Chairman, Board of Supervisors

ATTEST:

_____
County Clerk and ex-officio
Clerk of the Board of Supervisors

: NAME Volunteer Fire Department

Dated: _____ By: _____
President, Board of Directors

ATTEST:

_____
Secretary/Clerk

Reviewed as to Substance
by County Fire Chief

_____
County Fire Chief / Department Director

Reviewed as to Form
by County Counsel

_____
County Counsel

EXHIBIT "C"

**BASIC FIRE AND EMERGENCY SERVICE**

1) **LEVEL OF SERVICE TO BE PROVIDED:** In responding to calls pursuant to this Agreement, NAME shall provide the equipment and personnel appropriate to ensure effective mitigation of each type of incident, meeting at least the minimum response levels defined below. The COUNTY understands that NAME is providing the services listed below with volunteer staffing and may have times when no volunteers are available for the response. The COUNTY expects NAME to use its best efforts to minimize the number of non-response situations.

   Minimum Response Levels by Type of Incident within NAME:

   a) Reported Fire involving any type of structure, building, vehicle, or other type of improvement; shall respond with one fire engine with "ICS Engine Type One, Two, or Three" capabilities, and may supplement the minimum engine response with additional emergency response vehicle including a water tender of "ICS Water Tender Type One or Two"; as requested by REDCOM including the minimum required personnel appropriately trained and qualified to mitigating the emergency in accordance with County Fire SOP.

   b) Reported Fire involving wildland, vegetation, farm land, or an undetermined outside Fire; shall respond with one fire engine with "ICS Engine Type One, Two, or Three" capabilities, and may supplement the minimum engine response with additional emergency response vehicle including a water tender of "ICS Water Tender Type One or Two"; as requested by REDCOM including the minimum required personnel appropriately trained and qualified to mitigating the emergency in accordance with County Fire SOP.

   c) Medical and Rescue related emergencies including, but not limited to, medical aid, rescue, vehicle accident, patient /victim extrication, high and low angle rescue, confined space rescue; shall respond the appropriate emergency response vehicle as requested by REDCOM including the minimum required personnel appropriately trained and qualified to mitigating the emergency in accordance with County Fire SOP.

   d) Hazardous Materials / Hazardous Condition Incidents; shall respond as requested by REDCOM one fire engine of "ICS Engine type one, two, or three", including the minimum required personnel appropriately trained and qualified to mitigating the emergency in accordance with County Fire SOP.

   e) Miscellaneous service request / Public assistance call; shall respond with the appropriate emergency response vehicle as requested by REDCOM including the minimum required personnel appropriately trained and qualified to mitigating the emergency in accordance with County Fire SOP.

   When responding outside of FSA-NAME, NAME will comply with vehicle specifications and the required minimum personnel as specified in the Sonoma County Mutual Aid Plan, and as outlined in the County Fire SOP's . When responding out of the County, NAME will follow the guidelines as specified in the current Firescope Field Operations Guide, ICS-420-1, and applicable County Fire and County Chief's SOP's.

2) **DISPATCH REQUESTS**: REDCOM will typically request an engine, a water tender, or both, according to the available resources of NAME for calls within FSA-NAME. In the event that areas outside the FSA- NAME, NAME may be requested to respond outside FSA-NAME and said response area. If NAME elects to respond to such requests, NAME will be compensated according to the terms of this Agreement. This paragraph does not apply to mutual aid calls or automatic aid calls.

3) **EMERGENCY MANAGEMENT SUPPORT:** Fire Station facilities owned by either NAME or the COUNTY may be designated to serve as an Emergency Operations Facility as part of the COUNTY's Emergency Operations Plan. In the event of a natural or human caused disaster, fire facilities may be used to support response to the citizens. The facility, or a portion of the facility, may be used to support command and control, communicate information, or provide logistical support for the citizens and responders. At no time should this facility use hinder the effective delivery of typical fire and emergency services by the NAME or the COUNTY.

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 24**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Fire and Emergency Services

**Staff Name and Phone Number:**
James Williams, 565-1152

**Supervisorial District(s):**
All

**Title:** Modifications to the Rancho Adobe and Bodega Bay Fire Protection Districts' Proposed Fire Codes

**Recommended Actions:**

To modify the adoption of an ordinance of the Rancho Adobe Fire Protection District and the Bodega Bay Fire Protection District, within their respective district boundaries, of the 2016 edition of the California Fire Code local fire code amendments to include Chapter 13 Sonoma County Fire Safety Ordinance, Sec. 13-6, Article II Definitions.

**Executive Summary:**

Every three years the State of California through the State Fire Marshal amends and adopts the California Fire Code, most recently on July 1, 2016. Local jurisdictions must enforce State Code within 180 days. Local counties, cities or fire districts may make local code amendments as necessary within that 180 days. While most fire districts operate under the County's code as adopted, Rancho Adobe and Bodega Bay Fire Protection Districts have chosen to adopt separate modifications to the code specific to their districts. The districts have worked with Fire and Emergency Services and other local fire jurisdictions to create a unified update for the local fire codes, and do not include major alterations.

When a fire protection district chooses to separately adopt a fire code, the Board of Supervisors of their County must either ratify, modify, or deny the district's proposed ordinance. This item asks the Board to modify the proposed ordinances to ensure consistency with the County's code and ratify the adoption of the 2016 California Fire Code with local amendments within these fire districts.

**Discussion:**

The State of California amends and adopts model codes every three years, which includes the International Fire Code as promulgated by the International Code Council. The adoption of the 2015 International Fire Code with State amendments is known as the 2016 California Fire Code. Local fire jurisdictions are required to enforce the State codes for State Fire Marshal regulated occupancies as adopted by the State and the State Fire Marshal within 180 days after State publication. The California Fire Code becomes effective on January 1, 2017. Local jurisdictions may make amendments to the State code during this 180-day period for all requirements to go into effect at the same time on January 1, 2017.

Local Fire Protection District have the authority under Health and Safety Code 13869.7(a) to adopt a fire code and amend State requirements to be more, but not less, restrictive than the State code. The Rancho Adobe Fire Protection District and Bodega Bay Fire Protection District have taken the position that they must adopt their own fire codes. While the Sonoma County Fire and Emergency Services Department takes the position that the County's adopted fire code applies to fire protection districts, it is willing to accept these local jurisdictions' fire codes as long as they are in line with the County's code.

When fire protection districts choose to adopt a fire code, they are required to have their ordinance ratified within the county or city where the ordinance will apply. Pursuant to Health and Safety Code 13869.7(c), the Board of Supervisors has the ability to ratify, modify or deny a fire protection district's proposed ordinance. Based on staff's review of the fire districts' ordinances, staff is recommending modification of the local ordinances to include the definitions outlined in Chapter 13-6 of the Sonoma County Fire Safety Ordinance. This modification ensures consistency and clarity between the County code and the fire districts' codes.

Both fire districts worked closely with other fire service agencies in Sonoma County, including representatives from Sonoma County Fire and Emergency Services Department, Sonoma Valley Fire and Rescue Authority, Santa Rosa Fire Department, Petaluma Fire Department, Rohnert Park Department of Public Safety, Sebastopol Fire Department, Healdsburg Fire Department, and other fire district representatives. Several meetings were conducted for all interested persons over a period of eight months. By undertaking this collaborative effort, all jurisdictions within the county will have essentially the same language contained in their fire codes, thus creating uniformity among all fire codes within the county.

These district ordinances have made no changes to the County's Fire Safe Standards, as they are within the jurisdiction of the County and not the fire districts. The above districts have worked closely with County Fire and Emergency Services to make sure that they are not less restrictive than the County Fire Code in unincorporated areas of the County.

**Prior Board Actions:**

11/15/2016: The Board adopted Fire Code Ordinance No. 6184 making amendments to Chapter 13 concurrent to the triennial adoption cycle of the California Code.

**Strategic Plan Alignment** Goal 1: Safe, Healthy, and Caring Community

Modifying the ordinances for the Rancho Adobe and Bodega Bay Fire Protection Districts, within their respective jurisdictions within unincorporated Sonoma County which allows implementation of the most current regulations which are tailored to the local fire jurisdiction and Sonoma County.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | -0- | | |
| Additional Appropriation Requested | -0- | | |
| **Total Expenditures** | **-0-** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | -0- | | |
| State/Federal | -0- | | |
| Fees/Other | -0- | | |
| Use of Fund Balance | -0- | | |
| Contingencies | -0- | | |
| **Total Sources** | **-0-** | | |

**Narrative Explanation of Fiscal Impacts:**

No fiscal impacts.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

No staffing impacts.

**Attachments:**

Modification Addendum to Bodega Bay FPD Ordinance No. 2016/17-01 (A1);
Modification Addendum to Rancho Adobe FPD Ordinance No. 2016-01 (A2)

**Related Items "On File" with the Clerk of the Board:**

Bodega Bay FPD Ordinance No. 2016/17-01 (A3);
Rancho Adobe FPD Ordinance No. 2016-01 (A4)

# A MODIFICATION BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, TO THE ORDINANCE OF THE BOARD OF DIRECTORS OF THE BODEGA BAY FIRE PROTECTION DISTRICT, COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING, "FIRE SAFETY ORDINANCE" OF THE BODEGA BAY FIRE PROTECTION DISTRICT TO ADOPT BY REFERENCE AND AMEND SELECTED PROVISIONS, CHAPTERS AND APPENDICES OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 24, 2016 EDITION OF THE CALIFORNIA FIRE CODE; TO ADOPT LOCAL FINDINGS; AND TO MAKE TECHNICAL AND ADMINISTRATIVE REVISIONS TO THE FIRE SAFETY ORDINANCE.

Pursuant to the authority granted by California Health and Safety Code §13869.7(c), the Board of Supervisors of the County of Sonoma modify the Bodega Bay Fire Protection District Fire Safety Ordinance No. 2016/17-01 to include the following provision:

## Article II. Definitions.

Sec. 2-1.

Unless the provision or context requires otherwise, the definitions contained in this section shall govern the construction of this chapter. The definition of a word applies to any of that word's variants.

**"Accessory Building"** means any building containing solely a Group U occupancy as defined in the County Building Code.

**"Agricultural Building"** means any structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged; nor shall it be a place used by the public.

**"Agricultural Operation"** means includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural commodity, including timber, viticulture, apiculture or horticulture, and the raising of livestock, fur-bearing animals, fish or poultry.

**"Board of Building Appeals"** means the Board of Building Appeals created in Chapter 7 of the Sonoma County Code.

**"Chief"** means the County Fire Chief or his or her authorized representative for those portions of the unincorporated area of the county not in a fire protection district, and the local Fire Chief or his or her authorized representative for those portions of the unincorporated area of the county in a local fire protection district. Notwithstanding the preceding, the County Fire Chief shall be responsible for plan checking and inspection of new construction and alterations subject to this Code within both those portions of the unincorporated area of the county not in a

fire protection district and those portions of the unincorporated area of the county in a local fire protection district, unless a local fire protection district notifies the County Fire Chief in writing that it has elected to have the local Fire Chief exercise those responsibilities within its jurisdictional area.

**"County"** means the County of Sonoma, in the state of California.

**"County Building Code"** means the building regulations in Chapter 7 of this Code.

**"County Fire Chief"** means the director of the Sonoma County Fire and Emergency Services Department.

**"Certified Unified Program Agencies (CUPA)"** means the regulatory division of Sonoma County Fire and Emergency Services Department hazardous materials enforcement division.

**"Development Approval"** means any of the following: (1) any discretionary approval granted pursuant to Chapter 25, 26, or 26C of this Code to allow residential, commercial, or industrial development of land, including, but not limited to, any approval of a zone change, tentative map, lot line adjustment, use permit, or design review; (2) any building permit issued pursuant to Chapter 7 of this Code to erect, construct, enlarge, alter, repair, move, improve, or convert any building, or to install a manufactured home; or (3) any grading permit issued pursuant to Chapter 7 of this Code to construct a new road or driveway, or to extend, reconstruct, or improve an existing road or driveway.

**"Director of Forestry and Fire Protection"** means the director of the California Department of Forestry and Fire Protection or his or her authorized representative.

**"Director of Permit and Resource Management"** means the Sonoma County director of Permit and Resource Management or his or her authorized representative.

**"Executive Body"** means the Board of Supervisors of Sonoma County for those portions of the county not in a fire protection district, and the Board of Directors of the Fire Protection District having jurisdiction for those portions of the county in that Fire Protection District.

**"Exterior Wall"** means any wall or element of a wall, or any member or group of members, which defines the exterior boundaries or courts of a building and which has a slope of sixty (60) degrees or greater from the horizontal plane.

**"Existing Building"** see **"building, existing."**

**"Fire and Emergency Services Department"** means the Sonoma County Fire and Emergency Services Department.

**"Fire Code Official"** means the Fire Chief and any other designated authority charged with the administration and enforcement of code, or a duly authorized representative. This shall

include representatives who enforce Sonoma County Code Chapter 29 Hazardous Materials Management.

**"Fire Department"** means the Sonoma County Fire and Emergency Services Department for those unincorporated areas of the county not in a local fire protection district, and the local fire protection district having jurisdiction for those unincorporated areas of the county in a local fire protection district.

**"General Plan"** means the Sonoma County General Plan.

"**Greenbelt**" means a facility or land use designed for a use other than fire protection which will slow or resist the spread of a wildfire. Greenbelts include parking lots, irrigated or landscaped areas, golf courses, parks, playgrounds, maintained vineyards, orchards and annual crops that do not cure in the field.

**"Hammerhead/T"** means a roadway that provides a "T" shaped, three-point turnaround space for emergency equipment. The turnaround space shall be no narrower than the road it serves.

**"HB-17 and HS-20"** means the class of highway loading as defined by the American Association of State Highway and Transportation officials.

**"Jurisdiction"** means the County of Sonoma, in the State of California.

**"Jurisdictional Area"** means the territory within a local fire protection district.

**"Local Fire Chief"** means the Fire Chief of a local fire protection district or his or her authorized representative.

**"Local Fire Protection District"** means any fire protection district organized and operating under the provisions of the Fire Protection District Law of 1987, Part 3 (commencing with Section 13800) of Division 12 of the Health and Safety Code, or any other special district lawfully exercising any of the powers, functions, or duties vested in or imposed upon a fire protection district pursuant to the Fire Protection District Law of 1987, all or part of whose territory is within the unincorporated area of the county. Notwithstanding the preceding, local fire protection district shall not include any County Service Area organized and operating under the provisions of the County Service Area Law, Chapter 2.2 (commencing with Section 25210.1) of Part 2 of Division 2 of Title 3 of the Government Code.

**"Local Responsibility Area"** means that portion of the unincorporated area of the county not classified by the State Board of Forestry as a State Responsibility Area.

**"Manufactured Home"** means any manufactured home as defined in Health and Safety Code, Sections 18007, 18008 and 19971.

**"Non-Urban Parcel"** means any parcel served by a water system other than a public

water system.

**"Open Burning"** means any combination of combustible material of any type outdoors in the open, not in any enclosure, where the productions of combustion are not directed through a flue. Open burning shall not include a fire in a barbecue pit, either permanent or portable, when the barbecue pit is operated on a patio or other appropriate dooryard area adjacent to and in conjunction with the dwelling of the person operating the barbecue pit.

**"Planning Official"** means the director of the Permit and Resource Management Department.

**"Public Water System"** means a system, regardless of type of ownership, for the provision of piped water to the public for human consumption that has fifteen (15) or more service connections.

**"Same Practical Effect"** means an exception or alternative with the capability of applying accepted fire suppression strategies and tactics, and provisions for firefighter safety, including: (1) access for emergency fire equipment; (2) safe civilian evacuation; (3) signing that avoids delays in emergency equipment response; (4) available and accessible water to effectively attack a fire or defend a structure from a wildfire; and (5) fuel modification sufficient for civilian and firefighter safety.

**"Shall"** is mandatory and "May" is permissive, however, use of the word "shall" in this Code is not intended to, nor shall it be deemed to create a mandatory duty imposed by enactment within the meaning of Government Code, Section 815.6.

**"State Responsibility Area"** means that portion of the unincorporated area of the county classified by the State Board of Forestry as a State Responsibility Area.

**"Subdivision"** means any subdivision as defined in Government Code, Section 66424 and Section 25-2 of this Code.

**"Subdivision Ordinance"** means the Subdivision Ordinance of Sonoma County.

**"Wildfire"** means a wildfire as defined in Public Resources Code, Sections 4103 and 4104.

# A MODIFICATION BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, TO THE ORDINANCE OF THE BOARD OF DIRECTORS OF THE RANCHO ADOBE FIRE PROTECTION DISTRICT, COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING, "FIRE SAFETY ORDINANCE" OF THE RANCHO ADOBE FIRE PROTECTION DISTRICT TO ADOPT BY REFERENCE AND AMEND SELECTED PROVISIONS, CHAPTERS AND APPENDICES OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 24, 2016 EDITION OF THE CALIFORNIA FIRE CODE; TO ADOPT LOCAL FINDINGS; AND TO MAKE TECHNICAL AND ADMINISTRATIVE REVISIONS TO THE FIRE SAFETY ORDINANCE.

Pursuant to the authority granted by California Health and Safety Code §13869.7(c), the Board of Supervisors of the County of Sonoma modify the Rancho Adobe Fire Protection District Fire Safety Ordinance No. 2016-01 to include the following provision:

## Article II. Definitions.

Sec. 2-1.

Unless the provision or context requires otherwise, the definitions contained in this section shall govern the construction of this chapter. The definition of a word applies to any of that word's variants.

**"Accessory Building"** means any building containing solely a Group U occupancy as defined in the County Building Code.

**"Agricultural Building"** means any structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged; nor shall it be a place used by the public.

**"Agricultural Operation"** means includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural commodity, including timber, viticulture, apiculture or horticulture, and the raising of livestock, fur-bearing animals, fish or poultry.

**"Board of Building Appeals"** means the Board of Building Appeals created in Chapter 7 of the Sonoma County Code.

**"Chief"** means the County Fire Chief or his or her authorized representative for those portions of the unincorporated area of the county not in a fire protection district, and the local Fire Chief or his or her authorized representative for those portions of the unincorporated area of the county in a local fire protection district. Notwithstanding the preceding, the County Fire Chief shall be responsible for plan checking and inspection of new construction and alterations subject to this Code within both those portions of the unincorporated area of the county not in a

fire protection district and those portions of the unincorporated area of the county in a local fire protection district, unless a local fire protection district notifies the County Fire Chief in writing that it has elected to have the local Fire Chief exercise those responsibilities within its jurisdictional area.

**"County"** means the County of Sonoma, in the state of California.

**"County Building Code"** means the building regulations in Chapter 7 of this Code.

**"County Fire Chief"** means the director of the Sonoma County Fire and Emergency Services Department.

**"Certified Unified Program Agencies (CUPA)"** means the regulatory division of Sonoma County Fire and Emergency Services Department hazardous materials enforcement division.

**"Development Approval"** means any of the following: (1) any discretionary approval granted pursuant to Chapter 25, 26, or 26C of this Code to allow residential, commercial, or industrial development of land, including, but not limited to, any approval of a zone change, tentative map, lot line adjustment, use permit, or design review; (2) any building permit issued pursuant to Chapter 7 of this Code to erect, construct, enlarge, alter, repair, move, improve, or convert any building, or to install a manufactured home; or (3) any grading permit issued pursuant to Chapter 7 of this Code to construct a new road or driveway, or to extend, reconstruct, or improve an existing road or driveway.

**"Director of Forestry and Fire Protection"** means the director of the California Department of Forestry and Fire Protection or his or her authorized representative.

**"Director of Permit and Resource Management"** means the Sonoma County director of Permit and Resource Management or his or her authorized representative.

**"Executive Body"** means the Board of Supervisors of Sonoma County for those portions of the county not in a fire protection district, and the Board of Directors of the Fire Protection District having jurisdiction for those portions of the county in that Fire Protection District.

**"Exterior Wall"** means any wall or element of a wall, or any member or group of members, which defines the exterior boundaries or courts of a building and which has a slope of sixty (60) degrees or greater from the horizontal plane.

**"Existing Building"** see **"building, existing."**

**"Fire and Emergency Services Department"** means the Sonoma County Fire and Emergency Services Department.

**"Fire Code Official"** means the Fire Chief and any other designated authority charged with the administration and enforcement of code, or a duly authorized representative. This shall

include representatives who enforce Sonoma County Code Chapter 29 Hazardous Materials Management.

**"Fire Department"** means the Sonoma County Fire and Emergency Services Department for those unincorporated areas of the county not in a local fire protection district, and the local fire protection district having jurisdiction for those unincorporated areas of the county in a local fire protection district.

**"General Plan"** means the Sonoma County General Plan.

"**Greenbelt**" means a facility or land use designed for a use other than fire protection which will slow or resist the spread of a wildfire. Greenbelts include parking lots, irrigated or landscaped areas, golf courses, parks, playgrounds, maintained vineyards, orchards and annual crops that do not cure in the field.

**"Hammerhead/T"** means a roadway that provides a "T" shaped, three-point turnaround space for emergency equipment. The turnaround space shall be no narrower than the road it serves.

**"HB-17 and HS-20"** means the class of highway loading as defined by the American Association of State Highway and Transportation officials.

**"Jurisdiction"** means the County of Sonoma, in the State of California.

**"Jurisdictional Area"** means the territory within a local fire protection district.

**"Local Fire Chief"** means the Fire Chief of a local fire protection district or his or her authorized representative.

**"Local Fire Protection District"** means any fire protection district organized and operating under the provisions of the Fire Protection District Law of 1987, Part 3 (commencing with Section 13800) of Division 12 of the Health and Safety Code, or any other special district lawfully exercising any of the powers, functions, or duties vested in or imposed upon a fire protection district pursuant to the Fire Protection District Law of 1987, all or part of whose territory is within the unincorporated area of the county. Notwithstanding the preceding, local fire protection district shall not include any County Service Area organized and operating under the provisions of the County Service Area Law, Chapter 2.2 (commencing with Section 25210.1) of Part 2 of Division 2 of Title 3 of the Government Code.

**"Local Responsibility Area"** means that portion of the unincorporated area of the county not classified by the State Board of Forestry as a State Responsibility Area.

**"Manufactured Home"** means any manufactured home as defined in Health and Safety Code, Sections 18007, 18008 and 19971.

**"Non-Urban Parcel"** means any parcel served by a water system other than a public

water system.

**"Open Burning"** means any combination of combustible material of any type outdoors in the open, not in any enclosure, where the productions of combustion are not directed through a flue. Open burning shall not include a fire in a barbecue pit, either permanent or portable, when the barbecue pit is operated on a patio or other appropriate dooryard area adjacent to and in conjunction with the dwelling of the person operating the barbecue pit.

**"Planning Official"** means the director of the Permit and Resource Management Department.

**"Public Water System"** means a system, regardless of type of ownership, for the provision of piped water to the public for human consumption that has fifteen (15) or more service connections.

**"Same Practical Effect"** means an exception or alternative with the capability of applying accepted fire suppression strategies and tactics, and provisions for firefighter safety, including: (1) access for emergency fire equipment; (2) safe civilian evacuation; (3) signing that avoids delays in emergency equipment response; (4) available and accessible water to effectively attack a fire or defend a structure from a wildfire; and (5) fuel modification sufficient for civilian and firefighter safety.

**"Shall"** is mandatory and "May" is permissive, however, use of the word "shall" in this Code is not intended to, nor shall it be deemed to create a mandatory duty imposed by enactment within the meaning of Government Code, Section 815.6.

**"State Responsibility Area"** means that portion of the unincorporated area of the county classified by the State Board of Forestry as a State Responsibility Area.

**"Subdivision"** means any subdivision as defined in Government Code, Section 66424 and Section 25-2 of this Code.

**"Subdivision Ordinance"** means the Subdivision Ordinance of Sonoma County.

**"Wildfire"** means a wildfire as defined in Public Resources Code, Sections 4103 and 4104.

# ORDINANCE NO. 2016/17-01

## AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE BODEGA BAY FIRE PROTECTION DISTRICT, COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING, "FIRE SAFETY ORDINANCE" OF THE BODEGA BAY FIRE PROTECTION DISTRICT TO ADOPT BY REFERENCE AND AMEND SELECTED PROVISIONS, CHAPTERS AND APPENDICES OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 24, 2016 EDITION OF THE CALIFORNIA FIRE CODE; TO ADOPT LOCAL FINDINGS; AND TO MAKE TECHNICAL AND ADMINISTRATIVE REVISIONS TO THE FIRE SAFETY ORDINANCE.

**This ordinance of the Bodega Bay Fire Protection** District, in the County of Sonoma County Code shall read as follows:

## BODEGA BAY FIRE PROTECTION DISTRICT
## FIRE SAFETY ORDINANCE

### Article I. General Provisions.

**Sec. 1-1. Short title.**

This chapter shall be known and may be cited as the Bodega Bay Fire Protection District Fire Safety Ordinance.

**Sec. 1-2. Administrative regulations.**

(a) The District fire chief may adopt amend or repeal administrative regulations to implement, interpret or make specific provisions of this chapter. Notice of the proposed adoption, amendment, or repeal of a regulation pursuant to this section shall be posted for a period of thirty (30) days in the public lobby of the Fire Protection District's office and shall be mailed to every person who has filed a request for notice of such actions with the Fire Protection District fire chief. Every notice shall include a copy of the express terms of the proposed action and a statement that the public may submit written comments on the proposed action prior to the close of the posting period. The Fire Protection District fire chief may approve, modify, or withdraw the proposed adoption, amendment or repeal of a regulation following the posting period.

(b) The adoption, amendment or repeal of a regulation pursuant to this section shall take place not less than fifteen (15) nor more than one hundred eighty (180) days following the close of the posting period specified in subsection (a), and shall be effective upon posting of an order of adoption, amendment or repeal in the public lobby of the District's offices. Each such order shall include a concise and clear summary of the action taken by the Fire Protection District fire chief and shall remain posted for a period of thirty (30) days.

(c) The regulations adopted or amended pursuant to this section shall have the same force and effect as provisions of this chapter. Failure by any person to comply with any

regulation adopted or amended pursuant to this section shall be a violation of this chapter.

(d) The regulations adopted or amended pursuant to this section shall be periodically compiled and copies thereof made available to the public for purchase at cost or review free of charge at the office of Fire Protection District.

## Article II. Reserved.

**Sec. 2-1. Reserved.**

## Article III. Appeals.

**Sec. 3-1. Board of Appeals.**

The Sonoma County Board of Building Appeals shall function as the Board of Appeals under this chapter. Except where inconsistent with the provisions of Sonoma County Code Sections 7-3 and Section 13-12 of the Sonoma County Fire Safety Ordinance the duties of the Board of Appeals shall be as prescribed in Chapter 1, Division II, Section 108 of the California Fire Code.

**Sec. 3-2. Appeals.**

(a) Except as otherwise provided in subsection (b), any applicant, permit holder or other interested person dissatisfied with a decision of the fire chief may appeal the decision to the Board of Appeals, provided, however, that such appeal may not be made more than thirty (30) days after the decision from which the appeal is being made has been rendered. All interested persons shall be given a reasonable opportunity to be heard and present evidence to the Board of Appeals on any appeal. Decisions of the Board of Appeals shall be in writing and shall be delivered to the appellant and the applicant or permit holder, if different from the appellant, either in person or by mailing to the address stated on the appeal or application. Decisions of the Board of Appeals are final. Should no decision be rendered within twenty (20) days after the filing of the appeal, such appeal shall be deemed to be denied unless time is extended by action of the Board of Appeals.

(b) Appeals of notice and orders issued pursuant to violations of this chapter shall be conducted and determined by a hearing officer pursuant to Section 1-7.3 and Chapter 7 of Sonoma County Code.

## Article IV. District Fire Code.

### Sec. 4-1. Administration and enforcement.

(a) The 2016 California Fire Code as adopted by reference and amended in this ordinance by the Board of Directors of the Bodega Bay Fire Protection District, shall constitute the District Fire Code.

(b) Chapter 13 of the Sonoma County Code, as adopted by reference and amended by the County Board of Supervisors based on the 2016 California Fire Code, has been designated by the Sonoma County Board of Supervisors as the County Fire Code.

(c) With the approval of the County Fire Chief, the District Chief may enforce those portions of the County Fire Code, that are not within the adopting authority of the local fire protection district, such as Fire Safe Standards, in the SRA.

(d) The District Chief may delegate the responsibility for plan checking and inspection of new construction and alterations, within the boundaries of the fire protection district to the County fire chief. Where requirements of the Districts Fire Code and the Sonoma County Fire Code are the same, the County fire chief may quote the code requirements as the "County Fire Code" for projects within the fire protection district.

(e) Any delegation or agreements between the County and the District shall be made in writing and approved by the Board of Directors of the Fire Protection District and the County Board of Supervisors.

### Sec. 4-2. Conflicting regulations.

The provisions of this chapter shall prevail over any inconsistent provision contained in the California Fire Code or the National Fire Codes; provided, in the case of inconsistent regulations, no regulation shall prevail that is less restrictive than the regulations established by the State of California unless otherwise authorized by the State.

### Sec. 4-3. California Fire Code adopted amendments.

(a) The portion of the California Building Standards Code that imposes substantially the same requirements as are contained in the California Fire Code, 2016 Edition published by the International Code Council and the California Building Standards Commission with Errata, including Appendices, 4, B, C, D, E, F, G, H and N; published by the International Code Council, save and except such portions as are hereinafter deleted, modified, or amended by subsection (b) of this section, are adopted and incorporated as fully as if set out at length herein for the purpose of prescribing regulations governing conditions hazardous to life and property from fire, hazardous materials or explosions within the boundary of the Bodega Bay Fire Protection District.

(b) The California Fire Code, 2016 Edition, is hereby amended as follows:

# CHAPTER 1
# SCOPE AND ADMINISTRATION

*1. California Fire Code Section 101.1 is amended to read as follows:*

**101.1 Title.** These regulations shall be known as the Rancho Adobe/Bodega Bay Fire Code, hereinafter referred to as "this Code."

*2. California Fire Code Section 103.3.1 is added to read as follows:*

**103.3.1 Authority to issue citations.** The fire chief, the fire code official and his or her designees who have the discretionary duty to enforce a statute or ordinance, pursuant to Section 836.5 of the California Penal Code and subject to the provisions thereof, may arrest a person without a warrant whenever the fire chief or member of the Fire Prevention Bureau has reasonable cause to believe that the person to be arrested has committed a violation in the presence of the fire chief or member of the Fire Prevention Bureau which he or she has discretionary duty to enforce, and to issue a notice to appear and to release such person on his or her written promise to appear in court, pursuant to the provisions of Section 853.5. of the California Penal Code.

*3. California Fire Code Section 105.6.49 is amended to read as follows:*

***105.6.49 Additional operational permits.*** *In addition to the operational permits required by Section 105.6, the following permits shall be obtained from the division of fire prevention prior to engaging in the following activities, operations, practices or functions:*

1. *Production facilities. To change use or occupancy, to allow the attendance of a live audience, or for wrap parties.*

2. *Pyrotechnics and special effects. To use pyrotechnic special effects, open flame, use of flammable or combustible liquids and gasses, welding, and the parking of motor vehicles for the purpose of motion picture, television and commercial production.*

3. *Live audiences. To install seating arrangements for live audiences in approved production facilities, production studios, and sound stages. See Chapter 48.*

4. Apartment, hotel, motel. An operational permit is required to operate an apartment house, hotel, or motel.

5. Bonfires or rubbish fires. An operational permit is required to kindle or authorize the kindling or maintenance of bonfires or rubbish fires.

6. Day care. An operational permit is required to operate a day care occupancy with an occupant load greater than eight (8) persons.

7. Emergency responder radio coverage system. An operational permit is required for buildings and/or facilities with emergency responder radio coverage systems and related equipment.

8. High-rise building. An operational permit is required to operate a high-rise building as defined in the Building Code.

9. Institutional or residential occupancy (six (6) or fewer persons). An operational permit is required to operate an institutional or residential occupancy for six (6) or fewer persons, except day care and residential care facilities for the elderly.

10. Institutional or residential occupancy (more than six (6) persons). An operational permit is required to operate an institutional or residential occupancy for more than six (6) persons. Exception: A permit is not required for large-family day care providing care for fewer than nine (9) children.

11. Cannabis. An operational permit is required to operate a medical cannabis facility or Cannabis operation listed below when allowed by state law and Local Zoning Ordinance:

    a. Cultivation
    b. Distribution
    c. Manufacturing (non-volatile)
    d. Testing/Lab

12. Oil or natural gas well. An operational permit is required to own, operate or maintain an oil or natural gas well.

13. Organized camps. An operational permit is required to operate an organized camp (Group C occupancy).

14. Special Permit. An operational permit is required for any organized procession or assemblage of 50 or more people, which could significantly impact vehicular traffic or create a safety problem. Examples include, but are not limited to: music festivals, outdoor markets, circus, walkathons, runs, marathons, trail rides, bicycle races, celebrations, parades and other similar activities.

15. Winery caves – publicly accessible. An operational permit is required to operate a Type-2 or Type-3 winery cave that is accessible to the public.

***4. California Fire Code Section 105.7.19 is added to read as follows:***

**105.7.19 Additional construction permits.** In addition to the permits required by Section 105.7, the following construction permits shall be obtained from the division of Fire Prevention prior to starting construction:

1. Fire apparatus access roads. A construction permit is required for installation or modification of roadways and roadway structures used for fire apparatus access roads.

2. Excavation near flammable or combustible liquid pipeline. A construction permit is required to excavate or do any work below grade within ten (10) feet of any pipeline for the transportation of flammable or combustible liquid.

3. Gates. A construction permit is required for the installation of security gates across a fire apparatus access road.

*5. California Fire Code Section, Section 109.4 is amended to read as follows:*

**109.4 Violation penalties.** Persons who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code official, or of a permit or certificate used under provisions of this Code, shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment not exceeding six months, or both such fine and imprisonment, or administratively of not less than one thousand dollars ($1000.00) Each day that a violation continues after due notice has been served shall be deemed a separate offense.

*6. California Fire Code, Section 109.5 is added to read as follows:*

**109.5 Authority to issue citations.** The Chief and members of the Fire Prevention Bureau who have the discretionary duty to enforce a statute or ordinance may, pursuant to Section 836.5 of the California Penal Code and subject to the provisions thereof, arrest a person without a warrant whenever the Chief or member of the Fire Prevention Bureau has reasonable cause to believe that the person to be arrested has committed a violation in the presence of the Chief or member of the Fire Prevention Bureau which he or she has discretionary duty to enforce, and to issue a notice to appear and to release such person on his or her written promise to appear in court, pursuant to the provisions of Section 853.5 et seq. of the California Penal Code.

*7. Chapter 1, Division II, Section 111.4 is amended to read as follows:*

**111.4 Failure to comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than $100.00 dollars or more than $500.00 dollars. A person shall be fined for each day he or she continues to work after having been served with a stop work order.

*8. California Fire Code, Section 113.6 is added to read as follows:*

**Section 113.6 Cost recovery.** Fire suppression, investigation or emergency medical costs are recoverable in accordance with Health and Safety Code Sections 13009 and 13009.1, as may be amended from time to time. Additionally, any person(s) who negligently, intentionally or in violation of law causes an emergency response, including, but not limited to, a traffic accident, spill of toxic or flammable or combustible fluids or chemicals is liable for the costs of securing such emergency, including those costs pursuant to Government Code Section 53150, et seq, as may be amended from time to time. Any expense incurred by Sonoma County Fire, Fire District and Volunteer Fire Company for securing such emergency shall constitute a debt of such person(s) and shall be collectable by the Department in the same manner as in the case of an obligation under contract, expressed or implied.

## CHAPTER 2
## DEFINITIONS

*9. California Fire Code Section 202 is amended to add the following.:*

**MEMBRANE STRUCTURE.** An air-inflated, air-supported, cable or frame-covered structure as defined by the *California Building Code* and not otherwise defined as a tent or umbrella structure. See Chapter 31 of the *California Building Code*.

**RECREATIONAL FIRE.** An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, portable outdoor fireplace, barbeque grill or barbeque pit for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

**SUBSTANTIAL ADDITION.** All existing buildings or structures, any addition of floor area that exceeds areas identified in Table 906.3 of the existing gross floor area, or when specific reference in other areas of the code are allowed.

**SUBSTANTIAL REMODEL.** In all existing buildings or structures, any alteration of floor area that is greater than seventy-five percent (75%) of the existing gross floor area or meets the definition of a substantial improvement as defined by the *California Building Code*, or when specific reference in other areas of the code are allowed

> **Exception:** Alterations made solely for the purpose of providing barrier removal pursuant to the requirements of the Americans with Disabilities Act (ADA) as contained in exception # 4 of Section 11B-204.2.

**TENT.** A structure, enclosure, umbrella structure or shelter with or without sidewalls or drops, constructed of fabric or pliable material supported by any manner except by air or the contents that it protects.

**UMBRELLA STRUCTURE.** A structure, enclosure or shelter with or without sidewalls or drops, constructed of fabric or pliable material supported by a central pole. (See "Membrane Structure" and "Tent")

**UNWARRANTED ALARM.** The giving, signaling or transition of an alarm notification to a public fire station or emergency communication center when such alarm is the result of a defective condition of an alarm system, system servicing testing, construction activities, ordinary household activities, false alarm or other cause when no such danger exists.

## CHAPTER 3
## GENERAL REQUIREMENTS

***10. California Fire Code Section 307.1 is amended to read as follows:***

**307.1 General.** Open burning shall be conducted in accordance with this section and Article VII of this Code.

***11. California Fire Code Section 307.2 is amended to read as follows:***

**307.2 Permit required.** Prior to commencement of open burning, a burning permit shall be obtained pursuant to section 7-1 of this Code.

***12. California Fire Code Section 307.4.2 is amended to read as follows:***

**307.4.2 Recreational fires**. Recreational fires that have a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height, or as approved by the fire code

official, shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions that could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition.

*13. California Fire Code Section 311.3.1 is added to read as follows:*

**311.3.1 Removal of debris after fire.** All rubble, waste, rubbish, and other materials lying upon any premises within the jurisdictional area; having been accumulated thereon by reason of a fire, and having been rendered useless thereby shall be removed ~~from~~ within ten (10) days after notice has been given to do so in writing by the fire chief to the owner, lessee, or other person in charge or control of the premises.

## CHAPTER 4
## EMERGENCY PLANNING AND PREPARDNESS

*14. California Fire Code, Section 402.1 is amended to add the following:*

**UNWARRANTED ALARM**

*15. California Fire Code Section 401.3.2.1 is added to read as follows:*

**401.3.2.1 Unwarranted alarm notification**. Notification of emergency responders based on an unwarranted alarm is be punishable by a fine in accordance with the adopted fee schedule. In addition, the responsible party may be liable for the operational and administrative costs, incurred from the emergency response or mitigation procedures resulting from an unwarranted alarm notification.

*16. California Fire Code Section 403.1 is amended to read as follows:*

**403.1 General.** In addition to the requirements of Section 401, occupancies, uses and outdoor locations shall comply with the emergency preparedness requirements set forth in Section 403.2 through 403.12.3.3.

*17. California Fire Code Sections 403.3 through 403.11.4 are deleted.*

*18. California Fire Code Section 403.13 is deleted.*

## CHAPTER 5
## FIRE SERVICE FEATURES

*19. California Fire Code Section 503.2.6.1 is added to read as follows:*

**503.2.6.1 Evaluation and maintenance**. All existing private bridges and elevated surfaces that are a part of the fire department access roadway, shall be evaluated by a California licensed civil engineer experienced in structural engineering or a California licensed structural engineer, for safety and weight rating, in accordance with American Association of State Highway and Transportation Officials (AASHTO) Manual: ``The Manual for Bridge Evaluation," Second Edition or other approved standard. These evaluations shall be performed at the direction of the fire code official. All bridges and elevated structures providing fire department access shall be routinely maintained in accordance with Section 503.2.6 or when directed by the fire code official or authorized designee.

*20. California Fire Code Section 503.3 is amended to read as follows:*

**503.3 Marking.** Where required by the fire code official, approved signs or other approved notices or markings that include the words NO PARKING – FIRE LANE *in accordance with the California Vehicle Code*, shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. The means by which fire lanes are designated shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.

*21. California Fire Code Section 503.6.1 is added to read as follows:*

**503.6.1 Width.** All gate entrances and similar structures shall be at least two feet (2') wider than the width of the traffic lane(s) serving the gate or structure.

*22. California Fire Code Section 503.6.2 is added to read as follows:*

**503.6.2 Setbacks.** All gates providing access from a public road to a private road or private driveway shall be located at least thirty feet (30') from the roadway and shall open to allow a vehicle to stop without obstructing traffic on the roadway.

*23. California Fire Code Section 505.1 is amended to read as follows:*

**505.1 Address identification.** New and existing buildings shall be provided with approved illuminated or other approved means of address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numerals or alphabetic letters. Numbers shall not be spelled out. Character size and stroke shall be in accordance with Section 505.1.1 through 505.1.2. Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response in accordance with this code and Section 505.1.3. Where access is by means of a private road and the building cannot be viewed from the public way or when determined by the fire code official, a monument, pole, or other approved illuminated sign or other approved means shall be used to identify the structure. Address identification shall be maintained.

*24. California Fire Code Section 505.1.1 is added to read as follows:*

**505.1.1 Numbers for one- and two- family dwellings.** Each address identification character shall be not less than four (4) inches high with a minimum stroke width of one-half (0.5) inch.

*25. California Fire Code Section 505.1.2 is added to read as follows:*

**505.1.2 Numbers for other than one and two-family dwellings.** Each address identification character shall be not less than twelve (12) inches high with a minimum stroke width of one (1) inch. Suite and unit directional numbers shall be not less than six (6) inches high with a minimum stroke width of three-quarter (0.75) inch. Numbers shall be not less than four (4) inches high with a minimum stroke width of one-half (0.5) inch.

*26. California Fire Code Section 505.1.3 is added to read as follows:*

**505.1.3 Complex directory.** Where two or more buildings cannot be viewed from the public way or when determined by the fire code official, an approved illuminated complex directory, monument, pole, or other approved sign or means shall be used to identify the structures at the main entrances to the property.

*27. California Fire Code Section 505.1.4 is added to read as follows:*

**505.1.4 Installation, location and visibility of addresses.** All buildings shall have a permanently posted address, which shall be placed at each driveway entrance and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter, and the address shall be visible and legible from the road on which the address is located.

*28. California Fire Code 505.1.4.1 is added to read as follows:*

**505.1.4.1 Signs posted one-way roads.** Address signs along one-way roads shall be visible from both the intended direction of travel and the opposite direction.

*29. California Fire Code 505.1.4.2 is added to read as follows:*

**505.1.4.2 Multiple addresses.** Where multiple addresses are required at a single driveway, they shall be mounted on a single post.

Where a roadway provides access solely to a single commercial or industrial business, the address sign shall be placed at the nearest road intersection providing access to that site.

*30. California Fire Code Section 507.2.2 is amended to read as follows:*

**507.2.2 Water tanks.** Water tanks for private fire protection shall be installed in accordance with NFPA 22.

> **Exception:** For Group R-3 occupancies, equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3, and associated accessory structures up to 3,000 square feet in area, plastic water tanks up to 5,000 gallons in volume may be used. A flammable vegetation clearance of not less than twenty feet (20') shall be maintained around all poly-plastic or similar water tanks.

*31. California Fire Code Section 507.2.3 is added to read as follows:*

**507.2.3 Urban water system for one- and two-family dwellings, and accessory structures associated with one- and two-family dwellings**. If the water supply to the parcel is provided by a public or community water system (urban parcel - see Definitions) the emergency water supply for residential buildings shall consist of a permanent hydrant located on the road within two hundred fifty feet (250') of the driveway measured from where the driveway intersects with the public or private road. Distance measurements shall be determined by hose lay along the road, not horizontal distance.

*32. California Fire Code Section 507.2.4 is added to read as follows:*

**507.2.4 Non-urban water system.** If the water supply to the parcel is provided by a private water well (non-urban parcel - see Definitions) the fire code official is authorized to utilize NFPA 1142 or the *International Wildland-Urban Interface Code.*

> **Exception:** When authorized by the authority having jurisdiction, the emergency water supply requirements for one- and two-family dwellings, and accessory structures associated with one- and two-family dwellings, may be waived when sufficient evidence is proven that the Emergency Water Standards of Title 14 of the Natural Resources Code, Division 1.5, Article 4 have been met.

*33. California Fire Code Section 507.3 is amended to read as follows:*

**507.3 Fire flow.** Fire flow requirements for buildings or portions of buildings and facilities shall be determined by an approved method or Appendix B.

*34. California Fire Code Section 507.5.1.1 is amended to read as follows:*

**507.5.1.1 Hydrant for fire department connections.** Buildings equipped with a water-based fire protection system installed in accordance with Section 903 through 905 shall have a fire hydrant within 100 feet of the fire department connections, or as approved by the fire code official. *(Also see Section 912.2).*

*35. California Fire Code Section 507.5.1.2 is added to read as follows:*

**507.5.1.2 Other areas**. Fire hydrant systems shall be required where a public water system, regardless of type of ownership, provides water for human consumption to fifteen (15) or more service connections.

*36. California Fire Code Section 507.5.7 is added to read as follows:*

**507.5.7 Fire Hydrant size and outlets**. New commercial development and existing commercial development shall have a minimum of two 4.5 inch connections and one 2.5-inch connection unless otherwise approved by the fire code official.

*37. California Fire Code Section 510.1 Exception #1 is deleted.*

*38. California Fire Code Section 510.3 is amended to read as follows:*

**510.3 Permits Required.** Permits shall be required as set forth in in sections 105.6 and 105.7. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

## CHAPTER 9
## FIRE PROTECTION SYSTEMS

*39. California Fire Code, Section 902.1 is amended to add the following:*

**SUBSTANTIAL ADDITION**
**SUBSTANTIAL IMPROVEMENT** *(see California Building Code, Chapter 2)*
**SUBSTANTIAL REMODEL**

*40. California Fire Code Section 903.2 is amended to read as follows:*

**903.2 Where required.** Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in Sections 903.2.1 through 903.2.19. Approved automatic sprinkler systems in existing buildings and structures shall be provided in locations described in Section 903.6.

**Exceptions:**

1. Agricultural buildings as approved by the fire code official.
2. Detached accessory structures to Group R-3 not classified as a dwelling unit and not exceeding 3,000 square feet (928m$^2$) in gross floor area.
3. Detached non-combustible motor vehicle fuel dispensing canopies.

4. Detached group U occupancies not greater than 3,000 square feet (279m$^2$).
5. Special occupancy aircraft hangar shade structures as approved by the fire code official, unless required in NFPA409.

*41. California Fire Code Section 903.2.1 is amended to read as follows:*

**903.2.1 Group A.** An automatic sprinkler system shall be provided throughout buildings containing a Group A occupancy.

*42. California Fire Code Section 903.2.1.1 through 903.2.1.5 are deleted.*

*43. California Fire Code Section 903.2.1.6 is renumbered and amended to read as follows:*

**903.2.1.6 Assembly occupancies on roofs.** Where an occupied roof has an assembly occupancy with an occupant load exceeding 100 for Group A-2 and 300 for other Group A Occupancies, an automatic sprinkler system shall be provided throughout the building in accordance with Section 903.3.1.1 or 903.3.1.2.

*44. California Fire Code Section 903.2.1.7 is deleted.*

*45. California Fire Code Section 903.2.2 is amended to read as follows:*

**903.2.2 Ambulatory care facilities.** An automatic sprinkler system shall be installed throughout buildings containing an ambulatory care facility.

*46. California Fire Code Section 903.2.3 is amended to read as follows:*

**903.2.3 Group E.** An automatic sprinkler system shall be installed throughout buildings containing a Group E occupancy.

*47. California Fire Code Section 903.2.4 is amended to read as follows:*

**903.2.4 Group F.** An automatic sprinkler system shall be provided throughout buildings containing a Group F occupancy where gross floor area exceeds 1000 square feet (93m$^2$).

**Exceptions:**

1. Canopied winery crush pads less than 12,000 square feet in area, provided that all of the following conditions are met:
2. The canopy and supporting structure are constructed of non-combustible materials.
3. If attached, the crush pad is separated from other portions of the building by one-hour fire-resistive walls.
4. The crush pad is not used for storage of combustible materials.
5. The canopy and supporting structure is in incapable of trapping heat, smoke or other byproducts of combustion.
6. Dairy milking facilities less than 12,000 feet in area.

*48. California Fire Code Section 903.2.4.1 is deleted.*

*49. California Fire Code Section 903.2.5.3 is amended to read as follows:*

**903.2.5.3 Pyroxylin plastics.** An automatic sprinkler system shall be provided throughout buildings where cellulose nitrate film or pyroxylin plastics are manufactured, stored or handled in quantities exceeding 100 pounds (45 kg).

***50. California Fire Code, Section 903.2.6.2 is amended to read as follows:***

***Section 903.2.6.2 Group I-3.*** *Every building where inmates or persons are in custody or restrained shall be protected by an automatic sprinkler system conforming to NFPA 13. The main sprinkler control valve or valves and all other control valves in the system shall be locked in the open position and electronically supervised so that at least an audible and visible alarm will sound at a constantly attended location when valves are closed. The sprinkler branch piping serving cells may be embedded in the concrete construction.*

***51. California Fire Code Section 903.2.7 is amended to read as follows:***

**903.2.7 Group M.** An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy where gross floor area exceeds 1000 square feet ($93m^2$).

***52. California Fire Code Section 903.2.8.1 is amended to include the exception as follows:***

**903.2.8.1 Group R-3.** An automatic sprinkler system installed in accordance with Section 903.3.1.3 shall be provided throughout all one- and two-family dwellings regardless of square footage in accordance with the *California Residential Code*. Fire Sprinklers shall be installed in mobile homes, manufactured homes and multi-family manufactured homes with two or more dwelling units in accordance with *Title 25 of the California Code of Regulations*.

***53. California Fire Code Section 903.2.9 is amended to read as follows:***

**903.2.9 Group S.** An automatic sprinkler system shall be provided throughout all buildings containing a Group S occupancy where the gross floor area exceeds 1000 square feet ($93m^2$).

**Exceptions:**

1. Agricultural buildings as approved by the fire code official.
2. Detached accessory structures to Group R-3 not classified as a dwelling unit and not exceeding 3,000 square feet ($279m^2$) in gross floor area.
3. Special occupancy aircraft shade structures as approved by the fire code official, unless required in NFPA409.
4. Volunteer Fire Department vehicle storage barn not exceeding 3000 sqft ($279m^2$).

***54. California Fire Code Section 903.2.9.1 through 903.2.9.2 is deleted.***

***55. California Fire Code Section 903.2.10 is amended to read as follows:***

**903.2.10 Group B.** An automatic sprinkler system shall be provided throughout buildings containing a Group B occupancies where the gross floor area exceeds 1000 square feet ($93m^2$).

***56. California Fire Code Section 903.2.10.1 is deleted.***

***57. California Fire Code Section 903.2.11 is amended to read as follows:***

**903.11 Specific buildings areas and hazards.** In all occupancies other than detached Group U occupancies not greater than 3,000 square feet ($928m^2$), an automatic sprinkler system shall be installed for building design or hazard in the locations set forth in Sections 903.2.11.1

through 903.2.11.8.

*58. California Fire Code Section 903.2.11.3 exceptions #1 & #2 are deleted.*

*59. California Fire Code Section 903.2.11.7 is added to read as follows:*

**903.2.11.7 Undetermined use design.** Automatic sprinkler systems installed in buildings or structures of undetermined use shall be designed and installed to have a minimum density of .33 gallons per minute per square foot over a minimum design area of 3,000 square feet (2,784m$^2$).

*60. California Fire Code Section 903.2.11.8 is added to read as follows:*

**903.2.11.8 High-piled storage.** An automatic sprinkler system shall be provided throughout as required in Chapter 32 in all buildings where storage is in high-pile or rack storage arrays.

*61. California Fire Code Section 903.2.11.9 is added to read as follows:*

**903.2.11.9 Elevation of existing buildings.** An automatic fire extinguishing system shall be installed throughout all existing buildings when the building is elevated to three or more stories, or more than thirty-five feet (35') in height, from grade to the exposed roof.

**Exceptions:**

1. An automatic fire-extinguishing system need not be provided when the area above 35 feet (35') is provided for aesthetic purposes only and is a non-habitable space.
2. An automatic fire-extinguishing system need not be provided when existing single-family and two-family dwellings are elevated to comply with the requirements of Chapter 7B of the Sonoma County Code, provided that all of the following conditions are met:
   (a) The elevation creates a building no more than three stories in height.
   (b) Two approved exits that exit directly to the exterior and one exterior stair leading to the lowest level of fire department access are provided from the highest floor.
   (c) Approved interconnected smoke alarms are installed at each floor level and in all sleeping rooms, and hallways adjacent to sleeping rooms.
   (d) There is no expansion or modification of use other than installation of the exits required by subparagraph (b) above and a utility room less than 100 square feet. The space created at ground level by the elevation shall be used only as a private parking garage or as unused vacant space.
   (e) Any addition to the building after the elevation shall require installation of an automatic fire-extinguishing system.

*62. California Fire Code Section 903.4.2 is amended to read as follows:*

**903.4.2 Alarms.** *One exterior* approved audible and visual device, located on the exterior of the building in an approved location, shall be connected to each automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system

*63. California Fire Code Section 903.6 is amended to read as follows:*

**903.6 Where required in existing buildings and structures.** An automatic sprinkler systems shall be provided throughout existing buildings and structures where required in Sections 903.6.1 through 903.6.3.

*64. California Fire Code Section 903.6.1 is added to read as follows:*

**903.6.1 Substantial remodel.** An automatic sprinkler system shall be provided throughout all buildings that undergo a substantial remodel or substantial improvement.

**Exception:** Alterations made solely for the purpose of complying with the *American Disabilities Act*.

*65. California Fire Code Section 903.6.2 is added to read as follows:*

**903.6.2 Substantial addition.** An automatic sprinkler system shall be provided throughout all buildings that undergo a substantial addition per table 903.6.

*66. California Fire Code Section 903.6.3 is added to read as follows:*

**903.6.3 Substantial remodel and alteration.** An automatic sprinkler system shall be provided throughout all buildings that undergo any combination of substantial remodel, addition or both that exceeds allowable area set by table 903.6

*67. Table 903.6 is added to the California Fire Code, to read as follows:*

**TABLE 903.6**
**SUBSTANTIAL ADDITION, ALTERATION, AND REMODEL**

| Existing Gross Floor Area [d] | Allowable Gross Floor Area Increase |
|---|---|
| 0-1,000 sq ft | 200% [c] |
| 1,001-4,000 sq ft | 100% [a][c] |
| Greater than 4,000 sq ft | 50% [a][b][c] |

[a] A 2,000 sq ft. maximum of an increase is allowed.
[b] Maximum cumulative allowable gross floor area is 6,000 sq ft.
[c] Fire sprinklers are required when additions to Limited Density Owner-Built Rural Dwellings (as described in Sonoma County Code Chapter 7-A) exceed 640 sq ft in gross floor area.
[d] Remodels that are greater than 75% of the original gross floor area.

*68. California Fire Code Section 903.4.2 is amended to read as follows:*

**903.4.2 Alarms.** *One exterior* approved audible and visual device, located on the exterior of the building in an approved location, shall be connected to each automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.

*69. California Fire Code Section 904.12 is amended to read as follows:*

**904.12 Commercial cooking systems.** *Commercial cooking equipment that produce grease laden vapors shall be provided with a Type I Hood, in accordance with the California Mechanical Code, NFPA 96, and an automatic fire extinguishing system that is listed and labeled for its intended use as follows:*

1. *Wet chemical extinguishing system, complying with UL 300.*
2. *Carbon dioxide extinguishing system.*
3. *Automatic fire sprinkler systems.*

*All existing dry chemical and wet chemical extinguishing systems shall comply with UL 300.*

***Exception:*** *Public school kitchens, without deep-fat fryers, shall be upgraded to a UL 300 compliant system during state-funded modernization projects that are under the jurisdiction of the Division of the State Architect.*

*All systems shall be installed in accordance with the California Mechanical Code, NFPA 96, appropriate adopted standards, their listing and the manufactures' installation instructions.*

**Exception**: Factory-built commercial cooking recirculating systems that are tested, listed, labeled and installed in accordance with UL 710B and the *California Mechanical Code* and NFPA 96.

***70. California Fire Code Section 905.3.1 item #2 is amended to read as follows:***

**905.3.1 Height.** *In other than Group R-3 and R-3.1 occupancies,* Class III standpipe systems shall be installed throughout *at each floor where any of the following occur:*

1. *Buildings* where the floor level of the highest story is located more than 30 feet (9144 mm) above the lowest level of fire department vehicle access.
2. *Buildings that are three or more stories in height.*
3. *Buildings* where the floor level of the lowest story is located more than 30 feet (9144 mm) below the highest level of fire department access.
4. *Buildings that are two or more stories below the highest level of fire department vehicle access.*

**Exceptions:**

1. Class I standpipes are allowed in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.
2. Class I manual standpipes are allowed in open parking garages where the highest floor is located not more than 150 feet (45 720 mm) above the lowest level of fire department vehicle access.
3. Class I manual dry standpipes are allowed in open parking garages that are subject to freezing temperatures, provided that the hose connections are located as required for Class II standpipes in accordance with Section 905.5.
4. Class I standpipes are allowed in basements equipped throughout with an automatic sprinkler system.
5. In determining the lowest level of fire department vehicle access, it shall not be required to consider either of the following:

5.1. Recessed loading docks for four vehicles or less.
5.2. Conditions where topography makes access from the fire department vehicle to the building impractical or impossible.

*71. California Fire Code Section 905.9 exception #2 is deleted.*

*72. California Fire Code Section 912.2 is amended to read as follows:*

**912.2 Location.** With respect to hydrants, driveways, buildings and landscaping, fire department connections shall be so located that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus. The location of the fire department connections shall be within 100 feet of a fire hydrant or approved by the fire code official *(Also see Section 507.5.1.1).*

*73. California Fire Code Sections 914.12 through 914.12.2 are added to read as follows:*

**914.12 Type 3 winery caves**. Type 3 winery caves as defined in chapter 446 of the California Building Code shall comply with Sections 914.12.1 and 914.12.2.

**914.12.1 Fire alarms.** Manual Fire Alarm system shall be installed in existing Type 3 winery caves unless equipped with an automatic sprinkler system installed in accordance with 903.3.1.1 The fire alarm system shall activate the occupant notification system in accordance with 907.5 when the occupant load exceeds 100 or more.

**914.12.2 Automatic sprinkler system.** Automatic sprinkler system shall be installed in all new Type 3 winery caves when the occupant load exceeds 100 or more, or existing winery caves when a change of use is approved by the fire code official.

## CHAPTER 11
## CONSTRUCTION REQUIREMENTS FOR EXISTING BUILDINGS

*74. California Fire Code Section 1103.1 is amended to read as follows:*

**Section 1103.1 Required construction.** Existing buildings shall comply with not less than the minimum provisions specified in Table 1103.1 and as further enumerated in Sections 1103.2, 1103.6, 1103.7, 1103.8 through 1103.8.5.3, 1103.9, and 1103.10.

The provisions of this chapter shall not be constructed to allow the elimination of fire protection systems or a reduction in the level of fire safety provided in buildings constructed in accordance with previously adopted codes.

**Exceptions:**

1. Where a change in fire-resistance rating has been approved in accordance with Section 803.6 of the *California Existing Building Code.*
2. Group U occupancies.

*75. California Fire Code Sections 1103.2 Item #1 is deleted.*

*76. California Fire Code Sections 1103.3 through 1103.5.4 are deleted.*

*77. California Fire Code Sections 1104 and 1105 are deleted.*

## CHAPTER 31
## TENTS AND OTHER MEMBRANE STRUCTURES

***78. California Fire Code, Section 3102.1 is amended to amend and add the following:***

**MEMBRANE STRUCTURE**
**TENT**
**UMBRELLA STRUCTURE**

***79. California Fire Code Section 3101.1 is amended to read as follows:***

**3101.1 Scope.** Tents, umbrella structures, temporary stage canopies and membrane structures shall comply with this chapter. The provisions of Section 3103 are applicable only to temporary tents, umbrella structures, and membrane structures. The provisions of Section 3104 are applicable to temporary and permanent tents, umbrella structures, and membrane structures. Other temporary structures shall comply with the *California Building Code*.

*These building standards govern the use of tents, umbrella structures, awnings or other fabric enclosures, including membrane (air-supported and air-inflated) structures and places of assemblage, in or under which 10 or more persons may gather for any lawful purpose.*

***Exceptions:***

1. *Tents, umbrella structures, awnings or other fabric enclosures used to cover or enclose private swimming pools and similar facilities on the premises of private one- and two-family dwellings.*
2. *Tents used to conduct committal services on the grounds of a cemetery.*
3. *Tents, umbrella structures, awnings or other fabric enclosures erected and used within a sound stage, or other similar structural enclosure which is equipped with an overhead automatic sprinkler system.*
4. *Tensioned membrane roof materials supported by ridged frames or installed on a mast and cable system provided such structures conform to the requirements of one of the types of construction as described in these regulations.*
5. *Fabric structures which are part of mobile homes, recreational vehicles, or commercial coaches governed by the provisions of Division 13, Part 2, Health and Safety Code (Department of Housing and Community Development).*

## CHAPTER 33
## FIRE SAFETY DURING CONSTRUCTION

***80. California Fire Code Section 3314.3 is added to read as follows:***

**3314.3 Where required.** In buildings of combustible construction required to have automatic sprinkler system by Section 903, automatic sprinkler system shall be installed prior to construction exceeding 40 feet (12,192 mm) in height above the lowest level of fire department vehicle access. Such automatic sprinkler system shall be extended as construction progresses to within one floor of the highest point of construction having secured decking or flooring.

*81. California Fire Code Section 3314.4 is added to read as follows:*

**3314.4 Buildings being demolished.** Where a building is being demolished and an automatic sprinkler system is existing within such a building, such automatic sprinkler system shall be maintained in an operable condition so as to be available for use by the fire department. Such automatic sprinkler system shall be demolished with the building but shall not be demolished more than one floor below the floor being demolished.

## CHAPTER 49
## REQUIREMENTS FOR WILDLAND-URBAN INTERFACE FIRE AREAS

*82. California Fire Code 4903 is amended to add the following as follows:*

**4903.1 General.** A fire protection plan shall be required for any new residential or commercial building within a Very High Fire Severity Zone. The plan shall be prepared by a qualified professional and shall be approved by the fire code official. The plan shall include, at a minimum, defensible space zones, identification of vegetation types, replacement of non-native flammable vegetation with approved fire resistive vegetation, and a maintenance program for all vegetation. When required by the fire code official the property owner shall record a covenant, in a form satisfactory to the fire code official, which ensures that the approved plan will be implemented and maintained.

**4903.2 Content.** The fire protection plan shall be based upon a site-specific wildfire risk assessment that includes considerations of location, topography, aspect, flammable vegetation, climatic conditions and fire history. The plan shall address water supply, access, building ignition and fire-resistance factors, fire protection systems and equipment, defensible space and vegetation management.

**4903.3 Cost.** The cost of fire protection plan preparation and review shall be the responsibility of the applicant.

**4903.4 Plan retention.** A copy of the fire protection plan shall be retained by the property owner.

*83. California Fire Code 4905.4 is added to read as follows:*

**4905.4 Setbacks for structure defensible space.** Except where more restrictive requirements apply, construction, projections, openings and penetrations of exterior walls of buildings constructed on parcels within State Responsibility Areas (SRA) shall have setbacks to the property line and/or exterior wall protection according to table 4905.4 (a) or table 4905.4 (b). This is to meet the intent of California SRA Fire Safe Regulations Sec. 1276.01.

***84. California Fir Code Table 4905.4(a) and Table 4905.4(b) are added to read as follows:***

**Table 4905.4 (a)**
**Exterior Walls, within State Responsibility Area, without Automatic Fire Sprinkler Protection**

| Exterior Wall Element | | Minimum Fire-Resistance Rating | Minimum Fire Separation Distance |
|---|---|---|---|
| Walls | (Fire-resistance rated) | 1 hour-tested in accordance with ASTM E 119 or UL 263 with exposure *from* both sides | < 10feet |
| | (Not fire-resistance rated) | Comply with CRC Sec *R327.7 or CBC Sec 707A* | ≥ 10 feet |
| Projections | (Fire-resistance rated) | 1 hour on the underside | < 10 feet |
| | (Not fire-resistance rated) | Comply with CRC Section *R327.7 or CBC Section 707A*<br>Comply with Section *CRC Sec R327.9 or CBC Sec.709A* | 10 feet |
| Openings in walls | Not allowed | N/A | < 10 feet |
| | 25% maximum of wall area | Comply with Section *R327.8 or CBC Sec 708A* | >10 feet |
| | Unlimited | Comply with Section *R327.8 or CBC Sec 708A* | 20 feet |
| Penetrations | All | Comply with Section *R302.4 or CBC 714.3* | < 10 feet |
| | | Comply with Section *R327.6 or CBC 706A* | 10 feet |

For SI: 1 foot = 304.8 mm.
N/A = Not Applicable.

**Table 4905.4 (b)**
**Exterior Walls, within State Responsibility Area, with Automatic Residential Fire Sprinkler Protection**

| Exterior Wall Element | | Minimum Fire-Resistance Rating | Minimum Fire Separation Distance |
|---|---|---|---|
| Walls | (Fire-resistance rated) | 1 hour-tested in accordance with ASTM E 119 or UL 263 with exposure from both sides | < 10 feet |
| | (Not fire-resistance rated) | Comply with Section R327.7 or CBC Sec 707A | 10 feet |
| Projections | (Fire-resistance rated) | 1 hour on the underside | < 10 feet |
| | (Not fire-resistance rated) | Comply with Section R327.9 or CBC Sec.709A | 10 feet |
| Openings in walls | Not allowed | N/A | < 10 feet |
| | Unlimited | Comply with Section R327.8 or CBC Sec 708A | 10 feet |
| Penetrations | All | Comply with Section R302.4 or CBC 714.3 | < 10 feet |
| | | Comply with Section R327.6 or CBC 706A | 10 feet |

For SI: 1 foot = 304.8 mm.
N/A = Not Applicable.

## CHAPTER 56
## EXPLOSIVES AND FIREWORKS

*85. California Fire Code Section 5601.1.6 is added to read as follows:*

**5601.1.6 Sale, use or discharge of fireworks prohibited – exception.** Except for firework displays authorized pursuant to this section, it is unlawful for any person to possess, store, offer or expose for sale, sell at retail, give away or in any manner dispose of any fireworks, or to use, explode, or otherwise discharge any fireworks.

Any person or group desiring to perform a fireworks display shall first make written application for a permit to the fire code official. Application for a permit shall be made in writing at least twenty (20) days prior to the proposed display. The application shall be considered and acted upon by the fire code official or authorized designee pursuant to *Title 19, Chapter 6, Article 3 - Licenses of the California Code of Regulations*. Any permit for a fireworks display may be suspended or revoked at any time by the Fire code official or authorized designee.

## CHAPTER 61
## LP GASES

*86. California Fire Code Section 6103.3.1 is added to read as follows:*

**6103.3.1 Seismic anchoring.** An approved seismic anchoring system shall be installed on all permanently installed, propane/LPG gas containers.

## CHAPTER 80
## REFERENCED STANDARDS

*87. California Fire Code, Chapter 80, NFPA, 13D-16 is Amended Sections as follows:*

**Section. NFPA 13D-16 - Standard for the installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes: as amended***... 903.3.1.3, 903.3.5.1.1

*Revise Section 5.1.1.2 to read as follows:*

**5.1.1.2.** A supply of at least three sprinklers shall be maintained on the premises so that any sprinklers that have operated of been damaged in any way can be promptly replaced.

*Add Sections 5.1.1.2.1 as follows:*

**5.1.1.2.1.** The sprinklers shall correspond to the types and temperature ratings of the sprinklers in the property. The stock sprinklers shall include not less than one sprinkler of all types and ratings installed.

*Add Sections 5.1.1.2.2 as follows:*

**5.1.1.2.2.** The sprinklers shall be kept in a mounted and accessible cabinet located where the temperature to which they are subjected will at no time exceed the maximum ceiling temperatures specified in Table 5.1.1.6.1 for each of the sprinklers within the cabinet.

*Add Sections 5.1.1.2.4 as follows:*

**5.1.1.2.4.** One sprinkler wrench as specified by the sprinkler manufacture shall be provided in the cabinet for each type of sprinkler installed to be used for the removal and installation of sprinklers in the system.

***Revise Section 7.6 to read as follows:***
**7.6** A local waterflow alarm shall be provided on all sprinkler systems.

***Add Section 8.1.3.1.2.1 to read as follows:***
**8.1.2.1** Garages are permitted to be protected by residential sprinklers.

***Revise Section 8.3.4 to read as follows:***
**8.3.4** Sprinklers shall not be required in detached garages, open attached porches, detached carports, and similar structures unless otherwise required by the *California Building or Fire Codes.*

***Add Section 8.3.5.2 to read as follows:***
**3.5.2** At least one quick-response intermediate temperature residential sprinkler shall be installed above attic access openings.

***Revise Section 11.2.1.1 to read as follows:***
**11.2.1.1** Where a fire department pumper connection is not provided, the system shall be hydrostatically tested at not less than 200 psi without evidence of leakage.

***88. California Fire Code, Chapter 80, NFPA, 13R-16 is Amended Sections as follows:***
**Section 80.NFPA 13R-16 - Standard for the installation of Sprinkler Systems in Residential Occupancies up to and including Four Stories in Height, as amended*** ..... ..... 903.3.1.2, 903.3.5.1.1, 903.3.5.1.2, 903.4

***Add Section 8.3.5.2 to read as follows:***
**Section 80.NFPA.13R.6.6.6.1** At least one quick-response intermediate temperature residential sprinkler shall be installed within 5 feet and above attic access openings.

***89. California Fire Code, Chapter 80, NFPA, 72-16 is Amended Sections as follows:***
**Section 80.NFPA 72-16 – National Fire Alarm and Signaling Code, as amended*** ..... ..... 508.1.5, Table 901.6.1, 903.4.1, 904.3.5, 907.2, 907.2.6, 907.2.9.3, 907.2.11, 907.2.13.2, 907.3, 907.3.3, 907.3.4, 907.5.2.1.2, 907.5.2.2, 907.6, 907.6.1, 907.6.2, 907.6.5, 907.7, 907.7.1, 907.7.2, 907.8, 907.8.2, 907.8.5, 1101.1

***Add Section 14.7 to read as follows:***
**Section 80. NFPA.72.14.7** Labels and Tags
**Section 80. NFPA.72.14.7.1** Labels or tags shall be used on fire alarm systems and shall be placed on the outside of the fire alarm control unit.
**Section 80. NFPA.72.14.7.2** Tags shall be of the hanging or self-adhesive type used on fire alarm systems.
**Section 80. NFPA.72.14.7.3** The following information shall be printed on the labels and tags approved by the fire code official:

1. The words "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICAL"
2. Concern Name/Company Name
3. Concern Physical Address

4. Concern Phone Number
5. License Number (State of California Contractor State License Board License)
7. Date of service or testing and maintenance
8. Space or line for signature of person performing or supervising the servicing shall be placed on the tag or label

**Section 80. NFPA.72.14.7.4** When service or testing and maintenance is performed, the initial date of service or testing and maintenance, the printed name and signature of the person performing or supervising the service shall be placed on the tag or label.

**Section 80. NFPA.72.14.7.5** No person shall remove a tag or label from or place a tag or label on a fire alarm system except when servicing or testing and maintenance is performed.

**Section 80. NFPA.72.14.7.6** No person shall deface, modify, or alter any tag or label attached to or required to be attached to any fire alarm system.

**Section 80. NFPA.72.14.7.7** The Label or tag conforming to this section shall be securely attached to each fire alarm system at the time of servicing or testing and maintenance.

**Section 80. NFPA.72.14.7.8** The label or tag approved by the fire code official shall be affixed to a system only after all deficiencies have been corrected.

**Section 80. NFPA.72.14.7.9** Adhesive labels and tags shall be manufactured in accordance with ANSI/UL 969, Standard for Marking and Labeling Systems, 4th edition, 1995, which is hereby incorporated by reference.

## APPENDIX B
## FIRE-FLOW REQUIREMENTS FOR BUILDINGS

### *90. California Fire Code, Appendix B Table B105.1(1) is amended to read as follows:*

**TABLE 18-44.B105.1(1)**
**REQUIRED FIRE-FLOW FOR ONE- AND TWO-FAMILY DWELLINGS, GROUP R-3 AND R-4 BUILDINGS AND TOWNHOUSES**

| FIRE-FLOW CALCULATION AREA (square feet) | AUTOMATIC SPRINKLER SYSTEM (Design Standard) | MINIMUM FIRE-FLOW (gallons per minute) | FLOW DURATION (hours) |
|---|---|---|---|
| 0-3,600 | No automatic sprinkler system | 1,500 | 2 |
| 3,601 and greater | No automatic sprinkler system | Value in Table B105.1(2) | Duration in Table B105.1(2) at The required fire-flow rate |
| 0-3,600 | Section 903.3.1.3 of the *California Fire Code* or Section 313.3 of the *California Residential Code* | 1,500 | 2 |
| 3,601 and greater | Section 903.3.1.3 of the *California Fire Code* or Section 313.3 of the *California Residential Code* | ½ value in Table B105.1(2)[a] | Duration in Table B105.1(2) at The required fire-flow rate |

For SI: 1 square foot = 0.0929 m2, 1 gallon per minute = 3.785 L/m.
a. The reduced fire-flow shall be not less than 1,500 gallons per minute.

### *91. California Fire Code, Appendix B Table B105.2 is amended to read as follows:*

**TABLE 18-44.B105.2**
**REQUIRED FIRE-FLOW FOR BUILDINGS OTHER THAN ONE- AND TWO-FAMILY DWELLINGS, GROUP R-3 AND R-4 BUILDINGS AND TOWNHOUSES**

| AUTOMATIC SPRINKLER SYSTEM (Design Standard) | MINIMUM FIRE-FLOW (gallons per minute) | FLOW DURATION (hours) |
|---|---|---|
| No automatic sprinkler system | Value in Table B105.1(2) | Duration in Table B105.1(2) |
| Section 903.3.1.1 of the *California Fire Code* | 50% of the value in Table B105.1(2)[a] | Duration in Table B105.1(2) at the reduced flow rate |
| Section 903.3.1.2 of the *California Fire Code* | 50% of the value in Table B105.1(2)[a] | Duration in Table B105.1(2) at the reduced flow rate |

For SI: 1 gallon per minute = 3.785 L/m.
a. The reduced fire-flow shall be not less than 1,500 gallons per minute

## APPENDIX C
## FIRE HYDRANT LOCATIONS AND DISTIBUTION

***92. California Fire Code Section C101.1 is amended to read as follows:***

**C101.1 Scope.** In addition to the requirements of Section 507.5.1 of the *California Fire Code*, fire hydrants shall be provided in accordance with this appendix for the protection of buildings, or portions of buildings, hereafter constructed or moved into the jurisdiction. This section applies to residential and commercial developments. One- and two-family residential dwellings and buildings accessory to one- and two-family residential dwellings in rural areas may comply with the Sonoma County Fire Safe Standards.

***Exception:*** *[SFM] Group B, S-2 and U occupancies having a floor area not exceeding 1,000 square feet, primarily constructed of noncombustible exterior walls with wood or steel roof framing, having a Class A roof assembly, with uses limited to the following or similar uses:*

1. *California State Parks buildings of an accessory nature (restrooms).*
2. *Safety roadside rest areas (SRRA), public restrooms.*
3. *Truck inspection facilities (TIF), CHP office space, and vehicle inspection bays.*
4. *Sand/salt storage buildings, storage of sand and salt.*

***93. California Fire Code Section C103.1 is amended to read as follows:***

**Section C103.1 Hydrant spacing.** Fire apparatus access roads and public streets providing required access to buildings in accordance with Section 503 of the California Fire code shall be provided with one or more fire hydrants, as determined by Section C102.1. Where more than one fire hydrant is required, the distance between required fire hydrants shall be approved by the fire code official.

***94. California Fire Code Section C103.2 is deleted.***

***95. California Fire Code Section C103.3 is deleted.***

## APPENDIX D
## FIRE APPARATUS ACCESS ROADS

***96. California Fire Code Section D101.1 is amended to read as follows:***

**D101.1 Scope.** Fire apparatus access roads shall be in accordance with this Appendix as amended and all other applicable requirements of the *California Fire Code*. This section applies to residential and commercial developments.

**Exception:** One- and two-family residential dwellings; detached U occupancy buildings less than 1,000 square feet in area accessory to a one- or two-family dwelling; and agricultural exempt buildings less than 8,000 square feet in area may comply with the fire apparatus access road requirements of the Sonoma County Fire Safe Standards.

***97. California Fire Code Section D102.1 is amended to read as follows:***

**D102.1 Access and loading.** Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with an asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds or as approved by the fire code official.

**Exception:** One and two-family residential dwellings; detached U occupancy buildings less than 3000 square feet in area accessory to a one or two-family dwelling; and agricultural exempt buildings less than 8,000 square feet in area may comply with the fire apparatus access road requirements of the Sonoma County Fire Safe Standards.

*98. California Fire Code Appendix D Section D103.1 is deleted.*

*99. California Fire Code Appendix D Section D103.2 is amended to read as follows:*
**Section D103.2 Grade**. Fire apparatus access roads shall be in accordance with the Sonoma County Fire Safe Standards or as approved by the fire code official.

*100. California Fire Code Appendix D Section D103.3 is amended to read as follows:*
**Section D103.3 Turning radius.** The minimum turning radius shall be determined by Sonoma County Fire Safe Standards or as approved by the fire code official.

*101. California Fire Code Appendix D Section D103.4 is amended to read as follows:*
**Section D103.4 Dead ends.** Dead-end fire apparatus access roads in excess of 150 feet (45,720 mm) shall be provided with width and turnaround provisions in accordance with the Sonoma County Fire Safe Standards or as approved by the fire code official.

*102. California Fire Code Appendix D Table D103.4 is deleted.*

*103. California Fire Code Appendix D Section D103.6 is amended to read as follows:*
**Section D103.6 Signs.** Where required by the fire code official, fire apparatus access roads shall be marked with permanent NO PARKING-FIRE LANE signs complying with the California Vehicle Code.

*104. California Fire Code Appendix D Section D103.6.1 is deleted.*

*105. California Fire Code Appendix D Section D103.6.2 is deleted.*

*106. California Fire Code Appendix D Section D104.2 exception is deleted.*

*107. California Fire Code Appendix D Section D106.1 is amended to read and the exception deleted as follows:*

**D106.1 Projects having more than 50 dwelling units.** Multiple-family residential projects having more than 100 50 dwelling units shall be equipped throughout with two separate and approved fire apparatus access roads.

*108. California Fire Code Appendix D Section D106.2 is deleted.*

***109. California Fire Code Appendix D Section D107.1 is amended to read as follows:***

**D107.1 One- or two-family dwelling residential developments.**

Developments of one- or two-family dwellings where the number of dwelling units exceeds 50 shall be provided with two separate and approved fire access roads.

***110. California Fire Code Appendix D Section D107.1 exceptions #1 and #2 are deleted.***

**Article V. Chapter 13 of the Sonoma County Code as adopted by the County Board of Supervisors is added as reference:**

## Article V. Fire Safe Standards

### Division A. In General.

**Sec. 13-21. Findings.**

The Board of Supervisors makes the following findings pertaining to the conditions and requirements contained in this article:

(a) The conditions and requirements contained in this article are consistent with and in furtherance of the goals, objectives and policies of the public safety element of the general plan.

(b) The conditions and requirements contained in this article are necessary because the failure to adopt them would place residents and property within the unincorporated area of the county in a condition perilous to health or safety, or both.

(c) The conditions and requirements contained in this article are necessary to comply with the requirements of Public Resources Code section 4290 and California Code of Regulations, Title 14 Natural Resources Code, Division 1.5, Chapter 7, Subchapter 2 SRA Fire Safe Regulations.

(d) The conditions and requirements contained in this article are necessary because growth and development within the unincorporated area of the county has increased the potential for significant losses from wildland and structure fires and adversely impacted rural and wildland fire fighting resources.

(e) The conditions and requirements contained in this article are necessary because wildland fires are becoming an increasing threat to structures and loss of life, where in the past the only threat was to wildland resources.

(f) The conditions and requirements contained in this article are necessary because structure fires are escaping to the surrounding wildlands and destroying other structures as well as wildland resources.

(g) The conditions and requirements contained in this article are necessary because there are not enough firefighting resources available, even with mutual aid, to protect both wildland resources and the structures intermingled amongst such resources and it is financially infeasible to increase firefighting resources to the level necessary to provide such protection.

(h) The conditions and requirements contained in this article are necessary because they represent a cost effective alternative to increasing firefighting resources.

(i) The conditions and requirements contained in this article will ensure that all new development within the unincorporated area of the county will provide a basic level of fire

protection around itself making it easier and safer for firefighters to fight wildland and structure fires.

(j) The conditions and requirements contained in this article will not totally prevent losses from wildland and structure fires, but will reduce the severity of the losses that do occur through built-in fire protection and better fire response infrastructure.

(k) The conditions and requirements contained in this article will create an opportunity for firefighters to defend a structure from a threatening wildland fire and protect the wildlands from an escaping structure fire.

(l) The conditions and requirements contained in this article will increase the safety of firefighters protecting lives, structures and wildland resources.

**Sec. 13-22. Citation – Purpose.**

This article shall be known and may be cited as the "Sonoma County Fire Safe Standards" or the "Fire Safe Standards." This article is adopted for the purpose of establishing minimum fire safe standards for development within the unincorporated area of the county located in the State Responsibility Area subject to the provisions of California Code of Regulations Title 14, Division 1.5 and Local Responsibility when authorized by Sonoma County Fire Code as amended when not subject to other regulated building standards. Where a development subject to the provisions of this article cannot meet a specified standard, an exception to the standard may be applied for pursuant to Section 13-23. This article is not intended to restrict or otherwise limit the authority or discretion of the County to impose additional requirements when reviewing applications for development. Nothing in this article is intended to supersede more restrictive provisions of this Code and where another provision of this Code establishes a more stringent requirement, that requirement shall control.

**Sec. 13-23. Compliance with standards required– exceptions to standards.**

(a) All development subject to the provisions of this article shall be constructed and maintained in compliance with the standards specified in this article. Approvals and permits for any development may be withheld or refused until adequate provision has been made to ensure such compliance.

(b) Exceptions to the standards specified in this article and mitigated practices may be allowed where the exception or mitigated practice provides the same overall practical effect as the specified standards.

(c) Application for an exception or mitigated practice shall be made in writing by an applicant for development or the applicant's authorized representative. The application shall state the specific section or sections of this article for which an exception or mitigated practice is proposed, material facts supporting the contention of the applicant, the details of the exception or mitigated practice proposed, and a map showing the proposed location and setting of the exception or mitigated practice. The burden of proving that a proposed exception or mitigated practice is warranted shall be on the applicant.

(d) The county fire chief shall determine whether to grant, deny, or modify any application for an exception or mitigated practice filed in connection with the issuance of any building permit. The planning commission, board of zoning adjustments, project review and advisory committee, or design review committee shall determine whether to grant, deny, or modify any application for an exception or mitigated practice filed in connection with any development approval under their respective jurisdictions. Modification of an application for an exception or mitigated practice by the County fire chief, planning commission, board of zoning adjustments, project review and advisory committee, or design review committee shall be limited to the alternate fire protection measures specified in Section 13-62.

(e) Where an application for an exception or mitigated practice is denied or modified, the applicant may appeal such denial or modification. Appeal from a denial or modification by the County fire chief shall be made pursuant to Article III of this chapter. Appeal from a denial or modification by the planning commission, board of zoning adjustments, project review and advisory committee, or design review committee shall be made pursuant to Chapter 25 or Chapter 26 of this Code, as appropriate. In order to grant an appeal, the body hearing the appeal must find that the exception or mitigated practice proposed meets the intent of this article.

(f) A written copy of any decision granting an appeal within a State Responsibility Area shall be provided to the director of Forestry and Fire Protection within ten (10) days after the decision is final.

**Sec. 13-24. Scope of coverage.**

(a) Except as otherwise provided in Section 13-25, the provisions of this article shall apply to all development on all lands within the unincorporated area of the county.

(b) Except as otherwise provided in this article, all applications for development approvals shall be accompanied by plans, engineering calculations, and other data necessary to determine compliance with the provisions of this article.

(c) Except as otherwise provided in this article, compliance with the provisions of this article shall occur prior to the commencement of construction of any structure unless otherwise authorized by the County fire chief.

**Sec. 13-25. Exemptions.**

The provisions of this article shall not apply to any of the following, except to the extent provided for herein:

(a) Any building granted an agricultural exemption pursuant to Chapter 7 of this Code, provided that the building does not exceed 8,000 square feet in size and is not located in a State Responsibility Area.

(b) Any road or bridge used exclusively for access to an agricultural operation; or an agricultural exempt structure; or a Group U occupancy accessory to a one- or two-family residential dwelling, as defined in the County Building Code, that is under less than 1,000 square

feet in area.

(c) Any road or bridge used exclusively for the management and harvesting of wood products.

(d) Any new building having a floor area of less than six hundred forty (640) square feet and containing an occupancy other than a detached Group U occupancy as defined in the County Building Code, except that the provisions of Divisions C and E of this article shall apply to all such buildings.

(e) Any new building accessory to a one- or two-family residential dwelling with a floor area of less than one thousand (1,000) square feet and containing a detached Group U occupancy as defined in the County Building Code, except that the provisions of Divisions C and E of this article shall apply to all such buildings.

(f) Any existing road that provides year-round unobstructed access to conventional drive vehicles, including sedans and fire engines, which was constructed and serving a legal parcel prior to January 1, 1992, except that (1) the provisions of Division C of this article shall apply to all such roads, and (2) all of the other provisions of this article shall apply to any such road if it is extended, reconstructed or improved pursuant to a development approval, but only to the portion of the road that is extended, reconstructed or improved.

(g) Any road required as a condition of any development approval granted prior to January 1, 1992, except that (1) the provisions of Division C of this article shall apply to all such roads, and (2) all of the other provisions of this article shall apply to any such road if it is extended, reconstructed or improved pursuant to a new development approval, but only to the portion of the road that is extended, reconstructed or improved.

(h) Any driveway serving a legally constructed residential building prior to January 1, 1992, except that (1) the provisions of Division C of this article shall apply to all such roads, and (2) all of the other provisions of this article shall apply to any such driveway if it is extended, reconstructed or improved pursuant to a new development approval, but only to the portion of the driveway that is extended, reconstructed or improved.

(i) Any legal or legal non-conforming building constructed prior to January 1, 1992, or any building for which a building permit was issued or an application for a building permit was accepted as complete for filing prior to January 1, 1992; except that the provisions of this article shall apply to any such building if the occupancy is changed, altered, or otherwise converted to any Group R, Division 3 occupancy as defined in the County Building Code.

(j) Any addition to an existing building adding a floor area less than six hundred forty (640) square feet including a detached Group U occupancy as defined in the County Building Code, except that the provisions of Divisions C and E of this article shall apply to all such buildings.

**Sec. 13-26. Administration and enforcement – inspections.**

(a) The administration and enforcement of the provisions of this article shall be the shared responsibility of the County fire chief and the director of Permit and Resource Management.

(b) Inspections to determine compliance with the provisions of this article shall be the responsibility of the County fire chief or the director of Permit and Resource Management, as appropriate. The County fire chief or the director of Permit and Resource Management may authorize a local fire chief to conduct inspections within a local fire protection district under the direction of the County fire chief or the director of Permit and Resource Management. In such cases, inspection results shall be provided to the County fire chief or the director of Permit and Resource Management promptly after completion of the inspection.

**Sec. 13-27. Distance measurements.**

All distances specified or referenced in this article shall be measured horizontally unless otherwise stated.

## Division B. Emergency Access.

**Sec. 13-28. Intent.**

This division establishes minimum emergency access requirements to provide safe access for emergency fire equipment and civilian evacuation concurrently, and to allow unobstructed traffic circulation during a wildfire emergency.

**Sec. 13-29. Availability of emergency access.**

All buildings shall be accessible to emergency fire equipment by a road or driveway constructed to within one hundred fifty (150) feet of any portion of an exterior wall of the first story of the building or such closer distance as the director of Permit and Resource Management deems necessary to provide adequate access for emergency fire equipment.

**Sec. 13-30. Road and driveway surfaces.**

All roads and driveways shall have all-weather driving surfaces. All structural sections shall be constructed so as to a minimum of 75,000 pounds or exceed the following standards:

(a) On level areas and grades of less than five percent (5%), roads and driveways shall have a gravel surface. The structural section of the road or driveway shall be at least one foot (1') of compacted Class 2 Aggregate Base.

(b) On grades of between five percent (5%) and ten percent (10%), roads and driveways shall have a double seal coat surface. The structural section of the road or driveway shall have an armor coat surface, constructed according to CalTrans Standard Specifications Section 37, Bituminous Seal Double Application, and the base portion of the road or driveway shall be at least one foot (1') of compacted Class 2 Aggregate Base.

(c) On grades of greater than ten percent (10%), roads and driveways shall have an asphalt concrete surface. The structural section of the road or driveway shall be asphalt concrete of at least two tenths of a foot (0.2') thick. The base portion of the structural section shall be at least five tenths of a foot (0.5') of compacted Class 2 Aggregate Base.

(d) In lieu of the prescriptive structural sections required by subsections (a), (b) and (c), a design of the section may be prepared by a licensed civil engineer using a soils investigation that provides soil R-value and expansion index. Alternatively, the engineer may use an R-value of 5 and waive the soil report unless a soil engineering report is required because of specific site conditions. The traffic index to be used for the design shall be not less than 3.5.

**Sec. 13-31. Road and driveway grades.**

(a) No road or driveway shall have a maximum grade in excess of fifteen percent (15%), without the approval of the county fire chief. In granting such approval, the County fire chief may require such additional fire protection measures under Section 13-63 as he or she deems necessary to mitigate access constraints. A road or driveway may include grades up to twenty percent (20%) for distances not exceeding three hundred feet (300') within any one thousand feet (1,000') of road or driveway unless sufficient grade reductions are provided to allow for vehicle cool down period.

(b) A vertical curve shall be required for any road or driveway when the algebraic difference in grade exceeds three percent (3%) for driveways, and two percent (2%) for private roads. The length of any vertical curve shall not be less than fifty feet (50').

(c) The maximum surface cross slope shall be five percent (5%) for all surface types unless a greater cross slope is required to meet super elevation requirements. The minimum surface cross slope for all surface types shall be two percent (2%).

(d) Turnarounds shall have a maximum longitudinal slope of eight percent (8%). The longitudinal slope is defined as the slope corresponding to the long axis of a vehicle as it travels into, out of, and through a turnaround. This slope shall be maintained beginning and ending at the point of tangency of the edge of pavement curves for the turnaround. The cross slope perpendicular to the longitudinal slope shall not exceed five percent (5%).

(e) Fire apparatus cool down areas shall have a minimum width of twenty-two feet wide (22'-0") thirty feet (30') long with a minimum taper of twenty-five feet (25') on each end. The length of the turnout shall be measured along the roadway or driveway centerline. cool down area shall be provided with minimum curves set in section 13-32 and shall be located on a maximum grade not exceeding five percent (5%)

**Sec. 13-32. Road and driveway horizontal curves and intersections.**

(a) No road or driveway shall have a horizontal inside radius of curvature of less than fifty feet (50'). If the roadway or driveway width is less than twenty-four feet (24'), then additional roadway or driveway widths shall be required as follows:

(1) Four feet (4') of additional width for curves with a horizontal inside radius

of fifty feet (50') to one hundred feet (100') and a central angle greater than forty-five (45°) degrees; and

(2) Two feet (2') of additional width for curves with a horizontal inside radius of one hundred feet (100') to two hundred feet (200') and a central angle greater than forty-five (45°) degrees.

The road shall have the full width widening beginning at the point of tangency of the curve requiring the widening to the end point of tangency of that curve or subsequent curves requiring widening (if reverse curves are used). A five-to-one (5:1) taper shall be used to transition from the base width into and out of the widened width.

(b) Unless otherwise approved by the County fire chief, where a private road, with a throat width equal to or greater than eighteen feet (18') as measured thirty feet (30') from the edge of pavement, intersects a public road, the edge of pavement radius shall begin with a line a minimum of twelve feet (12') from and parallel to the physical centerline of the public road and a minimum radius of twenty-five feet (25') shall be provided from this point to the point of tangency with the edge of pavement of the private road. A taper of not less than ten-to-one (10:1) shall be provided along the public road when the public road is less than twenty-four feet (24') wide.

(c) Where a private road, with a throat width measuring equal to or greater than twelve feet (12') and less than eighteen feet (18') or a driveway with a throat width equal to or greater than ten feet (10') as measured thirty feet (30') from the edge of pavement, intersects a public or private road, the edge of pavement radius shall begin with a line a minimum of twelve feet (12') from and parallel to the physical centerline of the public or private road and a minimum radius of twenty-five feet (25') shall be provided from this point to the point of tangency with the edge of pavement of the private road or driveway. A taper of not less than ten-to-one (10:1) shall be provided along the public or private road when the public or private road is less than twenty-four feet (24') wide. In lieu of a ten-to-one (10:1) taper connecting private road or driveway to private road only, a radius of forty feet (40') may be used.

(d) Where a driveway, with a throat width measuring equal to or greater than ten feet (10') and less than eighteen feet (18') as measured thirty feet (30') from the edge of pavement, intersects a private road, the edge of pavement shall be a minimum radius of forty feet (40'). Any driveway with a throat width greater than eighteen feet (18'), as measured thirty feet (30') from the edge of the pavement, that intersects a private road, shall comply with the private road/public road requirements set forth in subsection (b) of this section.

(e) Road and driveway horizontal curves and intersections may be reduced when proven by scientific method of a recognized vehicle modeling program. The method shall be performed based on the length, width, wheel base and turning radius of a standard Type 1 Fire Apparatus.

(f) Turnouts shall not be located in a horizontal curve unless additional width is provided. Width shall exceed the minimums set in subsection (a) in addition to the minimum width of the required turnout.

**Sec. 13-33. Roadway and driveway structures (bridges).**

(a) All roadway and driveway structures shall be designed, constructed, and maintained in accordance with applicable sections of the County Building Code, the Standard Specifications for Highway Bridges, and any administrative regulations adopted pursuant to Section 13-2, and shall have a minimum designed live-load capacity of HB-17. All roadway and driveway structures shall be constructed pursuant to a valid building permit. All roadway and driveway structures shall be inspected according to the administrative and inspection provisions of the County Building Code.

(b) All roadway and driveway structures shall have appropriate signing identifying structure capability, including weight and vertical clearance limits, installation and certification date and any one-way road or single traffic lane conditions.

(c) All roadway bridges having only one traffic lane shall be constructed to provide a minimum unobstructed width of twelve feet (12') shall provide for unobstructed visibility from one end to the other and shall have turnouts at both ends.

(d) All driveway structures shall be constructed to provide a minimum of one (1) twelve-foot (12') traffic lane and an unobstructed vertical clearance of fifteen feet (15') along the entire length of the driveway structure. Any driveway structure with a minimum unobstructed width of twelve feet (12') shall not exceed sixty-five feet (65') in length.

(e) Any road or driveway structure required to have a turnaround may have either a hammerhead/T, a stub out, or terminus bulb. All turnarounds shall have a minimum turning radius of forty feet (40'), bulbs shall be forty feet (40') from the center point of the bulb, hammerhead/T and stub out shall have entry and exit curves of no less than a forty-foot (40') radius. If a hammerhead/T is used, the top of the "T" shall be a minimum of sixty feet (60') in length. If a stub is used, then the length of the turnaround shall be forty feet (40'), as measured from the roadway or driveway edge. The minimum width of either a hammerhead/T or a stub out shall be equivalent to the roadway or driveway entering the turnaround.

(f) Any road or driveway structure required to have a turnout, shall have a turnout that is a minimum of twenty-two feet (22') wide, including the roadway and the turnout, and thirty feet (30') long with a minimum taper of twenty-five feet (25') on each end. The length of the turnout shall be measured along the roadway or driveway centerline.

**Sec. 13-34. Two-way roads.**

(a) In addition to meeting the applicable standards in the preceding sections, all two-way roads shall have a right-of-way of not less than twenty-five (25') and shall be constructed to provide a roadway with a minimum of two (10) ten-foot traffic lanes providing two-way traffic flow. When permitted in a subdivision's conditions of approval and approved by the appropriate county departments, as identified in the subdivision's conditions of approval, the subdivision may have a two-way road of not less than twelve feet (12') with two foot (2') Shoulders on each side and turnouts and turnarounds. Spacing of the turnarounds and turnouts shall be as set forth in the subdivision's conditions of approval. If the subdivision's conditions of approval do not set forth spacing requirements, then turnarounds shall be at a minimum interval of one thousand three hundred and twenty feet (1,320'). Turnouts shall be a minimum of three hundred feet (300')

(b) Any road or driveway structure required to have a turnaround may have either a hammerhead/T, a stub out, or terminus bulb. All turnarounds shall have a minimum turning radius of forty feet (40') bulbs shall be forty feet (40') from the center point of the bulb, hammerhead/T and stub out shall have entry and exit curves of no less than a forty-foot (40') radius. If a hammerhead/T is used, the top of the "T" shall be a minimum of sixty feet (60') in length. If a stub is used, then the length of the turnaround shall be forty feet (40'), as measured from the roadway or driveway edge. The minimum width of either a hammerhead/T or a stub out shall be equivalent to the roadway or driveway entering the turnaround.

(c) Any road or driveway structure required to have a turnout shall have a turnout that is a minimum of twenty-two feet (22') wide, including the roadway and the turnout and thirty feet (30') long with a minimum taper of twenty-five feet (25') on each end. The length of the turnout shall be measured along the roadway or driveway centerline.

**Sec. 13-35. One-way roads.**

In addition to meeting the applicable standards in the preceding sections, all one-way roads shall comply with the following requirements:

(a) All one-way roads shall have a right-of-way of not less than twenty-five feet (25') and shall be constructed to provide a roadway with a minimum of one (1) twelve-foot (12') traffic lane and 1 foot (1') shoulders on each side providing one-way traffic flow.

(b) All one-way roads shall connect to a two-way road at both ends, and shall provide access to an area zoned for no more than ten (10) dwelling units.

(c) All one-way roads exceeding five hundred feet (500') in length shall have a turnout constructed at approximately the midpoint of the road. Any one-way road exceeding one thousand feet (1,000') in length shall also have turnouts constructed approximately every five hundred feet (500') along the entire length of the road.

(d) No one-way road shall exceed two thousand six hundred forty feet (2,640') in length.

(e) Any road or driveway structure required to have a turnout, shall have a turnout that is a minimum of twenty-two feet (22') wide, including the roadway and the turnout and thirty feet (30') long with a minimum taper of twenty-five feet (25') on each end. The length of the turnout shall be measured along the roadway or driveway centerline.

**Sec. 13-36. Dead-end roads.**

In addition to meeting the applicable standards in the preceding sections, all dead-end roads shall comply with the following requirements:

(a) All dead-end roads shall have a maximum length, including any dead-end roads accessed from the original dead-end road, not exceeding the following cumulative lengths regardless of the number of parcels served:

(1) Parcels zoned for less than one (1) acre - eight hundred feet (800');

(2) Parcels zoned for 1 acre to 4.99 acres - one thousand three hundred twenty feet (1,320');

(3) Parcels zoned for 5 acres to 19.99 acres - two thousand six hundred forty feet (2,640'); and

(4) Parcels zoned for 20 acres or larger - five thousand two hundred eighty feet (5,280').

All lengths shall be measured from the edge of the roadway at the intersection that begins the dead-end road to the farthest point on the dead-end road. Where a dead-end road crosses areas of differently zoned parcels, requiring different length limits, the average size of the parcels served shall determine the maximum allowable length of the road.

(b) All dead-end roads serving parcels five (5) acres or larger shall have turnarounds constructed approximately every one thousand three hundred twenty feet (1,320') along the entire length of the road.

(c) All dead-end roads shall have a turnaround constructed at the terminus of the road. Any road or driveway structure required to have a turnaround may have either a hammerhead/T, a stub out, or terminus bulb. All turnarounds shall have a minimum turning radius of forty feet (bulbs shall be forty feet (40') from the center point of the bulb, hammerhead/T and stub out shall have entry and exit curves of no less than a forty-foot (40') radius. If a hammerhead/T is used, the top-of the "T" shall be a minimum of sixty feet (60') in length. If a stub is used, then the length of the turnaround shall be forty feet (40'), as measured from the roadway or driveway edge. The minimum width of either a hammerhead/T or a stub out shall be equivalent to the roadway or driveway entering the turnaround.

**Sec. 13-37. Driveways.**

In addition to meeting the applicable standards in the preceding sections, all driveways shall comply with the following requirements:

(a) All driveways shall be constructed to provide a minimum of one (1) twelve-foot (12') traffic lane and an unobstructed vertical clearance of fifteen feet (15') along the entire length of the driveway.

(b) All driveways exceeding one hundred fifty feet (150') in length shall have a turnout constructed at approximately the midpoint of the driveway. Any driveway exceeding eight hundred feet (800') in length shall have turnouts constructed approximately every four hundred feet (400') along the entire length of the driveway. Driveways required to have a turnout, shall have a turnout that is a minimum of twenty-two feet (22') wide, including the roadway and the turnout and thirty feet (30') long with a minimum taper of twenty-five feet (25') on each end. The length of the turnout shall be measured along the roadway or driveway centerline.

(c) All driveways exceeding one hundred fifty feet (150') in length shall have a turnaround constructed within fifty feet (50') of the residential building served by the driveway. Any driveway longer than 1320 feet shall have additional turnarounds located at intervals no less than 1320 feet unless approved by the county fire chief. Parking shall not be allowed in the approved turnaround location

(d) Any road or driveway structure required to have a turnaround may have either a hammerhead/T, a stub out, or terminus bulb. All turnarounds shall have a minimum turning radius of forty feet (bulbs shall be forty feet (40') from the center point of the bulb, hammerhead/T and stub out shall have entry and exit curves of no less than a forty-foot (40') radius. If a hammerhead/T is used, the top of the "T" shall be a minimum of sixty feet (60') in length. If a stub is used, then the length of the turnaround shall be forty feet (40'), as measured from the roadway or driveway edge. The minimum width of either a hammerhead/T or a stub out shall be equivalent to the roadway or driveway entering the turnaround.

**Sec. 13-38. Gate entrances.**

(a) All gate entrances and similar structures shall be at least two feet (2') wider than the width of the traffic lane(s) serving the gate or structure.

(b) All gates providing access from a public road to a private road or private driveway shall be located at least thirty feet (30') from the roadway and shall open to allow a vehicle to stop without obstructing traffic on the roadway.

(c) Where a gated entrance is locked, a lock box or other emergency release device approved by the County fire chief shall be provided for emergency access.

**Division C. Signing and Building Numbering.**

**Sec. 13-39. Intent.**

This division establishes minimum signing and building numbering requirements to facilitate locating a fire and to avoid delays in response.

**Sec. 13-40. Names of roads.**

(a) All roads serving more than two (2) parcels shall be identified by a road name.

(b) All public roads requiring a road name shall be approved by the Board of Supervisors pursuant to procedures established by resolution or ordinance of the Board of Supervisors. Any public road having a road name may be renamed using the procedures for naming a public road.

(c) All private roads requiring a road name shall be named by the director of Permit and Resource Management or Sonoma County Fire pursuant to procedures established by resolution or ordinance of the Board of Supervisors. Any private road having a road name may be renamed using the procedures for naming a private road.

(d) When naming or renaming any road, the Board of Supervisors or the director of Permit and Resource Management, as the case may be, shall use the following standards:

(1) Road names shall not be greater than eighteen (18) characters in length, exclusive of road digits and suffixes.

(2) Road names shall have simple spelling and easy pronunciation.

(3) Road names shall be compatible with road and street names in cities and other counties where appropriate.

(4) Road names shall not duplicate or cause confusion with existing road names. Road names shall be deemed to be duplicates if they have different suffixes, but are otherwise the same.

(5) Road names that are numbers or letters shall be avoided.

(6) Road names that are geographically misleading shall be avoided.

(7) Road names that are inappropriate or offensive shall be prohibited.

(8) A road having a continuous alignment shall bear the same name.

(9) Road extensions shall bear the same name as the existing road.

(10) Roads or portions of roads to be connected in the future into a continuous alignment shall bear the same name.

(11) Roads intersecting one another, or forming a deflection angle of greater than ninety (90) degrees shall generally have different names.

(12) A cul-de-sac road may bear the same name as the road it intersects, provided that the suffix is court or place.

(13) No road shall be named such that it will intersect itself or create an intersection with a road having a duplicate name.

(14) Any other standards established by resolution or ordinance of the Board of Supervisors.

(15) All road names shall be approved by the area 911 coordinator and local Fire Chief within 10 days of notification.

**Sec. 13-41. Size of letters, numbers and symbols for road signs.**

All letters, numbers and symbols designating names on road signs shall be according to county road standards.

**Sec. 13-42. Visibility and legibility of road signs.**

All road signs shall be visible and legible from both directions of vehicle travel for a distance of at least one hundred feet (100'). All road signs shall indicate the road name and whether the road is public or private in each direction of vehicle travel in conformance with county road standards.

**Sec. 13-43. Orientation and height of road signs.**

All road signs shall have an orientation and height in conformance with county road standards.

**Sec. 13-44. Placement of road signs identifying intersecting roads.**

All road signs identifying intersecting roads shall be placed at the intersection of such roads.

**Sec. 13-45. Signs identifying traffic access limitations.**

All road signs identifying traffic access or flow limitations, including but not limited to, weight or vertical clearance limits, dead-end roads, one-way roads or single traffic lane conditions, shall be placed as follows:

(a) At the intersection preceding the traffic access limitation; and

(b) No more than one hundred feet (100') before such traffic access limitation.

**Sec. 13-46. Addresses for buildings.**

All buildings shall be identified by an address issued by the director of Permit and Resource Management. When issuing addresses, the director of Permit and Resource Management shall use the following standards:

(a) Addresses shall be compatible with addresses in cities and other counties where appropriate.

(b) Addresses shall be assigned to reflect the road from which the primary driveway originates.

(c) Addresses shall be issued in sequential order and have even numbers on one side of the road and odd on the other. In general, the even numbers shall be on the north and east sides of roads and/or on the right when facing in the direction of increasing magnitude. Existing addresses for roads requiring a road name change that do not conform to the provisions of this subsection may be accepted if the sequence is in logical order and the addresses are approved by the director of Permit and Resource Management and the County fire chief.

(d) All buildings other than accessory buildings shall be assigned separate addresses.

Individual units within residential and commercial buildings may be assigned subsidiary numbers or letters (e.g., apartment 10; suite A). Where possible individual units in multiple story buildings shall be assigned numbering sequences that identify the floor by the leading digit(s).

(e) Any other standards adopted by resolution or ordinance of the Board of Supervisors or by administrative regulation of the director of Permit and Resource Management.

**Sec. 13-47. Size of letters, numbers and symbols for addresses.**

(a) **Numbers for one- and two- family dwellings.** Numbers for one- and two-family dwellings shall be a minimum of four inches (4") high with a minimum stroke width of 0.5 inches (0.5"). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole, or other sign or means shall be used to identify the structure.

(b) **Numbers for other than one- and two- family dwellings.** Numbers for other than one- and two- family dwellings shall be a minimum of 12 inches (12") high with a minimum stroke width of one inch (1"). Suite numbers for other than one- and two-family dwellings shall be a minimum of six inches (6") high and 0.5 inches (0.5") stroke.

**Exceptions:**

1. These requirements may be modified with the approval of the fire code official.

2. Illuminated address numbers are not required for existing buildings where approved; reflective numbers are to be installed.

**Sec. 13-48. Installation, location and visibility of addresses.**

(a) All buildings shall have a permanently posted address, which shall be placed on building and shall be plainly visible and legible from the road on which the address is located or the primary driveway. The numbers shall contrast with their background.

(b) All buildings shall have a permanently posted address, which shall be placed at each driveway entrance and shall be visible and legible from both directions of travel along the road on which the address is located.

**Exception:** An approved internally lighted building address device may be used when such building address device is located on the building and the building is located within thirty feet (30' of the edge of the road on which the address is located.

(c) All address signs along one-way roads shall be visible from both the intended direction of travel and the opposite direction.

(d) Where multiple addresses are required at a single driveway, such addresses shall be mounted on a single approved post.

(e) Where a road provides access solely to a commercial building, the address sign shall be placed at the nearest road intersection providing access to the site.

## Division D. Emergency Water Supply.

### Sec. 13-50. Intent.

This division establishes minimum emergency water supply requirements to ensure a supply of water to attack a fire or defend property from a fire.

### Sec. 13-51. Emergency water supply.

(a) All buildings shall have a permanent emergency water supply approved by the County fire chief, which shall be installed, maintained and available for use as follows:

(1) Except as otherwise provided in subsection (a)(3), where water is provided by a public water system, the permanent emergency water supply shall be installed and available for use prior to the completion of road construction;

(2) Except as otherwise provided in subsection (a)(3), where water is provided by a water system other than a public water system, the permanent emergency water supply shall be installed and available for use prior to the commencement of construction of any permanent structure;

(3) When authorized by the County fire chief, an interim emergency water supply acceptable to the County fire chief may be substituted for the permanent emergency water supply provided the permanent emergency water supply is installed and available for use prior to issuance of an occupancy permit or final inspection;

(4) When authorized by the County fire chief and local fire chief, the emergency water supply requirements may be waived when sufficient evidence is proven the intent to Title 14 of the Natural Resources Code, Division 1.5, Article 4 - Emergency Water Standards have been met.

(b) If the water supply to the parcel is provided by a public or community water system (urban parcel - see Definitions) the emergency water supply for residential buildings shall consist of a permanent hydrant located on the road within two hundred fifty feet (250') of the driveway or Appendix C of the California Fire Code measured from where the driveway intersects with the public or private road. Distance measurements shall be determined by hose lay along the road, not horizontal distance.

(c) If the water supply to the parcel is provided by a private water well (non-urban parcel - see Definitions) an emergency water storage of not less than two thousand five hundred (2,500) gallon capacity shall be provided. A single two-thousand five-hundred (2,500) gallon tank may serve more than one building on the same parcel, provided all hydrants are located in accordance with Section 13-52. When multiple tanks are utilized to achieve the required volume of water, the connection between the tanks shall be an approved minimum four-inch (4")

diameter water line.

(d) Water tanks for emergency water supply placed inside the minimum setback requirement of Section 13-55 shall be constructed of non-combustible material. A flammable vegetation clearance of not less than twenty feet (20') shall be maintained around all poly-plastic or similar water tanks.

(e) All permanent emergency water supplies for commercial buildings shall meet the requirements of the California Fire Code if the building is served by a public water system or NFPA 1142, "Standard on Water Supplies for Suburban and Rural Fire Fighting" if the building is served by a water system other than a public water system.

**Sec. 13-52. Hydrants.**

(a) All buildings shall be protected by hydrants. The location, number, and type of hydrants for any building shall be as required and approved by the County fire chief or the director of Permit and Resource Management.

(b) All hydrants for non-urban parcels shall comply with the following requirements:

(1) Hydrant outlets shall be a minimum of eighteen inches (18") and a maximum of twenty-four inches (24") above grade, eight feet (8') from flammable vegetation, no closer than six feet (6') nor farther than twelve feet (12') from the edge of the road or driveway, and in a location where emergency fire equipment using it will not block the roadway. The hydrant serving any residential building shall be located at a turnout or turnaround, along the driveway to the building, or along the road that intersects with the driveway. The hydrant serving any residential building shall be connected to the emergency water supply by an approved minimum four-inch (4") diameter water line.

(2) All hydrants shall be located between sixty feet (60') and one hundred fifty feet (150') from the residential building. The fire hydrant shall be installed so that a fire engine utilizing the hydrant may maintain a minimum distance of sixty feet (60') from the residential building. Distance measurements shall be determined by hose lay along a road or driveway, not horizontal distance.

**Exceptions:**

1. The distance to the hydrant, on a non-urban parcel with exclusively residential buildings on it, may exceed one hundred fifty feet (150') by one hundred fifty feet (150') for each additional five hundred (500) gallons of water storage capacity up to a maximum of two thousand five hundred and fifty feet (2,550') from the residential building as allowed by Table 13-52a.

a. All hydrants shall have at least one (1) two and one-half inch (2½") outlet with male National Hose Threads and a cap. On water systems of greater than ten thousand five hundred (10,500) gallons, there shall also be at least one (1) four and one-

half inch (4½") outlet with male National Hose Threads and a four and one half inch (4½") by two and one half inch (2½") reducer with a cap.

b. All hydrants shall be a wet barrel hydrant or a draft hydrant as required by the delivery system and shall have suitable crash protection. The maximum height differential between the water source and the draft hydrant outlet shall be 10 feet (10'). Draft hydrants shall be supplied by six inch (6") minimum pipe size, and be equipped with a four and one-half inch (4½") National Hose male thread fitting with a cap.

c. Crash protection shall be per California Fire Code, Chapter Three, Section 312.

2. A public fire hydrant can be used for the emergency water supply as allowed by Table 13-52b, for non-urban parcels with exclusively residential buildings on them.

**Table 13-52a[1]**
**Distance to hydrants based on volume of storage**
**Distance is from structure to hydrant**
**Gallons of Storage/Distance to Hydrant**

| | |
|---|---|
| 2,500/150' | 7,000/1,500' |
| 3,000/300' | 7,500/1,650' |
| 3,500/450' | 8,000/1,800' |
| 4,000/600' | 8,500/1,950' |
| 4,500/750' | 9,000/2,100' |
| 5,000/900' | 9,500/2,250' |
| 5,500/1,050' | 10,000/2,400' |
| 6,000/1,200' | 10,500/2,550' |
| 6,500/1,350' | |

**Note:**
[1]This table applies only to parcels that have exclusively residential buildings on them.

**Table 13-52b (1)**
**Exception to hydrant distance (2)**
**Distance is measured from driveway entrance to the public hydrant**

| Road Distance | Flow Rate | Minimum Residual Pressure |
|---|---|---|
| 1 Mile | 500 GPM | 20 PSI |
| 1.5 Miles (3) | 1,000 GPM | 20 PSI |
| 1.75 Miles (3) | 1,500 GPM | 20 PSI |
| 2 Miles (3) | 2,000 GPM | 20 PSI |
| 3 Miles (3) | 2,500 GPM | 20 PSI |

**Notes:**
(1) This table applies only to parcels that have exclusively residential buildings on them.
(2) Distances within these ranges can be prorated based on volume of flow available.
(3) This Distance can be used when a letter is on file from the local fire chief and the department has a minimum of one 500 gym water tender in inventory

**Sec. 13-53. Signing of water sources.**

Each hydrant or access to water for any residential or commercial building shall be identified as follows:

(a) If located along a driveway, a reflective blue marker, with a minimum dimension of three inches (3"), shall be located on the driveway address sign and mounted on a fire retardant post; or

(b) If located along a road either of the following is acceptable:

(1) A reflective blue marker, with a minimum dimension of three inches (3"), shall be mounted on a fire retardant post. The sign post shall be within three feet (3') of the hydrant, with the sign no less than three feet (3') nor greater than five feet (5') above ground, aimed toward headlights, in a horizontal position and visible from the driveway, or

(2) As specified in the State Fire Marshal's Guidelines for Fire Hydrant Markings Along State Highways and Freeways, May 1988.

**Division E. Fuel Modification.**

**Sec. 13-54. Intent.**

This division establishes minimum fuel modification requirements to reduce the possibility and intensity of a wildfire, to provide increased safety for emergency fire equipment, personnel and evacuating civilians, and to provide a point of attack against or defense from a wildfire.

**Sec. 13-55. Setback for building defensible space.**

(a) On parcels less than one (1) acre, all buildings shall have a setback from any property line or the centerline of any road of not less than the applicable minimum setbacks specified in Chapter 26 of the County Building Code.

(b) On parcels one (1) acre or larger Located in the State Responsibility Area, all new buildings and accessory buildings shall have setbacks to the property line and/or exterior wall protection according to Table 13-55(a) and Table 13-55(b).

**Table 13-55 (a)**
**Exterior walls, within State Responsibility Area,**
**without automatic fire sprinkler protection**

| Exterior Wall Element | | Minimum Fire-Resistance Rating | Minimum Fire Separation Distance |
|---|---|---|---|
| Walls | (Fire-resistance rated) | 1 hour-tested in accordance with ASTM E 119 or UL 263 with exposure from both sides | < 10feet |
| | (Not fire-resistance rated) | Comply with CRC Sec R327.7 or CBC Sec 707A | ≥ 10 feet |
| Projections | (Fire-resistance rated) | 1 hour on the underside | < 10 feet |
| | (Not fire-resistance rated) | Comply with CRC Section R327.7 or CBC Section 707A<br>Comply with Section CRC Sec R327.9 or CBC Sec.709A | 10 feet |
| Openings in walls | Not allowed | N/A | < 10 feet |
| | 25% maximum of wall area | Comply with Section R327.8 or CBC Sec 708A | >10 feet |
| | Unlimited | Comply with Section R327.8 or CBC Sec 708A | 20 feet |
| Penetrations | All | Comply with Section R302.4 or CBC 714.3 | < 10 feet |
| | | Comply with Section R327.6 or CBC 706A | 10 feet |

For SI: 1 foot = 304.8 mm.
N/A = Not Applicable.

**Table 4905.4 (B)**
**Exterior Walls, Within State Responsibility Area,**
**With Automatic Fire Sprinkler Protection**

| Exterior Wall Element | | Minimum Fire-Resistance Rating | Minimum Fire Separation Distance |
|---|---|---|---|
| Walls | (Fire-resistance rated) | 1 hour-tested in accordance with ASTM E 119 or UL 263 with exposure from both sides | < 10 feet |
| | (Not fire-resistance rated) | Comply with Section R327.7 or CBC Sec 707A | 10 feet |
| Projections | (Fire-resistance rated) | 1 hour on the underside | < 10 feet |
| | (Not fire-resistance rated) | Comply with Section R327.9 or CBC Sec.709A | 10 feet |
| Openings in walls | Not allowed | N/A | < 10 feet |
| | Unlimited | Comply with Section R327.8 or CBC Sec 708A | 10 feet |
| Penetrations | All | Comply with Section R302.4 or CBC 714.3 | < 10 feet |
| | | Comply with Section R327.6 or CBC 706A | 10 feet |

For SI: 1 foot = 304.8 mm.
N/A = Not Applicable.

**Sec. 13-56. Flammable vegetation clearance areas for roads and driveways.**

All roads and driveways shall have a flammable vegetation clearance area on each side of the road or driveway of not less than ten feet (10') unless otherwise authorized by the director of Permit and Resource Management.

**Sec. 13-57. Setbacks for planted vegetation from electric power lines – installation of new power lines.**

All electric utility companies shall make every reasonable effort to select routes and types of conductors that minimize the risk of fire when installing new overhead electric utilities.

**Sec. 13-58. Disposal of flammable vegetation and fuels.**

All disposal, including chipping, burying, burning or removal to a landfill site, of flammable vegetation and fuels caused by site development and construction, road and driveway construction, or fuel modification shall be completed prior to completion of road or driveway construction, or foundation inspection for a building permit, whichever occurs first.

**Sec. 13-59. Greenbelts.**

Any development which designates a facility or land use as a greenbelt shall locate the greenbelt strategically, as a separation between wildland fuels and buildings. The director of Permit and Resource Management shall approve the location of any greenbelt.

**Sec. 13-59.5. Defensible Space.**

(a) A Fire Protection Plan shall be required for any new residential or commercial building within a State Responsibility Area (SRA) located in a Very High Severity Zone. The plan shall be prepared by a qualified professional and shall be approved by the County fire chief. The plan shall include, at a minimum, defensible space zones, identification of vegetation types, replacement of non-native flammable vegetation with approved fire-resistive vegetation, and a maintenance program for all vegetation. When required by the Code official, the property owner shall record a covenant, in a form satisfactory to County Counsel, which ensures that the approved plan will be implemented and maintained.

(b) The fire protection plan shall be based upon a site-specific wildfire risk assessment that includes considerations of location, topography, aspect, flammable vegetation, climatic conditions and fire history. The plan shall address water supply, access, building ignition and fire-resistance factors, fire protection systems and equipment, defensible space and vegetation management.

(c) A copy of the fire protection plan shall be retained by the property owner.

(d) The cost of fire protection plan preparation and review shall be the responsibility of the applicant. All existing buildings shall meet the requirements of Public Resources Code (PRC 4291) for defensible space.

(e) All existing buildings shall meet the requirements of the California Fire Code, Chapter 49, Section 4906 and 4907.

**Sec. 13-60. Roofing.**

All structures regulated by the County Building Code shall have roof coverings that comply with the requirements of Chapter 7 of this Code.

## Division F. Other Fire Protection Measures.

**Sec. 13-61. Intent.**

This division establishes alternate fire protection measures for use in place of standards

specified in this article which cannot be met and additional fire protection measures to mitigate parcel specific fire protection problems.

**Sec. 13-62. Alternate fire protection measures.**

When authorized, pursuant to Section 13-23, any of the following alternate fire protection measures may be used as exceptions to the standards specified in this article or as mitigated practices:

a) Increased emergency water supply requirements;

b) Installation of a sprinkler system that meets the requirements of the National Fire Protection Association and includes protection of eaves where not required by code;

c) Increased flammable vegetation clearance areas for buildings;

d) Increased flammable vegetation clearance areas for roads and driveways;

e) Use of fire-resistive vegetation;

f) Installation of fire-resistive exterior siding;

g) Use of fire-resistive deck and eave construction;

h) Construction of additional turnouts and turnarounds;

i) Creation of areas of safe refuge;

j) Installation of a centrally monitored fire alarm system;

k) Provision of a secondary means of ingress and egress to the parcel.

l) Increased width and surface for emergency vehicle access.

**Sec. 13-63. Additional fire protection measures.**

When the County fire chief determines that access constraints, hazard severity or topography and terrain adversely affect the ability of emergency fire equipment and personnel to respond to an emergency on a parcel, the County fire chief may require additional fire protection measures as follows:

(a) Where conditions delay, limit or prohibit access by emergency fire equipment and personnel to a parcel, the County fire chief may require any of the following fire protection measures in addition to the other standards specified in this article:

(1) Increased emergency water supply;

(2) Installation of an automatic sprinkler system that meets the requirements of the National Fire Codes and local regulations where not required by code;

(3) Increased flammable vegetation clearance areas for buildings;

(4) Use of fire-resistive vegetation;

(5) Use of fire-resistive deck and eave construction;

(6) Installation of fire-resistive exterior siding;

(7) Installation of a centrally monitored fire alarm system;

(8) Creation of areas of safe refuge;

(9) Vegetation management plan.

(b) Where a parcel is located within a very high fire hazard severity zone as defined by the California Department of Forestry and Fire Protection, the County fire chief may require any of the following fire protection measures in addition to the other standards specified in this article:

(1) Any of the fire protection measures specified in subsection (a);

(2) Construction of additional turnouts and turnarounds;

(3) Provision of a secondary means of ingress and egress to the parcel;

(4) Vegetation management plan.

(c) Where features of topography or terrain create conditions on a parcel which the County fire chief determines warrant additional fire protection measures, the County fire chief may consider the parcel to be an area of high or very high fire hazard severity and require any of the fire protection measures specified in subsection (b) in addition to the other standards specified in this article.

**Article VI. Chapter 13 of the Sonoma County Code as adopted by the County Board of Supervisors is added as reference:**

**Article VI. Fireworks.**

**Sec. 13-66. Sale, use or discharge of fireworks prohibited--Exception.**

(a) Except for public displays of fireworks authorized pursuant to this section, it is unlawful for any person to possess, store, offer or expose for sale, sell at retail, give away or in any manner dispose of any fireworks, or to use, explode, or otherwise discharge any fireworks within the unincorporated area of the county.

(b) Any person or group desiring to perform a public display of fireworks within the unincorporated area of the county shall first make written application for a permit to the local fire chief, if the display is to be held within a local fire protection district, or the County fire chief, if the display is to be held within a portion of the unincorporated area of the county not in a local fire protection district. Application for a permit shall be made in writing at least twenty (20) days prior to the proposed display. The application shall be considered and acted upon by the local fire chief or County fire chief, as appropriate, pursuant to Title 19 of the California Code of Regulations. Any permit for a public display of fireworks may be suspended or revoked at any time by the local fire chief or the County fire chief, as appropriate. (Ord. No. 5373 § 2, 2002: Ord. No. 4905 § 1, 1995.)

**Article VII. Chapter 13 of the Sonoma County Code as adopted by the County Board of Supervisors is added as reference:**

## Article VII. Open Burning.

### Sec. 13-71. Burning permits required.

It is unlawful for any person to undertake or authorize the undertaking of any open burning within the unincorporated area of the county at any time between May 1st and the date the director of Forestry and Fire Protection declares, by proclamation, that the hazardous fire conditions have abated for that year or at any other time when the director of Forestry and Fire Protection has declared, by proclamation, that unusual fire hazard conditions exist within the region wherein the County is located without first obtaining a written burning permit as follows:

(a) Within those portions of the unincorporated area of the county in a fire protection district, burning permits shall be obtained from the fire protection district.

(b) Within those portions of the unincorporated area of the county in a State Responsibility Area, burning permits shall be obtained from the California Department of Forestry and Fire Protection or, if the location of the open burning is also in a fire protection district and the district is authorized by the California Department of Forestry and Fire Protection to issue such permits, from the fire protection district.

(c) Within those portions of the unincorporated area of the county not in a fire protection district or State Responsibility Area, burning permits shall be obtained from North Bay Area Management or Bay Area Air Management District or the California Department of Forestry and Fire Protection.

(d) If the County fire chief determines that conditions of high fire hazard exist within any or all of the unincorporated area of the county, the County fire chief may suspend the issuance of any burning permit authorized by this section or stay the effect of any such permit already issued or both for such period as the County fire chief deems necessary, not to exceed one hundred fifty (150) days. The County fire chief shall notify the Board of Supervisors of any such suspension or stay by memorandum within twenty-four (24) hours following its commencement. (Ord. No. 5373 § 2, 2002: Ord. No. 4905 § 1, 1995.)

### Sec. 13-72. Hours and days for burning.

All burning permits issued pursuant to this article shall restrict open burning to the hours and days specified by the air pollution control district having jurisdiction. (Ord. No. 5373 § 2, 2002: Ord. No. 4905 § 1, 1995.)

### Sec. 13-73. Burning of land of another.

No burning permit shall be issued pursuant to this article for open burning by the applicant upon land owned by another person unless the applicant has the written consent of the owner, lessee or other person in charge or control of the land on which the open burning is to be done. (Ord. No. 5373 § 2, 2002: Ord. No. 4905 § 1, 1995.)

**Sec. 13-74. Effect of article on fire protection districts and state responsibilities.**

Nothing in this article shall be construed as preventing any fire protection district within the county from adopting an ordinance or ordinances regulating burning containing more restrictive regulations, nor shall anything herein be construed as limiting or releasing the state or the California Department of Forestry and Fire Protection of any responsibility for fire prevention and suppression under the laws of this state. (Ord. No. 5373 § 2, 2002: Ord. No. 4905 § 1, 1995.)

**Sec. 13-75. Effect of issuance of permit.**

The issuance of any burning permit pursuant to this article shall not be deemed to be a waiver of noncompliance within or authorize violation of any zoning or other law whatsoever or constitute a sanction of or permit for any public or private nuisance. (Ord. No. 5373 § 2, 2002: Ord. No. 4905 § 1, 1995.)

**Sec. 13-76. Burning to be under supervision of responsible person.**

All burning for which a permit is required pursuant to this article shall be done under the direction and constant surveillance of a responsible person. (Ord. No. 5373 § 2, 2002: Ord. No. 4905 § 1, 1995.)

## Article VIII. Fees and Charges.

### Sec. 8-1. Schedule of fees and charges.

(a) The Board of Supervisors may from time to time establish a schedule of fees and charges following the procedure set forth in California law (currently Government Code Section 66016 et seq.) to recover the reasonable cost of providing services, issuing permits and enforcing regulations pursuant to the Sonoma County Fire Code.

(b) The Board of Directors of any fire protection district may from time to time establish a schedule of fees and charges following the procedure set forth in California Law to recover the reasonable cost of providing services, issuing permits and enforcing regulations pursuant to this Chapter. Pursuant to Health and Safety Code Section 13916, no such fee or charge on new construction or development shall be for construction of public improvements or facilities or the acquisition of equipment.

## Article IX. Enforcement.

### Sec. 9-1. Responsibility for enforcement.

Except as otherwise provided herein, the fire chief shall be responsible for enforcing the provisions of this chapter.

### Sec. 9-2. Issuance of citations.

The fire chief, or his/her designated representatives, may pursuant to Section 836.5 of the California Penal Code, arrest a person without a warrant whenever they have reasonable cause to believe that the person to be arrested has committed a misdemeanor in their presence which is a violation of this chapter or any other ordinance or statute which they have a duty to enforce, and to issue a written notice to appear and to release such person on his or her written promise to appear in court, as prescribed by Chapter 5C (commencing with section 853.6) of the California Penal Code.

## Article X. Violations.

### Sec.10-1. Violation--Penalty.

Any person who violates or fails to comply with any provision of the California Fire Code as adopted, or this chapter, or who violates or fails to comply with any order or regulation made thereunder, or who acts in violation of any detailed statement of specifications or plans submitted and approved thereunder, or who violates any provisions of a certificate or permit issued thereunder, is guilty of a misdemeanor, punishable as provided by law. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified in any citation or notice of violation, each day or portion thereof that prohibited conditions are maintained shall constitute a separate offense. The application of the provisions of this section shall not be held to prevent the enforced removal of prohibited conditions.

## Article XI. Findings.

**SECTION 11-1.** Pursuant to Health and Safety Code, Section 13143.5 and 17958.7, the Board of Directors expressly finds that this ordinance and the changes or modifications made herein to the 2016 California Fire Code, including the adoption of fire protection sprinkler and fire alarm standards, are reasonably necessary because of local climatic, geological, and topographical conditions. The Board of Directors further finds in connection therewith as follows:

1. Sonoma County has climatic conditions which are unique in character. The county is subject to year-round coastal winds. Average yearly rainfall for the county is approximately 30 inches. This rainfall generally occurs from October to April. During the summer months (July, August, September), the prevalent Pacific High Cell creates early morning fog, which assists the natural vegetation in growth. During the summer months, dry winds and vegetation mix to create a hazardous fuel condition. This condition causes grassland and brush land fires each year. While normal temperatures do not exceed 85-90 degrees Fahrenheit (85-90° F) during the summer months, temperatures can climb to higher than 110 degrees Fahrenheit (110° F) in parts of the county. Afternoon winds can move a fire quickly in any part of the county, particularly during times of high temperatures and low humidity.

Drought conditions occur periodically in the County and when they occur they often last for several years. When drought conditions occur, they result in reduced available water. Groundwater as well as surface supplies are affected. When drought conditions occur, they create a situation where lowered water tables, water contamination, and increased demand on water systems due to population growth all negatively impact water availability for fire protection. These impacts degrade the quality of fixed fire protection as well as fire suppression activities.

2. Sonoma County has geological and geographic characteristics which have scenic appeal for residents and visitors alike. The County is situated in a primarily rural setting with rugged coastline forming its western boundary, rugged mountainous areas forming its northern and eastern boundaries, and forested areas and grasslands making up much of the county. These features establish the roadways and building sites in the county as well as create barriers to accessibility for emergency fire equipment and personnel.

The forested areas in the County create windbreaks from oncoming winds, but also produce fuel through the annual fall needles and leaves which drop to the ground along with decayed trees and branches which contribute to the fuel load. The dry vegetation and low water availability create a terrain which causes access problems and other problems for emergency fire equipment and personnel.

The grassland areas in the County have easily ignitable fuels which are subject to high winds. A southern exposure and unbroken fuel create a potential for major conflagrations.

The County has potentially active seismic hazards within its boundaries (the San Andreas Fault and several other fault traces have been identified within the county). Large portions of the county are within the Alquist-Priolo Special Studies Zones. While systems have

been developed to study and monitor the activity of earthquakes, science has not yet been able to predict (with reliability) the potential for activity on active faults. Seismic activity within the county occurs yearly with little or no damage although the very real potential for damage exists with the active faults within the county. While new construction may be limited by their respective distances to faults, existing structures and replacement of these structures present a serious problem.

The mixture of developed and undeveloped areas within the county creates hazardous conditions when a storm of gale force winds causes trees to fall onto roadways used for access by emergency fire equipment and personnel. In addition, flooding occurs in certain areas of the county during heavy winter storms limiting or eliminating access for emergency fire equipment and personnel.

Landslides have been experienced in various areas of the county. While stabilization can sometimes be provided, heavy winter storms cause failures. These failures have closed roadways within the county making access for emergency fire equipment and personnel impossible until properly cleared.

3. Sonoma County has topographical conditions which are closely associated with the geological and geographic characteristics noted above. The topographical conditions are the result of the design and construction of development within the county based on elevation changes in the county as well as the hills, canyons, lakes and streams which exist in the county.

The sources of water within the County are directly affected by its topographical layout. The water sources consist of on-site water storage tanks, lakes, pools, wells, mutual water systems, and the Sonoma County Water Agency distribution network. Water supplies within the county vary from less than ten (10) gallons per minute to flows in excess of four thousand (4,000) gallons per minute. This wide variation causes major problems to development as well as fire suppression forces.

The roadway system through most of the county is designed around the topographical lay of the land and consists in many cases of narrow, winding roads, steep grades, and overhanging tree branches. The grades on roadway surfaces sometimes exceed 25% and widths of less than twelve feet (12') are not uncommon.

The topographical conditions also make construction more restricted to the level and semi-level portions of the county, with high concentrations of building within these areas. The exposure created by these structures poses a significant problem. For practical and cost reasons, these structures are built of wood (Type V) construction. The potential of conflagration exists with the high buildout of certain areas in the county. The concentrated commercial, industrial, and residential occupancies in these areas cause concern when considering the "exposure" of building-to-building and building-to-grassland areas of the county.

The topographical nature of the county also lends itself to power failures caused when fallen trees and limbs tear out sections of electrical transmission lines which run throughout the County. These power failures cause electrical pumps to become inactive and, thus, water supplies are interrupted. Vehicular accidents also have been known to interrupt this

pumping operation. Due to the narrow roads which are congested with residents and visitors alike, this situation occurs more than could be normally expected.

4. The preceding findings identify the local climatic, geological, and topographical conditions which the Board has considered in adopting this ordinance. The Board finds that these conditions make the modifications or changes to the requirements published in the California Building Standards Code contained herein reasonably necessary. This Board further finds that it has amended the 2016 California Fire Code to assist in mitigating such conditions.

**SECTION 11-2**. Except as added, revised, amended or deleted herein, the remaining provisions of this code, as previously adopted shall remain in full force and effect.

**SECTION 11-3.** The provisions of this Code shall not be construed as imposing upon the Fire Protection District any liability or responsibility for damages to persons or property resulting from defective work, nor shall the Fire Protection District, or any official, employee or agent thereof, be held as assuming any such liability or responsibility by reason of the review or inspection authorized by the provisions of this Code of any permits or certifications issued under this Code.

**SECTION 11-4.** The Board of Directors finds and determines that this ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the State CEQA Guidelines as it can be seen with certainty that there is no possibility that this ordinance may have a significant effect on the environment. This finding and determination is based on the environmental determination of the

**SECTION 11-5.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**SECTION 11-6.** This ordinance shall be and the same is hereby declared to be in full force and effect on January 1, 2017. The ordinance shall be published once before the expiration of fifteen (15) days after its passage, with the names of the Directors voting for or against the same, in a newspaper of general circulation published and circulated in the County of Sonoma.

**SECTION 11-7.** This ordinance shall be and the same is hereby declared to be in full force and effect on January 1, 2017. The ordinance shall be published once before the expiration of fifteen (15) days after its passage, with the names of the Directors voting for or against the same, in a newspaper of general circulation published and circulated in the County of Sonoma.

In regular session of the Board of Directors of the Fire Protection District introduced on October 11, 2016, an finally passed and adopted this November 8, 2016 on regular roll call of the members of said Board by the following vote:

DIRECTORS:

Charlie Bone, President
David Kruppa, Vice President
Liz Martin
Shay Pickton
David Love

Ayes 5 Noes Ø Absent Ø Abstain Ø

WHEREUPON, the Chair declared the above and foregoing ordinance duly adopted and

SO ORDERED.

Chair, Board of Directors
Bodega Bay Fire Protection District

ATTEST:

Sean Grinnell
Clerk of the Board of Directors

**IT IS SO ORDERED**

# ORDINANCE NO. 2016-01

## AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE RANCHO ADOBE FIRE PROTECTION DISTRICT, COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING, "FIRE SAFETY ORDINANCE" OF THE RANCHO ADOBE FIRE PROTECTION DISTRICT TO ADOPT BY REFERENCE AND AMEND SELECTED PROVISIONS, CHAPTERS AND APPENDICES OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 24, 2016 EDITION OF THE CALIFORNIA FIRE CODE; TO ADOPT LOCAL FINDINGS; AND TO MAKE TECHNICAL AND ADMINISTRATIVE REVISIONS TO THE FIRE SAFETY ORDINANCE.

**This ordinance of the Rancho Adobe Fire Protection** District, in the County of Sonoma County Code shall read as follows:

## RANCHO ADOBE FIRE PROTECTION DISTRICT FIRE SAFETY ORDINANCE

### Article I. General Provisions.

**Sec. 1-1. Short title.**

This chapter shall be known and may be cited as the Rancho Adobe Fire Protection District Fire Safety Ordinance.

**Sec. 1-2. Administrative regulations.**

(a) The District fire chief may adopt amend or repeal administrative regulations to implement, interpret or make specific provisions of this chapter. Notice of the proposed adoption, amendment, or repeal of a regulation pursuant to this section shall be posted for a period of thirty (30) days in the public lobby of the Fire Protection District's office and shall be mailed to every person who has filed a request for notice of such actions with the Fire Protection District fire chief. Every notice shall include a copy of the express terms of the proposed action and a statement that the public may submit written comments on the proposed action prior to the close of the posting period. The Fire Protection District fire chief may approve, modify, or withdraw the proposed adoption, amendment or repeal of a regulation following the posting period.

(b) The adoption, amendment or repeal of a regulation pursuant to this section shall take place not less than fifteen (15) nor more than one hundred eighty (180) days following the close of the posting period specified in subsection (a), and shall be effective upon posting of an order of adoption, amendment or repeal in the public lobby of the District's offices. Each such order shall include a concise and clear summary of the action taken by the Fire Protection District fire chief and shall remain posted for a period of thirty (30) days.

(c) The regulations adopted or amended pursuant to this section shall have the same force and effect as provisions of this chapter. Failure by any person to comply with any

regulation adopted or amended pursuant to this section shall be a violation of this chapter.

(d) The regulations adopted or amended pursuant to this section shall be periodically compiled and copies thereof made available to the public for purchase at cost or review free of charge at the office of Fire Protection District.

## Article II. Reserved.

**Sec. 2-1. Reserved.**

## Article III. Appeals.

**Sec. 3-1. Board of Appeals.**

The Sonoma County Board of Building Appeals shall function as the Board of Appeals under this chapter. Except where inconsistent with the provisions of Sonoma County Code Sections 7-3 and Section 13-12 of the Sonoma County Fire Safety Ordinance the duties of the Board of Appeals shall be as prescribed in Chapter 1, Division II, Section 108 of the California Fire Code.

**Sec. 3-2. Appeals.**

(a) Except as otherwise provided in subsection (b), any applicant, permit holder or other interested person dissatisfied with a decision of the fire chief may appeal the decision to the Board of Appeals, provided, however, that such appeal may not be made more than thirty (30) days after the decision from which the appeal is being made has been rendered. All interested persons shall be given a reasonable opportunity to be heard and present evidence to the Board of Appeals on any appeal. Decisions of the Board of Appeals shall be in writing and shall be delivered to the appellant and the applicant or permit holder, if different from the appellant, either in person or by mailing to the address stated on the appeal or application. Decisions of the Board of Appeals are final. Should no decision be rendered within twenty (20) days after the filing of the appeal, such appeal shall be deemed to be denied unless time is extended by action of the Board of Appeals.

(b) Appeals of notice and orders issued pursuant to violations of this chapter shall be conducted and determined by a hearing officer pursuant to Section 1-7.3 and Chapter 7 of Sonoma County Code.

## Article IV. District Fire Code.

### Sec. 4-1. Administration and enforcement.

(a) The 2016 California Fire Code as adopted by reference and amended in this ordinance by the Board of Directors of the Rancho Adobe Fire Protection District, shall constitute the District Fire Code.

(b) Chapter 13 of the Sonoma County Code, as adopted by reference and amended by the County Board of Supervisors based on the 2016 California Fire Code, has been designated by the Sonoma County Board of Supervisors as the County Fire Code.

(c) With the approval of the County Fire Chief, the District Chief may enforce those portions of the County Fire Code, that are not within the adopting authority of the local fire protection district, such as Fire Safe Standards, in the SRA.

(d) The District Chief may delegate the responsibility for plan checking and inspection of new construction and alterations, within the boundaries of the fire protection district to the County fire chief. Where requirements of the Districts Fire Code and the Sonoma County Fire Code are the same, the County fire chief may quote the code requirements as the "County Fire Code" for projects within the fire protection district.

(e) Any delegation or agreements between the County and the District shall be made in writing and approved by the Board of Directors of the Fire Protection District and the County Board of Supervisors.

### Sec. 4-2. Conflicting regulations.

The provisions of this chapter shall prevail over any inconsistent provision contained in the California Fire Code or the National Fire Codes; provided, in the case of inconsistent regulations, no regulation shall prevail that is less restrictive than the regulations established by the State of California unless otherwise authorized by the State.

### Sec. 4-3. California Fire Code adopted amendments.

(a) The portion of the California Building Standards Code that imposes substantially the same requirements as are contained in the California Fire Code, 2016 Edition published by the International Code Council and the California Building Standards Commission with Errata, including Appendices, 4, B, C, D, E, F, G, H and N; published by the International Code Council, save and except such portions as are hereinafter deleted, modified, or amended by subsection (b) of this section, are adopted and incorporated as fully as if set out at length herein for the purpose of prescribing regulations governing conditions hazardous to life and property from fire, hazardous materials or explosions within the boundary of the Rancho Adobe Fire Protection District.

(b) The California Fire Code, 2016 Edition, is hereby amended as follows:

# CHAPTER 1
# SCOPE AND ADMINISTRATION

***1. California Fire Code Section 101.1 is amended to read as follows:***

**101.1 Title.** These regulations shall be known as the Rancho Adobe Fire Code, hereinafter referred to as "this Code."

***2. California Fire Code Section 103.3.1 is added to read as follows:***

**103.3.1 Authority to issue citations.** The fire chief, the fire code official and his or her designees who have the discretionary duty to enforce a statute or ordinance, pursuant to Section 836.5 of the California Penal Code and subject to the provisions thereof, may arrest a person without a warrant whenever the fire chief or member of the Fire Prevention Bureau has reasonable cause to believe that the person to be arrested has committed a violation in the presence of the fire chief or member of the Fire Prevention Bureau which he or she has discretionary duty to enforce, and to issue a notice to appear and to release such person on his or her written promise to appear in court, pursuant to the provisions of Section 853.5. of the California Penal Code.

***3. California Fire Code Section 105.6.49 is amended to read as follows:***

***105.6.49 Additional operational permits.*** *In addition to the operational permits required by Section 105.6, the following permits shall be obtained from the division of fire prevention prior to engaging in the following activities, operations, practices or functions:*

1. *Production facilities. To change use or occupancy, to allow the attendance of a live audience, or for wrap parties.*

2. *Pyrotechnics and special effects. To use pyrotechnic special effects, open flame, use of flammable or combustible liquids and gasses, welding, and the parking of motor vehicles for the purpose of motion picture, television and commercial production.*

3. *Live audiences. To install seating arrangements for live audiences in approved production facilities, production studios, and sound stages. See Chapter 48.*

4. Apartment, hotel, motel. An operational permit is required to operate an apartment house, hotel, or motel.

5. Bonfires or rubbish fires. An operational permit is required to kindle or authorize the kindling or maintenance of bonfires or rubbish fires.

6. Day care. An operational permit is required to operate a day care occupancy with an occupant load greater than eight (8) persons.

7. Emergency responder radio coverage system. An operational permit is required for buildings and/or facilities with emergency responder radio coverage systems and related equipment.

8. High-rise building. An operational permit is required to operate a high-rise building as defined in the Building Code.

9. Institutional or residential occupancy (six (6) or fewer persons). An operational permit is required to operate an institutional or residential occupancy for six (6) or fewer persons, except day care and residential care facilities for the elderly.

10. Institutional or residential occupancy (more than six (6) persons). An operational permit is required to operate an institutional or residential occupancy for more than six (6) persons. Exception: A permit is not required for large-family day care providing care for fewer than nine (9) children.

11. Cannabis. An operational permit is required to operate a medical cannabis facility or Cannabis operation listed below when allowed by state law and Local Zoning Ordinance:

    a. Cultivation
    b. Distribution
    c. Manufacturing (non-volatile)
    d. Testing/Lab

12. Oil or natural gas well. An operational permit is required to own, operate or maintain an oil or natural gas well.

13. Organized camps. An operational permit is required to operate an organized camp (Group C occupancy).

14. Special Permit. An operational permit is required for any organized procession or assemblage of 50 or more people, which could significantly impact vehicular traffic or create a safety problem. Examples include, but are not limited to: music festivals, outdoor markets, circus, walkathons, runs, marathons, trail rides, bicycle races, celebrations, parades and other similar activities.

15. Winery caves – publicly accessible. An operational permit is required to operate a Type-2 or Type-3 winery cave that is accessible to the public.

***4. California Fire Code Section 105.7.19 is added to read as follows:***

**105.7.19 Additional construction permits.** In addition to the permits required by Section 105.7, the following construction permits shall be obtained from the division of Fire Prevention prior to starting construction:

1. Fire apparatus access roads. A construction permit is required for installation or modification of roadways and roadway structures used for fire apparatus access roads.

2. Excavation near flammable or combustible liquid pipeline. A construction permit is required to excavate or do any work below grade within ten (10) feet of any pipeline for the transportation of flammable or combustible liquid.

3. Gates. A construction permit is required for the installation of security gates across a fire apparatus access road.

*5. California Fire Code Section, Section 109.4 is amended to read as follows:*

**109.4 Violation penalties.** Persons who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code official, or of a permit or certificate used under provisions of this Code, shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment not exceeding six months, or both such fine and imprisonment, or administratively of not less than one thousand dollars ($1000.00) Each day that a violation continues after due notice has been served shall be deemed a separate offense.

*6. California Fire Code, Section 109.5 is added to read as follows:*

**109.5 Authority to issue citations.** The Chief and members of the Fire Prevention Bureau who have the discretionary duty to enforce a statute or ordinance may, pursuant to Section 836.5 of the California Penal Code and subject to the provisions thereof, arrest a person without a warrant whenever the Chief or member of the Fire Prevention Bureau has reasonable cause to believe that the person to be arrested has committed a violation in the presence of the Chief or member of the Fire Prevention Bureau which he or she has discretionary duty to enforce, and to issue a notice to appear and to release such person on his or her written promise to appear in court, pursuant to the provisions of Section 853.5 et seq. of the California Penal Code.

*7. Chapter 1, Division II, Section 111.4 is amended to read as follows:*

**111.4 Failure to comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than $100.00 dollars or more than $500.00 dollars. A person shall be fined for each day he or she continues to work after having been served with a stop work order.

*8. California Fire Code, Section 113.6 is added to read as follows:*

**Section 113.6 Cost recovery.** Fire suppression, investigation or emergency medical costs are recoverable in accordance with Health and Safety Code Sections 13009 and 13009.1, as may be amended from time to time. Additionally, any person(s) who negligently, intentionally or in violation of law causes an emergency response, including, but not limited to, a traffic accident, spill of toxic or flammable or combustible fluids or chemicals is liable for the costs of securing such emergency, including those costs pursuant to Government Code Section 53150, et seq, as may be amended from time to time. Any expense incurred by Sonoma County Fire, Fire District and Volunteer Fire Company for securing such emergency shall constitute a debt of such person(s) and shall be collectable by the Department in the same manner as in the case of an obligation under contract, expressed or implied.

## CHAPTER 2
## DEFINITIONS

*9. California Fire Code Section 202 is amended to add the following.:*

**MEMBRANE STRUCTURE.** An air-inflated, air-supported, cable or frame-covered structure as defined by the *California Building Code* and not otherwise defined as a tent or umbrella structure. See Chapter 31 of the *California Building Code*.

**RECREATIONAL FIRE.** An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, portable outdoor fireplace, barbeque grill or barbeque pit for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

**SUBSTANTIAL ADDITION.** All existing buildings or structures, any addition of floor area that exceeds areas identified in Table 906.3 of the existing gross floor area, or when specific reference in other areas of the code are allowed.

**SUBSTANTIAL REMODEL.** In all existing buildings or structures, any alteration of floor area that is greater than fifty percent (50%) of the existing gross floor area or meets the definition of a substantial improvement as defined by the *California Building Code*, or when specific reference in other areas of the code are allowed

> **Exception:** Alterations made solely for the purpose of providing barrier removal pursuant to the requirements of the Americans with Disabilities Act (ADA) as contained in exception # 4 of Section 11B-204.2.

**TENT.** A structure, enclosure, umbrella structure or shelter with or without sidewalls or drops, constructed of fabric or pliable material supported by any manner except by air or the contents that it protects.

**UMBRELLA STRUCTURE.** A structure, enclosure or shelter with or without sidewalls or drops, constructed of fabric or pliable material supported by a central pole. (See "Membrane Structure" and "Tent")

**UNWARRANTED ALARM.** The giving, signaling or transition of an alarm notification to a public fire station or emergency communication center when such alarm is the result of a defective condition of an alarm system, system servicing testing, construction activities, ordinary household activities, false alarm or other cause when no such danger exists.

## CHAPTER 3
## GENERAL REQUIREMENTS

***10. California Fire Code Section 307.1 is amended to read as follows:***

**307.1 General.** Open burning shall be conducted in accordance with this section and Article VII of this Code.

***11. California Fire Code Section 307.2 is amended to read as follows:***

**307.2 Permit required.** Prior to commencement of open burning, a burning permit shall be obtained pursuant to section 7-1 of this Code.

***12. California Fire Code Section 307.4.2 is amended to read as follows:***

**307.4.2 Recreational fires**. Recreational fires that have a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height, or as approved by the fire code

official, shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions that could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition.

*13. California Fire Code Section 311.3.1 is added to read as follows:*

**311.3.1 Removal of debris after fire.** All rubble, waste, rubbish, and other materials lying upon any premises within the jurisdictional area; having been accumulated thereon by reason of a fire, and having been rendered useless thereby shall be removed ~~from~~ within ten (10) days after notice has been given to do so in writing by the fire chief to the owner, lessee, or other person in charge or control of the premises.

## CHAPTER 4
## EMERGENCY PLANNING AND PREPARDNESS

*14. California Fire Code, Section 402.1 is amended to add the following:*

**UNWARRANTED ALARM**

*15. California Fire Code Section 401.3.2.1 is added to read as follows:*

**401.3.2.1 Unwarranted alarm notification.** Notification of emergency responders based on an unwarranted alarm is be punishable by a fine in accordance with the adopted fee schedule. In addition, the responsible party may be liable for the operational and administrative costs, incurred from the emergency response or mitigation procedures resulting from an unwarranted alarm notification.

*16. California Fire Code Section 403.1 is amended to read as follows:*

**403.1 General.** In addition to the requirements of Section 401, occupancies, uses and outdoor locations shall comply with the emergency preparedness requirements set forth in Section 403.2 through 403.12.3.3.

*17. California Fire Code Sections 403.3 through 403.11.4 are deleted.*

*18. California Fire Code Section 403.13 is deleted.*

## CHAPTER 5
## FIRE SERVICE FEATURES

*19. California Fire Code Section 503.2.6.1 is added to read as follows:*

**503.2.6.1 Evaluation and maintenance.** All existing private bridges and elevated surfaces that are a part of the fire department access roadway, shall be evaluated by a California licensed civil engineer experienced in structural engineering or a California licensed structural engineer, for safety and weight rating, in accordance with American Association of State Highway and Transportation Officials (AASHTO) Manual: ``The Manual for Bridge Evaluation," Second Edition or other approved standard. These evaluations shall be performed at the direction of the fire code official. All bridges and elevated structures providing fire department access shall be routinely maintained in accordance with Section 503.2.6 or when directed by the fire code official or authorized designee.

*20. California Fire Code Section 503.3 is amended to read as follows:*

**503.3 Marking.** Where required by the fire code official, approved signs or other approved notices or markings that include the words NO PARKING – FIRE LANE *in accordance with the California Vehicle Code*, shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. The means by which fire lanes are designated shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.

*21. California Fire Code Section 503.6.1 is added to read as follows:*

**503.6.1 Width.** All gate entrances and similar structures shall be at least two feet (2') wider than the width of the traffic lane(s) serving the gate or structure.

*22. California Fire Code Section 503.6.2 is added to read as follows:*

**503.6.2 Setbacks.** All gates providing access from a public road to a private road or private driveway shall be located at least thirty feet (30') from the roadway and shall open to allow a vehicle to stop without obstructing traffic on the roadway.

*23. California Fire Code Section 505.1 is amended to read as follows:*

**505.1 Address identification.** New and existing buildings shall be provided with approved illuminated or other approved means of address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numerals or alphabetic letters. Numbers shall not be spelled out. Character size and stroke shall be in accordance with Section 505.1.1 through 505.1.2. Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response in accordance with this code and Section 505.1.3. Where access is by means of a private road and the building cannot be viewed from the public way or when determined by the fire code official, a monument, pole, or other approved illuminated sign or other approved means shall be used to identify the structure. Address identification shall be maintained.

*24. California Fire Code Section 505.1.1 is added to read as follows:*

**505.1.1 Numbers for one- and two- family dwellings.** Each address identification character shall be not less than four (4) inches high with a minimum stroke width of one-half (0.5) inch.

*25. California Fire Code Section 505.1.2 is added to read as follows:*

**505.1.2 Numbers for other than one and two-family dwellings.** Each address identification character shall be not less than twelve (12) inches high with a minimum stroke width of one (1) inch. Suite and unit directional numbers shall be not less than six (6) inches high with a minimum stroke width of three-quarter (0.75) inch. Numbers shall be not less than four (4) inches high with a minimum stroke width of one-half (0.5) inch.

*26. California Fire Code Section 505.1.3 is added to read as follows:*

**505.1.3 Complex directory.** Where two or more buildings cannot be viewed from the public way or when determined by the fire code official, an approved illuminated complex directory, monument, pole, or other approved sign or means shall be used to identify the structures at the main entrances to the property.

*27. California Fire Code Section 505.1.4 is added to read as follows:*

**505.1.4 Installation, location and visibility of addresses.** All buildings shall have a permanently posted address, which shall be placed at each driveway entrance and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter, and the address shall be visible and legible from the road on which the address is located.

*28. California Fire Code 505.1.4.1 is added to read as follows:*

**505.1.4.1 Signs posted one-way roads.** Address signs along one-way roads shall be visible from both the intended direction of travel and the opposite direction.

*29. California Fire Code 505.1.4.2 is added to read as follows:*

**505.1.4.2 Multiple addresses.** Where multiple addresses are required at a single driveway, they shall be mounted on a single post.

Where a roadway provides access solely to a single commercial or industrial business, the address sign shall be placed at the nearest road intersection providing access to that site.

*30. California Fire Code Section 507.2.2 is amended to read as follows:*

**507.2.2 Water tanks.** Water tanks for private fire protection shall be installed in accordance with NFPA 22.

> **Exception:** For Group R-3 occupancies, equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3, and associated accessory structures up to 3,000 square feet in area, plastic water tanks up to 5,000 gallons in volume may be used. A flammable vegetation clearance of not less than twenty feet (20') shall be maintained around all poly-plastic or similar water tanks.

*31. California Fire Code Section 507.2.3 is added to read as follows:*

**507.2.3 Urban water system for one- and two-family dwellings, and accessory structures associated with one- and two-family dwellings**. If the water supply to the parcel is provided by a public or community water system (urban parcel - see Definitions) the emergency water supply for residential buildings shall consist of a permanent hydrant located on the road within two hundred fifty feet (250') of the driveway measured from where the driveway intersects with the public or private road. Distance measurements shall be determined by hose lay along the road, not horizontal distance.

*32. California Fire Code Section 507.2.4 is added to read as follows:*

**507.2.4 Non-urban water system.** If the water supply to the parcel is provided by a private water well (non-urban parcel - see Definitions) the fire code official is authorized to utilize NFPA 1142 or the *International Wildland-Urban Interface Code.*

> **Exception:** When authorized by the authority having jurisdiction, the emergency water supply requirements for one- and two-family dwellings, and accessory structures associated with one- and two-family dwellings, may be waived when sufficient evidence is proven that the Emergency Water Standards of Title 14 of the Natural Resources Code, Division 1.5, Article 4 have been met.

*33. California Fire Code Section 507.3 is amended to read as follows:*

**507.3 Fire flow.** Fire flow requirements for buildings or portions of buildings and facilities shall be determined by an approved method or Appendix B.

*34. California Fire Code Section 507.5.1.1 is amended to read as follows:*

**507.5.1.1 Hydrant for fire department connections.** Buildings equipped with a water-based fire protection system installed in accordance with Section 903 through 905 shall have a fire hydrant within 100 feet of the fire department connections, or as approved by the fire code official. *(Also see Section 912.2).*

*35. California Fire Code Section 507.5.1.2 is added to read as follows:*

**507.5.1.2 Other areas**. Fire hydrant systems shall be required where a public water system, regardless of type of ownership, provides water for human consumption to fifteen (15) or more service connections.

*36. California Fire Code Section 507.5.7 is added to read as follows:*

**507.5.7 Fire Hydrant size and outlets**. New commercial development and existing commercial development shall have a minimum of two 4.5 inch connections and one 2.5-inch connection unless otherwise approved by the fire code official.

*37. California Fire Code Section 510.1 Exception #1 is deleted.*

*38. California Fire Code Section 510.3 is amended to read as follows:*

**510.3 Permits Required.** Permits shall be required as set forth in in sections 105.6 and 105.7. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

## CHAPTER 9
## FIRE PROTECTION SYSTEMS

*39. California Fire Code, Section 902.1 is amended to add the following:*

**SUBSTANTIAL ADDITION**
**SUBSTANTIAL IMPROVEMENT** *(see California Building Code, Chapter 2)*
**SUBSTANTIAL REMODEL**

*40. California Fire Code Section 903.2 is amended to read as follows:*

**903.2 Where required.** Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in Sections 903.2.1 through 903.2.19. Approved automatic sprinkler systems in existing buildings and structures shall be provided in locations described in Section 903.6.

**Exceptions:**

1. Agricultural buildings as approved by the fire code official.
2. Detached accessory structures to Group R-3 not classified as a dwelling unit and not exceeding 3,000 square feet (928m$^2$) in gross floor area.
3. Detached non-combustible motor vehicle fuel dispensing canopies.

4. Detached group U occupancies not greater than 3,000 square feet (279m$^2$).
5. Special occupancy aircraft hangar shade structures as approved by the fire code official, unless required in NFPA409.

***41. California Fire Code Section 903.2.1 is amended to read as follows:***

**903.2.1 Group A.** An automatic sprinkler system shall be provided throughout buildings containing a Group A occupancy.

***42. California Fire Code Section 903.2.1.1 through 903.2.1.5 are deleted.***

***43. California Fire Code Section 903.2.1.6 is renumbered and amended to read as follows:***

**903.2.1.6 Assembly occupancies on roofs.** Where an occupied roof has an assembly occupancy with an occupant load exceeding 100 for Group A-2 and 300 for other Group A Occupancies, an automatic sprinkler system shall be provided throughout the building in accordance with Section 903.3.1.1 or 903.3.1.2.

***44. California Fire Code Section 903.2.1.7 is deleted.***

***45. California Fire Code Section 903.2.2 is amended to read as follows:***

**903.2.2 Ambulatory care facilities.** An automatic sprinkler system shall be installed throughout buildings containing an ambulatory care facility.

***46. California Fire Code Section 903.2.3 is amended to read as follows:***

**903.2.3 Group E.** An automatic sprinkler system shall be installed throughout buildings containing a Group E occupancy.

***47. California Fire Code Section 903.2.4 is amended to read as follows:***

**903.2.4 Group F.** An automatic sprinkler system shall be provided throughout buildings containing a Group F occupancy where gross floor area exceeds 1000 square feet (93m$^2$).

**Exceptions:**

1. Canopied winery crush pads less than 12,000 square feet in area, provided that all of the following conditions are met:
2. The canopy and supporting structure are constructed of non-combustible materials.
3. If attached, the crush pad is separated from other portions of the building by one-hour fire-resistive walls.
4. The crush pad is not used for storage of combustible materials.
5. The canopy and supporting structure is in incapable of trapping heat, smoke or other byproducts of combustion.
6. Dairy milking facilities less than 12,000 feet in area.

***48. California Fire Code Section 903.2.4.1 is deleted.***

***49. California Fire Code Section 903.2.5.3 is amended to read as follows:***

**903.2.5.3 Pyroxylin plastics.** An automatic sprinkler system shall be provided throughout buildings where cellulose nitrate film or pyroxylin plastics are manufactured, stored or handled in quantities exceeding 100 pounds (45 kg).

***50. California Fire Code, Section 903.2.6.2 is amended to read as follows:***

***Section 903.2.6.2 Group I-3.*** *Every building where inmates or persons are in custody or restrained shall be protected by an automatic sprinkler system conforming to NFPA 13. The main sprinkler control valve or valves and all other control valves in the system shall be locked in the open position and electronically supervised so that at least an audible and visible alarm will sound at a constantly attended location when valves are closed. The sprinkler branch piping serving cells may be embedded in the concrete construction.*

***51. California Fire Code Section 903.2.7 is amended to read as follows:***

**903.2.7 Group M.** An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy where gross floor area exceeds 1000 square feet ($93m^2$).

***52. California Fire Code Section 903.2.8.1 is amended to include the exception as follows:***

**903.2.8.1 Group R-3.** An automatic sprinkler system installed in accordance with Section 903.3.1.3 shall be provided throughout all one- and two-family dwellings regardless of square footage in accordance with the *California Residential Code*. Fire Sprinklers shall be installed in mobile homes, manufactured homes and multi-family manufactured homes with two or more dwelling units in accordance with *Title 25 of the California Code of Regulations.*

***53. California Fire Code Section 903.2.9 is amended to read as follows:***

**903.2.9 Group S.** An automatic sprinkler system shall be provided throughout all buildings containing a Group S occupancy where the gross floor area exceeds 1000 square feet ($93m^2$).

**Exceptions:**

1. Agricultural buildings as approved by the fire code official.
2. Detached accessory structures to Group R-3 not classified as a dwelling unit and not exceeding 3,000 square feet ($279m^2$) in gross floor area.
3. Special occupancy aircraft shade structures as approved by the fire code official, unless required in NFPA409.
4. Volunteer Fire Department vehicle storage barn not exceeding 3000 sqft ($279m^2$).

***54. California Fire Code Section 903.2.9.1 through 903.2.9.2 is deleted.***

***55. California Fire Code Section 903.2.10 is amended to read as follows:***

**903.2.10 Group B.** An automatic sprinkler system shall be provided throughout buildings containing a Group B occupancies where the gross floor area exceeds 1000 square feet ($93m^2$).

***56. California Fire Code Section 903.2.10.1 is deleted.***

***57. California Fire Code Section 903.2.11 is amended to read as follows:***

**903.11 Specific buildings areas and hazards.** In all occupancies other than detached Group U occupancies not greater than 3,000 square feet ($928m^2$), an automatic sprinkler system shall be installed for building design or hazard in the locations set forth in Sections 903.2.11.1

through 903.2.11.8.

***58. California Fire Code Section 903.2.11.3 exceptions #1 & #2 are deleted.***

***59. California Fire Code Section 903.2.11.7 is added to read as follows:***

**903.2.11.7 Undetermined use design.** Automatic sprinkler systems installed in buildings or structures of undetermined use shall be designed and installed to have a minimum density of .33 gallons per minute per square foot over a minimum design area of 3,000 square feet (2,784m$^2$).

***60. California Fire Code Section 903.2.11.8 is added to read as follows:***

**903.2.11.8 High-piled storage.** An automatic sprinkler system shall be provided throughout as required in Chapter 32 in all buildings where storage is in high-pile or rack storage arrays.

***61. California Fire Code Section 903.2.11.9 is added to read as follows:***

**903.2.11.9 Elevation of existing buildings.** An automatic fire extinguishing system shall be installed throughout all existing buildings when the building is elevated to three or more stories, or more than thirty-five feet (35') in height, from grade to the exposed roof.

**Exceptions:**

1. An automatic fire-extinguishing system need not be provided when the area above 35 feet (35') is provided for aesthetic purposes only and is a non-habitable space.
2. An automatic fire-extinguishing system need not be provided when existing single-family and two-family dwellings are elevated to comply with the requirements of Chapter 7B of the Sonoma County Code, provided that all of the following conditions are met:
    (a) The elevation creates a building no more than three stories in height.
    (b) Two approved exits that exit directly to the exterior and one exterior stair leading to the lowest level of fire department access are provided from the highest floor.
    (c) Approved interconnected smoke alarms are installed at each floor level and in all sleeping rooms, and hallways adjacent to sleeping rooms.
    (d) There is no expansion or modification of use other than installation of the exits required by subparagraph (b) above and a utility room less than 100 square feet. The space created at ground level by the elevation shall be used only as a private parking garage or as unused vacant space.
    (e) Any addition to the building after the elevation shall require installation of an automatic fire-extinguishing system.

***62. California Fire Code Section 903.4.2 is amended to read as follows:***

**903.4.2 Alarms.** *One exterior* approved audible and visual device, located on the exterior of the building in an approved location, shall be connected to each automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system

*63. California Fire Code Section 903.6 is amended to read as follows:*

**903.6 Where required in existing buildings and structures.** An automatic sprinkler systems shall be provided throughout existing buildings and structures where required in Sections 903.6.1 through 903.6.3.

*64. California Fire Code Section 903.6.1 is added to read as follows:*

**903.6.1 Substantial remodel.** An automatic sprinkler system shall be provided throughout all buildings that undergo a substantial remodel or substantial improvement.

**Exception:** Alterations made solely for the purpose of complying with the *American Disabilities Act.*

*65. California Fire Code Section 903.6.2 is added to read as follows:*

**903.6.2 Substantial addition.** An automatic sprinkler system shall be provided throughout all buildings that undergo a substantial addition per table 903.6.

*66. California Fire Code Section 903.6.3 is added to read as follows:*

**903.6.3 Substantial remodel and alteration.** An automatic sprinkler system shall be provided throughout all buildings that undergo any combination of substantial remodel, addition or both that exceeds allowable area set by table 903.6

*67. Table 903.6 is added to the California Fire Code, to read as follows:*

**TABLE 903.6**
**SUBSTANTIAL ADDITION, ALTERATION, AND REMODEL**

| Existing Gross Floor Area [d] | Allowable Gross Floor Area Increase |
|---|---|
| 0-1,000 sq ft | 200% [c] |
| 1,001-4,000 sq ft | 100% [a][c] |
| Greater than 4,000 sq ft | 50% [a][b][c] |

[a] A 2,000 sq ft. maximum of an increase is allowed.
[b] Maximum cumulative allowable gross floor area is 6,000 sq ft.
[c] Fire sprinklers are required when additions to Limited Density Owner-Built Rural Dwellings (as described in Sonoma County Code Chapter 7-A) exceed 640 sq ft in gross floor area.
[d] Remodels that are greater than 50% of the original gross floor area.

*68. California Fire Code Section 903.4.2 is amended to read as follows:*

**903.4.2 Alarms.** *One exterior* approved audible and visual device, located on the exterior of the building in an approved location, shall be connected to each automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.

*69. California Fire Code Section 904.12 is amended to read as follows:*

**904.12 Commercial cooking systems.** *Commercial cooking equipment that produce grease laden vapors shall be provided with a Type I Hood, in accordance with the California Mechanical Code, NFPA 96, and an automatic fire extinguishing system that is listed and labeled for its intended use as follows:*

1. *Wet chemical extinguishing system, complying with UL 300.*
2. *Carbon dioxide extinguishing system.*
3. *Automatic fire sprinkler systems.*

*All existing dry chemical and wet chemical extinguishing systems shall comply with UL 300.*

***Exception:*** *Public school kitchens, without deep-fat fryers, shall be upgraded to a UL 300 compliant system during state-funded modernization projects that are under the jurisdiction of the Division of the State Architect.*

*All systems shall be installed in accordance with the California Mechanical Code, NFPA 96, appropriate adopted standards, their listing and the manufactures' installation instructions.*

**Exception**: Factory-built commercial cooking recirculating systems that are tested, listed, labeled and installed in accordance with UL 710B and the *California Mechanical Code* and NFPA 96.

***70. California Fire Code Section 905.3.1 item #2 is amended to read as follows:***

**905.3.1 Height.** *In other than Group R-3 and R-3.1 occupancies,* Class III standpipe systems shall be installed throughout *at each floor where any of the following occur:*

1. *Buildings* where the floor level of the highest story is located more than 30 feet (9144 mm) above the lowest level of fire department vehicle access.
2. *Buildings that are three or more stories in height.*
3. *Buildings* where the floor level of the lowest story is located more than 30 feet (9144 mm) below the highest level of fire department access.
4. *Buildings that are two or more stories below the highest level of fire department vehicle access.*

**Exceptions:**

1. Class I standpipes are allowed in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.
2. Class I manual standpipes are allowed in open parking garages where the highest floor is located not more than 150 feet (45 720 mm) above the lowest level of fire department vehicle access.
3. Class I manual dry standpipes are allowed in open parking garages that are subject to freezing temperatures, provided that the hose connections are located as required for Class II standpipes in accordance with Section 905.5.
4. Class I standpipes are allowed in basements equipped throughout with an automatic sprinkler system.
5. In determining the lowest level of fire department vehicle access, it shall not be required to consider either of the following:

5.1. Recessed loading docks for four vehicles or less.
5.2. Conditions where topography makes access from the fire department vehicle to the building impractical or impossible.

*71. California Fire Code Section 905.9 exception #2 is deleted.*

*72. California Fire Code Section 912.2 is amended to read as follows:*

**912.2 Location.** With respect to hydrants, driveways, buildings and landscaping, fire department connections shall be so located that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus. The location of the fire department connections shall be within 100 feet of a fire hydrant or approved by the fire code official *(Also see Section 507.5.1.1).*

*73. California Fire Code Sections 914.12 through 914.12.2 are added to read as follows:*

**914.12 Type 3 winery caves.** Type 3 winery caves as defined in chapter 446 of the California Building Code shall comply with Sections 914.12.1 and 914.12.2.

**914.12.1 Fire alarms.** Manual Fire Alarm system shall be installed in existing Type 3 winery caves unless equipped with an automatic sprinkler system installed in accordance with 903.3.1.1 The fire alarm system shall activate the occupant notification system in accordance with 907.5 when the occupant load exceeds 100 or more.

**914.12.2 Automatic sprinkler system.** Automatic sprinkler system shall be installed in all new Type 3 winery caves when the occupant load exceeds 100 or more, or existing winery caves when a change of use is approved by the fire code official.

## CHAPTER 11
## CONSTRUCTION REQUIREMENTS FOR EXISTING BUILDINGS

*74. California Fire Code Section 1103.1 is amended to read as follows:*

**Section 1103.1 Required construction.** Existing buildings shall comply with not less than the minimum provisions specified in Table 1103.1 and as further enumerated in Sections 1103.2, 1103.6, 1103.7, 1103.8 through 1103.8.5.3, 1103.9, and 1103.10.

The provisions of this chapter shall not be constructed to allow the elimination of fire protection systems or a reduction in the level of fire safety provided in buildings constructed in accordance with previously adopted codes.

**Exceptions:**

1. Where a change in fire-resistance rating has been approved in accordance with Section 803.6 of the *California Existing Building Code.*
2. Group U occupancies.

*75. California Fire Code Sections 1103.2 Item #1 is deleted.*

*76. California Fire Code Sections 1103.3 through 1103.5.4 are deleted.*

*77. California Fire Code Sections 1104 and 1105 are deleted.*

## CHAPTER 31
## TENTS AND OTHER MEMBRANE STRUCTURES

***78. California Fire Code, Section 3102.1 is amended to amend and add the following:***

**MEMBRANE STRUCTURE**
**TENT**
**UMBRELLA STRUCTURE**

***79. California Fire Code Section 3101.1 is amended to read as follows:***

**3101.1 Scope.** Tents, umbrella structures, temporary stage canopies and membrane structures shall comply with this chapter. The provisions of Section 3103 are applicable only to temporary tents, umbrella structures, and membrane structures. The provisions of Section 3104 are applicable to temporary and permanent tents, umbrella structures, and membrane structures. Other temporary structures shall comply with the *California Building Code*.

*These building standards govern the use of tents, umbrella structures, awnings or other fabric enclosures, including membrane (air-supported and air-inflated) structures and places of assemblage, in or under which 10 or more persons may gather for any lawful purpose.*

***Exceptions:***

1. *Tents, umbrella structures, awnings or other fabric enclosures used to cover or enclose private swimming pools and similar facilities on the premises of private one- and two-family dwellings.*
2. *Tents used to conduct committal services on the grounds of a cemetery.*
3. *Tents, umbrella structures, awnings or other fabric enclosures erected and used within a sound stage, or other similar structural enclosure which is equipped with an overhead automatic sprinkler system.*
4. *Tensioned membrane roof materials supported by ridged frames or installed on a mast and cable system provided such structures conform to the requirements of one of the types of construction as described in these regulations.*
5. *Fabric structures which are part of mobile homes, recreational vehicles, or commercial coaches governed by the provisions of Division 13, Part 2, Health and Safety Code (Department of Housing and Community Development).*

## CHAPTER 33
## FIRE SAFETY DURING CONSTRUCTION

***80. California Fire Code Section 3314.3 is added to read as follows:***

**3314.3 Where required.** In buildings of combustible construction required to have automatic sprinkler system by Section 903, automatic sprinkler system shall be installed prior to construction exceeding 40 feet (12,192 mm) in height above the lowest level of fire department vehicle access. Such automatic sprinkler system shall be extended as construction progresses to within one floor of the highest point of construction having secured decking or flooring.

*81. California Fire Code Section 3314.4 is added to read as follows:*

**3314.4 Buildings being demolished.** Where a building is being demolished and an automatic sprinkler system is existing within such a building, such automatic sprinkler system shall be maintained in an operable condition so as to be available for use by the fire department. Such automatic sprinkler system shall be demolished with the building but shall not be demolished more than one floor below the floor being demolished.

## CHAPTER 49
## REQUIREMENTS FOR WILDLAND-URBAN INTERFACE FIRE AREAS

*82. California Fire Code 4903 is amended to add the following as follows:*

**4903.1 General.** A fire protection plan shall be required for any new residential or commercial building within a Very High Fire Severity Zone. The plan shall be prepared by a qualified professional and shall be approved by the fire code official. The plan shall include, at a minimum, defensible space zones, identification of vegetation types, replacement of non-native flammable vegetation with approved fire resistive vegetation, and a maintenance program for all vegetation. When required by the fire code official the property owner shall record a covenant, in a form satisfactory to the fire code official, which ensures that the approved plan will be implemented and maintained.

**4903.2 Content.** The fire protection plan shall be based upon a site-specific wildfire risk assessment that includes considerations of location, topography, aspect, flammable vegetation, climatic conditions and fire history. The plan shall address water supply, access, building ignition and fire-resistance factors, fire protection systems and equipment, defensible space and vegetation management.

**4903.3 Cost.** The cost of fire protection plan preparation and review shall be the responsibility of the applicant.

**4903.4 Plan retention.** A copy of the fire protection plan shall be retained by the property owner.

*83. California Fire Code 4905.4 is added to read as follows:*

**4905.4 Setbacks for structure defensible space.** Except where more restrictive requirements apply, construction, projections, openings and penetrations of exterior walls of buildings constructed on parcels within State Responsibility Areas (SRA) shall have setbacks to the property line and/or exterior wall protection according to table 4905.4 (a) or table 4905.4 (b). This is to meet the intent of California SRA Fire Safe Regulations Sec. 1276.01.

***84. California Fir Code Table 4905.4(a) and Table 4905.4(b) are added to read as follows:***

**Table 4905.4 (a)**
**Exterior Walls, within State Responsibility Area, without Automatic Fire Sprinkler Protection**

| Exterior Wall Element | | Minimum Fire-Resistance Rating | Minimum Fire Separation Distance |
|---|---|---|---|
| Walls | (Fire-resistance rated) | 1 hour-tested in accordance with ASTM E 119 or UL 263 with exposure *from* both sides | < 10feet |
| | (Not fire-resistance rated) | Comply with CRC Sec *R327.7 or CBC Sec 707A* | ≥ 10 feet |
| Projections | (Fire-resistance rated) | 1 hour on the underside | < 10 feet |
| | (Not fire-resistance rated) | Comply with CRC Section *R327.7 or CBC Section 707A*<br>Comply with Section *CRC Sec R327.9 or CBC Sec.709A* | 10 feet |
| Openings in walls | Not allowed | N/A | < 10 feet |
| | 25% maximum of wall area | Comply with Section *R327.8 or CBC Sec 708A* | >10 feet |
| | Unlimited | Comply with Section *R327.8 or CBC Sec 708A* | 20 feet |
| Penetrations | All | Comply with Section *R302.4 or CBC 714.3* | < 10 feet |
| | | Comply with Section *R327.6 or CBC 706A* | 10 feet |

For SI: 1 foot = 304.8 mm.
N/A = Not Applicable.

**Table 4905.4 (b)**
**Exterior Walls, within State Responsibility Area, with Automatic Residential Fire Sprinkler Protection**

| Exterior Wall Element | | Minimum Fire-Resistance Rating | Minimum Fire Separation Distance |
|---|---|---|---|
| Walls | (Fire-resistance rated) | 1 hour-tested in accordance with ASTM E 119 or UL 263 with exposure from both sides | < 10 feet |
| | (Not fire-resistance rated) | Comply with Section R327.7 or CBC Sec 707A | 10 feet |
| Projections | (Fire-resistance rated) | 1 hour on the underside | < 10 feet |
| | (Not fire-resistance rated) | Comply with Section R327.9 or CBC Sec.709A | 10 feet |
| Openings in walls | Not allowed | N/A | < 10 feet |
| | Unlimited | Comply with Section R327.8 or CBC Sec 708A | 10 feet |
| Penetrations | All | Comply with Section R302.4 or CBC 714.3 | < 10 feet |
| | | Comply with Section R327.6 or CBC 706A | 10 feet |

For SI: 1 foot = 304.8 mm.
N/A = Not Applicable.

## CHAPTER 56
## EXPLOSIVES AND FIREWORKS

*85. California Fire Code Section 5601.1.6 is added to read as follows:*

**5601.1.6 Sale, use or discharge of fireworks prohibited – exception.** Except for firework displays authorized pursuant to this section, it is unlawful for any person to possess, store, offer or expose for sale, sell at retail, give away or in any manner dispose of any fireworks, or to use, explode, or otherwise discharge any fireworks.

Any person or group desiring to perform a fireworks display shall first make written application for a permit to the fire code official. Application for a permit shall be made in writing at least twenty (20) days prior to the proposed display. The application shall be considered and acted upon by the fire code official or authorized designee pursuant to *Title 19, Chapter 6, Article 3 - Licenses of the California Code of Regulations*. Any permit for a fireworks display may be suspended or revoked at any time by the Fire code official or authorized designee.

## CHAPTER 61
## LP GASES

*86. California Fire Code Section 6103.3.1 is added to read as follows:*

**6103.3.1 Seismic anchoring.** An approved seismic anchoring system shall be installed on all permanently installed, propane/LPG gas containers.

## CHAPTER 80
## REFERENCED STANDARDS

*87. California Fire Code, Chapter 80, NFPA, 13D-16 is Amended Sections as follows:*

**Section. NFPA 13D-16 - Standard for the installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes; as amended***... 903.3.1.3, 903.3.5.1.1

***Revise Section 5.1.1.2 to read as follows:***

**5.1.1.2.** A supply of at least three sprinklers shall be maintained on the premises so that any sprinklers that have operated of been damaged in any way can be promptly replaced.

***Add Sections 5.1.1.2.1 as follows:***

**5.1.1.2.1.** The sprinklers shall correspond to the types and temperature ratings of the sprinklers in the property. The stock sprinklers shall include not less than one sprinkler of all types and ratings installed.

***Add Sections 5.1.1.2.2 as follows:***

**5.1.1.2.2.** The sprinklers shall be kept in a mounted and accessible cabinet located where the temperature to which they are subjected will at no time exceed the maximum ceiling temperatures specified in Table 5.1.1.6.1 for each of the sprinklers within the cabinet.

***Add Sections 5.1.1.2.4 as follows:***

**5.1.1.2.4.** One sprinkler wrench as specified by the sprinkler manufacture shall be provided in the cabinet for each type of sprinkler installed to be used for the removal and installation of sprinklers in the system.

***Revise Section 7.6 to read as follows:***
**7.6** A local water-flow alarm shall be provided on all sprinkler systems.

***Add Section 8.1.3.1.2.1 to read as follows:***
**8.1.2.1** Garages are permitted to be protected by residential sprinklers.

***Revise Section 8.3.4 to read as follows:***
**8.3.4** Sprinklers shall not be required in detached garages, open attached porches, detached carports, and similar structures unless otherwise required by the *California Building or Fire Codes*.

***Add Section 8.3.5.2 to read as follows:***
**3.5.2** At least one quick-response intermediate temperature residential sprinkler shall be installed above attic access openings.

***Revise Section 11.2.1.1 to read as follows:***
**11.2.1.1** Where a fire department pumper connection is not provided, the system shall be hydrostatically tested at not less than 200 psi without evidence of leakage.

***88. California Fire Code, Chapter 80, NFPA, 13R-16 is Amended Sections as follows:***
**Section 80.NFPA 13R-16 - Standard for the installation of Sprinkler Systems in Residential Occupancies up to and including Four Stories in Height, as amended*** ..... ..... 903.3.1.2, 903.3.5.1.1, 903.3.5.1.2, 903.4

***Add Section 8.3.5.2 to read as follows:***
**Section 80.NFPA.13R.6.6.6.1** At least one quick-response intermediate temperature residential sprinkler shall be installed within 5 feet and above attic access openings.

***89. California Fire Code, Chapter 80, NFPA, 72-16 is Amended Sections as follows:***
**Section 80.NFPA 72-16 – National Fire Alarm and Signaling Code, as amended*** ..... ..... 508.1.5, Table 901.6.1, 903.4.1, 904.3.5, 907.2, 907.2.6, 907.2.9.3, 907.2.11, 907.2.13.2, 907.3, 907.3.3, 907.3.4, 907.5.2.1.2, 907.5.2.2, 907.6, 907.6.1, 907.6.2, 907.6.5, 907.7, 907.7.1, 907.7.2, 907.8, 907.8.2, 907.8.5, 1101.1

***Add Section 14.7 to read as follows:***
**Section 80. NFPA.72.14.7** Labels and Tags
**Section 80. NFPA.72.14.7.1** Labels or tags shall be used on fire alarm systems and shall be placed on the outside of the fire alarm control unit.
**Section 80. NFPA.72.14.7.2** Tags shall be of the hanging or self-adhesive type used on fire alarm systems.
**Section 80. NFPA.72.14.7.3** The following information shall be printed on the labels and tags approved by the fire code official:

1. The words "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICAL"
2. Concern Name/Company Name
3. Concern Physical Address

4. Concern Phone Number
5. License Number (State of California Contractor State License Board License)
7. Date of service or testing and maintenance
8. Space or line for signature of person performing or supervising the servicing shall be placed on the tag or label

**Section 80. NFPA.72.14.7.4** When service or testing and maintenance is performed, the initial date of service or testing and maintenance, the printed name and signature of the person performing or supervising the service shall be placed on the tag or label.

**Section 80. NFPA.72.14.7.5** No person shall remove a tag or label from or place a tag or label on a fire alarm system except when servicing or testing and maintenance is performed.

**Section 80. NFPA.72.14.7.6** No person shall deface, modify, or alter any tag or label attached to or required to be attached to any fire alarm system.

**Section 80. NFPA.72.14.7.7** The Label or tag conforming to this section shall be securely attached to each fire alarm system at the time of servicing or testing and maintenance.

**Section 80. NFPA.72.14.7.8** The label or tag approved by the fire code official shall be affixed to a system only after all deficiencies have been corrected.

**Section 80. NFPA.72.14.7.9** Adhesive labels and tags shall be manufactured in accordance with ANSI/UL 969, Standard for Marking and Labeling Systems, 4th edition, 1995, which is hereby incorporated by reference.

## APPENDIX B
## FIRE-FLOW REQUIREMENTS FOR BUILDINGS

### *90. California Fire Code, Appendix B Table B105.1(1) is amended to read as follows:*

**TABLE 18-44.B105.1(1)**
**REQUIRED FIRE-FLOW FOR ONE- AND TWO-FAMILY DWELLINGS, GROUP R-3 AND R-4 BUILDINGS AND TOWNHOUSES**

| FIRE-FLOW CALCULATION AREA (square feet) | AUTOMATIC SPRINKLER SYSTEM (Design Standard) | MINIMUM FIRE-FLOW (gallons per minute) | FLOW DURATION (hours) |
|---|---|---|---|
| 0-3,600 | No automatic sprinkler system | 1,500 | 2 |
| 3,601 and greater | No automatic sprinkler system | Value in Table B105.1(2) | Duration in Table B105.1(2) at The required fire-flow rate |
| 0-3,600 | Section 903.3.1.3 of the *California Fire Code* or Section 313.3 of the *California Residential Code* | 1,500 | 2 |
| 3,601 and greater | Section 903.3.1.3 of the *California Fire Code* or Section 313.3 of the *California Residential Code* | ½ value in Table B105.1(2)[a] | Duration in Table B105.1(2) at The required fire-flow rate |

For SI: 1 square foot = 0.0929 m2, 1 gallon per minute = 3.785 L/m.
a. The reduced fire-flow shall be not less than 1,500 gallons per minute.

### *91. California Fire Code, Appendix B Table B105.2 is amended to read as follows:*

**TABLE 18-44.B105.2**
**REQUIRED FIRE-FLOW FOR BUILDINGS OTHER THAN ONE- AND TWO-FAMILY DWELLINGS, GROUP R-3 AND R-4 BUILDINGS AND TOWNHOUSES**

| AUTOMATIC SPRINKLER SYSTEM (Design Standard) | MINIMUM FIRE-FLOW (gallons per minute) | FLOW DURATION (hours) |
|---|---|---|
| No automatic sprinkler system | Value in Table B105.1(2) | Duration in Table B105.1(2) |
| Section 903.3.1.1 of the *California Fire Code* | 50% of the value in Table B105.1(2)[a] | Duration in Table B105.1(2) at the reduced flow rate |
| Section 903.3.1.2 of the *California Fire Code* | 50% of the value in Table B105.1(2)[a] | Duration in Table B105.1(2) at the reduced flow rate |

For SI: 1 gallon per minute = 3.785 L/m.
a. The reduced fire-flow shall be not less than 1,500 gallons per minute

## APPENDIX C
## FIRE HYDRANT LOCATIONS AND DISTIBUTION

***92. California Fire Code Section C101.1 is amended to read as follows:***

**C101.1 Scope.** In addition to the requirements of Section 507.5.1 of the *California Fire Code,* fire hydrants shall be provided in accordance with this appendix for the protection of buildings, or portions of buildings, hereafter constructed or moved into the jurisdiction. This section applies to residential and commercial developments. One- and two-family residential dwellings and buildings accessory to one- and two-family residential dwellings in rural areas may comply with the Sonoma County Fire Safe Standards.

***Exception:*** *[SFM] Group B, S-2 and U occupancies having a floor area not exceeding 1,000 square feet, primarily constructed of noncombustible exterior walls with wood or steel roof framing, having a Class A roof assembly, with uses limited to the following or similar uses:*

1. *California State Parks buildings of an accessory nature (restrooms).*
2. *Safety roadside rest areas (SRRA), public restrooms.*
3. *Truck inspection facilities (TIF), CHP office space, and vehicle inspection bays.*
4. *Sand/salt storage buildings, storage of sand and salt.*

***93. California Fire Code Section C103.1 is amended to read as follows:***

**Section C103.1 Hydrant spacing.** Fire apparatus access roads and public streets providing required access to buildings in accordance with Section 503 of the California Fire code shall be provided with one or more fire hydrants, as determined by Section C102.1. Where more than one fire hydrant is required, the distance between required fire hydrants shall be approved by the fire code official.

***94. California Fire Code Section C103.2 is deleted.***

***95. California Fire Code Section C103.3 is deleted.***

## APPENDIX D
## FIRE APPARATUS ACCESS ROADS

***96. California Fire Code Section D101.1 is amended to read as follows:***

**D101.1 Scope.** Fire apparatus access roads shall be in accordance with this Appendix as amended and all other applicable requirements of the *California Fire Code*. This section applies to residential and commercial developments.

**Exception:** One- and two-family residential dwellings; detached U occupancy buildings less than 1,000 square feet in area accessory to a one- or two-family dwelling; and agricultural exempt buildings less than 8,000 square feet in area may comply with the fire apparatus access road requirements of the Sonoma County Fire Safe Standards.

***97. California Fire Code Section D102.1 is amended to read as follows:***

**D102.1 Access and loading.** Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with an asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds or as approved by the fire code official.

**Exception:** One and two-family residential dwellings; detached U occupancy buildings less than 3000 square feet in area accessory to a one or two-family dwelling; and agricultural exempt buildings less than 8,000 square feet in area may comply with the fire apparatus access road requirements of the Sonoma County Fire Safe Standards.

*98. California Fire Code Appendix D Section D103.1 is deleted.*

*99. California Fire Code Appendix D Section D103.2 is amended to read as follows:*
**Section D103.2 Grade.** Fire apparatus access roads shall be in accordance with the Sonoma County Fire Safe Standards or as approved by the fire code official.

*100. California Fire Code Appendix D Section D103.3 is amended to read as follows:*
**Section D103.3 Turning radius.** The minimum turning radius shall be determined by Sonoma County Fire Safe Standards or as approved by the fire code official.

*101. California Fire Code Appendix D Section D103.4 is amended to read as follows:*
**Section D103.4 Dead ends.** Dead-end fire apparatus access roads in excess of 150 feet (45,720 mm) shall be provided with width and turnaround provisions in accordance with the Sonoma County Fire Safe Standards or as approved by the fire code official.

*102. California Fire Code Appendix D Table D103.4 is deleted.*

*103. California Fire Code Appendix D Section D103.6 is amended to read as follows:*
**Section D103.6 Signs.** Where required by the fire code official, fire apparatus access roads shall be marked with permanent NO PARKING-FIRE LANE signs complying with the California Vehicle Code.

*104. California Fire Code Appendix D Section D103.6.1 is deleted.*

*105. California Fire Code Appendix D Section D103.6.2 is deleted.*

*106. California Fire Code Appendix D Section D104.2 exception is deleted.*

*107. California Fire Code Appendix D Section D106.1 is amended to read and the exception deleted as follows:*
**D106.1 Projects having more than 50 dwelling units.** Multiple-family residential projects having more than 50 dwelling units shall be equipped throughout with two separate and approved fire apparatus access roads.

*108. California Fire Code Appendix D Section D106.2 is deleted.*

***109. California Fire Code Appendix D Section D107.1 is amended to read as follows:***

**D107.1 One- or two-family dwelling residential developments.**

Developments of one- or two-family dwellings where the number of dwelling units exceeds 50 shall be provided with two separate and approved fire access roads.

***110. California Fire Code Appendix D Section D107.1 exceptions #1 and #2 are deleted.***

**Article V. Chapter 13 of the Sonoma County Code as adopted by the County Board of Supervisors is added as reference:**

## Article V. Fire Safe Standards

### Division A. In General.

**Sec. 13-21. Findings.**

The Board of Supervisors makes the following findings pertaining to the conditions and requirements contained in this article:

(a) The conditions and requirements contained in this article are consistent with and in furtherance of the goals, objectives and policies of the public safety element of the general plan.

(b) The conditions and requirements contained in this article are necessary because the failure to adopt them would place residents and property within the unincorporated area of the county in a condition perilous to health or safety, or both.

(c) The conditions and requirements contained in this article are necessary to comply with the requirements of Public Resources Code section 4290 and California Code of Regulations, Title 14 Natural Resources Code, Division 1.5, Chapter 7, Subchapter 2 SRA Fire Safe Regulations.

(d) The conditions and requirements contained in this article are necessary because growth and development within the unincorporated area of the county has increased the potential for significant losses from wildland and structure fires and adversely impacted rural and wildland fire fighting resources.

(e) The conditions and requirements contained in this article are necessary because wildland fires are becoming an increasing threat to structures and loss of life, where in the past the only threat was to wildland resources.

(f) The conditions and requirements contained in this article are necessary because structure fires are escaping to the surrounding wildlands and destroying other structures as well as wildland resources.

(g) The conditions and requirements contained in this article are necessary because there are not enough firefighting resources available, even with mutual aid, to protect both wildland resources and the structures intermingled amongst such resources and it is financially infeasible to increase firefighting resources to the level necessary to provide such protection.

(h) The conditions and requirements contained in this article are necessary because they represent a cost effective alternative to increasing firefighting resources.

(i) The conditions and requirements contained in this article will ensure that all new development within the unincorporated area of the county will provide a basic level of fire

protection around itself making it easier and safer for firefighters to fight wildland and structure fires.

(j) The conditions and requirements contained in this article will not totally prevent losses from wildland and structure fires, but will reduce the severity of the losses that do occur through built-in fire protection and better fire response infrastructure.

(k) The conditions and requirements contained in this article will create an opportunity for firefighters to defend a structure from a threatening wildland fire and protect the wildlands from an escaping structure fire.

(l) The conditions and requirements contained in this article will increase the safety of firefighters protecting lives, structures and wildland resources.

**Sec. 13-22. Citation – Purpose.**

This article shall be known and may be cited as the "Sonoma County Fire Safe Standards" or the "Fire Safe Standards." This article is adopted for the purpose of establishing minimum fire safe standards for development within the unincorporated area of the county located in the State Responsibility Area subject to the provisions of California Code of Regulations Title 14, Division 1.5 and Local Responsibility when authorized by Sonoma County Fire Code as amended when not subject to other regulated building standards. Where a development subject to the provisions of this article cannot meet a specified standard, an exception to the standard may be applied for pursuant to Section 13-23. This article is not intended to restrict or otherwise limit the authority or discretion of the County to impose additional requirements when reviewing applications for development. Nothing in this article is intended to supersede more restrictive provisions of this Code and where another provision of this Code establishes a more stringent requirement, that requirement shall control.

**Sec. 13-23. Compliance with standards required– exceptions to standards.**

(a) All development subject to the provisions of this article shall be constructed and maintained in compliance with the standards specified in this article. Approvals and permits for any development may be withheld or refused until adequate provision has been made to ensure such compliance.

(b) Exceptions to the standards specified in this article and mitigated practices may be allowed where the exception or mitigated practice provides the same overall practical effect as the specified standards.

(c) Application for an exception or mitigated practice shall be made in writing by an applicant for development or the applicant's authorized representative. The application shall state the specific section or sections of this article for which an exception or mitigated practice is proposed, material facts supporting the contention of the applicant, the details of the exception or mitigated practice proposed, and a map showing the proposed location and setting of the exception or mitigated practice. The burden of proving that a proposed exception or mitigated practice is warranted shall be on the applicant.

(d) The county fire chief shall determine whether to grant, deny, or modify any application for an exception or mitigated practice filed in connection with the issuance of any building permit. The planning commission, board of zoning adjustments, project review and advisory committee, or design review committee shall determine whether to grant, deny, or modify any application for an exception or mitigated practice filed in connection with any development approval under their respective jurisdictions. Modification of an application for an exception or mitigated practice by the County fire chief, planning commission, board of zoning adjustments, project review and advisory committee, or design review committee shall be limited to the alternate fire protection measures specified in Section 13-62.

(e) Where an application for an exception or mitigated practice is denied or modified, the applicant may appeal such denial or modification. Appeal from a denial or modification by the County fire chief shall be made pursuant to Article III of this chapter. Appeal from a denial or modification by the planning commission, board of zoning adjustments, project review and advisory committee, or design review committee shall be made pursuant to Chapter 25 or Chapter 26 of this Code, as appropriate. In order to grant an appeal, the body hearing the appeal must find that the exception or mitigated practice proposed meets the intent of this article.

(f) A written copy of any decision granting an appeal within a State Responsibility Area shall be provided to the director of Forestry and Fire Protection within ten (10) days after the decision is final.

**Sec. 13-24. Scope of coverage.**

(a) Except as otherwise provided in Section 13-25, the provisions of this article shall apply to all development on all lands within the unincorporated area of the county.

(b) Except as otherwise provided in this article, all applications for development approvals shall be accompanied by plans, engineering calculations, and other data necessary to determine compliance with the provisions of this article.

(c) Except as otherwise provided in this article, compliance with the provisions of this article shall occur prior to the commencement of construction of any structure unless otherwise authorized by the County fire chief.

**Sec. 13-25. Exemptions.**

The provisions of this article shall not apply to any of the following, except to the extent provided for herein:

(a) Any building granted an agricultural exemption pursuant to Chapter 7 of this Code, provided that the building does not exceed 8,000 square feet in size and is not located in a State Responsibility Area.

(b) Any road or bridge used exclusively for access to an agricultural operation; or an agricultural exempt structure; or a Group U occupancy accessory to a one- or two-family residential dwelling, as defined in the County Building Code, that is under less than 1,000 square

feet in area.

(c) Any road or bridge used exclusively for the management and harvesting of wood products.

(d) Any new building having a floor area of less than six hundred forty (640) square feet and containing an occupancy other than a detached Group U occupancy as defined in the County Building Code, except that the provisions of Divisions C and E of this article shall apply to all such buildings.

(e) Any new building accessory to a one- or two-family residential dwelling with a floor area of less than one thousand (1,000) square feet and containing a detached Group U occupancy as defined in the County Building Code, except that the provisions of Divisions C and E of this article shall apply to all such buildings.

(f) Any existing road that provides year-round unobstructed access to conventional drive vehicles, including sedans and fire engines, which was constructed and serving a legal parcel prior to January 1, 1992, except that (1) the provisions of Division C of this article shall apply to all such roads, and (2) all of the other provisions of this article shall apply to any such road if it is extended, reconstructed or improved pursuant to a development approval, but only to the portion of the road that is extended, reconstructed or improved.

(g) Any road required as a condition of any development approval granted prior to January 1, 1992, except that (1) the provisions of Division C of this article shall apply to all such roads, and (2) all of the other provisions of this article shall apply to any such road if it is extended, reconstructed or improved pursuant to a new development approval, but only to the portion of the road that is extended, reconstructed or improved.

(h) Any driveway serving a legally constructed residential building prior to January 1, 1992, except that (1) the provisions of Division C of this article shall apply to all such roads, and (2) all of the other provisions of this article shall apply to any such driveway if it is extended, reconstructed or improved pursuant to a new development approval, but only to the portion of the driveway that is extended, reconstructed or improved.

(i) Any legal or legal non-conforming building constructed prior to January 1, 1992, or any building for which a building permit was issued or an application for a building permit was accepted as complete for filing prior to January 1, 1992; except that the provisions of this article shall apply to any such building if the occupancy is changed, altered, or otherwise converted to any Group R, Division 3 occupancy as defined in the County Building Code.

(j) Any addition to an existing building adding a floor area less than six hundred forty (640) square feet including a detached Group U occupancy as defined in the County Building Code, except that the provisions of Divisions C and E of this article shall apply to all such buildings.

**Sec. 13-26. Administration and enforcement – inspections.**

(a) The administration and enforcement of the provisions of this article shall be the shared responsibility of the County fire chief and the director of Permit and Resource Management.

(b) Inspections to determine compliance with the provisions of this article shall be the responsibility of the County fire chief or the director of Permit and Resource Management, as appropriate. The County fire chief or the director of Permit and Resource Management may authorize a local fire chief to conduct inspections within a local fire protection district under the direction of the County fire chief or the director of Permit and Resource Management. In such cases, inspection results shall be provided to the County fire chief or the director of Permit and Resource Management promptly after completion of the inspection.

**Sec. 13-27. Distance measurements.**

All distances specified or referenced in this article shall be measured horizontally unless otherwise stated.

## Division B. Emergency Access.

**Sec. 13-28. Intent.**

This division establishes minimum emergency access requirements to provide safe access for emergency fire equipment and civilian evacuation concurrently, and to allow unobstructed traffic circulation during a wildfire emergency.

**Sec. 13-29. Availability of emergency access.**

All buildings shall be accessible to emergency fire equipment by a road or driveway constructed to within one hundred fifty (150) feet of any portion of an exterior wall of the first story of the building or such closer distance as the director of Permit and Resource Management deems necessary to provide adequate access for emergency fire equipment.

**Sec. 13-30. Road and driveway surfaces.**

All roads and driveways shall have all-weather driving surfaces. All structural sections shall be constructed so as to a minimum of 75,000 pounds or exceed the following standards:

(a) On level areas and grades of less than five percent (5%), roads and driveways shall have a gravel surface. The structural section of the road or driveway shall be at least one foot (1') of compacted Class 2 Aggregate Base.

(b) On grades of between five percent (5%) and ten percent (10%), roads and driveways shall have a double seal coat surface. The structural section of the road or driveway shall have an armor coat surface, constructed according to CalTrans Standard Specifications Section 37, Bituminous Seal Double Application, and the base portion of the road or driveway shall be at least one foot (1') of compacted Class 2 Aggregate Base.

(c) On grades of greater than ten percent (10%), roads and driveways shall have an asphalt concrete surface. The structural section of the road or driveway shall be asphalt concrete of at least two tenths of a foot (0.2') thick. The base portion of the structural section shall be at least five tenths of a foot (0.5') of compacted Class 2 Aggregate Base.

(d) In lieu of the prescriptive structural sections required by subsections (a), (b) and (c), a design of the section may be prepared by a licensed civil engineer using a soils investigation that provides soil R-value and expansion index. Alternatively, the engineer may use an R-value of 5 and waive the soil report unless a soil engineering report is required because of specific site conditions. The traffic index to be used for the design shall be not less than 3.5.

**Sec. 13-31. Road and driveway grades.**

(a) No road or driveway shall have a maximum grade in excess of fifteen percent (15%), without the approval of the county fire chief. In granting such approval, the County fire chief may require such additional fire protection measures under Section 13-63 as he or she deems necessary to mitigate access constraints. A road or driveway may include grades up to twenty percent (20%) for distances not exceeding three hundred feet (300') within any one thousand feet (1,000') of road or driveway unless sufficient grade reductions are provided to allow for vehicle cool down period.

(b) A vertical curve shall be required for any road or driveway when the algebraic difference in grade exceeds three percent (3%) for driveways, and two percent (2%) for private roads. The length of any vertical curve shall not be less than fifty feet (50').

(c) The maximum surface cross slope shall be five percent (5%) for all surface types unless a greater cross slope is required to meet super elevation requirements. The minimum surface cross slope for all surface types shall be two percent (2%).

(d) Turnarounds shall have a maximum longitudinal slope of eight percent (8%). The longitudinal slope is defined as the slope corresponding to the long axis of a vehicle as it travels into, out of, and through a turnaround. This slope shall be maintained beginning and ending at the point of tangency of the edge of pavement curves for the turnaround. The cross slope perpendicular to the longitudinal slope shall not exceed five percent (5%).

(e) Fire apparatus cool down areas shall have a minimum width of twenty-two feet wide (22'-0") thirty feet (30') long with a minimum taper of twenty-five feet (25') on each end. The length of the turnout shall be measured along the roadway or driveway centerline. cool down area shall be provided with minimum curves set in section 13-32 and shall be located on a maximum grade not exceeding five percent (5%)

**Sec. 13-32. Road and driveway horizontal curves and intersections.**

(a) No road or driveway shall have a horizontal inside radius of curvature of less than fifty feet (50'). If the roadway or driveway width is less than twenty-four feet (24'), then additional roadway or driveway widths shall be required as follows:

(1) Four feet (4') of additional width for curves with a horizontal inside radius

of fifty feet (50') to one hundred feet (100') and a central angle greater than forty-five (45°) degrees; and

(2) Two feet (2') of additional width for curves with a horizontal inside radius of one hundred feet (100') to two hundred feet (200') and a central angle greater than forty-five (45°) degrees.

The road shall have the full width widening beginning at the point of tangency of the curve requiring the widening to the end point of tangency of that curve or subsequent curves requiring widening (if reverse curves are used). A five-to-one (5:1) taper shall be used to transition from the base width into and out of the widened width.

(b) Unless otherwise approved by the County fire chief, where a private road, with a throat width equal to or greater than eighteen feet (18') as measured thirty feet (30') from the edge of pavement, intersects a public road, the edge of pavement radius shall begin with a line a minimum of twelve feet (12') from and parallel to the physical centerline of the public road and a minimum radius of twenty-five feet (25') shall be provided from this point to the point of tangency with the edge of pavement of the private road. A taper of not less than ten-to-one (10:1) shall be provided along the public road when the public road is less than twenty-four feet (24') wide.

(c) Where a private road, with a throat width measuring equal to or greater than twelve feet (12') and less than eighteen feet (18') or a driveway with a throat width equal to or greater than ten feet (10') as measured thirty feet (30') from the edge of pavement, intersects a public or private road, the edge of pavement radius shall begin with a line a minimum of twelve feet (12') from and parallel to the physical centerline of the public or private road and a minimum radius of twenty-five feet (25') shall be provided from this point to the point of tangency with the edge of pavement of the private road or driveway. A taper of not less than ten-to-one (10:1) shall be provided along the public or private road when the public or private road is less than twenty-four feet (24') wide. In lieu of a ten-to-one (10:1) taper connecting private road or driveway to private road only, a radius of forty feet (40') may be used.

(d) Where a driveway, with a throat width measuring equal to or greater than ten feet (10') and less than eighteen feet (18') as measured thirty feet (30') from the edge of pavement, intersects a private road, the edge of pavement shall be a minimum radius of forty feet (40'). Any driveway with a throat width greater than eighteen feet (18'), as measured thirty feet (30') from the edge of the pavement, that intersects a private road, shall comply with the private road/public road requirements set forth in subsection (b) of this section.

(e) Road and driveway horizontal curves and intersections may be reduced when proven by scientific method of a recognized vehicle modeling program. The method shall be performed based on the length, width, wheel base and turning radius of a standard Type 1 Fire Apparatus.

(f) Turnouts shall not be located in a horizontal curve unless additional width is provided. Width shall exceed the minimums set in subsection (a) in addition to the minimum width of the required turnout.

**Sec. 13-33. Roadway and driveway structures (bridges).**

(a) All roadway and driveway structures shall be designed, constructed, and maintained in accordance with applicable sections of the County Building Code, the Standard Specifications for Highway Bridges, and any administrative regulations adopted pursuant to Section 13-2, and shall have a minimum designed live-load capacity of HB-17. All roadway and driveway structures shall be constructed pursuant to a valid building permit. All roadway and driveway structures shall be inspected according to the administrative and inspection provisions of the County Building Code.

(b) All roadway and driveway structures shall have appropriate signing identifying structure capability, including weight and vertical clearance limits, installation and certification date and any one-way road or single traffic lane conditions.

(c) All roadway bridges having only one traffic lane shall be constructed to provide a minimum unobstructed width of twelve feet (12') shall provide for unobstructed visibility from one end to the other and shall have turnouts at both ends.

(d) All driveway structures shall be constructed to provide a minimum of one (1) twelve-foot (12') traffic lane and an unobstructed vertical clearance of fifteen feet (15') along the entire length of the driveway structure. Any driveway structure with a minimum unobstructed width of twelve feet (12') shall not exceed sixty-five feet (65') in length.

(e) Any road or driveway structure required to have a turnaround may have either a hammerhead/T, a stub out, or terminus bulb. All turnarounds shall have a minimum turning radius of forty feet (40'), bulbs shall be forty feet (40') from the center point of the bulb, hammerhead/T and stub out shall have entry and exit curves of no less than a forty-foot (40') radius. If a hammerhead/T is used, the top of the "T" shall be a minimum of sixty feet (60') in length. If a stub is used, then the length of the turnaround shall be forty feet (40'), as measured from the roadway or driveway edge. The minimum width of either a hammerhead/T or a stub out shall be equivalent to the roadway or driveway entering the turnaround.

(f) Any road or driveway structure required to have a turnout, shall have a turnout that is a minimum of twenty-two feet (22') wide, including the roadway and the turnout, and thirty feet (30') long with a minimum taper of twenty-five feet (25') on each end. The length of the turnout shall be measured along the roadway or driveway centerline.

**Sec. 13-34. Two-way roads.**

(a) In addition to meeting the applicable standards in the preceding sections, all two-way roads shall have a right-of-way of not less than twenty-five (25') and shall be constructed to provide a roadway with a minimum of two (10) ten-foot traffic lanes providing two-way traffic flow. When permitted in a subdivision's conditions of approval and approved by the appropriate county departments, as identified in the subdivision's conditions of approval, the subdivision may have a two-way road of not less than twelve feet (12') with two foot (2') Shoulders on each side and turnouts and turnarounds. Spacing of the turnarounds and turnouts shall be as set forth in the subdivision's conditions of approval. If the subdivision's conditions of approval do not set forth spacing requirements, then turnarounds shall be at a minimum interval of one thousand three hundred and twenty feet (1,320'). Turnouts shall be a minimum of three hundred feet (300')

(b) Any road or driveway structure required to have a turnaround may have either a hammerhead/T, a stub out, or terminus bulb. All turnarounds shall have a minimum turning radius of forty feet (40') bulbs shall be forty feet (40') from the center point of the bulb, hammerhead/T and stub out shall have entry and exit curves of no less than a forty-foot (40') radius. If a hammerhead/T is used, the top of the "T" shall be a minimum of sixty feet (60') in length. If a stub is used, then the length of the turnaround shall be forty feet (40'), as measured from the roadway or driveway edge. The minimum width of either a hammerhead/T or a stub out shall be equivalent to the roadway or driveway entering the turnaround.

(c) Any road or driveway structure required to have a turnout shall have a turnout that is a minimum of twenty-two feet (22') wide, including the roadway and the turnout and thirty feet (30') long with a minimum taper of twenty-five feet (25') on each end. The length of the turnout shall be measured along the roadway or driveway centerline.

**Sec. 13-35. One-way roads.**

In addition to meeting the applicable standards in the preceding sections, all one-way roads shall comply with the following requirements:

(a) All one-way roads shall have a right-of-way of not less than twenty-five feet (25') and shall be constructed to provide a roadway with a minimum of one (1) twelve-foot (12') traffic lane and 1 foot (1') shoulders on each side providing one-way traffic flow.

(b) All one-way roads shall connect to a two-way road at both ends, and shall provide access to an area zoned for no more than ten (10) dwelling units.

(c) All one-way roads exceeding five hundred feet (500') in length shall have a turnout constructed at approximately the midpoint of the road. Any one-way road exceeding one thousand feet (1,000') in length shall also have turnouts constructed approximately every five hundred feet (500') along the entire length of the road.

(d) No one-way road shall exceed two thousand six hundred forty feet (2,640') in length.

(e) Any road or driveway structure required to have a turnout, shall have a turnout that is a minimum of twenty-two feet (22') wide, including the roadway and the turnout and thirty feet (30') long with a minimum taper of twenty-five feet (25') on each end. The length of the turnout shall be measured along the roadway or driveway centerline.

**Sec. 13-36. Dead-end roads.**

In addition to meeting the applicable standards in the preceding sections, all dead-end roads shall comply with the following requirements:

(a) All dead-end roads shall have a maximum length, including any dead-end roads accessed from the original dead-end road, not exceeding the following cumulative lengths regardless of the number of parcels served:

(1) Parcels zoned for less than one (1) acre - eight hundred feet (800');

(2) Parcels zoned for 1 acre to 4.99 acres - one thousand three hundred twenty feet (1,320');

(3) Parcels zoned for 5 acres to 19.99 acres - two thousand six hundred forty feet (2,640'); and

(4) Parcels zoned for 20 acres or larger - five thousand two hundred eighty feet (5,280').

All lengths shall be measured from the edge of the roadway at the intersection that begins the dead-end road to the farthest point on the dead-end road. Where a dead-end road crosses areas of differently zoned parcels, requiring different length limits, the average size of the parcels served shall determine the maximum allowable length of the road.

(b) All dead-end roads serving parcels five (5) acres or larger shall have turnarounds constructed approximately every one thousand three hundred twenty feet (1,320') along the entire length of the road.

(c) All dead-end roads shall have a turnaround constructed at the terminus of the road. Any road or driveway structure required to have a turnaround may have either a hammerhead/T, a stub out, or terminus bulb. All turnarounds shall have a minimum turning radius of forty feet (bulbs shall be forty feet (40') from the center point of the bulb, hammerhead/T and stub out shall have entry and exit curves of no less than a forty-foot (40') radius. If a hammerhead/T is used, the top-of the "T" shall be a minimum of sixty feet (60') in length. If a stub is used, then the length of the turnaround shall be forty feet (40'), as measured from the roadway or driveway edge. The minimum width of either a hammerhead/T or a stub out shall be equivalent to the roadway or driveway entering the turnaround.

**Sec. 13-37. Driveways.**

In addition to meeting the applicable standards in the preceding sections, all driveways shall comply with the following requirements:

(a) All driveways shall be constructed to provide a minimum of one (1) twelve-foot (12') traffic lane and an unobstructed vertical clearance of fifteen feet (15') along the entire length of the driveway.

(b) All driveways exceeding one hundred fifty feet (150') in length shall have a turnout constructed at approximately the midpoint of the driveway. Any driveway exceeding eight hundred feet (800') in length shall have turnouts constructed approximately every four hundred feet (400') along the entire length of the driveway. Driveways required to have a turnout, shall have a turnout that is a minimum of twenty-two feet (22') wide, including the roadway and the turnout and thirty feet (30') long with a minimum taper of twenty-five feet (25') on each end. The length of the turnout shall be measured along the roadway or driveway centerline.

(c) All driveways exceeding one hundred fifty feet (150') in length shall have a turnaround constructed within fifty feet (50') of the residential building served by the driveway. Any driveway longer than 1320 feet shall have additional turnarounds located at intervals no less than 1320 feet unless approved by the county fire chief. Parking shall not be allowed in the approved turnaround location

(d) Any road or driveway structure required to have a turnaround may have either a hammerhead/T, a stub out, or terminus bulb. All turnarounds shall have a minimum turning radius of forty feet (bulbs shall be forty feet (40') from the center point of the bulb, hammerhead/T and stub out shall have entry and exit curves of no less than a forty-foot (40') radius. If a hammerhead/T is used, the top of the "T" shall be a minimum of sixty feet (60') in length. If a stub is used, then the length of the turnaround shall be forty feet (40'), as measured from the roadway or driveway edge. The minimum width of either a hammerhead/T or a stub out shall be equivalent to the roadway or driveway entering the turnaround.

**Sec. 13-38. Gate entrances.**

(a) All gate entrances and similar structures shall be at least two feet (2') wider than the width of the traffic lane(s) serving the gate or structure.

(b) All gates providing access from a public road to a private road or private driveway shall be located at least thirty feet (30') from the roadway and shall open to allow a vehicle to stop without obstructing traffic on the roadway.

(c) Where a gated entrance is locked, a lock box or other emergency release device approved by the County fire chief shall be provided for emergency access.

## Division C. Signing and Building Numbering.

**Sec. 13-39. Intent.**

This division establishes minimum signing and building numbering requirements to facilitate locating a fire and to avoid delays in response.

**Sec. 13-40. Names of roads.**

(a) All roads serving more than two (2) parcels shall be identified by a road name.

(b) All public roads requiring a road name shall be approved by the Board of Supervisors pursuant to procedures established by resolution or ordinance of the Board of Supervisors. Any public road having a road name may be renamed using the procedures for naming a public road.

(c) All private roads requiring a road name shall be named by the director of Permit and Resource Management or Sonoma County Fire pursuant to procedures established by resolution or ordinance of the Board of Supervisors. Any private road having a road name may be renamed using the procedures for naming a private road.

(d) When naming or renaming any road, the Board of Supervisors or the director of Permit and Resource Management, as the case may be, shall use the following standards:

(1) Road names shall not be greater than eighteen (18) characters in length, exclusive of road digits and suffixes.

(2) Road names shall have simple spelling and easy pronunciation.

(3) Road names shall be compatible with road and street names in cities and other counties where appropriate.

(4) Road names shall not duplicate or cause confusion with existing road names. Road names shall be deemed to be duplicates if they have different suffixes, but are otherwise the same.

(5) Road names that are numbers or letters shall be avoided.

(6) Road names that are geographically misleading shall be avoided.

(7) Road names that are inappropriate or offensive shall be prohibited.

(8) A road having a continuous alignment shall bear the same name.

(9) Road extensions shall bear the same name as the existing road.

(10) Roads or portions of roads to be connected in the future into a continuous alignment shall bear the same name.

(11) Roads intersecting one another, or forming a deflection angle of greater than ninety (90) degrees shall generally have different names.

(12) A cul-de-sac road may bear the same name as the road it intersects, provided that the suffix is court or place.

(13) No road shall be named such that it will intersect itself or create an intersection with a road having a duplicate name.

(14) Any other standards established by resolution or ordinance of the Board of Supervisors.

(15) All road names shall be approved by the area 911 coordinator and local Fire Chief within 10 days of notification.

**Sec. 13-41. Size of letters, numbers and symbols for road signs.**

All letters, numbers and symbols designating names on road signs shall be according to county road standards.

**Sec. 13-42. Visibility and legibility of road signs.**

All road signs shall be visible and legible from both directions of vehicle travel for a distance of at least one hundred feet (100'). All road signs shall indicate the road name and whether the road is public or private in each direction of vehicle travel in conformance with county road standards.

**Sec. 13-43. Orientation and height of road signs.**

All road signs shall have an orientation and height in conformance with county road standards.

**Sec. 13-44. Placement of road signs identifying intersecting roads.**

All road signs identifying intersecting roads shall be placed at the intersection of such roads.

**Sec. 13-45. Signs identifying traffic access limitations.**

All road signs identifying traffic access or flow limitations, including but not limited to, weight or vertical clearance limits, dead-end roads, one-way roads or single traffic lane conditions, shall be placed as follows:

(a) At the intersection preceding the traffic access limitation; and

(b) No more than one hundred feet (100') before such traffic access limitation.

**Sec. 13-46. Addresses for buildings.**

All buildings shall be identified by an address issued by the director of Permit and Resource Management. When issuing addresses, the director of Permit and Resource Management shall use the following standards:

(a) Addresses shall be compatible with addresses in cities and other counties where appropriate.

(b) Addresses shall be assigned to reflect the road from which the primary driveway originates.

(c) Addresses shall be issued in sequential order and have even numbers on one side of the road and odd on the other. In general, the even numbers shall be on the north and east sides of roads and/or on the right when facing in the direction of increasing magnitude. Existing addresses for roads requiring a road name change that do not conform to the provisions of this subsection may be accepted if the sequence is in logical order and the addresses are approved by the director of Permit and Resource Management and the County fire chief.

(d) All buildings other than accessory buildings shall be assigned separate addresses.

Individual units within residential and commercial buildings may be assigned subsidiary numbers or letters (e.g., apartment 10; suite A). Where possible individual units in multiple story buildings shall be assigned numbering sequences that identify the floor by the leading digit(s).

(e) Any other standards adopted by resolution or ordinance of the Board of Supervisors or by administrative regulation of the director of Permit and Resource Management.

**Sec. 13-47. Size of letters, numbers and symbols for addresses.**

(a) **Numbers for one- and two- family dwellings.** Numbers for one- and two-family dwellings shall be a minimum of four inches (4") high with a minimum stroke width of 0.5 inches (0.5"). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole, or other sign or means shall be used to identify the structure.

(b) **Numbers for other than one- and two- family dwellings.** Numbers for other than one- and two- family dwellings shall be a minimum of 12 inches (12") high with a minimum stroke width of one inch (1"). Suite numbers for other than one- and two-family dwellings shall be a minimum of six inches (6") high and 0.5 inches (0.5") stroke.

**Exceptions:**

1. These requirements may be modified with the approval of the fire code official.

2. Illuminated address numbers are not required for existing buildings where approved; reflective numbers are to be installed.

**Sec. 13-48. Installation, location and visibility of addresses.**

(a) All buildings shall have a permanently posted address, which shall be placed on building and shall be plainly visible and legible from the road on which the address is located or the primary driveway. The numbers shall contrast with their background.

(b) All buildings shall have a permanently posted address, which shall be placed at each driveway entrance and shall be visible and legible from both directions of travel along the road on which the address is located.

**Exception:** An approved internally lighted building address device may be used when such building address device is located on the building and the building is located within thirty feet (30' of the edge of the road on which the address is located.

(c) All address signs along one-way roads shall be visible from both the intended direction of travel and the opposite direction.

(d) Where multiple addresses are required at a single driveway, such addresses shall be mounted on a single approved post.

(e) Where a road provides access solely to a commercial building, the address sign shall be placed at the nearest road intersection providing access to the site.

## Division D. Emergency Water Supply.

### Sec. 13-50. Intent.

This division establishes minimum emergency water supply requirements to ensure a supply of water to attack a fire or defend property from a fire.

### Sec. 13-51. Emergency water supply.

(a) All buildings shall have a permanent emergency water supply approved by the County fire chief, which shall be installed, maintained and available for use as follows:

(1) Except as otherwise provided in subsection (a)(3), where water is provided by a public water system, the permanent emergency water supply shall be installed and available for use prior to the completion of road construction;

(2) Except as otherwise provided in subsection (a)(3), where water is provided by a water system other than a public water system, the permanent emergency water supply shall be installed and available for use prior to the commencement of construction of any permanent structure;

(3) When authorized by the County fire chief, an interim emergency water supply acceptable to the County fire chief may be substituted for the permanent emergency water supply provided the permanent emergency water supply is installed and available for use prior to issuance of an occupancy permit or final inspection;

(4) When authorized by the County fire chief and local fire chief, the emergency water supply requirements may be waived when sufficient evidence is proven the intent to Title 14 of the Natural Resources Code, Division 1.5, Article 4 - Emergency Water Standards have been met.

(b) If the water supply to the parcel is provided by a public or community water system (urban parcel - see Definitions) the emergency water supply for residential buildings shall consist of a permanent hydrant located on the road within two hundred fifty feet (250') of the driveway or Appendix C of the California Fire Code measured from where the driveway intersects with the public or private road. Distance measurements shall be determined by hose lay along the road, not horizontal distance.

(c) If the water supply to the parcel is provided by a private water well (non-urban parcel - see Definitions) an emergency water storage of not less than two thousand five hundred (2,500) gallon capacity shall be provided. A single two-thousand five-hundred (2,500) gallon tank may serve more than one building on the same parcel, provided all hydrants are located in accordance with Section 13-52. When multiple tanks are utilized to achieve the required volume of water, the connection between the tanks shall be an approved minimum four-inch (4")

diameter water line.

(d) Water tanks for emergency water supply placed inside the minimum setback requirement of Section 13-55 shall be constructed of non-combustible material. A flammable vegetation clearance of not less than twenty feet (20') shall be maintained around all poly-plastic or similar water tanks.

(e) All permanent emergency water supplies for commercial buildings shall meet the requirements of the California Fire Code if the building is served by a public water system or NFPA 1142, "Standard on Water Supplies for Suburban and Rural Fire Fighting" if the building is served by a water system other than a public water system.

**Sec. 13-52. Hydrants.**

(a) All buildings shall be protected by hydrants. The location, number, and type of hydrants for any building shall be as required and approved by the County fire chief or the director of Permit and Resource Management.

(b) All hydrants for non-urban parcels shall comply with the following requirements:

(1) Hydrant outlets shall be a minimum of eighteen inches (18") and a maximum of twenty-four inches (24") above grade, eight feet (8') from flammable vegetation, no closer than six feet (6') nor farther than twelve feet (12') from the edge of the road or driveway, and in a location where emergency fire equipment using it will not block the roadway. The hydrant serving any residential building shall be located at a turnout or turnaround, along the driveway to the building, or along the road that intersects with the driveway. The hydrant serving any residential building shall be connected to the emergency water supply by an approved minimum four-inch (4") diameter water line.

(2) All hydrants shall be located between sixty feet (60') and one hundred fifty feet (150') from the residential building. The fire hydrant shall be installed so that a fire engine utilizing the hydrant may maintain a minimum distance of sixty feet (60') from the residential building. Distance measurements shall be determined by hose lay along a road or driveway, not horizontal distance.

**Exceptions:**

1. The distance to the hydrant, on a non-urban parcel with exclusively residential buildings on it, may exceed one hundred fifty feet (150') by one hundred fifty feet (150') for each additional five hundred (500) gallons of water storage capacity up to a maximum of two thousand five hundred and fifty feet (2,550') from the residential building as allowed by Table 13-52a.

a. All hydrants shall have at least one (1) two and one-half inch (2½") outlet with male National Hose Threads and a cap. On water systems of greater than ten thousand five hundred (10,500) gallons, there shall also be at least one (1) four and one-

half inch (4½") outlet with male National Hose Threads and a four and one half inch (4½") by two and one half inch (2½") reducer with a cap.

b. All hydrants shall be a wet barrel hydrant or a draft hydrant as required by the delivery system and shall have suitable crash protection. The maximum height differential between the water source and the draft hydrant outlet shall be 10 feet (10'). Draft hydrants shall be supplied by six inch (6") minimum pipe size, and be equipped with a four and one-half inch (4½") National Hose male thread fitting with a cap.

c. Crash protection shall be per California Fire Code, Chapter Three, Section 312.

2. A public fire hydrant can be used for the emergency water supply as allowed by Table 13-52b, for non-urban parcels with exclusively residential buildings on them.

**Table 13-52a[1]**
**Distance to hydrants based on volume of storage**
**Distance is from structure to hydrant**
**Gallons of Storage/Distance to Hydrant**

| | |
|---|---|
| 2,500/150' | 7,000/1,500' |
| 3,000/300' | 7,500/1,650' |
| 3,500/450' | 8,000/1,800' |
| 4,000/600' | 8,500/1,950' |
| 4,500/750' | 9,000/2,100' |
| 5,000/900' | 9,500/2,250' |
| 5,500/1,050' | 10,000/2,400' |
| 6,000/1,200' | 10,500/2,550' |
| 6,500/1,350' | |

**Note:**
[1]This table applies only to parcels that have exclusively residential buildings on them.

**Table 13-52b (1)**
**Exception to hydrant distance (2)**
**Distance is measured from driveway entrance to the public hydrant**

| Road Distance | Flow Rate | Minimum Residual Pressure |
|---|---|---|
| 1 Mile | 500 GPM | 20 PSI |
| 1.5 Miles (3) | 1,000 GPM | 20 PSI |
| 1.75 Miles (3) | 1,500 GPM | 20 PSI |
| 2 Miles (3) | 2,000 GPM | 20 PSI |
| 3 Miles (3) | 2,500 GPM | 20 PSI |

**Notes:**
(1) This table applies only to parcels that have exclusively residential buildings on them.
(2) Distances within these ranges can be prorated based on volume of flow available.
(3) This Distance can be used when a letter is on file from the local fire chief and the department has a minimum of one 500 gym water tender in inventory

**Sec. 13-53. Signing of water sources.**

Each hydrant or access to water for any residential or commercial building shall be identified as follows:

(a) If located along a driveway, a reflective blue marker, with a minimum dimension of three inches (3"), shall be located on the driveway address sign and mounted on a fire retardant post; or

(b) If located along a road either of the following is acceptable:

(1) A reflective blue marker, with a minimum dimension of three inches (3"), shall be mounted on a fire retardant post. The sign post shall be within three feet (3') of the hydrant, with the sign no less than three feet (3') nor greater than five feet (5') above ground, aimed toward headlights, in a horizontal position and visible from the driveway, or

(2) As specified in the State Fire Marshal's Guidelines for Fire Hydrant Markings Along State Highways and Freeways, May 1988.

**Division E. Fuel Modification.**

**Sec. 13-54. Intent.**

This division establishes minimum fuel modification requirements to reduce the possibility and intensity of a wildfire, to provide increased safety for emergency fire equipment, personnel and evacuating civilians, and to provide a point of attack against or defense from a wildfire.

**Sec. 13-55. Setback for building defensible space.**

(a) On parcels less than one (1) acre, all buildings shall have a setback from any property line or the centerline of any road of not less than the applicable minimum setbacks specified in Chapter 26 of the County Building Code.

(b) On parcels one (1) acre or larger Located in the State Responsibility Area, all new buildings and accessory buildings shall have setbacks to the property line and/or exterior wall protection according to Table 13-55(a) and Table 13-55(b).

**Table 13-55 (a)**
**Exterior walls, within State Responsibility Area,**
**without automatic fire sprinkler protection**

| Exterior Wall Element | | Minimum Fire-Resistance Rating | Minimum Fire Separation Distance |
|---|---|---|---|
| Walls | (Fire-resistance rated) | 1 hour-tested in accordance with ASTM E 119 or UL 263 with exposure from both sides | < 10feet |
| | (Not fire-resistance rated) | Comply with CRC Sec R327.7 or CBC Sec 707A | ≥ 10 feet |
| Projections | (Fire-resistance rated) | 1 hour on the underside | < 10 feet |
| | (Not fire-resistance rated) | Comply with CRC Section R327.7 or CBC Section 707A<br>Comply with Section CRC Sec R327.9 or CBC Sec.709A | 10 feet |
| Openings in walls | Not allowed | N/A | < 10 feet |
| | 25% maximum of wall area | Comply with Section R327.8 or CBC Sec 708A | >10 feet |
| | Unlimited | Comply with Section R327.8 or CBC Sec 708A | 20 feet |
| Penetrations | All | Comply with Section R302.4 or CBC 714.3 | < 10 feet |
| | | Comply with Section R327.6 or CBC 706A | 10 feet |

For SI: 1 foot = 304.8 mm.
N/A = Not Applicable.

**Table 4905.4 (B)**
**Exterior Walls, Within State Responsibility Area,**
**With Automatic Fire Sprinkler Protection**

| Exterior Wall Element | | Minimum Fire-Resistance Rating | Minimum Fire Separation Distance |
|---|---|---|---|
| Walls | (Fire-resistance rated) | 1 hour-tested in accordance with ASTM E 119 or UL 263 with exposure from both sides | < 10 feet |
| | (Not fire-resistance rated) | Comply with Section R327.7 or CBC Sec 707A | 10 feet |
| Projections | (Fire-resistance rated) | 1 hour on the underside | < 10 feet |
| | (Not fire-resistance rated) | Comply with Section R327.9 or CBC Sec.709A | 10 feet |
| Openings in walls | Not allowed | N/A | < 10 feet |
| | Unlimited | Comply with Section R327.8 or CBC Sec 708A | 10 feet |
| Penetrations | All | Comply with Section R302.4 or CBC 714.3 | < 10 feet |
| | | Comply with Section R327.6 or CBC 706A | 10 feet |

For SI: 1 foot = 304.8 mm.
N/A = Not Applicable.

**Sec. 13-56. Flammable vegetation clearance areas for roads and driveways.**

All roads and driveways shall have a flammable vegetation clearance area on each side of the road or driveway of not less than ten feet (10') unless otherwise authorized by the director of Permit and Resource Management.

**Sec. 13-57. Setbacks for planted vegetation from electric power lines – installation of new power lines.**

All electric utility companies shall make every reasonable effort to select routes and types of conductors that minimize the risk of fire when installing new overhead electric utilities.

**Sec. 13-58. Disposal of flammable vegetation and fuels.**

All disposal, including chipping, burying, burning or removal to a landfill site, of flammable vegetation and fuels caused by site development and construction, road and driveway construction, or fuel modification shall be completed prior to completion of road or driveway construction, or foundation inspection for a building permit, whichever occurs first.

**Sec. 13-59. Greenbelts.**

Any development which designates a facility or land use as a greenbelt shall locate the greenbelt strategically, as a separation between wildland fuels and buildings. The director of Permit and Resource Management shall approve the location of any greenbelt.

**Sec. 13-59.5. Defensible Space.**

(a) A Fire Protection Plan shall be required for any new residential or commercial building within a State Responsibility Area (SRA) located in a Very High Severity Zone. The plan shall be prepared by a qualified professional and shall be approved by the County fire chief. The plan shall include, at a minimum, defensible space zones, identification of vegetation types, replacement of non-native flammable vegetation with approved fire-resistive vegetation, and a maintenance program for all vegetation. When required by the Code official, the property owner shall record a covenant, in a form satisfactory to County Counsel, which ensures that the approved plan will be implemented and maintained.

(b) The fire protection plan shall be based upon a site-specific wildfire risk assessment that includes considerations of location, topography, aspect, flammable vegetation, climatic conditions and fire history. The plan shall address water supply, access, building ignition and fire-resistance factors, fire protection systems and equipment, defensible space and vegetation management.

(c) A copy of the fire protection plan shall be retained by the property owner.

(d) The cost of fire protection plan preparation and review shall be the responsibility of the applicant. All existing buildings shall meet the requirements of Public Resources Code (PRC 4291) for defensible space.

(e) All existing buildings shall meet the requirements of the California Fire Code, Chapter 49, Section 4906 and 4907.

**Sec. 13-60. Roofing.**

All structures regulated by the County Building Code shall have roof coverings that comply with the requirements of Chapter 7 of this Code.

## Division F. Other Fire Protection Measures.

**Sec. 13-61. Intent.**

This division establishes alternate fire protection measures for use in place of standards

specified in this article which cannot be met and additional fire protection measures to mitigate parcel specific fire protection problems.

**Sec. 13-62. Alternate fire protection measures.**

When authorized, pursuant to Section 13-23, any of the following alternate fire protection measures may be used as exceptions to the standards specified in this article or as mitigated practices:

a) Increased emergency water supply requirements;

b) Installation of a sprinkler system that meets the requirements of the National Fire Protection Association and includes protection of eaves where not required by code;

c) Increased flammable vegetation clearance areas for buildings;

d) Increased flammable vegetation clearance areas for roads and driveways;

e) Use of fire-resistive vegetation;

f) Installation of fire-resistive exterior siding;

g) Use of fire-resistive deck and eave construction;

h) Construction of additional turnouts and turnarounds;

i) Creation of areas of safe refuge;

j) Installation of a centrally monitored fire alarm system;

k) Provision of a secondary means of ingress and egress to the parcel.

l) Increased width and surface for emergency vehicle access.

**Sec. 13-63. Additional fire protection measures.**

When the County fire chief determines that access constraints, hazard severity or topography and terrain adversely affect the ability of emergency fire equipment and personnel to respond to an emergency on a parcel, the County fire chief may require additional fire protection measures as follows:

(a) Where conditions delay, limit or prohibit access by emergency fire equipment and personnel to a parcel, the County fire chief may require any of the following fire protection measures in addition to the other standards specified in this article:

(1) Increased emergency water supply;

(2) Installation of an automatic sprinkler system that meets the requirements of the National Fire Codes and local regulations where not required by code;

(3) Increased flammable vegetation clearance areas for buildings;

(4) Use of fire-resistive vegetation;

(5) Use of fire-resistive deck and eave construction;

(6) Installation of fire-resistive exterior siding;

(7) Installation of a centrally monitored fire alarm system;

(8) Creation of areas of safe refuge;

(9) Vegetation management plan.

(b) Where a parcel is located within a very high fire hazard severity zone as defined by the California Department of Forestry and Fire Protection, the County fire chief may require any of the following fire protection measures in addition to the other standards specified in this article:

(1) Any of the fire protection measures specified in subsection (a);

(2) Construction of additional turnouts and turnarounds;

(3) Provision of a secondary means of ingress and egress to the parcel;

(4) Vegetation management plan.

(c) Where features of topography or terrain create conditions on a parcel which the County fire chief determines warrant additional fire protection measures, the County fire chief may consider the parcel to be an area of high or very high fire hazard severity and require any of the fire protection measures specified in subsection (b) in addition to the other standards specified in this article.

**Article VI. Chapter 13 of the Sonoma County Code as adopted by the County Board of Supervisors is added as reference:**

## Article VI. Fireworks.

**Sec. 13-66. Sale, use or discharge of fireworks prohibited--Exception.**

(a) Except for public displays of fireworks authorized pursuant to this section, it is unlawful for any person to possess, store, offer or expose for sale, sell at retail, give away or in any manner dispose of any fireworks, or to use, explode, or otherwise discharge any fireworks within the unincorporated area of the county.

(b) Any person or group desiring to perform a public display of fireworks within the unincorporated area of the county shall first make written application for a permit to the local fire chief, if the display is to be held within a local fire protection district, or the County fire chief, if the display is to be held within a portion of the unincorporated area of the county not in a local fire protection district. Application for a permit shall be made in writing at least twenty (20) days prior to the proposed display. The application shall be considered and acted upon by the local fire chief or County fire chief, as appropriate, pursuant to Title 19 of the California Code of Regulations. Any permit for a public display of fireworks may be suspended or revoked at any time by the local fire chief or the County fire chief, as appropriate. (Ord. No. 5373 § 2, 2002: Ord. No. 4905 § 1, 1995.)

**NOTE:** The sale of fireworks within the City limits of the City of Cotati are prohibited by the City of Cotati Municipal Code.

**Article VII. Chapter 13 of the Sonoma County Code as adopted by the County Board of Supervisors is added as reference:**

## Article VII. Open Burning.

### Sec. 13-71. Burning permits required.

It is unlawful for any person to undertake or authorize the undertaking of any open burning within the unincorporated area of the county at any time between May 1st and the date the director of Forestry and Fire Protection declares, by proclamation, that the hazardous fire conditions have abated for that year or at any other time when the director of Forestry and Fire Protection has declared, by proclamation, that unusual fire hazard conditions exist within the region wherein the County is located without first obtaining a written burning permit as follows:

(a) Within those portions of the unincorporated area of the county in a fire protection district, burning permits shall be obtained from the fire protection district.

(b) Within those portions of the unincorporated area of the county in a State Responsibility Area, burning permits shall be obtained from the California Department of Forestry and Fire Protection or, if the location of the open burning is also in a fire protection district and the district is authorized by the California Department of Forestry and Fire Protection to issue such permits, from the fire protection district.

(c) Within those portions of the unincorporated area of the county not in a fire protection district or State Responsibility Area, burning permits shall be obtained from North Bay Area Management or Bay Area Air Management District or the California Department of Forestry and Fire Protection.

(d) If the County fire chief determines that conditions of high fire hazard exist within any or all of the unincorporated area of the county, the County fire chief may suspend the issuance of any burning permit authorized by this section or stay the effect of any such permit already issued or both for such period as the County fire chief deems necessary, not to exceed one hundred fifty (150) days. The County fire chief shall notify the Board of Supervisors of any such suspension or stay by memorandum within twenty-four (24) hours following its commencement. (Ord. No. 5373 § 2, 2002: Ord. No. 4905 § 1, 1995.)

### Sec. 13-72. Hours and days for burning.

All burning permits issued pursuant to this article shall restrict open burning to the hours and days specified by the air pollution control district having jurisdiction. (Ord. No. 5373 § 2, 2002: Ord. No. 4905 § 1, 1995.)

### Sec. 13-73. Burning of land of another.

No burning permit shall be issued pursuant to this article for open burning by the applicant upon land owned by another person unless the applicant has the written consent of the owner, lessee or other person in charge or control of the land on which the open burning is to be

done. (Ord. No. 5373 § 2, 2002: Ord. No. 4905 § 1, 1995.)

**Sec. 13-74. Effect of article on fire protection districts and state responsibilities.**

Nothing in this article shall be construed as preventing any fire protection district within the county from adopting an ordinance or ordinances regulating burning containing more restrictive regulations, nor shall anything herein be construed as limiting or releasing the state or the California Department of Forestry and Fire Protection of any responsibility for fire prevention and suppression under the laws of this state. (Ord. No. 5373 § 2, 2002: Ord. No. 4905 § 1, 1995.)

**Sec. 13-75. Effect of issuance of permit.**

The issuance of any burning permit pursuant to this article shall not be deemed to be a waiver of noncompliance within or authorize violation of any zoning or other law whatsoever or constitute a sanction of or permit for any public or private nuisance. (Ord. No. 5373 § 2, 2002: Ord. No. 4905 § 1, 1995.)

**Sec. 13-76. Burning to be under supervision of responsible person.**

All burning for which a permit is required pursuant to this article shall be done under the direction and constant surveillance of a responsible person. (Ord. No. 5373 § 2, 2002: Ord. No. 4905 § 1, 1995.)

portions of the county are within the Alquist-Priolo Special Studies Zones. While systems have been developed to study and monitor the activity of earthquakes, science has not yet been able to predict (with reliability) the potential for activity on active faults. Seismic activity within the county occurs yearly with little or no damage although the very real potential for damage exists with the active faults within the county. While new construction may be limited by their respective distances to faults, existing structures and replacement of these structures present a serious problem.

The mixture of developed and undeveloped areas within the county creates hazardous conditions when a storm of gale force winds causes trees to fall onto roadways used for access by emergency fire equipment and personnel. In addition, flooding occurs in certain areas of the county during heavy winter storms limiting or eliminating access for emergency fire equipment and personnel.

Landslides have been experienced in various areas of the county. While stabilization can sometimes be provided, heavy winter storms cause failures. These failures have closed roadways within the county making access for emergency fire equipment and personnel impossible until properly cleared.

3. Sonoma County has topographical conditions which are closely associated with the geological and geographic characteristics noted above. The topographical conditions are the result of the design and construction of development within the county based on elevation changes in the county as well as the hills, canyons, lakes and streams which exist in the county.

The sources of water within the County are directly affected by its topographical layout. The water sources consist of on-site water storage tanks, lakes, pools, wells, mutual water systems, and the Sonoma County Water Agency distribution network. Water supplies within the county vary from less than ten (10) gallons per minute to flows in excess of four thousand (4,000) gallons per minute. This wide variation causes major problems to development as well as fire suppression forces.

The roadway system through most of the county is designed around the topographical lay of the land and consists in many cases of narrow, winding roads, steep grades, and overhanging tree branches. The grades on roadway surfaces sometimes exceed 25% and widths of less than twelve feet (12') are not uncommon.

The topographical conditions also make construction more restricted to the level and semi-level portions of the county, with high concentrations of building within these areas. The exposure created by these structures poses a significant problem. For practical and cost reasons, these structures are built of wood (Type V) construction. The potential of conflagration exists with the high buildout of certain areas in the county. The concentrated commercial, industrial, and residential occupancies in these areas cause concern when considering the "exposure" of building-to-building and building-to-grassland areas of the county.

The topographical nature of the county also lends itself to power failures caused when fallen trees and limbs tear out sections of electrical transmission lines which run throughout the County. These power failures cause electrical pumps to become inactive and, thus, water supplies are interrupted. Vehicular accidents also have been known to interrupt this

pumping operation. Due to the narrow roads which are congested with residents and visitors alike, this situation occurs more than could be normally expected.

4. The preceding findings identify the local climatic, geological, and topographical conditions which the Board has considered in adopting this ordinance. The Board finds that these conditions make the modifications or changes to the requirements published in the California Building Standards Code contained herein reasonably necessary. This Board further finds that it has amended the 2016 California Fire Code to assist in mitigating such conditions.

**SECTION 11-2.** Except as added, revised, amended or deleted herein, the remaining provisions of this code, as previously adopted shall remain in full force and effect.

**SECTION 11-3.** The provisions of this Code shall not be construed as imposing upon the Fire Protection District any liability or responsibility for damages to persons or property resulting from defective work, nor shall the Fire Protection District, or any official, employee or agent thereof, be held as assuming any such liability or responsibility by reason of the review or inspection authorized by the provisions of this Code of any permits or certifications issued under this Code.

**SECTION 11-4.** The Board of Directors finds and determines that this ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the State CEQA Guidelines as it can be seen with certainty that there is no possibility that this ordinance may have a significant effect on the environment. This finding and determination is based on the environmental determination of the

**SECTION 11-5.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**SECTION 11-6.** This ordinance shall be and the same is hereby declared to be in full force and effect on January 1, 2017. The ordinance shall be published once before the expiration of fifteen (15) days after its passage, with the names of the Directors voting for or against the same, in a newspaper of general circulation published and circulated in the County of Sonoma.

**SECTION 11-7.** This ordinance shall be and the same is hereby declared to be in full force and effect on January 1, 2017. The ordinance shall be published once before the expiration of fifteen (15) days after its passage, with the names of the Directors voting for or against the same, in a newspaper of general circulation published and circulated in the County of Sonoma.

Motion moved by Hemmendinger to adopt the resolution as amended and seconded by Karraker.

Motion Carried: Aye 6 No 0 Abstain 0 Absent 1

Roll Call:
Mr. Proteau – aye
Mr. Griffith – aye
Mr. Karraker – aye
Mr. Dunne – absent
Mr. Rippin – aye
Mr. Hemmendinger – aye
Mrs. Grube - aye

WHEREUPON, the Chair declared the above and foregoing ordinance duly adopted and

SO ORDERED.

Chair, Board of Directors
Rancho Adobe Fire Protection District

ATTEST:

Jennifer Ober
Clerk of the Board of Directors

**IT IS SO ORDERED**

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 25**
(This Section for use by Clerk of the Board Only.)

**To:** Sonoma County Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** General Services

**Staff Name and Phone Number:**

Tammy Curtis: 707-565-1791

**Supervisorial District(s):**

**Title:** Chemical Toilet Rental and Sewage Pumping

**Recommended Actions:**

Authorize the Purchasing Agent to issue a Blanket Purchase Order with United Site Services for 1 year for an estimated cost of $160,000, with the option to extend the Blanket Purchase Order for four additional 1 year terms.

**Executive Summary:**

General Services Purchasing is requesting the Board of Supervisors to authorize Purchasing Agent to approve a Blanket Purchase Order for portable chemical toilets and sewage pumping. Portable restrooms are used at multiple Sonoma County Park sites, as well as for Transportation and Public Works Road Crews, Water Agency Crews, and Probation Department. Additionally, septic tanks are pumped from multiple county park locations.

**Discussion:**

Multiple county departments use portable restrooms to facilitate work crews who do not have access to restrooms. Regional parks rents portable restrooms for county parks without restrooms. Additionally, multiple sites with restrooms have septic tanks requiring sewage pumping. The total estimated amount for the portable restroom rentals and sewage pumping is $160,000. On September 27, 2016 General Services Purchasing Division solicited invitations to bid via the County Supplier Portal. Invitations to bid were sent to five (5) local vendors. United Site Services was the only bid responder, and the bid was deemed to be responsive.

**Prior Board Actions:**

No prior board actions

**Strategic Plan Alignment** Goal 1: Safe, Healthy, and Caring Community

Providing portable restrooms for use in parks and keeping the sewage pumped, as well as pumping septic tanks keeps our public use areas safe from sewage bacteria which could otherwise lead to health issues.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | 160,000 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **160,000** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | 160,000 | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **160,000** | | |

**Narrative Explanation of Fiscal Impacts:**

Appropriations for this blanket purchase order are included in the various departments' budgets utilizing these services. Cost is subject to each department's respective use of this service contractor, which are accessed on an as needed basis. Total county expenditures for FY 15/16 was $159,966.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

None

**Attachments:**

Attachment 1: United Site Services BPO QB170026

**Related Items "On File" with the Clerk of the Board:**

# CONTRACT

**Dispatch via Print**

| Contract ID | | | Page |
|---|---|---|---|
| QB170026 | | | 1 of 2 |
| **Contract Dates** | **Currency** | **Rate Type** | **Rate Date** |
| 01/01/2017 to 12/31/2017 | USD | CRRNT | PO Date |
| **Description:** | | **Contract Maximum** | |
| Sanitation Services | | 0.00 | |
| **Allow Multicurrency PO** | | | |

**COUNTY OF SONOMA**
GENERAL SERVICES PURCHASING
2300 COUNTY CENTER DRIVE
STE A208
SANTA ROSA CA 95403
USA

**Vendor ID** 0000002275

UNITED SITE SERVICES
3408 HILLCAP AVE
SAN JOSE CA 95136
USA

Tax Exempt? N Tax Exempt ID:

COMMODITY/ SERVICE: Chemical Toilet Rental, Sewage pumping. Purchases of items considered to be fixed assets are prohibited under this agreement. BPO # QB170026.

AUTHORIZED DEPT/DIV: All County Departments

AGREEMENT PERIOD: This BPO agreement is effective from January 1, 2017 through December 31, 2017, and is subject to cancellation, at the County's option, thirty (30) days after receipt of written notification. The County reserves the right to extend this BPO agreement for four additional one (1) year periods. The County will exercise its option(s) to annually extend this BPO agreement automatically. It is the vendor's responsibility to contact Sonoma County Purchasing in writing within thirty (30) days of the annual renewal period should the vendor elect NOT to extend this BPO agreement.

ORDERING: Only the County Departments/Divisions listed above may place orders through this BPO. If you require a schedule of departmental employees authorized to place orders, please contact the individual County Departments directly. Invoices must be submitted to the ordering department and shall reference this BPO number and any departmental ordering number.

PRICES, TERMS & CONDITIONS: Pricing is listed on attached price sheet. The County does not agree to purchase any maximum or minimum amounts under this BPO. Vendor agrees to bill each department once monthly.

DAMAGED UNITS: Per the terms of the Bid, the County will not be liable for damages to any unit while at our facilities. Note: Damage Waiver is optional per department authorization.

AUDITING INVOICES: It is the responsibility of each authorized department to carefully review their invoices to verify that prices charged by the supplier agree with prices as set forth in this BPO.

REPORTING REQUIREMENTS: Upon Request, the vendor shall provide the County of Sonoma Purchasing Division with an activity report, reflecting the following: 1) Department name and location, 2) Total expenditures per department. 3) Unit (items) ordered, including quantities

F.O.B.: Destination.

Attachments: Rate Sheet

**Contract Categories:**

| Line # | Category Desc | Maximum Amount |
|---|---|---|

Final = The price is final after adjustments
Hard = Apply adjustments regardless of other adjustments
Skip = Skip adjustments if any other adjustments have been applied

**Authorized Signature**

# CONTRACT

**Dispatch via Print**

| Contract ID | | | Page |
|---|---|---|---|
| QB170026 | | | 2 of 2 |
| **Contract Dates** | **Currency** | **Rate Type** | **Rate Date** |
| 01/01/2017 to 12/31/2017 | USD | CRRNT | PO Date |
| **Description:** | | **Contract Maximum** | |
| Sanitation Services | | 0.00 | |
| **Allow Multicurrency PO** | | | |

**COUNTY OF SONOMA**
GENERAL SERVICES PURCHASING
2300 COUNTY CENTER DRIVE
STE A208
SANTA ROSA CA 95403
USA

**Vendor ID** 0000002275

UNITED SITE SERVICES
3408 HILLCAP AVE
SAN JOSE CA 95136
USA

Tax Exempt? N Tax Exempt ID:

**Contract Categories:**

| Line # | Category Desc | Maximum Amount |
|---|---|---|
| 1 | Portable Toilet Rental | |

Final = The price is final after adjustments
Hard = Apply adjustments regardless of other adjustments
Skip = Skip adjustments if any other adjustments have been applied

**Authorized Signature**

Linda Rulloway

# Rate Sheet

## Event Bid # 397 Chemical Toilets and Sewage Pumping

| | Daily Rate | Weekly Rate | Monthly Rate | |
|---|---|---|---|---|
| **Basic Unit:** | $30 | | | |
| Serviced once a week | | $40 | $60 | |
| Serviced twice per week | | $53 | $110 | |
| Serviced three times per week | | $65 | $160 | |
| Serviced daily (7X's per week) | | $1,150 | $385 | |
| TOTALS | $30 | $1,308 | $715 | |
| | Daily Rate | Weekly Rate | Monthly Rate | |
| BASIC UNIT W/HAND WASHING UNIT: | $40 | | | |
| Serviced once a week | | $45 | $65 | |
| Serviced twice per week | | $58 | $115 | |
| Serviced three times per week | | $70 | $165 | |
| Serviced daily (7X's per week) | | $120 | $390 | |
| TOTALS | $40 | $293 | $735 | |
| | Daily Rate | Weekly Rate | Monthly Rate | |
| ADA WHEEL CHAIR ACCESSIBLE UNIT: | $50 | | | |
| Serviced once a week | | $50 | $80 | |
| Serviced twice per week | | $63 | $132 | |
| Serviced three times per week | | $75 | $180 | |
| Serviced daily (7X's per week) | | $125 | $405 | |
| TOTALS | $50 | $313 | $797 | |
| Delivery Charge | $20 | | | |
| Pick-up Charge: | $20 | | | PER ORDER/LOCATION |
| Describe and specify any costs not listed above: | | | | |
| $40.00 1ST UNIT, $10.00 EACH ADDITIONAL UNIT PER ORDER | | | | |
| SEPTIC PUMPING: | minimum | $175 | | |
| Cost per gallon: | 0.29 | | | |
| EMERGENCY SERVICE | 125.00 | | | |
| Specify any additional charges for Emergency services | | | | |
| SAME DAY DELIVERY | $125 | | | |
| | Daily | Weekly | Monthly | |
| Damage Waiver Insurance: (Optional for Departments) | | | | |
| Basic Unit: | 8.00 | | | PER UNIT |
| Basic Unit W/Hand Washing Unit | 8.00 | | | PER UNIT |
| ADA Wheel Chair Accessible Unit: | 10.00 | | | PER UNIT |

2 STATION SINK - SAME RATES AS "BASIC STD UNIT ABOVE"
EXCHANGE DAMAGED UNITS $25.00
CUSTOMER OWNED UNITS $15.00 PER WEEK

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 26**
(This Section for use by Clerk of the Board Only.)

**To:** Sonoma County Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** General Services

**Staff Name and Phone Number:**

Tammy Curtis: 707-565-1791

**Supervisorial District(s):**

**Title:** Auto Body and Collision Repair

**Recommended Actions:**

Authorize the Purchasing Agent to approve a Blanket Purchase Order with three auto body contractors: Marquis Auto Body is $117,000, $75,000 for Western Auto Body and $38,000 for Carreras Auto Body, for 1 year with the option to extend the Blanket Purchase Order for three additional 1 year terms.

**Executive Summary:**

General Services Purchasing is requesting the Board of Supervisors to authorize the Purchasing Agent to approve 3 Blanket Purchase Orders for auto body and collision repair on all County Vehicles. Currently, three vendors service the County Fleet and Water Agency vehicles to complete body work and collision repair on all County vehicles.

**Discussion:**

General Service Fleet division coordinates repair and bills each department directly for the cost of repair. Sonoma County Water Agency coordinates repairs for all Water Agency fleet vehicles. On 9/30/16 General Services Purchasing solicited Sealed open market bids via Sonoma County Supplier Portal from ten (10) local service providers. We received 4 bid responses, however only three (3) complete responses from Marquis Auto Body, Western Auto Body, Carreras Auto Body. The incomplete response came from Dibbles Auto Body who signed up, reviewed but did not return any required paperwork. I contacted the vendor who stated she did not read the bid and was unaware that she needed to complete a price sheet for the bid. Based upon the need for multiple service providers, the County reserved the right to award to multiple service providers. The annual estimated usage for the FY 16/17 are: Marquis Auto Body is $117,000, $75,000 for Western Auto Body and $38,000 for Carreras Auto Body.

**Prior Board Actions:**

No Prior Board Actions

| **Strategic Plan Alignment** | Goal 1: Safe, Healthy, and Caring Community |
|---|---|

Collision repair allows for safe vehicles to be driven on the roadways.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | 230,000 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **230,000** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | 230,000 | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **230,000** | | |

**Narrative Explanation of Fiscal Impacts:**

The Fleet Division of General Services provides oversight to vehicle repair services, with costs being billed to the department using the vehicle.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Attachment 1: Carreras Auto Body BPO QB 170023
Attachment 2: Western Auto Body BPO QB 170024
Attachment 3: Marquis Auto Body BPO QB 170025

| Related Items “On File” with the Clerk of the Board: |
| --- |
| |

# CONTRACT

**Dispatch via Print**

| Contract ID | | | Page |
|---|---|---|---|
| QB170023 | | | 1 of 2 |
| **Contract Dates** | **Currency** | **Rate Type** | **Rate Date** |
| 01/01/2017 to 12/31/2017 | USD | CRRNT | PO Date |
| **Description:** | | **Contract Maximum** | |
| Auto Body Repair | | 0.00 | |
| **Allow Multicurrency PO** | | | |

**COUNTY OF SONOMA**
GENERAL SERVICES PURCHASING
2300 COUNTY CENTER DRIVE
STE A208
SANTA ROSA CA 95403
USA

**Vendor ID** 0000001603

CARRERAS AUTO BODY INC
36 MILL STREET STE B
HEALDSBURG CA 95448
USA

Tax Exempt? N Tax Exempt ID:

COMMODITY/ SERVICE: Auto body repair and related services. BPO # QB170023.

AUTHORIZED DEPT/DIV: General Services, Water Agency, TPW

AGREEMENT PERIOD: This BPO agreement is effective from January 1, 2017 through December 31, 2017, and is subject to cancellation, at the County's option, thirty (30) days after receipt of written notification. The County reserves the right to extend this BPO agreement for two additional one (1) year periods. The County will exercise its option(s) to annually extend this BPO agreement automatically. It is the vendor's responsibility to contact Sonoma County Purchasing in writing within thirty (30) days of the annual renewal period should the vendor elect NOT to extend this BPO agreement.

ORDERING: Only the County Departments/Divisions listed above may place orders through this BPO. If you require a schedule of departmental employees authorized to place orders, please contact the individual County Departments directly. Invoices must be submitted to the ordering department and shall reference this BPO number and any departmental ordering number.

PRICES, TERMS & CONDITIONS: Each repair requires a written estimate. Estimates are based on hourly rate listed on rate sheet 2016 provided in bid event 402. The County does not agree to purchase any maximum or minimum amounts under this BPO. Vendor agrees to bill each department once monthly.

AUDITING INVOICES: It is the responsibility of each authorized department to carefully review their invoices to verify that prices charged by the supplier agree with prices as set forth in this BPO. Verification of pricing that is determined by discount from standard pricing may be confirmed by contacting the vendor.

REPORTING REQUIREMENTS: Upon Request, the vendor shall provide the County of Sonoma Purchasing Division with an activity report, reflecting the following: 1) Department name and location, 2) Total expenditures per department. 3) Unit (items) ordered, including quantities

F.O.B.: Destination.

Attachments: Rate Sheet

**Contract Categories:**

| Line # | Category Desc | Maximum Amount |
|---|---|---|

Final = The price is final after adjustments
Hard = Apply adjustments regardless of other adjustments
Skip = Skip adjustments if any other adjustments have been applied

**Authorized Signature**

Linda Rulcamp

# CONTRACT

**Dispatch via Print**

| Contract ID | | | Page |
|---|---|---|---|
| QB170023 | | | 2 of 2 |
| **Contract Dates** | **Currency** | **Rate Type** | **Rate Date** |
| 01/01/2017 to 12/31/2017 | USD | CRRNT | PO Date |
| **Description:** | | **Contract Maximum** | |
| Auto Body Repair | | 0.00 | |
| **Allow Multicurrency PO** | | | |

**COUNTY OF SONOMA**
GENERAL SERVICES PURCHASING
2300 COUNTY CENTER DRIVE
STE A208
SANTA ROSA CA 95403
USA

**Vendor ID** 0000001603

CARRERAS AUTO BODY INC
36 MILL STREET STE B
HEALDSBURG CA 95448
USA

Tax Exempt? N Tax Exempt ID:

**Contract Categories:**

| Line # | Category Desc | Maximum Amount |
|---|---|---|
| 1 | Auto Body, Painting & Glass Repair | |

Final = The price is final after adjustments
Hard = Apply adjustments regardless of other adjustments
Skip = Skip adjustments if any other adjustments have been applied

**Authorized Signature**

Linda Rodcap

Carreras

Ratesheet 2016

# Auto Body Bid 2016

| | |
|---|---|
| Hourly Labor Rate | $ 90.00 |
| % Discount off Parts | 3 % - DOMESTIC |
| Other discounts offered: | 0 |
| Cost to Pick -up vehicle | 0 |
| Cost to Drop off vehicle | 0 |
| Years in business | 36 |
| Certifications: | GM CERTIFIED, I-CAR CERTIFIED |
| Are you within 15 miles of the Fleet Operations 2688 Ventura Ave, Santa Rosa? | YES |
| Describe Warranty on Work: | LIFETIME OF OWNERSHIP |
| Days/miles | UNLIMITED MILEAGE |

Auto body shop: CARRERAS AUTO BODY

Contact Name: DAN VASSALLO Phone number: 707-433-1957

Email Address: CARRERASAB@AOL.COM

Signature: Date: 10-10-16

# CONTRACT

**Dispatch via Print**

| Contract ID | | | Page |
|---|---|---|---|
| QB170024 | | | 1 of 2 |
| **Contract Dates** | **Currency** | **Rate Type** | **Rate Date** |
| 01/01/2017 to 12/31/2017 | USD | CRRNT | PO Date |
| **Description:** | | **Contract Maximum** | |
| Auto Body Repair | | 0.00 | |
| **Allow Multicurrency PO** | | | |

**COUNTY OF SONOMA**
GENERAL SERVICES PURCHASING
2300 COUNTY CENTER DRIVE
STE A208
SANTA ROSA CA 95403
USA

**Vendor ID** 0000001301

WESTERN AUTO BODY
5800 GUERNEVILLE RD
SEBASTOPOL CA 95472
USA

Tax Exempt? N Tax Exempt ID:

COMMODITY/ SERVICE: Auto body repair and related services. BPO # QB170024

AUTHORIZED DEPT/DIV: General Services, Water Agency, TPW

AGREEMENT PERIOD: This BPO agreement is effective from January 1, 2017 through December 31, 2017, and is subject to cancellation, at the County's option, thirty (30) days after receipt of written notification. The County reserves the right to extend this BPO agreement for two additional one (1) year periods. The County will exercise its option(s) to annually extend this BPO agreement automatically. It is the vendor's responsibility to contact Sonoma County Purchasing in writing within thirty (30) days of the annual renewal period should the vendor elect NOT to extend this BPO agreement.

ORDERING: Only the County Departments/Divisions listed above may place orders through this BPO. If you require a schedule of departmental employees authorized to place orders, please contact the individual County Departments directly. Invoices must be submitted to the ordering department and shall reference this BPO number and any departmental ordering number.

PRICES, TERMS & CONDITIONS: Each repair requires a written estimate. Estimates are based on hourly rate listed on rate sheet 2016 provided in bid event 402. The County does not agree to purchase any maximum or minimum amounts under this BPO. Vendor agrees to bill each department once monthly.

AUDITING INVOICES: It is the responsibility of each authorized department to carefully review their invoices to verify that prices charged by the supplier agree with prices as set forth in this BPO. Verification of pricing that is determined by discount from standard pricing may be confirmed by contacting the vendor.

REPORTING REQUIREMENTS: Upon Request, the vendor shall provide the County of Sonoma Purchasing Division with an activity report, reflecting the following: 1) Department name and location, 2) Total expenditures per department. 3) Unit (items) ordered, including quantities

F.O.B.: Destination.

Attachments: Rate Sheet

**Contract Categories:**

| Line # | Category Desc | Maximum Amount |
|---|---|---|

Final = The price is final after adjustments
Hard = Apply adjustments regardless of other adjustments
Skip = Skip adjustments if any other adjustments have been applied

**Authorized Signature**

# CONTRACT

**Dispatch via Print**

| Contract ID | | | Page |
|---|---|---|---|
| QB170024 | | | 2 of 2 |
| **Contract Dates** | **Currency** | **Rate Type** | **Rate Date** |
| 01/01/2017 to 12/31/2017 | USD | CRRNT | PO Date |
| **Description:** | | **Contract Maximum** | |
| Auto Body Repair | | 0.00 | |
| **Allow Multicurrency PO** | | | |

**COUNTY OF SONOMA**
GENERAL SERVICES PURCHASING
2300 COUNTY CENTER DRIVE
STE A208
SANTA ROSA CA 95403
USA

**Vendor ID** 0000001301

WESTERN AUTO BODY
5800 GUERNEVILLE RD
SEBASTOPOL CA 95472
USA

Tax Exempt? N Tax Exempt ID:

**Contract Categories:**

| Line # | Category Desc | Maximum Amount |
|---|---|---|
| 1 | Axle, Engine, Clutch, Body, Driveline, Wheel, Tires | |

Final = The price is final after adjustments
Hard = Apply adjustments regardless of other adjustments
Skip = Skip adjustments if any other adjustments have been applied

**Authorized Signature**

Western Auto Body

Rate Sheet 2016

# Auto Body Bid 2016

Hourly Labor Rate $75

% Discount off Parts 10 %

Other discounts offered:

Cost to Pick -up vehicle Ø

Cost to Drop off vehicle Ø

Years in business 31Ø

Certifications: Icar, Ase

Are you within 15 miles of the Fleet Operations 2688 Ventura Ave, Santa Rosa? Yes

Describe Warranty on Work: Lifetime warranty

Days/miles

Auto body shop: Western Autobody, Inc.

Contact Name: Mike or Tiffany Phone number: (707) 829.2477

Email Address: info@westernautobody.com

Signature: Date: 10/19/16

# CONTRACT

**Dispatch via Print**

| Contract ID | | | Page |
|---|---|---|---|
| QB170025 | | | 1 of 2 |
| **Contract Dates** | **Currency** | **Rate Type** | **Rate Date** |
| 01/01/2017 to 12/31/2017 | USD | CRRNT | PO Date |
| **Description:** | | **Contract Maximum** | |
| Auto Body Repair | | 0.00 | |
| **Allow Multicurrency PO** | | | |

**COUNTY OF SONOMA**
GENERAL SERVICES PURCHASING
2300 COUNTY CENTER DRIVE
STE A208
SANTA ROSA CA 95403
USA

**Vendor ID** 0000004301

TROY ALDRICH
950 PETALUMA HILL ROAD
SANTA ROSA CA 95404
USA

Tax Exempt? N Tax Exempt ID:

COMMODITY/ SERVICE: Auto body repair and related services. BPO # QB170025

AUTHORIZED DEPT/DIV: General Services, Water Agency, TPW

AGREEMENT PERIOD: This BPO agreement is effective from January 1, 2017 through December 31, 2017, and is subject to cancellation, at the County's option, thirty (30) days after receipt of written notification. The County reserves the right to extend this BPO agreement for two additional one (1) year periods. The County will exercise its option(s) to annually extend this BPO agreement automatically. It is the vendor's responsibility to contact Sonoma County Purchasing in writing within thirty (30) days of the annual renewal period should the vendor elect NOT to extend this BPO agreement.

ORDERING: Only the County Departments/Divisions listed above may place orders through this BPO. If you require a schedule of departmental employees authorized to place orders, please contact the individual County Departments directly. Invoices must be submitted to the ordering department and shall reference this BPO number and any departmental ordering number.

PRICES, TERMS & CONDITIONS: Each repair requires a written estimate. Estimates are based on hourly rate listed on rate sheet 2016 provided in bid event 402. The County does not agree to purchase any maximum or minimum amounts under this BPO. Vendor agrees to bill each department once monthly.

AUDITING INVOICES: It is the responsibility of each authorized department to carefully review their invoices to verify that prices charged by the supplier agree with prices as set forth in this BPO. Verification of pricing that is determined by discount from standard pricing may be confirmed by contacting the vendor.

REPORTING REQUIREMENTS: Upon Request, the vendor shall provide the County of Sonoma Purchasing Division with an activity report, reflecting the following: 1) Department name and location, 2) Total expenditures per department. 3) Unit (items) ordered, including quantities.

F.O.B.: Destination.

Attachments: Rate Sheet

**Contract Categories:**

| Line # | Category Desc | Maximum Amount |
|---|---|---|

Final = The price is final after adjustments
Hard = Apply adjustments regardless of other adjustments
Skip = Skip adjustments if any other adjustments have been applied

**Authorized Signature**

# CONTRACT

**Dispatch via Print**

| Contract ID | | | Page |
|---|---|---|---|
| QB170025 | | | 2 of 2 |
| **Contract Dates** | **Currency** | **Rate Type** | **Rate Date** |
| 01/01/2017 to 12/31/2017 | USD | CRRNT | PO Date |
| **Description:** | | **Contract Maximum** | |
| Auto Body Repair | | 0.00 | |
| **Allow Multicurrency PO** | | | |

**COUNTY OF SONOMA**
GENERAL SERVICES PURCHASING
2300 COUNTY CENTER DRIVE
STE A208
SANTA ROSA CA 95403
USA

**Vendor ID** 0000004301

TROY ALDRICH
950 PETALUMA HILL ROAD
SANTA ROSA CA 95404
USA

Tax Exempt? N Tax Exempt ID:

**Contract Categories:**

| Line # | Category Desc | Maximum Amount |
|---|---|---|
| 1 | Repairs | |

Final = The price is final after adjustments
Hard = Apply adjustments regardless of other adjustments
Skip = Skip adjustments if any other adjustments have been applied

**Authorized Signature**

Linda Rulcamp

Marquis

Rate Sheet 2016

# Auto Body Bid 2016

| | |
|---|---|
| Hourly Labor Rate | $ 75.00 |
| % Discount off Parts | 5% |
| Other discounts offered: | |
| Cost to Pick -up vehicle | $0.00 |
| Cost to Drop off vehicle | $0.00 |
| Years In business: | 5 |
| Certifications: | I-CAR /Axalta Cert Painter |

Are you within 15 miles of the Fleet Operations 2688 Ventura Ave, Santa Rosa? Yes

Describe Warranty on Work:

Days/miles

Lifetime warranty (as long as you own the vehicle) on repairs and paint for defects occurring under normal conditions. Parts will be covered by respective manufacturer's warranties.

Auto body shop: Marquis Auto Body

Contact Name: Troy Aldrich Phone number: 707-544-5222

Email Address: troy@marquisautobody.com

Signature: Date: 10/10/2016

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 27**
(This Section for use by Clerk of the Board Only.)

**To:** Sonoma County Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** General Services

**Staff Name and Phone Number:**

Marc McDonald, General Services: 707-565-3468

**Supervisorial District(s):**

**Title:** License Extensions for 11 English Street, Petaluma and 2300 County Center Drive, A100, Santa Rosa

**Recommended Actions:**

A. Authorize the General Services Director to execute a Fifth Amendment to License Agreement with the Assembly Committee on Rules of the California State Assembly for 150 sq. ft. of office space utilized by Assemblyman Marc Levine, located at 11 English Street, Petaluma to extend the term through December 31, 2018, and to provide the tenant an option to extend term through June 30, 2019, all at no change in rent of $285 per month ($1.90 per sq. ft.), for the proposed extension and option terms,

B. Authorize the General Services Director to execute a Second Amendment to License Agreement with U.S. Congressman Mike Thompson 5th Congressional District of California for 1,060 sq. ft. of office space located at 2300 County Center Drive, Suite A100, Santa Rosa to extend the term through January 2, 2019, and to provide the tenant an option to extend the term through June 30, 2019, all at no change in rent of $927 per month ($0.87 per sq. ft.), for the proposed extension and option terms.

C. Make findings pursuant to Government Code Section 25526.6 that the subject property located at 2300 County Center Drive, Suite A100, Santa Rosa, is not needed by the County, the Agreement serves a public purpose, and that use by Congressman Mike Thompson will not interfere with the use of the premises by County.

**Executive Summary:**

This item seeks Board approval to authorize the General Services Director to execute amendments to extend the terms of the following agreements:
1) License Agreement with the Assembly Committee on Rules, California State Assembly, for 150 sq. ft. of office space at 11 English Street, Petaluma. The term expires December 31, 2016, and rent is $285 per month ($1.90 per sq. ft.). Rent would remain at $285 per month for the proposed 2-year extension period.

2) License Agreement with U.S. Congressman Mike Thompson 5th Congressional District of California, 1,060 sq. ft. of office space at 2300 County Center Drive, Suite A100, Santa Rosa. The term expires January 2, 2017, and rent is $927 per month ($.87 per sq. ft.). Rent would remain at $927 per month for the proposed 2-year extension period.

Furthermore, staff requests that the Board make findings pursuant to Government Code Section 25526.6 that the subject property located at 2300 County Center Drive, Suite A100, Santa Rosa, is not needed by the County, the Agreement serves a public purpose, and that use by Congressman Mike Thompson will not interfere with the use of the premises by County. Congressman Thompson uses this office to meet with constituents, and to provide agency and referral assistance for Social Security and Medicare, the Internal Revenue Service and tax issues, student loans, veterans' resources and benefits, and small-businesses.

**Discussion:**

**11 English Street, Petaluma Agreement**. On November 5, 2007, County executed a license agreement ("State Agreement"), with the Assembly Committee on Rules, California State Assembly, a standing committee of the California State Legislature ("State Licensee"), to use approximately 300 sq. ft. of office space at 11 English Street, Petaluma ("State Premises") under a term that expired on December 31, 2008. This space is utilized by Assemblyman Marc Levine.

On January 27, 2009, your Board authorized execution of a first amendment, which extended the term through December 31, 2010, and increased the rent for the extension period. Subsequently, your Board authorized execution of second and third amendments, whereby the terms were extended through December 31, 2012 and December 31, 2014, respectively, and rent was increased for each of the extension periods.

On January 6, 2015, the County executed a fourth amendment to the State Agreement, which extended the term through December 31, 2016, reduced the State Premises from 300 sq. ft. to 150 sq. ft., and specified rent for the 2-year extension period. The General Services Director executed the amendment, by delegated authority, pursuant to the Board of Supervisors Ordinance No. 6087.

The State Agreement expires December 31, 2016, and the State Licensee has requested an additional two-year extension of the term through December 31, 2018. Rent for the proposed 2-year extension period would remain the same at $285 per month ($1.90 per sq. ft.), which is fair market value for the Petaluma area, which ranges from $1.25 to $2.00 per sq. ft. Rent would not be increased and would be held flat at $285 per month for the proposed 2-year extension.

**2300 County Center Drive, Suite A110, Santa Rosa Agreement.** On February 3, 2013, County executed a license agreement ("Federal Agreement"), with U.S. Congressman Mike Thompson California 1st Congressional District ("Federal Licensee"), to use approximately 1,060 sq. ft. of office space at 2300 County Center Drive, Suite A100, Santa Rosa ("Federal Premises") under a term that expired on January 2, 2015.

On January 3, 2015, the County executed a first amendment to the Federal Agreement, which extended the term through January 2, 2017, and increased the rent for the extension period.

The Federal Agreement expires January 2, 2017, and the Federal Licensee has requested an additional two-year extension of the term through January 2, 2019. Rent for the proposed 2-year extension period would remain the same at $927 per month ($0.87 per sq. ft.), which is below fair market value for the Santa Rosa area. Fair market office rent within a mile from this location ranges from $1.11 to $2.02 per sq. ft. Rent would not be increased and would be held flat at $285 per month for the proposed 2-year extension.

**Public Interest.** Government Code Section 25526.6 allows the County Board of Supervisors to grant or otherwise convey an easement, license or permit for use to the state, or to any county, city, district or public agency or corporation, or to any public utility corporation any real property of the County, upon a finding by the Board that the conveyance is in the public interest and that the interest in land will not substantially conflict or interfere with the use of the property by the County. Staff suggests that granting of the term extension to the Federal Licensee serves public purposes, as the Federal Licensee is a public agency (California 5th Congressional District). There is no other proposed use for the Premises at this time, and use by the Federal Licensee will not interfere with the use of the premises by County.

Staff requests that your Board authorize the General Services Director to execute the proposed amendments to extend the terms of these Agreements for an additional two years, and to provide the tenants an option to extend the terms through June 30, 2019. This option would allow the State Licensee and the Federal Licensee the opportunity to certify election results, such certification typically occurring by December 16, after which time the tenants could exercise the option to extend or not extend the term as needed. During the option term staff would work with the tenants to adjust premises as needed and rent to current market conditions.

**Prior Board Actions:**

11 English Street:
01/11/11 – Authorized General Services Director, or his Deputy to execute 2nd amendment
01/27/09 – Authorized General Services Director, or his Deputy, to execute 1st amendment

2300 County Center Drive, Suite A110:
None.

| **Strategic Plan Alignment** | Goal 4: Civic Services and Engagement |
|---|---|

The proposed extensions of the agreements for the Assembly Committee on Rules, California State Assembly (Assemblyman Marc Levine), and U.S. Congressman Mike Thompson provides office space for these tenants to meet in locations that are accessible and known to their constituents in Sonoma County, as well as a revenue stream for the County of Sonoma for the lease rents.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | 7,272 | 14,544 | 7,272 |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **7,272** | **14,544** | **7,272** |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | 7,272 | 14,544 | 7,272 |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **7,272** | **14,544** | **7,272** |

**Narrative Explanation of Fiscal Impacts:**

In anticipation of the extension of the subject leases, after the elections, General Services budgeted projected revenue as follows:
11 English Street, Petaluma (Levine): $285 X 6 months (January 2017 through June 2017) = $1,710; and
2300 County Center Drive (Thompson): $927 X 6 months (January 2017 through June 2017) = $5,562.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

None.

**Attachments:**

Attachment 1: Copy of proposed amendments

**Related Items "On File" with the Clerk of the Board:**

None.

FIFTH AMENDMENT
TO
REVOCABLE LICENSE AGREEMENT FOR USE OF COUNTY FACILITIES

This Fifth Amendment ("Fifth Amendment"), dated as of _____, 20__ ("Effective Date") is by and between the COUNTY OF SONOMA, a political subdivision of the State of California ("County"), and THE ASSEMBLY COMMITTEE ON RULES, CALIFORNIA STATE ASSEMBLY, a standing committee of the California State Legislature ("Licensee"). All capitalized terms used herein shall, unless otherwise defined, have the meaning ascribed to those terms in the Agreement (as defined below). County and Licensee are sometimes collectively referred to herein as the "parties" and singularly, a "party."

R E C I T A L S

WHEREAS, County and Licensee entered into that certain Revocable License Agreement for Use of County Facilities, dated November 5, 2007 ("Original Agreement") for use of a portion of certain real property located at 11 English Street, Petaluma ("Premises"), commonly known as the Petaluma City Hall ("Building"), and being further described as APN 008-095-001; and

WHEREAS, County and Licensee entered into that certain First Amendment to License dated January 27, 2009 ("First Amendment"), whereby, the term of the Original Agreement was extended to December 31, 2010; and

WHEREAS, County and Licensee entered into that certain Second Amendment to License dated January 11, 2011 ("Second Amendment"), whereby, the term of the Original Agreement was extended to December 31, 2012; and

WHEREAS, County and Licensee entered into that certain Third Amendment to License dated March 4, 2013 ("Third Amendment"), whereby, the term of the Original Agreement was extended to December 31, 2014; and

WHEREAS, County and Licensee entered into that certain Fourth Amendment to License dated January 6, 2015 ("Fourth Amendment"), whereby the term of the Original Agreement was extended to December 31, 2016, and the Premises and Consideration were redefined, and

WHEREAS, the Original Agreement as modified by the First Amendment, Second Amendment, Third Amendment and Fourth Amendment is hereafter referred to as the "Agreement"; and

WHEREAS, County and Licensee desire to further amend the Agreement in order to: i) further extend the term, ii) specify consideration, and iii) make other modifications.

NOW, THEREFORE, in consideration of the Premises and of the agreements of the respective parties herein set forth, it is mutually agreed as follows:

A G R E E M E N T

1. Effective as of the Effective Date of this Fifth Amendment, the Agreement is hereby amended as follows:

A. Section 4 of the Agreement is hereby deleted and replaced with the following language:

"4. Term. The term of this Agreement shall commence on November 5, 2007 ("Commencement Date"), and expire at midnight on December 31, 2018, unless earlier terminated in accordance with Section 21 below."

B. Section 5 of the Agreement is hereby deleted and replaced with the following language:

"5. Consideration. In consideration of this Agreement, Licensee agrees to pay to County the following amounts:

| | |
|---|---|
| 11/05/07 through 12/31/08 | $450.00 per month |
| 01/01/09 through 12/31/09 | $463.00 per month |
| 01/01/10 through 12/31/10 | $477.41 per month |
| 01/01/11 through 12/31/11 | $491.73 per month |
| 01/01/12 through 12/31/12 | $506.48 per month |
| 01/01/13 through 12/31/13 | $521.67 per month |
| 01/01/14 through 12/31/14 | $537.32 per month |
| 01/01/15 through 12/31/15 | $276.72 per month |
| 01/01/16 through 12/31/18 | $285.02 per month. |

All fees due hereunder shall be paid by Licensee on the tenth (10th) day of each calendar month, without notice, demand or offset, to the County of Sonoma, General Services Department, Attn: Facilities Development & Management Division, 2300 County Center Drive, Suite A220, Santa Rosa, CA 95403, or at such other place or place as may from time to time be designated by County. The obligation of Licensee to pay amounts due under this Agreement is contingent upon the appropriation and approval of funds for that purpose. Any consideration that is not paid under this Section 5 for that reason shall be paid by Licensee as soon as funds are appropriated and approved for that purpose."

2. Except to the extent the Agreement is specifically amended or supplemented hereby, the Agreement, together with exhibits, is, and shall continue to be, in full force and effect, and nothing contained herein shall be construed to modify, invalidate or otherwise affect any right of County arising thereunder.

3. This Fifth Amendment shall be governed by and construed under the internal laws of the State of California, and any action to enforce the terms of this Fourth Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

LICENSEE HAS CAREFULLY READ AND CONSIDERED THE TERMS AND CONDITIONS SET FORTH IN THIS FIFTH AMENDMENT AND HEREBY AGREES THAT LICENSEE SHALL BE BOUND BY ALL SAID TERMS AND CONDITIONS.

IN WITNESS WHEREOF, the parties hereto have executed this Fifth Amendment as of the Effective Date.

LICENSEE: **ASSEMBLY COMMITTEE ON RULES, CALIFORNIA STATE ASSEMBLY**, a standing committee of the California State Legislature

By: _____

Print Name: _____

Title: _____

COUNTY: **COUNTY OF SONOMA**, a political subdivision of the State of California

By: _____
Caroline Judy, Director
Department of General Services

The General Services Director is authorized to sign this Fifth Amendment, pursuant to Board of Supervisors Summary Action dated _____.

APPROVED AS TO FORM
FOR COUNTY:

_____
Elizabeth Coleman With
Deputy County Counsel

APPROVED AS TO CONTENT
FOR COUNTY:

_____
Marc McDonald
Real Estate Manager

CERTIFICATE OF INSURANCE
ON FILE WITH DEPARTMENT:

Reviewed by: _____ Date: _____

**SECOND AMENDMENT TO REVOCABLE LICENSE AGREEMENT**

This Second Amendment ("Second Amendment"), dated as of**_____,** 20 ("Effective Date"), is by and between the **COUNTY OF SONOMA**, a political subdivision of the State of California (hereinafter the "County"), and **U.S. CONGRESSMAN MIKE THOMPSON CALIFORNIA 5th CONGRESSIONAL DISTRICT** ("Licensee"). All capitalized terms used herein shall, unless otherwise defined, have the meaning ascribed to those terms in the Agreement (as defined below). County and Licensee are sometimes collectively referred to herein as the "parties" and singularly, a "party."

R E C I T A L S

WHEREAS, Licensee and Licensor entered into that certain Revocable License Agreement dated February 3, 2013 ("Original Agreement"), for use of a portion of the building commonly known as the La Plaza West Building ("Building") and being further described as APN 180-260-055; and

WHEREAS, Licensee and Licensor entered into that certain First Amendment to Revocable License Agreement dated January 13, 2015 ("First Amendment"), to extend the term and revise the consideration; and

WHEREAS, THE Original Amendment as amended by the First Amendment is hereafter referred to as the "Agreement"; and

WHEREAS, the Agreement expires on January 2, 2017; and Licensee and Licensor desire to amend the Agreement in order to: 1) extend the term, 2) specify consideration; and 3) provide for certain other terms and conditions as hereinafter set forth.

NOW, THEREFORE, in consideration of the continued use of the Premises, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

A G R E E M E N T

1. The foregoing recitals are true and correct and are hereby incorporated and made a part of this Second Amendment.

2. Effective as of the Effective Date of this Second Amendment, the Agreement is modified as follows:

A. Section 4 of the Agreement is hereby deleted in its entirety and replaced with the following:

"4. Term. The term of this Agreement ("Term") shall commence on **January 3, 2017** ("Commencement Date"), and shall expire at midnight on **January 2, 2019**, unless earlier terminated in accordance with Section 23 below."

B. Section 5 of the Agreement is hereby deleted in its entirety and replaced with the following:

"5. Consideration. In consideration of this Agreement, Licensee agrees to pay to County the following sum: For the period of January 3, 2017 through January 2, 2019, the sum of Nine Hundred Twenty-Seven and No/100 Dollars ($927.00) per month. All fees due hereunder shall be paid by Licensee on the 20th day of each calendar month in arrears, without notice, demand or offset to the County of Sonoma, General Services Department, Attn: Real Estate Manager, 2300 County Center Drive, Suite A220, Santa Rosa, California, or at such other place or places as may from time to time be designated by County."

C. Exhibit D-1 is hereby replaced with Exhibit D-2, attached hereto and by this reference made a part hereof.

3. Except to the extent the Agreement is specially amended or supplemented hereby, the Agreement and the attached District Office Lease Attachment for the 115th Congress, together with exhibits, is, and shall continue to be, in full force and effect, and nothing contained herein shall be construed to modify, invalidate or otherwise affect any right of Licensee arising thereunder.

4. This Second Amendment shall be governed by and construed under the internal laws of the State of California, and any action to enforce the terms of this Second Amendment or for the breach thereof shall be brought and tried in the Licensee of Sonoma.

5. The District Office Lease Attachment for the 115th Congress attached hereto is made part of and incorporated into this Second Amendment.

LICENSEE HAS CAREFULLY READ AND CONSIDERED THE TERMS AND CONDITIONS SET FORTH IN THIS SECOND AMENDMENT AND HEREBY AGREES THAT LICENSEE SHALL BE BOUND BY ALL SAID TERMS AND CONDITIONS.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the Effective Date.

Licensor: **U.S. CONGRESSMAN MIKE THOMPSON CALIFORNIA 5th CONGRESSIONAL DISTRICT**

By:_____
Name:_____
Title:_____
Date:_____

Licensee: **COUNTY OF SONOMA**, a political subdivision of the State of California

By:_____
Caroline Judy, Director
General Services Department

The General Services Director, is authorized to execute this Amendment, pursuant to the Board of Supervisors' Summary Action dated_____.

APPROVED AS TO FORM
FOR LICENSEE:

_____
Elizabeth Coleman With
Deputy County Counsel

_____
Marc McDonald, Real Estate Manager
General Services Department

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 28**
(This Section for use by Clerk of the Board Only.)

**To:** Sonoma County Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** General Services

**Staff Name and Phone Number:**

Caroline Judy: 707-565-8058

**Supervisorial District(s):**

**Title:** Lease Extensions with the State of California Judicial Council of California for the Fleet Building and Parking Facilities at the County Administration Center

**Recommended Actions:**

Authorize the General Services Director to:

A. execute amendments to extend the terms of the following Agreements, through December 31, 2017: (a) Lease Agreement with the Judicial Council of California, formerly the Administrative Office of the Courts, for premises located at 2688 Ventura Avenue, Santa Rosa (the Fleet Building site); (b) Lease Agreement with the Judicial Council of California for premises located at 600 Administration Drive, Santa Rosa (the Old Jail site); and (c) Lease Agreement with the Judicial Council of California for premises located on Russell Avenue, Santa Rosa (P20 parking lot site); and
B. execute future amendments to extend the terms of these Agreements, in a form approved by County Counsel, for an additional period not to exceed three years.

**Executive Summary:**

This item seeks Board approval to authorize the General Services Director to execute amendments to extend the terms of the following agreements, through December 31, 2017: (1) Lease Agreement with the Judicial Council of California (JCC) for premises located at 2688 Ventura Avenue, Santa Rosa (the Fleet Building site); (2) Lease Agreement with the JCC for premises located at 600 Administration Drive, Santa Rosa (the Old Jail site); and (3) Lease Agreement with the JCC for premises located on Russell Avenue, Santa Rosa (P20 parking lot site). The term for each these agreements expires December 31, 2016. The County continues to utilize the Fleet Building and the parking lot areas for staff and for visitors to the County Administration Center. Consideration is a one-time fee of $1.00 per agreement for the term of each agreement.

**Discussion:**

On November 15, 2011, your Board authorized the General Services Director to execute a property acquisition agreement and related agreements with the State of California Administrative Office of the Courts (the AOC) (now the "Judicial Council of California" (the JCC)), acting as staff agency to the Judicial

Council of California, and the State of California (the "State"). In accord with the agreements the AOC and the State purchased from the County certain real property, including both the land and building located at 2688 Ventura Avenue, Santa Rosa (the Fleet Building site), 600 Administration Drive, Santa Rosa (the Old Jail site), and a parking lot on Russell Avenue, Santa Rosa (the P20 parking lot site). Please see attached Diagram.

On April 10, 2012, County and AOC executed separate lease agreements for the Old Jail site at 600 Administration Drive and Fleet Building at 2688 Ventura Avenue, and a license agreement for the Russell Avenue P20 parking lot (the "Agreements") to preserve these sites for continued use by the County, Superior Court staff and visitors, pending commencement of construction of a new State Criminal Courthouse complex on the County Campus. The terms of these Agreements expire December 31, 2016.

**Status of the Criminal Courthouse Project:** Staff continues to work with the JCC and State to ensure that relocation of the Fleet building and the Materials lab align with the State's target to take possession of these sites for the new Santa Rosa Criminal Courthouse project. The JCC and the State staff have informed County staff that, for planning purposes, the State has engaged the services of a geotechnical and inspection services firm to perform investigation and assessment of the Fleet building and sites prior to demolition. The JCC has informed staff that construction of the courthouse will likely begin in Fall 2018 or Spring 2019. Based on this updated schedule the JCC, the State and County staff agree that the current agreements for the Old Jail site, the Fleet Building, and Russell Avenue P20 sites, allowing use of these properties, may be extended. In order to facilitate the possible extended term of these leases, this item requests authority be granted to the General Services Director to execute extensions to each of the three leases for a period not to exceed three additional years after the expiration of new term of the lease agreements, in a form approved by County Counsel.

Staff requests that your Board authorize the Chair to execute the proposed amendments to extend the terms of these Agreements through December 31, 2017.

**Prior Board Actions:**

07/21/2015—Authorized the Chair to execute amendments to extend the terms of the Agreements through December 31, 2016
08/12/2014—Authorized the Chair to execute amendments to extend the terms of the Agreements for the Fleet building, the Old Jail site, and execution of a Parking License Agreement with the JCC for the P20 Parking Lot, through April 30, 2016
11/15/2011—Resolution authorizing the General Services Director to execute agreements and other instruments between the County and AOC for the transfer of certain real property to the AOC for the proposed new Santa Rosa Criminal Courthouse Project

**Strategic Plan Alignment** Goal 3: Invest in the Future

The term extensions of the lease agreements with the State Judicial Council of California for the Fleet Building and parking facilities located at the County Administration Center facilitates continued use by County employees, the Courts, and visitors to the County Administration Center campus, pending the State's construction of the new Santa Rosa Criminal Courthouse, and allows suitable time for long-term planning for facilities, which includes parking.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

County pays $1.00 total for the entire term of the Agreement for the Fleet Building site.
County pays $1.00 total for the entire term of the Agreement for the Old Jail site.
County pays $1.00 total for the entire term of the Agreement for the P20 parking lot site.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

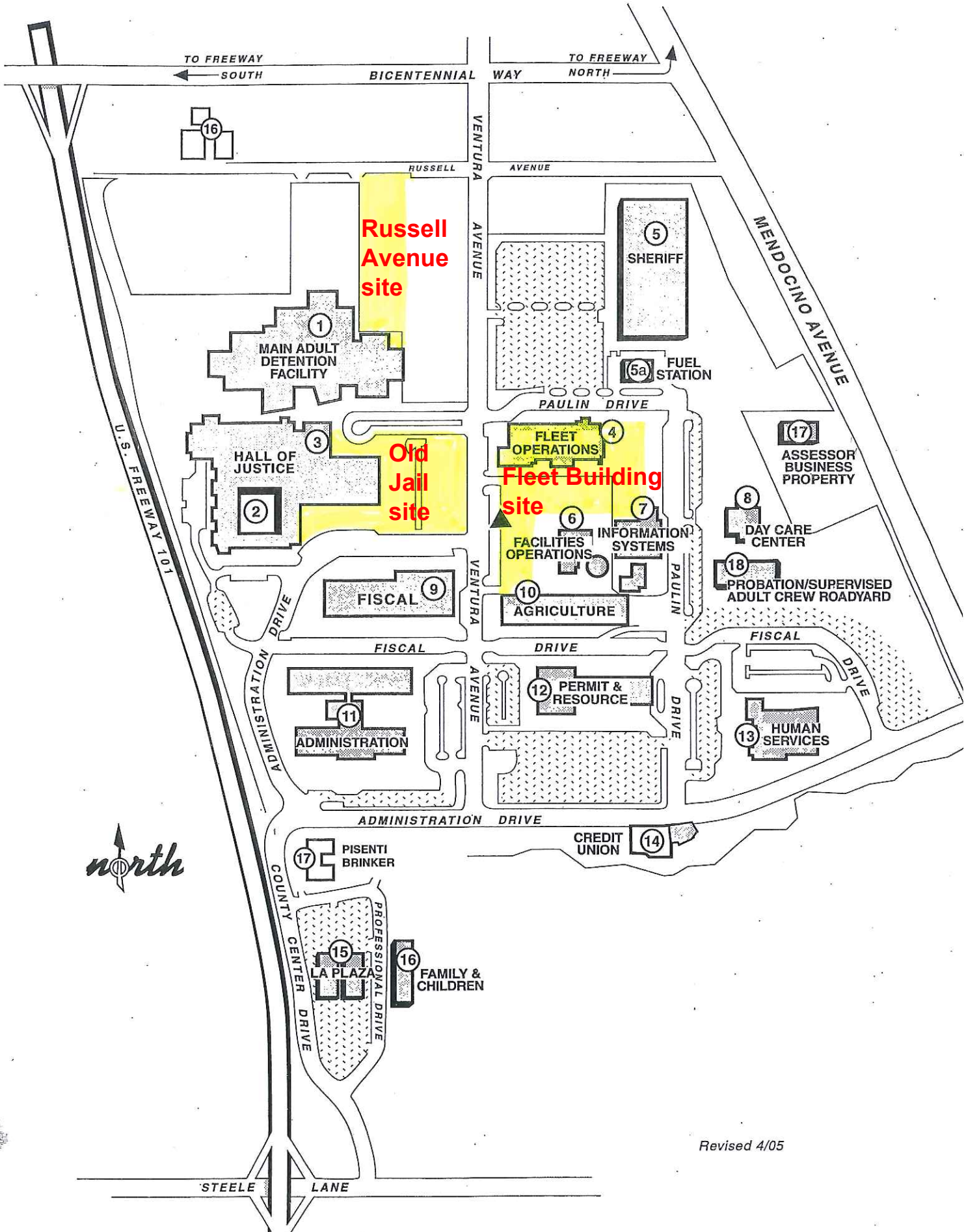
None

**Attachments:**

Attachment 1: Diagram
Attachment 2: Copies of the proposed amendments for: (a) 2688 Ventura Avenue, Santa Rosa (the Fleet Building site); (b) 600 Administration Drive, Santa Rosa (the Old Jail site); and (c) Russell Avenue, Santa Rosa (the P20 parking lot site).

**Related Items "On File" with the Clerk of the Board:**

None


TO FREEWAY SOUTH
BICENTENNIAL WAY
TO FREEWAY NORTH
16
VENTURA AVENUE
RUSSELL AVENUE
Russell Avenue site
5
SHERIFF
MENDOCINO AVENUE
1
MAIN ADULT DETENTION FACILITY
5a
FUEL STATION
PAULIN DRIVE
U.S. FREEWAY 101
3
HALL OF JUSTICE
2
Old Jail site
FLEET OPERATIONS
4
Fleet Building site
17
ASSESSOR BUSINESS PROPERTY
8
DAY CARE CENTER
6
FACILITIES OPERATIONS
7
INFORMATION SYSTEMS
18
PROBATION/SUPERVISED ADULT CREW ROADYARD
FISCAL
9
10
AGRICULTURE
ADMINISTRATION DRIVE
FISCAL DRIVE
11
ADMINISTRATION
12
PERMIT & RESOURCE
13
HUMAN SERVICES
ADMINISTRATION DRIVE
CREDIT UNION
14
north
17
PISENTI BRINKER
COUNTY CENTER DRIVE
PROFESSIONAL DRIVE
15
LA PLAZA
16
FAMILY & CHILDREN
STEELE LANE

Revised 4/05

# FOURTH AMENDMENT TO LEASE AGREEMENT

This Fourth Amendment to Lease Agreement (**"Fourth Amendment"**), dated as of _____, 2016 (**"Effective Date"**), is by and between the Judicial Council of California (the **"Lessor"**), and the County of Sonoma, a political subdivision of the State of California (the **"Lessee"**). Lessor and Lessee are sometimes collectively referred to herein as the **"Parties"** and singularly, as **"Party."**

## RECITALS

WHEREAS, Lessor and Lessee entered into that certain Property Acquisition Agreement dated April 10, 2012 (the **"PAA"**), whereby Lessee agreed to sell to the State of California, acting by and through Lessor, and the State of California, acting by and through Lessor, agreed to buy from Lessee that certain real property, including both the land and building located thereon (the **"Building"**) located at 2688 Ventura Avenue, Santa Rosa, County of Sonoma, State of California (the land and Building together hereafter referred to as the **"Property"**); and

WHEREAS, Lessor acquired the Property and other adjacent property for the purpose of construction and operation of the New Santa Rosa Criminal Courthouse (the **"New Courthouse"**) for use by the Superior Court of California, County of Sonoma; and

WHEREAS, the Property is currently used by Lessee as a parking lot for Lessee owned and operated vehicles, and for storage and maintenance of its vehicle fleet; and

WHEREAS, Lessor and Lessee entered into that certain Lease dated April 10, 2012 (**"Original Lease"**), for premises located at 2688 Ventura Avenue, Santa Rosa, California (**"Premises"**) in order to allow Lessee continued use of the Property until such time as Lessor readies the Property for sale of bonds to finance construction of the New Courthouse; and

WHEREAS, Lessor and Lessee entered into that certain First Amendment to Lease dated January 10, 2013 (**"First Amendment"**), in order to extend the term of the Original Lease through June 30, 2014; and

WHEREAS, Lessor and Lessee entered into that certain Second Amendment to Lease dated August 12, 2014 (**"Second Amendment"**), in order to extend the term of the Original Lease through April 30, 2016; and

WHEREAS, Lessor and Lessee entered into the certain Third Amendment to Lease dated July 21, 2015 ("**Third Amendment**"), in order to extend the term of the Original Lease through December 31, 2016; and

WHEREAS, the Original Lease as modified by the First Amendment, Second Amendment and Third Amendment is hereinafter referred to as the **"Lease"**; and

WHEREAS, Lessor and Lessee acknowledge that the Premises will not be needed by Lessor before December 31, 2017, and Parties are mutually agreeable to extending the term therefor.

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

A G R E E M E N T

**1. Incorporation of Recitals; Defined Terms.** The foregoing provisions of the Recitals are true and correct and are incorporated into this Fourth Amendment by this reference. Any defined terms not defined herein will have the definition meaning given those terms in the Lease.

**2.** Effective as of the Effective Date of this Fourth Amendment, the Lease is modified as follows:

A. **Section 2** of the Lease is hereby deleted in its entirety and replaced with the following section:

> "2. **Term of Lease.** The term of this Lease shall commence immediately upon recordation of the grant deed transferring title to the Property from Lessee to Lessor pursuant to the PAA (the **"Commencement Date"**), and shall terminate at 11:59 p.m. on December 31, 2017, unless extended by mutual agreement of the Parties (the **"Term"**)."

**3.** Except to the extent the Lease is specifically amended or supplemented hereby, the Lease, together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be constructed to modify, invalidate or otherwise affect any provision of the Lease or any right of Lessee arising thereunder.

**4.** This Fourth Amendment shall be governed by and construed under the internal laws of the State of California, and any action to enforce the terms of this Fourth Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS FOURTH AMENDMENT AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS FOURTH AMENDMENT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.

**IN WITNESS WHEREOF,** the Parties hereto have executed this Fourth Amendment as of the Effective Date.

**LICENSEE:**

**COUNTY OF SONOMA, a political subdivision of the State of California**

By: _____
Name: Caroline Judy
Title: Director, General Services Department
Date: _____

APPROVED AS TO FORM:
County of Sonoma,
Office of County Counsel

By: _____
Name: Elizabeth Coleman With
Title: Deputy County Counsel
Date: _____

**LICENSOR:**

**JUDICIAL COUNCIL OF CALIFORNIA**

By: _____
Name: Stephen Saddler
Title: Manager, Contracts
Date: _____

APPROVED AS TO FORM:
Judicial Council of California,
Legal Services

By: _____
Name: Kristin Kerr
Title: Attorney
Date: _____

# FOURTH AMENDMENT TO LEASE AGREEMENT

This Fourth Amendment to Lease Agreement (**"Fourth Amendment"**), dated as of _____, 2016 (**"Effective Date"**), is by and between the Judicial Council of California (the **"Lessor"**), and the County of Sonoma, a political subdivision of the State of California (the **"Lessee"**). Lessor and Lessee are sometimes collectively referred to herein as the **"Parties"** and singularly, as **"Party."**

## RECITALS

WHEREAS, Lessor and Lessee entered into that certain Property Acquisition Agreement dated May 3, 2012 (the **"PAA"**), whereby Lessee agreed to sell to the State of California, acting by and through Lessor, and the State of California, acting by and through Lessor, agreed to buy from Lessee that certain real property located at 600 Administration Drive, Santa Rosa, County of Sonoma, State of California (the **"Property"**); and

WHEREAS, Lessor acquired the Property and other adjacent property for the purpose of construction and operation of the New Santa Rosa Criminal Courthouse (the **"New Courthouse"**) for use by the Superior Court of California, County of Sonoma (**"Court"**); and

WHEREAS, the Property is currently used as a parking lot by Lessee, its employees and users of nearby Lessee buildings, as well as by the Court and its employees and users of the existing court facility; and

WHEREAS, Lessor and Lessee entered into that certain Lease Agreement dated April 10, 2012 (**"Original Lease"**), for premises located at 600 Administration Drive, Santa Rosa, California, together with all improvements thereon (**"Premises"**) in order to allow Lessor and Lessee the continued use of the Property; and

WHEREAS, Lessor and Lessee entered into that certain First Amendment to Lease dated January 10, 2013 (**"First Amendment"**), in order to extend the term of the Original Lease through June 30, 2014; and

WHEREAS, Lessor and Lessee entered into that certain Second Amendment to Lease dated August 12, 2014 (**"Second Amendment"**), in order to extend the term of the Original Lease through April 30, 2016, and

WHEREAS, Lessor and Lessee entered into that certain Third Amendment to Lease dated July 21, 2015 (**"Third Amendment"**), in order to extend the term of the Original Lease through December 31, 2016, and

WHEREAS, the Original Lease as modified by the First Amendment, Second Amendment, and Third Amendment is hereinafter referred to as the **"Lease"**; and

WHEREAS, Lessor and Lessee acknowledge that the Premises will not be needed by Lessor before December 31, 2017, and Parties are mutually agreeable to extending the term therefor.

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

## AGREEMENT

**1. Incorporation of Recitals; Defined Terms.** The foregoing provisions of the Recitals are true and correct and are incorporated into this Fourth Amendment by this reference. Any defined terms not defined herein will have the definition meaning given those terms in the Lease.

**2.** Effective as of the Effective Date of this Fourth Amendment, the Lease is modified as follows:

A. **Section 2** of the Lease is hereby deleted in its entirety and replaced with the following section:

> "2. **Term of Lease.** The term of this Lease shall commence immediately upon recordation of the grant deed transferring title to the Property from Lessee to Lessor pursuant to the PAA (the **"Commencement Date"**), and shall terminate at 11:59 p.m. on December 31, 2017, unless extended by mutual agreement of the Parties (the **"Term"**)."

**3.** Except to the extent the Lease is specifically amended or supplemented hereby, the Lease, together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be constructed to modify, invalidate, or otherwise affect any provision of the Lease or any right of Lessee arising thereunder.

**4.** This Fourth Amendment shall be governed by and construed under the internal laws of the State of California, and any action to enforce the terms of this Fourth Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS FOURTH AMENDMENT AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS FOURTH AMENDMENT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.

**IN WITNESS WHEREOF,** the Parties hereto have executed this Fourth Amendment as of the Effective Date.

**LESSEE:**

**COUNTY OF SONOMA, a political subdivision of the State of California**

By: _____
Name: Caroline Judy
Title: Director, General Services Department
Date: _____

APPROVED AS TO FORM:
County of Sonoma,
Office of County Counsel

By: _____
Name: Elizabeth Coleman With
Title: Deputy County Counsel
Date: _____

**LESSOR:**

**JUDICIAL COUNCIL OF CALIFORNIA**

By: _____
Name: Stephen Saddler
Title: Manager, Contracts
Date: _____

APPROVED AS TO FORM:
Judicial Council of California,
Legal Services

By: _____
Name: Kristin Kerr
Title: Attorney
Date: _____

# SECOND AMENDMENT TO PARKING LICENSE AGREEMENT

This Second Amendment to Parking License Agreement (**"Second Amendment"**), dated as of _____, 2016 (**"Effective Date"**), is by and between the Judicial Council of California (the **"Licensor"**), and the County of Sonoma, a political subdivision of the State of California (the **"Licensee"**). Licensor and Licensee are sometimes collectively referred to herein as the **"Parties"** and singularly, as **"Party."**

## RECITALS

WHEREAS, on April 10, 2012, Licensor acquired from Licensee a permanent right to use the Parking Lot pursuant to that certain Parking Easement Agreement (the **"Easement"**), which Easement was granted in connection with the Licensor's planned construction and operation of the New Santa Rosa Criminal Courthouse (the **"New Courthouse"**) for use by the Superior Court of California, County of Sonoma; and

WHEREAS, Licensor and Licensee entered into that certain Parking License Agreement dated April 10, 2012 (the **"First License"**), wherein Licensor granted to Licensee certain rights to use that certain parking lot on Russell Avenue near the New Courthouse location as described and depicted on the exhibit attached to the Easement as **Exhibit "A"** thereto (the **"Parking Lot"**); and

WHEREAS, the term of the First License expired at 11:59 p.m. on June 30, 2013; and

WHEREAS, Licensor and Licensee entered into that certain Parking License Agreement dated August 1, 2014 (the **"Second License"**), with the same terms and conditions as the First License, but with a Term expiring at 11:59 p.m. on April 30, 2016; and

WHEREAS, Licensor and Licensee entered into that certain First Amendment to Parking License Agreement dated July 21, 2015 (the "**First Amendment**"), in order to extend the term of the License through December 31, 2016;

WHEREAS, the Second License as modified by the First Amendment is hereinafter referred to as the "**License**"; and

WHEREAS, Licensor and Licensee acknowledge that the Parking Lot will not be needed by Licensor before December 31, 2017, and the Parties are mutually agreeable to extending the term therefor.

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

AGREEMENT

**1. Incorporation of Recitals; Defined Terms.** The foregoing provisions of the Recitals are true and correct and are incorporated into this Second Amendment by this reference. Any defined terms not defined herein will have the definition meaning given those terms in the License.

**2.** Effective as of the Effective Date of this Second Amendment, the License is modified as follows:

A. **Section 2** of the License is hereby deleted in its entirety and replaced with the following section:

> "2. **Term of License.** The term of this License shall commence as of August 1, 2014 (the **"Commencement Date"**), and shall terminate at 11:59 p.m. on December 31, 2017, unless (i) terminated earlier by the giving by Licensor of not less than 90 days prior written notice thereof to Licensee, or (ii) extended by mutual written agreement of the Parties (the **"Term"**)."

**3.** Except to the extent the License is specifically amended or supplemented hereby, the License, together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be constructed to modify, invalidate or otherwise affect any provision of the License or any right of Licensee arising thereunder.

**4.** This Second Amendment shall be governed by and construed under the internal laws of the State of California, and any action to enforce the terms of this Second Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

LICENSOR AND LICENSEE HAVE CAREFULLY READ AND REVIEWED THIS SECOND AMENDMENT AND EACH TERM AND PROVISION CONTAINED

HEREIN AND, BY EXECUTION OF THIS SECOND AMENDMENT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.

**IN WITNESS WHEREOF,** the Parties hereto have executed this Second Amendment as of the Effective Date.

**LICENSEE:**

**COUNTY OF SONOMA, a political subdivision of the State of California**

By: _____
Name: Caroline Judy
Title: Director, General Services Dept.
Date: _____

APPROVED AS TO FORM:
County of Sonoma,
Office of County Counsel

By: _____
Name: Elizabeth Coleman With
Title: Deputy County Counsel
Date: _____

**LICENSOR:**

**JUDICIAL COUNCIL OF CALIFORNIA**

By: _____
Name: Stephen Saddler
Title: Manager, Contracts
Date: _____

APPROVED AS TO FORM:
Judicial Council of California,
Legal Services

By: _____
Name: Kristin Kerr
Title: Attorney
Date: _____

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 29**
(This Section for use by Clerk of the Board Only.)

**To:** Sonoma County Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** General Services / Health Services

**Staff Name and Phone Number:**

Marc McDonald, General Services: 707-565-3468
Michael Kennedy, Health Services: 707-565-5157

**Supervisorial District(s):**

**Title:** Lease Renewal for the Department of Health Services at 1360 North McDowell Boulevard, Petaluma

**Recommended Actions:**

Authorize the General Services Director to execute a lease amendment with Circle V Daytona, LLC, to extend the current lease term, through May 31, 2017, at the current rental rate of $6,938/month ($1.86 per sq. ft.), for 3,736 sq. ft. of office space located at 1360 North McDowell Boulevard, Petaluma for mental health outreach and engagement services to south Sonoma County clients at this location.

**Executive Summary:**

This item seeks Board approval to authorize the General Services Director to execute a lease amendment with Circle V Daytona, LLC, to extend the current lease term through May 31, 2017, at a rental rate of $6,938/month ($1.86 per sq. ft.), for 3,736 sq. ft. of office space located at 1360 North McDowell Boulevard, Petaluma (second reading). The lease term expired November 5, 2016, and the Department of Health Services is holding over on a month-to-month basis, pending approval of the proposed lease amendment. The current monthly rent is $6,938/month, and rent would not increase during the proposed extension period. At this facility, the Department of Health Services' (DHS) Behavioral Health Division provides behavioral health outreach services and also partners with community-based organizations such as Goodwill Industries of the Redwood Empire to provide services to DHS's south Sonoma County clients. At the expiration of the lease extension period, the Department plans to relocate to new facility and be co-located with the County Human Services Department who recently executed a lease for Suite 100 of the building at 5350 Old Redwood Highway, Petaluma.

The notice of intent for this transaction has been published for the required period pursuant to the Board's action of November 15, 2016.

**Discussion:**

**General.** The Department of Health Services (DHS) has occupied leased office space from Circle V Dayton, LLC, successor-in-interest to 1360 McDowell, LLC (the Landlord) at 1360 North McDowell

Boulevard, Petaluma (Premises) since January, 1991. DHS provides behavioral health outreach services and also partners with community-based organizations such as Goodwill Industries of the Redwood Empire to provide services to DHS's south Sonoma County clients from this location.

The lease (Lease) expired November 5, 2016, and County is holding over on a month-to-month basis, pending Board authorization to execute the subject lease amendment. The Landlord is willing to extend the lease term for approximately seven months, effective November 6, 2016 through May 31, 2017, at the same base rent of $6,938 per month as DHS now currently pays per month. After May 31, 2017, the County may continue to lease the premises on a month-to-month basis.

**Proposed Amendment.** Staff has negotiated an amendment to the Lease as follows:

Lease term: A seven-month extension effective November 6, 2016 through May 31, 2017. After May 31, 2017, the lease would continue on a month-to-month basis. Either party may terminate the lease with 60-days' prior written notice to the other party.

Rent: The rent for the extension period would remain at the current rental rate of $6,938.08 per month ($1.86 per sq. ft.). This rental rate approximates fair market value, as within a 5-mile radius of this Petaluma location, office lease rates currently range from $1.45 to $2.30 per sq. ft.

**Funding.** Mental Health Services Act (85%) and Federal Financial Participation (15%) are the sources of funding for this Lease.

**Long-Term Space Need Review.** The Petaluma location provides easier access to County services for south Sonoma County residents, and is in line with the strategic County Comprehensive Facilities Plan, which recommends that County expand wraparound services to its clients through co-location efforts.

**Regionalized Resource Model.** The DHS Behavioral Health Division operates the Community Mental Health Clinics (CMHC) program, which utilizes mental health services facilities in each of the four most outlying communities within the County of Sonoma as follows: 1) Northern Region – Cloverdale, 2) Eastern Region– Sonoma, 3) Southern Region – Petaluma, and 4) Western Region – Guerneville. This model allows DHS to conduct outreach and engagement activities to identify adults who live in geographically isolated areas outside of Sonoma County's service hub of Santa Rosa, and who may be in need of specialty mental health treatment. By placing mental health service locations within each region, DHS is able to provide services to those in need within their communities. In addition, this model allows CMHC program staff to take part in community-based education as well as forging partnerships with local stakeholders.

The focus of services provided at the regional facilities is on reaching, identifying, and engaging underserved individuals and communities in the mental health system, and reducing disparities identified by Sonoma County. The following populations are a priority for outreach and engagement:

- People who are homeless
- People who abuse substances
- Veterans

- People experiencing a recent psychiatric hospitalization
- Ethnic and cultural populations – in particular, Latinos
- Individuals from the Lesbian, Gay, Bisexual, Transgendered, Queer, Questioning and Intersex (LGBTQQI) Community
- People who are geographically isolated

From CMHC program facilities, DHS conducts outreach and engagement activities to identify adults living in outlying communities and who may be in need of specialty mental health treatment. When assessed as needing mental health services, direct specialty mental health services may be provided on site or in the field.

CMHC program staff from the regional facilities can efficiently meet with various community-based stakeholder groups to target residents who may be exhibiting behaviors that may be a result of a mental illness and who may require services. Program services may include welfare checks, street outreach, and home visits in each of these geographic areas. In addition, staff provide mental health training and consultation to support Alexander Valley Healthcare, Petaluma Health Center, Russian River Health Center, Alliance Medical Center, and Wallace House Homeless Shelter.

**Future relocation of DHS in South Sonoma County.** DHS has identified an alternate site in Petaluma in which to relocate its offices from the current location at 1360 North McDowell Boulevard. On August 16, 2016, your Board approved execution of a lease for the Human Services Department (HSD) at 5350 Old Redwood Highway, Petaluma. Through its Neighborhood Services Program, HSD plans to deliver an array of HSD services at this location for its south Sonoma County clients.

Similar to the 'one-stop shop' delivery model for HSD and DHS at The Lakes office complex in south Santa Rosa, DHS seeks to provide a 'one-stop' location for south Sonoma County clients who are in need of both DHS and HSD services, by co-locating with HSD at the 5350 Old Redwood Highway location. County staff is currently under negotiations for a new lease on behalf of DHS, with Cornerstone Properties SA, LLC (the landlord for 5350 Old Redwood Highway), and anticipates the lease and move process, including construction and relocation from 1360 North McDowell Boulevard, may take approximately six to eight months to complete. Staff intends to bring a lease in the near future, for the proposed new location at 5350 Old Redwood Highway, to your Board once the terms of the new lease are finalized.

**Procedural Authority:** Government Code Section 25350 requires the Board to publish a notice of its intent to enter into a lease valued in excess of $50,000 for three (3) consecutive weeks prior to consummation of the proposed lease amendment.

**Prior Board Actions:**

11/15/16 – Declared intent to enter into subject lease amendment

09/11/12—Authorized the General Services Director, or his Deputy, to execute lease amendment to extend the term through November 5, 2016, reduce monthly rental payments, and make minor tenant improvements at landlord's sole cost and expense

08/31/12 – Authorized General Services Director to declare intent to enter into lease amendment with 1360 McDowell LLC

10/10/06 – Authorized General Services Director to execute lease amendment to expand the premises, extend the term, provide additional options and specify rent payments

| **Strategic Plan Alignment** | Goal 1: Safe, Healthy, and Caring Community |
|---|---|

The proposed extension of the lease will allow continuity in the delivery of services at 1360 North McDowell Boulevard, a location which is convenient and familiar to south Sonoma County DHS clients.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | 48,567 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **48,567** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | 48,567 | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **48,567** | | |

**Narrative Explanation of Fiscal Impacts:**

$48,567 represents lease rent for the months of November, 2016 through May, 2017 ($6,938.08 X 7 months).

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

None

| **Attachments:** |
| --- |
| Attachment 1:  Copy of Proposed Lease Amendment |
| **Related Items "On File" with the Clerk of the Board:** |
| |

## SIXTH AMENDMENT TO LEASE

This Sixth Amendment to Lease ("Sixth Amendment") is dated for reference purposes only, _____, 2016 and is by and between Circle V Daytona, LLC ("Lessor"), successor in interest to 1360 McDowell, LLC and the County of Sonoma, a political subdivision of the State of California ("Lessee"),

### RECITALS

A. Lessor as predecessor in interest and Lessee entered into that certain Lease dated December 6, 1990 with respect to certain premises as more fully described in the lease and commonly known as 1360 North McDowell Boulevard, Suite 1A in Petaluma, California (the "Premises"). The Lease was amended and the original lease and its amendments are hereinafter collectively referred to as the "Lease".
B. Lessor is the successor in interest to 1360 McDowell, LLC, and is the owner of the Premises.
C. Lessee and Lessor are desirous of further amending the Lease and extending the Lease term for a period of six (6) months commencing November 6, 2016 and ending May 31, 2017 (the "Extended Lease Term").
D. Lessor and Lessee wish to amend the Lease to modify or clarify certain provisions of the Lease.

NOW, THEREFORE in consideration of the agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

### TERMS

1. **Term.** The Lease Term shall be extended for a period commencing on November 6, 2016 and terminate on May 31, 2017. Upon expiration, the lease will continue as a month-to-month tenancy. To terminate tenancy the Lessee or Lessor must give the other party a written sixty (60) day notice of Lease non-renewal.
2. **Rent.** Rent for the Extended Lease Term shall be adjusted as follows:
   a. November 6, 2016 through May 31, 2017: $6,938.08 per month
3. **Notices.** The Lessor shall be Circle V Daytona, LLC and the address for all notices to Lessor shall be:

   945 Front Street
   Novato, CA 94945
   Email: cmalnati@waterfordassociates.com
   Telephone: 415.898.6550x160

4. **Extended Terms.** Lessee acknowledges that the rights to extend in Paragraph 3.2 are hereby deleted and are of no force or effect.
5. **Disclosure.** Lessee acknowledges that it is aware that Michael J. Smith, Roger A. Smith, Benjamin A. Smith, Louis Rago and Lynn Smith, members of the Lessor, are either licensed real estate agents or brokers but are acting as principals in this transaction. There are no real estate agents or brokers in this transaction.

6. **Lease in Full Force and Effect.** Except as provided in this Sixth Amendment, the Lease is unmodified hereby and remains in full force and effect.

IN WITNESS HEREOF, the parties hereto have executed this Sixth Amendment:

"LESSOR": **CIRCLE V DAYTONA, LLC**, successor-in-interest to 1360 McDowell, LLC

By:_____
Benjamin A. Smith, its managing member

"LESSEE": **COUNTY OF SONOMA**, a political subdivision of the State of California

By:_____
Caroline Judy, Director
General Services Department

The General Services Director is authorized to execute this Lease, pursuant to the Board of Supervisors' Summary Action dated _____, 2016.

APPROVED AS TO FORM FOR TENANT:

_____
Elizabeth Coleman With, Deputy County Counsel

APPROVED AS TO CONTENT FOR TENANT:

_____
Barbie Robinson, Interim Director
Department of Health Services

_____
Marc McDonald, Real Estate Manager
General Services Department

CERTIFICATE OF INSURANCE ON FILE WITH DEPARTMENT:

Reviewed by:_____ Date:_____

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 30**
(This Section for use by Clerk of the Board Only.)

**To:** Sonoma County Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** General Services / Human Services Department

**Staff Name and Phone Number:**

Marc McDonald, General Services: 707-565-3468
Steve Fischer, Human Services: 707-565-5850

**Supervisorial District(s):**

**Title:** 3725 Westwind Blvd, Santa Rosa Lease Amendment

**Recommended Actions:**

Approve multiple recommendations relating to the existing Lease Agreement between Gilmore Development Properties, Inc. as Landlord and the County of Sonoma, as Tenant:

A. Declare intent to execute an Amendment to the existing lease, to extend the Lease Expiration Date from May 31, 2017 to May 31, 2027, and provides two (2) five (5) year options to further extend the lease term to 2037, expands the Existing Premises from 24,164 square feet to 32,347 square feet; reduces rent in Existing Premises from $2.43/square foot /month to $1.90/square foot/month, reduces annual rent escalations from 4% to 3%, and requires the Landlord at Landlord's expense to make approximately $1,000,000 in Tenant Improvements (TIs) to the Existing Premises, Expansion Space, Building Common Areas, Site and Parking.

B. Direct the Clerk of the Board to publish a Notice of Intent pursuant to Government Code Section 25350 to execute such Lease Amendment.

C. Authorize the General Services Director to execute a Letter-Agreement whereby the Landlord will prepare architectural construction drawings and apply for building permits prior to potential execution of the proposed lease and approval by the Board, with the County reimbursing up to $30,000, if the lease is not executed.

**Executive Summary:**

**Purpose.** The Director of General Services, in consultation with the Human Services Department, requests Board consideration of an Amendment to an Existing Lease located in Building Y at 3725 Westwind Blvd, Santa Rosa for office space occupied by the Human Services Department's Adult and Aging Division (Division). The Existing Lease for the premises, consisting of 24,164 square feet (sf), will expire on May 31, 2017. The proposed Lease Amendment (Amendment) will extend the lease term by up to twenty (20) years, increase operational efficiency by providing an additional 8,183 sf of Expansion

Space that will enable the Division to consolidate neighboring operations under one roof, reduce operating costs through a 22% reduction in rent per square foot, reduce annual rent escalations from 4% to 3%, and provide at Landlord's sole expense approximately $1,000,000 in Tenant Improvements. Board approval of the Amendment will enable the Division to maximize its effectiveness and efficiency.

**Discussion:**

The Human Services Department provides the following services at 3725 Westwind Blvd.
*List of services*: Adult Protective Services (APS), Area Agency on Aging (AAA), In-Home Supportive Services (IHSS), IHSS Payroll, Public Authority, Veteran's Services, Public Authority/Public Guardian/Public Conservator (PA/PG/PC), Multiservices Senior Services Program (MSSP)/Linkages

Current office space at 3725 Westwind, Blvd., consisting of 24,164 sf, is inadequate in size for current Division needs. In response to this space problem, in December 2014 the Division entered into a lease agreement for 4,985 sf of office space at 3645 Westwind Blvd, a neighboring building for a combined total of 29,149 sf. The lease at 3645 Westwind Blvd was seen at the time as a short term solution to meet the Division's need for overflow space. Both the lease at 3645 Westwind Blvd and 3725 Westwind Blvd expire on May 31, 2017.

In June of 2015, The County of Sonoma Human Services' Department Adult and Aging Division and General Services initiated a search for space with the goal of identifying suitable space to meet the Division's current and anticipated demand for services, reducing rent to market levels, and modernizing the appearance of the offices. The resulting county-wide search did not reveal a suitable alternative to the current location.

In January of 2016, 8,183 sf of space adjacent to the Division's premises at 3725 Westwind Blvd, became available, creating the opportunity for the Division to meet space and client demands by expanding in its current building rather than relocating. The benefit to the Division was an opportunity to save the Division the cost and disruption of moving while retaining its presence at a site that is familiar to its client base.

The General Services' staff has negotiated the Amendment to the Lease to extend the base term through May 31, 2027. In addition, the Amendment provides the Division two (2) five (5) year extension options, expansion of the Premises to 32,347 sf through the absorption of the vacated adjacent space, reduction of rent to $1.90/square foot from $2.43/square foot, reduction of annual rent escalations from 4% to 3%, and commitment from the Landlord to provide approximately $1,000,000 in Tenant Improvements to the premises.

If this Amendment is not approved the Division will recommence its search for suitable space. While this search is underway the Division will retain occupancy of the premises on a "hold over" basis, subject to termination on 90 days' notice. Additionally, as a "hold over" tenant rent will increase from $58,719 per month ($2.43/square foot/month) to $64,590 per month ($2.67/square foot/month). And we would stand a chance of losing the 8,183 sf of "overflow" space.

Your approval of the proposed Amendment will allow the Division uninterrupted operations for up to twenty (20) years at its current site, increase operational efficiency by providing the Division with the

expansion space it needs to consolidate operations and allow for future growth, reduce Division expenses through a 22% reduction in its rental rate per square foot and a reduction of annual rent escalations from 4% to 3%, and provide the Division with approximately $1,000,000 in Tenant Improvements to upgrade and improve the Premises.

**Amendment**. The proposed Amendment to the Lease Agreement between Gilmore Development Properties, Inc. as Landlord and the County of Sonoma, as Tenant contains the following key provisions:

1. Extend the Lease Expiration Date from May 31, 2017 to May 31, 2027.
2. Provide the County two (2) options that each extend the term an additional five (5) years, enabling the County to maintain control of the Premises through May 31, 2037. Each extension option is subject to written notice by the County at least 180 days prior to the end of the then current term.
3. Expansion of the Premises from 24,164 sf at 3725 Westwind Blvd. (plus 4,985 square feet at 3645 Westwind Blvd, for a combined total of 29,149 square feet) to 32,347 sf through the absorption of 8,183 sf of adjacent space, providing the Division occupancy of the entire first floor of the Building.
4. Reduction of rent per square foot from $2.43/square foot to $1.90/square foot, and the reduction of annual rent escalations from the current 4% to 3% over the previous year's annual rent.
5. The Landlord will provide at the Landlord's sole cost and expense approximately $1,000,000 in Tenant Improvements. TIs will include complete build-out of the 8,183 sf of Expansion Space as well as improvements to the Existing Premises, the Building common areas, general site improvements and parking improvements. In addition the Landlord will be required to make cosmetic improvements to the Premises at the beginning of each Option Term.
6. The Amendment maintains the County's right to terminate the Lease Agreement at any time with three hundred (300) days' written notice if termination is due to non-appropriation of funds ("Non-appropriation of Funds").

County staff, with input from real estate brokerages, determined that the negotiated rent, lease terms and Landlord's Tenant Improvements contribution represent an acceptable fair market rental rate for the location and is consistent with rates and lease terms of other office tenants in the area.

**Project Costs and Construction Schedule**. The total project cost of the Amendment to the Lease at 3725 Westwind Blvd is estimated at $164,153, consisting of $160,000 for relocating 20 employees into the Expanded Premises and $4,153 installation of Audio Visual equipment. The County will continue to pay utilities separately to the Landlord per the terms and conditions of the existing Lease Agreement, with estimated monthly payments of $6,145 ($.19/square foot).

**Proposed Letter Agreement.** To expedite construction and facilitate efforts to have the Premises ready as early as possible for the Program, staff proposes a letter-agreement whereby the Landlord will proceed with construction drawings and permit applications during the public noticing period required by the California Government Code, provided the County guarantees reimbursement of these costs, in an amount not to exceed $30,000, should the Board of Supervisors not approve the proposed Lease on or before January 31, 2017. In the event the County executes the proposed Lease on or before January 31, 2017, the County will have no obligation to reimburse Landlord for these costs as they are a landlord

responsibility under the proposed Lease. The letter-agreement is proposed and endorsed by the occupying Department as a means to attain the targeted occupancy date of June 1, 2017. Please see Attachment 2 for a copy of the proposed letter-agreement.

**Regulatory Conformance.** The project conforms with all regulatory requirements.

**Procedural Authority.** Government Code Section 25350 requires two (2) Board actions, which includes publication of a notice of intent for three (3) consecutive weeks, for an agreement where County is tenant, the lease agreement is valued at more than $50,000, and the term is greater than three (3) years. Staff has prepared the attached notice for publication, which sets January 10, 2017 as the date and time of the meeting to approve the Amendment and authorize its execution. By approving this agenda item, the Board directs the Clerk of the Board to publish the notice in accordance with Government Code Section 25350. Upon conclusion of the required notice publication period, the Board would receive any public comments at its regular meeting of January 10, 2017, approve the final Amendment, and authorize the General Services Director to execute the Amendment.

**Prior Board Actions:**

10/10/06 – Declare intent to enter into a Lease with Gilmore Development Properties, Inc.
12/05/06 – Authorize General Services Director to execute Lease.

**Strategic Plan Alignment** Goal 1: Safe, Healthy, and Caring Community

The Amendment, along with the resultant extension and expansion of the Human Services Department's Adult and Aging Division's lease term and premises in Building Y at 3725 Westwind Blvd, will support the human service needs of the residents of Sonoma County by maintaining the Division's uninterrupted operations.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | $67,605 | $813,291 | $837,690 |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | $67,605 | $813,291 | $837,690 |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | $67,605 | $813,291 | $837,690 |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | $67,605 | $813,291 | $837,690 |

**Narrative Explanation of Fiscal Impacts:** Rent and utility impacts for FY 16-17 is included in the Human Services Department budget, and rent and utility impacts for FY 17-18 and FY 18-19 will be included in the Human Services Department budget.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

None

**Attachments:**

Attachment 1: Notice of Intent
Attachment 2: Letter Agreement
Attachment 3: Amendment to Lease Agreement between Gilmore Development Properties, Inc. as Landlord and the County of Sonoma as Tenant

**Related Items "On File" with the Clerk of the Board:**

Lease between Gilmore Development Properties, Inc. as Landlord and the County of Sonoma as Tenant.

Attachment 1

# PUBLIC NOTICE
# OF INTENT OF COUNTY
# TO EXECUTE AN AMENDMENT TO LEASE REAL PROPERTY

NOTICE IS GIVEN that the Sonoma County Board of Supervisors intends to authorize the General Services Director to execute an Amendment to an existing Lease Agreement between Gilmore Development Properties, Inc., as Landlord, and the County of Sonoma, as Tenant, for office space located at 3725 Westwind Blvd, Santa Rosa, to extend the lease term ten (10) additional years to May 31, 2027, provide two (2) five (5) year options to further extend the lease term to May 31, 2037, expand the Premises from 24,164 square feet to 32,347 square feet, reduce monthly rent per square foot from $2.43 psf plus utilities to $1.90 psf plus utilities ($61,459/month plus utilities), reduce annual rent escalations from 4% to 3%, and require the landlord to make at the landlord's expense approximately $1,000,000 in Tenant Improvements (TIs) to the Premise and parking area. Additional information regarding the proposed Amendment to the Lease Agreement is available for public review at the Office of the Director of the Sonoma County General Services Department, 2300 County Center Drive, Suite A200, Santa Rosa, California 95403. The Board of Supervisors will meet on or about January 10, 2017 at 8:30 a.m., at the Sonoma County Administration Building, Room 102A, 575 Administration Drive, Santa Rosa, California to consummate the Sublease Agreement.

Clerk of the Board of Supervisors

*Public notice of the County's intention to execute a Sublease Agreement shall be published once a week for three successive weeks in accordance with Government Code Section 25350 and 6063.*

SONOMA COUNTY
GENERAL SERVICES DEPARTMENT

CAROLINE JUDY
DIRECTOR

ADMINISTRATIVE SERVICES • ENERGY & SUSTAINABILITY • FACILITIES DEVELOPMENT & MANAGEMENT • FLEET OPERATIONS • PURCHASING

VIA Certified Mail, Return Receipt Request, and Email

November 10, 2016

Gilmore Development Properties, Inc.
Attn: Roger Mackenzie, President
Mackenzie & Albritton, LLP
220 Sansome Street, 14th Floor
San Francisco, CA 94104

Re: Proposed Lease Amendment ("Amendment") to an existing Lease Agreement between GILMORE DEVELOPMENT PROPERTIES, INC., a California corporation ("Landlord"), and the COUNTY OF SONOMA, a political subdivision of the State of California ("Tenant") for the premises located on the first floor of 3725 Westwind Boulevard, Santa Rosa, CA ("Premises")

Dear Mr. Mackenzie,

In order to expedite construction for the Premises as defined by the above-referenced proposed Amendment, County is willing to guarantee certain costs thereof in the event that the Lease is not executed by County, as outlined below, provided that Landlord diligently proceeds with design of the proposed Premises and applies for all applicable permits.

This guarantee is subject to the following conditions:

(1) In the event the Lease is executed by County on or before January 31, 2017, then this guarantee shall be of no force or effect, and County shall not be required to reimburse Landlord for any costs.

(2) In the event the Lease is not executed by County on or before January 31, 2017, then County shall reimburse Landlord for actual costs incurred in preparing architectural design development and construction drawings based on the preliminary space plan attached to the Lease; provided, however, that in no event shall County be required to reimburse Landlord in an amount greater than Thirty Thousand and No/100 Dollars ($30,000.00), nor shall County be required to reimburse Landlord for any costs incurred after January 31, 2017.

(3) In the event the Lease is executed by County after January 31, 2017, then Landlord shall refund any monies received from County hereunder within thirty (30) days of the execution date of the Lease.

November 10, 2016

(4) This guarantee shall only be binding on County in the event it is executed by the General Services Director, or her Deputy.

If you are in agreement with the terms of this guarantee, please have the appropriate person sign this letter where indicated below and return a copy of it to me.

Very truly yours,

Caroline Judy, Director
General Services Department
County of Sonoma

"Landlord": **Gilmore Development Properties, Inc.**, a California corporation

By: Roger D. MacKenzie
Name: ROGER D. MACKENZIE
Title: Pres.
Date: 11/11/16

"County": **County of Sonoma**, a political subdivision of the State of California

By: _____
Caroline Judy, Director
General Services Department

Date: _____

C: Karen Fies
Carl Vanden Heuvel
Steve Fischer
Marc McDonald
Peter O'Brien

# FIRST AMENDMENT TO LEASE

This First Amendment ("First Amendment"), dated as of _____, 2016 ("Effective Date") is by and between **GILMORE DEVELOPMENT PROPERTIES, INC.**, a California corporation ("Landlord"), and the **COUNTY OF SONOMA**, a political subdivision of the State of California ("Tenant"). All initially capitalized terms used herein shall, unless otherwise defined, have the respective defined meanings stated in the Lease, meaning ascribed to those terms in the Lease (as defined below). Landlord and Tenant are sometimes collectively referred to herein as the "parties" and singularly, a "party."

## RECITALS

WHEREAS, Landlord and Tenant entered into that certain Lease dated December 5, 2006 ("Original Lease") for premises located at 3725 Westwind Boulevard, Building Y, Santa Rosa, California, ("Original Premises") for an initial term of ten (10) years commencing May 21, 2007 and expiring May 31, 2017; and

WHEREAS, by letter dated September 19, 2007, Landlord amended the Original Lease in order to redefine the Rentable Area of the Premises as 24,164 square feet; and

WHEREAS, by letter dated April 17, 2008, Landlord amended the Original Lease, in order to redefine the monthly Rent effective May 1, 2008 through May 20, 2009; and

WHEREAS, by letter dated October 20, 2008, Tenant amended the Original Lease in order to redefine the monthly Rent based on the amended Rentable Area of the Premises; and

WHEREAS, by Letter dated March 31, 2009, Tenant amended the Original Lease to redefine the monthly rental adjustments for the Original Lease for the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth and Tenth Lease Years based on the confirmed Rentable Area of the Premises; and

WHEREAS, the Original Premises as redefined pursuant to the above amendments, shall hereafter be referred to as the Existing Premises; and

WHEREAS, Landlord and Tenant desire to further amend the Original Lease in order to: (i) acknowledge Tenant's continued occupancy of the twenty-four thousand one hundred sixty-four (24,164) square feet of Rentable Area of the Existing Premises pursuant to the terms and conditions of the Original Lease, through the commencement date of this First Amendment; (ii) expand the premises of the Original Lease; (iii) complete modifications to the site parking area; (iv) extend the Original Lease for an additional term of ten (10) years; (v) provide for additional option(s) to extend the Lease term; (vi) specify rental payments and rental adjustments; (vii) provide for certain tenant improvements, modifications and repairs to the Existing Premises, the Expanded Premises, the Building common area, and parking area of the Real Property; (viii) provide for amendments to Tenant's rights to terminate the Lease; (ix) redefine and expand Tenant's



RDM

parking rights; and (x) provide for certain other terms and conditions as hereafter set forth.

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

## AGREEMENT

1. The foregoing Recitals are true and correct.

2. Effective as of the Effective Date of this First Amendment, the Lease is modified as follows:

A. The Lease Term is currently scheduled to expire on May 31, 2017 ("Lease Expiration Date"). As of the date of this First Amendment, the Lease Term is extended to May 31, 2027 ("Revised Lease Expiration Date") and, unless terminated earlier under the terms of the Lease, will expire on the Revised Lease Expiration Date. The period of time beginning on the day following the Lease Expiration Date and continuing through the Revised Lease Expiration Date is the "Extended Term".

B. Section 1.1 of the Lease is hereby deleted and replaced with the following Section 1.1:

"1.1 Lease of Premises. Landlord leases to Tenant and Tenant leases from Landlord those certain Premises described in **Exhibit A** attached hereto ("Premises"), which are located on the first floor in the building commonly known as Building Y of Westwind Business Park located at 3725 Westwind Boulevard, Santa Rosa, California, 95403-1005, and also known as a portion of Assessor's Parcel No. 059-370-025, located in the unincorporated area of the County of Sonoma ("Building"). Subject to verification as provided in Section 1.4.2, the Rentable Area (as defined in Section 1.4) and Usable Area (as defined in Section 1.4) of the Premises are thirty-two thousand three hundred forty-seven (32,347) square feet and twenty-eight thousand eight hundred forty-two (28,842) square feet, respectively, while the Rentable Area of the Building is approximately sixty-eight thousand seven hundred eighty-two (68,782) square feet. The Building, the areas servicing the Building (including any adjacent parking structure and parking area), and the land on which the Building and those areas are located (as shown on the site plan attached to this Lease as **Exhibit B**) are sometimes collectively referred to as the "Real Property".

1.1.1 Existing Premises. The Rentable Area of the Premises of the Original Lease is 24,164 square feet of space on the first floor of the Building ("Existing Premises").

1.1.2 Expanded Premises. The Rentable Area of the Premises of the Original Lease is expanded to include 8,183 Rentable square feet (Usable Area of 7,267 square feet with a load factor of 12.6%) contiguous to the Existing Premises on the first floor of the Building ("Expanded Premises")."



RDA

C. Section 1.3 of the Lease is hereby deleted and replaced with the following Section 1.3:

"1.3 Preparation of Premises. Tenant improvements shall be provided on a turn-key basis subject to mutually agreed upon architectural plans and construction documents prepared by Landlord's architect. Landlord shall complete the demolition, improvements, repairs and modifications to the Premises at Landlord's sole cost and expense based on the following preliminary plans: (i) Improvements/Modifications to Existing and Expanded Premises described in **Exhibit C** attached hereto; (ii) First Level Floor Plan and Finish Plan for Existing Premises described in **Exhibit C-1** attached hereto; (iii) Demolition for Proposed Sonoma County Human Services Tenant Improvements described in **Exhibit D** attached hereto; (iv) Preliminary Space Plan-Option 5 described in **Exhibit E** attached hereto; and (v) Site Plan and Area of Work described in **Exhibit F** attached hereto. All work in the Existing Premises shall be completed by Landlord during Tenant's non-business hours of 7:00 a.m.-6:00 p.m. Monday through Friday and Saturday 9:00 a.m.-1:00 p.m., with exception of County-recognized holidays, unless otherwise agreed to in writing by the parties. Landlord's architect shall provide final construction drawings and a complete design and construction schedule from the estimated Commencement Date through final certificate of occupancy of the Expanded Premises. Tenant shall be responsible for the costs for Landlord to install Tenant's AV equipment (approximately $4,153.00) and the cost to install two (2) EV chargers (approximately $13,000.00). Landlord shall comply with the applicable provisions of California Labor Code Sections 1720.2 and 1770 et seq., regarding general prevailing wages. Landlord shall coordinate the scheduling of the work of improvement described in Exhibits C through F of this Section 1.3 with Tenant's Facilities Manager."

D. Section 1.5 of the Lease is hereby deleted in its entirety.

E. Section 1.6 of the Lease is hereby deleted in its entirety.

F. Section 2.2 of the Lease is hereby deleted in its entirety and replaced with the following Section 2.2 and Section 2.2.1:

"2.2 Commencement Date. The term of this Extended Term shall commence on June 1, 2017. ("Commencement Date"). Tenant shall continue uninterrupted occupancy of the Existing Premises pursuant to the terms of the Original Lease until expiration of the Original Lease Term on May 31, 2017. Occupancy and use of the Expanded Premises by Tenant shall commence on the earlier of the following dates: (a) May 1, 2017; or (b) completion of the Tenant Improvements and modifications for the Existing Premises, Expanded Premises, the Building common areas and site modifications pursuant to **Exhibit C**, **Exhibit C-1**, **Exhibit D**, **Exhibit E**, and **Exhibit F**, attached hereto, issuance of a final certificate of occupancy by Landlord for the Expanded Premises, and expiration of the Fixturization Period described below.

2.2.1 Fixturization Period. Tenant shall have the right to access the Expanded Premises for a period of thirty (30) calendar days, at no charge to Tenant, to install furniture, fixtures and equipment ("FF&E") commencing on the substantial completion of Landlord's work and delivery of the Expanded Premises to Tenant. Upon the determination of the Commencement Date, Landlord and Tenant shall



RDM

execute a written acknowledgement of the Commencement Date and attach it to this Lease Amendment."

G. Section 2.5 of the Lease is hereby deleted in its entirety and replaced with the following Section 2.5:

"2.5. Option to Extend Term. Landlord grants to Tenant two (2) options to extend the Extended Term (the "Extension Options", each an "Extension Option", collectively the "Option Terms"), for a period of five (5) years each, subject to the terms described in this Section 2.5."

H. Section 2.5.1 of the Lease is hereby deleted in its entirety and replaced with the following Section 2.5.1.

"2.5.1 Conditions of Option. An Extension Option may be exercised only by written notice delivered by Tenant to Landlord as provided in Section 2.5.3 and only if, as of the date of delivery of the notice, Tenant is not in material default under the Lease after the expiration of any applicable cure periods. If Tenant properly exercises an Extension Option, the Extended Term, as it applies to the entire Premises then leased by Tenant, shall be extended for the Option Term. If Tenant properly exercises the first Extension Option, Landlord shall, if requested by Tenant, prior to the commencement of the first Extension Option, repaint the Premises and install new carpeting throughout the Premises and first floor common area of the Building, during non-business hours, in a manner reasonably acceptable to Tenant. Cost for furniture lift and relocation necessary for the installation of new carpet shall be included and performed at Landlord's sole cost and expense."

I. Section 2.5.2.1 of the Lease is hereby deleted in its entirety and replaced with the following Section 2.5.2.1:

"2.5.2.1 First Option Term. The rent payable by Tenant during the first Option Term shall be equal to the Fair Market Rental Value of the Premises as of the commencement of the first Option Term. For purposes of this Section 2.5.2.1, Fair Market Rental Value of the Premises shall be the rental rate, including all escalations, at which tenants lease comparable space as of the commencement of the first Option Term. For this purpose "comparable space" shall be office space that is: (a) not subleased; (b) not subject to another tenant's expansion rights; (c) not leased to a tenant that holds an ownership interest in the landlord; (d) not leased to a tenant under a renewal or an extension of a lease; (e) comparable in size, location, and quality to the Premises; (f) leased for a term comparable to the first Option Term; and (g) located in comparable buildings."

J. Section 2.6.1 of the Lease is hereby deleted in its entirety and replaced with the following Section 2.6.1:

"2.6.1 Non-appropriation of Funds. Tenant may terminate this Lease, in accordance with Section 2.6.3 with respect to all or part of the Premises upon three hundred (300) days prior written notice to Landlord ("Termination Notice") on the happening of any one or more of the following events: (a) the County Board of



RDM

Supervisors fails to appropriate sufficient funds for the rental of the Real Property covered by this Lease; (b) the County Board of Supervisors discontinues, in whole or in part, the program or agency for which the Premises were leased; or (c) the funding, whether County, State or Federal, for the program or agency for which the Premises were leased is reduced or withdrawn."

K. Section 2.6.2 of the Lease is hereby deleted in its entirety.

L. Section 2.6.3.1 of the Lease is hereby deleted in its entirety and replaced with the following Section 2.6.3.1:

"2.6.3.1 Exercise of Termination Right. The Premises subject to any Termination Notice shall be referred to as the "Canceled Premises". The termination shall be effective as of three hundred (300) days, in the case of termination under Section 2.6.1 after Tenant delivers the Termination Notice to Landlord ("Lease Termination Date"). Tenant's delivery of the Termination Notice to Landlord shall be accompanied by an amount equal to the Lease Termination Fee, as defined in Section 2.6.3.2."

M. Section 2.6.3.2 of the Lease is hereby deleted in its entirety and replaced with the following Section 2.6.3.2:

"2.6.3.2 Lease Termination Fee. Before giving the Termination Notice, Tenant shall give Landlord a preliminary notice in writing stating Tenant's intention to exercise the right to terminate and the proposed Lease Termination Date. Within thirty (30) days after receiving the preliminary notice from Tenant, Landlord shall notify Tenant of the amount of the Lease Termination Fee based on the appropriate Lease Termination Date set forth in Tenant's notice. In the event Tenant terminates this Lease pursuant to Section 2.6.1, the Lease Termination Fee shall be equal to the unamortized costs of the new tenant improvements and modifications and commission costs for the Extended Term. For the purposes of this calculation, the rent reduction herein and all other improvement and commission costs shall be amortized over the ten-year period from the Commencement Date (June 1, 2017, the effective date of the rent reduction for the Existing Premises) to the expiration date of the Extended Term (May 31, 2027) at an interest rate of SIX PERCENT (6.0%) per year."

N. Section 2.6.3.2.1 of the Lease is hereby deleted in its entirety.

O. Section 4.1 of the Lease is hereby deleted in its entirety and replaced with the following Section 4.1, Section 4.1.1 and Section 4.1.2:

"4.1 Definition of Rent-Limited Setoff. Tenant shall pay to Landlord rent ("Rent') in equal monthly installments of Sixty-One Thousand Four Hundred Fifty-Nine and 30/100 Dollars ($61,459.30) ($1.90 per sq. ft. per month of the Rentable Area of the Premises), in advance on or before the first day of every calendar month during the Extended Term, without any setoff or deduction except as provided in Section 4.1.1, below, Section 5.1 and Section 20.2. Payment shall be made at the address set forth in Section 19.4 or at any other place that Landlord may from time to time designate in writing.



RDF

4.1.1 Rent-Existing Premises. The rent for the Existing Premises shall remain unchanged from the current rent paid by Tenant. Tenant shall pay to Landlord in equal monthly installments of Fifty-Eight Thousand Eight Hundred Twenty-Six and 62/100 Dollars) ($58,826.62) ($2.43 per sq. ft. per month of the Rentable Area of the Existing Premises, net of utilities) through May 31, 2017. The rent for the Existing Premises shall be reduced to equal monthly installments of Forty-Five Thousand Nine Hundred Eleven and 60/100 Dollars ($45,911.60) ($1.90 per sq. ft. per month of the Rentable Area of the Existing Premises, net of utilities), beginning June 1, 2017, the Commencement Date of the Extended Term.

4.1.2 Rent-Expanded Premises. Tenant shall pay to Landlord in equal monthly installments of Fifteen Thousand Five Hundred Forty-Seven and 70/100 Dollars ($15,547.70) ($1.90 per sq. ft. per month of the Rentable Area of the Expanded Premises, net of utilities), as of the Commencement Date of the Expanded Premises defined in Section 2.2."

Section 4.3 of the Lease shall be deleted in its entirety and replaced with the following Section 4.3:

"4.3 Rental Adjustments. Rent shall be increased on the first anniversary of the Commencement Date of the Extended Term and on each subsequent anniversary through May 31, 2027 by THREE PERCENT (3.0%) per year."

P. Article 8 of the Lease is hereby deleted in its entirety and replaced with the following ARTICLE 8:

"ARTICLE 8
PARKING

Included in Tenant's rental herein is the right of Tenant's employees, contractors, agents, customers and invitees to have the right to use free from charge four (4) parking spaces for each one thousand (1,000) square feet of Rentable Area of the Premises in the parking area associated with the Building. Tenant shall have the right to require Landlord to appropriately designate a total of eighteen (18) of the spaces as reserved for Tenant. In addition to the four (4) regular ADA spaces located in the rear parking area and four (4) regular ADA spaces located in the front parking area associated with the Building, Landlord shall complete site and parking area improvements per **Exhibit F**, attached hereto, to provide a total of ten (10) regular ADA parking spaces located at the front of the Building. In addition to the regular ADA parking spaces, Landlord shall also designate one (1) regular ADA parking space and one (1) van accessible ADA parking space in those spaces located closest to the Building in the rear parking lot. In no event shall Landlord reserve any other parking spaces on the Real Property (including for other tenants, licenses or occupants of the Building or the tenants, licenses or for occupants of other buildings or other properties) without the prior written consent of Tenant. In the event Landlord installs a system of charging for parking in the parking area, Landlord shall establish and make available to Tenant no charge validations issued to Tenant's customers and invitees for the use of such parking to the extent of said parking spaces in the parking area. Landlord represents and warrants and Tenant understands



RDM

and acknowledges that there are two hundred eighty (280) parking spaces in the parking area associated with the Building."

3. Brokers. Jeffrey Wilmore and Dave Peterson of Keegan & Coppin Company, Inc. ONCOR International ("Broker") represent the Landlord in connection with the negotiations for this Lease transaction, and Ron Crocker and Lyn Crocker of Mason McDuffie Commercial Real Estate ("Broker"), represent the Tenant. Upon execution of this Lease Amendment Landlord shall be responsible to pay 100% of the commission due to the Brokers per a separate agreement. In the event that any other broker or finder perfects a claim for a commission or finder's fee based upon any such contract, dealing or communication, the party through whom the broker or finder makes his or her claim shall be responsible for said commission or fee and all costs and expenses (including reasonable attorneys' fees) incurred by the other party in defending against the same.

4. Effectiveness of Lease. Except to the extent the Lease is explicitly modified by this First Amendment, the Lease, together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be constructed to modify, invalidate or otherwise affect any provision of the Lease or any right of Tenant arising thereunder.

5. This First Amendment shall be governed by and construed under the internal laws of the State of California, and any action to enforce the terms of this Third Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

**LANDLORD AND TENANT HAVE CAREFULLY READ AND REVIEWED THIS FIRST AMENDMENT AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS FIRST AMENDMENT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.**

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the Effective Date.

"LANDLORD": GILMORE DEVELOPMENT PROPERTIES INC., a California corporation

By: Roger D. Mackenzie

Roger Mackenzie, President

"TENANT": COUNTY OF SONOMA, a political subdivision of the State of California

By: _____

Caroline Judy, Director
General Services Department

The General Services Director is authorized to sign this First Amendment pursuant to the Board of Supervisor's Summary Action dated _____. 2016.

APPROVED AS TO FORM FOR TENANT:

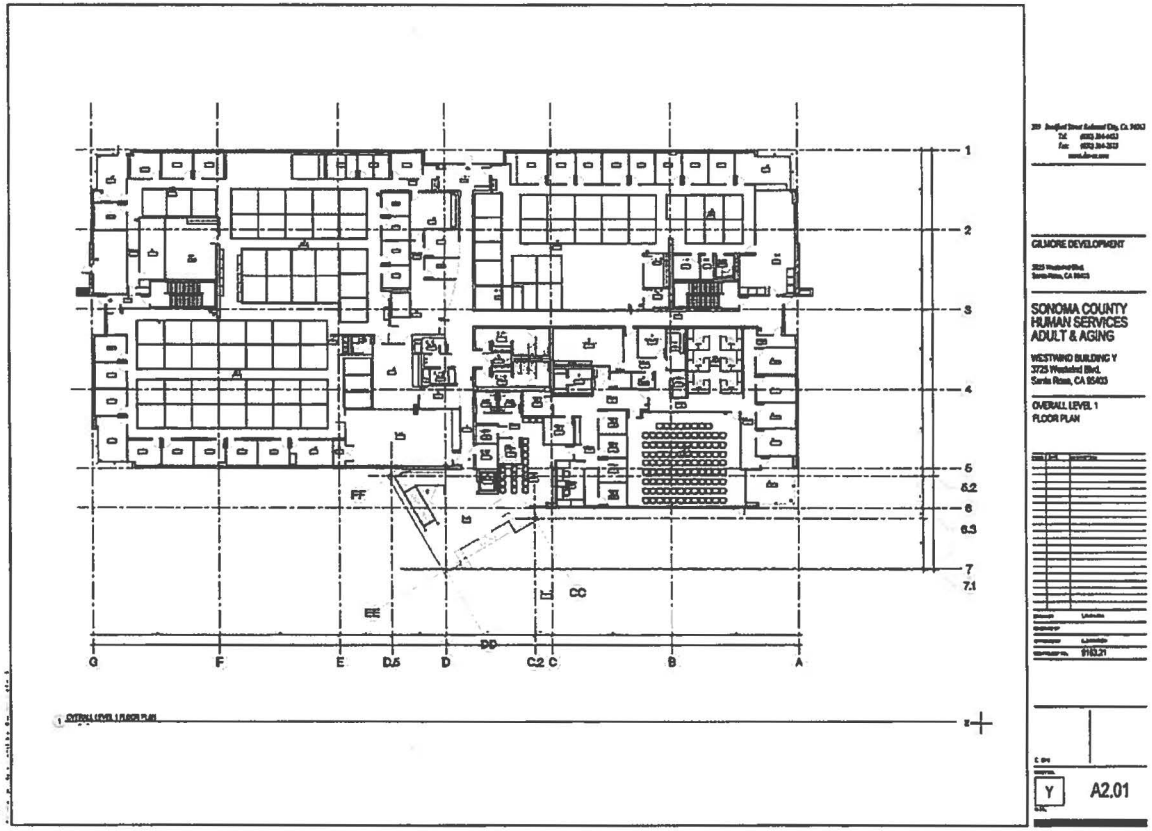
_____
Elizabeth Coleman
Deputy County Counsel

APPROVED AS TO SUBSTANCE FOR TENANT:

_____
Karen Fies, Director
Human Services Department

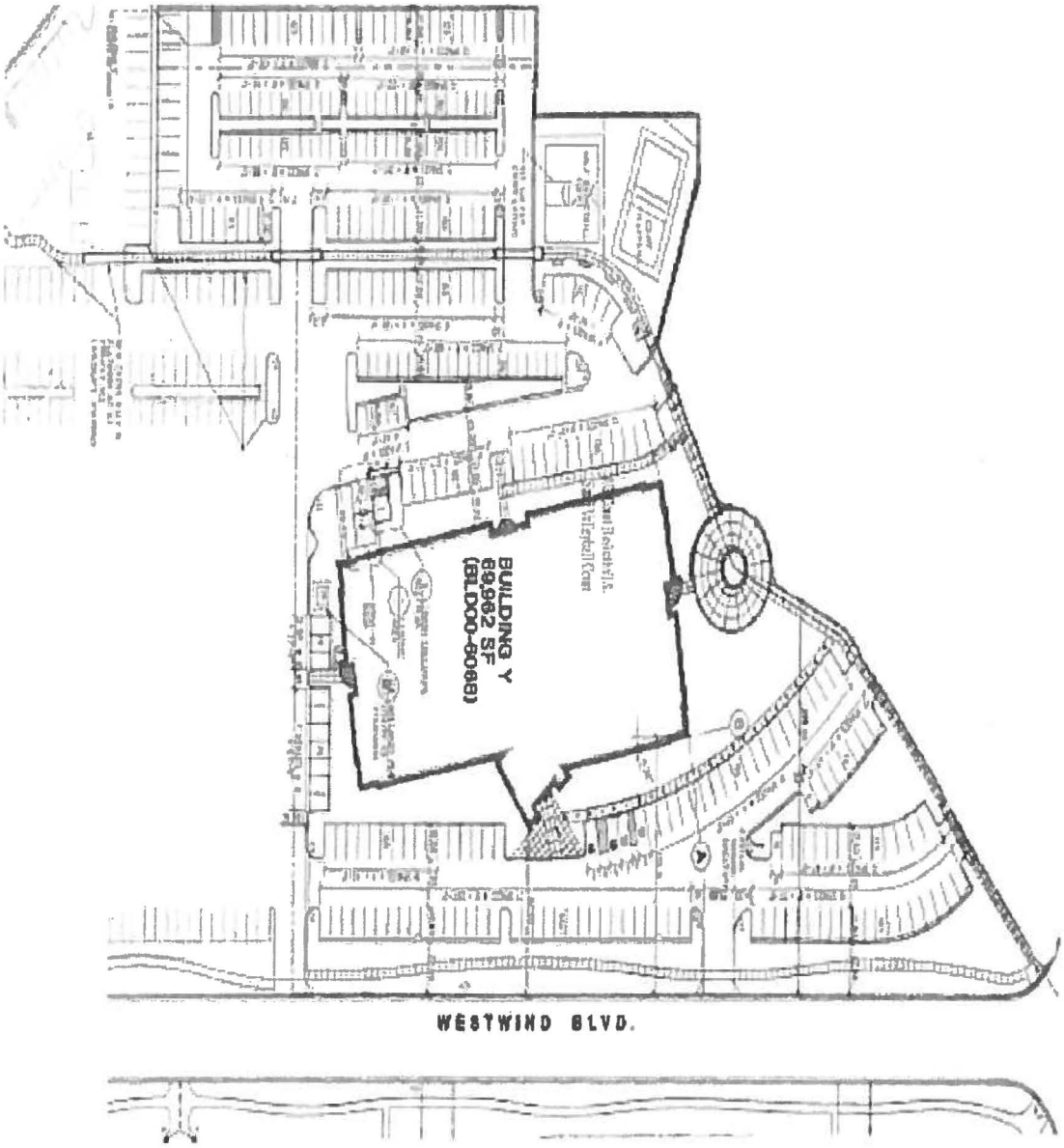
_____
Marc McDonald
Real Estate Manager

# EXHIBIT A
# 3725 Westwind Boulevard
# Premises




RDA

# EXHIBIT B
## Site Plan
### Building Y




RDM

# EXHIBIT C
# 3725 Westwind Boulevard
# Improvements/Modifications to Existing and Expanded Premises

**Paint**

1. All conference room interiors
2. Hallway wall from Carnelian to Office 113
3. Exterior wall outside Office 116
4. Hallway wall from Williamson to Office 125
5. Hallway from Williamson to the 117 corridor (south entrance)
6. Hallway walls (both sides) from Office 134 to northwest corridor entrance
7. All of Office 140
8. All of Office 141
9. All of reception area (Room 101)
10. Exterior wall of office 146 that faces the employee entrance
11. All of north suite break room (Room 156)
12. All of Office 160 (copy area)
13. Employee side wall from Office 161 to the corner

**Miscellaneous**

14. Install an Insta-hot in Room 128 (south side coffee break area).
15. Replace linoleum in break room 156.
16. Corner guards all around.
17. Install chair rails in conference rooms; Carnelian, Topaz, Amethyst, Lobby, and Office 151.
18. Deep clean cabinets, counter tops, walls and floor in both break areas.
19. Install new solid core door at existing entrance to reception area.*

**Building Y Common Area Upgrades**

1. Replace carpet and repaint all first floor common areas.**
2. Repaint first floor core restrooms and showers.
3. Replace plastic laminate lavatory counters in first floor core restrooms.

**Additional Improvements included at no additional cost to Tenant (Items # 1 through #7 of Landlord's proposal)**

1. Additional bathrooms on the interior of the Premises
2. Electric vehicle chargers
3. Additional ADA parking stalls and walkways
4. Exterior door from the Premises to the exterior
5. Sound insulation in the walls
6. Install Tenant-provided AV system

* *Represents an addition to Exhibit A-1*
** *Represents an amendment to Exhibit A-1*

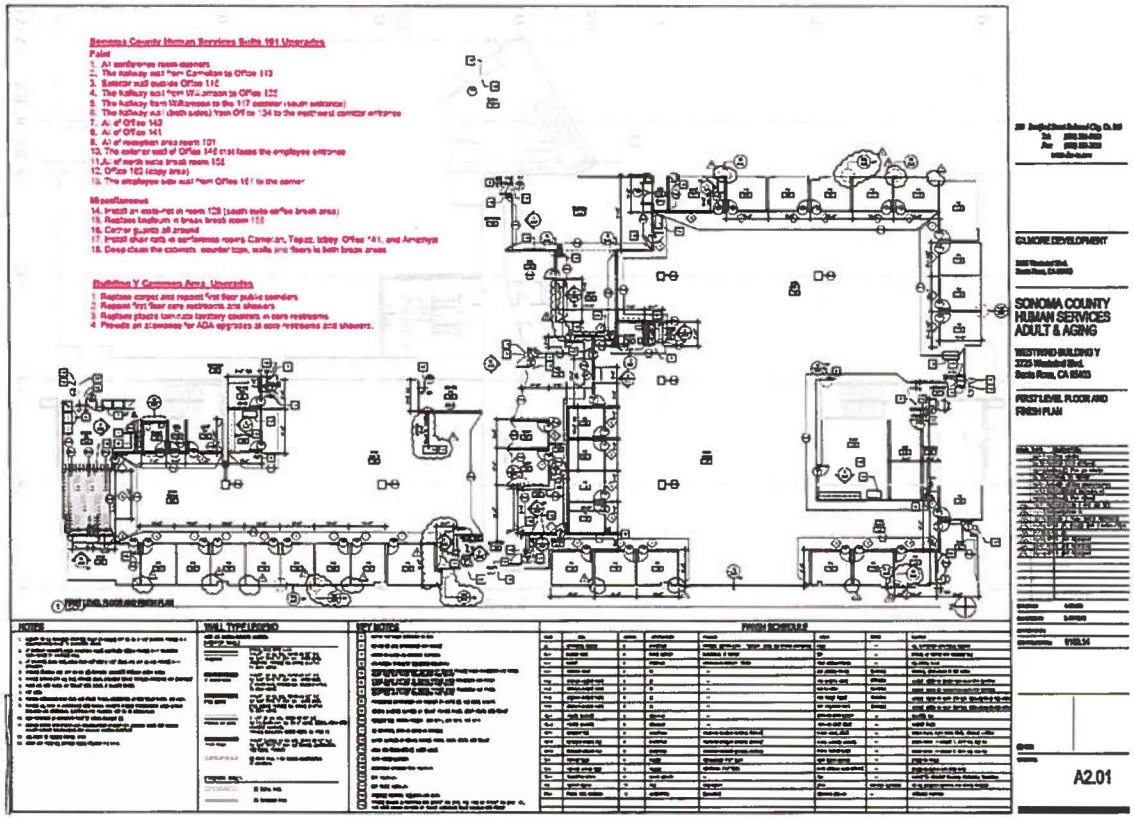
All work in the Existing Premises will be completed by Landlord during Tenant's non-business hours, including week-ends.

RDM

# EXHIBIT C-1

# 3725 Westwind Boulevard

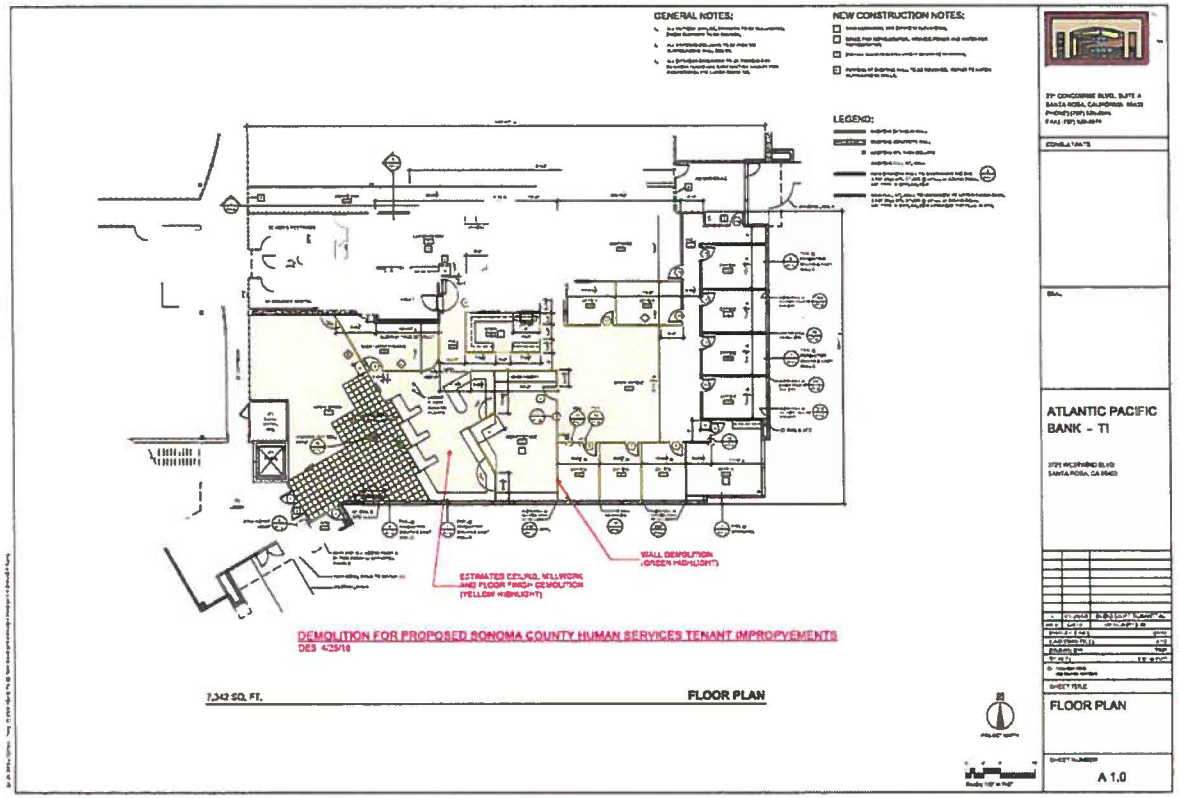
# Existing Premises Tenant Improvements



# EXHIBIT D

# 3725 Westwind Boulevard

# Expanded Premises Demolition Plan

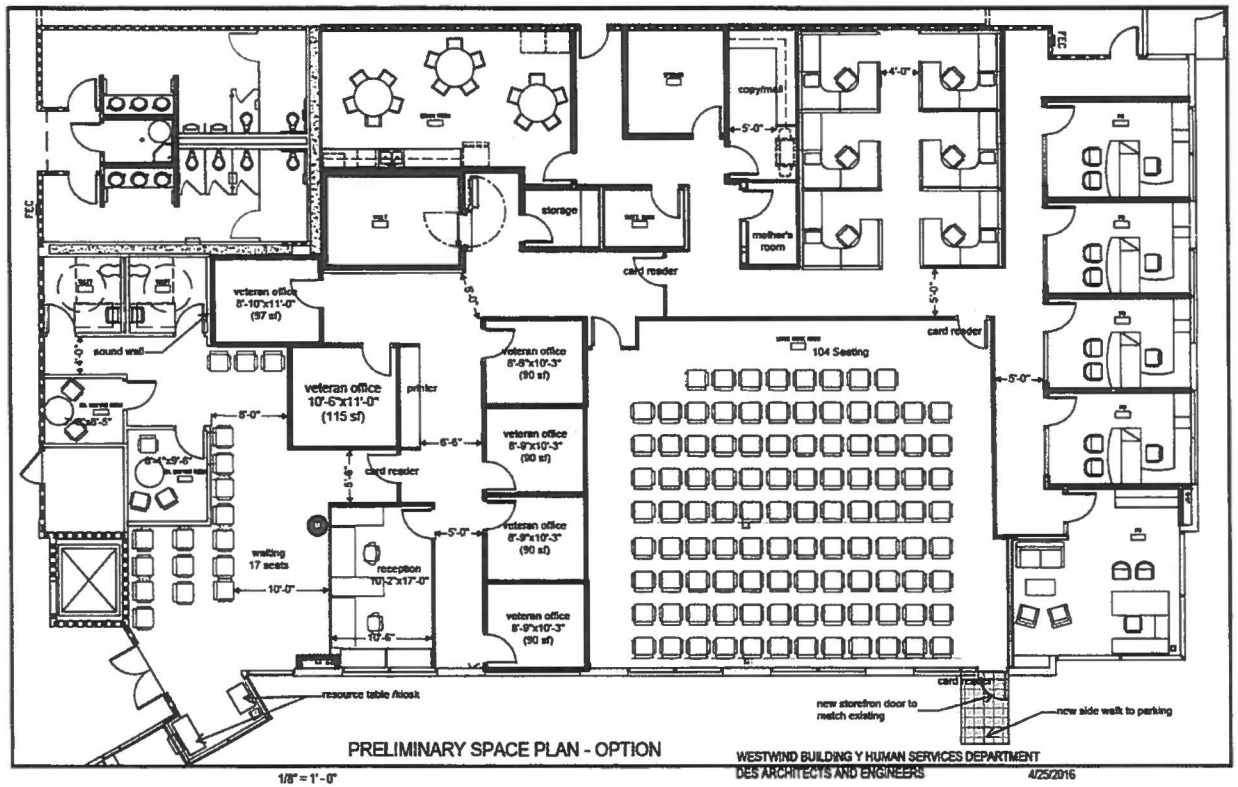



RDM

# EXHIBIT E

# 3725 Westwind Boulevard

# Expanded Premises Space Plan

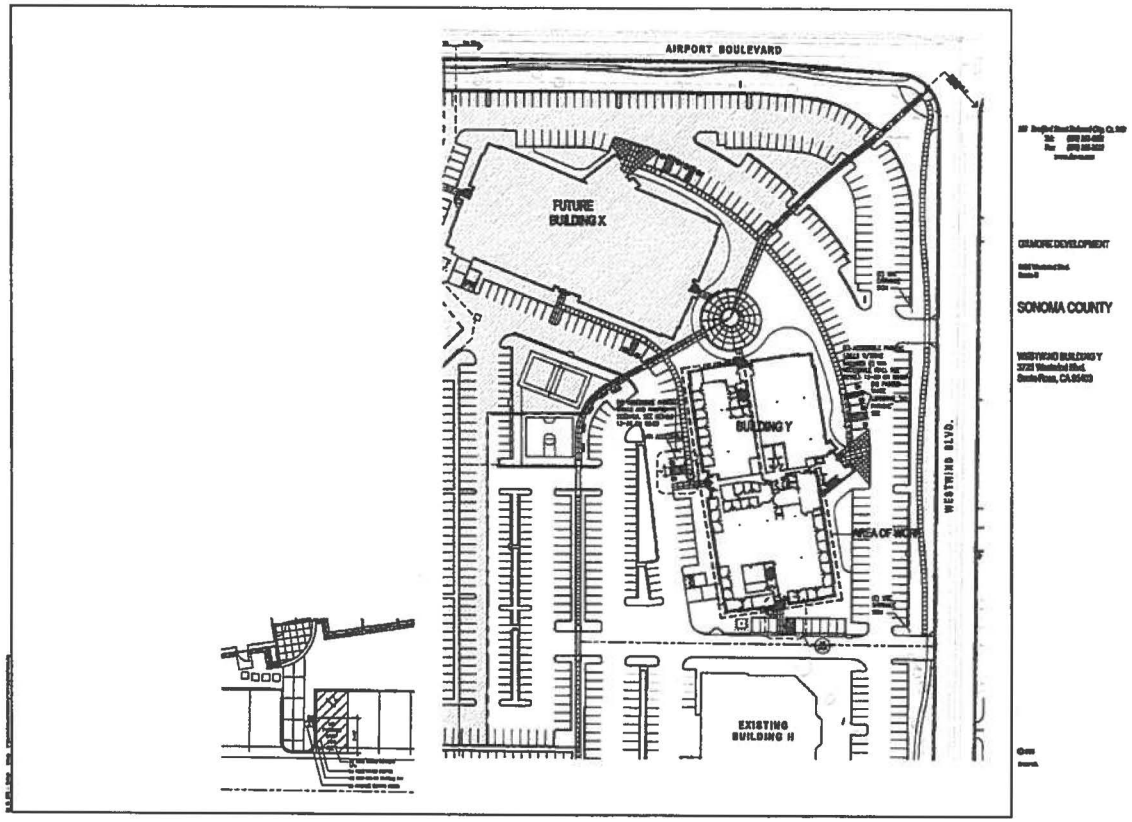



P.D.

# EXHIBIT F

# 3725 Westwind Boulevard

# Planned Improvements to Site




Rb r

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 31**
(This Section for use by Clerk of the Board Only.)

**To:** Sonoma County Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** General Services / Sheriff's Office

**Staff Name and Phone Number:**

Marc McDonald, General Services: 707-565-3468
Lynnae Mann, Sheriff's Office: 707-565-2872

**Supervisorial District(s):**

**Title:** Lease Extension for Sheriff's Office at 4787 Old Redwood Highway, Suite 105, Santa Rosa

**Recommended Actions:**

Authorize the General Services Director to execute an amendment to a sublease with the Mark West Chamber of Commerce & Visitors Bureau, for the Sheriff's Office, located at 4787 Old Redwood Highway, Suite 105, Santa Rosa, to extend the term from its expiration date of December 31, 2016, to August 31, 2017 for a rental of $647 per month ($4.90 per sq. ft.).

**Executive Summary:**

This item seeks Board approval to authorize the General Services Director to execute a lease amendment for the Sheriff's Office, comprised of approximately 132 sq. ft. and located at 4787 Old Redwood Highway, Suite 105, Santa Rosa, at a rental rate of $647 per month ($4.90 per sq. ft.) for the extension period (second reading). The current rent is $647 per month, and there will be no rent increase for the proposed extension period. The notice of intent for this transaction has been published for the required period pursuant to the Board's action of November 15, 2016.

**Discussion:**

**General.** In January 1, 2012, the Sheriff's Office ("Sheriff") entered into a sublease ("Sublease") with the Mark West Chamber of Commerce & Visitors Bureau ("Chamber"), for Suite 105 comprised of approximately 132 square feet of office space ("Premises"), located in an office building at 4787 Old Redwood Highway, Santa Rosa (the "Building"). The Chamber in turn leases the entire Building from Aliano Enterprises, a California corporation, and the Chamber's master lease expires August 31, 2017. Upon expiration and renewal of the master lease, a new sublease for Sheriff will be negotiated with the Chamber for fair market rent, or the Sheriff will seek an alternative location.

**Program.** The Premises enables the Sheriff to maintain a presence in the Wikiup-Mark West Springs-Larkfield-north Santa Rosa area, which is within the northern Sonoma County, Patrol Zone 3. Local Zone 3 encompasses approximately 104 square miles, is currently staffed from Sheriff's main office, and includes the unincorporated northern areas surrounding the City of Santa Rosa. The Premises provides

area patrol deputies a readily accessible and convenient space to perform administrative functions and report-writing for the Sheriff's mobile workforce. The Sheriff has two other report-writing stations in the County, one at the Amarosa Academy at 3261 No. Dutton Avenue, Santa Rosa; and the other at the Roseland Village Shopping Center, 555 Sebastopol Road, Santa Rosa. These facilities are not open to the public.

The Sheriff operates two substations in the County. The substations are open to the public and located at the following locations: 1) the Guerneville Substation at 16320 Church Street, Guerneville; and 2) the Valley Substation at 810B Grove Street, Sonoma.

**Proposed sublease extension.** Staff has negotiated an extension of the Sublease with the Chamber as follows:

| | |
|---|---|
| Extension period: | Extended for eight months, from January 1, 2017 to August 31, 2017, coterminous with the Chamber's master Lease, which expires August 31, 2017. |
| Extension rent: | No change. The rent would remain at the current monthly rental rate of $647 per month ($4.90 per sq. ft.). |

**Funding.** The rental cost for the extension will be paid from the adopted Sheriff's Office FY 16-17 budget.

**Procedural Authority.** Government Code Section 25350 requires the Board to publish a notice of its intent to enter into a lease valued in excess of $50,000 for three (3) consecutive weeks prior to consummation of the proposed lease amendment.

**Prior Board Actions:**

11-15-16 Declared intent to enter into subject amendment
11-08-11 Authorized the General Services Director to execute a sublease with Mark West Chamber of Commerce & Visitors Center

**Strategic Plan Alignment** Goal 1: Safe, Healthy, and Caring Community

The proposed extension of the Sublease will provide the Sheriff with an office that is available for the Sheriff's mobile workforce in the north Sonoma County area.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | 3,883 | 1,294 | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **3,883** | **1,294** | |
| **Funding Sources** | | | |
| General Fund/WA GF | 3,883 | 1,294 | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **3,883** | **1,294** | |

**Narrative Explanation of Fiscal Impacts:**

For the FY16-17, $3,883 = $647.17 X 6 months (for the period of January, 2017 through June, 2017).
For the FY17-18, $1,294 = $647.17 X 2 months (for the period of July, 2017 through August, 2017).

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

None.

**Attachments:**

Attachment 1: Proposed Amendment

**Related Items "On File" with the Clerk of the Board:**

None.

# FIRST AMENDMENT TO SUBLEASE

This First Amendment ("First Amendment"), dated as of_____, 2016 ("Effective Date"), is by and between the **COUNTY OF SONOMA**, a political subdivision of the State of California (hereinafter called the "Sublessee"), and the **MARK WEST AREA CHAMBER OF COMMERCE AND VISITORS BUREAU**, a 501(c)(6) non-profit corporation ("Sublessor"). Sublessee and Sublessor are sometimes collectively referred to herein as the "parties" and singularly, as "a party."

## RECITALS

WHEREAS, Sublessor and Sublessee entered into that certain Sublease dated November 8, 2011 ("Original Sublease"), for use of Suite 105, comprising approximately one hundred thirty-two (132) square feet of office space in that certain office building located at 4787 Old Redwood Highway North, Santa Rosa, California ("Premises"); and

WHEREAS, by certified letter dated November 25, 2014, Sublessee properly exercised its first option to extend the Sublease term through December 31, 2015 ("First Option");

WHEREAS, by certified letter dated October 30, 2015, Sublessee properly exercised its second option to extend the Sublease term through December 31, 2016 ("Second Option"); and

WHEREAS, the Original Sublease, as modified by the First Option and Second Option is hereafter referred to as the "Sublease"; and

WHEREAS, Sublessor and Sublessee wish to amend the Lease in order to: (i) extend the term; (ii) specify the rent for the extended term; and (iv) provide for certain other terms and conditions as hereinafter set forth.

NOW, THEREFORE, in consideration of the continued use of the Premises, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

## AGREEMENT

1. The foregoing recitals are true and correct and are hereby incorporated and made a part of this First Amendment.

2. Effective as of the Effective Date of this First Amendment, the Sublease is modified as follows:

A. Section 3 is hereby deleted in its entirety and replaced with the following:

"3. Term. The initial term ("Initial Term") of this Sublease shall commence January 1, 2012 ("Commencement Date"), and expire on August 31, 2017 ("Expiration Date"), subject to any option, renewal, extension or termination rights of Sublessee as provided for in this Sublease."

C. Section 4 is hereby deleted in its entirety and replaced with the following:

"4. Rent. Sublessee shall pay Sublessor for the agreed use of said Subleased Premises rent ("Rent") in the following amounts:

a. For the period of January 1, 2012 through December 31, 2012, the sum of Five Hundred Seventy-Five and No/100 Dollars ($575.00) per month;

b. For the period of January 1, 2013 through December 31, 2013, the sum of Five Hundred Ninety-Two and 25/100 Dollars ($592.25) per month;

c. For the period of January 1, 2014 through December 31, 2014, the sum of Six Hundred Ten and 02/100 Dollars ($610.02) per month;

d. For the period of January 1, 2015 through December 31, 2015, the sum of Six Hundred Twenty-Eight and 32/100 Dollars ($628.32) per month; and

e. For the period of January 1, 2016 through August 31, 2017, the sum of Six Hundred Forty-Seven and 17/100 Dollars ($647.17) per month."

Rent shall be payable in advance on the first day of each calendar month during the term. Sublessee's share of all utilities for the Subleased Premises, including electricity, water and garbage, are included in said Rent amount. Any partial month shall be prorated based on the actual number of days in said month."

3. Except to the extent the Lease is specifically amended or supplemented hereby, the Lease, together with exhibits is, and shall continue to be, in full force and effective as originally executed, and nothing contained herein shall, or shall be constructed to modify, invalidate or otherwise affect any provision of the Lease or any right of Tenant or Landlord arising thereunder.

4. This First Amendment shall be governed by and construed under the internal laws of the State of California, and any action to enforce the terms of this First Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

**SUBLESSOR AND SUBLESSEE HAVE CAREFULLY READ AND REVIEWED THIS FIRST AMENDMENT AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS FIRST AMENDMENT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.**

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the Effective Date.

"SUBLESSOR": **MARK WEST AREA CHAMBER OF COMMERCE AND VISITORS BUREAU**, a 501(c) (6) non-profit corporation

By:_____
Name:_____
Title:_____

"SUBLESSEE": **COUNTY OF SONOMA**, a political subdivision of the State of California

By:_____
Caroline Judy, Director
General Services Department

The General Services Director is authorized to execute this First Amendment, pursuant to the Board of Supervisors Summary Action dated _____, 2016.

APPROVED AS TO FORM FOR SUBLESSEE:

By: _____
Elizabeth Coleman With
Deputy County Counsel

APPROVED AS TO CONTENT FOR SUBLESSEE:

By: _____
Steve Freitas, Sheriff-Coroner

By: _____
Marc McDonald, Real Estate Manager

CERTIFICATE OF INSURANCE ON FILE WITH DEPARTMENT:

Reviewed by:_____ Date:_____

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 32**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors of Sonoma County

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Department of Health Services

**Staff Name and Phone Number:**

Brian Vaughn, 565-6680

**Supervisorial District(s):**

**Title:** Medi-Cal Outreach, Enrollment, Renewal, and Retention Services for Jail, Probation, and Homeless Populations

**Recommended Actions:**

Authorize the Director of Health Services to execute the third amendment to an agreement with Redwood Community Health Coalition to expand Medi-Cal outreach and enrollment assistance services, increasing the agreement by $58,382, resulting in a new not-to-exceed amount of $208,032 through June 30, 2017.

Authorize the Director of Health Services to execute the first amendment to an agreement with Redwood Community Health Coalition to expand Medi-Cal retention and renewal services, increasing the agreement by $15,993, resulting in a new not-to-exceed amount of $156,952, and extending the term end date from December 31, 2016 to June 30, 2017.

**Executive Summary:**

The Department of Health Services currently contracts with Redwood Community Health Coalition to provide outreach and enrollment services for individuals that are incarcerated, on probation, and homeless in Sonoma and Marin counties. Additional funding allocations from the California Department of Health Care Services provide for an expansion of services. This item requests approval to amend two agreements with Redwood Community Health Coalition, adding funding to both and extending the term of one.

**Discussion:**

In March 2014 Sonoma County received a grant from the California Department of Health Care Services (DHCS) in the amount of $224,479 to expand Medi-Cal outreach and enrollment activities, targeting difficult to reach populations. The state required that a portion grant funds be expended through contracts with community-based organizations. Sonoma County contracted with Redwood Community Health Coalition (RCHC) to develop targeted outreach and enrollment strategies for adult probationers, inmates in County jail, and individuals who are homeless or at risk of homelessness and involved with

Sonoma County and Marin County criminal justice systems. This funding resulted from passage of Assembly Bill 82.

An additional allocation of AB 82 funding from DHCS in the amount of $45,823 was awarded to Sonoma County in March 2016. The Department desires to add this additional funding along with funding from the original grant, for a total of $58,382, to an existing agreement with RCHC for expanded outreach and enrollment services for adults linked to Sonoma County and Marin County correctional facilities through June 2017.

Participating in AB 82 outreach and enrollment efforts also made Sonoma County (and by association, Marin County) eligible for Senate Bill 18 funding for Medi-Cal renewal assistance to current and newly enrolled beneficiaries. The initial grant was awarded in March 2015 with the requirement that a portion of funds be expended through contracts with community-based organizations. Sonoma County contracted with RCHC to provide education and training focused on health literacy, utilization of Medi-Cal benefits, and retention of coverage.

An additional allocation of SB 18 funding from DHCS in the amount of $14,155 was awarded to Sonoma County in August 2016. The Department desires to add this additional funding along with funding from the original grant, for a total of $15,993, to an existing agreement with RCHC for expanded Medi-Cal retention and renewal support services and extend the contract term through June 2017.

**Prior Board Actions:**

On March 25, 2014 the Board approved an agreement with Redwood Community Health Coalition for health insurance enrollment assistance services for the period of April 1, 2014 through June 30, 2016 in the amount not to exceed $149,650.

On October 13, 2015 the Board approved an agreement with Redwood Community Health Coalition for Medi-Cal renewal assistance activities in Sonoma County for the period of September 1, 2015 through December 31, 2016 in the amount not to exceed $140,959.

**Strategic Plan Alignment** Goal 1: Safe, Healthy, and Caring Community

Outreach and enrollment efforts serve to ensure that all eligible individuals have access to medical, dental, and mental health services.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | 74,375 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **74,375** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | 74,375 | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **74,375** | | |

**Narrative Explanation of Fiscal Impacts:**

Funding of $74,375 for the two agreements with Redwood Community Health Coalition is included in the FY 16-17 budget.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Services agreements with Redwood Community Health Coalition

**Related Items "On File" with the Clerk of the Board:**

None

# MODIFICATION NUMBER THREE OF AGREEMENT FOR SERVICES BETWEEN COUNTY OF SONOMA AND REDWOOD COMMUNITY HEALTH COALITION

On April 14, 2014, the County of Sonoma, a political subdivision of the State of California, (hereinafter referred to as "County") and Redwood Community Health Coalition (hereinafter referred to as "Contractor") entered into a services agreement, modified by the parties effective October 13, 2015 as Modification No. 1, and modified by the parties effective July 1, 2016 as Modification No. 2 (hereinafter referred to as "Agreement").

Pursuant to Section 13.7 (Merger) of the Agreement, the parties hereby evidence their intent and desire to modify the Agreement as follows:

1. Exhibit A1 (Scope of Work) is hereby added to the Agreement, is attached hereto, and is incorporated herein by this reference (hereinafter "Exhibit A1").
2. Exhibit B1 (Budget) is hereby added to the Agreement, is attached hereto, and is incorporated herein by this reference (hereinafter "Exhibit B1").
3. Exhibit C (Insurance Requirements) is hereby deleted and replaced in its entirety with the attached Exhibit C (Insurance Requirements).
4. Section 1.1 (Contractor's Specified Services) is hereby revised to read as follows:

   1.1. Contractor's Specified Services

   Contractor shall perform the services described in Exhibit A (Scope of Work) and Exhibit A1 (Scope of Work), attached hereto and incorporated herein by this reference (hereinafter "Exhibit A" and "Exhibit A1"), within the times or by the dates provided for in Exhibit A and Exhibit A1 and pursuant to Article 7 (Prosecution of Work). In the event of a conflict between the body of this Agreement and either Exhibit A or Exhibit A1, the provisions in the body of this Agreement shall control.
5. Section 1.5 (Contract Exhibits) is hereby revised to read as follows:

   1.5 Contract Exhibits

   This Agreement includes the following exhibits, which are hereby incorporated by reference as though fully set forth herein:

   Exhibit A. Scope of Work
   Exhibit A1. Scope of Work
   Exhibit B. Budget
   Exhibit B1. Budget
   Exhibit C. Insurance Requirements
6. Section 2.1 (Payment for Services) is hereby revised to read as follows:

   2.1 Payment for Services

   Contractor shall be paid on a time-and-material/expense basis in accordance with the budget set forth in Exhibit B (Budget) and Exhibit B1 (Budget), attached hereto and incorporated herein by this reference (hereinafter "Exhibit B" and "Exhibit B1"). Should documented

costs and expenses total less than the authorized annual total (on a fiscal-year basis), at the sole discretion of the County, the unexpended balance shall carry forward to the next fiscal year until the expiration of this Agreement. Any balance carried forward may be offset by the County, at its sole discretion, against the amount due for the next fiscal year under the Agreement. Contractor shall submit its bills in arrears on a monthly basis in a form approved by County's Auditor and the Head of County department receiving the services. The bills shall show or include: (i) the task(s) performed, (ii) the time in quarter hours devoted to the task(s), (iii) the hourly rate(s) of the person(s) performing the task(s), and (iv) copies of receipts for reimbursable materials/expenses, if any. Expenses not expressly authorized by the Agreement shall not be reimbursed.

Unless otherwise noted in this agreement, payments shall be made within the normal course of County business after presentation of an invoice in a form approved by County for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by County.

7. Section 2.2 (Maximum Payment Obligation) is hereby revised to read as follows:

   2.2. Maximum Payment Obligation

   In no event shall County be obligated to pay Contractor more than the total sum of $208,032 under the terms and conditions of this Agreement.

8. Section 4.3 (Delivery of Work Product and Final Payment Upon Termination) is hereby revised to read as follows:

   4.3 Delivery of Work Product and Final Payment Upon Termination

   In the event of termination, Contractor, within 14 days following the date of termination, shall deliver to County all reports, original drawings, graphics, plans, studies, and other data or documents, in whatever form or format, assembled or prepared by Contractor or Contractor’s subcontractors, consultants, and other agents in connection with this Agreement and shall submit to County an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

9. Section 4.4 (Payment Upon Termination) is hereby revised to read as follows:

   4.4 Payment Upon Termination

   Upon termination of this Agreement by County, Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and reimbursable expenses properly incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Contractor bear to the total services otherwise required to be performed for such total payment; provided, however, that if services which have been satisfactorily rendered are to be paid on a per-hour or per-day basis, Contractor shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to the termination times the applicable hourly or daily rate; and further provided, however, that if County terminates the Agreement for cause pursuant to Section 4.2, County shall deduct from such amount the amount of damage, if any, sustained by County by virtue of the breach of the Agreement by Contractor.

10. Section 4.6 (Obligations After Termination) is hereby revised to read as follows:

    4.6. Obligations After Termination

    The following shall remain in full force and effect after termination of this Agreement: (1) Section 2.7 (Federal Funding), (2) Article 5 (Indemnification), (3) Section 9.5 (Records Maintenance), (4) Section 9.5.1 (Right to Audit, Inspect, and Copy Records), (5) Section 9.15 (Confidentiality), and (6) Section 13.5 (Applicable Law and Forum).

11. Article 5 (Indemnification) is hereby revised to read as follows:

    5. Indemnification

    Contractor agrees to accept all responsibility for loss or damage to any person or entity, including County, and to indemnify, hold harmless, and release County, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Contractor, that arise out of, pertain to, or relate to Contractor's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Contractor agrees to provide a complete defense for any claim or action brought against County based upon a claim relating to such Contractor's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Contractor's obligations under this Section apply whether or not there is concurrent or contributory negligence on County's part, but to the extent required by law, excluding liability due to County's conduct. County shall have the right to select its legal counsel at Contractor's expense, subject to Contractor's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Contractor or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

12. Section 9.5 (Records Maintenance) is hereby revised to read as follows:

    9.5 Records Maintenance

    Contractor shall keep and maintain full and complete documentation and accounting records concerning all services provided under this Agreement. Records shall include all medical records, accounting records, and administrative records related to services provided hereunder. Contractor agrees to preserve and maintain such records for a period of at least 7 years following the close of County and State fiscal year in which the services were provided. If an audit has been started, records must be retained until completion and final resolution of any and all issues that might arise. Final settlement shall be made at the end of the audit and appeal process. All accounting records shall be maintained so that they clearly reflect the source of funding for each type of service for which reimbursement is claimed by Contractor. Accounting records include, but are not limited to, all ledgers, books, vouchers, time sheets, payrolls, appointment schedules, client data cards, and schedules for allocating costs.

    9.5.1. Right to Audit, Inspect, and Copy Records

    Contractor agrees to permit County and any authorized State or Federal agency to audit, inspect, and copy all records, notes, and writings of any kind in connection with the services provided by Contractor under this Agreement, to the extent permitted by law, for the purpose

of monitoring the quality and quantity of services, monitoring the accessibility and appropriateness of services, and ensuring fiscal accountability. All such audits, inspections, and copying shall occur during normal business hours. Upon request, Contractor shall supply copies of any and all such records to County. Failure to provide the above-noted documents requested by County within the requested time frame indicated may result in County withholding payments due under this Agreement. In those situations required by applicable law(s), Contractor agrees to obtain necessary releases to permit County or governmental or accrediting agencies to access patient medical records.

13. Section 9.7 (Statutory Compliance) is hereby revised to read as follows:

    9.7 Statutory Compliance/Living Wage Ordinance

    Contractor agrees to comply, and to ensure compliance by its subconsultants or subcontractors, with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Contractor expressly acknowledges and agrees that this Agreement is subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

14. Section 9.8 (Nondiscrimination) is hereby revised to read as follows:

    9.8. Nondiscrimination

    Without limiting any other provision hereunder, Contractor shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religious creed, belief or grooming, sex (including sexual orientation, gender identity, gender expression, transgender, pregnancy, childbirth, medical conditions related to pregnancy, childbirth or breast feeding), marital status, age, medical condition, physical or mental disability, genetic information, military or veteran status, or any other legally protected category or prohibited basis, including without limitation, the County's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

15. Article 12 (Method and Place of Giving Notice, Submitting Bills, and Making Payments) is hereby revised to read as follows:

    12. Method and Place of Giving Notice, Submitting Bills, and Making Payments

    All notices, bills, and payments shall be made in writing and shall be given by personal delivery or by U.S. mail or courier service. Notices, bills, and payments shall be addressed as follows:

TO COUNTY:

Lori Houston
PPEA
Health, Policy, Planning and Evaluation Division
Department of Health Services
County of Sonoma
490 Mendocino Ave, Suite 101
Santa Rosa, CA 95401
707.565.5366
Lori.Houston@sonoma-county.org

TO CONTRACTOR:

Suzie Shupe
CEO
Redwood Community Health Coalition
1310 Redwood Way, Suite 135
Petaluma CA 94954
707.285.2974
sshupe@rchc.net

When a notice, bill, or payment is given by a generally recognized overnight courier service, the notice, bill, or payment shall be deemed received on the next business day. When a copy of a notice, bill, or payment is sent by facsimile or email, the notice, bill, or payment shall be deemed received upon transmission as long as: (1) the original copy of the notice, bill, or payment is promptly deposited in the U.S. mail and postmarked on the date of the facsimile or email (for a payment, on or before the due date); (2) the sender has a written confirmation of the facsimile transmission or email; and (3) the facsimile or email is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills, and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this Article 12.

16. Section 13.7 (Merger) is hereby revised to read as follows:

13.7. Merger

This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. Each Party acknowledges that, in entering into this Agreement, it has not relied on any representation or undertaking, whether oral or in writing, other than those which are expressly set forth in this Agreement. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

Except as expressly modified herein, all terms and conditions of Agreement shall remain in full force and effect.

§ The remainder of this page has intentionally been left blank. §

IN WITNESS WHEREOF, the parties have caused this modification to be duly executed by their authorized representatives this _____ day of _____, 20_____.

**CONTRACTOR:**

_____ _____

Suzie Shupe, CEO
Redwood Community Health Coalition

Dated

**COUNTY OF SONOMA:**
Certificate of Insurance on File with County:

_____ _____

Barbie Robinson, Interim Director
Department of Health Services

Dated

Approved as to Substance:

_____ _____

Division Director or Designee

Dated

Approved as to Form:

_____ 11/30/16

Sonoma County Counsel

Dated

**Exhibit A1. Scope of Work**

AB 82 Project Extension: November 1, 2016 – June 30, 2017

**Activity 1 - Program Planning and Start-up**

| Milestones | Strategies/activities | AB 82 Population | Timeline | To Be Performed By |
|---|---|---|---|---|
| Contractor will contract 0.4 FTE consultant staff who will meet with and screen a minimum of 250 AB 82 individuals over the course of an eight-month period. | Recruit and contract with consultant enrollment staff. | Persons who are in jail, on probation, or un-housed in Sonoma and Marin Counties | November 2016 – December 2016 | Contractor, Sonoma DHS, and Marin Health & Human Services |
| Contractor will contract with 0.4 FTE staff to enroll 100 Medi-Cal-eligible persons over an eight-month period. | Recruit and contract with consultant enrollment staff. | Persons who are in jail, on probation, or un-housed in Sonoma and Marin Counties | November 2016 – December 2016 | Contractor, Sonoma DHS, and Marin HHS |
| Contractor will provide training during this contract period to any staff hired to continue enrollment services for AB 82-eligible persons. | Train program staff in outreach strategies for AB 82 eligible persons, Medi-Cal enrollment, and program eligibility on those days that consultant has contracted to work for Sonoma or Marin County. | Persons who are in jail, on probation, or un-housed in Sonoma and Marin Counties | November 2016 – June 2017 | Contractor |
| Sonoma County will train staff to enroll Medi-Cal-eligible persons. | County will train program staff in adult criminal justice system on Medi-Cal enrollment and program eligibility. | Persons who are in jail, on probation, or un-housed in Sonoma and Marin Counties | November 2016 and ongoing | Sonoma County |

| Milestones | Strategies/activities | AB 82 Population | Timeline | To Be Performed By |
|---|---|---|---|---|
| Contractor and County will meet monthly to refine work plan, update event calendar, and document program strategies in an effort to enroll 100 Medi-Cal eligible-persons. | Refine work plan, develop calendar of events, and document program strategies. | Persons who are in jail, on probation, or un-housed in Sonoma and Marin Counties | November 2016 - June 2017 | Contractor, Sonoma DHS, and Marin HHS |
| Contractor and County will convene strategy meetings with key partners to target enrollment strategies in an effort to enroll 100 Medi-Cal-eligible persons. | Convene strategy meetings with outreach and enrollment staff, contracted consultants, and key partners including Contractor, Marin HHS, Probation, Community Clinics, and community based partners. | Persons who are in jail, on probation, or un-housed in Sonoma and Marin Counties | November 2016 - June 2017 | Contractor, Sonoma DHS, and Marin HHS, and community partners |

**Activity 2 - Outreach and Enrollment Activities**

| Milestones | Strategies/activities | Location | Target Population and Number of Enrollments | Timeline | To Be Performed By |
|---|---|---|---|---|---|
| Contractor will work with Sonoma County Sheriff's Department and with Marin County Sheriff's Department to enroll 100 Medi-Cal-eligible persons. | Work with Marin County staff and County staff to facilitate Medi-Cal enrollment and retention. Provide culturally and linguistically appropriate informational materials for persons who are in jail. | Adult detention facilities in Marin and Sonoma Counties | Inmates (100 enrollments) | November 2016 – June 2017 | Contractor, Marin County Sheriff's Office and Sonoma County Sheriff's Office |

**Activity 3 - Tracking and Reporting**

| Milestones | Strategies/activities | Location | Timeline | To Be Performed By |
|---|---|---|---|---|
| Copies of resumes | Contract with enrollment staff. | Contractor | November 2016 | Contractor, Sonoma DHS |
| Proof of training and CEC certification | Train program staff in outreach strategies, Medi-Cal enrolment, and program eligibility. | Contractor | November 2016 – December 2016 | Contractor, Sonoma DHS |
| Updated work plan and calendar of events completed | Refine work plan and develop calendar of events, document program strategies. | Contractor | November 2016 | Contractor, Sonoma DHS |
| Meeting agendas and rosters | Convene strategy meetings with outreach and enrollment staff, contracted consultants, and key partners, including Contractor, HHS, Probation, Community Clinics, and community-based partners. | Contractor and partner locations | November 2016 – June 2017 | Contractor, Sonoma DHS, and community partners |
| List of eligible individuals (on file). Total number of individuals enrolled (submitted). | Work with Marin County Sheriff's Office and Sonoma County Sheriff's Office to facilitate Medi-Cal enrollment and retention.<br>Provide culturally and linguistically appropriate informational materials to AB 82 eligible individuals. | | November 2016 – June 2017 | Contractor, Marin County Sheriff's Office and Sonoma County Sheriff's office |

**Exhibit B1. Budget**

AB 82 Project Extension – November 1, 2016 – June 30, 2017

| Description | Amount ($) |
|---|---|
| Program Director (0.30 FTE) | 16,000 |
| Benefits (24%) | 3,840 |
| Total Personnel | 19,840 |
| Consultant - Program Coordinator | 27,216 |
| Travel, transportation | 1,920 |
| Office Supplies | 500 |
| Indirect Costs | 8,906 |
| **Total** | **58,382** |

## Exhibit C. Insurance Requirements

**(Template 5 – Rev 2016 Mar 16)**

With respect to performance of work under this Agreement, Contractor shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a Waiver of Insurance Requirements. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

County reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. Workers Compensation and Employers Liability Insurance

   a. Required if Contractor has employees as defined by the Labor Code of the State of California.

   b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.

   c. Employers Liability with minimum limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.

   d. ***Required Evidence of Insurance***: Certificate of Insurance.

If Contractor currently has no employees as defined by the Labor Code of the State of California, Contractor agrees to obtain the above-specified Workers Compensation and Employers Liability insurance should employees be engaged during the term of this Agreement or any extensions of the term.

2. General Liability Insurance

   a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.

   b. Minimum Limits: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance. If Contractor maintains higher limits than the specified minimum limits, County requires and shall be entitled to coverage for the higher limits maintained by Contractor.

   c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000, it must be approved in advance by County. Contractor is responsible for any deductible or self-insured retention and shall fund it upon County's written request, regardless of whether Contractor has a claim against the insurance or is named as a party in any action involving the County.

d. **"County of Sonoma, their Officers, Agents, and Employees"** shall be endorsed as **additional insureds** for liability arising out of operations by or on behalf of the Contractor in the performance of this Agreement.

e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.

f. The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in ISO form CG 00 01, or equivalent).

g. The policy shall cover inter-insured suits between the additional insureds and Contractor and include a "separation of insureds" or "severability" clause which treats each insured separately.

h. ***Required Evidence of Insurance***

i. Copy of the additional insured endorsement or policy language granting additional insured status; and

ii. Certificate of Insurance.

3. Automobile Liability Insurance

a. Minimum Limit: $1,000,000 combined single limit per accident. The required limits may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance.

b. Insurance shall cover all owned autos. If Contractor currently owns no autos, Contractor agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.

c. Insurance shall cover hired and non-owned autos.

d. ***Required Evidence of Insurance***: Certificate of Insurance.

4. Professional Liability/Errors and Omissions Insurance

a. Minimum Limit: $1,000,000 per claim or per occurrence; $1,000,000 annual aggregate.

b. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000, it must be approved in advance by County.

c. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.

d. Coverage applicable to the work performed under this Agreement shall be continued for two (2) years after completion of the work. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.

e. ***Required Evidence of Insurance***: Certificate of Insurance.

5. Standards for Insurance Companies

Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

6. Documentation

a. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Contractor agrees to maintain current Evidence of Insurance on file with County for the entire term of this Agreement and any additional periods if specified in Sections 1 – 4 above.

b. The name and **address** for Additional Insured endorsements and Certificates of Insurance is:

**County of Sonoma, their Officers, Agents, and Employees**
**Attn: DHS – Contract & Board Item Development Unit**
**3313 Chanate Road**
**Santa Rosa CA 95404**

c. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

d. Contractor shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.

e. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

7. Policy Obligations

Contractor's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

8. Material Breach

If Contractor fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. County, at its sole option, may terminate this Agreement and obtain damages from Contractor resulting from said breach. Alternatively, County may purchase the required insurance, and without further notice to Contractor, County may deduct from sums due to Contractor any premium costs advanced by County for such insurance. These remedies shall be in addition to any other remedies available to County.

**MODIFICATION NUMBER ONE OF**
**AGREEMENT FOR SERVICES BETWEEN**
**COUNTY OF SONOMA AND**
**REDWOOD COMMUNITY HEALTH COALITION**

On October 15, 2015, the County of Sonoma, a political subdivision of the State of California, (hereinafter referred to as "County") and Redwood Community Health Coalition (hereinafter referred to as "Contractor") entered into a services agreement (hereinafter referred to as "Agreement").

Pursuant to Section 13.7 (Merger) of the Agreement, the parties hereby evidence their intent and desire to modify the Agreement as follows:

1. Exhibit A1 (Scope of Work) is hereby added to the Agreement, is attached hereto, and is incorporated herein by this reference (hereinafter "Exhibit A1").
2. Exhibit B (Budget) is hereby deleted and replaced in its entirety with the attached Exhibit B (Budget).
3. Exhibit D (Medi-Cal Administrative Activities) Article 4 (Exhibit A (Scope of Work) Allowable Activities) is hereby revised to read as follows:

   4. Exhibit A (Scope of Work) and Exhibit A1 (Scope of Work) Allowable Activities

   Table 1 provides a list of tasks that are set forth in Exhibit A (Scope of Work) and Exhibit A1 (Scope of Work) that are allowable activities:

   **Table 1. MAA-Allowable Activities**

| Scope of Work Exhibit/Section | Type of Service | MAA-Allowable Activities |
|---|---|---|
| **Exhibit A (Scope of Work)** | | |
| Activity 1, Item 2: Develop and implement outreach and education workshops to promote health literacy regarding health insurance with a focus on how to use and retain coverage. | Code 4: Medi-Cal Outreach | Time spent on outreach activities to inform individuals on how to access, use, and maintain participation in all health resources under the Medi-Cal program. |
| Activity 1, Item 3: Develop and implement need assessment strategies for 2 survey/focus groups with Medi-Cal clients to identify barriers to retaining coverage. | Code 15: Program Planning and Policy Development (Non-Enhanced) for Medi-Cal services for Medi-Cal clients | Time spent developing strategies to increase Medi-Cal system capacity and close Medi-Cal service gaps; including analyzing Medi-Cal data related to a specific Medi-Cal program or a specific Medi-Cal eligible group, interagency coordination to improve delivery of Medi-Cal services/providers. |

| Scope of Work Exhibit/Section | Type of Service | MAA-Allowable Activities |
|---|---|---|
| Activity 1, Item 4: Meet with County and Managed Care staff on a monthly basis to monitor grant activities, identify best practices, and coordinate services. | Code 15: Program Planning and Policy Development (Non-Enhanced) for Medi-Cal services for Medi-Cal clients | Time spent developing strategies to increase Medi-Cal system capacity and close Medi-Cal service gaps; including analyzing Medi-Cal data related to a specific Medi-Cal program or a specific Medi-Cal eligible group, interagency coordination to improve delivery of Medi-Cal services/providers. |
| Activity 2, Item 1: Contact existing and newly insured RCHC Medi-Cal clients to promote post-enrollment and retention services. Lists will be obtained from RCHC Enrollment Tracking Software, County Eligibility Staff, and Managed Care Partners. Contacts will include calls, mailings, and presentations. | Code 4: Medi-Cal Outreach | Time spent on outreach activities to inform individuals on how to access, use, and maintain participation in all health resources under the Medi-Cal program. |
| Activity 2, Item 2: Provide ongoing, face-to-face retention services for existing Medi-Cal clients to ensure continuity of care in Sonoma and Marin Counties. Retention services include assistance with redetermination correspondence, computer re-application assistance, and redetermination appeals. Target populations include inmates, probationers, and unhoused people. | Code 8: Facilitating Medi-Cal Application | Time spent explaining the Medi-Cal eligibility rules and/or process to prospective applicants; assisting an applicant to fill out a Medi-Cal eligibility application; gathering information related to the application; providing necessary forms and packaging all forms in preparation for the Medi-Cal eligibility determination. |

| Scope of Work Exhibit/Section | Type of Service | MAA-Allowable Activities |
|---|---|---|
| Activity 2, Item 3: Using Survey/Focus Group results, design and conduct a minimum of 5 Medi-Cal Retention Workshops for Medi-Cal clients at Community Health Centers and/or Community-Based Organizations in Sonoma and Marin Counties. | Code 4: Medi-Cal Outreach | Time spent on outreach activities to inform individuals on how to access, use, and maintain participation in all health resources under the Medi-Cal program. |
| Activity 2, Item 4: Conduct ongoing meetings with Community-Based Organizations that serve homeless/unhoused people and other individuals who are at-risk of losing health coverage. | Code 15: Program Planning and Policy Development (Non-Enhanced) for Medi-Cal services for Medi-Cal clients | Time spent developing strategies to increase Medi-Cal system capacity and close Medi-Cal service gaps; including analyzing Medi-Cal data related to a specific Medi-Cal program or a specific Medi-Cal eligible group, interagency coordination to improve delivery of Medi-Cal services/providers. |
| **Exhibit A1 (Scope of Work)** | | |
| Activity 1, Item 1: Develop and implement outreach and education workshops to promote health literacy regarding health insurance with a focus on how to use and retain coverage. | Code 4: Medi-Cal Outreach | Time spent on outreach activities to inform individuals on how to access, use, and maintain participation in all health resources under the Medi-Cal program. |
| Activity 1, Item 2: Develop and implement need assessment strategies for 2 survey/focus groups with Medi-Cal clients to identify barriers to retaining coverage. | Code 15: Program Planning and Policy Development (Non-Enhanced) for Medi-Cal services for Medi-Cal clients | Time spent developing strategies to increase Medi-Cal system capacity and close Medi-Cal service gaps, including analyzing Medi-Cal data related to a specific Medi-Cal program or a specific Medi-Cal-eligible group, interagency coordination to improve delivery of Medi-Cal services/providers. |

| Scope of Work Exhibit/Section | Type of Service | MAA-Allowable Activities |
|---|---|---|
| Activity 1, Item 3: Meet with County and Managed Care staff on a monthly basis to monitor grant activities, identify best practices, and coordinate services. | Code 15: Program Planning and Policy Development (Non-Enhanced) for Medi-Cal services for Medi-Cal clients | Time spent developing strategies to increase Medi-Cal system capacity and close Medi-Cal service gaps, including analyzing Medi-Cal data related to a specific Medi-Cal program or a specific Medi-Cal-eligible group, interagency coordination to improve delivery of Medi-Cal services/providers. |
| Activity 2, Item 1: Contact existing and newly insured Contractor Medi-Cal clients to promote post-enrollment and retention services. Lists will be obtained from Contractor Enrollment Tracking Software, County Eligibility Staff, and Managed Care Partners. Contacts will include calls, mailings, and presentations. | Code 4: Medi-Cal Outreach | Time spent on outreach activities to inform individuals on how to access, use, and maintain participation in all health resources under the Medi-Cal program. |
| Activity 2, Item 2: Provide ongoing, face-to-face retention services for existing Medi-Cal clients to ensure continuity of care in Sonoma and Marin Counties. Retention services include assistance with redetermination correspondence, computer re-application assistance, and redetermination appeals. Target populations include inmates, probationers, and unhoused people. | Code 8: Facilitating Medi-Cal Application | Time spent explaining the Medi-Cal eligibility rules and/or process to prospective applicants; assisting an applicant to fill out a Medi-Cal eligibility application; gathering information related to the application; providing necessary forms and packaging all forms in preparation for the Medi-Cal-eligibility determination. |

| Scope of Work Exhibit/Section | Type of Service | MAA-Allowable Activities |
|---|---|---|
| Activity 2, Item 3: Using Survey/Focus Group results, design and conduct a minimum of 4 Medi-Cal Retention Workshops for Medi-Cal clients at Community Health Centers and/or Community-Based Organizations in Sonoma and Marin Counties. | Code 4: Medi-Cal Outreach | Time spent on outreach activities to inform individuals on how to access, use, and maintain participation in all health resources under the Medi-Cal program. |

Note: This list may not be exhaustive of MAA-allowable activities included in Exhibit A (Scope of Work) and Exhibit A1 (Scope of Work). To the extent Contractor or County identify additional MAA-allowable activities under this Agreement, these MAA-allowable activities should be included in Contractor's MAA Quarterly Report.

4. Exhibit D (Medi-Cal Administrative Activities) Section 5.1 (Quarterly Reporting) is hereby revised to read as follows:

5.1. Quarterly Reporting

For all activities provided under Section 4 of this Exhibit D (Medi-Cal Administrative Activities), Contractor will meet the performance standard as required under Exhibit A (Scope of Work) Allowable Activities and Exhibit A1 (Scope of Work) Allowable Activities. Contractor will provide, at a minimum, quarterly reports to County. The report shall include documentation to support the number and type of allowable activities (e.g., description of activity flyers, brochures) and the cost of staff time spent implementing these activities. Each quarterly report shall cover the activities conducted and expenditures made during the previous quarter ending on the last date of the calendar month prior to the report due date. Quarterly reports will include certification that costs incurred were directly related to the provision of the allowable activities. A reporting template is provided in Section 5.2. Contractor shall work with County Program Manager on report requirements and email the reports to Lori.Houston@sonoma-county.org.

5. Section 1.1 (Contractor's Specified Services) is hereby revised to read as follows:

1.1. Contractor's Specified Services

Contractor shall perform the services described in Exhibit A (Scope of Work) and Exhibit A1 (Scope of Work), attached hereto and incorporated herein by this reference (hereinafter "Exhibit A" and "Exhibit A1"), within the times or by the dates provided for in Exhibit A and Exhibit A1 and pursuant to Article 7 (Prosecution of Work). In the event of a conflict between the body of this Agreement and either Exhibit A or Exhibit A1, the provisions in the body of this Agreement shall control.

6. Section 1.5 (Contract Exhibits) is hereby revised to read as follows:

   1.5. Contract Exhibits

   This Agreement includes the following exhibits, which are hereby incorporated by reference as though fully set forth herein:

   Exhibit A. Scope of Work
   Exhibit A1. Scope of Work
   Exhibit B. Budget
   Exhibit C. Insurance Requirements
   Exhibit D. Medi-Cal Administrative Activities

7. Section 2.1 (Payment for Services) is hereby revised to read as follows:

   2.1. Payment for Services

   Contractor shall be paid on a time-and-material/expense basis in accordance with the budget set forth in Exhibit B (Budget), attached hereto and incorporated herein by this reference (hereinafter "Exhibit B"). Any remaining balance at the end of a fiscal year of this Agreement shall automatically be carried forward to the subsequent fiscal year of this Agreement, but not beyond the termination date of this Agreement. Contractor shall submit its bills in arrears on a monthly basis in a form approved by County's Auditor and the Head of County department receiving the services. The bills shall show or include: (i) the task(s) performed, (ii) the time in quarter hours devoted to the task(s), (iii) the hourly rate(s) of the person(s) performing the task(s), and (iv) copies of receipts for reimbursable materials/ expenses, if any. Expenses not expressly authorized by the Agreement shall not be reimbursed.

   Unless otherwise noted in this agreement, payments shall be made within the normal course of County business after presentation of an invoice in a form approved by County for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by County.

8. Section 2.2 (Maximum Payment Obligation) is hereby revised to read as follows:

   2.2. Maximum Payment Obligation

   In no event shall County be obligated to pay Contractor more than the total sum of $156,952 under the terms and conditions of this Agreement.

9. Section 2.6 (Disallowance of Payment) is hereby added to the Agreement as follows:

   2.6. Disallowance of Payment

   In the event that Contractor claims or receives payment from County for a service, reimbursement for which is later disallowed by County, State of California, or the United States Government, then Contractor shall promptly refund the disallowed amount to County upon request, or at its option, County may offset the amount disallowed from any payment due or that becomes due to Contractor under this Agreement or any other agreement.

10. Section 2.7 (Budget Line Amendments) is hereby added to the Agreement as follows:

    2.7. Budget Line Amendments

    County Department of Health Services Director is authorized to approve and execute a "Budget Revision Form," which revises program funds in the line items set forth in the Program Budget Summary, so long as changes do not result in an increase in County's maximum payment obligation as set forth in Article 2 (Payment) of this Agreement.

11. Article 3 (Term of Agreement) is hereby revised to read as follows:

    3. Term of Agreement

    The term of this Agreement shall be from October 15, 2015 to June 30, 2017 unless terminated earlier in accordance with the provisions of Article 4 (Termination).

12. Section 4.3 (Delivery of Work Product and Final Payment Upon Termination) is hereby revised to read as follows:

    4.3. Delivery of Work Product and Final Payment Upon Termination

    In the event of termination, Contractor, within 14 days following the date of termination, shall deliver to County all reports, original drawings, graphics, plans, studies, and other data or documents, in whatever form or format, assembled or prepared by Contractor or Contractor's subcontractors, consultants, and other agents in connection with this Agreement and shall submit to County an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

13. Section 4.4 (Payment Upon Termination) is hereby revised to read as follows:

    4.4. Payment Upon Termination

    Upon termination of this Agreement by County, Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and reimbursable expenses properly incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Contractor bear to the total services otherwise required to be performed for such total payment; provided, however, that if services which have been satisfactorily rendered are to be paid on a per-hour or per-day basis, Contractor shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to the termination times the applicable hourly or daily rate; and further provided, however, that if County terminates the Agreement for cause pursuant to Section 4.2, County shall deduct from such amount the amount of damage, if any, sustained by County by virtue of the breach of the Agreement by Contractor.

14. Article 5 (Indemnification) is hereby revised to read as follows:

    5. Indemnification

    Contractor agrees to accept all responsibility for loss or damage to any person or entity, including County, and to indemnify, hold harmless, and release County, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Contractor, that arise out of, pertain to, or relate to Contractor's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Contractor

agrees to provide a complete defense for any claim or action brought against County based upon a claim relating to such Contractor's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Contractor's obligations under this Section apply whether or not there is concurrent or contributory negligence on County's part, but to the extent required by law, excluding liability due to County's conduct. County shall have the right to select its legal counsel at Contractor's expense, subject to Contractor's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Contractor or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

15. Section 9.5 (Records Maintenance) is hereby revised to read as follows:

9.5. Records Maintenance

Contractor shall keep and maintain full and complete documentation and accounting records concerning all services provided under this Agreement. Records shall include all medical records, accounting records, and administrative records related to services provided hereunder. Contractor agrees to preserve and maintain such records for a period of at least 7 years following the close of County and State fiscal year in which the services were provided. If an audit has been started, records must be retained until completion and final resolution of any and all issues that might arise. Final settlement shall be made at the end of the audit and appeal process. All accounting records shall be maintained so that they clearly reflect the source of funding for each type of service for which reimbursement is claimed by Contractor. Accounting records include, but are not limited to, all ledgers, books, vouchers, time sheets, payrolls, appointment schedules, client data cards, and schedules for allocating costs.

9.5.1. Right to Audit, Inspect, and Copy Records

Contractor agrees to permit County and any authorized State or Federal agency to audit, inspect, and copy all records, notes, and writings of any kind in connection with the services provided by Contractor under this Agreement, to the extent permitted by law, for the purpose of monitoring the quality and quantity of services, monitoring the accessibility and appropriateness of services, and ensuring fiscal accountability. All such audits, inspections, and copying shall occur during normal business hours. Upon request, Contractor shall supply copies of any and all such records to County. Failure to provide the above-noted documents requested by County within the requested time frame indicated may result in County withholding payments due under this Agreement. In those situations required by applicable law(s), Contractor agrees to obtain necessary releases to permit County or governmental or accrediting agencies to access patient medical records.

16. Section 9.7 (Statutory Compliance) is hereby revised to read as follows:

9.7. Statutory Compliance/Living Wage Ordinance

Contractor agrees to comply, and to ensure compliance by its subconsultants or subcontractors, with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the

generality of the foregoing, Contractor expressly acknowledges and agrees that this Agreement is subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

17. Section 9.8 (Nondiscrimination) is hereby revised to read as follows:

    9.8. Nondiscrimination

    Without limiting any other provision hereunder, Contractor shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religious creed, belief or grooming, sex (including sexual orientation, gender identity, gender expression, transgender, pregnancy, childbirth, medical conditions related to pregnancy, childbirth or breast feeding), marital status, age, medical condition, physical or mental disability, genetic information, military or veteran status, or any other legally protected category or prohibited basis, including without limitation, the County's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

18. Section 9.13 (Sanctioned Employee) is hereby revised to read as follows:

    9.13. Sanctioned Employee

    Contractor agrees that it shall not employ in any capacity, or retain as a subcontractor in any capacity, any individual or entity that is listed on any list published by the Federal Office of Inspector General regarding the sanctioning, suspension, or exclusion of individuals or entities from the Federal Medicare and Medicaid programs. Contractor agrees to monthly review said State and Federal lists to confirm the status of current employees, subcontractors, and contractors. In the event Contractor does employ such individual(s) or entity(ies), Contractor agrees to assume full liability for any associated penalties, sanctions, loss, or damage that may be imposed on County by the Medicare or Medicaid programs.

19. Section 9.16 (Contractor Notification of Breach) is hereby revised to read as follows:

    9.16. Contractor Notification of Breach or Improper Disclosures

    County receives funding for Medi-Cal renewal assistance from the State Department of Health Care Services pursuant to Allocation for Medi-Cal Renewal Assistance (hereinafter "State Contract"). The State Contract contains certain requirements pertaining to the privacy and security of personally identifiable information (hereinafter "PII") and/or protected health information (hereinafter "PHI"), and requires that County contractually obligate any of its subcontractors to also comply with these requirements.

    9.16.1. The State Contract requires County to notify the State of any breach or improper disclosure of privacy and/or security of personal identifiable information (PII) and/or protected health information (PHI). Contractor shall, immediately upon discovery of a breach or improper disclosure of privacy and/or security of PII and/or PHI by Contractor, notify County of such breach or improper disclosure by telephone and either email or facsimile.

9.16.2. In the event that the State Contract requires County to pay any costs associated with a breach of privacy and/or security of PII and/or PHI, including but not limited to the costs of notification, Contractor shall pay on County's behalf any and all such costs arising out of a breach of privacy and/or security of PII and/or PHI by Contractor.

20. Section 9.19 (Licensure) is hereby revised to read as follows:

9.19. Licensure and Staffing

Contractor warrants that it and all its employees and sub-contractors providing or supervising services under this Agreement have all necessary licenses, permits, and certificates to provide services under this Agreement, as required by applicable State and Federal laws, rules, and regulations. Contractor agrees to maintain said licenses, permits, and certificates in good standing for the duration of this Agreement. A copy of each such licenses, permits, and certificates shall be made available upon request, not to exceed three (3) business days after the initial request, for inspection, review, and/or audit by authorized representatives and designees of County, State, and/or Federal governments during the term of this Agreement and for the applicable records retention period. Failure to maintain said licenses, permits, and/or certificates in effect for the duration of this Agreement shall be deemed a material breach of this Agreement and constitutes grounds for immediate termination of this Agreement by the County. Staff shall only function within the scope of practice as dictated by licensing boards/bodies. At all times during the term of this Agreement, Contractor shall have available and shall provide upon request to authorized representatives of County a list of all persons by name, title, professional degree, and experience who are providing any services under this Agreement.

21. Section 9.20 (Charitable Choice/Faith-Based Organizations) is hereby added to the Agreement as follows:

9.20. Charitable Choice/Faith-Based Organizations

Contractor agrees and acknowledges that County may make funds available for programs or services affiliated with religious organizations under the following conditions: (i) the funds are made available on an equal basis for programs or services affiliated with non-religious organizations; (ii) the program funded does not have the substantial effect of supporting religious activities; (iii) the funding is indirect, remote, or incidental to the religious purpose of the organization.

a. Contractor agrees and acknowledges that County may not make funds available for programs or services affiliated with a religious organization that (i) has denied or continues to deny access to services on the basis of race, color, religion, ancestry, national origin, sex, citizenship, or known disability; (ii) will use the funds for a religious purpose; (iii) will use the funds for a program or service that subjects its participants to religious education.

b. Contractor agrees and acknowledges that all recipients of funding from County must (i) comply with all legal requirements and restrictions imposed upon government-funded activities set forth in Article IX, Section 8 and Article XVI, Section 5 of the California Constitution and in the First Amendment to the United States Constitution; and (ii) segregate such funding from all funding used for religious purposes.

22. Article 12 (Method and Place of Giving Notice, Submitting Bills, and Making Payments) is hereby revised to read as follows:

12. Method and Place of Giving Notice, Submitting Bills, and Making Payments

All notices, bills, and payments shall be made in writing and shall be given by personal delivery or by U.S. mail or courier service. Notices, bills, and payments shall be addressed as follows:

TO COUNTY:

Lori Houston
PPEA
HPPE Division
Department of Health Services
County of Sonoma
490 Mendocino Ave, Suite 101
Santa Rosa, CA 95401
707.565.5366
Lori.Houston@sonoma-county.org

TO CONTRACTOR:
Suzie Shupe
CEO
Redwood Community Health Coalition
1310 Redwood Way, Suite 135
Petaluma CA 94954
707.285.2974
sshupe@rchc.net

When a notice, bill, or payment is given by a generally recognized overnight courier service, the notice, bill, or payment shall be deemed received on the next business day. When a copy of a notice, bill, or payment is sent by facsimile or email, the notice, bill, or payment shall be deemed received upon transmission as long as: (1) the original copy of the notice, bill, or payment is promptly deposited in the U.S. mail and postmarked on the date of the facsimile or email (for a payment, on or before the due date); (2) the sender has a written confirmation of the facsimile transmission or email; and (3) the facsimile or email is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills, and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this Article 12.

23. Section 13.7 (Merger) is hereby revised to read as follows:

13.7. Merger

This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. Each Party acknowledges that, in entering into this Agreement, it has not relied on any representation or undertaking, whether oral or in writing, other than those which are expressly set forth in this Agreement. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

Except as expressly modified herein, all terms and conditions of Agreement shall remain in full force and effect.

§ The remainder of this page has intentionally been left blank. §

IN WITNESS WHEREOF, the parties have caused this modification to be duly executed by their authorized representatives this _____ day of _____, 20_____.

**CONTRACTOR:**

_____ _____

Suzie Shupe, CEO
Redwood Community Health Coalition

Dated

**COUNTY OF SONOMA:**
Certificate of Insurance on File with County:

_____ _____

Barbie Robinson, Interim Director
Department of Health Services

Dated

Approved as to Substance:

_____ _____

Division Director or Designee

Dated

Approved as to Form:

_____ 11/30/16

Sonoma County Counsel

Dated

## Exhibit A1. Scope of Work

| Activity 1 – Program Planning and Startup | | | |
|---|---|---|---|
| **Activity 1: Identify major renewal assistance planning and startup milestones, strategies, and activities. Identify the SB 18 renewal assistance efforts** (e.g., the extent permissible for training, testing, certifying, supporting and compensating persons and entities providing renewal assistance and any other permissible renewal assistance related activities) **and how many you intend to renew** (e.g. increase the renewal response rate and ensure continuity of care for Medi-Cal beneficiaries). | | | |
| **Milestones** | **Strategies/Activities** | **Timeline** | **Who Is Responsible** |
| Redwood Community Health Coalition: Presentations to 250 individuals. | 1. Develop and implement outreach and education workshops to promote health literacy regarding health insurance with a focus on how to use and retain coverage. | Workshop implementation: Jan 2017 – Jun 2017 | • RCHC Outreach and Enrollment Director<br>• Project Coordinator<br>• RCHC CECs (Certified Enrollment Counselors) |
| Redwood Community Health Coalition: Conduct two Focus Groups (1 in Marin and 1 in Sonoma). | 2. Develop and implement needs assessment strategies for 2 survey/focus groups with Medi-Cal clients to identify barriers to retaining coverage. | Conduct 2 survey/focus groups (1 in Sonoma and 1 in Marin) Jan 2017 – Jun 2017 | • RCHC Outreach and Enrollment Director<br>• RCHC Project Coordinator |
| N/A | 3. Meet with County and Managed Care staff on a monthly basis to monitor grant activities, identify best practices, and coordinate services. | Jan 2017 – Jun 2017 | • Sonoma County Staff<br>• Marin County Staff<br>• Partnership Health Plan Staff<br>• RCHC Outreach and Enrollment Director |

| Activity 2 – Renewal Assistance Activities | | | |
|---|---|---|---|
| **Activity 2: Identify major renewal assistance activities. Identify how many individuals you intend to keep on Medi-Cal.** | | | |
| **Milestones** | **Strategies/Activities** | **Timeline** | **Who Is Responsible** |
| Redwood Community Health Coalition – Contact 4,000 individuals. | 1. Contact existing and newly insured Contractor Medi-Cal clients to promote post-enrollment and retention services. Lists will be obtained from Contractor Enrollment Tracking Software, County Eligibility Staff, and Managed Care Partners. Contacts will include calls, mailings, and presentations. | Jan 2017 – Jun 2017 | • RCHC Project Coordinator<br>• RCHC CECs |
| Redwood Community Health Coalition: 120 individual renewals of Medi-Cal benefits. | 2. Provide ongoing face-to-face retention services for existing Medi-Cal clients to ensure continuity of care in Sonoma and Marin counties. Retention services include assistance with redetermination correspondence, computer re- application assistance, and redetermination appeals. Target populations include inmates, probationers, and unhoused people. | Jan 2017 – Jun 2017 | • RCHC Project Coordinator<br>• RCHC CECs |
| Redwood Community Health Coalition: 4 Workshops (2 in Marin and 2 in Sonoma) | 3. Using Survey/Focus Group results, design and conduct a minimum of 4 Medi-Cal Retention Workshops for Medi-Cal clients at Community Health Centers and/or Community-Based Organizations in Sonoma and Marin counties. | Jan 2017 – Jun 2017 | • RCHC Project Coordinator<br>• RCHC CECs |

| Activity 3 – Tracking and Reporting | | |
|---|---|---|
| **Activity 3: Identify your intent and list how you intend to renew Medi-Cal for existing beneficiaries.** | | |
| **Strategies/Activities** | **Timeline** | **Who Is Responsible** |
| Redwood Community Health Coalition will use its enrollment and renewal tracking system, Oasis Insight, to track and report all Medi-Cal retention outreach, education, and renewal activities. | Jan 2017 – Jun 2017<br><br>Progress reports will be submitted quarterly:<br>April 2017<br>August 2017 | RCHC Outreach and Enrollment Director |

**Exhibit B. Budget**

| **Personnel Staff** | **9/1/15 – 6/30/16 ($)** | **7/1/16 – 12/31/16** | **1/1/17 – 6/30/17** | **Total ($)** |
|---|---|---|---|---|
| Community & Gov't Outreach Manager | 8,919 | 4,126 | 0 | 13,045 |
| Enrollment Coordinator Supervisor | 7,874 | 5,126 | 0 | 13,000 |
| Program Coordinator | 19,257 | 12,409 | 5,141 | 36,807 |
| Enrollment Counselor | 24,964 | 21,385 | 2,886 | 49,235 |
| **Personnel Staff Total** | 61,014 | 43,046 | 8,027 | 112,087 |
| | | | | |
| Benefits @ 25% | 15,254 | 10,762 | 0 | 26,016 |
| Benefits @ 23% | 0 | 0 | 1,846 | 1,846 |
| Travel | 0 | 0 | 480 | 480 |
| | | | | |
| **Total Personnel Expenses** | **76,268** | **53,808** | **10,353** | **140,429** |
| | | | | |
| **Non-Personnel-Direct Costs** | | | | |
| Program costs | 956 | 2,544 | 3,200 | 6,700 |
| **Total Direct Costs** | **956** | **2,544** | **3,200** | **6,700** |
| | | | | |
| **Non-Personnel Indirect Costs** | | | | |
| Total Indirect Costs | 6,631 | 752 | 2,440 | 9,823 |
| **Total Non-Personnel Indirect Costs** | **6,631** | **752** | **2,440** | **9,823** |
| | | | | |
| **Grand Total** | **83,854** | **57,105** | **15,993** | **156,952** |

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 33**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors of Sonoma County

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Department of Health Services

**Staff Name and Phone Number:**

Michael Kennedy, 565-5157

**Supervisorial District(s):**

**Title:** Evaluation Services Agreement

**Recommended Actions:**

Authorize the Director of Health Services to execute the second amendment to an agreement with Harder+Company Community Research to conduct Mental Health Services Act evaluation activities, increasing the agreement by $97,916 resulting in a new not to exceed amount of $341,916 through June 30, 2018.

**Executive Summary:**

The Department of Health Services currently contracts with Harder+Company Community Research (Harder) to conduct Mental Health Services Act (MHSA) evaluation activities. Based on the September 2016 Little Hoover Commission report, *Promises Still to Keep: A Second Look at the Mental Health Services Act*, the Department has identified the need to expand evaluation of its MHSA programming. The Department requests authorization to expand the scope of MHSA evaluation services provided under the existing agreement with Harder.

**Discussion:**

In November 2004, California voters approved Proposition 63, the Mental Health Services Act (MHSA). MHSA imposes a one-percent income tax on personal income in excess of $1 million. MHSA provides funding to support community mental health services in the following three components: 1) Community Services and Supports (CSS) - supports the transformation of mental health services for persons who have serious mental illness or are seriously emotionally disturbed, 2) Innovation - focuses on implementing new service models that will create collective learning across the system, and 3) Prevention and Early Intervention (PEI) - targets reducing risk factors and creating supports that promote positive well-being for at-risk individuals and developing effective interventions for individuals experiencing the initial onset of mental illness.

The Little Hoover Commission is an independent state oversight agency whose mission is to investigate state government operations and, through reports, recommendations and legislative proposals, promote efficiency, economy, and improved service. In September 2016 the Little Hoover Commission

(LHC) released a statewide report titled *Promises Still to Keep: A Second Look at the Mental Health Services Act* recommending improved state MHSA program oversight to ensure that MHSA-funded programs are achieving specified goals and meeting expectations. Three state agencies currently share responsibility for administering and/or overseeing aspects of the MHSA; the Department of Health Care Services (DHCS), the Mental Health Services Oversight and Accountability Commission, and the Mental Health Planning Council. The LHC report indicates that MHSA-funded mental health programs throughout the state are working and that counties, in partnership with the state, have deployed models of care that have improved the lives of Californians living with mental illness and their families. The LHC report also states that while authority and funding have been provided to state oversight agencies for evaluation, there is no comprehensive statewide report demonstrating MHSA outcomes. As a result of the LHC report, Sonoma County, in collaboration with the Steinberg Institute for Advancing Behavioral Health Policy and Leadership and the California Behavioral Health Directors Association, is participating in a statewide evaluation effort to provide annual MHSA reports that are comprehensive and data driven.

In response to the LHC report, the Department has identified the need to expand evaluation of its MHSA programming. The Department proposes to increase the scope of MHSA evaluation consultation services provided under the current agreement with Harder+Company Community Research. This expansion of services is necessary for the Department to proactively prepare for and maintain compliance with changing state requirements designed to improve state MHSA data collection, outcome measurement, and oversight. Areas of expansion include the following:

- Analysis of Sonoma County Crisis Response Services ACAT/CAT assessments.
- Support to the MHSA Coordinator with the development of updated contractor scopes of work and establishing an Annual Outcomes Report.
- Assist in developing 3-year MHSA integrated planning priorities and efforts.
- Assist MHSA Coordinator in writing the 3-year plan.

In August 2014 the Department of Health Services (DHS) issued a Request for Qualifications (RFQ) for evaluation services to establish a list of qualified vendors that DHS could utilize for various initiatives within the Department, including MHSA. Seventeen responses were received and reviewed by a selection committee comprised of representatives from DHS Administration, the Behavioral Health Division, the Public Health Division, and the Health Policy, Planning and Evaluation Division. The RFQ evaluation committee chose Harder+Company Community Research as one of the vendors to be included in the list of qualified evaluators. The original agreement with Harder was executed on January 13, 2015 and was amended, as modification number one, on December 3, 2015.

Harder+Company has provided consultation and expert analysis to the Department beginning with MHSA initial planning meetings and throughout the release of varying MHSA components. Harder has established trusting relationships with community stakeholders that will benefit the evaluation planning process during the three-year project. Harder possesses thorough knowledge of Sonoma County's specialty mental health system of care including medical necessity and target population, Medi-Cal billing requirements, and other unique characteristics associated with a very complex system of care. Under the current agreement, Harder provides mixed-method evaluation services that help the Department's Behavioral Health Division understand both the impact and implementation process associated with various initiatives and assists in aligning the Department's plans, goals, evidence base, and provision of services with each MHSA program component. Investing in the services provided by Harder will result in additional opportunities for the Department's MHSA contractors to join the

| |
|---|
| Upstream Investments Portfolio. Harder's work includes assisting Department staff in the development of an Annual MHSA Outcomes Report. This effort includes providing MHSA contractors with technical assistance in utilizing evidence-based shared measurement tools and in working towards the development of logic models and performance based outcomes. |
| Prior Board Actions: |
| On August 30, 2016 the Board adopted the 2016-2017 Mental Health Services Act Plan Update and Annual Update for 2014-2015.<br><br>On June 16, 2015 the Board approved execution of support services agreements for behavioral health services for a FY 15-16 not to exceed amount of $2,222,975; including an estimated $100,000 for an agreement with Harder.<br><br>On January 13, 2015 the Board approved an agreement with Harder+Company Community Research to conduct Mental Health Services Act evaluation activities for the period January 1, 2015 to June 30, 2018, in an amount not to exceed $204,000. |
| **Strategic Plan Alignment** Goal 1: Safe, Healthy, and Caring Community |
| In partnership with the State of California, the Department of Health Services has been able to enhance its understanding of the various mental health issues and conditions of those served by, or on behalf of, the Department. Through the evaluation process, the Department has been able to respond to the varying and changing behavioral health needs of the community. When the data and outcomes associated with each evaluation identify service gaps, the Department is able to make informed decisions and, when needed, update, modify, and deploy models of care designed to improve the lives of Sonoma County residents living with mental illness and their families. |

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | 0 | 0 | 0 |
| Additional Appropriation Requested | 97,916 | | |
| **Total Expenditures** | **97,916** | **0** | **0** |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | 97,916 | 0 | 0 |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **97,916** | **0** | **0** |

**Narrative Explanation of Fiscal Impacts:**

The FY 16-17 budget includes $97,916 of Mental Health Services Act (MHSA) funding for the agreement with Harder+Company.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Amendment to agreement with Harder+Company Community Research

**Related Items "On File" with the Clerk of the Board:**

N/A

**MODIFICATION NUMBER TWO OF**
**AGREEMENT FOR SERVICES BETWEEN**
**COUNTY OF SONOMA AND**
**HARDER+COMPANY COMMUNITY RESEARCH**
**(Rev 2016 Sep 8)**

On January 13, 2015, the County of Sonoma, a political subdivision of the State of California, (hereinafter referred to as "County") and Harder+Company Community Research, a California corporation, (hereinafter referred to as "Contractor") entered into a services agreement, modified by the parties effective December 3, 2015 as Modification No. 1 (hereinafter referred to as "Agreement").

Pursuant to Section 13.7 (Merger) of the Agreement, the parties hereby evidence their intent and desire to modify the Agreement as follows:

1. Exhibit A (Scope of Work and Budget) is hereby deleted and replaced in its entirety with the attached Exhibit A (Scope of Work and Budget).
2. Section 1.4.d is hereby added to this Agreement as follows:

   d. Contractor warrants that it has not opted out of participation in Medicare and that Contractor is currently enrolled in or eligible to participate in the Medicare program.
3. Section 2.1(Payment for Services) is hereby revised to read as follows:

   2.1 Payment for Services

   Contractor shall be paid on a time-and-material/expense basis in accordance with the scope of work and budget set forth in Exhibit A. Any remaining balance at the end of a fiscal year shall automatically be carried forward to the subsequent fiscal year of this Agreement, but not beyond the termination date of this Agreement. Contractor shall submit its bills in arrears on a monthly basis in a form approved by County's Auditor and the Head of County department receiving the services. The bills shall show or include: (i) the task(s) performed, (ii) the time in quarter hours devoted to the task(s), (iii) the hourly rate(s) of the person(s) performing the task(s), and (iv) copies of receipts for reimbursable materials/expenses, if any. Expenses not expressly authorized by the Agreement shall not be reimbursed.

   Unless otherwise noted in this agreement, payments shall be made within the normal course of County business after presentation of an invoice in a form approved by County for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by County.
4. Section 2.2 (Maximum Payment Obligation) is hereby revised to read as follows:

   2.2 Maximum Payment Obligation

   In no event shall County be obligated to pay Contractor more than the total sum of $341,916 including $66,500 for FY14/15, $111,875 for FY15/16, $150,000 for FY 16/17 and $13,541 for FY 17/18 under the terms and conditions of this Agreement.
5. Section 2.7.2 (OMB Circular A-133.) is hereby deleted and replace with 2.7.2 (Title 2 Code of Federal Regulations Part 200) to read as follows:

2.7.2. Title 2 Code of Federal Regulations Part 200

As a subrecipient of Federal awards, Contractor is subject to the provisions of Title 2 Code of Federal Regulations Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (hereinafter "2 CFR Part 200"). In signing this Agreement, Contractor acknowledges that it understands and will comply with the provisions of 2 CFR Part 200. One provision of 2 CFR Part 200 requires a subrecipient that expends $750,000 in Federal awards during its fiscal year to have an audit performed in accordance with 2 CFR Part 200. If such an audit is required, Contractor agrees to provide County with a copy of the audit report within 9 months of Contractor's fiscal year-end. Questions regarding 2 CFR Part 200 can be directed to the County's Auditor-Controller-Treasurer-Tax Collector's Office – General Accounting Division.

6. Section 2.7.3 (Audits) is hereby revised to read as follows:

2.7.3 Audits

Contractor agrees that all expenditures of State and Federal funds furnished to the Contractor pursuant to this Agreement are subject to audit by County, State agencies, and/or Federal agencies. Contractor warrants that it shall comply with the audit requirements as set forth in 2 CFR Part 200. County agrees to provide 14-days notice of intent of County to audit Contractor. Contractors subject to the Single Audit Act of 1984 and Single Audit Act Amendments of 1996 shall annually submit an independent audit conforming to 2 CFR Part 200, which applies to non-profit organizations.

7. Section 4.3 (Delivery of Work Product and Final Payment Upon Termination) is hereby revised to read as follows:

4.3 Delivery of Work Product and Final Payment Upon Termination

In the event of termination, Contractor, within 14 days following the date of termination, shall deliver to County all materials and work product subject to Section 9.11 (Ownership and Disclosure of Work Product) and all reports, original drawings, graphics, plans, studies, and other data or documents, in whatever form or format, assembled or prepared by Contractor or Contractor's subcontractors, consultants, and other agents in connection with this Agreement, and shall submit to County an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

8. Section 4.3 (Payment Upon Termination) is hereby revised to read as follows:

4.4. Payment Upon Termination

Upon termination of this Agreement by County, Contractor shall be entitled to receive, as full payment for all services satisfactorily rendered and reimbursable expenses properly incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Contractor bear to the total services otherwise required to be performed for such total payment; provided, however, that if services which have been satisfactorily rendered are to be paid on a per-hour or per-day basis, Contractor shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to the termination times the applicable hourly or daily rate; and further provided, however, that if County terminates the Agreement for

cause pursuant to Section 4.2 (Termination for Cause), County shall deduct from such amount the amount of damage, if any, sustained by County by virtue of the breach of the Agreement by Contractor.

9. Section 4.7 (Change in Funding) is hereby revised to read as follows:

4.7 Change in Funding

Contractor understands and agrees that County shall have the right to terminate this Agreement immediately upon written notice to Contractor in the event that (1) any state and/or federal agency and/or other funder(s) reduces, withholds, or terminates funding which County anticipated using to pay Contractor for services provided under this Agreement, or (2) County has exhausted all funds legally available for payments due under this Agreement.

10. Section 9.5 (Records Maintenance) is hereby revised to read as follows:

9.5. Records Maintenance

Contractor shall keep and maintain full and complete documentation and accounting records concerning all services provided under this Agreement. Records shall include all medical records, accounting records, and administrative records related to services provided hereunder. Contractor agrees to preserve and maintain such records for a period of at least 7 years following the close of County and state fiscal year in which the services were provided. If an audit has been started, records must be retained until completion and final resolution of any and all issues that might arise. Final settlement shall be made at the end of the audit and appeal process. All accounting records shall be maintained so that they clearly reflect the source of funding for each type of service for which reimbursement is claimed by Contractor. Accounting records include, but are not limited to, all ledgers, books, vouchers, time sheets, payrolls, appointment schedules, client data cards, and schedules for allocating costs.

11. Section 9.7 (Statutory Compliance/Living Wage Ordinance) is hereby revised to read as follows:

9.7. Statutory Compliance/Living Wage Ordinance

Contractor agrees to comply, and to ensure compliance by its subconsultants or subcontractors, with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Contractor expressly acknowledges and agrees that this Agreement is subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

12. Section 9.8 (Nondiscrimination) is hereby revised to read as follows:

9.8. Nondiscrimination

Without limiting any other provision hereunder, Contractor shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religious creed, belief or

grooming, sex (including sexual orientation, gender identity, gender expression, transgender, pregnancy, childbirth, medical conditions related to pregnancy, childbirth or breast feeding), marital status, age, medical condition, physical or mental disability, genetic information, military or veteran status, or any other legally protected category or prohibited basis, including without limitation, the County's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

11. Section 9.13 (Sanctioned Employee) is hereby revised to read as follows:

9.13. Sanctioned Employee

Contractor agrees that it shall not employ in any capacity, or retain as a subcontractor in any capacity, any individual or entity that is listed on any list published by the Federal Office of Inspector General regarding the sanctioning, suspension, or exclusion of individuals or entities from the federal Medicare and Medicaid programs. Contractor agrees to monthly review said state and federal lists to confirm the status of current employees, subcontractors, and contractors. In the event Contractor does employ such individual(s) or entity(ies), Contractor agrees to assume full liability for any associated penalties, sanctions, loss, or damage that may be imposed on County by the Medicare or Medicaid programs.

9.16 Contractor Notification of Breach or Improper Disclosures

County receives funding for the provision of mental health services from the State Department of Health Care Services pursuant to the California Department of Health Care Services and Sonoma County Mental Health Standard Agreement (hereinafter "State Contract"). The State Contract contains certain requirements pertaining to the privacy and security of personally identifiable information (hereinafter "PII") and/or protected health information (hereinafter "PHI"), and requires that County contractually obligate any of its subcontractors to also comply with these requirements.

9.16.1 The State Contract requires County to notify the state of any breach or improper disclosure of privacy and/or security of personal identifiable information (PII) and/or protected health information (PHI). Contractor shall, immediately upon discovery of a breach or improper disclosure of privacy and/or security of PII and/or PHI by Contractor, notify County of such breach or improper disclosure by telephone and either email or facsimile.

9.16.2 In the event that the State Contract requires County to pay any costs associated with a breach of privacy and/or security of PII and/or PHI, including but not limited to the costs of notification, Contractor shall pay on County's behalf any and all such costs arising out of a breach of privacy and/or security of PII and/or PHI by Contractor.

Except as expressly modified herein, all terms and conditions of Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this modification to be duly executed by their authorized representatives this _____ day of _____, 20_____.

**CONTRACTOR:**

Michelle Magee, President
Harder+Company Community Research

Dated 11/10/16

**COUNTY OF SONOMA:**
Certificate of Insurance on File with County:

Barbie Robinson, Interim Director
Department of Health Services

Dated

Approved as to Substance:

Division Director or Designee

Dated 11/3/16

Approved as to Form:

Sonoma County Counsel

Dated 11/3/16

**Exhibit A - Scope of Work and Budget**
**FY 2014-2015 through FY 2017-2018**

**Background:**

Harder+Company Community Research is pleased to conduct 2014-2018 evaluation activities that build on the MHSA evaluation framework developed to document Sonoma County DHS Behavioral Health Division (BHD) progress in achieving systems transformation. The Harder+Company Evaluation Team uses Francine Jacobs' Five Tiered Approach (FTA) as an organizing framework to support the collection of high quality data at each of the four evaluation tiers (Monitoring, Program Quality, Outcomes and Systems), while simultaneously working to reduce data burden on contractors, to the extent possible. The FTA model has been presented in previous MHSA Progress Reports and Updates. Five core evaluation questions will continue to guide the evaluation:

1. Who was served by MHSA-funded programs?
2. What services were received?
3. How are MHSA-funded programs addressing essential program characteristics (e.g., access to services)?
4. How are lives changing?
5. How has the mental health system in Sonoma County strengthened?

**Evaluation Services to be performed:**

Evaluation Design: Outcome and Innovation Evaluation Plans

- Harder+Company will work with the BHD MHSA Team to conduct evaluation on the department's three Innovation programs, including the Mobile Support Team (MST), the Reducing Disparities project, and the Integrated Health Team (IHT).
- Harder+Company will work with the BHD MHSA Team to support BHD with the development of an MHSA Outcome Evaluation Plan.
- Harder+Company will conduct analysis of Sonoma County Crisis Response Services ACAT/CAT assessments.

Performance Management Reporting System

- The first year of the evaluation project Harder+Company will assist in establishing the BHD's new electronic MHSA Performance Management Reporting System which utilizes an existing county web based application (SWITS) that will be used to track outcomes throughout the spectrum of mental health from prevention and early intervention through treatment and recovery and provide the department the ability to collect data that will be used to analyze the effectiveness of MHSA funded programs and services.
- Providing support to the MHSA Coordinator with the development of updated contractor scopes of work and establishing an Annual Outcomes Report.

Systems-Level Evaluation

- Carrying out a fourth data point of the Systems-Level evaluation which is based on surveys completed by staff and community contractors who are responsible for delivering MHSA funded services. This evaluation component is intended to provide insights into key factors that impact the system of mental health services available in Sonoma County and document progress made in strengthening the continuum of services. All data will be analyzed and presented in a comprehensive databook containing all output in tables and charts. Harder+Company will meet with MHSA Coordinator and other relevant stakeholders to review databook and identify most salient findings and recommendations to be included in a 10-15 page report.

Capacity Building and Technical Assistance

- Finalizing the MHSA Best Practices Toolkit designed to support contractors with improving the delivery of culturally responsive services.
- Harder+Company will work with MHSA Coordinator to convene up to two Learning Circle meetings with BHD program staff and MHSA community contractors.

Reporting and Communication

- Assisting MHSA staff to produce MHSA reports to various stakeholders. Meet regularly with MHSA Coordinator and other BHD staff and provide written progress updates.
- Provide written report of Harder+Company evaluation projects and activities for MHSA Annual Update.

3-Year MHSA Integrated Planning Assistance

- Assisting in the development of 3 year integrated planning priorities and efforts
- Assisting MHSA Coordinator in writing the 3 year plan

**Evaluation Services Costs**

Contractor hourly rates:

| **Direct Labor Costs** | **Rates** |
|---|---|
| Project Director | $175 |
| Data System Advisor | $130 |
| Project Coordinator | $90 |
| Research Assistants | $80 |

Per fiscal year cost estimates:

| Description | FY 14-15 | FY 15-16 | FY 16-17 | FY 17-18 |
|---|---|---|---|---|
| Estimated direct labor costs | 60,150 | 109,520 | 147,540 | 12,755 |
| Estimated direct costs other than labor for (printing/reproduction, travel, telephone/fax) | 6,350 | 2,355 | 2,460 | 786 |
| Total | $66,500 | $111,875 | $150,000 | $13,541 |

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 34**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors of Sonoma County

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Department of Health Services

**Staff Name and Phone Number:**
Barbie Robinson, 565-7876

**Supervisorial District(s):**
Countywide

**Title:** County Medical Services Program Grant

**Recommended Actions:**

Authorize the Director of Health Services to execute a grant agreement with County Medical Services Program Governing Board to accept $375,000 in revenue to support the County Wellness Pilot Program for the period January 1, 2017 through June 30, 2020.

**Executive Summary:**

The County Medical Services Program (CMSP) provides limited-term health coverage for uninsured low-income, indigent adults that are not otherwise eligible for other publicly funded health programs. Thirty-five primarily rural, California counties participate in CMSP. The CMSP Governing Board, established by California law in 1995, is charged with overall programmatic and fiscal responsibility for the program.

This item requests approval of a grant agreement with the CMSP Governing Board to accept $375,000 in revenue to support implementation of the CMSP County Wellness Pilot Program in Sonoma County through December 2019. Grant funding will support a reduction in the number of uninsured in the county, increase enrollment in CMSP, increase utilization of primary care and social services, and improve health outcomes for target populations. It will also support development of a new system to track and address the social determinants of health of newly insured patients served by community health centers in Sonoma County's safety net.

**Discussion:**

The County Medical Services Program Governing Board is providing funding to up to 35 counties to test the effectiveness of providing local-level wellness and prevention services to CMSP-eligible and potentially eligible persons. The County Wellness Pilot Program, one of three project areas for which CMSP is providing funding, will test community-based, collaborative strategies for providing wellness and prevention services to uninsured populations, with a focus on potential CMSP enrollees. The Department of Health Services (DHS) applied for funding in September 2016 and received notification of award in November 2016.

DHS will retain $25,000 annually, $75,000 over the three-year term of the grant, for oversight, reporting, coordination, and evaluation activities. DHS intends to provide grant funding of $300,000 over the grant period to fund Redwood Community Health Coalition (RCHC) for program activities including the following: 1) identification of current and potential CMSP members through outreach targeting the uninsured in Sonoma County and 2) enrollment and coverage education and linkage to primary care for the target population. RCHC, a network of community health centers, was chosen to partner with DHS in the pilot program due to their established clinic infrastructure, which is essential for effective program implementation, and the alignment of their mission with that of the County Wellness Pilot Program - to improve access to quality care for underserved and uninsured people.

DHS will work closely with the Human Services Department, RCHC and its member community health centers, and other interested community partners to target Sonoma County's uninsured population. Partners will engage the currently eligible but not enrolled CMSP population (estimated at approximately 10,000) by providing outreach and education on changes to the CMSP program and enrolling residents into CMSP. Currently enrolled CMSP members will also be targeted to support their continued membership and utilization of newly acquired benefits.

Building on over a decade of community-wide efforts to improve the health and well-being of county residents and transform the way care is delivered in Sonoma County, County Wellness Pilot Program partners will also work to engage other community stakeholders and service providers, such as Catholic Charities, La Luz, Redwood Empire Food Bank, and Day Labor Center, in supporting program efforts.

**Prior Board Actions:**

N/A

| **Strategic Plan Alignment** | Goal 1: Safe, Healthy, and Caring Community |
|---|---|

The work to be performed under this agreement supports a safe, healthy, and caring community by reducing the number of uninsured in the County and by developing capacity in the system to address underlying social determinants of health.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | 125,000 | 93,750 |
| Additional Appropriation Requested | 125,000 | | |
| **Total Expenditures** | 125,000 | 125,000 | 93,750 |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | 125,000 | 125,000 | 93,750 |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | 125,000 | 125,000 | 93,750 |

**Narrative Explanation of Fiscal Impacts:**

Grant funding of $125,000 will be added to the FY 16-17 budget via the consolidated budget adjustments process. Grant funding of $125,000 for FY 17-18, 93,750 for FY 18-19, and $31,250 for FY 19-20 will be included in the appropriate year budget.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Grant agreement with County Medical Services Program Governing Board

**Related Items "On File" with the Clerk of the Board:**

None

# AGREEMENT FOR

# COUNTY MEDICAL SERVICES PROGRAM GOVERNING BOARD

# COUNTY WELLNESS & PREVENTION PILOT PROJECT

**between**

**COUNTY MEDICAL SERVICES PROGRAM**
**GOVERNING BOARD**
**("Board")**

and

**SONOMA COUNTY DEPARTMENT OF HEALTH SERVICES**
**("Grantee")**

Effective as of:
January 1, 2017

# AGREEMENT

## COUNTY MEDICAL SERVICES PROGRAM
## COUNTY WELLNESS & PREVENTION PILOT PROJECT

## FUNDING GRANT

This agreement ("Agreement") is by and between the County Medical Services Program Governing Board ("Board") and the lead agency listed on Exhibit A ("Grantee").

A. The Board approved the funding of the County Wellness & Prevention Pilot Project (the "Pilot Project") in participating County Medical Services Program ("CMSP") counties in accordance with the terms of its Request for Proposals for the County Wellness & Prevention Pilot Project in the form attached as Exhibit B ("RFP").

B. Grantee submitted an Application ("Application") for the County Wellness & Prevention Pilot Project in the form attached as Exhibit C (the "Project"). The Project is a grant project ("Grant Project").

C. Subject to the availability of Board funds, the Board desires to award funds to the Grantee for performance of the Project.

The Board and Grantee agree as follows:

1. Project. Grantee shall perform the Project in accordance with the terms of the RFP and the Application. Should there be a conflict between the RFP and the Application, the RFP shall control unless otherwise specified in this Agreement.

2. Grant Funds.

A. Payment. Subject to the availability of Board funds, the Board shall pay Grantee the amounts in the time periods specified in Exhibit A ("Grant Funds") within thirty (30) calendar days of the Board's receipt of an invoice from Grantee for a Grant Project, as described in Exhibit A. Neither the Board nor CMSP shall be responsible for funding additional Project costs, future County Wellness & Prevention Pilot Projects or services provided outside the scope of the Pilot Project.

B. Refund. If Grantee does not spend the entire Grant Funds for performance of the Project within the term of this Agreement, then Grantee shall immediately refund to the Board any unused Grant Funds.

C. Possible Reduction in Amount. The Board may, within its sole discretion, reduce any Grant Funds that have not yet been paid by the Board to Grantee if Grantee does not demonstrate compliance with the use of Grant Funds as set forth in Section 2.D, below. The Board's determination of a reduction, if any, of Grant Funds shall be final.

D. Use of Grant Funds. As a condition of receiving the Grant Funds, Grantee shall use the Grant Funds solely for the purpose of performance of the Project, and shall not use

the Grant Funds to fund Grantee's administrative and/or overhead costs; provided, however, an amount of the Grant Funds equal to or less than fifteen percent (15%) of the total Project expenditures may be used to fund Grantee's administrative and/overhead expenses directly attributed to the Project. Grantee shall provide Board with reasonable proof that Grantee has dedicated the Grant Funds to the Project. Grantee shall refund to the Board any Grant Funds not fully dedicated to the Project. Grantee shall budget for evaluation expenses (such as time spent performing data collection, analyzing data, or preparing reports) in an amount not to exceed ten percent (10%) of total Pilot Project expenditures.

E. Annual Expenditure Reports. The Grantee shall provide the Board with annual expenditure reports documenting the use of Grant Funds in a form as determined by the Board.

F. Matching Funds. The Grantee is not required to provide in kind and/or matching funds but are strongly encouraged to provide such in kind and/or added funds from other sources to maximize the potential scope and reach of the Project. In kind and/or matching funds may be provided solely by the Grantee or through a combination of funding sources.

3. Grantee Data Sheet. Grantee shall complete and execute the Grantee Data Sheet attached as Exhibit D ("Grantee Data Sheet"). Board may, within its sole discretion, demand repayment of any Grant Funds from Grantee should any of the information contained on the Grantee Data Sheet not be true, correct or complete.

4. Board's Ownership of Personal Property. If Grantee's Application anticipates the purchase of personal property such as computer equipment or computer software with Grant Funds, then this personal property shall be purchased in Grantee's name and shall be dedicated exclusively to the Grantee's health care or administrative purposes. If the personal property will no longer be used exclusively for the Grantee's health care or administrative purposes, then Grantee shall, immediately upon the change of use, pay to the Board the fair market value of the personal property at the time of the change of use. After this payment, Grantee may either keep or dispose of the personal property. Grantee shall list all personal property to be purchased with Grant Funds on Exhibit A. This paragraph 4 shall survive the termination or expiration of this Agreement.

5. Authorization. Grantee represents and warrants that this Agreement has been duly authorized by Grantee's governing board, and the person executing this Agreement is duly authorized by Grantee's governing board to execute this Agreement on Grantee's behalf.

6. Data and Project Evaluation. Grantee shall collect Project data and conduct a Project evaluation. Grantee shall report data and evaluation findings to the Board as part of the Progress and Final Reporting set forth in Section 7, below. The Grantee shall not submit any protected health information ("PHI") to the Board. The Board reserves the right to hire an external pilot project evaluator to conduct an evaluation of the Project ("Pilot Project Evaluator"). The Grantee may be required to participate in one or more interviews with Pilot Project Evaluator, have a minimum of one (1) representative participate in quarterly web-based technical assistance meetings, and participate in surveys with the Pilot Project Evaluator as determined by the Board. Grantee shall maintain and provide the Board with reasonable access

to such records for a period of at least four (4) years from the date of expiration of this Agreement. Grantee shall cooperate fully with the Board, its agents and contractors, including but not limited to the Pilot Project Evaluator, and provide information to any such contractor in a timely manner. The Board may, within its sole discretion, terminate this Agreement at any time and suspend and/or discontinue payment of any Grant Funds if Grantee does not satisfactorily meet data collection and reporting requirements as set forth herein and in the RFP.

7. Progress and Final Reporting. Grantee shall notify the Board of any proposed substantial changes to the Project's components. The Project's components shall include: (a) the Project plan; (b) the target population; (c) the structure and process for providing services/support; (d) the roles and responsibilities of all participating (partnering) agencies; (e) services provided; (f) key Grantee personnel;(g) the budget; and (h) timelines. The Grantee shall submit five (5) biannual progress reports to the Board, that: (a) highlights the Project's key accomplishments, to date; (b) identifies challenges and barriers encountered during the prior six (6) months; (c) describes what the Project has learned, to date, about the target population; and (d) provides an update on data collection and evaluation efforts. In addition, the Grantee shall submit a final report to the Board by March 31, 2020, that: (a) highlights the Project's key accomplishments; (b) identifies challenges and barriers encountered during the Project; (c) describes what the Project has learned about the target population; (d) reports the evaluation findings; and (e) thoroughly describes the Project's future activities following the Pilot Project. The Board may, within its sole discretion, terminate this Agreement at any time and suspend and/or discontinue payment of any Grant Funds if Grantee does not satisfactorily meet reporting requirements as set forth herein and in the RFP.

8. Term. The term of this Agreement shall be from January 1, 2017, to June 30, 2020, unless otherwise extended in writing by mutual consent of the parties.

9. Termination. This Agreement may be terminated: (a) by mutual consent of the parties; (b) by either party upon thirty (30) days prior written notice of its intent to terminate; or, (c) by the Board immediately for Grantee's material failure to comply with the terms of this Agreement, including but not limited to the terms specified in paragraphs 6, 7 and 8. Upon termination or expiration of the term, Grantee shall immediately refund any unused Grant Funds to the Board, and shall provide the Board with copies of any records generated by Grantee in performance of the Project and pursuant to the terms of this Agreement.

10. Costs. If any legal action or arbitration or other proceeding is brought to enforce the terms of this Agreement or because of an alleged dispute, breach or default in connection with any provision of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action, arbitration or proceeding in addition to any other relief to which it may be entitled.

11. Entire Agreement of the Parties. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained herein and supersedes all prior and contemporaneous agreements, representations and understandings of the parties.

12. Waiver. To be effective, the waiver of any provision or the waiver of the breach of any provision of this Agreement must be set forth specifically in writing and signed by the

giving party. Any such waiver shall not operate or be deemed to be a waiver of any prior or future breach of such provision or of any other provision.

13. No Third-Party Beneficiaries. The obligations created by this Agreement shall be enforceable only by the parties hereto, and no provision of this Agreement is intended to, nor shall it be construed to, create any rights for the benefit of or be enforceable by any third party, including but not limited to any CMSP client.

14. Notices. Notices or other communications affecting the terms of this Agreement shall be in writing and shall be served personally or transmitted by first–class mail, postage prepaid. Notices shall be deemed received at the earlier of actual receipt or if mailed in accordance herewith, on the third (3rd) business day after mailing. Notice shall be directed to the parties at the addresses listed on Exhibit A, but each party may change its address by written notice given in accordance with this Section.

15. Amendment. All amendments must be agreed to in writing by Board and Grantee.

16. Assignment. This Agreement shall be binding upon and shall inure to the benefit of the parties to it and their respective successors and assigns. Notwithstanding the foregoing, Grantee may not assign any rights or delegate any duties hereunder without receiving the prior written consent of Board.

17. Governing Law. The validity, interpretation and performance of this Agreement shall be governed by and construed by the laws of the State of California.

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

Dated effective January 1, 2017.

| BOARD: | GRANTEE: |
|---|---|
| COUNTY MEDICAL SERVICES PROGRAM GOVERNING BOARD | |
| By: _____ | By: _____ |
| Kari Brownstein, Administrative Officer | Title: _____ |
| Date: _____ | Date: _____ |

**EXHIBIT A**

GRANTEE: Sonoma County Department of Health Services

GRANTEE'S PARTNERS UNDER CONTRACT[1]

_____

_____

_____

GRANT FUNDS:

Total Amount To Be Paid under Agreement: $375,000
Amount to Be Paid Upon Execution Of This Agreement: $125,000
Amount To Be Paid On January 1, 2018: $125,000
Amount To Be Paid On January 1, 2019: $93,750
Amount To Be Paid On Board's Determination and Acceptance of Grantee's Completion of its Obligations under the Terms of this Agreement: $31,250
If Funds will be Used to Purchase Personal Property, List Personal Property to be Purchased:

_____

_____

_____

NOTICES:

Board:
County Medical Services Program Governing Board
Attn: Alison Kellen, Program Manager
1545 River Park Drive, Suite 435
Sacramento, CA 95815
(916) 649-2631 Ext. 119
(916) 649-2606 (facsimile)

Grantee:
Sonoma County Department of Health Services
Attn: Barbie Robinson, Interim Director
3313 Chanate Road
Santa Rosa, CA 95404
(707) 565-4702
(707) 565-7849 (facsimile)

---

1 Attach copy of any contract.

**EXHIBIT B**

**REQUEST FOR PROPOSAL**

**BOARD'S REQUEST FOR PROPOSAL**

# REQUEST FOR PROPOSALS
# County Wellness & Prevention Pilot Project

### COUNTY MEDICAL SERVICES PROGRAM GOVERNING BOARD

## I. ABOUT THE COUNTY MEDICAL SERVICES PROGRAM

The County Medical Services Program (CMSP) was established in January 1983, when California law transferred responsibility for providing health care services to indigent adults from the State of California to California counties. This law recognized that many smaller, rural counties were not in the position to assume this new responsibility. As a result, the law also provided counties with a population of 300,000 or fewer with the option of contracting back with the California Department of Health Services (DHS) to provide health care services to indigent adults. DHS utilized the administrative infrastructure of Medi-Cal's fee-for-service program to establish and administer the CMSP program.

In April 1995, California law was amended to establish the County Medical Services Program Governing Board (Governing Board). The CMSP Governing Board, composed of ten county officials and one ex-officio representative of the Secretary of the California Health and Human Services Agency, is authorized to set overall program and fiscal policy for CMSP. This law also authorized the Governing Board to contract with DHS or an alternative contractor to administer the program. Between April 1995 and September 2005, the Governing Board contracted with DHS to administer CMSP. Beginning October 1, 2005, Anthem Blue Cross Life & Health (Anthem) assumed administrative responsibility for CMSP medical, dental, and vision benefits. Advanced Medical Management (AMM) assumed this responsibility on April 1, 2015. MedImpact Healthcare Systems, Inc. (MedImpact) assumed administrative responsibility for CMSP pharmacy benefits beginning April 1, 2003 and continues to serve in this role.

Thirty-five counties throughout California now participate in CMSP: Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Imperial, Inyo, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Modoc, Mono, Napa, Nevada, Plumas, San Benito, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Tuolumne, Yolo and Yuba.

CMSP is funded by State Program Realignment revenue received by the CMSP Governing Board and county general purpose revenue provided in the form of County Participation Fees. CMSP members are medically indigent adults, ages 21 through 64, who meet all of CMSP's eligibility criteria and are not otherwise eligible for Medi-Cal or Covered California. Enrollment in CMSP is handled by county social services departments located in the 35 participating counties. All CMSP members must be residents of a CMSP county and their incomes must be less than or equal to 300% of the Federal Poverty Level (based on net nonexempt income). Depending on individual circumstances, CMSP members may have a share-of-cost. Enrollment terms for CMSP

members are up to 6 months. At the end of the enrollment term, CMSP members must reapply for CMSP to continue eligibility for benefits.

For all CMSP members *except* undocumented members, the CMSP Standard Benefit provides coverage of medically necessary inpatient, outpatient, vision, dental, and prescription drug services based upon a defined benefit package that is determined by the Governing Board. For undocumented CMSP members, the CMSP Standard Benefit provides coverage for medically necessary emergency care services only, including prescription drug services.

Beginning May 1, 2016 and for a two-year pilot project period, all CMSP members with a monthly share-of-cost for their Standard Benefit and all undocumented CMSP members are provided an additional Primary Care Benefit that does not require a monthly share of cost payment. This added benefit provides coverage of the following health care services:

- Up to three (3) medical office visits with a primary care doctor, specialist or for physical therapy (any combination of visits);
- Preventive health screenings, including annual physical, specific lab tests and cancer screenings;
- Specific diagnostic tests and minor office procedures; and,
- Prescription drug coverage with a $5.00 copay for each prescription (maximum benefit limit of $1,500 in prescription costs).

## II. ABOUT THE CMSP COUNTY WELLNESS & PREVENTION PILOT PROJECT

The CMSP Governing Board seeks to test the effectiveness of providing local-level wellness and prevention services to CMSP eligible and potentially eligible persons that address any of the following three project areas:

- *Community Wellness:* Community based, collaborative strategies to provide wellness and prevention services for uninsured populations, with a focus on potential CMSP enrollees.
- *Whole Person Care:* Integrated systems development strategies that link local health and human service delivery systems to better serve CMSP enrollees, potential CMSP enrollees, and other publicly funded populations.
- *Addressing the Social Determinants of Health:* Collaborative local efforts to work across five determinants – Economic Stability, Education, Social and Community Context, Health and Health Care, and Neighborhood and Built Environment – to establish policies and strategies that positively influence social and economic conditions and those that support changes in individual behavior for the uninsured, including potential CMSP enrollees.

The target populations for county Pilot Projects must include persons potentially eligible for CMSP or enrolled in CMSP. In addition, the target populations may also include persons potentially eligible for or enrollees of other public programs. The goals of the Pilot Project are to promote timely delivery of necessary medical and support services to the target populations, improve their health outcomes, and link the target populations to other wellness resources and support. County Pilot Projects shall identify and

describe all of its target populations based upon the project area or areas that the Pilot Projects will be giving focus.

## III. PILOT PROJECT APPLICANTS

### Lead Agency Applicant Requirements

County Pilot Projects may focus within one CMSP county or two or more counties that participate in CMSP. Additionally, they may focus on one geographic region of a county or operate countywide. The Lead Agency Applicant must be a CMSP county that is applying solely for the county or on behalf of a group of CMSP counties working jointly. Lead Agency Applicants may be a County Health and Human Services Agency, County Health Department, or County Public Health Department. The Lead Agency Applicant must describe the community support they have in carrying out the project and provide evidence of that support through Letters of Commitment and/or Support from community based providers or organizations, such as local hospitals, primary care providers, non-profit community service agencies, or the local Medi-Cal managed care plan. In addition, the Lead Agency Applicant must demonstrate their collaboration with other county agencies, as relevant and appropriate for their project focus, as demonstrated by Letters of Commitment and/or Support. Such other county agencies may include Social Services, Mental Health, Drug and Alcohol Services, and the Justice System (including Probation, Sheriff and Courts).

## IV. PILOT PROJECT TIMELINE

The following timeline shall guide the County Wellness & Prevention Pilot Project:

| | |
|---|---|
| 7/8/16 | Pilot Project Request for Proposals (RFP) Released |
| 8/4/16 | RFP Assistance Teleconference |
| 8/8/16 | Pilot Project Letters of Intent (LOI) Due |
| 9/2/16 | Pilot Project Applications Due |
| 10/27/16 | Pilot Project Applications Reviewed and Approved by Governing Board |
| 10/31/16 | Pilot Project Awards Announced Via Letter |
| 1/1/17 | Pilot Project Agreements Executed and Projects Begin Implementation |
| 12/31/19 | Pilot Projects End |
| 3/31/20 | Final Pilot Project Reports due from Counties to Governing Board |

## V. FUNDING AWARDS – ALLOCATION METHODOLOGY

The Governing Board, within its sole discretion, may provide funding to counties participating in CMSP for the County Wellness and Prevention Pilot Project activities described in this RFP. As approved by the Governing Board on May 26, 2016 the maximum amount of funding available to each participating CMSP County is presented in APPENDIX Table 1. The Governing Board, within its sole discretion, may release all or some of the amounts presented in Table 1 based on the overall quality of the Pilot Project proposal submitted by the county or group of counties acting jointly and the manner in it which it addresses the needs of the identified target populations. Total

funding provided by the Governing Board for the County Wellness & Prevention Pilot Project may equal up to $7.65 million over the three-year period.

Following the Governing Board's approval of a County's Wellness and Prevention Pilot Project Application, the County will receive a total 3-year allocation, one-third of which will be allocated each program year, with Year 2 and Year 3 funding allocated on the basis of County compliance with program requirements, including specified Pilot Project reporting on services and outcomes.

Applicants receiving funding under the Pilot Project shall not be required to provide in-kind and/or matching funds to receive the grant, but are strongly encouraged to provide such in-kind and/or added funding from other sources to maximize the potential reach and scope of their Pilot Projects. Administrative and/or overhead expenses shall equal no more than 15% of the total Pilot Project expenditures. No Pilot Projects funds shall be used for administrative and/or overhead costs not directly attributed to the project. In addition, Pilot Projects shall be required to budget for evaluation expenses (such as time spent performing data collection, analyzing data, or preparing reports) in an amount not to exceed10% of total Pilot Project expenditures.

## VI. FUNDING AWARDS – METHODOLOGY FOR REVIEW AND SCORING

The Governing Board shall have sole discretion on whether to award funding for a Pilot Project. Pilot Project proposals shall be reviewed and scored to assure that the projects meet minimum standards for receipt of County Wellness and Prevention Pilot Project funding. County Wellness & Prevention Pilot Project Applications will be reviewed and scored based upon the following criteria:

1) Project Narrative (65% in total)
    - Statement of Need (5%)
    - Target Population (5%)
    - Proposed Project/ Approach (15%)
    - Capacity (15%)
    - Organization and Staffing (10%)
    - Project Implementation (15%)
2) Budget (10%)
3) Logic Model (10%)
4) Proposed Evaluation Method (10%)
5) Letters of Commitment/Support (5%)

***In order for the Governing Board to consider approving funding for a CMSP county's Pilot Project, the county's proposal must achieve a minimum score of seventy-five percent (75%).***

## VII. APPLICATION ASSISTANCE

### A. RFP Assistance Teleconference

To assist potential applicants, Governing Board staff will conduct an RFP assistance teleconference on August 4, 2016 at 10:00 a.m. *Call-in details (including phone number, pass code, etc.) will be provided at a later time.* Applicants are encouraged to "save the date" for this teleconference, participate on the teleconference, and bring any questions they have regarding Pilot Project requirements and the application process to this teleconference.

### B. Frequently Asked Questions (FAQ)

Once the application process gets underway, questions that are received by the Governing Board will be given written answers and these questions and answers will be organized into a Frequently Asked Questions (FAQ) document that will be posted on the Governing Board's website under the Pilot Project tab.

### C. Letter of Intent (LOI)

The Governing Board requests that all Pilot Project funding applicants intending to submit an application provide a brief Letter of Intent (LOI) to the Governing Board that is presented on the letterhead of the applicant organization. While the LOI is not required, receipt of an LOI from all likely applicants will assist the Governing Board in planning for application review and related processing. Please submit the LOI no later than August 8, 2016 by 5:00 p.m. PST. The LOI may be submitted by e-mail or fax to the addresses listed below:

Via E-Mail: wellness&preventionpp@cmspcounties.org
SUBJECT: Wellness & Prevention Pilot Project RFP

Via Fax: CMSP Governing Board
ATTN: Wellness & Prevention Pilot Project
916-649-2606

### D. Pilot Project Contact Information

Please direct any questions regarding the RFP to: lkemper@cmspcounties.org

## VIII. PILOT PROJECT PROPOSAL FORMAT AND REQUIREMENTS

### A. Application Cover Sheet

Using the form provided, please include the county name or names (if counties are acting jointly), identified Lead County Applicant and Lead Applicant's contact name(s), address, telephone, and e-mail contact information. The application cover sheet

(Attachment A) is available for download at the Governing Board's website at http://www.cmspcounties.org/about/grant_projects.html.

**B. Project Summary** (no longer than 2 pages)

Describe the proposed project concisely, including its goals, objectives, overall approach, target population(s), key partnerships, anticipated outcomes, and deliverables.

**C. Project Narrative** (no longer than 10 pages)

*1. Clear Statement of Problem or Need Within Community*

All Pilot Projects should be based upon identified needs of the target population(s) within the community. Please describe the target population(s) to be served in your proposed project. Define the characteristics of the target population(s) and discuss how the proposed project will identify members of the target population(s). Provide an estimate of the total number of clients that will be served through each year of the Pilot Project. Include any background information relating to the proposed county or counties to be served, geographical location, unique features of the community, or other pertinent information that helps shape the target population's need within the community.

*2. Local Health Care Delivery System Landscape*

Describe how medical care is delivered within the proposed county or counties. Identify the main sources of care for the target population(s) as well as strengths and existing challenges in the health care delivery system. Describe the Lead Applicant role and the roles of other counties, if acting jointly, as well as all key planning project partners' roles within the health care delivery system.

*3. Description of Proposed Project*

Describe and discuss the proposed activities to be performed in the Pilot Project. All activities discussed should correspond with the items listed in the logic model (see Section VIII D below) and be incorporated into the Implementation Work Plan. *As a part of this description, identify how the proposed Pilot Project will educate the public about CMSP and the CMSP Primary Care Benefit and link potential CMSP applicants to the county social services department for CMSP application assistance and processing.*

*4. Organization and Staffing*

This section should describe and demonstrate the Applicant's organizational capability to implement, operate, and fully participate in the evaluation of the proposed project. In addition, information provided should clearly delineate the roles and responsibilities of the Lead Applicant County, other counties if acting jointly, and key partners and include the following:

- An organizational chart and description of organizational structure, lines of supervision, and management oversight for the proposed project, including oversight and evaluation of consultants and contractors;
- Identification of a project manager with day-to-day responsibility for key tasks such as leadership, monitoring ongoing progress, preparing project reports, and communicating with other partners; and,
- The roles, qualifications, expertise, and auspices of key personnel.

5. *Implementation Work Plan*

This section should include a Project Implementation Work Plan and timetable for completion of implementation activities.

**D. Logic Model**

All applicants are required to submit a logic model. A logic model is a series of statements linking target population conditions/circumstances with the service strategies that will be used to address the conditions/circumstances, and the anticipated outcomes. Logic models provide a framework through which both program and evaluation staff can view the relationship between conditions, services and outcomes. (A brief guide on designing logic models is found in Attachment C.) All logic models should include a description of the: 1) target population(s); 2) program theory; 3) activities; 4) outcomes, and 5) impacts.

**E. Proposed Evaluation Methodology** (no longer than 2 pages)

To inform the Governing Board of the Pilot Project's proposed strategy for providing evidence of the effectiveness of the Pilot Project, all applicants shall outline and describe the specific programmatic, clinical and/or financial metrics that will be used to evaluate the effectiveness of their proposed Pilot Project. As a part of this effort, applicants shall identify the data sources to be used and the frequency of data submission, and provide a brief written assessment of the relative availability and reliability of the data sources. Applicants shall also identify any barriers to data collection or the evaluation that could impede a determination of the effectiveness of the Pilot Project. Finally, applicants shall describe how the Pilot Project will comply with federal and state laws requiring confidentiality of protected health information. Please Note: Pilot Projects may additionally be subject to external evaluation by an evaluation contractor hired by the Governing Board, at the sole discretion of the Governing Board.

**F. Budget and Budget Narrative** (no longer than 2 pages)

Complete the Detail & Summary Budget Templates (See Attachments B1 and B2) and provide a brief budget narrative detailing all expense components that make up total operating expenses and the source(s) of in-kind and/or direct matching funding. These Budget Templates are available as an Excel spreadsheet for download at http://www.cmspcounties.org/about/grant_projects.html.

As part of the budget narrative, describe all administrative costs and efforts to minimize use of Pilot Projects funds for administrative and overhead expenses. Please note: No Pilot Projects funds shall be used for administrative and/or overhead costs not directly attributed to the project. In addition, administrative and/or overhead expenses shall equal no more than 15% of the total Pilot Project expenditures.

All Pilot Projects are required to budget for evaluation related activities in an amount up to 10% of total Pilot Project expenditures. Evaluation related activities shall include tasks such as data collection, data cleaning, and data analysis. Such funding is intended to support the evaluation component of the Pilot Project as set forth in Section VIII E above. Projects may additionally be required to work with an external project-wide evaluation contractor that is contracted with the CMSP Governing Board.

### G. Letters of Commitment and/or Support

Letters of Commitment and/or Support from key partners should be included and will be utilized in scoring (5%). Letters should describe the key partner's understanding of the proposed Pilot Project and their organizations' role in supporting or providing services.

Lead Applicants (CMSP county alone or lead CMSP county acting on behalf of a group of counties working jointly) must provide evidence of support from community based providers or other service organizations in the county or counties, if acting jointly, through Letters of Commitment and/or Support. In addition, the Lead Applicants must demonstrate their collaboration with other county agencies, as relevant and appropriate for their Pilot Project focus. Such other county agencies may include Social Services, Mental Health, and Drug and Alcohol Services, and Justice System (including Probation, Sheriff, and Courts)

## IX. APPLICATION INSTRUCTIONS

A. All Pilot Project applications must be complete at the time of submission and must follow the required format and use the forms and examples provided:

   1. The type font must be Arial, size 12 point.
   2. Text must appear on a single side of the page only.
   3. Assemble the application in the order and within the page number limits listed with the Proposal Format & Requirements sections.
   4. Clearly paginate each page.

B. Applications transmitted by facsimile (fax) or e-mail <u>will not be accepted</u>.

C. The application shall be signed by a person with the authority to legally obligate the Applicant.

D. Provide one original hard-copy Pilot Project application clearly marked original, and two (2) hard copies.

E. Provide an electronic copy (CD) of the following application documents: 1) Project Summary (Word document), 2) Project Narrative (Word document), and 3) Budget (Excel document), 4) Logic Model, and 5) Proposed Evaluation Methodology.

F. Do not provide any materials that are not requested, as reviewers will not consider the materials.

G. Folders and binders are not necessary or desired; please securely staple or clip the application in the upper left corner.

H. Applications must be received in the office no later than 5:00 p.m. PST on September 2, 2016. Submit all applications to:

CMSP Governing Board
ATT: Wellness & Prevention Pilot Project Applications
1545 River Park Drive, Suite 435
Sacramento, CA 95815

| APPENDIX: Table 1<br>CMSP County Wellness and Prevention Pilot Project<br>Maximum County Allocations | | | |
|---|---|---|---|
| **Population Category** | **County** | **County Population** | **3-Year Grant Amount** |
| > 400,000 population | Sonoma County | 500,292 | $375,000 |
| | Solano County | 431,131 | $375,000 |
| > 100,000 population | Marin County | 260,750 | $300,000 |
| | Butte County | 224,241 | $300,000 |
| | Yolo County | 207,590 | $300,000 |
| | El Dorado County | 183,087 | $300,000 |
| | Shasta County | 179,804 | $300,000 |
| | Imperial County | 179,091 | $300,000 |
| | Madera County | 154,548 | $300,000 |
| | Kings County | 150,269 | $300,000 |
| | Napa County | 141,667 | $300,000 |
| | Humboldt County | 134,809 | $300,000 |
| > 50,000 population | Nevada County | 98,893 | $225,000 |
| | Sutter County | 95,847 | $225,000 |
| | Mendocino County | 87,869 | $225,000 |
| | Yuba County | 73,966 | $225,000 |
| | Lake County | 64,184 | $225,000 |
| | Tehama County | 63,067 | $225,000 |
| | San Benito County | 58,267 | $225,000 |
| | Tuolumne County | 53,831 | $225,000 |
| < 50,000 population | Calaveras County | 44,624 | $150,000 |
| | Siskiyou County | 43,628 | $150,000 |
| | Amador County | 36,742 | $150,000 |
| | Lassen County | 31,749 | $150,000 |
| | Glenn County | 27,955 | $150,000 |
| | Del Norte County | 27,212 | $150,000 |
| | Colusa County | 21,419 | $150,000 |
| | Plumas County | 18,606 | $150,000 |
| | Inyo County | 18,410 | $150,000 |
| | Mariposa County | 17,682 | $150,000 |
| | Mono County | 13,997 | $150,000 |
| | Trinity County | 13,170 | $150,000 |
| | Modoc County | 9,023 | $150,000 |
| < 5,000 population | Sierra County | 3,003 | $75,000 |
| | Alpine County | 1,116 | $75,000 |
| | TOTAL | 3,671,539 | $7,650,000 |

*Attachment A*

## APPLICATION COVER SHEET
## CMSP Wellness & Prevention Pilot Project

1. **CMSP County or Counties Included in the Pilot Project:**

2. **Funding:**
   CMSP Pilot Project Requested Amount: $_____
   In-Kind and/or Other Matching Amount Provided by Applicant (if any): $_____

3. **Applicant:**
   Organization:
   Applicant's Director or Chief Executive:
   Title:
   Applicant's Type of Entity (specific county department):
   Address:
   City: State: CA Zip Code: County:
   Telephone: ( ) Fax: ( )
   E-mail Address:

4. **Primary Contact Person** (*Serves as lead contact person during the application process.)*
   Name:
   Title:
   Organization:
   Address:
   City: State: CA Zip Code: County:
   Telephone: ( ) Fax: ( )
   E-mail Address:

5. **Secondary Contact Person** (*Services as alternate contact during the application process.)*
   Name:
   Title:
   Organization:
   Address:
   City: State: CA Zip Code: County:
   Telephone: ( ) Fax: ( )
   E-mail Address:

6. **Financial Officer** *(Serves as chief Fiscal representative for project.)*
   Name:
   Title:
   Organization:
   Address:
   City: State: CA Zip Code: County:
   Telephone: ( ) Fax: ( )
   E-mail Address:

7. By submitting this application for Wellness & Prevention Pilot Project funding, the applicant signifies acceptance of the applicant's responsibility to comply with all requirements stated in this Request for Proposals (RFP) authorized by the County Medical Services Program Governing Board ("Governing Board"). Further, the applicant understands that should the Governing Board award pilot project funding to the applicant, the Governing Board is not obligated to fund the pilot project grant until the applicant submits correct and complete documents as required for the pilot project agreement; the Governing Board is otherwise satisfied that the applicant has fully met all Governing Board requirements for receipt of pilot project funding; and the pilot project agreement between the Governing Board and the applicant has been fully executed. The Governing Board shall have sole discretion on whether or not to award pilot project funding of any amount to the applicant.

   I declare that I am an authorized representative of the applicant described herein. I further declare under penalty of perjury under the laws of the State of California that the information set forth in this Cover Sheet and the attached response to the Wellness & Prevention Pilot Project RFP is true and correct.

**Official Authorized to Sign for Applicant:**

Signature: Date:

Name:
Title:
Organization:
Address:
City: State: CA Zip Code: County:
Telephone: ( ) Fax: ( )
E-mail Address:

*Attachment B1*

## County Wellness & Prevention Pilot Project Budget Guidelines

Applicants should use the budget detail and summary formats provided. Applicants may either use the actual tables or create a spreadsheet with the same categories and format. ***Pilot Projects*** should budget for anticipated expenditures in all three years of the pilot project.

Budget items should be placed into one of 5 categories. Five categories and a brief description of each category are listed below. Any expenses that are categorized within "Other" should be explained the budget summary.

**Personnel**
Gross salary and fringe benefits related to staff or funded project. Fringe benefits included employer FICA, unemployment and workers compensation taxes, medical insurance, vacation/sick leave and retirement benefits.

**Contractual Services**
Payments related to subcontractors and consultants who provide services to the project. Includes all expenses reimbursed including salaries, office expenses, travel.

**Office Expenses**
Directly attributable expenses for photocopies, postage, telephone charges, utilities, facilities, educational materials, general office supplies, computer equipment and software, and medical supplies.

**Travel**
Actual project-related travel expenses, including airfare, meals, hotels, mileage reimbursement, parking and taxis. If the organization has an established per diem policy, per diem may be charged to the grant in lieu of actual incurred expenses.

**Other**
Items that do not fall into any of the other categories listed above. Each item listed in other should be discussed in the brief budget summary.

No grant funding should be used for administrative and/or overhead costs not directly attributed to the project.

**Budget Narrative**
Provide a brief (no more than 2 pages) budget summary detailing all expense components that make up total operating expenses and the source(s) of in-kind and/or direct matching funding, if any. Describe all administrative costs and efforts to minimize use of pilot projects funds for administrative and overhead expenses.

**Attachment B2: Budget Template - Summary Budget**
**CMSP County Wellness & Prevention Pilot Project**

**Applicant:**

**Summary Budget – CY 2017 through CY 2019:**

| **Category** | Total Cost (Year 1) | CMSP Funding (Year 1) | Other Funding (Year 1) |
|---|---|---|---|
| **Personnel** | | | |
| **Contractual Services** | | | |
| **Office Expenses** | | | |
| **Travel** | | | |
| **Other** | | | |
| **TOTAL YEAR 1** | | | |

| **Category** | Total Cost (Year 2) | CMSP Funding (Year 2) | Other Funding (Year 2) |
|---|---|---|---|
| **Personnel** | | | |
| **Contractual Services** | | | |
| **Office Expenses** | | | |
| **Travel** | | | |
| **Other** | | | |
| **TOTAL YEAR 2** | | | |

| **Category** | Total Cost (Year 3) | CMSP Funding (Year 3) | Other Funding (Year 3) |
|---|---|---|---|
| **Personnel** | | | |
| **Contractual Services** | | | |
| **Office Expenses** | | | |
| **Travel** | | | |
| **Other** | | | |
| **TOTAL YEAR 3** | | | |

**Attachment B2: Budget Template - Detail Budget**
**CMSP County Wellness & Prevention Pilot Project**

**Applicant:**

**Detail Budget – CY 2017 through CY 2019:**

| **Category**<br>Item/Service | Qnty (Year 1) | Cost (Year 1) | Qnty (Year 2) | Cost (Year 2) | Qnty (Year 3) | Cost (Year 3) | **Total Cost** |
|---|---|---|---|---|---|---|---|
| **Personnel** | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| **Contractual Services** | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| **Office Expenses** | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| **Travel** | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| **Other** | | | | | | | |
| | | | | | | | |

# Guidelines for Logic Model

## I. Purpose

Applicants for County Wellness & Prevention Pilot Project funding must submit a logic model. Designing a logic model will enable applicants to define their program, pinpoint their approach, identify resources and consider outcomes. The purpose of a logic model is to build a foundation for program development, ensure consensus among stakeholders and provide a framework for program evaluation. Each site is responsible for completing an evaluation of their project. A logic model provides a common "map" to be used by program staff and evaluators to design a useful evaluation. Designing an evaluation, before completing a logic model, may lead to collecting information on irrelevant outcomes. Conversely, programs may fail to collect information regarding individuals or services that may contribute to the success of a program. The creation of thoughtful logic model is the first step in designing an effective County Wellness & Prevention Pilot Project.

Applicants are encouraged to use the guidelines that follow, although other forms of logic models are acceptable.

## II. Overview

The development of logic models is a useful tool for establishing dialogue between evaluation and system development efforts. Logic modeling is a method of articulating a program's theory or beliefs about how and why services are expected to produce particular results. In its simplest form, a logic model describes the clients that a system of care intends to serve, the services and supports that will be offered, and the short and long term outcomes that are expected to be achieved.

Kumpfer, et al. (1993) believe that logic models are useful tools for local stakeholders for several reasons. First, logic models can elicit consensus among staff and other system stakeholders regarding the service strategies and outcomes for a particular program. Second, they serve as a model to compare the intended program approach with what actually occurred. Third, they facilitate the articulation of specific beliefs about what services and strategies are related to the achievement of outcomes. Finally, logic models provide a framework for evaluation efforts through the linkage of action to results. Overall, logic models provide a framework through which both program and evaluation staff can view the linkages between conditions, services and outcomes.

The first step for stakeholders in developing a logic model is to clearly articulate their service delivery strategy. This means that stakeholders throughout a service system, including administrators, service providers, and inter-agency collaborators, should be able to describe the target population they intend to serve, the services they expect to provide along with the supporting collaborative infrastructures, and the results they expect to achieve (Usher, 1998; Hernandez,

Hodges, & Cascardi, 1998). When these basic questions are answered, stakeholders will be in a better position to complete their logic model.

Logic models depicting a program's approach can be compared to maps with guideposts that help keep program strategies on course (Alter & Murty, 1997). This approach takes into account the slippage or shifts that often occur in service delivery and uses the logic model as a stabilizer for a program or services during times of change. By knowing what changed in a program and when it changed, outcome information can be better interpreted and utilized. In this regard, the logic model becomes the ongoing documentation of changes in a program and enables stakeholders to track them.

Evaluators have the important role of eliciting the underlying service delivery theory by asking service personnel, managers, interagency stakeholders key questions about the target population served, the service approach employed and the goals that the service approach hopes to accomplish. If there is not agreement among program staff and stakeholders in their answers to these questions, then the evaluator helps the group reach consensus through further discussion. This process makes the results of evaluation more relevant to the service strategy under study, and hence more useful toward improving services.

## III. Components of a Logic Model

It seems that there is a different vocabulary used for each type of logic model. Although logic models may vary slightly in their purpose (i.e., program logic model vs. evaluation logic model), most models include the same types of components described in slightly different ways. In general, a logic model can be broken down into five (5) basic components: 1) Target Population; 2) Program Theory; 3) Program Activities; 4) Outcomes; and, 5) Impact/Goals. A logic model template is shown in chart 1.

- ***Target Population***

Consider the target population carefully. Ethnicity, race, age, gender, geographic location, primary language spoken, housing status, and medical conditions contribute to the definition of the target population.

*Program Theory*
This component should discuss the "theory" or the basis of the program or intervention. The "program theory" refers to the underlying assumptions that guide program planning and service delivery. These assumptions are critical to producing change and improvement in the target population. For example, a program theory regarding disease case management for diabetics may state:

> "Case management services for CMSP diabetics should include local coordination of all health and social service providers to address needs in

a timely and efficient manner that conserves resources and eliminates duplication."

The program theory assumes that local coordination across service providers is important for serving an indigent population. Several theories may be combined to define an overall approach to serving the target population. For example, a program to serve children with severe emotional disturbances and their families had the following program theories:

- Family involvement in program design and implementation
- Incentive-oriented for providers
- Wide array of services to address needs in multiple areas
- Broad network of local providers
- Collaboration with multiple sectors
- Collaboration with existing local systems of care

It is important to note that these are theories and approaches, *not* activities. Activities are the actual services offered or the formation of a collaborative body with family members, or the linking of regional providers through a formal referral system. Program theories shape the creation of activities. The formation of program theories is one of the most difficult components of logic model development, however, clearly developed theories will ensure consensus among stakeholders.

- ***Activities***

Activities are the specific processes and/or events that comprise the program. Some examples of activities are:

- Mental health counseling
- Case management
- Community forums
- Creation of a new health service
- Dental referral mechanism

Activities are the interventions focused on the target population that are intended to impact individual health or community health outcomes. Activities are often measured by process outcomes. For example, 35 individuals received case management services for 6 months.....20 individuals received preventative dental care..... 10 injury prevention classes were held during 6 months....12 men and 23 women attended the diabetes self-management workshop.

- ***Outcomes***

Outcomes are the results of the activities provided by the program. Outcomes may be measured on an individual or group level. Outcomes provide a way to measure change in participants' lives and/or community conditions. Outcomes may be short-term, intermediate or long-term depending on how far in to the

future they are measured. For example, a diabetes case management program may not expect to see differences in kidney disease among diabetics for several years (long-term outcome), however, the program may see decreases in hospitalizations due to hypoglycemia during the first year of the program (short-term).

Identifying short-, intermediate- and long-term outcomes also will enable programs to define indicators. Indicators describe outcomes in specific and measurable terms. For example, a disease case management program may target fewer health complications due to diabetes as an outcome. Several indicators may include, a 10% reduction in hypoglycemic episodes among diabetics whom are case managed. Another example may be a substance abuse program that seeks to reduce drug use by 50% among participants. An indicator variable would be the number of clients who tested negative for drug use over a 6-month period. Defining outcomes and indicators will contribute to the development of useful program evaluations.

- ***Impacts***

Impacts are the long-term changes that the program expects to make. They provide direction and focus to the program and should be consistent with the larger mission and vision of the organization. Impacts are often closely influenced by many other factors in addition to the program such as economic conditions, and cultural values. Some examples of impacts are:

- Improved mental health among program participants
- Better health outcomes for the medically under served in the community

## IV. Completing a Logic Model

Use the categories above to create a logic model for your Pilot Project. Begin with the overall impacts of the program and then jump to the target population and move forward. As you fill in the program theory, activities and outcomes for your model always go back to the target population and make sure the activities you plan are effecting the appropriate people. Use a flowchart, like the one provided in chart 1, to help visualize the flow of the program as you are constructing the different components.

The logic model should provide your program with a clear map that can be used as a reference for program design, implementation and evaluation.

### *References*

Alter, C. & Murty, S. (Winter 1997). Logic Modeling: A Tool for Teaching Practice Evaluation. *Journal of Social Work Education, 33* (1), 103-117.

Hernandez, M., Hodges, S., & Cascardi, M. (1998). The Ecology of Outcomes: System Accountability in Children's Mental Health. *The Journal of Behavioral Health Services & Research, 25*(2), 136-150.

Kumpfer, K.L., Shur, G.H., Ross, J.G., Bunnell, K.K., Librett, J.J. & Millward, A.R. (1993). Measurements *in Prevention.* Rockville, MD: U.S. Dept. Of Health and Human Services, Public Health Service, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention.

Usher, C. L. (1998). Managing Care Across Systems to Improve Outcomes for Families and Communities. *The Journal of Behavioral Health Services & Research, 25*(2), 217-229.

***Source***

Modified from original source. Originally prepared by Dennis Rose & Associates for the
County Medical Services Program's Wellness & Prevention Program (2001)

*ATTACHMENT C*

# Chart 1: Logic Model Template

| Target Population | Program Theory | Activities | Outcomes | Impact |
|---|---|---|---|---|
| *The target population consists of:* | *If the services are:* | *And if the program provides:* | *Then,* | *Ultimately,* |
| • | | | | |
| • | | | | |
| • | | | | |
| • | | | | |
| • | | | | |

# EXHIBIT C

# APPLICATION

# GRANTEE'S APPLICATION

ORIGINAL

*Attachment A*

**APPLICATION COVER SHEET**
**CMSP Wellness & Prevention Pilot Project**

1. **CMSP County or Counties Included in the Pilot Project:**
   Sonoma County

2. **Funding:**
   CMSP Pilot Project Requested Amount: $ 375,000
   In-Kind and/or Other Matching Amount Provided by Applicant (if any): $ 442,025.03

3. **Applicant:**
   Organization: Sonoma County Department of Health Services
   Applicant's Director or Chief Executive: Dr. Stephan Betz
   Title: Director, Department of Health Services
   Applicant's Type of Entity (specific county department): Health Services
   Address: 3313 Chanate Road
   City: Santa Rosa State: CA Zip Code: 95404 County: Sonoma
   Telephone: (707 ) 565-4702 Fax: (707 ) 565-7849
   E-mail Address: Stephan.Betz@sonoma-county.org

4. **Primary Contact Person** (*Serves as lead contact person during the application process.)*
   Name: Dr. Ellen Bauer
   Title: Director, Public Health Division
   Organization: Sonoma County Department of Health Services
   Address: 625 5th Street
   City: Santa Rosa State: CA Zip Code: 94104 County: Sonoma
   Telephone: (707 ) 465-4418 Fax: ( 707) 565-4411
   E-mail Address: Ellen.Bauer@sonoma-county.org

5. **Secondary Contact Person** (*Services as alternate contact during the application process.)*
   Name: Suzie Shupe
   Title: Chief Executive Officer
   Organization: Redwood Community Health Coalition
   Address: 1310 Redwood Way, Suite 135
   City: Petaluma State: CA Zip Code: 95954 County: Sonoma
   Telephone: (707) 285-2974 Fax: (707) 792-7910
   E-mail Address: shupe@rchc.net

6. **Financial Officer** *(Serves as chief Fiscal representative for project.)*
   Name: Brian Mahoney
   Title: Department Admistrative Services Director
   Organization: Sonoma County Department of Health Services
   Address: 3324 Chanate Road
   City: Santa Rosa State: CA Zip Code: 95404 County: Sonoma
   Telephone: (707) 565-4950 Fax: (707) 565-4835
   E-mail Address: Brian.Mahoney@sonoma-county.org

7. By submitting this application for Wellness & Prevention Pilot Project funding, the applicant signifies acceptance of the applicant's responsibility to comply with all requirements stated in this Request for Proposals (RFP) authorized by the County Medical Services Program Governing Board ("Governing Board"). Further, the applicant understands that should the Governing Board award pilot project funding to the applicant, the Governing Board is not obligated to fund the pilot project grant until the applicant submits correct and complete documents as required for the pilot project agreement; the Governing Board is otherwise satisfied that the applicant has fully met all Governing Board requirements for receipt of pilot project funding; and the pilot project agreement between the Governing Board and the applicant has been fully executed. The Governing Board shall have sole discretion on whether or not to award pilot project funding of any amount to the applicant.

   I declare that I am an authorized representative of the applicant described herein. I further declare under penalty of perjury under the laws of the State of California that the information set forth in this Cover Sheet and the attached response to the Wellness & Prevention Pilot Project RFP is true and correct.

**Official Authorized to Sign for Applicant:**

Signature: Date: 8-30-16

Name: Stephan Betz
Title: Director, Sonoma County Department of Health Services
Organization: Sonoma County Department of Health Services
Address: 3313 Chanate Road
City: Santa Rosa State: CA Zip Code: 95404 County: Sonoma
Telephone: (707) 565-4702 Fax: (707) 565-7849
E-mail Address: Stephan.Betz@sonoma-county.org

# Sonoma County Submission for the CMSP County Wellness Pilot Program

## SECTION B: PROJECT SUMMARY

The latest research emphasizes the importance of addressing social determinants of health (SDOH). Up to 40 percent of health outcomes are driven by nonmedical factors, such as income, education, and occupation, compared to only 20 percent driven by clinical interventions.[1] In addition, a recent Commonwealth Fund report finds that nearly 80 percent of physicians believe that addressing patient's social needs is as important to improving health outcomes as addressing their medical condition.[2]

It is clear the importance of addressing SDOH. To do so, however, requires a few key building blocks that include a person's access to care, enrollment in coverage, availability of a comprehensive referral network of providers to connect potential patients to social services, and the availability of social services programs that meets the patient's needs.

The Sonoma Department of Health Services (Sonoma DHS) is requesting grant funds to develop a pilot program with the express goals of:

1. Reducing the number of uninsured in Sonoma County, increasing retention and enrollment rates in the County Medical Services Program (CMSP), and increasing the rate of linkage to primary care for those identified and newly enrolled; and
2. Developing a system to address social determinants of health (SDOH) and improve the health outcomes of newly insured patients served by community health centers in Sonoma County's safety net

Our proposed approach entails:

- Identification of, and enrollment of, the remaining uninsured (Goal One)
- Linking the newly enrolled to primary care and a health home (Goal One)
- Screening these individuals for measures of SDOH and linking them to the appropriate social services programs and providers (Goal Two)
- Identifying referral pathways to ensure referred patients actually receive needed services (Goal Two)

To do this, Sonoma DHS will work closely with the Department of Human Services, the Redwood Community Health Coalition, its member community health centers, and other interested community partners, to target Sonoma County's uninsured population for these proposed interventions. In particular, we seek to engage the currently eligible but not enrolled CMSP population, providing outreach and education on changes to the CMSP program and enrolling them into CMSP. We will also target the currently enrolled CMSP population to support their ability to stay on CMSP and use new benefits they may potentially be eligible for.

---

[1] Booske, B.C., Athens, J.K., Kindig, D.A., et al. *Different Perspectives for Assigning Weights to Determinants of Health.* University of Wisconsin Population Health Institute. February 2010.

[2] Bachrach, D., Pfister, H., Wallis, K. and Lipson, M. *Addressing Patients' Social Needs: An Emerging Business Case for Provider Investment.* The Commonwealth Fund. May 2014.

Once clients are enrolled, we propose to provide navigation services and linkage to primary care, supporting these populations in finding a medical home and accessing primary and preventative services. Further screening for SDOH's impacting each newly enrolled will increase our safety net clinics' ability to reduce barriers to care and improve health outcomes.

Building on over a decade of community-wide efforts to improve the health and well-being of county residents and transform the way care is delivered in Sonoma County, our key partners listed above will also work with other community stakeholders and service providers to engage them in supporting these efforts. To inform this project, we will form a Coordinating Committee that will actively engage and include community stakeholders for feedback and input as we develop the referral system and enhance our outreach, education, enrollment, retention, and navigation activities.

Anticipated deliverables for this proposal include:

- Trainings and printed collaterals to support outreach, enrollment and navigation efforts
- Documented referral system
- Quarterly and annual progress reports
- Evaluation of pilot interventions

We believe that, should this pilot be funded, we will see a reduction in the number of uninsured in the county, increased enrollment in CMSP, increased utilization of primary care and social services, and improved health outcomes for our target populations.

This pilot is part of a broader county-wide effort of health care transformation, and this pilot will help us identify the appropriate screening tool, SDOH measures, and referral system for Sonoma County. Should there be additional funding available, our county could expand this effort to include Medi-Cal beneficiaries, include more sites, expand the pilot of a web-based referral system underway between two Sonoma county health centers and human service agencies for closed-loop referral tracking to integrate other social services and provider sites, or expand and link to other efforts to address SDOHs in the county as we develop our Accountable Communities for Health model.

## SECTION C: PROJECT NARRATIVE

### *1. Clear Statement of Problem or Need Within Community*

Sonoma County is a largely rural county approximately 50 miles north of San Francisco, with an estimated population of 502,000 spread over a geographically diverse area covering 1,768 square miles.[3] Post-implementation of the Affordable Care Act (ACA), many Sonoma residents have insurance coverage and access to regular care. However, disparities persist and churning on and off public programs contributes to the remaining uninsured population. Lower income residents and the working poor have difficulty accessing care; many remain uninsured due to high premium costs. While only 10.0% of Sonoma County residents are uninsured, 18.7% of residents earning below 138% of the Federal Poverty Level (FPL) and 34.2% of foreign-born residents who are not U.S. citizens do not have insurance coverage.[4] Among those who do have insurance coverage, main barriers to accessing care include: 1) not enough primary health care providers to meet demand, and 2) difficulties in navigating the care delivery system efficiently.

Many of Sonoma's uninsured population have unmet social needs that greatly impact their ability to access care and stay healthy in our communities. These social determinants create significant disparities in health outcomes across Sonoma, as reflected in a 2014 county assessment, which found that an entire decade separates the life expectancies of residents from the top and bottom census tracts in the City of Santa Rosa.[5] For example, in Central Bennett Valley in Santa Rosa, life expectancy at birth is 86 years - in downtown Santa Rosa, it is 76 years. There are similar striking disparities in median income within this geographic area, as well. Our proposed project addresses these issues through:

1) **Coverage & Navigation Support** - finding and enrolling our remaining uninsured (emphasis on the potentially eligible CMSP population), and sustaining coverage in CMSP by providing navigation support and linkage to primary care, and
2) **Social Determinants of Health Screening & Referral System** - developing screening and referral infrastructure to address social determinants of health adversely impacting CMSP beneficiaries.

**Target Populations**

This project targets the current and potentially eligible CMSP populations, and the uninsured. In Sonoma County, we have approximately 50,000 remaining uninsured, of which less than 10,000 are potentially eligible for CMSP.[6] There are currently eleven (11) individuals enrolled in CMSP in the county. With incomes at or below 300% FPL, the current and potentially eligible CMSP populations are essentially the working poor who are not eligible for Medi-Cal,

---

[3] US Census Bureau, American Community Survey (ACS). Available online at: http://www.census.gov/quickfacts/table/PST045215/06097

[4] Ibid,

[5] *A Portrait of Sonoma County*, a comprehensive assessment of the county's health, educational attainment, and living standards at the census tract level. Available online at: http://sonomacounty.ca.gov/a-Portrait-of-Sonoma-County/

[6] Per ACS data, in 2014, 10,312-21,596 individuals in Sonoma County ages 18-64 were uninsured with income levels between 138-300% FPL. This includes individuals, who may not be eligible for CMSP, and 18-20 year olds who are not eligible for CMSP. We use the lower range to account for these differences.

cannot afford health insurance or are ineligible for coverage through the exchange. Many may not be aware of the CMSP program, or aware of the benefit and eligibility changes. Significant effort will need to be made to ensure those enrolled know how to access care and utilize their benefits, and what social services may reduce or eliminate their barriers to care. Furthermore, a 2015 survey of farmworkers identified significant barriers to health care access. Outreach will be intensified to enroll this target population.

Leveraging Sonoma County's network of enrollment entities, we intend to work with these critical partners to identify the uninsured in the community as well as those newly eligible for CMSP due to recent program changes. This network of enrollment entities includes county eligibility offices, Redwood Community Health Coalitions' Certified Enrollment Counselors (CECs), community health centers, Catholic Charities, La Luz, and other Covered Sonoma member organizations. We will also leverage partnerships with local media outlets.

### *2. Local Health Care Delivery System Landscape*

A number of providers serve as the backbone of our safety net system. Sonoma County is home to a strong network of community health centers offering primary care, behavioral health, dental care and other services. The region has three large health systems, Kaiser Permanente, Sutter Health and St. Joseph Health, which operate primary care, specialty and hospital facilities throughout the county. In addition, Sonoma Valley Hospital, an acute care district hospital, offers a variety of services, including skilled nursing and home health care.

Sonoma County community health centers serve the majority of the uninsured and publicly insured population. In 2015, eight Sonoma County health centers delivered approximately 569,000 medical, mental health and dental visits to 120,000 individuals. Approximately 21% of health center patients were uninsured and just over half had incomes at or below 100% FPL in 2015.[7] As of September 2015, RCHC health centers served approximately 58% of all Medi-Cal patients covered by Partnership Health Plan, the local Medi-Cal managed care plan. While community health centers are the main source of primary and preventative care for the uninsured, Medicaid and CMSP populations, our target population also receives care at local hospitals, emergency departments and urgent care centers. The Jewish Community Free Clinic and St. Joseph Health's mobile clinic also provide intermittent care for this population. These safety net providers, along with county agencies, social services providers and other community partners, have a long history of collaboration and information sharing. We have been working to optimize systems of care across the county, including the 2014 launch of Hearts of Sonoma County, a countywide cardiovascular disease (CVD) risk reduction initiative aligned with the Center for Disease Control's national Million Hearts campaign to reduce heart attacks and strokes. Many provider partners collaborated on a health information exchange, with plans to scale up to include additional health service providers in the future. Sonoma County has a track record of proven initiatives to build on, and we are aligned in our efforts to improve health and health care for area residents.

Despite these efforts and the strengths of our safety net, significant gaps still exist. The increase in insurance coverage brought about by ACA implementation placed a strain on the

[7] Does not include Indian Health Center data.

local safety net, given persistent health workforce shortages in the region and the state. County health care partners have identified patient navigation services, proliferation of technologies that enable collaborative care and more widespread adoption of real-time data sharing as priorities for improving the effectiveness and efficiency of the current health system. Community partners' work in progress around data sharing will address many of the care and resource coordination challenges that impact care delivery. Specifically, systems that enable information sharing between health plans, hospitals and outpatient providers are the most immediate priorities in developing a coordinated system of care.

The proposed pilot in this application is part of a broader county-wide effort to transform the delivery of care and build healthier communities in Sonoma County. In addition to community stakeholder and clinic partners, Sonoma DHS, the lead applicant, has two key partners in this grant: The Sonoma County Human Services Department and RCHC (described below)

**Sonoma County Department of Health Services**
Sonoma DHS is supported by 711 people (630 FTEs) with a total budget of $250 million. Department services are delivered through the Public Health, Behavioral Health, Health Policy, Planning and Evaluation, and Administration Divisions, which serve the community through a combination of direct services and through a network of community-based contracts with treatment provider agencies. In partnership with the local health system, Sonoma DHS provides a wide range of programs and services for adults, children and families, as well as services supporting community health and safety, emergency medical preparedness, disease control, and clinical services.

**Sonoma County Department of Human Services**
Sonoma DHS works very closely with the Sonoma County Human Services Department. The Human Services Department supports the health, safety and well-being of more than 100,000 individuals and families through a variety of programs and services, including eligibility determination and enrollment in CMSP and other public benefit programs.

**Redwood Community Health Coalition**
Formed in 1994, RCHC is a network of 17 community health centers that comprise over 45 delivery sites in Marin, Napa, Sonoma and Yolo Counties with a mission to improve access to and quality of care for the underserved and uninsured population. RCHC member clinics serve as the health home (patient-centered primary care, mental health, dental) for the region's low-income residents. RCHC provides its members with the infrastructure, expertise, and program support needed to achieve the following:

- Capacity & infrastructure to address Population Health Management, Chronic Care and Coordinated Care Management Value Based Care transformation
- Strengthen data capacity and infrastructure through Health Information Exchange and Data Analytics
- Strengthen collaboration with health care delivery system stakeholders & partners to ensure high-quality, affordable and coordinated patient care
- Community Outreach to promote outreach, enrollment, retention and utilization of coverage, as well as access to health care services
- Patient-Centered Health Home (PCHH) transformation & recognition

In addition, RCHC serves as the parent organization for Covered Sonoma, the county's highly effective community collaborative related to outreach, enrollment, health care utilization and retention, and health home linkage. Covered Sonoma is involved at all levels in the enrollment effort in Sonoma County. Comprised of over 30 organizations, Covered Sonoma is directly engaged in outreach and enrollment activities through robust grassroots networks that build meaningful, direct relationships with families and their children in creative ways, engaging in outreach and enrollment where the need is greatest, and meeting families where they are.

### *3. Description of Proposed Project*

Sonoma DHS and its key partners will implement integrated systems strategies to: 1) improve access and care, and 2) address social determinant needs for CMSP members and uninsured populations through a collaborative process with at least five local community health centers in this proposed project. There are multiple components included in these two goals, which we describe below:

**Components in Goal One**

The RCHC and Sonoma county agencies, in collaboration with additional community partners, will develop a coordinated strategy to maximize enrollment in CMSP and other public programs, and to ensure linkages to primary care. This strategy would include a targeted approach to identify every potentially eligible CMSP member across multiple organizations and programs, and provide the needed navigation services to link them to primary care.

Key Activities

A. Identification of current and potential CMSP members through in-reach and outreach targeting the uninsured. In-reach activities will be conducted primarily by local enrollers, and will include a combination of in-person education and dissemination of written materials about CMSP eligibility and programs, including:
    - Community health center and hospital in-reach
    - Sonoma County Human Services Eligibility Division
    - Community Outreach, including leveraging existing outreach avenues (RCHC, Catholic Charities, La Luz, Day Labor Centers, etc.), networks and media opportunities, such as Spanish radio, and six health fairs for farmworkers annually
B. Enrollment and coverage education to target population, including:
    - Quarterly training of enrollers county-wide on CMSP enrollment and primary care health home linkages, including ongoing technical assistance
    - Education for enrollment counselors on recent CMSP eligibility and benefit changes
    - Coordination of enrollment in CMSP and Cal Fresh efforts across organizations
    - Education and navigation support on how to properly access and utilize care, establish primary care linkage, and health insurance literacy to target population
C. Linkage to primary care
    - Support for selection of primary care health home and initial utilization of services within CMSP benefits to target population

**Components in Goal Two**
Redwood Community Health Coalition and Sonoma county agencies, in collaboration with additional community partners, will develop a coordinated pathway to improve linkage of health center patients to programs and organizations that address their Social Determinants of Health (SDOH) needs. The goal of this pilot, ideally, is to track and collect data on individuals at health centers linked to programs and services addressing their SDOH needs, as well as individuals who go to places that primarily focus on SDOH services (i.e. Redwood Empire Food Bank, Catholic Charities, etc.). Ideally, this system will allow places that provide SDOH services to provide and track screening, and link to primary care.

Key Activities

A. Sonoma DHS, in partnership with health centers and other community stakeholders, will collaborate to develop a comprehensive referral process to establish, evaluate and improve SDOH screening of CMSP and uninsured patients, including documentation of SDOH needs in electronic health records. Tasks include:
    - Choosing a standard SDOH tool or set of tools to use systematically at Sonoma County health centers or adopt the Protocol for Responding to and Assessing Patients' Assets, Risks, and Experiences PRAPARE tool.
    - Supporting and training health centers in collecting, documenting and using SDOH information.
B. Sonoma DHS and health centers will develop a referral pathway for health center CMSP and uninsured patients to access high value programs and services that positively impact social determinants of health. Tasks include:
    - Developing referral pathways to services based on SDOH evaluations.
    - Streamlining enrollment process for health center patients into high value programs and services that address determinants of health.
C. We will strengthen coordination of systems and data capture to better address priority social determinant needs of CMSP and uninsured patients. Tasks include:
    - Developing coordination and communication systems between health centers and key SDOH referral partners.
    - Implementing a referral tracking and documentation system.
    - Identifying systems that will support county level aggregation of SDOH data.

We see the two project goals as a continuum. Individuals moving in and out of insurance coverage are at high risk for poor health outcomes due to lack of resources and gaps in continuity of care. Even individuals with insurance coverage often need additional education and navigation services to ensure that they can successfully and appropriately engage with the health care system. Goal One identifies individuals in need of coverage or orientation to the new CMSP primary care benefit, using a targeted approach to identify eligible individuals and supporting enrollment into CMSP through trusted outreach and eligibility partners.

Acknowledging that health insurance does not guarantee access to care or access to health, Goal Two builds on the outreach and enrollment efforts to develop capacity in the system to address underlying SDOHs. Building on its long history of collaboration, this project offers a unique opportunity to "bring it all together" by developing a sustainable process for screening, referral and information sharing around social determinants of health. Screening for SDOH at

community health centers is a natural extension of the person-centered approach that these providers offer. By collaborating to identify standard screening elements to be used throughout the county, providers and their partners will be able to track progress on some of the underlying causes of poor health in the community. Uninsured and CMSP patients make up approximately 25% of the health center population. Piloting the SDOH screening process with this population will allow providers and their partners to develop the long-term capacity to serve the broader population while focusing limited resources on the highest need clients in the immediate term. In order to effectively address social determinants of health, community partners must be able to identify or create programs and services that are likely to impact health outcomes. By investing in service mapping and information sharing infrastructure, we will be able to align these resources and evolve programs to meet the needs of the community. Furthermore, improving connections and coordination across agencies will create synergy and amplify/reinforce messaging.

The key activities listed above are all major milestones in the implementation work plan. A significant component of Goal One is dedicated to educating the public and uninsured about the CMSP program and the new Primary Care Benefit. The CMSP population can often be difficult to reach, so this project takes a targeted approach to develop information and outreach methodologies that are specific to the populations of interest to maximize both enrollment and access to preventive care. In order to develop a sustainable process for this type of education, this project will invest in technical assistance for Certified Enrollment Counselors, who will assist individuals with enrollment and navigation of health services.

### *4. Organization and Staffing*

Sonoma DHS has significant organizational capability and leadership to implement, operate and evaluate the proposed project. With a long track record of working in close partnership with RCHC and other community partners, Sonoma DHS has led and is currently leading several significant transformation projects countywide, including development of an Accountable Communities for Health initiative, and continues to lead the Sonoma County Health Action Council, a coalition of local leaders, organizations, and individuals committed to creating a healthier community through collective action for over a decade.[8] Successes include a number of broad community campaigns to engage residents in health improvement, including programs for healthy eating and active living across the county. Through this work, the Health Action Council established a Wellness Fund Catalyst Team (Catalyst Team) to spearhead planning to establish a local wellness fund. The Catalyst Team works to develop sustainable finance strategies that focus on prevention, equity, SDOH, system changes and place-based approaches to achieving community-wide outcomes tied to Health Action priorities. Another example of collaborative work includes the Sonoma County Community Health Needs Assessment Collaborative, engaging providers to perform a joint county-wide community health needs assessment which not only meets non-profit hospital requirements but also serves as a baseline health assessment for planning use by groups, including the Health Action Council. Having worked closely together with our community partners and providers for well over a decade, Sonoma DHS is able to leverage these existing collaborative

[8] Health Action members represent sectors including health care, social services, education, elected officials, businesses, and non-profits.

efforts to establish our proposed project quickly, engage the right community partners, and create synergy where possible to ensure that countywide, all stakeholders are working together and not duplicating efforts.

**Project Staffing Overview**

This project will be overseen by a Project Manager, Ellen Bauer, who will provide key leadership and oversee management and implementation of the grant. She will be working closely with a Partner Implementation Team, led by Suzie Shupe, which will be working with clinics and community partners to implement on the ground enrollment and referral activities. This work will be informed by a Coordinating Committee, comprised of county leadership, clinic leadership and community partners. She will also work closely with Selena Polston, who will lead the county implementation team responsible for oversight, reporting and evaluation of grant activities. *Please refer to the Organization Chart for on the next page for more detail.*

***Key Personnel and Bios***:

"Project Manager" (Lead): Ellen Bauer , Ph.D.(Sonoma DHS)

Ms. Bauer will be responsible for providing leadership, monitoring progress, overseeing reporting and evaluation, and communicating with key partners. Dr. Bauer is the Public Health Division Director for Sonoma DHS, and was the founding manager of Sonoma Health Action. Dr. Bauer has 30 years of experience designing and implementing national and community-level health programs and evaluations. She has led research and evaluation on a wide range of health issues, including implementation and outcomes (quality, utilization and cost) of managed Medicaid for both acute and long-term care services. She earned a BA from Stanford, as well as an MPP and a Ph.D. from University of California at Berkeley.

County Implementation Lead: Selena Polston, MSW (Sonoma DHS)

Reporting directly to Ms. Bauer, Ms. Polston will play a key role in project management, coordination, oversight and management support. A bilingual organizational development professional and researcher with over 20 years of experience providing technical assistance to public and non-profit agencies working in health and human services, Ms. Polston received her Master of Social Work from Columbia University.

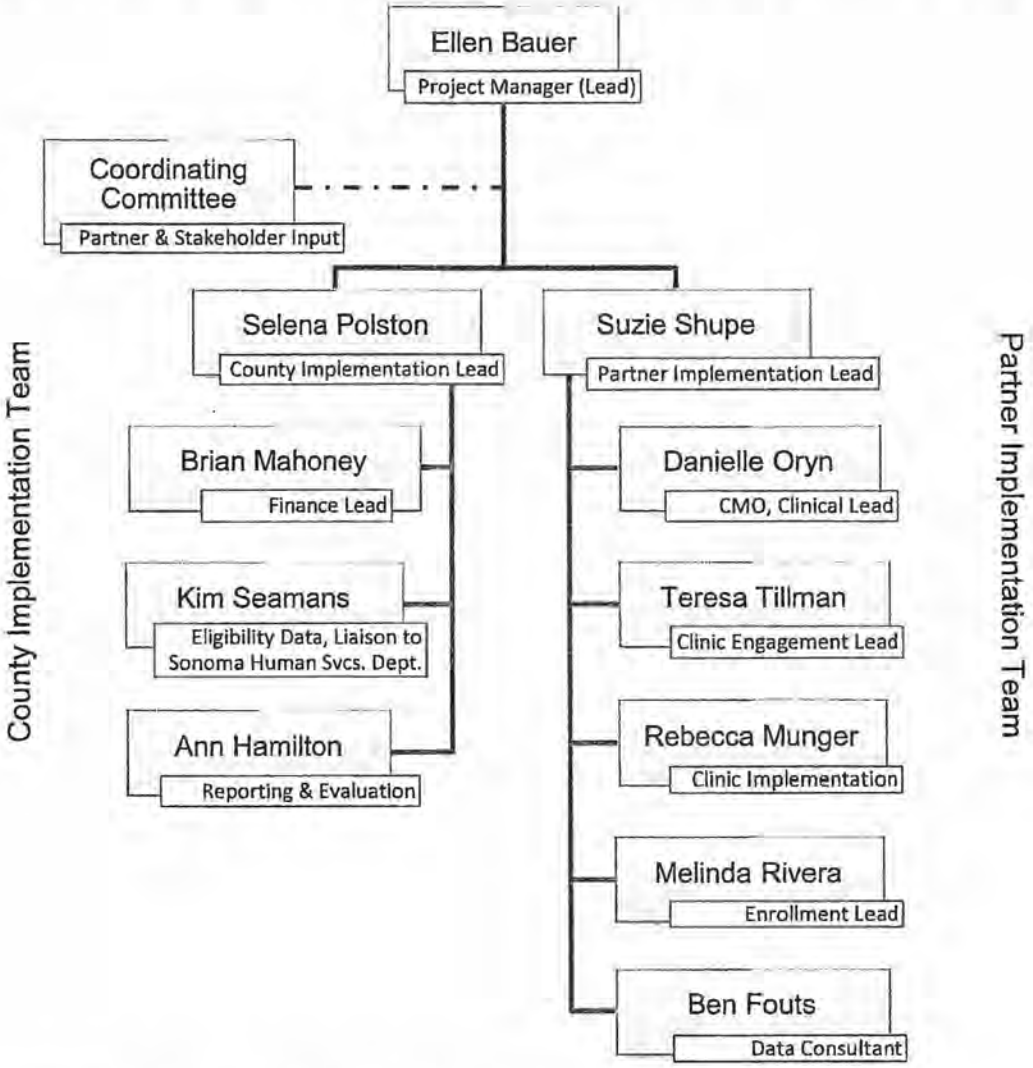
Finance Lead: Brian Mahoney, MPA (Sonoma DHS)

With over thirty years of experience, including ten years as the Chief Financial Officer of the California State Department of Education, Mr. Mahoney will be providing financial management and oversight of the grant on behalf of Sonoma DHS. As the current Administrative Services Director for Sonoma DHS, Mr. Mahoney has responsibility for county accounting, budgeting, information technology systems, and facilities management.

Eligibility Data: Kim Seamans, (Sonoma Department of Human Services)

Ms. Bauer will be working closely with Ms. Seamans from our county eligibility office to facilitate data collection and analysis of eligibility data. As the Director of Human Services Department, Economic Assistance Division, Ms. Seamans manages the division responsible for determining eligibility for all county residents for CMSP, Medi-Cal, CalFresh and General Assistance, and has over 30 years of experience with enrollment, public coverage and social services programs.

***Project Organization Chart (Key Leadership Personnel & Consultants Only):***




Reports & Evaluation: Ann Hamilton (Sonoma DHS)
A member of the Sonoma County Innovation Team since 2014, Ms. Hamilton will support county reporting and evaluation needs related to this grant. She is an organization development professional with over 17 years of experience in technology and health care project management, program development and technology and business process improvement, regularly serving as liaison for providers, vendors and governmental agencies. Ms. Hamilton received her BA in Political Science from University of California, Berkeley.

Partner Implementation Team Lead: Suzie Shupe, JD, (RCHC)
Ms. Shupe will be playing a key role in managing implementation activities, providing key leadership and management to the Partner Implementation Team. As the CEO of RCHC, she provides strategic guidance and support to clinics across a number of counties, including Sonoma, supporting implementation of a number of key initiatives on their behalf. An attorney,

advocate, and former First 5 Sonoma County commissioner, she has been active in health policy and child and family advocacy for nearly two decades. Ms. Shupe is a graduate of Barnard College of Columbia University and received her law degree from UCLA.

Clinic Implementation, Oversight & Engagement: Teresa Tillman, MHA (RCHC)
Working with clinic partners in a coordinated way is critical to ensuring successful implementation of our proposed project. As the RCHC Chief Operating Officer, she currently oversees RCHC's internal operations and administration, program management and alignment of program strategies, including population health program initiatives and grants. She has 19 years of experience in a variety of health care settings including previously working at RCHC as the Director of Business Services, and most recently, as Chief Administrative Officer at Petaluma Health Center. She has a Masters in Health Administration from Cornell University.

Chief Medical Officer: Danielle Oryn, DO, MPH (RCHC)
Ms. Oryn will provide important clinical leadership and support, particularly in the identification and analysis of SDOH, developing screening tools, and providing thought leadership to develop the countywide referral system. She will also provide valuable feedback and input on developing data collection procedures for this project, including overseeing changes in clinic EHRs. Since medical school at Nova Southeastern University, Dr. Oryn has been passionate about leveraging technology to improve health care for the underserved. After completing residency in Family Medicine, she went on to complete her Masters in Public Health and a graduate certificate in biomedical informatics.

Clinical & Population Health: Rebecca Munger, CNM, MPH (RCHC)
Working in close collaboration Ms. Tillman and Dr. Oryn, Ms. Munger will play a key role in supporting the implementation of this program at partner sites. Ms. Munger is the RCHC Clinical Program Director, providing clinical and population health direction for RCHC and plays a medical leadership role with external partners. Ms. Munger earned her nursing degree from McGill University in Montreal, Quebec, her midwifery degree from the University of Southern California Los Angeles and her Masters in Public Health from Touro University.

Enrollment & Community Outreach: Melinda Rivera, MA (RCHC)
Leveraging her close connections with enrollment and community partners, Ms. Rivera will provide important support in the project's enrollment and outreach efforts, overseeing CECs providing outreach. Ms. Rivera serves as the RCHC Community and Government Outreach Director, managing relationships with key community partners and leaders. Ms. Rivera has extensive experience in public policy advocacy, language access services in acute care settings, and community benefit and outreach programs. She is a graduate of the University of California at Berkeley, and has a Master of Arts degree from the University of Arizona.

Data Consultant: Ben Fouts, MPH (Consultant)
Mr. Fouts will provide technical expertise to develop standardized analytics reports for tracking SDOH data. Mr. Fouts received his Master of Public Health from George Washington University. He has over 15 years of experience with data analysis and IT-enabled quality improvement activities at community health center and social service organizations.

### *5. Implementation Work Plan*

This section should include a Project Implementation Work Plan and timetable for completion of implementation activities.

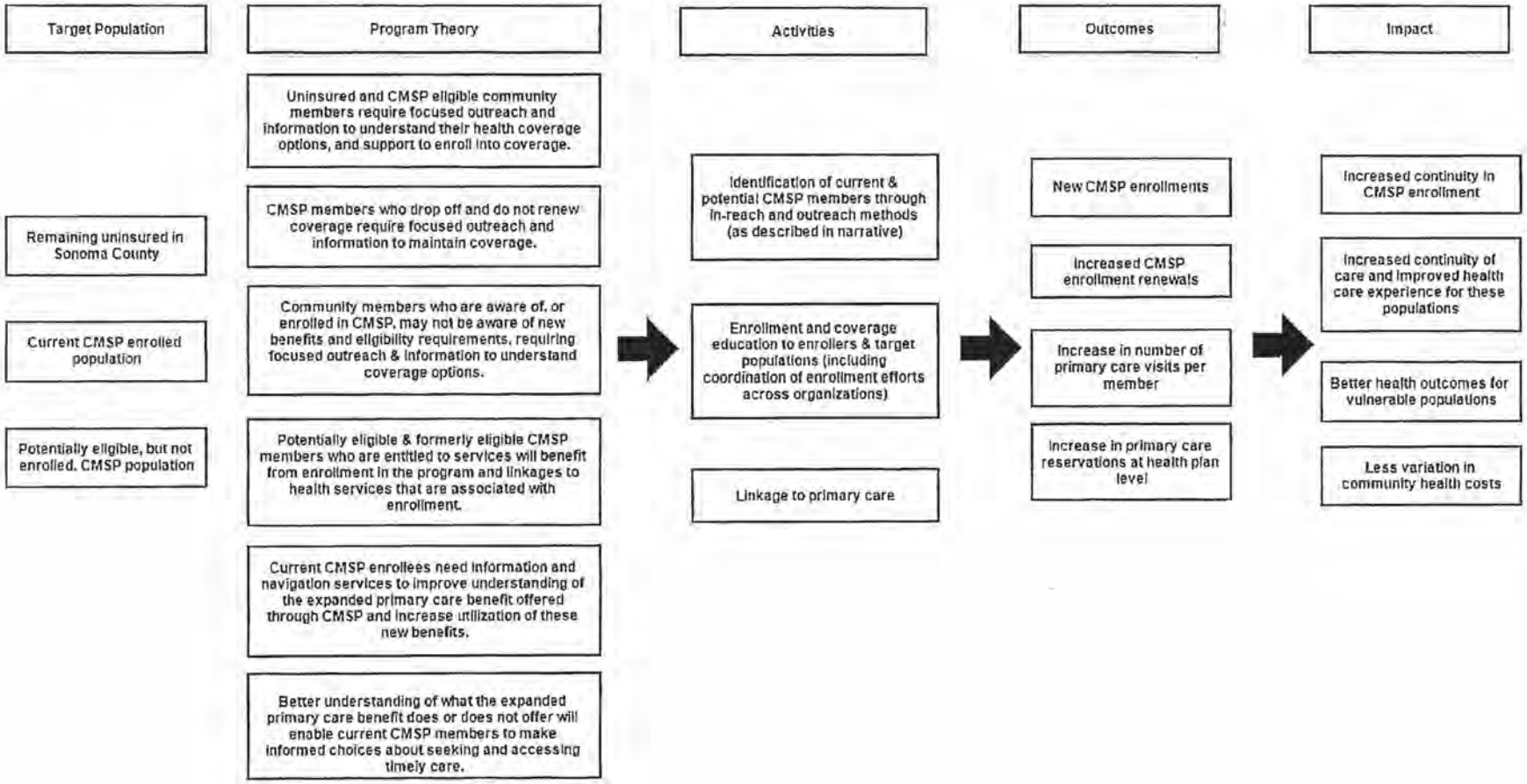
**Project Implementation Work Plan and Timeline**

| Activity | Key Activities | Timeline |
|---|---|---|
| **Goal One** | | |
| Identification of current and potential CMSP members through in-reach and outreach | ▪ Community health center in-reach<br>▪ Sonoma County Human Services Economic Assistance Division<br>▪ Hospital in-reach<br>▪ Community Outreach | Year 1 |
| Enrollment and coverage education | ▪ Quarterly training of Certified Enrollment Counselors county-wide on CMSP enrollment and primary care health home linkages<br>▪ Education on recent CMSP eligibility and benefit changes<br>▪ Coordination of enrollment in CMSP and CalFresh efforts across organizations<br>▪ Education on how to properly access and utilize care and health insurance literacy | Year1-Year2 |
| Linkage to primary care | Support for selection of primary care health home and initial utilization of services within CMSP benefits | Year 2-Year 3 |
| **Goal Two** | | |
| Develop a process to improve SDOH screening of CMSP and uninsured patients and documentation of SDOH needs in electronic health records. | ▪ Choose a standard SDOH tool or set of tools to use systematically at Sonoma County health centers or adopt the PRAPARE tool.<br>▪ Support and train health centers in collecting, documenting and using SDOH information. | Year 1 |
| Develop a referral pathway for health center CMSP and uninsured patients to high value programs and services that positively impact social determinants of health. | ▪ Develop documented referral pathways to services based on SDOH evaluations.<br>▪ Streamline enrollment process for health center patients into high value programs and services that address determinants of health. | Year 1 |
| Strengthen coordination of systems and data capture to better address priority social determinant needs of CMSP and uninsured patients. | ▪ Develop coordination and communication systems between health centers and key SDOH referral partners.<br>▪ Implement a referral tracking and documentation process.<br>▪ Identify systems that over time will support county level aggregation of SDOH data. | Year 2-Year 3 |

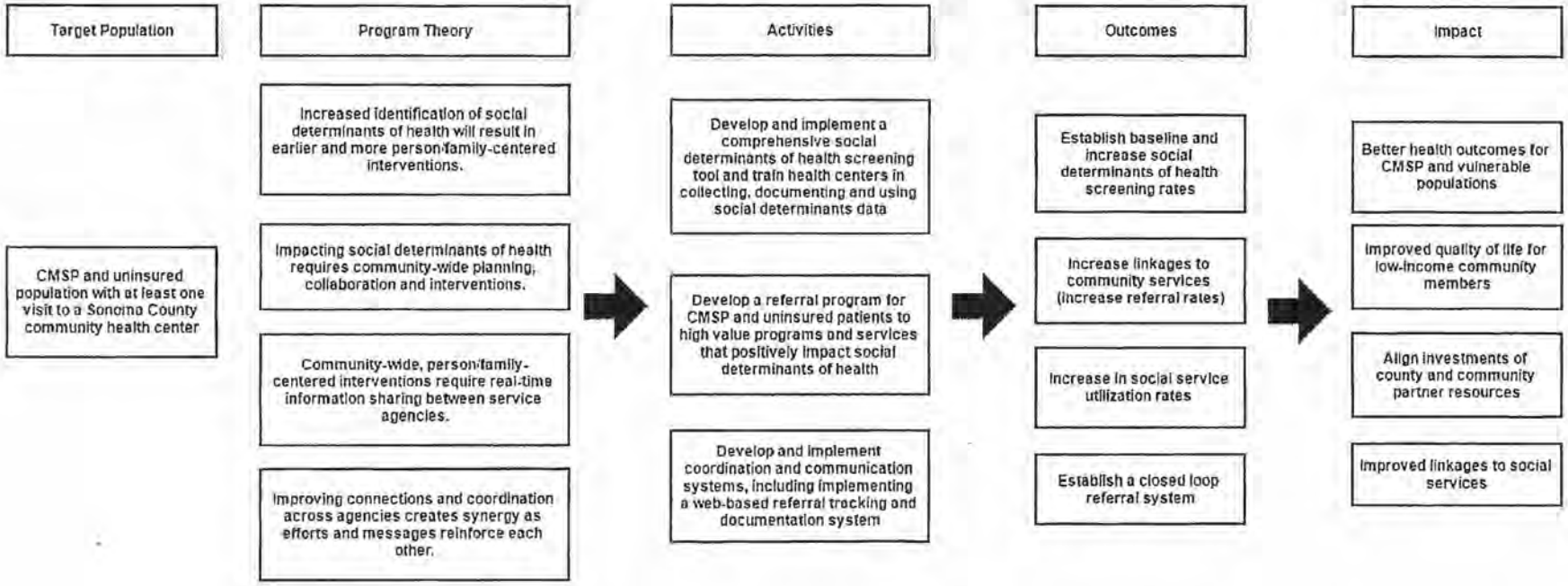
## SECTION D. Logic Model

As described in more detail in the above project narrative, our proposed project uses the following logic models:

### *Goal One Logic Model:*



## *Goal Two Logic Model:*



## SECTION E. Proposed Evaluation Methodology

Below is a synopsis of the proposed measures for Goal One and Goal Two, as well as a listing of potential data sources and frequency of collection:

| Measure | Source | Frequency | Notes |
|---|---|---|---|
| ***Goal One*** | | | |
| New CMSP enrollments | Enrollment partners | Quarterly | Data will be readily available. |
| CMSP enrollment renewals | Enrollment partners | Quarterly | Data will be readily available. |
| Primary care reservations by CMSP members | AMM Health plan | Semiannual | Will develop data sharing agreement. |
| Primary care visits by CMSP members | RCHC member health centers | Semiannual | Data will be readily available. |
| ***Goal Two*** | | | |
| Number of health center sites participating in screening | RCHC member health centers | Year 1<br>Year 2<br>Year 3 | Data will be readily available. |
| Baseline SDOH screening rates | RCHC member health centers | Year | Data will be readily available. |
| Annual increase in screening rates *(Goal: 10% increase annually)* | RCHC member health centers | Year 2<br>Year3 | Data will be readily available. |
| % Patients who follow up with at least one health center-based enabling service upon referral | RCHC member health centers | Year 1<br>Year 2<br>Year 3 | Data will be readily available. |
| Linkages to community services | RCHC member health centers and community service partners | Baseline<br>Year 1<br>Year 2<br>Year 3 | Will develop data sharing strategies with relevant partners. |

Enrollment data will be gathered in collaboration with Sonoma County Human Services Department and with other community enrollment partners. Certified Enrollment Counselors will track the number of CMSP applications submitted on behalf of clients on a monthly basis. Data on enrollment of CMSP members will be gathered and reported regularly at quarterly all-CEC meetings and at Covered Sonoma meetings (convened at least eight times per year). In order to assess the impact of coverage on linkage to primary care, we propose to gather additional enrollment data from clinics on CMSP enrollment and utilization. We would like to use CMSP primary care reservations made for CMSP members newly eligible as a proxy for the primary care benefit. To do so, we propose working with CMSP and their contractor, Advanced Medical Management (AMM), to measure the number of CMSP primary care reservations made for members newly eligible for the primary care benefit. We propose to assess this measure quarterly by developing a data sharing agreement with AMM in partnership with CMSP. We will also measure primary care utilization at community health centers by insurance category at baseline and quarterly to assess primary care visits by CMSP members.

Measures for Goal Two will be gathered by partner clinics providing the screenings. The data will be captured in clinic EHRs, which will be modified to integrate these measures and streamline data capture and reporting.

***Potential Barriers to Data Collection and Evaluation***

Sonoma County Health and Human Services departments currently collect quantitative data related to their individual client populations and have database and epidemiology expertise on staff. RCHC has over 20 years of experience in data collection from member health centers and have in-house and consultant-based data analysis capacity. RCHC and local health centers have a long history of collecting and sharing quantitative data with County agencies and other community organizations. The project partners have expertise and experience validating data from multiple sources and refining measures to meet their reporting and analysis needs.

While we have made great strides in developing collaborative information sharing processes, there is room for growth in making information available in real time, improving multi-agency data sharing (as opposed to two organizations sharing information), and in developing capacity to track individuals across programs and providers. Data validation is always a concern, particularly when new data sources are being developed. In addition, while some providers in our region have experience sharing information with health plans, larger-scale efforts that involve health plan data being shared with multiple partners is a new endeavor.

***Data Sharing and Protected Health Information (PHI)***

The County of Sonoma and its employees have a legal and ethical obligation to protect and safeguard all Health Information in a manner designed to prevent any unauthorized use, disclosure or inappropriate destruction. Use and/or disclosure of Health Information between County of Sonoma Department and staff are regulated by HIPAA and California law. Sonoma DHS has existing policies and procedures pertaining to the handling of PHI, which can be made available to CMSP upon request.

Project partners also have a history of developing data sharing agreements that comply with state and federal data privacy regulations. RCHC acts in the role of Business Associate to our member health centers and other contracted entities. In that role, RCHC staff will comply with all Privacy and Security regulations applicable to Business Associates and will secure the protected health information entrusted to RCHC. To assure that RCHC adheres to the HIPAA standards the RCHC Board of Directors has established policies and procedures related to the Privacy and Security of health information. The Board of Directors of the RCHC is responsible for the oversight and enforcement of the Privacy and Security Rules as it is managed by the Privacy and Security Committee, implemented by the staff and the designated Information Services Department (ISD) and monitored by the Privacy and Security Officer(s) of RCHC. The data and information sharing processes for this project will be developed in accordance with individual partner agency protected health information (PHI) policies.

## F. Budget and Budget Narrative

To support the proposed work of this application over the three year period, Sonoma DHS is requesting a total of $375,000 in grant funding, and intends to provide a total of $442,025.03 in in-kind support with its major partner, RCHC. Of the in-kind support, $104,880.26 annually ($314,640.79 over three years) will be provided by RCHC, our major partner, and $42,461.41 annually ($127,384.24 over three years) will be provided by Sonoma DHS. In comparison, of the $375,000 in grant funding, $100,000 per year ($300,000 over three years) is requested to fund RCHC and partner grant activities, and $25,000 per year ($75,000 over three year) is requested for Sonoma DHS for oversight, reporting, coordination and evaluation activities. *Please see summary table below:*

***Summary of Requested and In-Kind Funding:***

| | Requested Grant Funds | | In-Kind Support | |
|---|---|---|---|---|
| | **Annually** | **3 Year Total** | **Annually** | **3 Year Total** |
| Sonoma DHS | $25,000 | $75,000 | $42,461.41 | $127,384.24 |
| RCHC | $100,000 | $300,000 | $104,880.26 | $314,640.79 |
| **Total** | **$125,000** | **$375,000** | **$147,341.68** | **$442,025.03** |

The $375,000 requested grant funds will be used for staffing, consulting services, printing, mileage, a pass-through stipend to participating community health centers to defray the cost of implementing the referral system and staff support for pilot activities, and a small indirect. *Please refer to the Detail and Summary Budget Templates (Attachments B1 and B2) for more detail.*

In particular, funds for staffing will be used to fund a program coordinator within RCHC to provide dedicated support to partner sites, as well as fund part of the salaries of a county oversight coordinator and evaluation/reporting support. Staffing costs for other personnel listed (Project Manager/Lead & Finance Lead from Sonoma DHS, and a number of management and program staff from RCHC) will be provided in-kind. Please note that this includes $12,500 annually ($37,500 over three years, or 10% of total grant budget) to fund the cost of dedicated county evaluation and reporting staff to support this pilot.

Other staffing costs include $10,200 per year for two consultants:

1. Data consultant, who will be providing programming and data support to the project, working with member RCHC health centers
2. CMIO/consultant to support clinical perspectives and support development of SDOH screening tool, data integration with EHR, etc.

We anticipate five partner sites, each of which are community health centers/clinics participating in the pilot. These partners will be providing in-kind support of their enrollment and primary care staff in support of this pilot, as well as providing funding to document a referral process. To defray some of their costs, we are requesting $45,000

annually ($135,000 total) to be provided as a pass through to these clinics (roughly $9,000 per year, or $27,000 over the course of the grant to each clinic site). Should there be more clinics that sign up, we would decrease this amount proportionally to stay within the grant budget.

We anticipate a number of RCHC staff will be engaged in training and support to each local pilot site, and will incur printing costs for materials as well as travel costs (mainly mileage). The budget requests a nominal amount to defray these costs for coordinators and staff supporting pilot locations ($500 annually/$1,500 total for travel/mileage, and $550 annually/$1,650 total for material printing costs).

As part of this application, Sonoma DHS and our key partner, RCHC, has taken significant steps to minimize the use of Pilot Project funds for administrative and overhead expenses. Much of the indirect and overhead expenses related to the project will be provided by Sonoma DHS and RCHC. We have requested $6,250.00 in grant funds for the indirect annually, or $18,750.00 over three years, for RCHC, which is roughly 5.26%. As indicated in the budget worksheets, Sonoma DHS and RCHC will be providing support for the rest of the indirect costs identified ($29,272.83/year or a total of $87,818.48 over three years) in-kind.

As noted earlier, we view this pilot (if funded) as part of a broader health care reform and transformation effort in Sonoma County. Should there be additional grant funds made available, we would look forward to engaging with CMSP further about how CMSP can support these transformation efforts.

**Attachment B2: Budget Template - Detail Budget**
**CMSP County Wellness & Prevention Pilot Project**

**Applicant:** Sonoma County Department of Health Services

**Detail Budget – CY 2017 through CY 2019:**

| Category | Item/Service | Qnty (Year 1) | Cost (Year 1) | Qnty (Year 2) | Cost (Year 2) | Qnty (Year 3) | Cost (Year 3) | Total Cost |
|---|---|---|---|---|---|---|---|---|
| **Personnel** | | | | | | | | |
| | Project Manager/Lead (Sonoma DHS) | 1 | $ 13,850.00 | 1 | $ 13,850.00 | 1 | $ 13,850.00 | $ 41,550.00 |
| | Program Oversight (Sonoma DHS) | 1 | $ 17,650.00 | 1 | $ 17,650.00 | 1 | $ 17,650.00 | $ 52,950.00 |
| | Evaluation & Reporting Support (Sonoma DHS) | 1 | $ 12,500.00 | 1 | $ 12,500.00 | 1 | $ 12,500.00 | $ 37,500.00 |
| | Finance Lead (Sonoma DHS) | 1 | $ 8,825.00 | 1 | $ 8,825.00 | 1 | $ 8,825.00 | $ 26,475.00 |
| | CEO (RCHC) | 1 | $ 16,800.00 | 1 | $ 16,800.00 | 1 | $ 16,800.00 | $ 50,400.00 |
| | COO (RCHC) | 1 | $ 7,812.50 | 1 | $ 7,812.50 | 1 | $ 7,812.50 | $ 23,437.50 |
| | Program Coordinator (RCHC) | 1 | $ 43,750.00 | 1 | $ 43,750.00 | 1 | $ 43,750.00 | $ 131,250.00 |
| | Clinical Director (RCHC) | 1 | $ 7,312.50 | 1 | $ 7,312.50 | 1 | $ 7,312.50 | $ 21,937.50 |
| | CGO Director (RCHC) | 1 | $ 9,375.00 | 1 | $ 9,375.00 | 1 | $ 9,375.00 | $ 28,125.00 |
| | CEC Supervisor (RCHC) | 1 | $ 6,895.85 | 1 | $ 6,895.85 | 1 | $ 6,895.85 | $ 20,687.55 |
| | O&E Coordinator (RCHC) | 1 | $ 9,360.00 | 1 | $ 9,360.00 | 1 | $ 9,360.00 | $ 28,080.00 |
| | CEC (RCHC) | 1 | $ 11,375.00 | 1 | $ 11,375.00 | 1 | $ 11,375.00 | $ 34,125.00 |
| | EHR Specialist (RCHC) | 1 | $ 9,375.00 | 1 | $ 9,375.00 | 1 | $ 9,375.00 | $ 28,125.00 |
| **Contractual Services** | | | | | | | | |
| | EHR/Data Consultant | 1 | $ 600.00 | 1 | $ 600.00 | 1 | $ 600.00 | $ 1,800.00 |
| | CMIO Consultant | 1 | $ 15,288.00 | 1 | $ 15,288.00 | 1 | $ 15,288.00 | $ 45,864.00 |
| **Office Expenses** | | | | | | | | |
| | Printing | 1 | $ 550.00 | 1 | $ 550.00 | 1 | $ 550.00 | $ 1,650.00 |
| **Travel** | | | | | | | | |
| | Travel (Mileage) | 1 | $ 500.00 | 1 | $ 500.00 | 1 | $ 500.00 | $ 1,500.00 |
| **Other** | | | | | | | | |
| | Pass Through to Support Clinic Partners | 5 | $ 9,000.00 | 5 | $ 9,000.00 | 5 | $ 9,000.00 | $ 135,000.00 |
| | Indirect (RCHC) | 1 | $ 35,522.83 | 1 | $ 35,522.83 | 1 | $ 35,522.83 | $ 106,568.49 |

**Attachment B2: Budget Template - Summary Budget**
**CMSP County Wellness & Prevention Pilot Project**

**Applicant:** Sonoma County Department of Health Services

**Summary Budget – CY 2017 through CY 2019:**

| Category | Total Cost (Year 1) | CMSP Funding (Year 1) | Other Funding (Year 1) In-Kind |
|---|---|---|---|
| **Personnel** | $ 174,880.85 | $ 62,500.00 | $ 112,380.85 |
| **Contractual Services** | $ 15,888.00 | $ 10,200.00 | $ 5,688.00 |
| **Office Expenses** | $ 550.00 | $ 550.00 | $ - |
| **Travel** | $ 500.00 | $ 500.00 | $ - |
| **Other** | $ 80,522.83 | $ 51,250.00 | $ 29,272.83 |
| **TOTAL YEAR 1** | $ 272,341.68 | $ 125,000.00 | $ 147,341.68 |

| Category | Total Cost (Year 2) | CMSP Funding (Year 2) | Other Funding (Year 2) In-Kind |
|---|---|---|---|
| **Personnel** | $ 174,880.85 | $ 62,500.00 | $ 112,380.85 |
| **Contractual Services** | $ 15,888.00 | $ 10,200.00 | $ 5,688.00 |
| **Office Expenses** | $ 550.00 | $ 550.00 | $ - |
| **Travel** | $ 500.00 | $ 500.00 | $ - |
| **Other** | $ 80,522.83 | $ 51,250.00 | $ 29,272.83 |
| **TOTAL YEAR 2** | $ 272,341.68 | $ 125,000.00 | $ 147,341.68 |

| Category | Total Cost (Year 3) | CMSP Funding (Year 3) | Other Funding (Year 3) In-Kind |
|---|---|---|---|
| **Personnel** | $ 174,880.85 | $ 62,500.00 | $ 112,380.85 |
| **Contractual Services** | $ 15,888.00 | $ 10,200.00 | $ 5,688.00 |
| **Office Expenses** | $ 550.00 | $ 550.00 | $ - |
| **Travel** | $ 500.00 | $ 500.00 | $ - |
| **Other** | $ 80,522.83 | $ 51,250.00 | $ 29,272.83 |
| **TOTAL YEAR 3** | $ 272,341.68 | $ 125,000.00 | $ 147,341.68 |

# Human Services Department
COUNTY OF SONOMA

"Empower, Support, Protect"

**Jerry Dunn, Director**
Office of the Director
tel (707) 565-5750
fax (707) 565-5890

Karen Fies, Assistant Director
Office of the Director
tel (707) 565-6990
fax (707) 565-5890

Oscar Chavez, Assistant Director
Office of the Director
tel (707) 565-3812
fax (707) 565-5890

Diane Kaljian, Director
Adult & Aging Services
tel (707) 565-5950
fax (707) 565-5957

**Kim Seamans, Director**
Economic Assistance
tel (707) 565-2190
fax (707) 565-2929

Sherry Alderman, Director
Employment & Training
tel (707) 565-8501
fax (707) 565-8515

Nick Honey, Director
Family, Youth & Children's Services
tel (707) 565-4300
fax (707) 565-4399

Carl Vanden Heuvel, Director
Fisc-Ops
tel (707) 565-5855
fax (707) 565-5890

August 31, 2016

CMSP Governing Board
Attn: Wellness & Prevention Pilot Project Applications
1545 River Park Dr. Suite 435
Sacramento, CA 95815

Dear Sirs/Madams:

The Sonoma County Department of Human Services is pleased to provide this letter in support of Sonoma County Department of Health Services' (Sonoma DHS) application for CMSP's Wellness & Prevention Pilot Project grant.

The Sonoma County Human Services Department is a committed and long-standing partner to our sister agency, Sonoma DHS, working closely together assure that everyone in Sonoma County has the opportunity to achieve health and well-being. Our department is responsible for determining eligibility for the CMSP, Medi-Cal, CalFresh and General Assistance benefit programs as well as CalWORKs, and the protective services for children and adults.

We are in full support of Sonoma DHS's proposal to 1) develop a coordinated navigation system and enrollment services to maximize CMSP enrollment and linkage to primary care services, and 2) develop a coordinated countywide referral system to improve linkage of uninsured and CMSP patients to programs and organizations influencing social determinants of health to support any unmet social services needs. If funded, this grant will provide critical support to expand and improve to key services that that enable CMSP and uninsured residents to stay healthy in our communities. Through this collaboration, our community partners will begin to build needed infrastructure for long-term transformation efforts.

We look forward to working with Sonoma DHS in our ongoing efforts to track and manage enrollments in public programs for the county. In particular, we will be supporting data mining activities in the grant, particularly in identifying newly eligible individuals and promoting the new enhanced services provided under the new CMSP pilot program including the Primary Care Benefit Program. In addition, we will be supporting the development of a countywide referral system to address unmet social services needs and social determinants of health.

Thank you for giving serious consideration to Sonoma DHS's application. If you have any questions, please feel free to contact me at 707-565-5750.

Sincerely,

Jerry Dunn
Director

Alexander Valley
Healthcare

*feel good... we have you covered*

August 26, 2016

CMSP Governing Board
Atten: Wellness & Prevention Pilot Project Applications
1545 River Park Dr. Suite 435
Sacramento, CA 95815

Dear Sirs/Madams:

Alexander Valley Healthcare (AVH) is please to provide this letter in support of Sonoma County Department of Health Services' (Sonoma DHS) application for CMSP's Wellness & Prevention Pilot Project grant.

AVH) is a committed and long-standing partner with Sonoma DHS, working closely together to reduce barriers in accessing mental health services, expanding access to care and increasing the number of county residents eligible for state funded health coverage and nutrition assistance. AVH is a Federally Qualified Health Center (FQHC) operating in the rural north county and serves an estimated 4200 unduplicated patients and provides in excess of 24,000 patient visits annually.

We are in full support of Sonoma DHS's proposal to 1) develop a coordinated navigation system and enrollment services to maximize CMSP enrollment and linkage to primary care services, and 2) develop a coordinated countywide referral system to improve linkage to primary care uninsured and CMSP patients to programs and organizations influencing social determinants of health to support any unmet social services needs. If funded, this grant will provide critical support to expand and improve key services that enable CMSP and uninsured residents to stay healthy in our communities. Through this collaboration, our community partners will begin to build needed infrastructure for long-term transformation efforts.

As health center partners, and members of the Redwood Community Health Coalition, we are excited to both support the enhanced CMSP enrollment activities under the grant, as well as play a key role in developing and implementing the social determinants screening framework for the county and developing referral pathways to needed services. We believe these activities are critical components to the safety net framework we provide for vulnerable populations in Sonoma County.

Thank you for giving serious consideration to Sonoma DHS's application. If you have any questions, please feel free to contact me at 707-669-1777 or dhowell@alexandervalleyhealthcare.org .

Sincerely,

Deborah Howell

Deborah Howell, CEO
Alexander Valley Healthcare

100 W Third St, Cloverdale CA 95425 • Telephone 707.894.4229 • Fax 707.894.2954
www.alexandervalleyhealthcare.org

JEWISH COMMUNITY FREE CLINIC

August 24, 2016

CMSP Governing Board
Attn.: Wellness & Prevention Pilot Project Applications
1545 River Park Dr., Suite 435
Sacramento, CA 95815

Dear Sirs/Madams:

The Jewish Community Free Clinic is pleased to provide this letter in support of Sonoma County Department of Health Services' (Sonoma DHS) application for CMSP's Wellness & Prevention Pilot Project grant.

The Jewish Community Free Clinic is a committed and long-standing partner with Sonoma DHS, working closely together to help those in need in our community access health coverage for themselves and their families. Our organization provides completely free care to the underserved and uninsured. We provide medical care and social services and work hard to help all of our clients to transition to ongoing care in a permanent medical home with affordable coverage.

We are in full support of Sonoma DHS's proposal to 1) develop a coordinated navigation system and enrollment services to maximize CMSP enrollment and linkage to primary care services, and 2) develop a coordinated countywide referral system to improve linkage of uninsured and CMSP patients to programs and organizations influencing social determinants of health to support any unmet social service needs. If funded, this grant will provide critical support to expand and improve key services that that enable CMSP and uninsured residents to stay healthy in our communities. Through this collaboration, our community partners will begin to build needed infrastructure for long-term transformation efforts.

As health center partners, and members of the Redwood Community Health Coalition, we are excited to both support the enhanced CMSP enrollment activities under the grant, as well as play a key role in developing and implementing the social determinants screening framework for the county and developing referral pathways to needed services. We believe these activities are critical components to the safety net framework we provide for vulnerable populations in Sonoma County.

Thank you for giving serious consideration to Sonoma DHS's application. If you have any questions, please feel free to contact me at director.jcfc@gmail.com.

Sincerely,

Donna Waldman

Donna Waldman, Executive Director
Jewish Community Free Clinic

The JCFC is a 501 (C)3 non-profit organization. Tax ID 94-3386103
50 Montgomery Dr., Santa Rosa, CA 95404 707-585-7780 Fax 707-585-7784
E mail: info@jewishfreeclinic.org Website: www.jewishfreeclinic.org

Petaluma Health Center

August 31, 2016

CMSP Governing Board
Attn: Wellness & Prevention Pilot Project Applications
1545 River Park Dr., Suite 435
Sacramento, CA 95815

TO WHOM IT MAY CONCERN:

I am pleased to provide this letter in support of Sonoma County Department of Health Services' (Sonoma DHS) application for CMSP's Wellness & Prevention Pilot Project grant.

Petaluma Health Center is a committed and long-standing partner with Sonoma DHS, working closely together to improve the health of the community. Our organization serves almost 30,000 underserved county residents providing primary health care, dental and mental health services.

We are in full support of Sonoma DHS's proposal to 1) develop a coordinated navigation system and enrollment services to maximize CMSP enrollment and linkage to primary care services, and 2) develop a coordinated countywide referral system to improve linkage of uninsured and CMSP patients to programs and organizations influencing social determinants of health to support any unmet social services needs. If funded, this grant will provide critical support to expand and improve key services that that enable CMSP and uninsured residents to stay healthy in our communities. Through this collaboration, our community partners will begin to build needed infrastructure for long-term transformation efforts.

As health center partners, and members of the Redwood Community Health Coalition, we are excited to both support the enhanced CMSP enrollment activities under the grant, as well as play a key role in developing and implementing the social determinants screening framework for the county and developing referral pathways to needed services. We believe these activities are critical components to the safety net framework we provide for vulnerable populations in Sonoma County.

Thank you for giving serious consideration to Sonoma DHS's application. If you have any questions, please contact me.

Sincerely,

Kathryn Powell

Kathryn Powell, MSHA, MA
Chief Executive Officer
kathrynp@phealthcenter.org
707.559.7575

KP/km

REDWOOD HEALTH COMMUNITY COALITION

Serving Sonoma, Napa, Marin & Yolo Counties

August 30, 2016

CMSP Governing Board
Attn: Wellness & Prevention Pilot Project Applications
1545 River Park Drive, Suite 435
Sacramento, CA 95815

Dear Sirs/Madams:

Redwood Community Health Coalition is pleased to provide this letter in support of Sonoma County Department of Health Services (Sonoma DHS) application for CMSP's Wellness & Prevention Pilot Project grant.

Redwood Community Health Coalition is a committed and long-standing partner with Sonoma DHS, working closely together to improve patient experience and population health. Our organization is a consortium of community health centers dedicated to increasing access to care, improving patient health outcomes and achieving cost-efficiencies. We are committed to meeting the needs of our members' diverse, multicultural populations through integration of services, education and advocacy.

We are in full support of Sonoma DHS' proposal to 1) develop a coordinated navigation system and enrollment services to maximize CMSP enrollment and linkage to primary care services, and 2) develop a coordinated countywide referral system to improve linkage of uninsured and CMSP patients to programs and organizations influencing social determinants of health support any unmet social service needs. If funded, this grant will provide critical support to expand and improve key services that enable CMSP and uninsured residents to stay healthy in our communities. Through this collaboration, our community partners will begin to build needed infrastructure for long-term transformation efforts.

The Redwood Community Health Coalition is excited to both support the enhanced CMSP enrollment activities under the grant, as well as play a key role in developing and implementing the social determinants screening framework for the county and developing referral pathways to needed services. We believe these activities are critical components to the safety net framework we provide for vulnerable populations in Sonoma County.

Thank you for giving serious consideration to Sonoma DHS' application. If you have any questions, please feel free to contact me at 707.285.2991.

Sincerely,

Suzie Shupe
Chief Executive Officer

SS:jsr

1310 Redwood Way, Suite 135 | Petaluma, CA 94951
Telephone: (707) 792-7900 | FAX (707) 792-7910
www.rchc.net

Santa Rosa
Community
Health Centers
Celebrating 50 years

August 29, 2016

CMSP Governing Board
Wellness & Prevention Pilot Project Applications
1545 River Park Dr, Ste 435
Sacramento, CA 95815-4614

Dear Sir or Madam:

Santa Rosa Community Health Centers (SRCHC) is pleased to provide this letter in support of Sonoma County Department of Health Services' (Sonoma DHS) application for CMSP's Wellness and Prevention Pilot Project grant.

SRCHC is a committed and long-standing partner with Sonoma DHS, working closely together to collaborate on County-wide health improvement projects. Our organization is a non-profit, Federally Qualified Health Center with eight clinics in Santa Rosa, Sonoma County, California. Our mission is to provide high quality, compassionate, culturally appropriate health care to the under-served populations in our community regardless of ability to pay. Since starting with one clinic in 1996, we have grown to eight clinics, 465 employees, and will serve an estimated 50,000 patients this year.

We are in full support of Sonoma DHS' proposal to (1) develop a coodinated navigation system and enrollment services to maximize CMSP enrollment with linkage to primary care services and (2) develop a coordinated County-wide referral system to improve linkage of unsinured and CMSP patients to programs and organizations influencing social determinants of health to support any unmet social services needs. If funded, this grant will provide critical support to expand and improve key services that enable CMSP and uninsured residents to stay healthy in our communities. Through this collaboration, our community partners will begin to build needed infrastructure for long-term transformation efforts.

As health center partners and members of the Redwood Community Health Coalition, we are excited to support the enhanced CMSP enrollment activities under the grant as well as play a key role in developing and implementing the social determinants screening framework for the County and developing referral pathways to needed services. We believe these activities are critical components to the safety-net framework we provide for vulnerable populations in Sonoma County.

Thank you for giving serious consideration to Sonoma DHS' application. If you have any questions, please feel free to contact me at 707-303-3091 or naomif@srhealthcenters.org.

Sincerely,

Naomi Fuchs
Chief Executive Officer

West County
Health Centers
*Caring for our Communities*
a california health center

August 23, 2016

CMSP Governing Board
Attn.: Wellness & Prevention Pilot Project Applications
1545 River Park Dr., Suite 435
Sacramento, CA 95815

Dear Sirs/Madams:

West County Health Centers, Inc. is pleased to provide this letter in support of Sonoma County Department of Health Services' (Sonoma DHS) application for CMSP's Wellness & Prevention Pilot Project grant.

West County Health Centers, Inc is a committed and long-standing partner with Sonoma DHS, working closely together to expand access to services for families and children in our rural service area. West County Health Centers is a Federally-Qualified Health Center which operates 4 primary care sites, a dental clinc, a teen clinic and a Wellness Center serving more than 15,000 residents of western Sonoma County.

We are in full support of Sonoma DHS's proposal to: 1) develop a coodinated navigation system and enrollment services to maximize CMSP enrollment and linkage to primary care services, and 2) develop a coordinated countywide referral system to improve linkage of unsinured and CMSP patients to programs and organizations influencing social determinants of health to support any unmet social services needs. If funded, this grant will provide critical support to expand and improve key services that that enable CMSP and uninsured residents to stay healthy in our communities. Through this collaboration, our community partners will begin to build needed infrastructure for long-term transformation efforts.

As health center partners, and members of the Redwood Community Health Coalition, we are excited to both support the enhanced CMSP enrollment activities under the grant, as well as play a key role in developing and implementing the social determinants screening framework for the county and developing referral pathways to needed services. We believe these activities are critical components to the safety net framework we provide for vulnerable populations in Sonoma County.

Thank you for giving serious consideration to Sonoma DHS's application. If you have any questions, please feel free to contact me at 707-869-1594.

Sincerely,

Mary C. Szecsey

Mary Szecsey
Executive Director

Administrative Office • P.O. Box 1449, Guerneville, CA 95446 • phone (707) 869-5977 • fax (707) 869-5983 *www.wchealth.org*

**EXHIBIT D**

**COUNTY MEDICAL SERVICES PROGRAM GOVERNING BOARD**
**GRANTEE DATA SHEET**

| | |
|---|---|
| Grantee's Full Name: | Sonoma County Department of Health Services |
| Grantee's Address: | 3313 Chanate Road<br>Santa Rosa, CA 95404 |
| Grantee's Executive Director/CEO:<br>(Name and Title) | Barbie Robinson, Interim Director |
| Grantee's Phone Number: | (707) 565-4702 |
| Grantee's Fax Number: | (707) 565-7849 |
| Grantee's Email Address: | Barbie.robinson@sonoma-county.org |
| Grantee's Type of Entity:<br>(List Nonprofit or Public) | Public |
| Grantee's Tax Id# [EIN]: | 94-6000539 |

I declare that I am an authorized representative of the Grantee described in this Form. I further declare under penalty of perjury under the laws of the State of California that the information set forth in this Form is true and correct.

GRANTEE:

By: _____
Title: _____
Date: _____

Contract No. 2016-0282-A00

## Supplemental Signature Page

County Medical Services Program Governing Board
Term: January 1, 2017 to June 30, 2020
DHS Contract Number: 2016-0282-A00

Approved as to Substance:

_____ Dated 11/18/16
Division Director or Designee

Approved as to Form:

_____ Dated 11/17/16
County Counsel

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 35**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors of Sonoma County

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Department of Health Services

**Staff Name and Phone Number:**
Karen Holbrook, 565-4599

**Supervisorial District(s):**

**Title:** Memorandum of Understanding with the County of Humboldt for Public Health Laboratory Director Services

**Recommended Actions:**

Authorize the Director of Health Services to execute a memorandum of understanding with the County of Humboldt for the period January 1, 2017 to December 31, 2018 to provide Public Health Laboratory Director Services to the County of Humboldt Public Health Laboratory and to receive revenue in the amount of $57,960.

**Executive Summary:**

Since October 2013 Sonoma County has provided the County of Humboldt with Public Health Laboratory Director Services through a memorandum of understanding. This item requests approval to execute a new memorandum of understanding to continue to provide Public Health Laboratory Director Services to the County of Humboldt through December 31, 2018.

**Discussion:**

Regulations in the Federal Clinical Laboratory Improvement Act of 1988 (CLIA) specify that a public health laboratory is required to have a qualified Public Health Laboratory Director. The qualifications for a Public Health Laboratory Director include board certification under Federal CLIA, a California Public Health Microbiologist Certification, four years of experience working in a public health laboratory, and a doctorate degree which, under some circumstances, may be subject to a grandfather provision.

In response to an urgent need to assist Humboldt in meeting its regulatory requirement, in October 2013 the Sonoma County Board of Supervisors approved a memorandum of understanding (MOU) with Humboldt County for Public Health Laboratory Director Services through December 2013. A longer term agreement was later approved by the Board to extend services through December 2016.

The proposed MOU will assist Humboldt in meeting their statutory obligation under CLIA. Under the MOU, the Sonoma County Public Health Laboratory Director will be responsible for the overall operation and administration of the Humboldt laboratory. The Laboratory Director will provide any and all services that a State of California licensed and certified laboratory director is required to perform, including, but

not limited to, providing consultations related to the testing of human clinical specimens; reviewing and approving laboratory procedure manuals that pertain to human clinical testing; ensuring that human clinical testing systems developed and used by laboratory staff provide quality laboratory results; overseeing and reviewing quality assurance, quality control, and validation studies of newly employed scientific assays; ensuring that all necessary corrective actions are taken and documented whenever significant deviations of laboratory protocols are identified; and recommending procedural changes. In the course of providing services, the Laboratory Director will conduct periodic on-site visits. The Laboratory Director responsibilities under the MOU will not include any direct employee management, including hiring, terminating, or disciplining Humboldt laboratory personnel.

The proposed MOU is based upon approximately 10 percent of the Sonoma County Public Health Lab Director's time being devoted to Humboldt activities. The MOU contract amount includes reimbursement of the annual cost of $26,950 for Laboratory Director services and $2,030 for travel expenses. In total, Humboldt will pay the County of Sonoma $28,980 per year for a two-year total of $57,960. The proposed MOU is scheduled to be presented to the County of Humboldt Board of Supervisors for approval on December 13, 2016.

**Prior Board Actions:**

On October 22, 2013 the Board approved a memorandum of understanding with the County of Humboldt wherein Sonoma County agreed to provide interim Public Health Laboratory Director Services to the County of Humboldt through December 31, 2013.

On December 10, 2013 the Board approved a memorandum of understanding with the County of Humboldt for the period January 1, 2014 to December 31, 2016 to provide Public Health Laboratory Director Services to the County of Humboldt Public Health Laboratory and to receive revenue in an amount of $74,328.

| **Strategic Plan Alignment** | Goal 1: Safe, Healthy, and Caring Community |
|---|---|

Coordinating with Humboldt in the operation of their public health laboratory helps to ensure regional health and safety.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | 14,490 | 28,980 | 14,490 |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **14,490** | **28,980** | **14,490** |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other (Humboldt revenue) | 14,490 | 28,980 | 14,490 |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **14,490** | **28,980** | **14,490** |

**Narrative Explanation of Fiscal Impacts:**

Revenue of $14,490 for the agreement with Humboldt is included in the FY 16-17 budget. Remaining revenue of $28,980 in FY 17-18 and $14,490 in FY 18-19 will be included in the appropriate year budgets.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Memorandum of understanding with the County of Humboldt

**Related Items "On File" with the Clerk of the Board:**

None

**PROFESSIONAL SERVICES AGREEMENT**
**BY AND BETWEEN**
**COUNTY OF HUMBOLDT**
**AND**
**COUNTY OF SONOMA**

This Agreement, entered into this ____ day of _____, 20____, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "HUMBOLDT," and County of Sonoma, a California government entity, hereinafter referred to as "SONOMA," is made upon the following considerations:

WHEREAS, HUMBOLDT, by and through its Department of Health and Human Services ("DHHS") Public Health, desires to retain the services of SONOMA to retain the services of a laboratory director; and

WHEREAS, such work involves the performance of professional, expert and technical services for a specified period; and

WHEREAS, HUMBOLDT has no employees available to perform such services and is unable to hire employees for the performance thereof for the specified period; and

WHEREAS, SONOMA, by and through its Department of Health Services, has represented that the Sonoma County Laboratory Director (hereinafter referred to as "Laboratory Director"), has represented that it is qualified to perform such services.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. DESCRIPTION OF SERVICES:

SONOMA agrees to furnish the services described in Exhibit A – Scope of Services, which is attached hereto and incorporated herein by reference. In providing such services, SONOMA agrees to fully cooperate with the DHHS – Public Health Director or designee thereof, hereinafter referred to as "DHHS - PH DIRECTOR".

2. TERM:

This Agreement shall begin January 1, 2017 and shall remain in full force and effect until December 31, 2018, unless sooner terminated as provided herein.

3. TERMINATION:

A. Breach of Contract. If, in the opinion of either party, the other party fails to adequately perform the services required hereunder within the time limits specified herein, or otherwise fails to comply with the terms of this Agreement, or violates any ordinance, regulation, or other law applicable to its performance herein, the non-breaching party may terminate this Agreement immediately, upon notice.

B. Without Cause. Either party may terminate this Agreement without cause upon thirty (30) days advance written notice. Such notice shall state the effective date of the termination.

C. Insufficient Funding. HUMBOLDT's obligations under this Agreement are contingent upon the availability of local, state and/or federal funds. In the event such funding is terminated or reduced, HUMBOLDT shall, at its sole discretion, determine whether this Agreement shall be terminated. HUMBOLDT shall provide SONOMA seven (7) days advance written notice of its intent to terminate this Agreement due to insufficient funding.

D. Compensation Upon Termination. In the event of any termination of this Agreement, SONOMA shall be entitled to compensation for uncompensated services rendered hereunder through and including the effective date of such termination. However, this provision shall not limit or reduce any damages owing to HUMBOLDT resulting from a breach of this Agreement by SONOMA.

4. COMPENSATION:

A. Maximum Amount Payable. The maximum amount payable by HUMBOLDT for services rendered, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement is Fifty-Seven Thousand Nine Hundred and Sixty Dollars ($57,960.00). SONOMA agrees to perform all services required by this Agreement for an amount not to exceed such maximum dollar amount. If local, state or federal funding or allowance rates are reduced or deleted; the maximum amount payable by HUMBOLDT for services provided hereunder may be reduced accordingly.

B. Schedule of Rates. The specific rates and costs applicable to this Agreement are set forth in Exhibit B – Schedule of Rates, which is attached hereto and incorporated herein by reference.

C. Additional Services. Any additional services not otherwise provided for herein, shall not be provided or compensated without written authorization by HUMBOLDT. All unauthorized costs and expenses incurred above the maximum dollar amount set forth herein shall be the responsibility of SONOMA. SONOMA shall notify HUMBOLDT, in writing, at least six (6) weeks prior to the date upon which SONOMA estimates that the maximum dollar amount will be reached.

5. PAYMENT:

SONOMA shall submit to HUMBOLDT quarterly invoices itemizing all services rendered, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement. Invoices shall be in a format approved by, and shall include backup documentation as specified by, DHHS – PH DIRECTOR and the Humboldt County Auditor-Controller. SONOMA shall submit a final undisputed invoice for payment within thirty (30) days following the expiration or termination date of this Agreement. Payment for services rendered and costs and expenses incurred will be made within thirty (30) days after the receipt of

approved invoices. All invoices submitted by SONOMA shall be sent to HUMBOLDT at the following address:

HUMBOLDT: Humboldt County DHHS – Public Health
Attention: Jeremy Corrigan
529 I Street
Eureka, CA 95501

6. NOTICES:

Any and all notices required to be given pursuant to the terms of this Agreement shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

HUMBOLDT: Humboldt County DHHS – Public Health
Attention: Susan Buckley
529 I Street
Eureka, CA 95501

SONOMA: Michael Ferris
Lab Director
Public Health Laboratory
Department of Health Services
County of Sonoma
3313 Chanate Road
Santa Rosa, CA 95404
707.565.4712
Michael.Ferris@sonoma-county.org

7. REPORTS:

SONOMA agrees to provide HUMBOLDT with any and all reports that may be required by local, state and/or federal agencies for compliance with this Agreement. Reports shall be submitted no later than fifteen (15) days after the end of each calendar quarter using the format required by the State of California as appropriate.

8. RECORD RETENTION AND INSPECTION:

A. Maintenance and Preservation of Records. SONOMA agrees to timely prepare accurate and complete financial, performance and payroll records, documents and other evidence relating to the services provided hereunder, and to maintain and preserve said records for at least three (3) years from the date of final payment under this Agreement, except that if any litigation, claim, negotiation, audit or other action is pending, the records shall be retained until completion and resolution of all issues arising therefrom. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the services provided hereunder.

B. Inspection of Records. Pursuant to California Government Code Section 8546.7, all records, documents, conditions and activities of SONOMA, and its subcontractors, related to the services provided hereunder, shall be subject to the examination and audit of the California State Auditor and any other duly authorized agents of the State of California for a period of three (3) years after final payment under this Agreement. SONOMA hereby agrees to make all such records available during normal business hours to inspection, audit and reproduction by HUMBOLDT and any duly authorized local, state and/or federal agencies. SONOMA further agrees to allow interviews of any of its employees who might reasonably have information related to such records by HUMBOLDT and any duly authorized local, state and/or federal agencies. All examinations and audits conducted hereunder shall be strictly confined to those matters connected with the performance of this Agreement, including, but not limited to, the costs of administering this Agreement.

C. Audit Costs. In the event of an audit exception or exceptions, the party responsible for not meeting the program requirements shall be responsible for the deficiency and for the cost of the audit. If the allowable expenditures cannot be determined because SONOMA's documentation is nonexistent or inadequate, according to generally accepted accounting practices, the questionable cost shall be disallowed by HUMBOLDT.

9. MONITORING:

SONOMA agrees that HUMBOLDT has the right to monitor all activities related to this Agreement, including, without limitation, the right to review and monitor SONOMA's records, programs or procedures, at any time, as well as the overall operation of SONOMA's programs, in order to ensure compliance with the terms and conditions of this Agreement. However, HUMBOLDT is not responsible, and will not be held accountable, for overseeing or evaluating the adequacy of the results of services performed by SONOMA pursuant to the terms of this Agreement.

10. CONFIDENTIAL INFORMATION:

A. Disclosure of Confidential Information. In the performance of this Agreement, SONOMA may receive information that is confidential under local, state or federal law. SONOMA hereby agrees to protect all confidential information in conformance with any and all applicable local, state and federal laws, regulations, policies, procedures and standards, including, but not limited to: Division 19 of the California Department of Social Services Manual of Policies and Procedures – Confidentiality of Information; California Welfare and Institutions Code Sections 827, 5328 and 10850; California Health and Safety Code Sections 1280.15 and 1280.18; the California Confidentiality of Medical Information Act ("CMIA"); the United States Health Information Technology for Economic and Clinical Health Act ("HITECH Act"); the United States Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and any current and future implementing regulations promulgated thereunder, including, without limitation, the Federal Privacy Regulations contained in Title 45 of the Code of Federal Regulations ("C.F.R.") Parts 160 and 164, the Federal Security Standards

contained in 45 C.F.R. Parts 160, 162 and 164 and the Federal Standards for Electronic Transactions contained in 45 C.F.R. Parts 160 and 162, all as may be amended from time to time.

B. Continuing Compliance with Confidentiality Laws. The parties acknowledge that federal and state confidentiality laws are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. Each party agrees to promptly enter into negotiations concerning an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the CMIA and any other applicable local, state and federal laws or regulations.

11. NUCLEAR FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE:

SONOMA certifies by its signature below that it is not a Nuclear Weapons Contractor, in that SONOMA is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. SONOMA agrees to notify HUMBOLDT immediately if it becomes a Nuclear Weapons Contractor as defined above. HUMBOLDT may immediately terminate this Agreement if it determines that the foregoing certification is false or if SONOMA subsequently becomes a Nuclear Weapons Contractor.

12. NON-DISCRIMINATION COMPLIANCE:

A. Professional Services and Employment. In connection with the execution of this Agreement, SONOMA, and its subcontractors, shall not unlawfully discriminate in the provision of professional services or against any employee or applicant for employment because of race, religion or religious creed, color, age (over forty (40) years of age), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics), mental or physical disability (including HIV status and AIDS), political affiliation, military service, denial of family care leave or any other classifications protected by local, state, or federal laws or regulations. Nothing herein shall be construed to require the employment of unqualified persons.

B. Compliance with Anti-Discrimination Laws. SONOMA further assures that it, and its subcontractors, will abide by the applicable provisions of: Title VI and Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Food Stamp Act of 1977; Title II of the Americans with Disabilities Act of 1990; the California Fair Employment and Housing Act; California Civil Code Sections 51, et seq.; California Government Code Sections 4450, et seq.; California Welfare and Institutions Code Section 10000; Division 21 of the California Department of Social Services Manual of Policies and Procedures; United States Executive Order 11246, as amended and supplemented by United States Order 11375 and 41 C.F.R. Part 60; and any other applicable local, state and/or federal laws

and regulations, all as may be amended from time to time. The applicable regulations of the California Fair Employment and Housing Commission implementing California Government Code Section 12990, set forth in Chapter 5, Division 4 of Title 2, of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

13. DRUG-FREE WORKPLACE:

By executing this Agreement, SONOMA certifies that it will comply with the requirements of the Drug-Free Workplace Act of 1990 (California Government Code Sections 8350 et seq.) and will provide a drug-free workplace by doing all of the following:

A. Drug-Free Policy Statement. Publish, as required by California Government Code Section 8355(a)(1), a Drug-Free Policy Statement which notifies employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited, and specifies the actions to be taken against employees for violations.

B. Drug-Free Awareness Program. Establish, as required by California Government Code Section 8355(a)(2), a Drug-Free Awareness Program which informs employees about the following:

1. The dangers of drug abuse in the workplace;

2. SONOMA's policy of maintaining a drug-free workplace;

3. Any available counseling, rehabilitation and employee assistance programs; and

4. Penalties that may be imposed upon employees for drug abuse violations.

C. Drug-Free Employment Agreement. Ensure, as required by California Government Code Section 8355(a)(3), that every employee who provides services hereunder will:

1. Receive a copy of SONOMA's Drug-Free Policy Statement; and

2. Agree to abide by the terms of SONOMA's Drug-Free Policy as a condition of employment.

D. Effect of Noncompliance. Failure to comply with the above-referenced requirements may result in suspension of payments under this Agreement and/or termination thereof, and SONOMA may be ineligible for award of future contracts if HUMBOLDT determines that the foregoing certification is false or if SONOMA violates the certification by failing to carry out the above-referenced requirements.

14. INDEMNIFICATION:

A. Mutual Indemnity. Each Party shall indemnify, defend and hold harmless the other Parties hereto and their officers, officials, employees, agents, and volunteers from any

and all claims, demands, losses, damages, and liabilities of any kind or nature, including, without limitation, attorney's fees and other litigation costs, arising out of or in connection with the performance of its duties and obligations hereunder, except such loss or damage which was caused by the sole negligence or willful misconduct of another Party.

B. Comparative Liability. Notwithstanding Paragraph A above, in the event that more than one Party is held to be negligently or willfully responsible, each responsible Party will bear its proportionate share of liability as determined in any such proceeding. Each Party will bear their own costs and attorneys' fees.

15. RELATIONSHIP OF PARTIES:

It is understood that this is an Agreement by and between two (2) independent contractors and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or any other similar association. Both parties further agree that SONOMA shall not be entitled to any benefits to which HUMBOLDT employees are entitled, including, but not limited to, overtime, retirement benefits, leave benefits or workers' compensation. SONOMA shall be solely responsible for the acts or omissions of its agents, officers, employees, assignees and subcontractors.

16. COMPLIANCE WITH APPLICABLE LAWS AND LICENSURE REQUIREMENTS:

SONOMA agrees to comply with any and all local, state and federal laws, regulations, policies and procedures applicable to the services covered by this Agreement. SONOMA further agrees to comply with any and all applicable local, state and federal licensure and certification requirements.

17. PROVISIONS REQUIRED BY LAW:

This Agreement is subject to any additional local, state and federal restrictions, limitations, or conditions that may affect the provisions, terms or funding of this Agreement. This Agreement shall be read and enforced as though all legally required provisions are included herein, and if for any reason any such provision is not included, or is not correctly stated, the parties agree to amend the pertinent section to make such insertion or correction.

18. REFERENCE TO LAWS AND RULES:

In the event any law, regulation, policy or procedure referred to in this Agreement is amended during the term hereof, the parties agree to comply with the amended provision as of the effective date of such amendment.

19. SEVERABILITY:

If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

20. ASSIGNMENT:

Neither party shall delegate its duties nor assign its rights hereunder, either in whole or in part, without the other party's prior written consent. Any assignment by SONOMA in violation of this provision shall be void, and shall be cause for immediate termination of this Agreement. This provision shall not be applicable to service agreements or other arrangements usually or customarily entered into by CONTRACTOR to obtain supplies, technical support or professional services.

21. AGREEMENT SHALL BIND SUCCESSORS:

All provisions of this Agreement shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, administrators, successors and permitted assigns.

22. WAIVER OF DEFAULT:

The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement. In no event shall any payment by HUMBOLDT constitute a waiver of any breach of this Agreement or any default which may then exist on the part of SONOMA. Nor shall such payment impair or prejudice any remedy available to HUMBOLDT with respect to any breach or default. HUMBOLDT shall have the right to demand repayment of, and SONOMA shall promptly refund, any funds disbursed to SONOMA which, in the judgment of HUMBOLDT, were not expended in accordance with the terms of this Agreement.

23. NON-LIABILITY OF COUNTY OFFICIALS AND EMPLOYEES:

No official or employee of HUMBOLDT shall be personally liable for any default or liability under this Agreement.

24. AMENDMENT:

This Agreement may be amended at any time during the term of this Agreement upon the mutual consent of both parties. No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

25. STANDARD OF PRACTICE:

SONOMA warrants that it has the degree of learning and skill ordinarily possessed by reputable professionals practicing in similar localities in the same profession and under similar circumstances. SONOMA's duty is to exercise such care, skill and diligence as professionals engaged in the same profession ordinarily exercise under like circumstances.

26. TITLE TO INFORMATION AND DOCUMENTS:

It is understood that any and all documents, information and reports concerning the subject matter of this Agreement prepared and/or submitted by SONOMA shall become the property

of HUMBOLDT. However, SONOMA may retain copies of such documents and information for its records. In the event of termination of this Agreement, for any reason whatsoever, SONOMA shall promptly turn over all information, writings and documents pertaining to the services provided hereunder to HUMBOLDT without exception or reservation.

27. JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder, or relating hereto, shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.

28. ADVERTISING AND MEDIA RELEASE:

All informational material related to this Agreement shall receive approval from HUMBOLDT prior to being used as advertising or released to the media, including, but not limited to, television, radio, newspapers and internet. SONOMA shall inform HUMBOLDT of all requests for interviews by the media related to this Agreement before such interviews take place; and HUMBOLDT shall be entitled to have a representative present at such interviews. All notices required by this provision shall be given to DHHS-PH DIRECTOR

29. SUBCONTRACTS:

SONOMA shall obtain prior written approval from HUMBOLDT before subcontracting any of the services to be provided hereunder. Any and all subcontracts will be subject to all applicable provisions of this Agreement. SONOMA shall remain legally responsible for the performance of all terms and conditions of this Agreement, including work performed by third parties under subcontracts, whether approved by HUMBOLDT or not.

30. ATTORNEYS' FEES:

If either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any provision of this Agreement to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover court costs and reasonable attorneys' fees, including the reasonable value of services rendered by the Humboldt County Counsel's Office, to be fixed by the court, and such recovery shall include court costs and attorneys' fees on appeal, if applicable. As used herein, "prevailing party" means the party who dismisses an action or proceeding in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached, or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

31. SURVIVAL:

The duties and obligations of the parties set forth in Section 3(D) – Compensation Upon Termination, Section 8 – Record Retention and Inspection, Section 10 – Confidential

Information and Section 14 – Indemnification shall survive the expiration or termination of this Agreement.

32. CONFLICTING TERMS OR CONDITIONS:

In the event of any conflict in the terms or conditions set forth in any other agreements in place between the parties hereto and the terms and conditions set forth in paragraphs 1 through 39 of this Agreement, paragraphs 1 through 39 of this Agreement shall have priority.

33. INTERPRETATION:

This Agreement, as well as its individual provisions, shall be deemed to have been prepared equally by both of the parties hereto, and shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

34. INDEPENDENT CONSTRUCTION:

The titles of the sections, subsections and paragraphs set forth in this Agreement are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

35. FORCE MAJEURE:

Neither party hereto shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include, without limitation, acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism or other disasters, whether or not similar to the foregoing.

36. ENTIRE AGREEMENT:

This Agreement contains all of the terms and conditions agreed upon by the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties hereto. In addition, this Agreement shall supersede in its entirety any and all prior agreements, promises, representations, understandings and negotiations, whether oral or written, concerning the same subject matter. Any and all acts which may have already been consummated pursuant to the terms and conditions of this Agreement are hereby ratified.

37. AUTHORITY TO EXECUTE:

Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such party's obligations hereunder have been duly authorized.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties execute this Agreement as of the above-written date.

**COUNTY OF HUMBOLDT:**

By: _____ _____
Susan Buckley Date
Director, Public Health

**COUNTY OF SONOMA:**

By: _____ _____
Barbie Robinson Date
Interim Director, Department of Health Services

APPROVED AS TO SUBSTANCE:

By: _____ 11/17/16
Division Director or Designee Date

APPROVED AS TO FORM:

By: _____ 11/18/16
Deputy County Counsel Date

APPROVED AS TO SUBSTANCE:

By: _____ 11/19/16
Privacy & Security Officer Date

**LIST OF EXHIBITS:**

Exhibit A – Scope of Services
Exhibit B – Schedule of Rates

**EXHIBIT A**
**SCOPE OF SERVICES**
COUNTY OF SONOMA
January 1, 2017 – December 31, 2018

During the term of this agreement, SONOMA agrees that Laboratory Director will provide any and all services that a State of California licensed and certified laboratory director is required to perform, including, but not limited to those services described herein.

1. SERVICES:

   a. Providing consultations related to the testing of human clinical specimens, including, but not limited to, technical performance, reporting, and other legal requirements (e.g., Title 17). Consultations shall be available via phone (cell or land line), email, or teleconference.
   b. Reviewing and approving laboratory procedure manuals that pertain to human clinical testing.
   c. Ensuring that human clinical testing systems developed and used by laboratory staff provide quality laboratory results.
   d. Overseeing and reviewing quality assurance, quality control, and validation studies of newly employed scientific assays.
   e. Ensuring that all necessary corrective actions are taken and documented whenever significant deviations of laboratory protocols are identified.
   f. Ensuring consultation is available to HUMBOLDT's clients, public health staff and administration, Public Health Officer, animal control and environmental health staff.
   g. Reviewing all proficiency testing results.
   h. Recommending procedural changes if needed, and overseeing documentation of corrective actions.
   i. Performing other duties as mandated by state or federal regulations that pertain to human clinical testing.

2. SCHEDULE:

   SONOMA and HUMBOLDT agree that the Laboratory Director will devote a maximum of 0.10 FTE or 4 hours per week, on average, to the completion of the services described herein.

3. DELIVERABLES:

   Services as detailed under Section 1.

4. ACCEPTANCE CRITERIA:

SONOMA agrees that Laboratory Director shall perform the services described herein in a manner consistent with the generally accepted standards for State of California licensed laboratory directors.

5. HUMBOLDT RESPONSIBILITIES:

HUMBOLDT agrees that the day-to-day management of the Humboldt County DHHS – Public Health Laboratory, including, but not limited to, hiring, personnel performance reviews, disciplinary actions, budgeting, fee changes, and time-off scheduling, will be the sole responsibility of HUMBOLDT's on-site laboratory manager and administrative staff.

| | |
|---|---|
| **EXHIBIT B**<br>**SCHEDULE OF RATES**<br>COUNTY OF SONOMA<br>January 1, 2017 – December 31, 2018 | |
| **A. Personnel Costs**<br>**formula for salary calculations and any benefits should be clearly identified** | |
| **Title: Public Health Laboratory Director**<br>**Hourly Rate of Pay or Salary Calculation:**<br>**Duties Description:** | |
| **Title:**<br>**Hourly Rate of Pay or Salary Calculation:**<br>**Duties Description:** | |
| **Total Personnel Costs:** | |
| **B. Operational Costs** | |
| **Item:**<br>**Description:** | |
| **Item:**<br>**Description:** | |
| **Total Operational Costs:** | |
| **C. Supplies** | |
| **Item:**<br>**Description:** | |
| **Item:**<br>**Description:** | |
| **Item:**<br>**Description:** | |
| **Total Supplies:** | |
| **D. Transportation/Travel (Travel expenses must follow Humboldt County Travel Policy Limits)** | |
| **Item:**<br>**Description:** | |
| **Item:**<br>**Description:** | |
| **Total Transportation/Travel:** | |
| **E. Other Costs** | |
| **Item: Public Health Laboratory Services as defined in Exhibit A**<br>**Description: Consultation services provided by Laboratory Director not to exceed 0.10 FTE, including necessary travel to Humboldt County at $28,980 annually for two years** | **$57,960.00** |
| **Item:**<br>**Description:** | |
| **Item:**<br>**Description:** | |
| **Total Other Costs:** | **$57,960.00** |
| **Grand Total:** | **$57,960.00** |

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 36**
(This Section for use by Clerk of the Board Only.)

**To:** Sonoma County Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** 4/5

**Department or Agency Name(s):** Human Resources
County Counsel

**Staff Name and Phone Number:**

Christina Cramer, 565-2988
Debbie Latham, 565-3101

**Supervisorial District(s):**

All

**Title:** Agreement for Labor Relations Consulting Services

**Recommended Actions:**

Authorize the Sonoma County Board of Supervisors Chair to execute an agreement between the County of Sonoma and the law firm of Liebert Cassidy Whitmore for labor relations consulting, labor contract negotiations, and related legal services from January 1, 2017 through June 30, 2019.

**Executive Summary:**

The Board approved an initial agreement with the law firm of Liebert Cassidy Whitmore (LCW) on February 10, 2015, to provide labor relations consulting and related legal services from February 10, 2015 through December 31, 2016. LCW was selected through a Request for Proposal (RFP) process conducted in 2014, and has provided experienced negotiating and labor relations legal services during the period of the agreement. This item asks the board to execute a new agreement with LCW for labor relations consulting, labor contract negotiations, and related legal services from January 1, 2017 through June 30, 2019.

**Discussion:**

The 2014 RFP process resulted in three finalists being considered and after interviews, references, and a thorough evaluation of the proposals, LCW was selected. LCW has been in the business of practicing public sector employment law for 35 years, and their staff is knowledgeable and experienced in the issues facing our County. In recent years, LCW has provided labor relations services to Sonoma County and to more than 165 agencies across California, including Marin, Napa, San Joaquin, Riverside, and San Mateo counties. The firm's practice has a deep bench of attorneys experienced in providing practical solutions to challenges faced by California public agencies, including expertise in retirement benefits for 1937 Act Counties, fact finding, impasse resolution, unfair labor practices, arbitration, and Fair Labor Standards Act issues. The firm's legal costs were found to be very competitive in the RFP process.

During the period of the existing agreement, LCW has provided legal services related to evolving employment law and policies, grievances and arbitration, unfair labor practice charges, strike injunctions, and negotiations.

The County's approach of contracting with an outside firm to assist with employment and labor related legal services and negotiations is a common practice with other agencies; staff researched our comparable agencies and found all have a similar practice and legal agreements. Counties contacted include Alameda, Contra Costa, Marin, Mendocino, Monterey, Santa Cruz, Sacramento, San Luis Obispo, and San Mateo. Many have used LCW.

The County will begin to enter into contract negotiations with the eleven bargaining units between October 2017 and February 2018 with contracts expiring between March 2018 and July 2018; therefore, the County anticipates being in negotiations for much of 2018. While staff will provide substantial support preparing for and during negotiations, and will serve as chief negotiators for some bargaining units, internal resources in Human Resources and County Counsel are not sufficient to meet the demands associated with concurrent contract negotiations, nor do they supply the depth of knowledge and specialized legal expertise to address complex benefit, compensation, pension, and other issues that are likely to arise in bargaining.

For the reasons described above and also for continuity of knowledge and services, Staff recommends continuing to contract with LCW as the best selection for labor relations related legal services.

**Cost and Term**

The proposed Agreement with LCW is for labor relations consulting and contract negotiation services beginning January 1, 2017 through June 30, 2019. It is a fee for services agreement. The January start date is requested so that Human Resources and County Counsel will have uninterrupted access to these specialized legal resources as there are existing and ongoing legal issues that LCW is assisting the County with, and the County will begin the process of labor strategy development for the upcoming bargaining in the near future. It is anticipated that bargaining will be completed by the fall of 2018, however we have provided additional time in the contract period to allow for unforeseen circumstances and all labor relations services.

LCW fees continue to be competitive. Total hours needed for all services under this contract depend in part upon the number and complexity of issues that are raised by both parties and the progress of the good faith negotiations with our bargaining units. As in the last round of negotiations, it is projected that some unit negotiations will be handled internally by Employee Relations staff. Additionally, staff will continue to provide the majority of negotiations support and research, thereby reducing the need for resources from LCW in these areas. Staff estimates the cost for this contract will be approximately $100,000 for the remainder of fiscal year 2016/2017, $400,000 for fiscal year 2017/2018, and $300,000 for fiscal year 2018/2019. These estimates are based on the cost incurred during the last bargaining cycle which was approximately $650,000 over one and three quarter fiscal years.

Costs incurred under this contract for FY 2016-2017 will be paid out of existing budgeted funds. Additional funding for FY 2017-2018 and 2018-2019 will be included in their respective budget processes.

| **Prior Board Actions:** | |
|---|---|
| 2/10/15 - Authorized agreement for labor relations consulting and related legal services for February 10, 2015 through December 31, 2016. | |
| **Strategic Plan Alignment** | Goal 2: Economic and Environmental Stewardship |
| Acquisition of specialized legal resources for administration of labor relations activities, including labor contract negotiations, in order to achieve the Board's strategic plans and economic goals. | |

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | 100,000 | 400,000 | 300,000 |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | 100,000 | 400,000 | 300,000 |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | 100,000 | 400,000 | 300,000 |

**Narrative Explanation of Fiscal Impacts:**

Staff estimates costs will be approximately $100,000 for the remainder of FY 2016-17. Costs incurred under this contract in FY 2016-2017 are included in the current year Non-Departmental budget. Estimated costs for FY 2017-18 are approximately $400,000 and for FY 2018-2019 are approximately $300,000.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

| **Attachments:** |
| --- |
| Attachment A: Contract – Labor Relations Services with Liebert Cassidy Whitmore, January 1, 2017 through June 30, 2019. |
| **Related Items "On File" with the Clerk of the Board:** |
| N/A |

# AGREEMENT FOR LABOR RELATIONS AND RELATED LEGAL SERVICES

This Agreement dated as of January 1, 2017 ("Effective Date"), is made by and between the County of Sonoma ("County") and **Liebert Cassidy Whitmore** ("Attorneys"). This Agreement is required by Business and Professions Code Section 6148 and is intended to fulfill its requirements.

## RECITALS

WHEREAS, Attorneys specialize in labor, employment and education law, and have significant experience and recognized expertise in the area of labor relations and related legal services, and

WHEREAS, the Sonoma County Board of Supervisors has determined that Attorneys' assistance is needed in connection with labor relations and related legal services.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

## AGREEMENT

1. Services. Attorneys will provide labor relations and related legal assistance to County and shall perform the services described in **Exhibit A** attached hereto and incorporated herein by this reference (hereinafter "Scope of Work,") and within the times or by the dates provided therein.

2. Compensation. Compensation to Attorneys for services shall be at the rates set forth in **Exhibit B**, attached hereto and incorporated herein. The rates set forth in **Exhibit B** shall not be adjusted without a formal amendment to this Agreement.

3. Term. The term of this Agreement shall commence upon the Effective Date and shall terminate on **June 30, 2019**.

4. Standard of Care. County has relied on the professional ability, professional experience, and training of Attorneys as a material inducement to enter into this Agreement. Attorneys warrants that all work will be performed in accordance with generally accepted and applicable professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance by County of work performed by Attorneys shall not operate as or be interpreted to be a waiver or release.

5. Billing and Timekeeping. Duplicate billing statements shall be provided on a monthly basis, one copy to the Human Resources Department and one copy to County Counsel's office, and shall include the following information:

    a. The date and time spent performing services. Minimum billing times shall not exceed one-tenth of an hour.

    b. Summary description of the services performed regarding the designated matter, with a separate time allocation for each function (e.g., telephone calls, research, drafting);

    c. Separate itemization of non-legal costs by type.

d. Total fees and costs of the matter to date.

e. For any extraordinary expenses, the invoice must include the date and who gave prior approval for incurring such expense.

f. All invoices submitted must include the following statement signed by the firm's supervising attorney:

> "I have personally examined this billing statement. All entries are in accordance with the Agreement for Labor Relations and Related Legal Services, are correct and reasonable for the services performed and the costs incurred, and no item on this statement has been previously billed to the County."

6. Non-Reimbursable Services. Attorneys shall not be reimbursed for any of the following expenses:

   a. Travel expenses, except to the extent approved in accordance with Section 7 below or as set forth in **Exhibit B**.

   b. Unnecessary messenger or express mail charges.

   c. Normal overhead functions such as word processing or typing time, scheduling of depositions, ordering records, calendaring functions, filing, indexing, proofreading or copying time, or any other procedures that are of a secretarial nature.

   d. Meals, overtime, office supplies, or attorney time for preparation of bills or audit responses.

   e. Expenses for experts or Attorneys that have been retained without the prior written approval of County Counsel.

   f. Photocopying charges in excess of $25.00 in any billing cycle without prior written approval of County Counsel.

   g. Office supplies, local telephone charges, per-page fax charges, conference call line charges, routine mail, etc.

   h. Intra-office conferencing time of more than one attorney for routine matters, unless such conference involves expert opinion.

   i. Replacement attorney learning time or other ramp-up learning costs.

   j. Charges/fees for use of computer research programs (e.g. Lexis Nexis, WestLaw, etc.).

7. Direction and Extraordinary Expenses. All direction and control of Attorneys' work for the County will be by the Human Resources Department in consultation with the Sonoma County Counsel's Office as coordinated by **Debbie Latham, Chief Deputy County Counsel** or such other person as may be designated by the County Counsel. Attorneys shall seek pre-approval from the Human Resources Director, Employee Relations Manager, or County Counsel's Office for all extraordinary expenses before the same is incurred by Attorneys. By way of example, extraordinary expenses

shall include expenses for preparing complex motions, undertaking significant legal research or substantial drafting, retaining experts, and Attorneys, and out-of-town travel.

8. Termination. This Agreement may be terminated by County at any time, subject to equitable proportional payments due to Attorneys. All files, written material, and documents will be transferred to the County upon such termination. Attorneys will be available to consult with County Counsel or, should one be retained, with the County's new attorney with respect to facts and circumstances of any matters previously worked on by Attorney for a reasonable period of time following such termination. The Board of Supervisors has the authority to terminate this Agreement on behalf of the County. In addition, the Human Resources Director, in consultation with County Counsel, shall have the authority to terminate this Agreement on behalf of the County.

9. Withdrawal. Attorneys may withdraw as permitted under the Rules of Professional Conduct of the State Bar of California.

10. No Suspension or Debarment. Attorneys warrant that none of its employees are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Attorneys also warrant that they are not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration. If the Attorneys or any employee of Attorneys becomes debarred, Attorneys have the obligation to inform the County.

11. Status of Attorneys. The parties intend that Attorneys, in performing the services under this Agreement, shall be an independent contractor and shall control the work and the manner in which it is performed. Attorneys shall acquire no rights or status in the service of the County. Attorneys are not to be considered an agent or employee of the County and are not entitled to participate in any pension plan, insurance, bonus, or similar benefits the County provides its employees. In the event County exercises its right to terminate this Agreement pursuant to the terms herein, Attorneys expressly agree that Attorneys shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

12. Modification. If, during the term of this Agreement, it becomes necessary to amend or add to its terms, conditions, scope or requirements, such amendment or addition shall only be made after mutual agreement of Attorneys and County and by way of execution of a written modification to this Agreement.

13. Insurance. With respect to performance of work under this Agreement, Attorneys shall maintain and require all of its subcontractors, Attorneys, and other agents to maintain, insurance as described in **Exhibit C**, which is attached hereto and incorporated herein, by this reference.

14. Indemnity. Attorneys agrees to accept responsibility for loss or damage to any person or entity, and to defend, indemnify, hold harmless, and release the County, , its officers, agents, and employees, from and against any and all actions, claims, damages, liabilities, or expenses that may be asserted by any person or entity, including Attorneys, arising out of or in connection with the negligent performance or willful misconduct of Attorneys hereunder, whether or not there is concurrent negligence on the part of the County, but excluding liability due to the sole or active negligence or due to the willful misconduct of the County. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to

or for Attorneys or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts. In addition, Attorneys shall be liable to the County for any loss or damage to the County property arising from or in connection with Attorneys' negligent performance or willful misconduct hereunder.

15. Rules of Professional Conduct. Nothing contained herein shall be construed to relieve Attorneys of Attorney's obligations under the Rules of Professional Conduct.

16. Merger. This Agreement contains the entire agreement of the parties. No other agreement, statement or promise made on or before the effective date of this agreement will be binding on the parties.

17. Taxes. Attorneys agree to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Attorneys agrees to indemnify and hold the County harmless from any liability which it may incur to the United States or to the State of California as a consequence of Attorneys' failure to pay, when due, all such taxes and obligations. If the County is audited for compliance regarding any withholding or other applicable taxes, Attorneys agree to furnish the County with proof of payment of taxes on these earnings.

18. Conflict of Interest. Attorneys covenants that Attorneys presently have no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the services hereunder. Where the County deems that there is an actual or potential conflict of interest in Attorneys representing another party in a matter, the County must waive any such actual or potential conflict before Attorneys may represent such other party.

19. Nondiscrimination. Attorneys shall comply with all applicable federal, state, and local laws, rules and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation, or other prohibited basis, including without limitation the County's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated by this reference.

20. Assignment and Delegation. Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

21. Method and Place of Giving Notice, Submitting Bills and Making Payments. All notices, bills, and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills, and payments sent by mail shall be addressed as follows:

To County: Human Resources Department
Carol Allen, Employee Relations Manager
575 Administration Dr., Suite 116B
Santa Rosa, CA 95403

To Attorney: Richard Bolanos, Office Managing Partner and
Vice President of Northern California Operations
153 Townsend St., Ste. 520
San Francisco, CA 94107

Copy to: County Counsel
575 Administration Dr., Room 105A
Santa Rosa, CA 95403
Attn: Debbie Latham, Chief Deputy County Counsel

And when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices, bills, and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills, and payments are to be given by giving notice pursuant to this paragraph.

22. No Waiver of Breach. The waiver by the County of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.

23. Applicable Law and Forum. This Agreement shall be construed and interpreted according to California Law, and any action or proceeding to enforce this Agreement or for the breach thereof shall be brought or tried in the County of Sonoma.

24. AIDS Discrimination. Attorneys agree to comply with the provisions of Article II of Chapter 19 of the Sonoma County Code, prohibiting discrimination in housing, employment, and services because of AIDS or HIV infection during the term of this Agreement and any extensions of the term.

25. Statutory Compliance. Attorneys agree to comply with all applicable federal, state and local laws, regulations, statutes and policies.

26. Survival of Terms. All express representations, waivers, indemnifications and limitations of liability included in this Agreement will survive its completion or termination for any reason.

27. Counterparts. This Agreement may be executed in several counterparts and all counterparts so executed shall constitute one agreement that shall be binding on all of the parties, notwithstanding that all of the parties are not signatory to the original or same counterpart.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CONSULTANT:
**LIEBERT CASSIDY WHITMORE**

By: _____
Richard Bolanos
Office Managing Partner and Vice President of Northern California Operations

Date: _____

COUNTY:
**COUNTY OF SONOMA**

By:_____
Efren Carrillo, Chair
Sonoma County Board of Supervisors

Date: _____

CERTIFICATES OF INSURANCE ON FILE WITH AND APPROVED AS TO SUBSTANCE FOR COUNTY:

By: _____
Christina Cramer
Director of Human Resources

Date: _____

APPROVED AS TO FORM FOR COUNTY:

By: _____
Debbie Latham
Chief Deputy County Counsel

Date: _____

# Exhibit A
# Liebert Cassidy Whitmore
# Scope of Services

Services referenced in this scope of work will be available to County from the law firm of Liebert Cassidy Whitmore ("Attorneys"), located in the State of California, USA.

**Payments**

Attorneys agree, upon request from County (or on an "as needed basis) to provide labor relations and related legal services based on the fee schedule set forth in **Exhibit B**.

Attorneys will perform these services as requested from time to time by the County as the County, in its sole discretion, deems appropriate.

**Scope of Services**

Assist the Director of Human Resources and Employee Relations Manager, and/or designees, in advising and consulting with the Board of Supervisors, the County Administrative Officer, and County Counsel and/or designee on matters relating to labor contract negotiations, and other labor relations related serves, including but not limited to:

- Serve as chief negotiator or designated representative for labor contract and other negotiations between the County and its bargaining units, including fact finding and impasse procedures, should they be required. Negotiations may be multiple and concurrent.
- Provide research and consultation on current trends, practices, and community standards of other public employers on a variety of labor related issues. Recommend proposals based on current market/economic data.
- Provide professional advice to the County team regarding the drafting of County contract proposals or amendments, as well as potential options and strategies for reaching agreement during negotiations.
- Coordinate with County staff and the bargaining unit's chief negotiator to schedule labor negotiation sessions. Attend negotiating sessions and other related meetings.
- Assist in the formulation and preparation of cost analysis of management and union proposals.
- As requested, write closed session memos and attend County Board of Supervisor's closed sessions to brief the Board on the progress of negotiations and to seek policy direction.
- Direct the completion of the final memoranda of understanding to ensure its consistency with negotiated intent.
- Provide advice and assistance to the Board and County Staff in other areas of labor relations (for example, grievances, PERB complaints, policy development, interpretation and implementation etc.).
- Analyze and provide formal legal opinions on collective bargaining matters.
- Provide assistance in developing contract language that is clear, unambiguous, and protects the County's interests.
- Provide input and guidance on a negotiation communication strategy to provide negotiation updates to County employees and the public.
- Provide legal advice and related services as requested by the County.
- As necessary, provide fact-finding, grievance/arbitration, employment related litigation, unfair practice charges, and written labor relations/employment law opinions and services.

# Exhibit B
# Liebert Cassidy Whitmore
# Cost of Services

The rates for requested services are set forth below:

| **Staffing** | **Regular Hourly Rate*** |
|---|---|
| Partners | $350 |
| Associate Attorneys | $200-$305 |
| Paralegals | $125 |

**Expenses and Costs:**
No charge for secretarial time, telephone charges, or in-house copies but do bill for copies as required for court filings, hearing, and other administrative proceedings. There is a charge $.50 per page for outgoing faxes. There is no charge for incoming faxes.

Travel: Travel time capped at 120 minutes round trip. Time spent performing work for other clients during travel time will not be charged to the County. Meals, lodging, and mileage expenses are not charged to the County.

**Billing Practices:**
Invoices are payable upon receipt and due within 30 days. Bills are sent out each month invoicing charges for the prior month. Fees for our services are charged in increments on 1/10$^{th}$ of an hour. The bills provide a specific description of the work performed by all attorneys and paralegals, the time actually spent working on the item, and the billing rate of the timekeeper. These bills also contain itemized descriptions of any out-of-pocket expenses incurred during the prior month.

*Firm will not increase the hourly rates during the term of the agreement; nor will firm charge more than 120 minutes travel time (round trip) for time spent solely traveling to and from County office.

# Exhibit C
# Liebert Cassidy Whitmore
# Insurance Requirements

With respect to performance of work under this Agreement, Attorneys shall maintain and shall require all of its subcontractors, Attorneys, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a Waiver of Insurance Requirements. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

County reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Attorneys from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. Workers Compensation and Employers Liability Insurance.
   a. Required if Attorneys have employees as defined by the Labor Code of the State of California.
   b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
   c. Employers Liability with minimum limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.
   d. Required Evidence of Insurance: Certificate of Insurance.

2. General Liability Insurance.
   a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
   b. Minimum Limits: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Excess or Umbrella Liability Insurance. If Attorneys maintain higher limits than the specified minimum limits, County requires and shall be entitled to coverage for the higher limits maintained by Attorney.
   c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by County. Attorneys are responsible for any deductible or self-insured retention and shall fund it upon County's written request, regardless of whether Attorneys have a claim against the insurance or is named as a party in any action involving the County.
   d. **County of Sonoma, its officers, agents, and employees** shall be additional insureds for liability arising out of operations by or on behalf of the Attorneys in the performance of this Agreement.
   e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.
   f. The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in ISO form CG 00 01, or equivalent).

g. The policy shall cover inter-insured suits between the additional insureds and Attorneys and include a "separation of insureds" or "severability" clause which treats each insured separately.
h. Required Evidence of Insurance:
i. Certificate of Insurance.

3. Automobile Liability Insurance.
   a. Minimum Limit: $1,000,000 combined single limit per accident. The required limits may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Umbrella Liability Insurance.
   b. Insurance shall cover all owned autos. If Attorneys currently own no autos, Attorneys agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.
   c. Insurance shall cover hired and non-owned autos.
   d. Required Evidence of Insurance: Certificate of Insurance.

4. Professional Liability/Errors and Omissions Insurance.
   a. Minimum Limit: $5,000,000 per claim or per occurrence.
   b. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by County.
   c. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.
   d. Coverage applicable to the work performed under this Agreement shall be continued for two (2) years after completion of the work. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.
   e. Required Evidence of Insurance: Certificate of Insurance.

5. Standards for Insurance Companies.
   Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

6. Documentation.
   a. The Certificate of Insurance must include the following reference: **Liebert Cassidy Whitmore – Agreement for Labor Relations and Related Legal Services to County of Sonoma.**
   b. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Attorneys agree to maintain current Evidence of Insurance on file with County for the entire term of this Agreement and any additional periods if specified in Sections 1 – 4 above.
   c. The name and address for Additional Insured endorsements and Certificates of Insurance is: **County of Sonoma, County Counsel's Office, Attn: Ali Ostello, 575 Administration Drive, Suite 105A, Santa Rosa, CA 95403.**
   d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

e. Attorneys shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.
f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

7. Policy Obligations.
Attorneys' indemnity and other obligations shall not be limited by the foregoing insurance requirements.

8. Material Breach.
If Attorneys fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. County, at its sole option, may terminate this Agreement and obtain damages from Attorneys resulting from said breach. Alternatively, County may purchase the required insurance, and without further notice to Attorneys, County may deduct from sums due to Attorneys any premium costs advanced by County for such insurance. These remedies shall be in addition to any other remedies available to County.

| | |
|---|---|
| # County of Sonoma Agenda Item Summary Report<br><br>Clerk of the Board<br>575 Administration Drive<br>Santa Rosa, CA 95403 | **Agenda Item Number: 37**<br>(This Section for use by Clerk of the Board Only.) |
| **To:** Board of Supervisors | |
| **Board Agenda Date:** December 13, 2016 | **Vote Requirement:** Majority |
| **Department or Agency Name(s):** Board of Supervisors | |
| **Staff Name and Phone Number:**<br>Board of Supervisors (707) 565-2241 | **Supervisorial District(s):**<br>Countywide |
| **Title:** Minutes of the Meeting of November 15, 2016 | |
| **Recommended Actions:** | |
| Approve the Minutes of the Meeting of November 15, 2016 | |
| **Executive Summary:** | |
| Approve the Minutes of the Meeting of November 15, 2016 for the following: Agricultural Preservation and Open Space District, Community Development Commission, Northern Sonoma County Air Pollution Control District, Sonoma County Water Agency, and Board of Supervisors. | |
| **Discussion:** | |
| None | |
| **Prior Board Actions:** | |
| None | |
| **Strategic Plan Alignment** Not Applicable | |
| | |

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Minutes

**Related Items "On File" with the Clerk of the Board:**

MINUTES OF THE MEETING OF THE BOARD OF SUPERVISORS

COUNTY OF SONOMA
November 15, 2016

**Supervisors Present: Susan Gorin, David Rabbitt, Shirlee Zane, James Gore, Efren Carrillo**

**Staff Present: Sheryl Bratton, County Administrator and County Counsel Bruce Goldstein**

**9:05 A.M. CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

I. APPROVAL OF THE AGENDA (Items may be added or withdrawn from the agenda consistent with State law)

II. 9:05 a.m. CONSENT CALENDAR (Items 1 through 50)

**SONOMA COUNTY WATER AGENCY**

(Directors: Gorin, Rabbitt, Zane, Gore, Carrillo)

1. Authorize the Chair to execute the Second Amended Agreement for Watershed Academics to Enhance Regional Sustainability with Sonoma State University to provide research and investigation services to improve the effectiveness of the Sonoma County Water Agency's stream maintenance, water supply, energy, and sanitation services, increasing the amount by $338,778, expanding the scope of work to include supporting the Sonoma State University native plant propagation class and native plant nursery, and extending the agreement term by three years for a new not-to-exceed agreement total of $591,247 and end date of December 31, 2019.

Board Action: Approved as Recommended
UNANIMOUS VOTE

2. Authorize the General Manager to execute a Second Amendment to the Agreement for Water Supply by the Sonoma County Water Agency and California-American Water Company to extend the temporary increase in the maximum flow rate by six years. (Fourth District)

Board Action: Approved as Recommended
UNANIMOUS VOTE

**AUDITOR-CONTROLLER-TREASURER-TAX COLLECTOR**

3. Review and accept the quarterly Treasury Financial Report for the period of July 1 through June 30, 2016.

Board Action: Approved as Recommended
UNANIMOUS VOTE

4. Authorize the Chair to execute a voluntary collection agreement with Airbnb for the collection of Transient Occupancy Tax (TOT) in the unincorporated areas of Sonoma County effective January 1, 2017.

Board Action: Approved as Recommended
UNANIMOUS VOTE

**BOARD OF SUPERVISORS**

AND

**SONOMA COUNTY WATER AGENCY**

(Directors: Gorin, Rabbitt, Zane, Gore, Carrillo)

5. Approve a Minute Order Resolution directing the Permit and Resource Management Department, the Department of Agriculture/Weights and Measures, and the Sonoma County Water Agency to develop a report on current state and local conservation efforts in the Mark West Creek watershed and to present options for additional actions and coordination that could benefit the sustainability of the watershed, including cost estimates of such actions. (First and Fourth District)

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0430

**BOARD OF SUPERVISORS**

AND

**AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT**

(Directors: Gorin, Rabbitt, Zane, Gore, Carrillo)

AND

**SONOMA COUNTY WATER AGENCY**

(Directors: Gorin, Rabbitt, Zane, Gore, Carrillo)

6. Adopt a Concurrent Resolution establishing Fiscal Year 2016-17 appropriation limits for County and Board of Supervisors-Governed Special Districts, County Service Areas, other Board of Supervisors-Governed Agencies, Sonoma County Agricultural Preservation and Open Space District, and Sonoma County Water Agency.

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0431

**COUNTY ADMINISTRATOR**

7. Fiscal Year 2016-17 Supplemental Advertising Program Funding –
(A) Approve Fiscal Year 2016-17 Supplemental Advertising Program grant awards and Authorize the County Administrator to execute contracts for the following entities and amounts: Sonoma County Fairgrounds, $100,000, and Sonoma County Economic Development Board $28,210.
(B) Approve Fiscal Year 2016-17 Supplemental Advertising Program administrative program expenses and Authorize the County Administrator to execute contracts for the following entities and amounts: Studio B, $1,350, and Fairbank, Maullin, Metz & Associates, $49,990.
(C) Approve Advertising Program contingency funds in the amount of $51,340.

Board Action: Approved as Recommended
UNANIMOUS VOTE

8. Authorize the County Administrator to execute the first amendment to the Personal Services Agreement with Al Terrell, Director of Fire and Emergency Services, extending the contract by one year for a new term ending date of December 2, 2017.

Board Action: Approved as Recommended
UNANIMOUS VOTE

**COUNTY ADMINISTRATOR/PROBATION/HEALTH SERVICES/SHERIFF'S OFFICE**

9. Accept $250,000 in revenue from the Bureau of Justice Assistance Justice and Mental Health Collaboration Program Grant to develop and implement strategies to divert mentally ill from the jail through September 30, 2019.

Board Action: Approved as Recommended
UNANIMOUS VOTE

**DISTRICT ATTORNEY**

10. Adopt a Resolution authorizing the District Attorney to sign a contract with the California Office of Emergency Services to continue participation in the Violence Against Women Vertical Prosecution program and accept $202,545 in grant funding for the term July 1, 2016 to June 30, 2017.

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0432

**GENERAL SERVICES**

11. 2016 Winter Shelter License Agreement –
(A) Authorize the Director to execute a revocable license agreement with West County Community Services for the 2016 Winter Shelter located at the Guerneville Veterans Memorial Building commencing October 28, 2016 and expiring on April 1, 2017.
(B) Make findings in accordance with Section 26227 of the Government Code that the services provided by the licensee will serve public purposes and that the property subject to the license will not be needed for County purposes during the time of the licensee's possession. (Fifth District)

Board Action: Approved as Recommended
UNANIMOUS VOTE

12. Senate Bill 863 Matching Funds - Adopt a Resolution adjusting the 2016-17 budget to move $6.2 million of Tobacco Securitization funds from the Behavioral Health Housing Unit to the Courthouse Connector Project, and moving $6.2 million of General Fund from the Courthouse Connector Project to the Behavioral Health Housing Unit project in order to facilitate the State project establishment approval process for the Behavioral Health Housing Unit. (4/5 vote required)

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0433

**GENERAL SERVICES/HEALTH SERVICES**

13. Authorize the Clerk of the Board to publish a notice declaring the Board's intent to execute a lease amendment with Circle V Daytona, LLC to extend the current lease term (which expired November 5, 2016) through May 31, 2017 at the current rental rate of $6,938 per month ($1.86 per square foot) for 3,736 square feet of office space located at 1360 North McDowell Boulevard, Petaluma for mental health outreach and engagement services to south Sonoma County clients. (Second District) (First Action)

Board Action: Approved as Recommended
UNANIMOUS VOTE

**GENERAL SERVICES/SHERIFF'S OFFICE**

14. Authorize the Clerk to publish a notice declaring the Board's intention to execute an amendment to a sublease with the Mark West Chamber of Commerce and Visitors Bureau for the Sheriff's Office Report Writing office located at 4787 Old Redwood Highway, Suite 105, Santa Rosa to extend the term from its expiration date of December 31, 2016 to August 31, 2017 for a rental of $647 per month ($4.90 per square foot). (First Action)

Board Action: Approved as Recommended
UNANIMOUS VOTE

**HEALTH SERVICES**

15. Authorize the Director to execute an agreement with Willits Hospital Inc. doing business as Frank R Howard Memorial Hospital to accept revenue for providing Emergency Medical Services Level IV Trauma Center regulatory oversight for the period November 16, 2016 through November 15, 2026.

Board Action: Approved as Recommended
UNANIMOUS VOTE

16. First 5 Sonoma County Commission Quality Improvement Rating System Agreements -
(A) Authorize the Director to execute a memorandum of understanding with the Sonoma County Office of Education for the County of Sonoma to receive revenue to support the First 5 Sonoma County quality improvement rating system in the amount of $371,720 through September 30, 2017.
(B) Authorize the Director to execute an agreement with the Community Child Care Council of Sonoma County for quality improvement rating system services for the period November 15, 2016 through September 30, 2017 for a total not-to-exceed amount of $286,475.

Board Action: Approved as Recommended
UNANIMOUS VOTE

17. Authorize the Director to execute an agreement with Moore Iacofano Goltsman, Inc. doing business as MIG, Inc. to assist in the development of a five-year strategic plan for the period November 15, 2016 through September 30, 2017 in an amount not-to-exceed $133,112.

Board Action: Approved as Recommended
UNANIMOUS VOTE

18. Authorize the Director to execute the first amendment to an agreement with Face to Face to provide HIV/HCV outreach, education, and testing services increasing the amount by

$162,261 resulting in a new total not-to-exceed amount of $286,213 and extending the term from June 30, 2017 to December 31, 2018.

Board Action: Approved as Recommended
UNANIMOUS VOTE

**HUMAN SERVICES**

19. Accept the 2016-2021 Sonoma County Child Care Plan, Building the Future; A Countywide Plan for Child Care and Education, Birth to Twelve Years.

Board Action: Approved as Recommended
UNANIMOUS VOTE

**MISCELLANEOUS**

20. Approve the Minutes of the Meeting of October 18, 2016 for the following: Agricultural Preservation and Open Space District, Community Development Commission, Northern Sonoma County Air Pollution Control District, Sonoma County Water Agency, and Board of Supervisors.

Board Action: Approved as Recommended
UNANIMOUS VOTE

**PERMIT AND RESOURCE MANAGEMENT**

21. AGP15-0024 – Land Conservation Act Contracts Replacement; Falkenberg Trust and White 2004 Family Trust – Adopt a Resolution to make findings of compatibility and mutually rescind and replace a Non-prime (Type II) Land Conservation Act contract with an Open Space Land Conservation Act contract on 1,284.53 acres located at 13303 and 13290 Stewarts Point Skaggs Springs Road, Healdsburg: APNs 138-120-022, 138-100-021, and -022, 138-110-010 and -011. (Fifth District)

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0434

22. ZPE15-0682 – Agricultural Impact Easement for the Trentadue Winery Solar Project – Adopt a Resolution approving and accepting an Agricultural Impact Easement for the Trentadue Winery Solar Project. (Fourth District)

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0435

23. Adopt a Resolution delegating authority to the Director to approve and accept Agricultural Impact Easements.

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0436

**PROBATION**

24. Adopt a Resolution authorizing the Chief Probation Officer to accept funding for the period November 1, 2016 through February 28, 2018 in the amount of $10,000 from the California Board of State and Community Corrections for the Evidence-Based Practices Training Grant Project.

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0437

**RETIREMENT**

25. Adopt a Resolution approving a new retirement system regulation to clarify rules and restrictions for sick leave conversions to service credit, previously adopted by the Sonoma County Employees' Retirement Association (SCERA) Board of Retirement. The restrictions cited in the new regulation are consistent with current operational practices, and will maintain the retirement system's tax qualified plan status pursuant to Government Code section 31525.

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0438

**SHERIFF'S OFFICE**

26. Receive the Fiscal Year 2015-16 Annual Inmate Welfare Trust Fund Report.

Board Action: Approved as Recommended
UNANIMOUS VOTE

**TRANSPORTATION AND PUBLIC WORKS**

27. Award of Contract for Graton Americans with Disabilities Act (ADA) Improvements Phase 2 -
(A) Approve plans and specifications for Graton ADA Improvements Phase 2 - C15016.
(B) Award contract to low bidder Piazza Construction Company in the amount of $632,185

waiving non-material defects of the bid and Authorize the Chair to execute construction contract C15016. (Fifth District)

Board Action: Approved as Recommended
UNANIMOUS VOTE

28. Modifications to No Parking Restrictions in a portion of Boyes Boulevard Parking Lot - Adopt an Ordinance repealing Sonoma County Ordinance number 2900 and amending Sonoma County Ordinance number 2300 to establish revised time limit parking restrictions in the Boyes Boulevard parking lot (number 56105). (First District) (Second Reading - Ready for Adoption)

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Ordinance 6183

29. Approve and Authorize the Director to execute the Reimbursement Agreement for Intersection Improvements on Main Street in Penngrove and Fulton Road in Fulton with the Sonoma Marin Area Rail Transit (SMART) for reimbursement from the County to SMART in an amount not-to-exceed $504,338 plus a 10 percent contingency. (Second and Fourth Districts)

Board Action: Approved as Recommended
UNANIMOUS VOTE

30. Adopt a Resolution establishing a stop control for eastbound traffic at the intersection of Vailetti Drive (number 66023) and Casabella Drive (number 66107). (First District)

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0439

**APPOINTMENTS/REAPPOINTMENTS**

(Items 31 through 45)

31. Approve the appointment of Susan Kornblatt Idell to the Advisory Council to Area Agency on Aging serving a two-year term beginning on November 15, 2016 and ending on November 16, 2018. (First District)

Board Action: Approved as Recommended
UNANIMOUS VOTE

32. Approve the appointment of Tim Freeman to the Sonoma Valley Citizens Advisory Commission, El Verano West, serving a four-year term beginning on November 15, 2016 and ending on November 16, 2020. (First District)

Board Action: Approved as Recommended
UNANIMOUS VOTE

33. Approve the appointment of Nole Pacheco to the Rancho Adobe Fire Protection District serving a four-year term beginning on December 2, 2016 and ending on December 1, 2020. (Second District)

Board Action: Approved as Recommended
UNANIMOUS VOTE

34. Approve the appointment of Ross Albertson to the Windsor Fire Protection District serving a four-year term beginning on December 2, 2016 and ending on December 2, 2020. (Fourth District)

Board Action: Approved as Recommended
UNANIMOUS VOTE

35. Approve the appointment of Frank Treanor to the Windsor Fire Protection District serving a four-year term beginning on December 2, 2016 and ending on December 2, 2020. (Fourth District)

Board Action: Approved as Recommended
UNANIMOUS VOTE

36. Approve the appointment of Martha Estrin to the Commission on Human Rights serving a two-year term beginning on November 15, 2016 and ending on November 15, 2018. (Fifth District)

Board Action: Approved as Recommended
UNANIMOUS VOTE

37. Approve the re-appointment of Emil Alberigi to the Monte Rio Fire Protection District Board of Directors serving a four-year term beginning on December 2, 2016 and ending on December 1, 2020. (Fifth District)

Board Action: Approved as Recommended
UNANIMOUS VOTE

38. Approve the re-appointment of Paul Casini to the Monte Rio Fire Protection District Board of Directors serving a four-year term beginning on December 2, 2016 and ending on December 1, 2020. (Fifth District)

Board Action: Approved as Recommended
UNANIMOUS VOTE

39. Approve the re-appointment of Ron Rolleri to the Sonoma Resource Conservation District serving a four-year term beginning on December 2, 2016 and ending on December 1, 2020. (Fifth District)

Board Action: Approved as Recommended
UNANIMOUS VOTE

40. Approve the re-appointment of Vickie Mulas to the Sonoma Resource Conservation District serving a four-year term beginning on December 2, 2016 and ending on December 1, 2020. (Fifth District)

Board Action: Approved as Recommended
UNANIMOUS VOTE

41. Approve the re-appointment of Dennis Murphy to the Sonoma Resource Conservation District serving a four-year term beginning on December 2, 2016 and ending on December 1, 2020. (Fifth District)

Board Action: Approved as Recommended
UNANIMOUS VOTE

42. Approve the Appointment of Bruce Abelli-Amen to the Sonoma Resource Conservation District for a four-year term beginning December 2nd, 2016 and ending December 1st, 2020. (Fifth District)

Board Action: Approved as Recommended
UNANIMOUS VOTE

43. Adopt a Resolution appointing Barbie Robinson, Interim Health Services Director, to the Partnership HealthPlan of California Commission serving a four-year term beginning on November 15, 2016 and ending on November 14, 2020. (Health Services)

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0440

44. Approve the re-appointments of Cynthia Murray and Kelly Bass-Seibel to the First 5 Sonoma County Commission serving three-year terms beginning on December 1, 2016 and ending on November 30, 2019. (Health Services)

Board Action: Approved as Recommended
UNANIMOUS VOTE

45. Approve the appointment of Missy Danneberg, Instructor, to the Child Care Planning Council of Sonoma County Community Seat serving a two-year term beginning on November 15, 2016 and ending on December 31, 2018. (Human Services)

Board Action: Approved as Recommended
UNANIMOUS VOTE

**PRESENTATIONS/GOLD RESOLUTIONS**

(Items 46 through 50)

**PRESENTATIONS AT THE BOARD MEETING**

46. 1:30 P.M. - Adopt a Gold Resolution designating the month of November 2016 as Adoption Awareness Month in Sonoma County. (Human Services)

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0441

47. 1:30 P.M. - Adopt a Gold Resolution proclaiming December 1, 2016 as World AIDS Day in Sonoma County. (Health Services)

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0442

48. 1:30 P.M. - Adopt a Gold Resolution recognizing National Hunger and Homelessness Week of November 12 through 20, 2016.

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0443

**PRESENTATIONS AT A DIFFERENT DATE**

49. Adopt a Gold Resolution honoring Ed Gilardi upon his retirement after serving 20 years as a Trustee on the Cotati-Rohnert Park School Board. (Second and Third Districts)

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0444

50. Adopt a Gold Resolution honoring Penny Rivas for her fifteenth year of providing Thanksgiving meals free of charge to residents in need in Guerneville. (Fifth District)

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0445

III. REGULAR CALENDAR (Items 51 through 58)

**PERMIT AND RESOURCE MANAGEMENT**

51. AGP15-0002 – Agricultural Preserve expansion and a new Land Conservation (Williamson) Act Contract; Justin Faggioli Trust and Sandra D. Donnell Trust – Conduct a Public Hearing and Adopt a Resolution to expand Agricultural Preserve 2-238 and authorize the Chair of the Board of Supervisors to execute a new Prime Land Conservation Act Contract for 22.06 acres located at 21847 Champlin Creek Lane, Sonoma; APN's 142-052-015. (First District)

9:30 a.m. Presenter: Tennis Wick, PRMD Director

Public Hearing Opened: 9:30 a.m.

Public Speakers: None

Public Hearing Closed: 9:30 a.m.

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0446

52. AGP13-0014 - Agricultural Preserve expansion and a new Land Conservation (Williamson) Act Contract; John Mattos – Conduct a Public Hearing and Adopt a Resolution to expand Agricultural Preserve 2-353 and Authorize the Chair to execute a Non-Prime Land Conservation Act Contract for 113.55 acres located at 804 Meacham Road, Cotati. (Second District)

9:32 a.m. Presenter: Tennis Wick, PRMD Director

Public Hearing Opened: 9:32 a.m.

Public Speakers: None

Public Hearing Closed: 9:32 a.m.

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0447

**HEALTH SERVICES**

53. Community Health Needs Assessment 2016 – Receive a report on the Community Health Needs Assessment for 2016-2019, a joint project of Sutter Medical Center of Santa Rosa, St. Joseph Health System – Sonoma County, Kaiser Permanente Medical Center – Santa Rosa, and the Department of Health Services.

9:33 a.m. Presenters:

Barbie Robinson, Health Services Director
Dr. Karen Milman, Health Officer

Board Action: Informational Item

The Board recessed: 10:15 a.m.

The Board reconvened: 10:26 a.m.

The Board heard Items 54, 55, and 56 together as one item.

**COMMUNITY DEVELOPMENT COMMISSION**

(Directors: Gorin, Rabbitt, Zane, Gore, Carrillo)

54. 10:27 a.m. Winter Shelter Funding Request and Ending Homelessness Initiatives Update – (A) Authorize the Executive Director of the Community Development Commission (CDC) to execute a contract with the City of Santa Rosa to provide $65,000 in previously allocated funding for the Sam Jones Hall Homeless Shelter's winter expansion.
(B) Allocate $60,000 in previously-budgeted Transient Occupancy Tax (TOT) funding to West County Community Services (WCCS) for operations of the Guerneville Winter Shelter, and Authorize the Executive Director to execute an amendment to the WCCS funding agreement in that amount.
(C) Approve redirecting $155,095 in Reinvestment and Revitalization (R&R) funds currently budgeted for the Commercial Rehabilitation Loan Program to Community Grant Funding to further augment winter homeless shelter operations for Fiscal Year 2016-17.
(D) Approve the incorporation of winter homeless shelter needs into the Fiscal Year 2017-18 CDC Public Services competitive funding process.
(E) Receive an update on the 2016 Homeless Point-In-Time Count, the Homeless Outreach Service Team (HOST) pilot project, and the Building HOMES Toolbox.

10:27 a.m. Presenters:

Margaret Van Vliet, Executive Director Community Development Commission
Jenny Abramson, Homeless and Community Service Manager
Martha Cheever, Housing Authority Manager
Kirsten Larsen, Construction and Housing Finance Manager

Public Speakers:

Leonard Moore
Clark Lewis
Kim Peters
Cheryl Selin
Rena Radich
Salvador Flores
Stephen Gale
Ken Quinto
Brian Ling
Allen Danley
Tim Miller
Bruce Shimizu
Scott Johnson
Ross Liscum
Kathy King
Ronit Rubinoff
Thomas Ells
William Daye
Kym Valadez
David Kuskie
Richard Jones
Daniel Sanchez
Jennielynn Holmes
Paula Cook
Brian Bricker
Lisa Yoshida
John Yohan Morgan

Board Action: Approved as Recommended
UNANIMOUS VOTE

55. Fair Market Rent Survey Memorandum of Understanding and Professional Services Agreement -
(A) Authorize the Executive Director of the Community Development Commission to enter into an agreement with ICF Macro, Inc. to complete a statistically accurate survey of Fair

Market Rents for the Santa Rosa-Petaluma Fair Market Rent Statistical area which includes all areas of Sonoma County. The term of the agreement will for one year for an amount not-to-exceed $95,079.
(B) Authorize the Executive Director to enter into a Memorandum of Understanding with the Santa Rosa Housing Authority for purposes of conducting the Fair Market Rent Statistical Survey and defining the roles and responsibilities of each Agency including the contract fee to be paid by each Agency.

10:27 a.m. Presenters:

Margaret Van Vliet, Executive Director
Jenny Abramson, Homeless and Community Service Manager
Martha Cheever, Housing Authority Manager
Kirsten Larsen, Construction and Housing Finance Manager

Public Speakers:

Leonard Moore
Clark Lewis
Kim Peters
Cheryl Selin
Rena Radich
Salvador Flores
Stephen Gale
Ken Quinto
Brian Ling
Allen Danley
Tim Miller
Bruce Shimizu
Scott Johnson
Ross Liscum
Kathy King
Ronit Rubinoff
Thomas Ells
William Daye
Kym Valadez
David Kuskie
Richard Jones
Daniel Sanchez
Jennielynn Holmes
Paula Cook
Brian Bricker
Lisa Yoshida
John Yohan Morgan

Board Action: Approved as Recommended
UNANIMOUS VOTE

56. County Fund for Housing Loans and County Fund for Housing Annual Report -
(A) Receive the County Fund for Housing (CFH) Annual Report.
(B) Approve County Fund for Housing awards in the aggregate amount of $3,916,351 as follows:
1) Community Housing Sonoma County for Veterans Village Phases I & II ($1,868,851)
2) MidPen Housing for Celestina Garden Apartments ($1,000,000)
3) Ortiz Plaza Phase 2 LP for Ortiz Plaza Phase II ($510,000)
4) MidPen Housing for Roseland Village ($537,500)
(C) Approve an exception to the Community Development Commission (CDC) Loan Policies for the Veterans Village project to permit the loan to not be fully secured against property;
(D) Authorize the Executive Director of the Sonoma County Community Development Commission (CDC) to execute funding agreements, promissory notes, deeds of trusts, and other related loan documents, and subsequent amendments, subordinations, and other modifications to said Agreements and loan documents, consistent with the CDC Loan Policies.

10:27 a.m. Presenters:

Margaret Van Vliet, Executive Director
Jenny Abramson, Homeless and Community Service Manager
Martha Cheever, Housing Authority Manager
Kirsten Larsen, Construction and Housing Finance Manager

Public Speakers:

Leonard Moore
Clark Lewis
Kim Peters
Cheryl Selin
Rena Radich
Salvador Flores
Stephen Gale
Ken Quinto
Brian Ling
Allen Danley
Tim Miller
Bruce Shimizu
Scott Johnson
Ross Liscum
Kathy King
Ronit Rubinoff
Thomas Ells

William Daye
Kym Valadez
David Kuskie
Richard Jones
Daniel Sanchez
Jennielynn Holmes
Paula Cook
Brian Bricker
Lisa Yoshida
John Yohan Morgan

Board Action: Approved as Recommended
UNANIMOUS VOTE

**COUNTY ADMINISTRATOR**

AND

**AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT**

AND

**COMMUNITY DEVELOPMENT COMMISSION**

AND

**NORTHERN SONOMA COUNTY AIR POLLUTION CONTROL DISTRICT**

AND

**SONOMA COUNTY WATER AGENCY**
(Directors/Commissioners: Gorin, Rabbitt, Zane, Gore, Carrillo)

57. Receive the actuarial valuation of the impact of the Proposed Settlement Agreement with the Sonoma County Association of Retired Employees (SCARE) related to Other Post Employment Benefit (OPEB) liabilities of the County of Sonoma.

1:15 p.m.

Presenters: Sheryl Bratton, County Administrator
Marcia Chadbourne, Risk Manager
Dave Bergerson, Vice President, Segal Consulting

Board Action: Informational Item

**BOARD OF SUPERVISORS**

58. Approve a rental fee waiver of Sonoma Veterans building rental fees for the Blood Centers of the Pacific bi-monthly community blood drives in the amount of $2803. (First District)

Board Action: Approved as Recommended
UNANIMOUS VOTE

59. PUBLIC COMMENT ON CLOSED SESSION ITEMS

None.

IV. CLOSED SESSION CALENDAR (Items 60 through 62)

2:10 P.M. County Counsel Bruce Goldstein reported on Closed Session Items 60 through 62.

60. The Board of Supervisors will consider the following in closed session: Conference with Legal Counsel – Existing Litigation – Frank Pearson vs. County of Sonoma vs. County of Sonoma, Workers' Compensation Appeals Board No. ADJ2056586. (Government Code Section 54956.9(d)(1)).

The Board approved the settlement of Jennifer Clark's workers' compensation claims by way of Compromise and Release Agreement for Settlement in the amount of $245,000.00, with direction to the Risk Manager to execute all documents necessary to effectuate the settlement.

UNANIMOUS VOTE

61. The Board of Supervisors will consider the following in closed session: Public Employee Performance Evaluation and Appointment of Director of Regional Parks. (Government Code Section 54957(b)(1)).

No reportable action. Direction given to staff.

62. The Board of Supervisors, the Board of Directors of the Sonoma County Water Agency, the Board of Commissioners of the Community Development Commission, and the Board of Directors of the Agricultural Preservation and Open Space District will consider the following in closed session: Conference with Labor Negotiator, Agency Negotiators: Christina Cramer and Carol Allen. Employee organization: All. Unrepresented employees: All, including retired employees. (Government Code Section 54957.6 (b)).

This item was continued to December 6, 2016.

62A. The Board of Supervisors will consider the following in closed session: Conference with Legal Counsel - Anticipated Litigation or significant exposure to litigation. (Government Code Section 54956.9(d)(2)). (Item added via Agenda Addendum)

No reportable action. Direction give to counsel and staff.

63. RECONVENE FROM CLOSED SESSION

Supervisors Present: Susan Gorin, David Rabbitt, Shirlee Zane, James Gore, Efren Carrillo

Staff Present: Sheryl Bratton, County Administrator and Bruce Goldstein, County Counsel

64. REPORT ON CLOSED SESSION

2:10 P.M. County Counsel Bruce Goldstein reported on Closed Session Items 60 through 62. See Item IV.

VI. BOARD MEMBER REPORTS ON ASSIGNED BOARDS, COUNCILS, COMMISSIONS OR OTHER ATTENDED MEETINGS

Supervisor Gorin toured the Valley of the Moon Children's Home at Los Guilicos and requested the new Chair reactivate the Ad Hoc Committee on Facilities. She attended a Sonoma County Transportation Authority (SCTA) meeting on November 14, 2016. She announced that the Latino Business Summit will be held on November 16, 2016.

Supervisor Rabbitt attended the Sonoma Marin Area Rail Transportation (SMART) meeting on November 2, 2016 discussing bicycle parking at the various stations. On November 3, 2016 he attended and spoke to the United States Conference of Mayors at the Water Council in Napa discussing recycled water. He attended a Fire Ad Hoc meeting on November 9, 2016 and he followed this meeting by speaking at the Fire Advisory Council on November 10, 2016. He attended an Association of Bay Area Governments (ABAG) meeting on November 10, 2016 discussing earthquake preparedness. He attended the Petaluma Veterans Day Parade on November 11, 2016. He attended a North Bay Water Reuse Authority meeting on November 14, 2016. He attended a SCTA meeting on November 14, 2016. He attended a Petaluma City Council SIGMA update on November 14, 2016.

Supervisor Zane attended a SMART Board of Directors meeting on November 2, 2016. She attended a SCTA meeting on November 14, 2016. She honored Matt Martin at the North Bay Awards Luncheon for his work with Social Advocates for Youth. She hosted a Veteran's Roundtable meeting discussing how to better coordinate veteran's mental health services. On November 10 and 11, 2016, she attended a meeting with National Oceanic and Atmospheric Agency (NOAA) discussing the Sonoma County Water Agency's Advanced Quantitative Precipitation Information project. She attended the Graton Casino and Resort Grand Opening on November 12, 2016.

Supervisor Gore thanked the Board for the creation of the Mark West Citizens Advisory Council and he attended a meeting on November 14, 2016. He presented a gold resolution for the Windsor Hometown Heroes. He attended a Water Advisory Council (WAC) meeting.

Supervisor Carrillo attended a community forum discussing Cannabis Cash and Public Banking. He attended the Latino Health Forum on November 17, 2016 discussing disparities in race and health outcomes particularly within the Latino. He attended a Community Planning Summit with Supervisor Gore hosted by the Grape Growers Association discussing farm workers in our community. He will be attending a hearing in Guerneville on November 17, 2016 regarding the Fish Flow Environmental Impact Report. He will be participating in a meet and greet with local officials at the California Public Utility Commission regarding Public Choice Aggregation.

VII. 2:12 P.M. - PRESENTATIONS/GOLD RESOLUTIONS
(Items 46 through 48, approved on the Consent Calendar)

65. 2:48 P.M. - PUBLIC COMMENT ON MATTERS NOT LISTED ON THE AGENDA BUT WITHIN THE SUBJECT MATTER JURISDICTION OF THE BOARD AND ON BOARD MEMBER REPORTS (Comments are restricted to matters within the Board's jurisdiction. The Board will hear public comments at this time for up to thirty minutes. Please be brief and limit your comments to three minutes. Any additional public comments will be heard at the conclusion of the meeting. While members of the public are welcome to address the Board, under the Brown Act, Board members may not deliberate or take action on items not on the agenda.)

2:48 P.M. Public comment opened

Public Speakers:
Elizabeth Neylon
Mary Morrison
Maria Halstrom
Roseanne Snyder
Chris Gibbons
Colleen Fernald
Richard Hannon
John Jenkel

3:03 P.M. Public comment closed

3:03 P.M Chair Carrillo requested that the Ad Hoc Committee on Pension Matters be reconvened with Supervisor Rabbitt and Supervisor Zane sitting on the committee.

**ECONOMIC DEVELOPMENT BOARD**

V. REGULAR AFTERNOON CALENDAR (Items 63 through 71)

66. 3:06 P.M. - Conduct a Public Hearing and Adopt a Resolution to approve a tax exempt bond financing in an amount not-to-exceed $24,000,000 to be issued by the California Municipal Finance Authority to the benefit of ROP WMCC LLC, a California limited liability company, for the Windsor Mobile Country Club Tax Exempt Bond Financing Located at 8109 Conde Lane, Windsor.

Presenters:
Al Lerma, Business Development and Innovation Manager, Economic Development Board

3:09 P.M. Public comment opened

Public Speakers:
None

3:09 P.M. Public comment closed

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Resolution 16-0448

**FIRE AND EMERGENCY SERVICES**

67. 3:10 P.M. - Fire Code Amendments 2016 Chapter 13 –
(A) Conduct a Public Hearing on the proposed adoption of an Ordinance accepting by reference the 2016 edition of the California Fire Code and amending the Sonoma County Code Chapter 13 with local fire code amendments.
(B) Adopt an Ordinance accepting by reference the 2016 edition of the California Fire Code and amending the Sonoma County Code Chapter 13 with local fire code amendments. The first reading for this ordinance was on November 1, 2016. If adopted the effective date of the ordinance will be January 1, 2017. (Second Reading – Ready for Adoption)

Presenters:
James Williams, Assistant Fire Chief, Fire and Emergency Services

3:10 P.M. Public comment opened

Public Speakers:
None

3:10 P.M. Public comment closed

Board Action: Approved as Recommended

UNANIMOUS VOTE
Approved by Ordinance 6184

**PERMIT AND RESOURCE MANAGEMENT**

68. 3:12 P.M. – Building Code Amendments Chapter 7 – Conduct a Public Hearing and Adopt an Ordinance Amending Chapter 7 of the Sonoma County Code accepting by reference the 2016 edition of the California model codes with local amendments, as well as other technical and administrative revisions to Chapters 7, 7A and 7C and the deletion of Chapters 7D1 and 7D2 of the Sonoma County Code (Second Reading – Ready for Adoption)

Presenters:
Tennis Wick, Director, Permit and Resource Management Department

3:21 P.M. Public comment opened.

Public Speakers:
None

3:21 P.M. Public comment closed

Board Action: Approved as Recommended
UNANIMOUS VOTE
Approved by Ordinance 6185

69. 3:22 P.M. - PLP12-0016 - Belden Barns Farmstead and Winery Project. (First District) APPLICANT: Nathan Belden APPELLANTS: N/A LOCATION: 5561 Sonoma Mountain Road, Santa Rosa ASSESSOR'S PARCEL NOS.: 049-030-010 ENVIRONMENTAL DOCUMENT: Environmental Impact Report REQUEST: Conduct a Public Hearing and Adopt a Resolution to certify the Environmental Impact Report (EIR) and to approve the requested Use Permit for a Winery and Cheese processing facility.

Presenters:
Melinda Grosch, Planner, Property and Resource Management Department
Sandi Potter, Environmental Review Manager, Property and Resource Management Department
Jennifer Barrett, Deputy Director of Planning, Permit and Resource Management Department
John McCarthy, Deputy Director, Transportation and Public Works Tammy Martin, Steve Martin Associates
Nathan Belden, Owner

4:28 P.M. Public comment opened

Public Speakers:
Karissa Kruse

Craig Enyart
Lisa Carr
Joseph Judge
Tim Farley
David Witwick
Helen Bates
Donna Parker
David Welsh
Peter Verbiscar-Brown

5:00 P.M. The Board recessed.

5:08 P.M. The Board reconvened from recess.

Kathy Pons
Edwin Cutler
Vince Trotter
Jenny Trotter
James Casciani
Jane Nielson
Byron LaGoy
Rose Zoia
Luca Zanin
Dan Viele

5:48 P.M. Public comment closed

Board Action:
Approved with the added condition 66, "at least 10 days prior to events the applicant shall provide notice to neighbors within 300 feet of the project site and Bennett Valley Neighborhood Association of the date and time of an event of 100 persons or more and provide the name of a designated representative who is available during the events; all events shall be coordinated with the Sonoma Mountain Event Center so that the events are not coordinated on the same day."

AYES: David Rabbitt, Shirlee Zane, James Gore, Efren Carrillo
NOES: Susan Gorin
Approved by Resolution 16-0449

70. Permit and Resource Management Department: Review and possible action on the following: Acts and Determinations of Planning Commission/Board of Zoning Adjustments Acts and Determinations of Project Review and Advisory Committee Acts and Determinations of Design Review Committee Acts and Determinations of Landmarks Commission Administrative Determinations of the Director of Permit and Resource Management (All materials related to these actions and determinations can be reviewed at: http://www.sonoma-county.org/prmd/b-c/index.htm)

7:15 P.M.

Board Action: The Board accepted the Acts and Determinations: Planning Commission (11/3)

71. ADJOURNMENT

7:16 P.M. The Board adjourned the meeting in the memory of Richard Gaillard Shore, Katherin Skikos, Darryl Ray Fenley, William James (Jim) McDowell, Kirk Kimberly.

The meeting was adjourned to December 06, 2016 at 8:30 A.M.

Respectfully submitted,

Roxanne Epstein,
Chief Deputy Clerk of the Board

| | |
|---|---|
| # County of Sonoma Agenda Item Summary Report<br><br>Clerk of the Board<br>575 Administration Drive<br>Santa Rosa, CA 95403 | **Agenda Item Number: 38**<br>(This Section for use by Clerk of the Board Only.) |
| **To:** Board of Supervisors | |
| **Board Agenda Date:** December 13, 2016 | **Vote Requirement:** Majority |
| **Department or Agency Name(s):** Permit Sonoma | |
| **Staff Name and Phone Number:**<br>Dean Parsons 565-1948 | **Supervisorial District(s):**<br>County-wide |
| **Title:** Planning Consultant Contract | |
| **Recommended Actions:** | |
| Authorize the Director of Permit Sonoma to execute an agreement with e360 LLC to provide assistance in processing planning applications, for a not-to-exceed amount of $175,000, for a two year term beginning December 13, 2016 and ending December 13, 2018. | |
| **Executive Summary:** | |
| The Project Review Division typically processes planning applications submitted to Permit Sonoma. This division has seen a 53% increase in planning applications since April 2014. The Department is currently in contract with Land Logistics Planning and Development Services to assist in processing planning applications and has one Extra Help position to assist in preparing CEQA documents. However, due to the retirement of five planners in May/June 2016, the division needs additional assistance in processing planning applications. All five vacant planner positions have been filled but considerable training of new planners is required while processing of planning applications continues. | |
| **Discussion:** | |
| Part of the increased planning application workload includes more complex application types such as winery use permits and appeals that require preparation of detailed environmental review documents such as Mitigated Negative Declarations and Environmental Impact Reports. Historically, work of this nature is completed by the most experienced Planner III's, but due to a significant increase in the number of planning applications coupled with a loss of experienced planning staff, additional assistance is needed to process applications.<br><br>The Department does not currently have the capacity to manage this increase in complex projects in a timely manner. Permit Sonoma has an existing contract for planning consultant services with Land Logistics Planning & Development Services and they continue to provide assistance in processing planning applications, however, they are also at capacity due to limited staffing. With the decreased workload capacity due to the retirement of five experienced Permit Sonoma planners, including a Supervising Planner, more assistance is required. Remaining planning staff and the current consultant | |

cannot absorb all of the re-assignments from retired planners while keeping up with new application submittals and heavy customer service needs. Additionally, a Planner III was recently promoted to Supervising Planner, requiring him to focus significant amounts of his time on supervisorial duties. For this reason his workload capacity is diminished, necessitating the reassignment of some planning applications. Another goal is to further reduce a second Supervising Planner's workload to allow her time to focus more on supervisorial duties.

Hiring another qualified planning consultant will allow the Department to process complex applications in a timely manner and reduce the backlog of applications. A planning consultant can quickly begin processing complex projects once under contract, reducing processing timelines while better managing workloads.

SELECTION PROCESS

Permit Sonoma conducted a Request for Qualifications to identify a pool of qualified firms to provide planning services for a variety of work, including long range and current planning efforts. All of the ten firms submitting Statements of Qualifications were qualified to perform some level of planning services. Permit Sonoma staff evaluated and ranked submissions based on their responses to the following criteria: 1) experience; 2) professional qualifications; 3) completeness of response; 4) effective processes for work tasks; 5) response timeliness; and 6) local preference.

The e360 LLC team includes experienced planning professionals that have extensive experience working in other jurisdictions processing a wide variety of planning application types, including: Coastal Development Permits, Subdivisions, resorts, complex Use Permits, and General Plan Amendments/Zone changes. They have also managed the preparation of Environmental Impact Reports and will represent staff at public hearings.

The estimated need for these services over a two-year term with the one-year option for a time extension will not exceed $175,000. All consultant work will be At Cost and passed through to the applicant consistent with Permit Sonoma's At Cost Policy. The agreement for contract services has no minimum amount of work guaranteed to the firm.

**Prior Board Actions:**

| | |
|---|---|
| **Strategic Plan Alignment** | Goal 1: Safe, Healthy, and Caring Community |

Timely and thorough processing of planning applications ensures that the entitlement process meets mandated timelines while providing high quality projects that comply with State environmental requirements. A thorough review of planning applications ensures that all potential project impacts have been identified and that the suitability of development projects can be accurately assessed with the safety and well-being of the community in mind.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | $80,000 | $80,000 | $15,000 |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **$80,000** | **$80,000** | **$15,000** |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | $80,000 | $80,000 | $15,000 |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$80,000** | **$80,000** | **$15,000** |

**Narrative Explanation of Fiscal Impacts:**

The estimated need for these services will not exceed $175,000 over the two-year term of the contract. While PRMD contracts for these services, they are reimbursed by the applicant at no cost to the County. Anticipated expenditure for FY 16-17 is $80,000; anticipated expenditure for FY 17-18 is $80,000; and anticipated expenditure for FY 18-19 is $15,000. There are adequate appropriations for this contract already included in the adopted budget for FY 16-17.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

None

**Attachments:**

None

**Related Items "On File" with the Clerk of the Board:**

Professional Services Agreement with exhibits for e360 LLC

# Standard Professional Services Agreement ("PSA")
**Revision G – June 2016**

AGREEMENT FOR PROFESSIONAL SERVICES

This agreement ("Agreement"), dated as of October 1, 2016 ("Effective Date") is by and between the County of Sonoma, a political subdivision of the State of California (hereinafter "County"), and e360 LLC (hereinafter "Consultant").

R E C I T A L S

WHEREAS, Consultant represents that it is a duly qualified firm, experienced in the preparation of planning support services and related services; and

WHEREAS, in the judgment of the Director of the Permit and Resource Management Department, it is necessary and desirable to employ the services of Consultant for planning support services.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

A G R E E M E N T

l. Scope of Services.

1.1 Consultant's Specified Services**.**

Consultant shall perform the services described in Exhibit "A," attached hereto and incorporated herein by this reference (hereinafter "Scope of Work"), and within the times or by the dates provided for in Exhibit "A" and pursuant to Article 7, Prosecution of Work. In the event of a conflict between the body of this Agreement and Exhibit "A", the provisions in the body of this Agreement shall control. Consultant shall comply with all requirements of Digital Deliverables as described in Exhibit "D," attached hereto and incorporated herein by this reference.

1.2 Cooperation With County. Consultant shall cooperate with County and County staff in the performance of all work hereunder.

1.3 Performance Standard. Consultant shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Consultant's profession. County has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant hereby agrees to provide all services under this Agreement in accordance with generally accepted professional practices and standards of care, as well as the requirements of

applicable federal, state and local laws, it being understood that acceptance of Contractor's work by County shall not operate as a waiver or release. If County determines that any of Consultant's work is not in accordance with such level of competency and standard of care, County, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with County to review the quality of the work and resolve matters of concern; (b) require Consultant to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 4; or (d) pursue any and all other remedies at law or in equity.

1.4 Assigned Personnel.

a. Consultant shall assign only competent personnel to perform work hereunder. In the event that at any time County, in its sole discretion, desires the removal of any person or persons assigned by Consultant to perform work hereunder, Consultant shall remove such person or persons immediately upon receiving written notice from County.

b. Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by County to be key personnel whose services were a material inducement to County to enter into this Agreement, and without whose services County would not have entered into this Agreement. Consultant shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of County. The requirements in Paragraph 4 of Exhibit C (Professional Liability/Errors and Omissions Insurance) apply only to MIG, Consultant's subcontractor, and not to Consultant. Consultant must get prior approval prior to changing subcontractors.

c. In the event that any of Consultant's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness or other factors outside of Consultant's control, Consultant shall be responsible for timely provision of adequately qualified replacements.

2. Payment. For all services and incidental costs required hereunder, Consultant shall be paid on an hourly rate basis in accordance with the rate schedule set forth in Exhibit B, provided, however, that total payments to Consultant shall not exceed $175,000,without the prior written approval of County. Travel expenses and other expenses not listed in Exhibit B are not reimbursable under the Agreement. Consultant shall submit its bills in arrears on a monthly basis in a form approved by County's Auditor and the Head of the County Department receiving the services. The bills shall show or include: (i) the task(s) performed; (ii) the time in quarter hours devoted to the task(s); and (iii) the hourly rate or rates of the persons performing the task(s). Expenses not expressly authorized by the Agreement shall not be reimbursed.

Unless otherwise noted in this Agreement, payments shall be made within the normal course of County business after presentation of an invoice in a form approved by the County for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by the County.

Pursuant to California Revenue and Taxation code (R&TC) Section 18662, the County shall withhold seven percent of the income paid to Consultant for services performed within the State of California under this agreement, for payment and reporting to the California Franchise Tax Board, if Consultant does not qualify as: (1) a corporation with its principal place of business in California, (2) an LLC or Partnership with a permanent place of business in California, (3) a corporation/LLC or Partnership qualified to do business in California by the Secretary of State, or (4) an individual with a permanent residence in the State of California.

If Consultant does not qualify, County requires that a completed and signed Form 587 be provided by the Consultant in order for payments to be made. If Consultant is qualified, then the County requires a completed Form 590. Forms 587 and 590 remain valid for the duration of the Agreement provided there is no material change in facts. By signing either form, the Consultant agrees to promptly notify the County of any changes in the facts. Forms should be sent to the County pursuant to Article 12. To reduce the amount withheld, Consultant has the option to provide County with either a full or partial waiver from the State of California.

3. Term of Agreement. The term of this Agreement shall be from October 1, 2016 to September 30, 2018 unless terminated earlier in accordance with the provisions of Article 4 below.

4. Termination.

4.1 Termination Without Cause. Notwithstanding any other provision of this Agreement, at any time and without cause, County shall have the right, in its sole discretion, to terminate this Agreement by giving 5 days written notice to Consultant.

4.2 Termination for Cause. Notwithstanding any other provision of this Agreement, should Consultant fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, County may immediately terminate this Agreement by giving Consultant written notice of such termination, stating the reason for termination.

4.3 Delivery of Work Product and Final Payment Upon Termination.
In the event of termination, Consultant, within 14 days following the date of termination, shall deliver to County all reports, original drawings, graphics, plans, studies, and other data or documents, in whatever form or format, assembled or prepared by Consultant or Consultant's subcontractors, consultants, and other agents in connection with this Agreement and shall submit to County an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

4.4 Payment Upon Termination. Upon termination of this Agreement by County, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total payment; provided, however, that, Consultant shall be entitled

to receive as full payment an amount equal to the number of hours or days actually worked prior to the termination times the applicable hourly or daily rate; and further provided, however, that if County terminates the Agreement for cause pursuant to Section 4.2, County shall deduct from such amount the amount of damage, if any, sustained by County by virtue of the breach of the Agreement by Consultant.

4.5 Authority to Terminate. The Board of Supervisors has the authority to terminate this Agreement on behalf of the County. In addition, the Purchasing Agent or Department Head, in consultation with County Counsel, shall have the authority to terminate this Agreement on behalf of the County.

5. Indemnification. Consultant agrees to accept all responsibility for loss or damage to any person or entity, including County, and to indemnify, hold harmless, and release County, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Consultant, that arise out of, pertain to, or relate to Consultant's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Consultant agrees to provide a complete defense for any claim or action brought against County based upon a claim relating to such Consultant's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Consultant's obligations under this Section apply whether or not there is concurrent or contributory negligence on County's part, but to the extent required by law, excluding liability due to County's conduct. County shall have the right to select its legal counsel at Consultant's expense, subject to Consultant's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Consultant or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

6. Insurance. With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit C, which is attached hereto and incorporated herein by this reference.

7. Prosecution of Work. The execution of this Agreement shall constitute Consultant's authority to proceed immediately with the performance of this Agreement. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for Consultant's performance of this Agreement shall be extended by a number of days equal to the number of days Consultant has been delayed.

8. Extra or Changed Work. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Minor changes, which do not increase the amount paid under the Agreement, and which do not significantly change the scope of work or significantly lengthen time schedules may be executed by the Department Head in a form approved by County Counsel. The Board of Supervisors/Purchasing Agent must authorize all other extra or changed work. The parties

expressly recognize that, pursuant to Sonoma County Code Section 1-11, County personnel are without authorization to order extra or changed work or waive Agreement requirements. Failure of Consultant to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Consultant shall be entitled to no compensation whatsoever for the performance of such work. Consultant further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of the County.

9. Representations of Consultant.

9.1 Standard of Care. County has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with generally accepted and applicable professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Consultant's work by County shall not operate as a waiver or release.

9.2 Status of Consultant. The parties intend that Consultant, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Consultant is not to be considered an agent or employee of County and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits County provides its employees. In the event County exercises its right to terminate this Agreement pursuant to Article 4, above, Consultant expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

9.3 No Suspension or Debarment. Consultant warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Consultant also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration. If the Consultant becomes debarred, consultant has the obligation to inform the County

9.4 Taxes. Consultant agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Consultant agrees to indemnify and hold County harmless from any liability which it may incur to the United States or to the State of California as a consequence of Consultant's failure to pay, when due, all such taxes and obligations. In case County is audited for compliance regarding any withholding or other applicable taxes, Consultant agrees to furnish County with proof of payment of taxes on these earnings.

9.5 Records Maintenance. Consultant shall keep and maintain full and complete documentation and accounting records concerning all services performed that are

compensable under this Agreement and shall make such documents and records available to County for inspection at any reasonable time. Consultant shall maintain such records for a period of four (4) years following completion of work hereunder.

9.6 Conflict of Interest. Consultant covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Consultant further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if requested to do so by County, Consultant shall complete and file and shall require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" with County disclosing Consultant's or such other person's financial interests.

9.7 Statutory Compliance/Living Wage Ordinance. Consultant agrees to comply, and to ensure compliance by its subconsultants or subcontractors, with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Consultant expressly acknowledges and agrees that this Agreement [is/may be] subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

9.8 Nondiscrimination. Without limiting any other provision hereunder, Consultant shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis, including without limitation, the County's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

9.9 AIDS Discrimination. Consultant agrees to comply with the provisions of Chapter 19, Article II, of the Sonoma County Code prohibiting discrimination in housing, employment, and services because of AIDS or HIV infection during the term of this Agreement and any extensions of the term.

9.10 Assignment of Rights. Consultant assigns to County all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Consultant in connection with this Agreement. Consultant agrees to take such actions as are necessary to protect the rights assigned to County in this Agreement, and to refrain from taking any action which would impair those rights. Consultant's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as County may direct, and refraining from disclosing any versions of the plans

and specifications to any third party without first obtaining written permission of County. Consultant shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of County.

9.11 Ownership and Disclosure of Work Product. All reports, original drawings, graphics, plans, studies, and other data or documents ("documents"), in whatever form or format, assembled or prepared by Consultant or Consultant's subcontractors, consultants, and other agents in connection with this Agreement shall be the property of County. County shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Consultant shall promptly deliver to County all such documents, which have not already been provided to County in such form or format, as County deems appropriate. Such documents shall be and will remain the property of County without restriction or limitation. Consultant may retain copies of the above- described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of County.

9.12 Authority. The undersigned hereby represents and warrants that he or she has authority to execute and deliver this Agreement on behalf of Consultant.

10. Demand for Assurance. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance. Nothing in this Article limits County's right to terminate this Agreement pursuant to Article 4.

11. Assignment and Delegation. Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

12. Method and Place of Giving Notice, Submitting Bills and Making Payments. All notices, bills, and payments shall be made in writing and shall be given by personal delivery or by U.S. Mail or courier service. Notices, bills, and payments shall be addressed as follows:

TO: COUNTY: PRMD
Attn: Accounting
2550 Ventura Avenue
Santa Rosa, CA 95403
707-565-1920

TO: CONSULTANT: Steve Messner
e360 LLC
17315 Keaton Avenue
Sonoma, CA 95476

When a notice, bill or payment is given by a generally recognized overnight courier service, the notice, bill or payment shall be deemed received on the next business day. When a copy of a notice, bill or payment is sent by facsimile or email, the notice, bill or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill or payment is promptly deposited in the U.S. mail and postmarked on the date of the facsimile or email (for a payment, on or before the due date), (2) the sender has a written confirmation of the facsimile transmission or email, and (3) the facsimile or email is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this paragraph.

13. Miscellaneous Provisions.

13.1 No Waiver of Breach. The waiver by County of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.

13.2 Construction. To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Consultant and County acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Consultant and County

acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

13.3 Consent. Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

13.4 No Third Party Beneficiaries. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

13.5 Applicable Law and Forum. This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or the forum nearest to the city of Santa Rosa, in the County of Sonoma.

13.6 Captions. The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

13.7 Merger. This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. Each Party acknowledges that, in entering into this Agreement, it has not relied on any representation or undertaking, whether oral or in writing, other than those which are expressly set forth in this Agreement. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

13.8. Survival of Terms. All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

13.9 Time of Essence. Time is and shall be of the essence of this Agreement and every provision hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CONSULTANT: _____

_____

By: _____

Name: _____

Title: _____

Date: _____

COUNTY: COUNTY OF SONOMA

CERTIFICATES OF INSURANCE ON FILE WITH AND APPROVED AS TO SUBSTANCE FOR COUNTY:

By:_____
Department Head

Date: _____

APPROVED AS TO FORM FOR COUNTY:

By: _____
County Counsel

Date: _____

**EXHIBIT A**

**SCOPE OF WORK**

At the request of Sonoma County Permit & Resource Management Department (PRMD) the Project Review Division will assign current planning project applications to the Consultant for processing. The Consultant will review the application and process it in accordance with PRMD Planning best practices, including:

- Receive planning application and critical information from Planning Management;
- Review and approve the project referral to be sent out to other PRMD divisions, County Departments, outside agencies, and community groups within one week of assignment;
- Prepare an At Cost processing estimate for the applicant consistent with the PRMD At Cost Policy;
- Determine project completeness for processing, and prepare and mail incomplete letter as required;
- Perform all necessary application processing functions throughout the project review process which include but are not limited to: communication with the PRMD staff, applicant, referral agencies, and community groups;
- Conduct project site reviews;
- Coordinate with other County/agency staff who provide project conditions of approval;
- Provide proactive solution-oriented advice and solutions to allow timely processing of applications;
- Analyze project consistency with the General Plan, Area Plan, Zoning Code, and compliance with all applicable regulations and PRMD policies;
- Prepare CEQA documents, public hearing notices, staff reports, resolutions, ordinances, Conditions of Approval and any other necessary documents in the standard County format;
- Attend public hearings; and
- Assist in project Condition Compliance.

.

**Exhibit B**

No other expenses are reimbursable under the Agreement.

**BILLING RATES**

| Labor Categories | Hourly Rate |
|---|---|
| Principal in Charge | $210 |
| Project Manager III | $185 |
| Project Manager II | $145 |
| Project Manager I | $125 |
| Project Associate | $90 |

e360°

| | |
|---|---|
| Principal (Messner) | $125 |
| Senior Air Quality specialist | $90 |
| Senior transportation planner | $90 |

**Exhibit** C

With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

County reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. **Workers Compensation and Employers Liability Insurance**
   - **a.** Required if Consultant has employees as defined by the Labor Code of the State of California.
   - **b.** Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
   - **c.** Employers Liability with minimum limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.
   - **d.** *Required Evidence of Insurance*: Certificate of Insurance.

   If Consultant currently has no employees as defined by the Labor Code of the State of California, Consultant agrees to obtain the above-specified Workers Compensation and Employers Liability insurance should employees be engaged during the term of this Agreement or any extensions of the term.

2. **General Liability Insurance**
   - **a.** Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
   - **b.** Minimum Limits: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Excess or Umbrella Liability Insurance. If Consultant maintains higher limits than the specified minimum limits, County requires and shall be entitled to coverage for the higher limits maintained by Consultant.
   - **c.** Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by County. Consultant is responsible for any deductible or self-insured retention and shall fund it upon County's written request, regardless of whether Consultant has a claim against the insurance or is named as a party in any action involving the County.
   - **d.** **County of Sonoma, its officers, agents and employees: Attn: PRMD 2550 Ventura Ave., Santa Rosa, CA 95403** shall be additional insureds for liability arising out of

operations by or on behalf of the Consultant in the performance of this Agreement.

**e.** The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.

**f.** The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in ISO form CG 00 01, or equivalent).

**g.** The policy shall cover inter-insured suits between the additional insureds and Consultant and include a "separation of insureds" or "severability" clause which treats each insured separately.

**h.** *Required Evidence of Insurance:*

**i.** Copy of the additional insured endorsement or policy language granting additional insured status; and

**ii.** Certificate of Insurance.

**3. Automobile Liability Insurance**

**a.** Minimum Limit: $1,000,000 combined single limit per accident. The required limits may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Umbrella Liability Insurance.

**b.** Insurance shall cover all owned autos. If Consultant currently owns no autos, Consultant agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.

**c.** Insurance shall cover hired and non-owned autos.

**d.** *Required Evidence of Insurance*: Certificate of Insurance.

**4. Professional Liability/Errors and Omissions Insurance**

**a.** Minimum Limit: $1,000,000 per claim or per occurrence.

**b.** Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by County.

**c.** If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.

**d.** Coverage applicable to the work performed under this Agreement shall be continued for two (2) years after completion of the work. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.

**e.** *Required Evidence of Insurance*: Certificate of Insurance.

**5. Standards for Insurance Companies**

Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

**6. Documentation**

**a.** The Certificate of Insurance must include the following reference:
**PRMD # 16/17-013 e360**.

**b.** All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Consultant agrees to maintain current Evidence of Insurance on file with County for the entire term of this Agreement and any additional periods if specified in Sections 1 – 4 above.

**c.** The name and address for Additional Insured endorsements and Certificates of Insurance is: **ATTN: Contracts PRMD 2550 Ventura Ave. Santa Rosa, CA 95403-2829**.

**d.** Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

**e.** Consultant shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.

**f.** Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

**7. Policy Obligations**

Consultant's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

**8. Material Breach**

If Consultant fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. County, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, County may purchase the required insurance, and without further notice to Consultant, County may deduct from sums due to Consultant any premium costs advanced by County for such insurance. These remedies shall be in addition to any other remedies available to County.

# Exhibit D
## *Digital Deliverables*

## A. Required Software for text deliverables to be edited, updated or otherwise modified by PRMD Staff.

1. Word Processing files shall be created and provided to PRMD in Microsoft Word 2003 format. Word processing files shall be formatted to comply with Accessibility requirements and to readily convert to Adobe Acrobat (PDF) files. Tables in the document must be created in native word processing program not scanned, copied or otherwise embedded in the document.
2. Spreadsheet files shall be created in and provided to PRMD in Excel 2003 or .dbf format.
3. Photos or any other bitmap files shall be provided in JPEG (.jpg) format. High resolution photos must be reduced to less than one megabyte in size before insertion into a document. Scanned images must not be embedded in the document.
4. The preferred format for vector graphics are CorelDraw (.cdr) or Adobe Illustrator (.ai). Windows Metafile format (.wmf) will also be accepted. Vector graphics shall not be scanned and embedded into a document.
5. Database deliverables shall be in Microsoft Access 2007 format.

*Any questions regarding acceptable file types shall be resolved **prior** to submittal of the final document(s).*

## B. Required Software for geographic data to be edited, updated or otherwise modified by PRMD staff.

*All GIS feature class datasets developed by a consultant and utilized in a project that has a GIS component **must include**:*

1. Development of Geographic data shall be created using Esri (Environmental Sciences Research Institute) software products. This includes ArcGIS 9.3 Desktop or later version.
2. Accepted GIS data formats are feature classes (shapefiles) or File Geodatabase (FGDB).
3. GIS Dataset Projections / Coordinate System **MUST** be in:
    a. Lambert_Conformal_Conic
    b. GCS_North_American_1983
    c. Datum: D_North_American_1983
    d. State Plane Coordinates California Zone II (Feet)

***Note:*** *Adobe Illustrator, Quark Express and/or other drawing programs **do not** support coordinate systems and therefore, do not constitute GIS format.*

4. Accepted related-supported databases shall be in Microsoft Access 2007 format.
5. GIS Feature Class datasets (shapefiles) or File Geodatabase (FGDB) deliverables **MUST** include metadata compliant with the FGDC Standard. *Examples of these requirements are available from PRMD upon request.*
6. GIS Dataset and Maps Disclaimers

*Draft products* shall carry the following disclaimer:
"This work prepared utilizing the best data available at the time (with the date indicated in mm/dd/yyyy format) and is intended for internal use only." **[refer to Note below]*

General map shall carry the following disclaimer:
"Map Scale and Reproduction methods limit precision in physical features displayed. This map is for illustrative purposes only, and is not suitable for parcel-specific decision making."

"No part of this map may be copied, reproduced, or transmitted in any form or by any means without written permission from the Permit & Resource Management Department (PRMD), County of Sonoma, California."

"Neither the County of Sonoma, and the Permit & Resource Management Department (PRMD) nor any of their employees make any warranty, express or implied, or assumes any legal liability for responsibility for accuracy, completeness, nor usefulness of any data contained herein."

***Note:*** *Should parcel data be illustrated, include the follow to the general map disclaimer:*
* "The parcels contained herein are not intended to represent surveyed data. Site-specific studies are required to draw parcel-specific conclusions. Assessor's parcel dataset current as of mm/dd/yyyy."

7. GIS Dataset Source Citations
   GIS dataset sources must be cited on map displays and in metadata. Source citations shall begin with words such as "From," "Modified from," "Adapted from," or "After." The full citation shall be placed directly beneath the reproduced graphical material, starting with its left-hand margin. Begin the citation with "Source," followed by a complete citation in a style similar to the example below:

   *Source: Modified from data obtained with permission from the County of Sonoma, Permit & Resource Management Department (PRMD). Data and/or analysis depicted may be altered from the original PRMD dataset source therefore not representative of PRMD data.*

   ***Note:*** *If source GIS datasets have been altered from its original state, the citation must alert the user as in the above example.*

## C. Required Software for text deliverables that are not intended to be edited, updated or otherwise modified by PRMD staff.

1. The Consultant must deliver a complete copy of the document in Adobe Acrobat Portable Document Format (PDF). This shall be the same document that will be used to publish the hard copy document. Each section must start on its own right hand page.
2. Adobe Acrobat (PDF) documents intended for posting on the Web must be formatted to be accessible to persons with disabilities. See Section D. of this Addendum, below, for requirements.

3. Tables in the document must be created in native word processing program not scanned, copied or otherwise embedded in the document.
4. Photos or any other bitmap files shall be provided in JPEG (.jpg) format. High resolution photos must be reduced to less than one megabyte in size before insertion into the document.
5. Images, tables, text and graphics shall not be scanned and embedded in the document.
6. Acrobat PDF documents must pass the full accessibility check in Adobe Acrobat.

## D. Requirements and Guidelines for Consultants Creating Web-Ready and ADA Accessible PDF Documents

1. Requirements: Documents created by consultants and other non-PRMD personnel that will be posted on the Internet must be accessible to persons with disabilities as defined by California Government Code section 11135 and the Federal Rehabilitation Act (Section 508). Documents intended for public review must be accessible and web-ready unless specifically stated otherwise in applicable contract documents. Sonoma County makes extensive use of Adobe Acrobat as a platform from distributing content on the Internet. Acrobat PDF documents must be prepared to work with assistive technologies before they can be accepted by the County and posted to a website. It is the consultant's responsibility to make documents intended for public review web-ready. Note that if a contract requires Internet content other than PDF files, the guidelines below do not apply but the generated content must still be accessible to persons with disabilities. Please consult the following website: http://webstandards.sonoma-county.org/.

2. General Guidelines: Making a PDF file accessible to a screen reader depends in large part on how the original document was created and the method used to create the PDF. If the document is well structured when created, the task is fairly simple and doesn't take much time. Adobe Acrobat Professional includes tools that will help with this task.

   Check this link for helpful guides.
   http://www.adobe.com/accessibility/products/acrobat/training.html

   **Start with a Correctly Formatted Document**
   Regardless of the program used, there are ways to format the document that will make adding accessibility features easier. Some of these techniques are good word processing practices for all documents.

   **Use Styles**
   When you have headings and subheadings in a document, using the "styles" feature will make formatting those headings quicker, easier and more consistent. Also, if you want to change how the headings or subheadings look, you can change all of them at once. When converted to PDF from most programs, these headings automatically become bookmarks. Styles are located under the format menu in most programs. Consult the program's "Help" menu for instruction.

   **Use Standard Fonts**
   Standard fonts that are available on all systems should be used. Stick to the basics; numbers and letters. Bullets, special characters or "wing dings" must not be used. Use numbered lists

instead of bullets or other characters. Underlined text gives the illusion of a web link and should be replaced with bold or a font size change instead. Do not use graphic Fonts such as dots, dashes, asterisks. If special characters must be in the content of your document, you must use a Unicode font.

**Color Contrast**
Ensure sufficient color contrast between any text and background. The minimum color contrast ratio should be 4.5:1 for most text; 3:1 for large text. But a color contrast ratio of 7:1 is ideal. For example, black text on a white background meets the color contrast requirement.

**Avoid Recycled Text**
Text that is copied from the Internet or converted back and forth among different programs can cause problems in making a document accessible. If you must paste text into a new document, use the Paste Special > Unformatted Text command.
Never scan text and insert or copy it into a document. Options for using scanned text are covered later in this document.

**Avoid the use of large images and scans**
High resolution photos increase file size and download time and are not necessary for most reports. Any scanned materials are images and as such are not accessible. Text or tables should be created in the native program, not scanned and inserted.

**Format Tables Correctly**
Making tables accessible in a PDF file is challenging so it is best to create data tables using the table function in Word or other programs. Best results will be obtained by creating the table in the document rather than copy/paste from other sources. Simple tables will convert more easily than complex ones. The table title should be separate from the table as a text element.

**Graphical Element Resizing**
When a graphical element is inserted into the document, its dimensions can be resized smaller in the document, but cannot be resized larger in the document. Taking a smaller image and resizing it larger will cause distortion and “pixilation” of the image.

**Avoid Conveying Information Solely Via Graphical Elements**
Effort should be made to convey all information within the text of the document. Graphical elements (including photos, drawings, charts, graphs) should be used IN ADDITION to text, not lieu of text.

3. Deliverables

The Consultant must deliver a complete copy of the document in Acrobat PDF format that passes the accessibility check in Acrobat. This should be the same document that will be used to publish the hard copy document. Each section must start on its own right hand page.

4. Creating the PDF File

Use the PDF conversion menu item in the program to create the PDF. Refer to the help menu of the version of Adobe Acrobat you are using as menu options may be slightly different across versions. If the document has been structured properly many of these elements may already have been created during the conversion process.

**Add Description**
Open the Acrobat file and go to File > Properties (Ctrl-D), click the Description tab and enter information into the following boxes;
Title: Add a description of the document in this field. For example; "Roblar Road Environmental Impact Report - Sonoma County 05-15-2008"
Author: Sonoma County Permit and Resource Management Department (707) 565-1900
Subject: Copy/paste the information you placed in the Title to this field.

**Add Language**
Language - On the Advanced tab in the Document Properties select "English" in the Language drop down box. Click OK.

**Add accessibility tags**
Some programs, such as Microsoft Word, will create tags automatically if the PDF conversion settings are configured properly. If tags are not created in the conversion, use Tools > Accessibility > Add Tags to Document menu option to tag the document.

**TouchUp Reading Order**
The TouchUp Reading Order tool allows you to view the tags and review how a screen reader will interpret the page. This section is not intended to be an exhaustive exploration of the issues that may arise at this stage. See http://www.adobe.com/accessibility/index.html for more in depth information. Access the function by selecting Tools > Accessibility > TouchUp Reading Order. Click on the tag to select the text that you don't want repeated on every page like logos, footer information and any other elements are repetitive. Clicking the "Background" button while a tag is selected will remove the tag and cause the screen reader to skip the element. Review the order of the tagged elements. This is the order in which the page will be read. You can change the order by clicking the "Show Order Panel" on the TouchUp Reading order window. Elements can be moved in the Show Order Panel by clicking and dragging.

**Accessibility Statement**
Choose the TouchUp Reading Order Tool and go to the first page of the document. Select an area of whitespace with the crosshairs and tag it as a Figure. Make sure the newly tagged Figure is the first item in the reading order. You can change the order by clicking the "Show Order Panel" on the TouchUp Reading order window. Elements can be moved in the Show Order Panel by clicking and dragging. Right click on the number of the figure. Then choose Edit Alternate Text. Enter the following accessibility statement: For accessibility assistance with this document, please contact the Sonoma County Permit and Resource Management Department at (707) 565-1900.

**Graphic Elements**
Add alternate (alt) text for graphic elements (including photos, drawings, charts, graphs). Choose the TouchUp Reading Order Tool and right click on the number of the figure. Then choose Edit Alternate Text. Enter a text description of the image and choose OK. Alt text should be as meaningful as possible when being read by a screen reader. If the figure is too complex for explanation with alt text then add a contact for assistance, for example "Budget Allocation chart. For accessibility assistance with this figure, please contact the Sonoma County Permit and Resource Management Department at (707) 565-1900." If the same information in the Figure is already contained within the text of the document, then no contact information is needed. For example, the alt text can be: Budget Allocation chart

**Set Correct Version**
The version of the PDF must be compatible with most existing Acrobat versions. Use the Advanced > PDF Optimizer menu item and select Acrobat 5.0 from the "Make compatible with" dropdown.

**Accessibility Full Check**
The PDF must pass the full accessibility check in Adobe Acrobat. To verify accessibility, follow Tools > Accessibility > Full Check > Start Checking. Should errors be present and/or persist, follow the Accessibility Report which provides a detailed listing of identified errors and suggested remedy per error.

For additional instructions on making Acrobat PDFs accessible, please visit:
http://webstandards.sonoma-county.org/content.aspx?sid=1014&id=1123

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 39**
(This Section for use by Clerk of the Board Only.)

Board of Supervisors

| December 13, 2016 | Majority |
|---|---|

Permit Sonoma

| Traci Tesconi 565-1903 | Fourth |
|---|---|

Land Conservation Act Contract Replacement; Douglas Rafanelli, AGP14-0186

Adopt a Resolution to mutually rescind and replace an existing Non-Prime (Type II) Land Conservation Contract with an Open Space Land Conservation Act contract on 40.10 acres as a Condition of Approval for Lot Line Adjustment LLA11-0046, located at 3560 Wine Creek Road, Healdsburg, APN 090-130-024.

Sonoma County's Land Conservation Act program has four contract-types available: a) Prime contracts for permanent crops with a 10 acre minimum parcel size requirement; b) Non-Prime contracts for grazing, seasonal crops, and hay production with a 40 acre minimum; c) Open Space contracts with a 40-acre minimum, and d) Hybrid contracts with a mix of agriculture and open space with a 40-acre minimum. This action is to replace a Non-Prime Land Conservation Contract with an Open Space contract to correspond with the parcel's change from an agricultural use to a non-agricultural, open space use.

Background:

On February 12, 2013, the Board of Supervisors approved a Lot Line Adjustment (LLA11-0046) between two parcels, 35.45 acres (Lot A) and 41.9 acres (Lot B), resulting in two parcels 37.2 acres (Lot A) and 40.1 acres (Lot B) in size. Because both parcels were under Land Conservation Act contracts, the Lot Line Adjustment had to be approved by the Board under Section 51257 of the Government Code. Under the Lot Line Adjustment approval of LLA11-0046 by the Board, it was explained that Lot B was proposed to be placed under a non-prime, open space contract where no income is required.

The purpose of the Lot Line Adjustment was to satisfy a Court Settlement Agreement filed on December 12, 2011, whereby 1.80 acres of Lot B (Doug Rafanelli) was to be transferred to Lot A (A. Rafanelli

Winery). Several years ago vineyard was planted on the 1.8 acres because at the time it was thought to be part of the existing commercial vineyard and winery operation.

On November 24, 2014, the Board of Supervisors approved execution of the Covenant and Restriction document, whereby the property owner agrees that no new occupied structures shall be allowed on the subject parcel unless and until a suitable sewage disposal system has been demonstrated. On December 1, 2014, the Covenant and Restriction was recorded on the property under Official Record No. 2014-085246. The Grant Deed of the Lot Line Adjustment was recorded on January 12, 2015, under Official Record No. 2015-002167.

Project Description, Location, and Zoning:

The property owners seek approval of a replacement Land Conservation Contract to satisfy a Condition of Approval for the previously approved and recorded Lot Line Adjustment (LLA11-0046). The 40.1 acres is covered with 35.10 acres of woodland forest with a variety of trees such as: Oak, Madrone, Manzanita, and Pine, along with 3.50 acres of existing vineyard, and 1.50 acres of undesignated area. The parcel is not developed with a residence or other land uses. The parcel's topography consists of steep, rugged terrain, with gently sloping areas. The request is to place the parcel under an Open Space contract. The parcel is zoned Resources and Rural Development with a 40 acre density, with two overlay zoning districts of Riparian Corridor (RC) and Scenic Resource (SR).

The property has been under a non-prime contract (Type II) since 1972 (2-479-72; 2607/575).

Uniform Rules:
Land restricted by a Land Conservation Act contract must be devoted to an agricultural or open space use (Rule 4.2 B). "Devoted to Agricultural or Open Space Use" means agricultural or open space land is used or maintained in compliance with the requirements of Section 4.2.B of the Uniform Rules. Under that rule, land shall be deemed devoted when a minimum of 50 percent of the land is used for agricultural or open space uses.

The County has implemented use of a Land Conservation Plan which is attached to and incorporated into a Land Conservation Act Contract. The Land Conservation Plan shows locations of various open space and compatible land uses on contracted land. Future changes to the Land Conservation Plan may be approved by the Director of the Permit and Resource Management Department (PRMD) and recorded on title of the subject parcel.

Land Conservation Act – Contract for Open Space Protection and Preservation:
The Land Conservation Act allows for land to be placed under an Open Space Contract if the land will be devoted to an open space use, as defined in Government Code Section 51201 (o); "Open-space use" *means the use or maintenance of land in a manner that preserves its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide habitat for wildlife*…"

Government Code Section 51201 (j) states: *A "wildlife habitat area" is a land or water area designated by a board or council, after consulting with and considering the recommendation of the Department of Fish and Game, as an area of importance for the protection or enhancement of the wildlife resources of the state*.

Additionally, under the County's Uniform Rules (Rule 2.1) "wildlife habitat area" shall include any land under the designated in the General Plan as a biotic habitat area or riparian corridor. The parcel is designated Riparian Corridor (RC).

In April 2014, Daniel Edelstein, Consulting Biologist, provided a report describing the site characteristics. The State Department of Fish and Wildlife reviewed the property, but was unwilling to provide a letter of support for the replacement contract because of the opinion that the parcel is too small and surrounded by vineyards to be a wildlife habitat area. Although support of the Open Space contract by Fish and Wildlife is preferred, under the State Land Conservation Act and the local Uniform Rules, it is not required.

The Board of Supervisors has authority to approve a Land Conservation contract where contract requirements have been met. Here, approximately 35.10 acres of the 40.1 acre project site is covered in woodland forest and 3.5 acres planted in vineyard. A seasonal stream flows northeast through the project site that eventually merges into Mill Creek and flows to Dry Creek. The seasonal stream is designated as a blue-line creek and with the Riparian Corridor (RC) streamside conservation area. Both the woodland forest and the seasonal stream provide habitat and a water source for nesting birds and other migratory animals. The stream also provides a wildlife corridor connecting the property to larger habitat areas despite the presence of neighboring vineyard. The parcel is undeveloped and designated as both a Riparian Corridor (RC) and a Scenic Resource (SR) in the Open Space Element of the General Plan and Zoning Code.

The Legislature has found that preserving the maximum amount of a limited supply of agricultural and open space lands is of public benefit to assure adequate food supply, and to preserve the physical, social, aesthetic, and economic benefits of such lands to existing or pending urban development. (Gov. Code Section 51220.) The 40.1 acres does provide an open space value consistent with the scenic resource overlay zone. The 40.1 acre parcel meets the 40-acre minimal parcel size requirement for an Open Space contract. The property is surrounded by properties that may be characterized as both open space woodland areas and prime agriculture land with vineyards. The parcel is comprised of natural areas characterized as open space and such areas have value to the community.

Staff Recommendation For Replacement Contract within an existing Agricultural Preserve:
Staff recommends the Board find the parcel is comprised of natural areas of open space and approve the requested replacement Land Conservation contract to open space use meeting the overall qualifications of the subject parcel for the replacement contract, as further described in the attached Resolution of approval. The parcel is already within a designated preserve area and located within the scenic hillsides of the Dry Creek Valley. Further, staff recommends the Board of Supervisors approve the request because all of the state and local requirements for an Open Space Contract for the 40.1 acre parcel within the existing Agricultural Preserve have been met. The parcel is devoted to an Open Space use, is currently undeveloped with any structures, and the land is maintained in a manner that preserves its natural characteristics, beauty, or openness to provide habitat for wildlife.

Alternative:

In the alternative, the Board may find that continued placement of the property under its Land Conservation Act contract is not consistent with the Act because the Department of Fish and Wildlife was unwilling to provide a letter of recommendation. Under this alternative, the Board would direct PRMD staff to initiate non-renewal and phase out of the property of its existing contract. During the nine year phase-out, PRMD would not be able to issue permits on the property since it currently does not have 50% of the parcel in an agricultural use, and was not approved with a new Open Space contract. If the Board decided on this alternative action, staff asks for direction to return to your Board with a revised resolution.

**Prior Board Actions:**

On November 24, 2014, the Board of Supervisors approved the execution of the Covenant and Restriction on the subject parcel in lieu of demonstrating a suitable sewage disposal system found in substantial conformance with the Conditions of Approval for the previously approved Lot Line Adjustment (LLA11-0046).

On February 26, 2013, the Board of Supervisors approved the Lot Line Adjustment (LLA11-0046) between two parcels under separate Land Conservation contracts (Williamson Act contracts).

**Strategic Plan Alignment** Goal 2: Economic and Environmental Stewardship

Land Conservation Act Contracts support agriculture and agribusiness by assisting in the preservation of agricultural land through the incentive of reduced property taxes in exchange for retaining the land in agricultural production.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

The replacement contract change would not change the currently restricted assessed value, which is $78,675. The contract allows the property owner to pay a reduced property tax assessment based upon the value of the open space and agricultural uses rather than the land value under Proposition 13. This results in a reduction in the County's share of property tax revenue for each parcel under a Land Conservation Act Contract.

| | | | |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

Draft Board of Supervisors Resolution
Attachment A: Agricultural Preserve Application
Attachment B: Land Conservation Plan and Site Plan, dated December 2013
Attachment C: Aerial Site Plan with Riparian Corridor (RC) streamside conservation area
Attachment D: Letter from State Department of Fish and Wildlife, dated January 21, 2016
Attachment E: Biotic Assessment, prepared by Daniel Edelstein, Consulting Biologist, dated April 18, 2014

| |
|---|
| Attachment F: Assessor Parcel Map Page<br>Attachment G: Copy of Open Space Land Conservation Act contract |
| **Related Items "On File" with the Clerk of the Board:** |
| |

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

AGP14-0186 Traci Tesconi

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Approving The Request By Douglas Rafanelli To Rescind An Existing Non-prime (Type II) Land Conservation Act Contract And Replace It With An Open Space Land Conservation Act Contract And Authorize The Chair Of The Board To Execute The New Land Conservation Act Contract And Land Conservation Plan on 40.10 acres as a Condition of Approval for Lot Line Adjustment (LLA11-0046); Located At 3560 Wine Creek Road, Healdsburg; APN 090-130-024.**

**Whereas,** a request has been made by the property owner to authorize the Chair of the Board to rescind an existing Non-prime (Type II) Land Conservation Act Contract and replace it with an Open Space Land Conservation Act contract as a Condition of Approval for Lot Line Adjustment (LLA11-0046), for property located at 3560 Wine Creek Road, Healdsburg; APN 090-130-018; Supervisorial District No. 4; and

**Whereas,** on February 12, 2013, the Board of Supervisors approved a Lot Line Adjustment (LLA11-0046) between two parcels 35.45 acres (Lot A) and 41.9 acres (Lot B) resulting in two parcels 37.2 acres (Lot A) and 40.1 acres (Lot B) in size. Because both parcels were under Land Conservation Act contracts (Williamson Act contracts), the Lot Line Adjustment had to be approved by the Board under Section 51257 of the Government Code. Under the Lot Line Adjustment approval of LLA11-0046 by the Board, it was explained that this parcel is proposed to be placed under a non-prime, open space contract where no income is required.

**Whereas,** on November 24, 2014, the Board of Supervisors approved the execution of the Covenant and Restriction document required as a Condition of Approval for Lot Line Adjustment LLA11--0046, whereby the property owner agrees that no new occupied structures shall be allowed on the subject parcel unless and until a suitable sewage disposal system has been demonstrated. On December 1, 2014, the Covenant and Restriction was recorded on the property under Official Record No. 2014-085246.

**Whereas**, the Lot Line Adjustment Grant Deed was recorded on January 12, 2015 under Official Record No. 2015-002167.

**Whereas,** Sonoma County's Land Conservation Act program has four contract-types available: a) Prime contracts for crop agriculture with a 10 acre minimum parcel size requirement; b) Non-Prime contracts for grazing with a 40 acre minimum; c) Open Space contracts with a 40- acre minimum, and d) Hybrid contracts with a mix of agricultural and open space also with a 40-acre minimum. This action is to replace a Non-Prime Land Conservation Contract with an Open Space contract to correspond with the parcel's change from an agricultural use to a non-agricultural, open space use.

**Whereas,** the project site is 40.1 acres with approximately 35.10 acres covered in woodland forest and 3.5 acres planted in vineyard. A seasonal stream flows northeast through the project site that eventually merges into Mill Creek and flows to Dry Creek. The seasonal stream is a designated as a blue-line creek and with the Riparian Corridor (RC) streamside conservation area. Both the woodland forest and the seasonal stream provide habitat and a water source for nesting birds and other migratory animals. The project site is undeveloped and within a Riparian Corridor (RC) and Scenic Resource (SR) designations.

**Whereas**, in this case PRMD consulted with the Department of Fish and Wildlife, but that department was unwilling to provide a letter support for the replacement contract because it felt the parcel is too small and surrounded by vineyard property to provide support. Although support of the Open Space contract by Fish and Wildlife is preferred, it is not required under the State Land Conservation Act and the local Uniform Rules. The Board of Supervisors has authority to approve a Land Conservation contract where it finds all of the requirements for the contract have been met.

**Whereas,** The Legislature has found that preserving the maximum amount of a limited supply of agricultural and open space lands is of public benefit to assure adequate food supply, and to preserve the physical, social, esthetic and economic benefits of such lands to existing or pending urban development. (Gov. Code Section 51220.)

**Whereas,** The Land Conservation Act allows for land to be placed under an Open Space Contract if the land will be devoted to an open space use, as defined in Government Code Section 51201 (o); "Open-space use" means: *the use or maintenance of land in a manner that preserves its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide habitat for wildlife*…"

**Whereas**, The 40.1 acre property maintains an open space value with a small commercial vineyard of 3.5 acres considered a compatible use, and meets the 40-acre minimal parcel size requirement for an Open Space contract. The property is surrounded by properties that may be characterized as both open space woodland areas and prime agriculture land with vineyards. The parcel is comprised of natural areas characterized as open space and such areas have value to the community. The stream also provides a wildlife corridor connecting the property to larger habitat areas despite the presence of neighboring vineyard. The parcel is undeveloped and designated as both a Riparian Corridor (RC) and a Scenic Resource (SR) in the Open Space Element of the General Plan and Zoning Code. The parcel is already within a designated

preserve area and located within the scenic hillsides of the Dry Creek Valley.

**Whereas,** as part of the Board of Supervisors' December 2011 update of the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones ("Uniform Rules") the Board eliminated the distinction between Prime (Type I) and Non-Prime (Type II) Agricultural Preserves. This allows the County to enter into a Prime, Non-Prime, or Open Space contract in any established Preserve. The subject land at issue here is within an established Preserve (2-479).

**Now, Therefore, Be It Resolved** said Board finds that the above recitals are true and correct.

**Be It Further Resolved**, that the Board of Supervisors hereby grants the request by Douglas Rafanelli to mutually rescind and replace a Non-prime (Type II) Land Conservation Act contract with an Open Space Land Conservation Act contract on 40.1 within an existing Agricultural Preserve (2-479), and authorize the Chair of the Board to sign the new Open Space Land Conservation Contract for APN 090-130-024.

**Be It Further Resolved**, that the Clerk of the Board of Supervisors is hereby instructed to record this Resolution, along with the new Open Space Land Conservation Act Contract and Land Conservation Plan with the Office of the Sonoma County Recorder.

**Be It Further Resolved** that the Board of Supervisors finds that the project described in this Resolution is exempt from the requirements of the California Environmental Quality Act by virtue of Section 15317 Class 17 of Title 14 of the California Code of Regulations (CEQA Guidelines) in that the project is within an established Agricultural Preserve and is a replacement of a Land Conservation Act Contract.

Be It Further Resolved that the Board of Supervisors designates the Clerk of the Board as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

**Supervisors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

# Planning Application

**PJR-001**

AGP14-0186

File#: 6

**Type of Application:**

- ☐ Admin Cert. Compliance
- ☐ Ag./Timber Preserve/Contract
- ☐ Cert. of Compliance
- ☐ Cert. of Modification
- ☐ Coastal Permit
- ☐ Design Review Admin.
- ☐ Design Review Comm./Ind.
- ☐ Design Review Residential
- ☐ Design Review Signs
- ☐ General Plan Amendment
- ☐ Lot Line Adjustment
- ☐ Major Subdivision
- ☐ Minor Subdivision
- ☐ Mobile Home Zoning Permit
- ☐ Ordinance Interpretation
- ☐ Second Unit Permit
- ☐ Specific/Area Plan Amendment
- ☐ Use Permit
- ☐ Variance
- ☐ Zone Change
- ☒ Other: RESCIND & REPLACE WILLIAMSON ACT.

**Applicant (Contact Person):**

Name: DOUGLAS RAFANELLI

Mailing Address: 828 BROWN STREET

City/Town: HEALDSBURG State: CA Zip: 95448

Phone: 217-5134 Fax:

email:

X Signature: [signature] X Date: 3/27/14

**Owner, if other than Applicant:**

Name:

Mailing Address:

City/Town: State: Zip:

Phone: Fax:

email:

Signature: Date:

**Other Persons to be Notified:** (Specify: Other Owner(s), Agent, Lender, Architect, Engineer, Surveyor)

| Name | Name | Name |
|---|---|---|
| Mailing Address | Mailing Address | Mailing Address |
| City/Town State Zip | City/Town State Zip | City/Town State Zip |
| Title | Title | Title |
| Phone Fax | Phone Fax | Phone Fax |
| email | email | email |

**Project Information:**

Address(es): UNASSIGNED 3560 Wine Creek Road

City/Town: ~~HEALDSBURG~~ Geyserville

Assessor's Parcel Number(s): 090-130-018

Acreage: 40.1

Project Description: RESCIND AND REPLACE WILLIAMSON ACT TO CONFORM WITH LOT LINE ADJUSTMENT.
(Please attach additional sheet(s) if needed)

Site Served by Public Water? ☐ Yes ☒ No Site Served by Public Sewer? ☐ Yes ☒ No Number of new lots proposed: 0

---------- DO NOT WRITE BELOW THIS LINE - To Be Completed by PRMD Staff ----------

Planning Area: 3 Supervisonal District: 4 Current Zoning: RRD B6 40, SR General Plan Land Use: RR.D 40

Specific Plan: n/a S.P. Land Use: n/a Needs CEQA Review? ☐ yes ☒ no

Commercial/Industrial Uses: (Enter numbers where applicable)

Bldg. sq. ft. Existing: — Proposed: — Existing Employees: — New Employees: —

New Manufactured Homes: — New Units For Sale: — New Units For Rent: — Density Bonus Units: —

Violation? ☐ yes ☒ no; Application resolve planning violation? ☐ yes ☐ no; Penalty applicable? ☐ yes ☐ no; Civil Penalty Factor —

Previous Files: LLA11-0046

Application accepted by: [signature] Date: 4-30-2014

**Sonoma County Permit and Resource Management Department**

2550 Ventura Avenue ❖ Santa Rosa, CA ❖ 95403-2829 ❖ (707) 565-1900 ❖ Fax (707) 565-1103

Carrie Muller S:\handouts\PJR\PJR-001 Planning Application.WPD 11/13/09

Attachment A

# Supplemental Application Information

Existing use of property: VINEYARD TREES

Acreage: 41.9

Existing structures on property: AS SHOWN ON SITE PLAN

Proximity to creeks, waterways and impoundment areas: _____

Vegetation on site: VINEYARDS AND TREES

General topography: SLOPING VINEYARD AND WOODLAND

Surrounding uses to (Note: An adjoining road is not a use.) North: VINEYARDS South: VINEYARDS - TREES East: VINEYARDS West: TREES

New structures proposed (size, height, type): -0-

Number of employees: Full time: _____ Part time: _____ Seasonal: _____

Operating days: _____ Hours of operation: _____

Number of vehicles per day: Passenger: _____ Trucks: _____

Water source: _____ Sewage disposal: _____

Provider, if applicable: _____ Provider, if applicable: _____

New noise sources (compressors, power tools, music, etc.): _____

Grading proposed: Amount of cut (cu. yds.): -0- Amount of fill (cu. yds.): -0- Will more than one acre be disturbed by construction of access roads, site preparation and clearing, fill or excavation, building removal, building construction, equipment staging and maintenance, or other activities? Yes ____ No ____ If Yes, indicate area of disturbance(acres): _____

Identify method of site drainage (sheet flow, storm drain, outflow to creek or ditch, detention area, etc.): _____

Vegetation to be removed: NONE

Will proposal require annexation to a district in order to obtain public services: Yes ____ No X

Are there currently any hazardous materials (chemicals, oils, gasoline, etc.) stored, used or processed on this site? Yes ____ No X

Will the use, storage, or processing of hazardous materials occur on this site in the future if this project is authorized? Yes ____ No X

Fire safety information (existing/proposed water tanks, hydrants, emergency access and turnaround, building materials, etc): _____

# Land Conservation Plan

**PJR-098**

**Purpose:** This Land Conservation Plan for a property in an Agricultural Preserve sets forth the agricultural, recreational, or open space uses on land subject to a Land Conservation Act (Williamson Act) contract. The Land Conservation Plan includes a general description of the commercial agricultural operation or open space use, along with other uses, that are being conducted or planned on the property. The information enables the County to determine ongoing compliance with the contract. When approved by the Board of Supervisors, this completed form with the attached Site Plan and any related documents constitutes an approved Land Conservation Plan. A summary of the plan will be attached to and recorded with the approved contract. Changes to a qualifying agricultural operation and/or open space use in terms of the type of uses or land areas involved may require an amendment to the Land Conservation Plan.

Property Owner's Name: DOUGLAS RAFANELLI

Mailing Address: 828 BROWN ST.

City/Town: HEALDSBURG

E-mail address (optional):

Site Address(es): UNASSIGNED

City/Town: HEALDSBURG

Assessor's Parcel Number(s): 090-130-018

Williamson Act Contract Number: 2-479-72 ; 2607/575

Prime ☐ Non Prime ☒

**SUMMARY OF USES:** Complete all that apply

| Type of Use | Current Acres | Total Acres 3 years | From Table |
|---|---|---|---|
| Permanent Crops and Cultivation | | | A |
| Grazing, Livestock and Horses | 3.5 | 5.0 | B & F |
| Open Space | | | C |
| Forestry/Timber | 36.6 | | D |
| Improvements & Buildings and other compatible uses | | | E |
| Fallow/Unusable/Undesignated | | | |

**Total Acres:** 40.1

Is the land leased? Yes ☐ No ☒

**Residential Uses:** Number of dwellings 0

| Address/Unit # | Occupied by: Owner | Operator | Ag Employee | Other |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

**Additional Information:**

**Table A**

**Permanent Crops and Cultivation**

| Parcel # 090-130-018 | Parcel Size Acres | Species/ Variety | Acres Planted | Date Planted | Type of Crop | Acres Projected Three years | Acres Projected Five years |
|---|---|---|---|---|---|---|---|
| | 42.0 | Grapes | 3.0 | 2000 | Wine Grapes | 3.0 | Same |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

1. Additional Information: Have cleared additional 15 Acres in 2001 in which I was planning in 2013 Have discussed compliance the date long

**Table B**
**GRAZING AND LIVESTOCK**

| Parcel # 090-130-018 | Total Acres 42.0 | Type of Livestock None | Acres of Grazing or Pasture None |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

NOTE: If raising horses, see Table F.

Additional Information:

**Table A**

**Permanent Crops and Cultivation**

| Parcel # | Parcel Size Acres | Type of Crop | Acres Planted | Date Planted | Total Acres Projected Three years | Acres Projected Five years |
|---|---|---|---|---|---|---|
| 090-130-018 | 40.1 | GRAPES | 3.5 | 2000 | 5.0 | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| Total (Carry over to Summary on Page 1) | 40.1 | | 3.5 | | | |

1. **Additional Information:**

**Table B**
**GRAZING AND LIVESTOCK**

| Parcel # | Total Acres | Type of Livestock | Number of Head | Acres of Grazing or Pasture |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

NOTE: If raising horses, see Table F.

**Additional Information:**

**Table C**
**OPEN SPACE**

| Parcel Number | Type of Open Space (check all that apply) | | | | | | | | Acres Devoted to Open Space |
|---|---|---|---|---|---|---|---|---|---|
| | Oak Woodland | Wetland | Forest | Grassland | Riparian | Submerged tidelands | Biotic habitat | Water Bodies | |
| 090-130-018 | 36.6 | | | | | | | | |

Biotic Habitat Values.

☐ Designated on Sonoma County General Plan Open Space Map
☒ If not designated Open Space, attach Biotic Assessment Report prepared by qualified professional

**REQUIRED ATTACHMENT**: Site Plan showing open space areas by type.

**Table D**
**FORESTRY/TIMBER**

| Parcel Number | Acres Existing | Total Acres Projected 3 yrs | Total Acres Projected 5 yrs | Type of Harvest Plan |
|---|---|---|---|---|
| | | | | |

**Additional Information:**

Table E

PROPERTY IMPROVEMENTS, BUILDINGS AND COMPATIBLE USES

(such as corrals, houses, shops, barns, coops, pump houses, farmstays, roadside stand, renewable energy, surface mining)

| Parcel # | Acres | Structures | Purpose | Ag Use | Compatible Use |
|---|---|---|---|---|---|
| | | | | ☐ | ☐ |
| | | | | ☐ | ☐ |
| | | | | ☐ | ☐ |
| | | | | ☐ | ☐ |
| | | | | ☐ | ☐ |
| | | | | ☐ | ☐ |

**REQUIRED ATTACHMENT:** Include Site Plan

**Additional Information:**

Table F

HORSES

| Parcel # | Total Acres | Number of Brood Mares | Total Number of Horses |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

**Additional Information:**

**REQUIRED ATTACHMENTS:**

- ☒ Site Plan
- ☐ PJR-065 Income Statement
- ☐ Biotic Assessment and Open Space Plan, if applicable
- ☒ Original Williamson Act contract (if this is a replacement contract)

I certify (or declare) under penalty of perjury under the laws of the state of California and the County of Sonoma that the foregoing and all information hereon, including any accompanying statement or documents, is true, correct and complete to the best of my knowledge and belief

Signature of Applicant(s) [signature] Date 12/6/13

Title _____

Signature of Applicant(s) _____ Date _____

Title _____

Property address _____

_____ _____

COUNTY USE ONLY.

APPROVED BY: _____ Date: _____
Name, Title

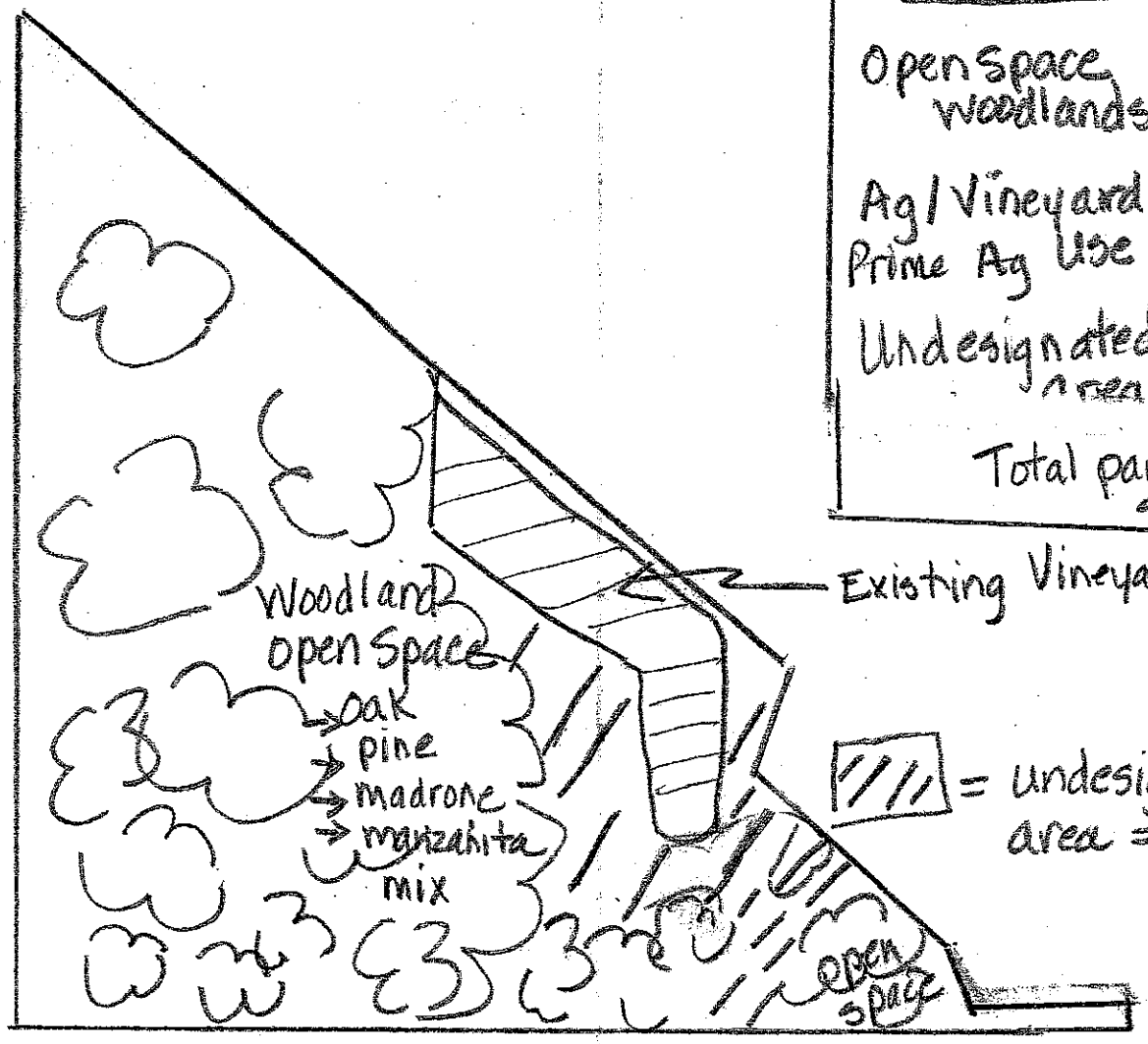
## Caculations

Open Space Woodlands = 35.10 ac+/-

Ag/Vineyard Prime Ag Use = 3.5 ac+/-

Undesignated area = 1.5 ac +/-

Total parcel size = 40.01 ac+/-




Undeveloped - No structures

AGP 14-0186

Douglas Rafanelli

Site Plan = For Land

APN 090-130-024

0 150 300 Feet

1:3,600

Black and White Aerials flown April 2000; Color Aerials flown Fall 2013. The 2013 imagery used a Ground Sample Distance (GSD) resulting in a 4-band (near infrared, red, green & blue), with 6 inch spatial resolution per pixel. The specified coordinate system for this dataset is California State Plane Zone II (FIPS 0402), NAD83 (2011), with units in US Survey Feet.

Map Scale and Reproduction methods limit precision in physical features displayed. This map is for illustrative purpose only, and is not suitable for parcel-specific decision making. The parcels contained here-in are not intended to represent surveyed data. Site-specific studies are required to draw parcel-specific conclusions. Note: Assessor's parcel data are current as of September 29, 2016.

*AGP14-0186*

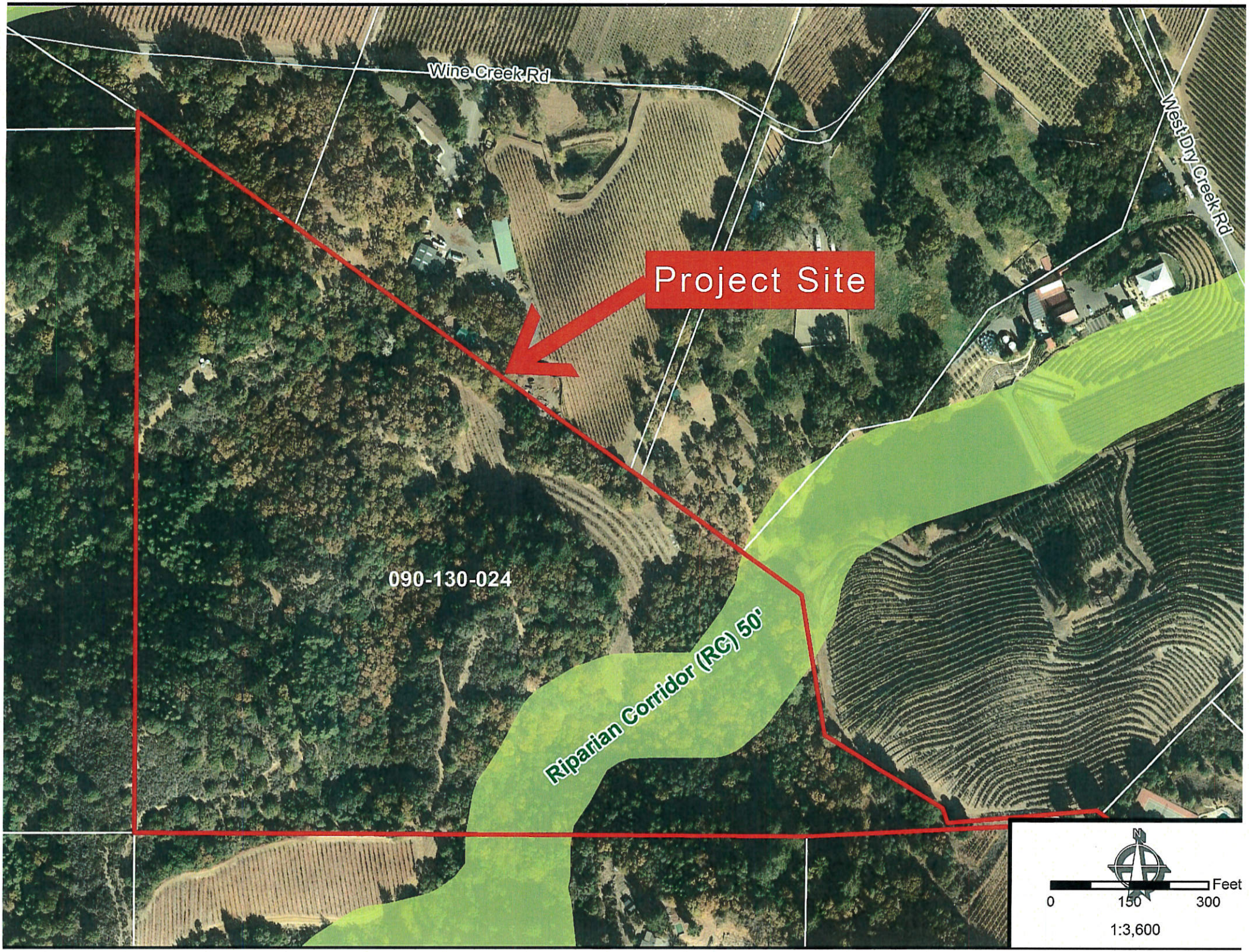
County of Sonoma

**Permit and Resource Management Department**

permit SONOMA

2550 Ventura Avenue, Santa Rosa, California 95403
707-565-1900 FAX 707-565-1103

Attachment C


Wine Creek Rd
West Dry Creek Rd
Project Site
090-130-024
Riparian Corridor (RC) 50'
N
Feet
0
150
300
1:3,600

## Cynthia Demidovich

**From:** Martinelli, Stacy@Wildlife [Stacy.Martinelli@wildlife.ca.gov]
**Sent:** January 21, 2016 4:46 PM
**To:** Cynthia Demidovich; Traci Tesconi
**Cc:** Jones, Conrad@Wildlife
**Subject:** Rafanelli Open Space Williamson Act

Cynthia, Traci,

Based on my review of the property's biological report and inspection of aerial photographs of the property, the property in my opinion is not considered a wildlife habitat area as defined as "an area of importance for the protection or enhancement of wildlife resources of the state" (per the Sonoma County Agricultural Preserves and Farmland Security Zones).

The property is small, and immediately surrounded by vineyards on 3 sides. No highly valuable wildlife habitat features were reported in the biological assessment. Based on this, CDFW will not be issuing a letter of support for Williamson Act Open Space designation for the Rafanelli property.

Stacy

Stacy Martinelli
Unit Wildlife Biologist
Wildlife and Lands Management Program
California Department of Fish and Wildlife
Bay-Delta Region
7329 Silverado Trail
Napa, CA 94558
stacy.martinelli@wildlife.ca.gov
707-944-5537

*Consulting Biologist For*
*The Environmental Consulting Field*

12 Kingfisher Court 415-382-1827 (Office & FAX)
Novato, CA 94949
danieledelstein@att.net www.warblerwatch.com

DANIEL EDELSTEIN, CONSULTING BIOLOGIST

April 18, 2014

Mr. John Cross & Mr. David M. Meeker
Friedemann Goldberg LLP
420 Aviation Blvd., #201
Santa Rosa, CA 95403

**Subject: Biotic Assessment For Parcel 090-130-018**
{As Condition For Rescinding And Replacing The Existing Williamson Act (WA) For Parcel 090-130-018 on Sonoma County Permit and Research Management Department web site[1]; site is 3.56 north-northwest of Healdsburg, Sonoma County, CA.}

**Introduction & Research Method For Biotic Assessment:**

Based on your invitation instructing me to conduct a Biotic Assessment (BA) in relation to the action of rescinding and replacing a parcel qualifying for the Williamson Act (Action) (i.e., transferring of 1.8 acres from parcel 090-130-018[2] to parcel 090-120-028), this Summary Report (Report) features the following BA elements as the method for my appraisal in relation to the 40.1-acre site (Site) that is owned by Douglas Rafanelli[3]:

1. Research of the Site via diverse online and print sources, as well as database searches (see #2-#7, below);
2. Research of the Site via United States Geological Survey (USGS) data and US Fish & Wildlife Service (USFWS) wildlife lists;
3. Research of the Site via local maps/information relating to the site;
4. Research of the Site via the Sonoma County Permit and Research Management Department web site[4];
5. Research of the Site's "Property Report" via the Sonoma County Permit and Research Management Department web site[5];
6. Research of potential special-status species likely to be present on the Site based on a query of the California Natural Diversity Database (CNDDB)[6]; and
7. Research via Google Earth map assessment of the Site.

As a Certified Wildlife Biologist (associate) retained to develop this BA, my assessment, below, assesses biological issues related to compliance with state, federal, and local codes, laws, and ordinances that may apply in relation to the proposed rescind and replacement Action.

---

[1] See: http://www.sonoma-county.org/prmd/gisdata/pdfs/wact.pdf
[2] See: http://www.sonoma-county.org/assessor_parcel_maps/bk090/09013.tif
[3] See: http://www.sonoma-county.org/prmd/gisdata/pdfs/wact.pdf

[4] Ibid.
[5] See: http://www.sonoma-county.org/prmd/docs/zoning/index.htm
[6] See: CNDDB query included the Geyserville 7.5 US Geological Survey quadrangle.

Below, I provide details related to my assessment based on the seven research steps I noted above.

Note the proposed Action would create a 40.1-acre Site that was formerly 41.9 acres as parcel 090-130-018.

**Environmental Setting:**

The nearest cross streets/roads to the Site are West Dry Creek Road, approximately 1,409 feet to the east; Lambert Bridge Road, approximately 1,634 feet east-southeast; and Wine Creek Road, approximately 696 feet to the north of the Site's northeastern-most border.

See Appendix A, Figure 1 through 3 to note the location of the Site, which is comprised of 36.6 acres of open space, including woodland/forest and 3.5 acres of crops/cultivated vineyards (i.e., 40.1 acres) dominated by several grape varieties.

The Site occurs in the Geyserville United States Geological Survey 7.5' quadrangle.

Parcels on all sides of the Site consist of similar natural and cultural elements, with vineyards a primary utilitarian feature in each, except for the parcel directly west that consists of woodland/forest.

Approximately 175 feet north-northeast of the Site's north-northeast border, a 1.99 acre pond (86,775 square-feet) occurs on a different parcel (APN #090-120-028). Water on the Site does not drain into it nor does the pond have an outlet that enters the Site.

South of the Site, another different parcel (APN #090-120-016) exists. An un-named, ephemeral, seasonal creek appears to originate from this parcel (APN #090-120-016) and flow seasonally northeast through the Site, extending through APN #090-120-028, and flow into Dry Creek that eventually merges with Mill Creek as both empty into the Russian River that flows into the Pacific Ocean.

Based on my research that accounts for normal precipitation patterns in the region, it is likely this ephemeral creek remains dry for the majority of the year, flowing only for portions of the rainy season (potentially October through April annually) and/or between and/or after rain events. It is also likely the un-named ephemeral stream does not annually occur on the Site because not enough rain events occur or has been buried by past agricultural activities within the majority of its historical route on the Site. Given this conclusion, this un-named stream likely would not qualify as a wetland according to the three parameters — soil type/composition, water presence/hydrologic flow, and vegetation composition — established by the U.S. Army Corps of Engineers (USACOE)[7].

**Research & Research Results For Biotic Assessment:**

[7] See: http://www.lrb.usace.army.mil/Portals/45/docs/regulatory/Wetlands/rw_bro.pdf

In relation to the seven research steps mentioned above, I conducted them from April 7 through April 13, 2014.

Based on the proposed Action and the absence of negative biological effects likely to result from it, I believe no significant negative biological impacts shall occur on the Site. This conclusion includes my belief that no negative impacts shall likely result from the proposed Action upon common or special-status species plant and wildlife species that may have potential for occurrence on the Site such as those contained within a *California Natural Diversity Database* (CNDDB)[8] database search that I conducted for the Site (Appendix B).

Likewise, the proposed Action will not create runoff from the Site and erosion that shall negatively impact any on site or adjacent water courses. As a result, I conclude the proposed Action will not create significant negative impacts in relation to wetland dynamics.

**Recommendations to Avoid Negative Impacts**

Given the information noted above, potential negative impacts resulting from the Action on the Site are minimal, yet one is advised to be noted: If earth-breaking, soil disturbing activities are scheduled to occur during the "rainy season" (potentially from October through April annually), then a qualified biologist should be present to inspect the area for the presence of ground-dwelling or surface dispersing amphibian species, including common ones such as the California Newt (*Taricha torosa*) and, less likely, a federally threatened California Tiger Salamander (*Ambystoma californiense*) (CTS) that could occur in the Site's vicinity. If such an inspection or if the presence of CTS is detected during earth-breaking activities, then the qualified biologist should consult with the U.S. Fish and Wildlife Service to establish suitable buffers and/or other actions that shall ensure no negative impacts are incurred by the California Newt (or other common amphibian species) and/or by CTS on the Site.

The established buffer zone should remain in effect until dry season returns, a period when CTS will likely be absent and not subject to impacts from ground-breaking activities.

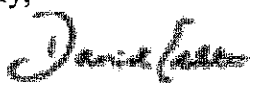
Note that the above recommendation is based on regulations contained within USFWS codes and regulations, which state that any activity that would cause take of either common or threatened/endangered species would be a federal violation.

[8] CNDDB query included the Geyserville 7.5 US Geological Survey quadrangle.

**Conclusion and Summary**

Given the above discussion, I do not expect significant negative impacts upon biological resources present on the Site nor do I believe any wetlands shall be negatively impacted by the proposed Action. Consequently, I believe you should be allowed to move forward with rescinding and replacing a parcel qualifying for the Williamson Act (i.e., transferring of 1.8 acres from parcel 090-130-018 to parcel 090-120-028).

Sincerely,



Daniel Edelstein
Certified Wildlife Biologist (associate)

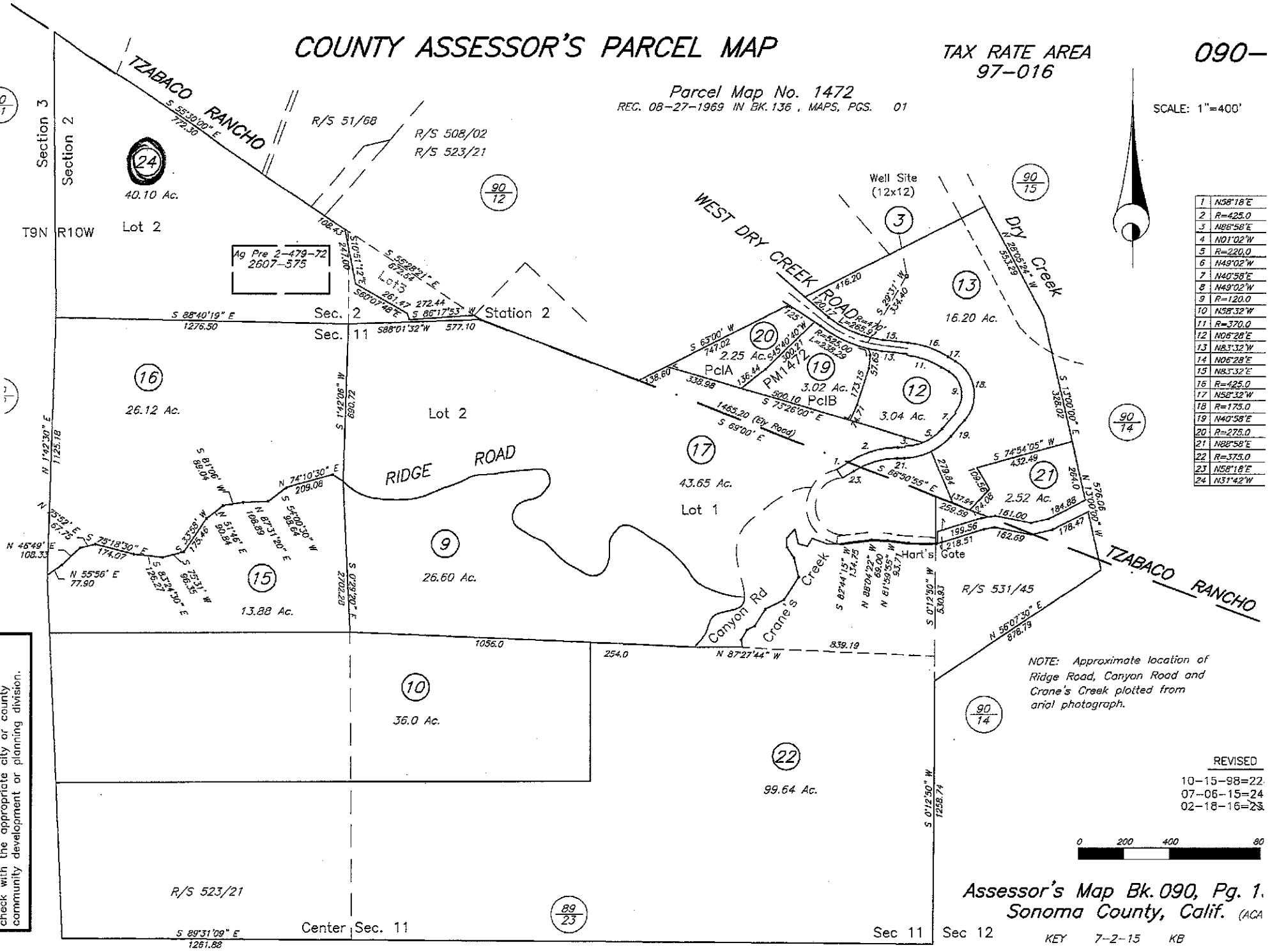
# COUNTY ASSESSOR'S PARCEL MAP

TAX RATE AREA 97-016

090-

Parcel Map No. 1472
REC. 08-27-1969 IN BK. 136, MAPS, PGS. 01

SCALE: 1"=400'




| | |
|---|---|
| 1 | N58°18'E |
| 2 | R=425.0 |
| 3 | N86°58'E |
| 4 | N01°02'W |
| 5 | R=220.0 |
| 6 | N49°02'W |
| 7 | N40°58'E |
| 8 | N49°02'W |
| 9 | R=120.0 |
| 10 | N58°32'W |
| 11 | R=370.0 |
| 12 | N06°28'E |
| 13 | N83°32'W |
| 14 | N06°28'E |
| 15 | N83°32'E |
| 16 | R=425.0 |
| 17 | N58°32'W |
| 18 | R=175.0 |
| 19 | N40°58'E |
| 20 | R=275.0 |
| 21 | N88°58'E |
| 22 | R=375.0 |
| 23 | N58°18'E |
| 24 | N31°42'W |

NOTE: Assessor's parcels do not necessarily constitute legal lots. To verify legal parcel status, check with the appropriate city or county community development or planning division.

Assessor's Map Bk. 090, Pg. 1.
Sonoma County, Calif. (ACA

KEY 7-2-15 KB

Attachment F

**Exempt from Recording Fees**
**Per Gov. Code § 27383**

RECORDING REQUESTED BY
AND RETURN TO:

CLERK OF THE BOARD
COUNTY OF SONOMA
575 ADMINISTRATION DRIVE
SANTA ROSA, CA 95403

## LAND CONSERVATION CONTRACT

This Contract is made by and between **Douglas A. Rafanelli, Trustee of the Douglas A. Rafanelli Trust dated November 19, 2009,** ("Owner(s)") and the County of Sonoma, a political subdivision of the State of California ("County"), and is dated for convenience as _____, 2015.

## RECITALS

Whereas County previously entered into a Land Conservation Contract with Owner(s) or Owner(s)' predecessors in interest, which recorded on **March 1, 1972**, and is identified by **Book Number 2607, Page 575**, in the Official Records of the Sonoma County Recorder, ("Original Contract"); and

Whereas Owner(s) own(s) certain real property ( "Subject Property") located within Sonoma County and presently identified by Assessor's Parcel Number(s): **090-130-024**, and more particularly described in the legal description attached to this Contract at Exhibit "A"; and,

Whereas Both Owner(s) and County desire to limit/continue to limit the use of the Subject Property to agricultural, open space, and compatible uses in order to discourage premature and unnecessary conversion of the Subject Property to uses incompatible with agricultural and/or open space use, including urban uses, recognizing that the Subject Property has substantial public value as agricultural or open space land and that the preservation of the Subject Property in agricultural production or open space constitutes an important physical, social, aesthetic, and economic asset to County and the State of California; and

## OPERATIVE PROVISIONS

Now, therefore, in consideration of the foregoing recitals and the mutual promises contained herein, the substantial public benefits to be derived therefrom, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner(s) and County agree as follows:

## A. RESCISSION OF ORIGINAL CONTRACT]

The Original Contract is hereby rescinded as of the date that this Contract takes effect as to the Subject Property. If this Contract does not become effective, then the Original Contract shall remain in full force and effect, as to the Subject Property.

## B. REPLACEMENT CONTRACT

1. PURPOSE. This Contract is entered into pursuant to the provisions of the California Land Conservation Act of 1965, Government Code section 51200 et seq. ("Act"), and is subject to all of the provisions of the Act as they may be amended from time to time.

2. SUBJECT PROPERTY.

(a) Owner(s) own(s) the Subject Property, located at **3560 Wine Creek Road, Healdsburg**, and more particularly described in the legal description attached to this Contract as Exhibit "A", and incorporated herein by reference.

(b) The Subject Property is located within established Agricultural Preserve **2-479**.

(c) The Subject Property is approximately **40.10** acres total and comprised of **one** legal parcel.

3. TERM. This Contract shall be effective commencing January 1, 2016, and shall remain in effect for a term of 10 years. This Contract shall be automatically renewed for a full term at the end of each year, unless a Notice of Non- renewal is recorded as provided in Government Code section 51245 and the County's Uniform Rules for Agricultural Preserves and Farmland Security Zones ("Uniform Rules"), adopted by County Board of Supervisor's Resolution No.11-0678 pursuant to Government Code section 51231, -- to the end that at all times during this Contract, there shall be a 10-year term of restriction unless a Notice of Non-renewal has been recorded.

4. REGULATORY COMPLIANCE & RESTRICTIONS ON USE. During the term of this Contract, and all renewals and extensions thereof, the Subject Property shall not be used for any purpose other than (1) "agricultural use," or "open space use," as those phrases are defined by the Act, and (2) any use determined by County to be a "compatible use" defined and enumerated in the Uniform Rules and shall at all times be in compliance with the Uniform Rules as they may be amended from time to time.

5. LAND CONSERVATION PLAN. The use of the Subject Property shall at all times conform to the Land Conservation Plan, attached to this Contract as Exhibit "B", and made a part of this Contract. If an amendment to the Land Conservation Plan is approved by County and recorded, the amended Land Conservation Plan shall be deemed automatically incorporated the Contract as though fully set forth herein without the need for a contract amendment, the renewal of the Contract.

6. UNIFORM RULES & FEES. Owner(s) and County agree that the Uniform Rules, as they now exist or as they may be amended from time to time, are incorporated by reference into this Contract as though set out in full and shall be a part of this Contract upon execution and each renewal of this Contract. Owner(s) agree(s) to comply with the Uniform Rules and agree(s) to pay all fees established by County's Board of Supervisors, if any, for the administration of County's agricultural preserve program, and for the processing of applications required by the Uniform Rules.

7. PLANNING AND ZONING. The provisions of this Contract are not intended to limit or supersede the planning and zoning powers of County.

8. CANCELLATION. This Contract may not be cancelled, except pursuant to Government Code sections 51280 through 51287, and the Uniform Rules.

9. RESCISSION. This Contract may not be rescinded, except pursuant to the provisions of the Act and the Uniform Rules, and upon the simultaneous replacement of this Contract with a replacement contract, open space easement, agricultural conservation easement, or other equivalent restriction as allowed by the Act and state law. County may require the rescission and simultaneous replacement of this Contract with a replacement contract as a condition of any proposed subdivision or lot line adjustment affecting the boundaries of the Subject Property.

10. EMINENT DOMAIN. If any action in eminent domain for the condemnation of any land described in this Contract is filed after the execution of this Contract, or if any portion of the Subject Property is acquired in lieu of condemnation, then the provisions of Government Code section 51295 apply.

11. SUCCESSORS IN INTEREST. This Contract, its terms and restrictions, shall run with the land described herein, and upon division, to all parcels created therefrom, and shall be binding upon and shall inure to the benefit of all heirs, successors, and assigns of Owner(s). This Contract shall be transferred from County to a succeeding city or a county acquiring jurisdiction over all or part of the Subject Property, except that a succeeding city may opt not to succeed to the rights, duties, and powers of the County under this Contract if the requirements of Government Code section 51243.5 are met.

12. CERTIFICATE OF COMPLIANCE PARCELS. Owner(s) agree(s) not to apply for or obtain recognition of Certificate of Compliance parcels for all or any portion of the Subject Property for the duration of this Contract, without first obtaining the approval of County's Board of Supervisors, as provided in the Uniform Rules, unless a Notice of Non-Renewal has been recorded for the Contract and there are no more than three years remaining on the Contract's term. County may require replacement contracts for recognized Certificate of Compliance parcels.

13. ENFORCEABLE RESTRICTION. Owner(s) and County intend that the terms, conditions, and restrictions of this Contract conform to the Act, as amended, and that this Contract qualify as an enforceable restriction under the provisions of Revenue and Taxation Code sections 421 through 429, inclusive, and within the meaning of California Constitution, article XIII, section 8.

14. REMEDIES FOR BREACH.

(a) This Contract may be enforced by County in an action filed in the Sonoma County Superior Court for the purpose of compelling compliance or restraining any breach or threatened breach thereof, after providing notice to Owner(s). The notice shall contain a general description of the condition claimed to by County to be a violation and shall contain a reasonable and specific cure period during which the violation is to cease and the Subject Property is to be restored to the condition that existed prior to the violation. Owner(s) agree(s) that County's remedies at law for any violation of the terms of this Contract are inadequate and that County shall be entitled to the injunctive relief described herein, both prohibitative and mandatory, in addition to such other relief, including damages, to which County may be entitled, including specific performance of the terms of this Contract, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies.

(b) A breach of this Contract that constitutes a violation of the Sonoma County Zoning Code may be enforced by County pursuant to Chapter 1 of the Sonoma County Code.

(c) Without altering the provisions of paragraph 8 (Cancellation), a breach of this Contract that constitutes material breach under Government Code section 51250 may be enforced by County or the State of California pursuant to Government Code section 51250, if the requirements of that Section are met.

(d) If Owner(s) breach(es) this Contract, Owner(s) shall pay County one-half percent (1/2 %) of the restricted assessed value of the land subject to this Contract per day for each day the Contract is in breach as liquidated damages. It is understood and agreed that damages for breach of this Contract by Owner(s) are, and will continue to be, impracticable and extremely difficult to ascertain and determine. Execution of this Contract shall constitute agreement by County and Owner(s) that one-half percent (1/2 %) of the restricted assessed value of the land is the actual damage to County and the general public caused by breach of this Contract by Owner(s), and that such sum is liquidated damages and shall not be construed as a penalty. No damages shall be recoverable if the Owner(s) remedies or has commenced and thereafter diligently pursues such action required to remedy any breach or material breach within sixty (60) days after the date written notice of said breach or material breach is sent to Owner(s) by County. This provision does not impair County's ability to enforce this Contract by injunction or specific performance.

(e) The remedies set forth in this paragraph 14 are not exclusive and are not intended to displace any other remedies available to either party as provided by this Contract or any applicable local, state or federal law.

15. NO WAIVER. Enforcement of the terms of this Contract shall be at the sole discretion of County, or where applicable the State of California, and any forbearance by County or State to exercise its rights under this Contract in the event of any violation or threatened violation by Owner(s) of any term of this Contract shall not be deemed or construed to be a waiver by County or State of such term or of any subsequent violation or threatened violation of the same or any other terms of this Contract. Any failure by County or State to act shall not be deemed a waiver or forfeiture of County's or State's right to enforce any and all of the terms of this Contract in the future.

16. CONSIDERATION. Owner(s) shall not receive any payment from County in consideration of the obligations imposed by this Contract. The parties recognize and agree that the consideration for the execution of this Contract is the substantial public benefit to be derived from this Contract and the advantage that will accrue to Owner(s) as a result of any reduction in the assessed value of the Subject Property due to the imposition of the limitations on the use of the Subject Property contained in this Contract.

17. NOTICE. Notices required to be given under this Contract, or as may otherwise be required by law in connection with the administration of this Contract, shall be made by personal service, or by first-class United States mail, to the parties as follows:

(a) To Owner(s) or successor(s) in interest of Owner(s), at the mailing address shown on the most recent assessment roll for the Subject Property; and

(b) To County, c/o the Clerk of the Board of Supervisors, 575 Administration Drive, Suite 100A, Santa Rosa, California 95403.

IN WITNESS WHEREOF, Owner(s) and County have executed this Contract as of the day and year set forth above.

ATTEST:

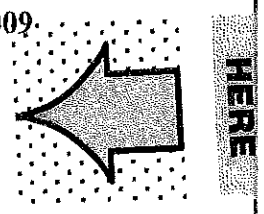
By: _____
Roxanne Epstein
Clerk of the Board of Supervisors

COUNTY OF SONOMA

By: _____
Susan Gorin
Chair, Board of Supervisors

OWNER(S):
**Douglas A. Rafanelli, Trustee of the Douglas A. Rafanelli Trust dated November 19, 2009**

By: _____
Douglas Rafanelli, Trustee




**NOTE: Acknowledgments must be attached.**

# ACKNOWLEDGMENT

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

State of California
County of _____)

On _____ before me, _____
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ **(Seal)**

**EXHIBIT "A"**

The real property which is the subject of this CONTRACT is situated within agricultural preserve **2-479**, as shown by map thereof recorded in preserve map book number **4**, page **70 (21-D)**, in the Office of the County Recorder of Sonoma County, California, and said real property is more particularly described as follows:

(See Attached Legal Description)

## LEGAL DESCRIPTION

Real property in the unincorporated area of the County of Sonoma, State of California, described as follows:

LOTS 2 AND 3 OF SECTION 2, TOWNSHIP 9 NORTH, RANGE 10 WEST, M.D.M., SAVING AND EXCEPTING THAT PORTION OF SAID LOT 3 LYING SOUTH OF A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT THE QUARTER CORNER COMMON TO SECTIONS 2 AND 11, TOWNSHIP 9 NORTH, RANGE 11 WEST, M.D.M, AND RUNNING THENCE IN A DIRECT LINE NORTHEASTERLY TO A POINT ON THE SOUTHWESTERLY LINE OF THE TZABACO RANCHO, ENTITLED "STATION NO. 2", AS SHOWN UPON THE MAP OF SAID RANCHO, FILED FOR RECORD IN THE OFFICE OF THE COUNTY RECORDER, SONOMA COUNTY RECORDS, AND THE TERMINUS OF SAID LINE.

EXCEPTING THEREFROM A PORTION OF LAND DESCRIBED IN GRANT DEED RECORDED JANUARY 12, 2015, INSTRUMENT NO. 2015-2167 (PURSUANT TO LLA N011-0046); MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A PORTION OF THE LANDS OF DOUGLAS A. RAFANELLI AS DESCRIBED IN THAT GRANT DEED RECORDED AS DOCUMENT NO. 1993-0129160 OF OFFICIAL RECORDS, SONOMA COUNTY RECORDS, SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST SOUTHERLY CORNER OF THAT 16.76 ACRE PARCEL OF THE V. L. ALLEN ESTATE AS SHOWN ON THE RECORD OF SURVEY FILED IN BOOK 51 OF MAPS, PAGE 68, SONOMA COUNTY RECORDS AS REFERENCED IN THE ABOVE REFERENCED GRANT DEED FROM WHICH A FOUND 1/2" IRON PIPE BEARS N40° 48E, 660.00 FEET (N40° 45'E DEED) AND ALSO FROM WHICH A FOUND 2" IRON PIPE WITH BRASS CAP STAMPED "T9N S-2 R10W, STA 2 TZABACO RANCHO, 1964, LS 3193" AS SHOWN ON THAT RECORD OF SURVEY FILED IN BOOK 523 OF MAPS, PAGE 21 AND THAT RECORD OF SURVEY FILED IN BOOK 508 OF MAPS, PAGE 2, BOTH SONOMA COUNTY RECORDS BEARS S55°28'21"E, 815.27 FEET; THENCE ALONG THE COMMON LINE BETWEEN THE ABOVE REFERENCED LANDS OF RAFANELLI AND THE LANDS OF A. RAFANELLI WINERY AND VINEYARDS, LP AS DESCRIBED IN THAT GRANT DEED RECORDED AS DOCUMENT NO. 2004-192587 OF OFFICIAL RECORDS, SONOMA COUNTY RECORDS S55°28'21"E, 108.43 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE ALONG AN EXISTING VINEYARD FENCE THE FOLLOWING COURSES: S10°51'12"E, 247.00 FEET TO A BLACK OAK TREE 24" IN DIAMETER; THENCE S60°07'48"E, 261.47 FEET TO AN EXISTING GATE POST; THENCE S19°01'13"E, 27.48 FEET TO AN EXISTING GATE POST; THENCE N86°17'53"E, 272.44 FEET TO A POINT ON SAID COMMON LINE; THENCE ALONG SAID LINE N55°28'21"W, 672.54 FEET TO THE TRUE POINT OF BEGINNING.

APN 090-130-024

**EXHIBIT "B"**

LAND CONSERVATION PLAN

This Land Conservation Plan is made by and between Douglas Rafanelli ("Owner(s)") and the County of Sonoma, a political subdivision of the State of California ( "County"), and is hereby incorporated by reference into the Land Conservation Contract to which it is attached as though fully set forth therein ("Contract").

1. PURPOSE. The purpose of this Land Conservation Plan is to identify the approximate location and acreage of designated uses to which the Subject Property is or may be used during the term of the Land Conservation Contract consistent with the terms of the Land Conservation Contract, the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones ("Uniform Rules"), and the California Land Conservation Act (Government Code section 51200 et seq.), as they now exist, or as they may be amended from time to time.

2. DEFINITIONS.

a. "Subject Property," shall have the same meaning as the term "Subject Property," as used in the Contract.

b. "Prime Agricultural Use," means the use of "Prime Agricultural Land," for one or more "Agricultural Use," as those phrases are defined in the Uniform Rules.

c. "Non-Prime Agricultural Use," means the use of "Non-prime Agricultural Land," for one or more "Agricultural Use," as those phrases are defined in the Uniform Rules.

d. "Open Space Use," means the use of "Open Space Land for an "Open Space Use," as those phrases are defined in the Uniform Rules.

e. "Compatible Use," shall have the same meaning as the term "Compatible Use," as used in the Uniform Rules.

f. "Undesignated Area," means portion of land under the Contract that is vacant and potentially available for any qualifying agricultural and/or compatible use, consistent with the terms of the Contract, the Uniform Rules, and the Land Conservation Act, as they now exist or as they may be amended from time to time. Use of the "Undesignated Area," for agricultural or compatible use requires amendment of this Land Conservation Plan.

3. DESIGNATED LAND USES. Owner(s) agree to manage and maintain the Subject Property in a manner that ensures that the following designated uses will conform to the identified acreage and location at all times during the term of the Contract and any extensions thereof. Any proposed change to a designated use, acreage, and/or location, requires amendment of this Land Conservation Plan.

| Designated Use | Acreage | Location |
|---|---|---|
| PRIME AGRICULTURAL USE(S): | 3.5± acres | See Site Plan |
| NON-PRIME AGRICULTURAL USE(S): | | N/A |
| OPEN SPACE USE(S): | 35.1± acres | See Site Plan |
| COMPATIBLE USE(S): | | N/A |
| UNDESIGNATED AREA: | 1.5± acres | See Site Plan |
| TOTAL: | 40.10± acres | |

3.1 ENHANCEMENT AND PROTECTION OF WILDLIFE HABITAT. For the area designated for Open Space Use(s), Owner(s) shall, using Owner(s)' best efforts, promptly and diligently do all of the following, in accordance with the Biological Opinion prepared by Biologist Daniel Edelstein, and dated April 18, 2014, on file with the Permit and Resource Management Department:

a. If earth-breaking, soil disturbing activities are scheduled to occur during the "rainy season" (potentially from October through April annually), then a qualified biologist should be present to inspect the area for the presence of ground-dwelling or surface dispersing amphibian species, including common ones such as the California Newt (Taricha torosa) and, less likely, a federally threatened California Tiger Salamander (Ambystoma californiense) (CTS) that could occur in the Site's vicinity. If such an inspection or if the presence of CTS is detected during earth-breaking activities, then the qualified biologist should consult with the U.S. Fish and Wildlife Service to establish suitable buffers and/or other actions that shall ensure no negative impacts are incurred by the California Newt (or other common amphibian species) and/or by CTS on the Site.

b. The established buffer zone should remain in effect until dry season returns, a period when CTS will likely be absent and not subject to impacts from ground-breaking activities.

Note that the above recommendation is based upon regulations contained within the United States Fish and Wildlife Service (USFWS) codes and regulations, which state that any activity that would cause take of either common or threatened/endangered species would be a federal violation.

4. SITE PLAN. A site plan showing the location of the designated uses described in paragraph 3, above, is attached and incorporated by reference into this Land Conservation Plan. Any proposed change to the Site Plan requires amendment of this Land Conservation Plan.

5. AMENDMENT TO LAND CONSERVATION PLAN.

a. Any change to the acreage or location of the designated uses described in paragraph 3, above, requires written amendment to this Land Conservation Plan, consistent with the Land Conservation Contract, Uniform Rules, and Land Conservation Act, as they now exist or as they may be amended from time to time.

b. Owner(s), or Owner(s) predecessor(s) in interest, may apply to the Permit and Resource Management Department (PRMD) for an amendment of this Land Conservation Plan. With the approval of the Director of PRMD, Owner(s) or Owner(s)' predecessor in interest may designate an agent to file an application for amendment of this Land Conservation Plan on their behalf.

c. The Board of Supervisors, or its designee, shall consider and decide all requests to amend this Land Conservation Plan.

d. All amendments to this Land Conservation Plan are deemed automatically incorporated into the Land Conservation Contract to which it applies, upon approval by the Board of Supervisors or its designee, and upon recordation of the executed amendment with the Sonoma County Recorder's Office.

e. For purposes of property tax assessment, any amendment to the Land Conservation Plan or Land Conservation Contract will be recognized by the Sonoma County Assessor's Office on the January 1st lien date of the year following the year in which the amendment is recorded, consistent with Revenue and Taxation Code sec. 430.5.

6. BREACH. Failure to conform to this Land Conservation Plan is a breach of the Land Conservation Contract to which it is attached and incorporated by reference.

AGREEMENT AND STATEMENT BY OWNER(S):

I/we agree to comply with the provisions of this Land Conservation Plan, as it now exists or as it may be amended from time to time, for the duration of the Land Conservation Contract to which it is attached and incorporated by reference, including any and all renewals or extension of the Land Conservation Contract.

**Douglas A. Rafanelli, Trustee of the Douglas A. Rafanelli Trust dated November 19, 2009**

X_____ _____

Douglas Rafanelli, Trustee Date

**NOTE: Acknowledgments must be attached.**

# ACKNOWLEDGMENT

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

State of California
County of _____)

On _____ before me, _____
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ **(Seal)**

----------*County Use Only*----------

COUNTY OF SONOMA:
BOARD OF SUPERVISORS or DESIGNEE OF BOARD OF SUPERVISORS

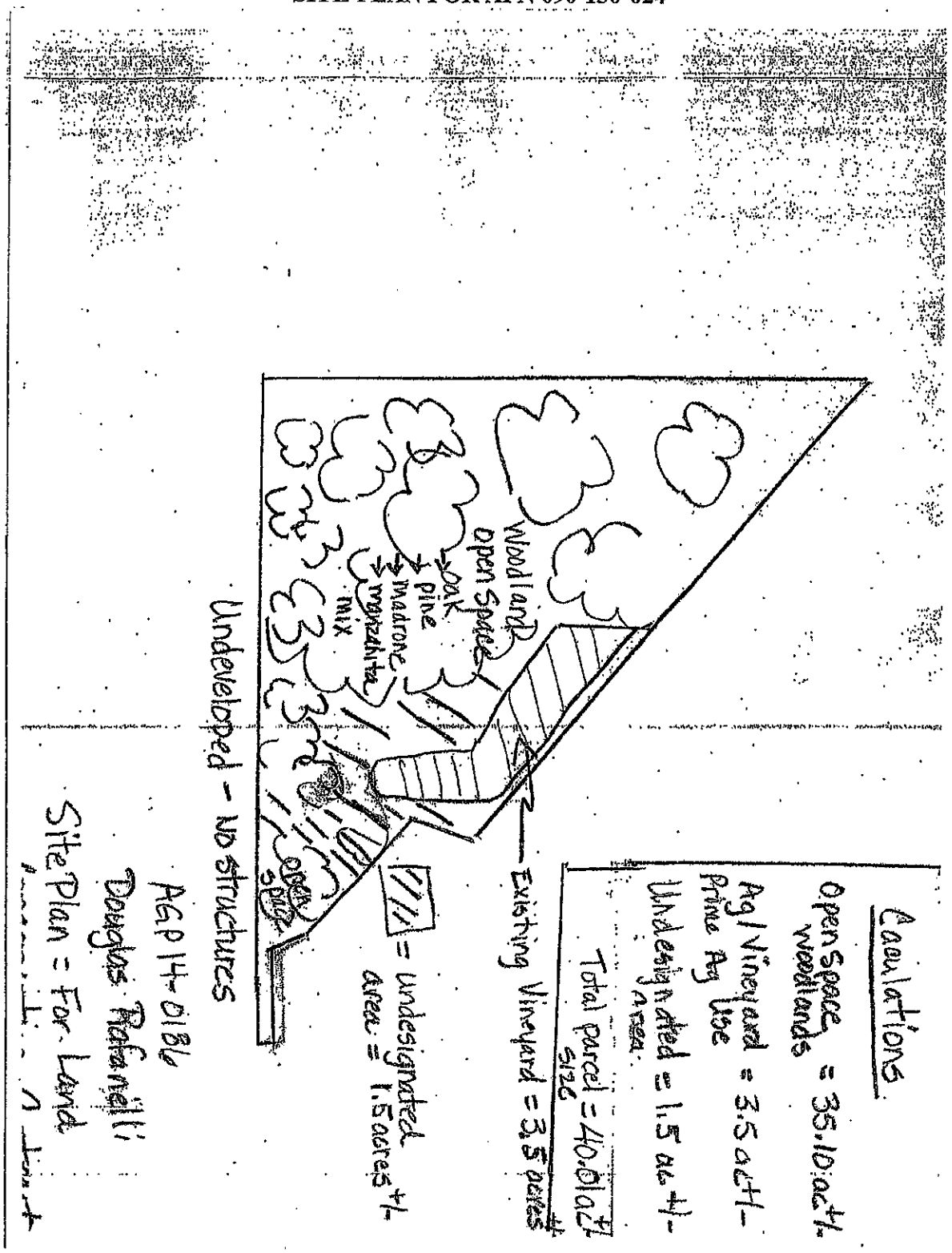
Approved by: _____ _____
Susan Gorin Date
Chair, Board of Supervisors

Attest:

By: _____ _____
Roxanne Epstein, Clerk of the Board Date

**NOTE: Acknowledgments must be attached.**

**SITE PLAN FOR APN 090-130-024**



# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 40**
(This Section for use by Clerk of the Board Only.)

Board of Supervisors

| December 13, 2016 | Majority |
|---|---|

Permit Sonoma

| Traci Tesconi (707) 565-1903 | Fourth |
|---|---|

Lot Line Adjustment between two parcels under one Land Conservation Act Contract, Brian H. and Beatrice M.E. Burwell of the Burwell Living Trust and William Hinkle; LLA16-0004.

Adopt a Resolution and Conditions of Approval for a Lot Line Adjustment between two parcels resulting from two Administrative Certificates of Compliance and under one Land Conservation Act Contract, for property located at 160 Ridge Oaks Road and 21800 River Road, Geyserville; Portions of APN 141-180-037 and -036.

The Board is asked to review and approve the proposed Lot Line Adjustment.

Project Description, Location, and Zoning:
This is a request for a Lot Line Adjustment between two parcels resulting from approved Administrative Certificates of Compliance (PLP13-0016 - ACC13-0007 and ACC13-0008). The current lot sizes are: 42.99 acres (Lot A-APN 141-180-037) and 22.23 acres (Lot B- APN 141-180-036). The adjustment will result in lot sizes: 40.46 acres (Lot A) and 24.76 acres (Lot B). The Lot Line Adjustment will adjust 2.53 acres of existing vineyard from Lot A onto Lot B. The Board of Supervisors approval is required because the two parcels are restricted by an existing Land Conservation Act Contract. Normally, minor Lot Line Adjustments not involving contracted land are approved administratively or by the Project Review and Advisory Committee.

The two parcels are located at the intersection of Ridge Oaks Road and River Road, located in Alexander Valley, approximately .8-miles north of the Geyserville Bridge, one mile east of central Geyserville, and one-quarter mile from Geyserville High School.

Both parcels are zoned LIA (Land Extensive Agriculture) 20-acres/dwelling unit density with the combining designations: Z (Second Dwelling Unit Exclusion), RC 50/50 (Riparian Corridor 50’/50’), SR (Scenic Resources), and VOH (Valley Oak Habitat).

Background:
Both parcels are currently located in Agricultural Preserve 1-542 and under an existing Prime Land Conservation Act Contract recorded under Official Record No. 83-010742, and used for diversified agricultural operations consisting of vineyards, orchards, sheep and cattle grazing. The purpose of the Lot Line Adjustment is to transfer 2.53 acres of vineyard from Lot A to Lot B. Lot A is undeveloped and the property owner has a long-term lease agreement for 51-years with the property owner of Lot B for 2.53 acres of vineyard and 21.50 acres of cattle grazing. The property owner of Lot B pays the property owner of Lot A, $2,100.00 a year for the grazing lease and $100.00 a year for the vineyard lease. Lot B contains a single family residence, a garage, a barn, storage shed, and has an approved Use Permit (UPE14-0036) by the Board of Zoning Adjustments to allow a winery and olive oil mill offering a custom crush for five other growers, along with a public and private tasting room, 23 annual agricultural promotional events (11 with 75 guests, 2 with 125 guests, and 1 with 100 guests) including 9 weddings (3 with 75 persons, 3 with 100 guests and 3 with 150 guests) and participation in 12 industry-wide event days.

Analysis:
The winery, olive mill, tasting room, and event land uses are considered compatible uses under the Uniform Rules. Compatible uses may be permitted provided that they are incidental to the primary use of the land for agriculture, listed in the County's Uniform Rules for Agricultural Preserves and meet the criteria for compatibility.

"Incidental" has been defined by the County to mean compatible uses may collectively occupy no more than 15 percent of the land area or five acres whichever is less. For resultant Lot B of 24.76 acres, the 15 percent threshold would apply allowing 3.7 acres of land area devoted to compatible land uses. Under the winery and tasting room land uses, approximately 3.20 acres would be developed with compatible uses when combining the proposed winery development (buildings, processing areas, parking, landscaping, outdoor event areas, and wastewater disposal areas) with the existing residential uses. Lot B contains 16 acres of existing vineyard replanted in 2015. Based on the three varieties of grapes planted (Merlot, Zinfandel, and Cabernet Sauvignon), it's estimated the parcel would generate a gross income of $12,000 per acre.

**Land Conservation Act:**
To facilitate a Lot Line Adjustment, Government Code Section 51257 permits the contracting parties to rescind the existing contracts and simultaneously enter into new contracts if the required findings can be made. Staff has determined the Lot Line Adjustment can meet the required findings as described in the Resolution.

**Staff Recommendation:**
Staff recommends the Board find the project consistent with Government Code Section 51257 and approve the proposed Lot Line Adjustment subject to the attached Conditions of Approval. The two lots will continue to be devoted to qualifying agricultural uses. Conditions of Approval require that prior to recording the Grant Deeds for the Lot Line Adjustment, the property owners must submit the appropriate applications and filing fees to rescind and replace the existing contract with a new Non-Prime contract for Lot A devoted to livestock grazing with a parcel size greater than 40 acres, and a new

| |
|---|
| Prime Land Conservation Act Contract for Lot B devoted to vineyard with a parcel size greater than 10 acres.<br><br>A recommended condition of approval requires the two resulting parcels to apply for separate Non-Prime (Lot A) and Prime (Lot B) Land Conservation Act Contracts consistent with the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones (Uniform Rules) and Section 51257 of the Government Code, explained further below in the staff report. |
| **Prior Board Actions:** |
| April 9, 2013: Board Review of Administrative of Certificates Determination by PRMD. File Number PLP13-0016. |
| **Strategic Plan Alignment** Goal 2: Economic and Environmental Stewardship |
| The Board of Supervisors has endorsed the continuation of the County's agricultural preserve program to preserve a maximum amount of the limited supply of agricultural, open space, scenic, and critical habitat lands within the county, to discourage premature and unnecessary conversion of such lands to urban land uses, to promote vitality in the agricultural economy, and to ensure an adequate, varied, and healthy supply of food and fiber for current and future generations. The purpose of the Lot Line Adjustment is to reconfigure the property lines to place the small vineyard onto Lot B. In addition, the rescission and replacement of Land Conservation contracts on the subject parcels will facilitate further agricultural investment and support agricultural viability and help preserve open space land in Sonoma County. |

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

Approval of the Lot Line Adjustment has no fiscal impact. However, as conditioned, the property owners for each respective parcel must apply for separate Land Conservation Act Contracts. The contracts allow the property owners to pay a reduced property tax assessment based upon the value of the agricultural uses rather than the land value under Proposition 13. This results in a reduction in the County's share of property tax revenue for each parcel under a Land Conservation Act Contract. The amount of this reduction for an individual contract depends on parcel-specific variables including the Proposition 13 status of the land and the value of the agricultural crop, and is determined annually by the Assessor's office.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Draft Board of Supervisors Resolution
Attachment A: Exhibit A of the Resolution - Conditions of Approval
Attachment B: LLA Application Form and Proposal Statement
Attachment C: Lot Line Adjustment Site Plans (Existing and Proposed Lot Configuration)

| |
|---|
| Attachment D: APN page |
| **Related Items "On File" with the Clerk of the Board:** |
| None |

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

LLA16-0004 Traci Tesconi

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Approving The Request By Brian H. and Beatrice M.E. Burwell Of The Burwell Living Trust and William Hinkle For A Lot Line Adjustment Between Two Parcels 42.99 Acres (Lot A) And 22.23 Acres (Lot B), Resulting In Two Parcels Of 40.46 Acres (Lot A) And 24.76 Acres (Lot B); For Property Located At 160 Ridge Oaks Road and 21800 River Road, Geyserville; APN 141-180-037 and -036.**

**Whereas,** the applicants, Brian H. and Beatrice M.E. Burwell Of The Burwell Living Trust and William Hinkle, filed an application with the Sonoma County Permit and Resource Management Department for a Lot Line Adjustment between two parcels 42.99 acres (Lot A) and 22.23 acres (Lot B) resulting in two parcels 40.46 acres (Lot A) and 24.76 acres (Lot B). The Lot Line Adjustment will adjust 2.53 acres of existing vineyard from Lot A to Lot B. The two parcels resulted from previously approved Administrative Certificates of Compliance (PLP13-0016 - ACC13-0007 and ACC13-0008). Both parcels are currently located in Agricultural Preserve 1-542 and under an existing Prime Land Conservation Act Contract recorded under Official Record No. 83-010742, for property located at 160 Ridge Oaks Road and 21800 River Road, Geyserville; Zoned LIA (Land Intensive Agriculture) 20-acres/dwelling unit density with the combining designations: Z (Second Dwelling Unit Exclusion), RC 50/50 (Riparian Corridor 50'/50'), SR (Scenic Resources), and VOH (Valley Oak Habitat); Supervisorial District No. 4; and

**Whereas,** to facilitate a Lot Line Adjustment, Government Code Section 51257 authorizes parties to a Land Conservation Contract or Contracts to mutually rescind the Contract or Contracts and simultaneously enter into two new or Contracts;

**Whereas,** on December 13, 2011, the Board of Supervisors adopted the updated Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones (Uniform Rules) (Resolution No. 11-0678); and

**Whereas,** in accordance with the provisions of law, the Board of Supervisors held a public hearing on December 13, 2016 at which time all interested persons were

given an opportunity to be heard; and

**Whereas,** the purpose of the Lot Line Adjustment is to adjust 2.53 acres of existing vineyard from Lot A to Lot B. Both lots are subject to a Prime Land Conservation Act Contracts; and

**Whereas,** Government Code Section 51257 requires that the Board of Supervisors make certain findings before existing Land Conservation Act Contracts may be rescinded and replaced to facilitate a Lot Line Adjustment.

**Now, Therefore, Be It Resolved** that the Board of Supervisors makes the following findings consistent with Government Code Section 51257:

1. The replacement contracts would enforce and restrict the adjusted boundaries of the two parcels for an initial term for at least as long as the unexpired term of the rescinded contracts but for not less than 10 years.

2. There is no net decrease in the amount of the acreage restricted by a contract because the total acreage restricted by contract will not change following the Lot Line Adjustment.

3. The Lot Line Adjustment results in 100 percent (100%) of the land under the original contracts remaining restricted under the two new Land Conservation Contracts required as a Condition of Approval for the Lot Line Adjustment.

4. After the Lot Line Adjustment, each of the resultant parcels will remain large enough to sustain its agricultural use. Resultant Lot A is 40.46 acres and will each exceed the 40-acre minimum acreage requirement for a non-prime contract and will exceed the minimum gross income requirement of $2,000 per farm operation under a long-term lease agreement for livestock grazing land and a small vineyard. Resultant Lot B is 24.76 acres and will exceed the 10-acre minimum acreage requirement for a prime contract and estimated it will exceed the minimum gross income requirement of $1,000 per acre based on the three varieties of grapes planted on the parcel. Both parcels will be devoted to agriculture with any non-agricultural uses to be compatible with the agricultural use. Specifically Lot B, contains a single family residence, a garage, a barn, storage shed, and has an approved Use Permit (UPE14-0036) by the Board of Zoning Adjustments to allow a winery and olive oil mill offering a custom crush for five other growers, along with a public and private tasting room, annual agricultural promotional events, including weddings, and participation in industry wide event days. The winery, olive mill, tasting room, and event land uses are considered compatible uses under the Uniform Rules. Compatible uses may be permitted provided that they are incidental to the primary use of the land for agriculture, listed in the County's Uniform Rules for Agricultural

Preserves and meet the criteria for compatibility. "Incidental" has been defined by the County to mean compatible uses may collectively occupy no more than 15 percent of the land area or five acres whichever is less. For resultant Lot B of 24.76 acres, the 15 percent threshold would apply allowing 3.7 acres of land area devoted to compatible land uses. Under the winery and tasting room land uses, approximately 3.20 acres would be developed with compatible uses when combining the proposed winery development (buildings, processing areas, parking, landscaping, outdoor event areas, and wastewater disposal areas) with the existing residential uses.

5. The Lot Line Adjustment does not compromise the long-term agricultural productivity of the parcels subject to contract. The purpose of the Lot Line Adjustment is to adjust an existing small vineyard from Lot A onto Lot B. Lot A will continue to be in compliance with the Land Conservation Act because the parcel will be placed under a new Non-Prime Land Conservation Act Contract and well over 50% of each parcel will be used for livestock grazing with a gross income of at least $2,000.00 per year from a long-term lease agreement with the property owner of Lot B. Lot B will continue to be in compliance with the Land Conservation Act because the parcel will be placed under a new Prime Land Conservation Act Contract and well over 50% of the parcel is planted in existing vineyard with an estimated gross income of over $1,000.00 per acre based on the three varieties of grapes (Merlot, Zinfandel, and Cabernet Sauvignon) planted on the parcel.

6. The Lot Line Adjustment is minor in nature and will not result in the removal of adjacent land from agricultural use. The land use and zoning designations on all parcels will be Land Intensive Agriculture, 20 acres per dwelling unit.

7. The Lot Line Adjustment does not result in a greater number of developable parcels due to new Land Conservation Contracts and the General Plan and zoning designations. The Land Conservation Act Contract on Lot A prevents further subdivision of this parcel because the new Non-Prime Contract requires a minimum parcel size of 40 acres while the parcel is under contract. Conditions of Approval require that prior to recording the Grant Deed for the Lot Line Adjustment, the property owners shall submit the appropriate applications and filing fees to rescind and replace the existing contract on Lot A with a new Non-Prime Land Conservation Act Contract and on Lot B a new Prime Land Conservation Act Contract.

**Be It Further Resolved** that the Board of Supervisors hereby finds that substantial evidence in the record before it supports the above findings, and further finds that the Lot Line Adjustment meets the requirements of the above findings.

**Be It Further Resolved** that the Board of Supervisors finds that the project described in this Resolution is exempt from the requirements of the California Environmental Quality Act by virtue of Section 15305 Class 5 of Title 14 of the California Code of Regulations (CEQA Guidelines) in that the project is a Lot Line Adjustment.

**Be It Further Resolved** that the Board of Supervisors hereby grants the requested Lot Line Adjustment subject to the Conditions of Approval in Exhibit ''A,'' attached hereto which includes a condition to rescind and replace the existing Prime Land Conservation Act Contract with a new Non-Prime Contract on Lot A and a new Prime Contract on Lot B .

**Be It Further Resolved** that the Board of Supervisors designates the Clerk of the Board as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

**Supervisors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

# SONOMA COUNTY PROJECT REVIEW AND ADVISORY COMMITTEE

**Draft Conditions of Approval**

| | | | |
|---|---|---|---|
| **Staff:** | Traci Tesconi | **Date:** | December 13, 2016 |
| **Applicant:** | Cort Munselle | **File No.:** | LLA16-0004 |
| **Owner 1 :** | Brian and Beatrice Burwell | | |
| **Owner 2 :** | William Hinkle | **APN:** | 141-180-037 and -036 |
| **Address:** | 160 Ridge Oaks Road and 21800 River Road, Geyserville | | |

**Project Description:** A Lot Line Adjustment between two (2) parcels of 42.99 acres and 22.23 acres in size resulting in two (2) parcels of 40.46 acres and 24.76 acres in size. The parcels are under one existing Land Conservation Act contract.

---

NOTE: Amendments and changes to approved Lot Line Adjustment conditions may be considered by the Board of Supervisors at a later date if additional information justifies the changes and does not increase the intensity of use approved by the original approval. The Director of the Permit and Resource Management Department (PRMD) will determine if a public hearing is necessary and if additional fees are required.

NOTE: The Board of Supervisors decision shall be final on the eleventh ($11^{th}$) day after final action.

NOTE: These conditions must be met and the application validated within 24 months December 13, 2018 unless a request for an extension of time is received before the expiration date.

**SURVEY:**

1) Access and Public Utility Easement and agreement, between the new 'Lot A' with the new 'Lot B', along the existing road "Ridge Oaks Road" as shown on the site map submitted with the application shall be described as Parcel Two and included in the legal description. The following note shall be included in the deed:

"SAID DEED IS MADE AND ACCEPTED SUBJECT TO THE FOLLOWING CONDITIONS:

PARCEL TWO easement shall bind and inure to the benefit of the respective heirs, personal representatives, successors, and assigns of the grantor and grantee and that all specifications of the easement shall pertain to and run with the land.

Said provision of the easement is a condition relative to approval of LLA 16-0004 and may not be altered or eliminated without the express written consent of the Permit and Resource Management Department.

The use of the area designated as an easement by the grantor shall be restricted from uses which are incompatible with proper use. This shall include structures, vehicular parking, any and all uses which would disrupt the use of said easement.

The easement shall include the rights of the grantee to do all things reasonably necessary to inspect, repair, and maintain said private access in a good and passable condition."

<u>NOTE</u>: Above condition meets minimum requirements needed for legal access to new Lot "A" configuration from a public road; the condition does not address any access rights for the new Lot "B" across the new Lot "A" along the existing Ridge Oaks Road. Neither does the conditioning address access to, intended use by or purpose of the "Proposed Exclusive Use Easement."

**HEALTH:**

WATER:

2). Prior to approving the deeds, a water supply shall be demonstrated for the proposed Lot A either from an water well or a spring, including a dry weather pump test with a minimum yield of 1 gallon per minute per parcel. If an off-site water source is utilized, an easement and covenant is required.

**PLANNING:**

3). Submit verification to Planning that taxes and/or assessments, which are a lien and termed as payable, are paid to the Treasurer-Tax Collector's Department on all parcels affected by the adjustment. The Treasurer-Tax Collector knows the amount of the tax due.

4). A draft description, prepared by a licensed land surveyor or civil engineer authorized to practice land surveying, showing the combination of lots or transfer of property shall be submitted to the County Surveyor for approval. The following note shall be placed on the deed or deeds. "The purpose of this deed is for a Lot Line Adjustment for the combination of a portion of the Lands of Brian and Beatrice Burwell, Trustees of the Burwell Family Trust, as described by deed recorded under Document No. Official Record No. 2016-010295, Sonoma County Records, APN 141-180-037 with the Lands William Hinkle as described by deed recorded under Document No. Official Record No 2013-038155, Sonoma County Records, APN 141-180-036. This deed is pursuant to on file in the office of the Sonoma County Permit and Resource Management Department. It is the express intent of the signatory hereto that the recordation of this deed extinguishes any underlying parcels or portions of parcels." It is the responsibility of the surveyor/engineer preparing the deeds to insure that the information contained within the combination note is correct. Note: The County Surveyor may modify the above described note.

5). Deed of Trust agreements, which encumber only portions of accepted legal lots, are violations of the Subdivision Map Act; therefore, prior to Permit and Resource Management Department approval of the deed for recordation, the applicant shall submit either recorded documents or documents to be recorded concurrently with the lot line adjustment deeds, showing that any Deed of Trust agreements on the subject properties will conform with the adjusted lot boundaries.

6). After approval by the County Surveyor, a grant deed or deeds shall be prepared and submitted to the Planning Division for approval prior to recording. An approval stamp will be placed on the face of the grant deed or deeds.

7). A site plan map of the Lot Line Adjustment shall be prepared by a licensed surveyor or civil engineer and attached to the deed(s) to be recorded. The site plan shall be subject to the review and approval of the County Surveyor. The following note shall be placed on said plan: "THIS EXHIBIT IS FOR GRAPHIC PURPOSES ONLY. Any errors or omissions on this exhibit shall not affect the deed description."

8). Prior to the Permit and Resource Management Department stamping the grant deed for the Lot Line Adjustment, the property owners shall submit all application materials and applicable filing fees to rescind and replace the existing Prime Land Conservation Act Contract with two new contracts.

The property owners of Lot A shall submit a complete application to place the resultant parcel into a new Non-Prime (Type II) contract for grazing land.

The property owners of Lot B shall submit a complete application to place the resultant parcel into a new Prime (Type I) contract for vineyard and orchard land.

These applications do not require any modifications or expansion of the existing Agricultural Preserve Area 1-542. Both new contracts can be approved under the existing Agricultural Preserve Area 1-542.

Once the Lot Line Adjustment grant deeds are recorded, the Permit and Resource Management Department can proceed with processing the new contracts.

9). After the stamp and approval by Planning of the grant deed, the grant deed shall be recorded and a copy of the recorded grant deed shall be submitted to the Permit and Resource Management Department.

10). The property owners shall execute a Right-to-Farm Declaration on a form provided by PRMD to be submitted before the lot line adjustment is cleared by PRMD for recordation. The Right-to-Farm Declaration shall be recorded concurrently with the PRMD approved lot line adjustment grant deed(s) to reflect the newly configured parcels.

11). This "At Cost" entitlement is not vested until all permit processing costs are paid in full. Additionally, no grading or building permits shall be issued until all permit processing costs are paid in full.

# Planning Application

**PJR-001**

File#: LLA16-0004

**Type of Application:**

- ☐ Admin Cert. Compliance
- ☐ Ag./Timber Preserve/Contract
- ☐ Cert. of Compliance
- ☐ Cert. of Modification
- ☐ Coastal Permit
- ☐ Design Review Admin.
- ☐ Design Review Comm./Ind.
- ☐ Design Review Residential
- ☐ Design Review Signs
- ☐ General Plan Amendment
- ☒ Lot Line Adjustment
- ☐ Major Subdivision
- ☐ Minor Subdivision
- ☐ Mobile Home Zoning Permit
- ☐ Ordinance Interpretation
- ☐ Second Unit Permit
- ☐ Specific/Area Plan Amendment
- ☐ Use Permit
- ☐ Variance
- ☐ Zone Change
- ☐ Other:

**Applicant (Contact Person):**

Cort Munselle
Name

513 Center St.
Mailing Address

Healdsburg CA 95448
City/Town State Zip

707-395-0968 ----------
Phone Fax

cort@munsellecivil.com
email

Signature 1/20/16
Date

**Owner, if other than Applicant:**

William Hinkle
Name

P.O. Box 10
Mailing Address

Geyserville CA 95441
City/Town State Zip

908-229-2232 ----------
Phone Fax

halhinkle@gmail.com
email

Signature
Date

**Other Persons to be Notified:** (Specify: Other Owner(s), Agent, Lender, Architect, Engineer, Surveyor)

Brian Burwell
Name

3510 Soda Rock Lane
Mailing Address

Healdsburg CA 95448
City/Town State Zip

Property owner Lot A
Title

(707) 477-3697
Phone Fax

email

Name

Mailing Address

City/Town State Zip

Title

Phone Fax

email

Name

Mailing Address

City/Town State Zip

Title

Phone Fax

email

**Project Information:**

Address(es) 21800 River Rd., City/Town Geyserville

Assessor's Parcel Number(s) 141-180-022 Acreage 65.22

Project Description: The purpose of the LLA is to add 2.53 acres from Lot "A" to Lot "B"
(Please attach additional sheet(s) if needed)

Site Served by Public Water? ☐ Yes ☒ No Site Served by Public Sewer? ☐ Yes ☒ No Number of new lots proposed none

---------- ↓ DO NOT WRITE BELOW THIS LINE - To Be Completed by PRMD Staff ↓ ----------

Planning Area: 2 Supervisorial District: 4 Current Zoning: LIA BG 20 Z, RC50/50 SR VOH General Plan Land Use: LIA 20

Specific Plan: S.P. Land Use: Needs CEQA Review? ☐ yes ☒ no

Commercial/Industrial Uses: (Enter numbers where applicable)

Bldg. sq. ft. Existing: Proposed: Existing Employees: New Employees:

New Manufactured Homes: New Units For Sale: New Units For Rent: Density Bonus Units:

Violation? ☐ yes ☒ no; Application resolve planning violation? ☐ yes ☐ no; Penalty applicable? ☐ yes ☐ no; Civil Penalty Factor

Previous Files: ACC13-0007, ACC13-0008, UPE14-0036

Application accepted by C. Mokius Date 2/1/16


Sonoma County Permit and Resource Management Department
2550 Ventura Avenue ❖ Santa Rosa, CA ❖ 95403-2829 ❖ (707) 565-1900 ❖ Fax (707) 565-1103

MUNSELLE
CIVIL ENGINEERING
CIVIL ENGINEERING LAND PLANNING

Planning
Civil Engineering
Project Management
Construction Management
Surveying
Entitlements
Concept Design
Feasibility Studies

January 28, 2016

**Proposal Statement**
**Lot Line Adjustment**

RE: 21800 River Rd., Geyserville, CA (APN #141-180-022)

Proposal: The purpose of this Lot Line adjustment is to add 2.53 acres from Lot "A" to Lot "B". These lots were previously recognized as separate parcels per PLP13-0016(ACC 13-0007 & ACC13-0008) and recorded by official documents 2013038156 & 2013038155

PROJECT DESCRIPTION

The 65.22-acre project site is located at 21800 Road Rd. in Geyserville.

Lot A currently consists of 42.99 acres
Lot B currently consists of 22.23 acres

After the Lot Line Adjustment
Lot 1 would consist of 40.46 acres
Lot 2 would consist of 24.76 acres

Please don't hesitate to contact me if you have any questions.

Sincerely,

Cort Munselle
Munselle Civil Engineering
707-395-0968

HEALDSBURG OFFICE
513 Center Street
Healdsburg, CA 95448
phone (707) 395-0968

cort@munsellecivil.com
www.munsellecivil.com

OWNER:

LOT "1"

*THE BRIAN H. AND BEATRICE M.E. BURWELL LIVING TRUST*
*3510 W. SODA ROCK LANE*
*HEALDSBURG, CA 95448*

OWNER:

LOT "2"

*WILLIAM HINKLE*
*21800 RIVER ROAD*
*GEYSERVILLE, CA 95441*

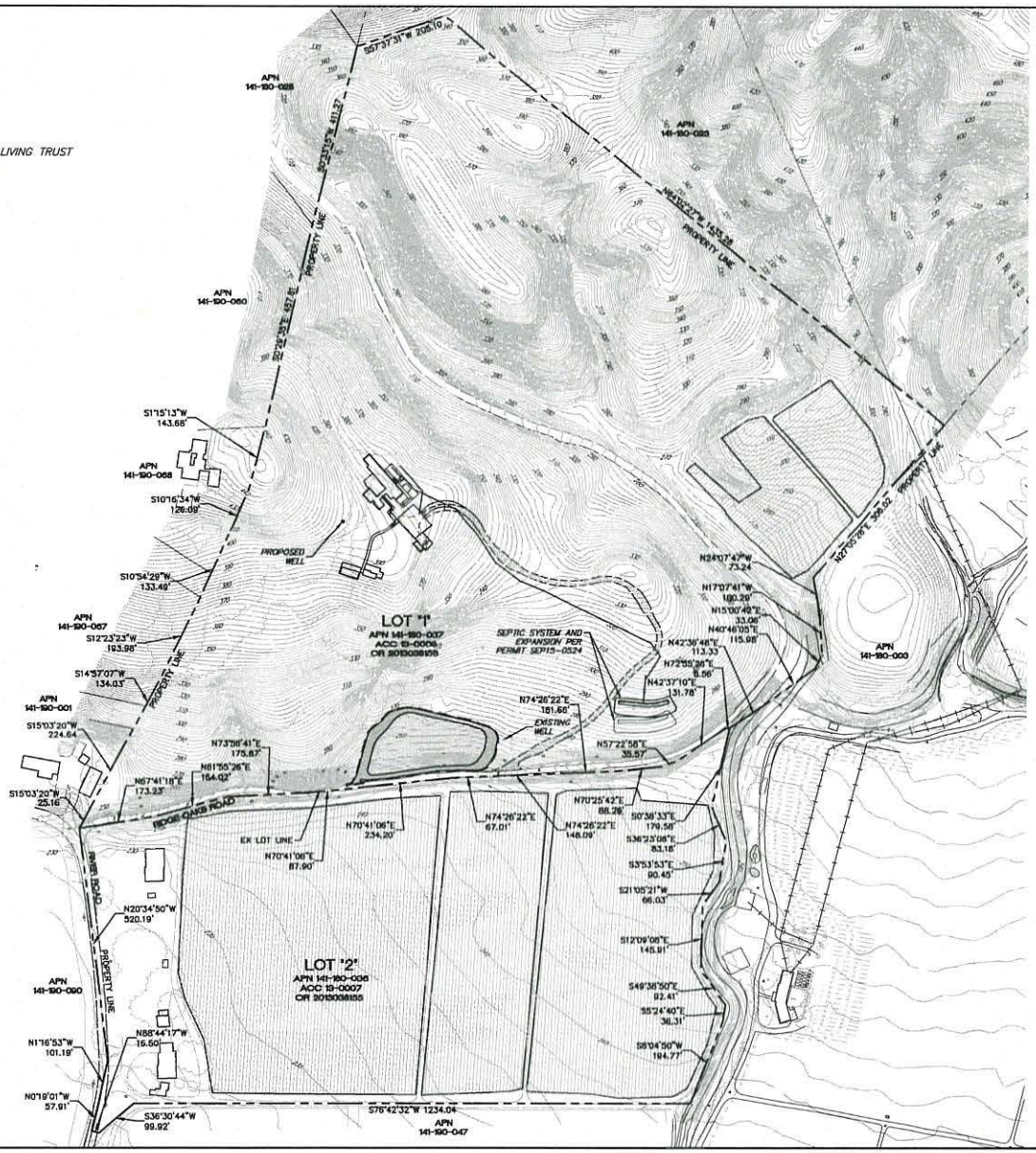
EX PROPERTY INFO:

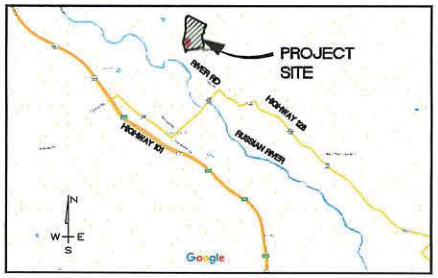
LOT "1"

*APN 141-180-037*
*160 RIDGE OAKS RD*
*GEYSERVILLE, CA 95441*
*EX 42.99 ACRES*
**ACC 13-0008**
**OR 2013038156**

LOT "2"

*APN 141-180-036*
*21800 RIVER ROAD*
*GEYSERVILLE, CA 95441*
*EX 22.23 ACRES*
**ACC 13-0007**
**OR 2013038155**




LOCATION MAP – NO SCALE

## PROPERTY LINE NOTICE

PROPERTY AND/OR BOUNDARY LINES SHOWN HEREON ARE DELINEATED FOR ORIENTATION PURPOSES ONLY AND WERE DERIVED USING AVAILABLE RECORD DATA SUCH AS USGS MAPS, ASSESSOR'S MAPS, PHOTOGRAPHIC IMAGERY AND OTHER SOURCES. THE PERFORMANCE OF A BOUNDARY SURVEY AND THE ANALYSIS OF LEGAL DESCRIPTIONS PERTAINING TO THE LANDS DEPICTED HEREON WOULD BE REQUIRED IF PRECISE PROPERTY LOCATION AND BOUNDARY LIMITS ARE NEEDED OR DESIRED. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE PROPERTY DATA DELINEATED HEREON. A SURVEY IS MANDATORY IF EXACT LOCATION IS DESIRED.

## SURVEY NOTICE

TOPOGRAPHIC INFORMATION SHOWN HERE IS BASED UPON SURVEY BY POINT CO., PHOTOGRAMMETRIC SERVICES DATED JANUARY 10, 2013

0 60 120 240

SCALE: 1" = 120'

N W E S

# LOT LINE ADJUSTMENT APPLICATION MAP

COUNTY OF SONOMA
STATE OF CALIFORNIA

CORT L. MUNSELLE
RCE 69941

DATE

**MUNSELLE CIVIL ENGINEERING**
CIVIL ENGINEERING & LAND PLANNING
513 CENTER STREET
HEALDSBURG, CA 95448
(707) 395-0968

APN: 141-180-022
FILE No. 38-12
DATE: SEPTEMBER 20, 2016
SHEET No. 1 OF 2

©2015, MUNSELLE CIVIL ENGINEERING

Attachment C

Existing

OWNERS:

LOT "A"
*THE BRIAN H. AND BEATRICE M.E. BURWELL LIVING TRUST*
*3510 W. SODA ROCK LANE*
*HEALDSBURG, CA 95448*

LOT "B"
*WILLIAM HINKLE*
*21800 RIVER ROAD*
*GEYSERVILLE, CA 95441*

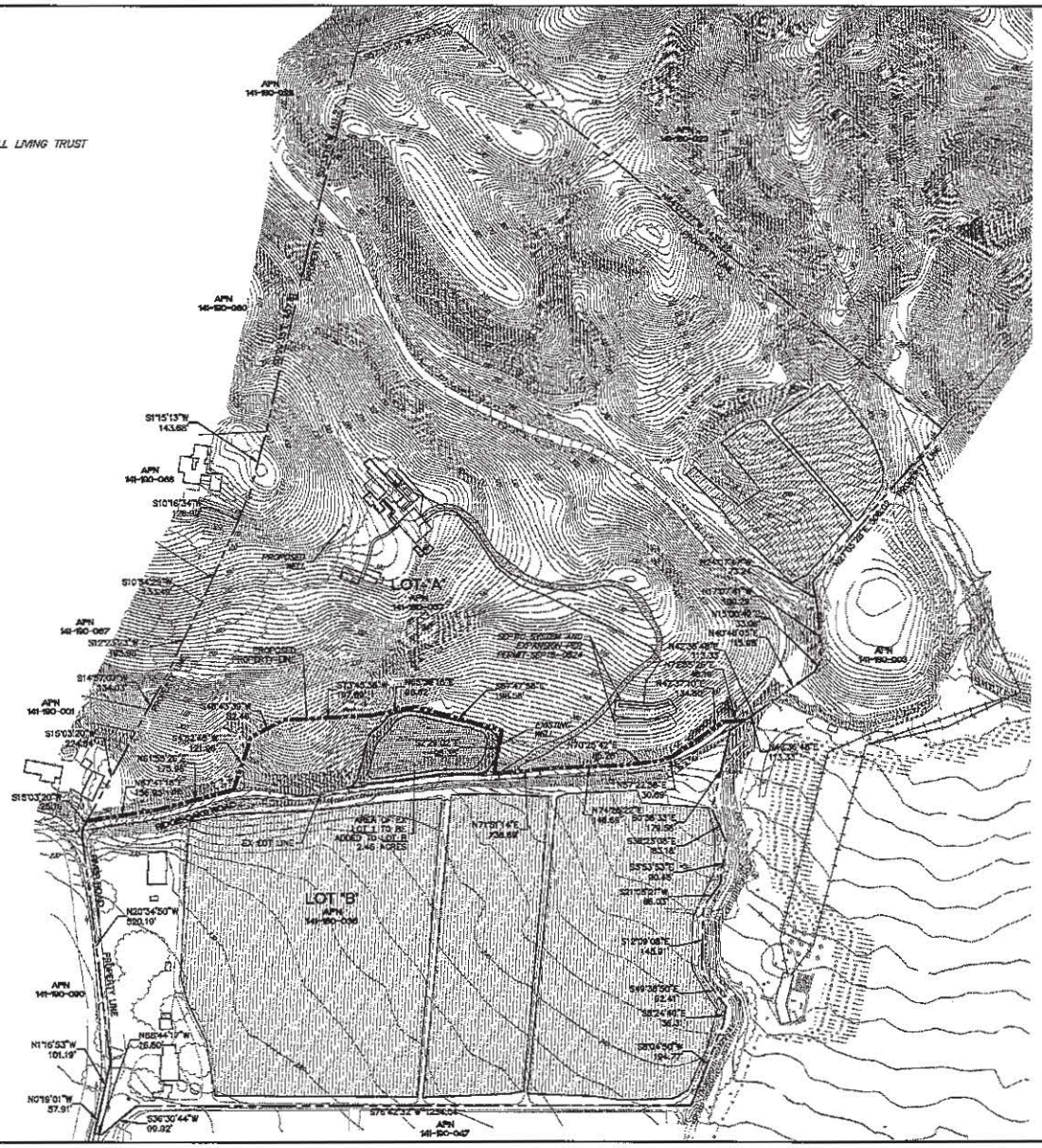
PROPOSED PROPERTY INFO:

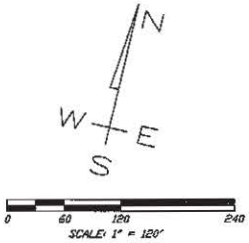
LOT "A"
*APN 141-180-037*
*40.53 ACRES*

LOT "B"
*APN 141-180-036*
*24.69 ACRES*

PROPOSED LLA

*THE PURPOSE OF THIS LOT LINE ADJUSTMENT IS TO:*
*ADD 2.46 ACRES FROM LOT "A" TO LOT "B".*




# LOT LINE ADJUSTMENT APPLICATION MAP

COUNTY OF SONOMA
STATE OF CALIFORNIA

CORT L. MUNSELLE
RCE 69941

DATE

**MUNSELLE CIVIL ENGINEERING**
CIVIL ENGINEERING & LAND PLANNING
513 CENTER STREET
HEALDSBURG, CA 95448
(707) 395-0968

©2015, MUNSELLE CIVIL ENGINEERING

APN: 141-180-022
FILE No. 38-12
DATE: SEPTEMBER 20, 2016
SHEET No. 2 OF 2

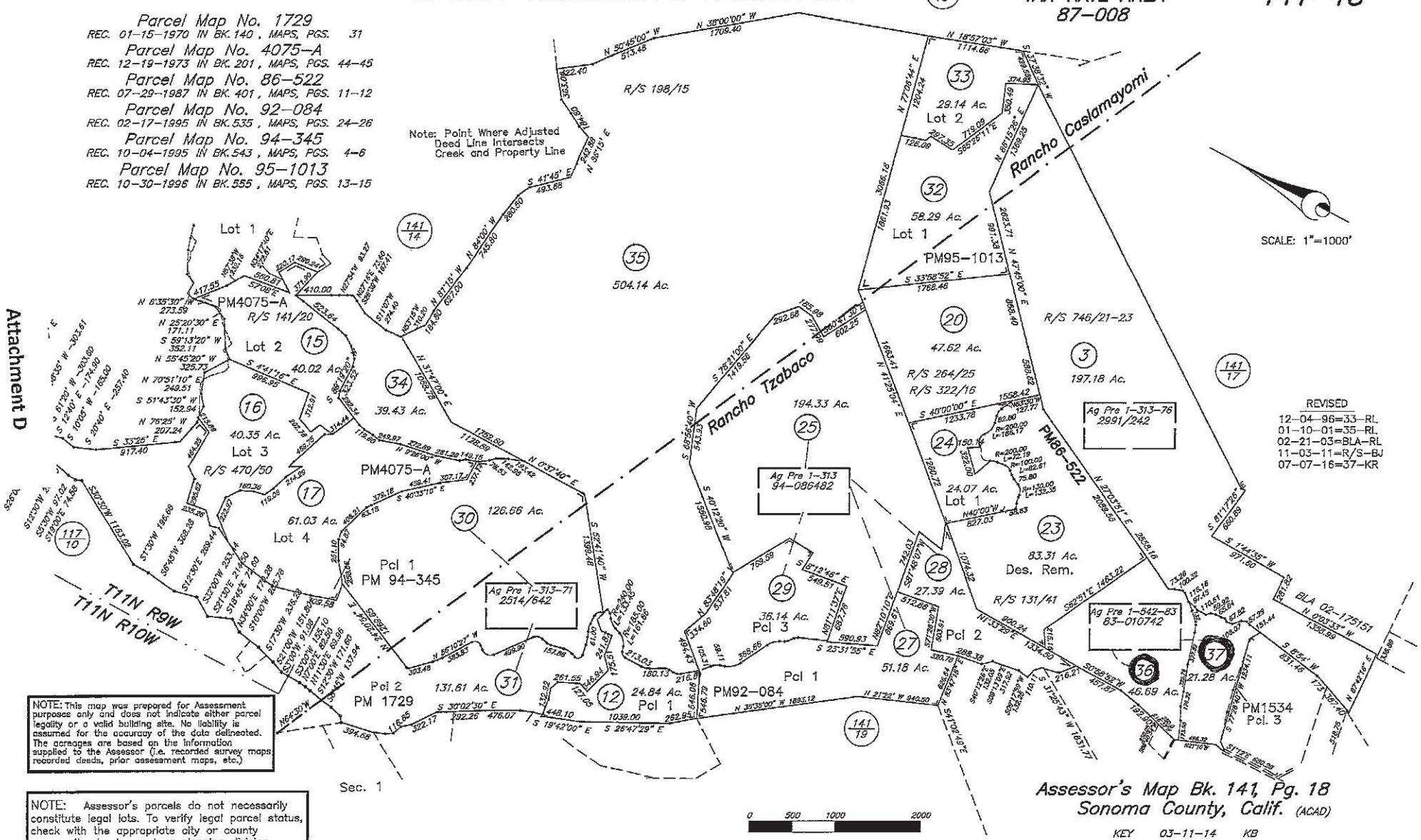
Proposed

# COUNTY ASSESSOR'S PARCEL MAP

TAX RATE AREA 87-008

141-18

Parcel Map No. 1729
REC. 01-15-1970 IN BK. 140, MAPS, PGS. 31
Parcel Map No. 4075-A
REC. 12-19-1973 IN BK. 201, MAPS, PGS. 44-45
Parcel Map No. 86-522
REC. 07-29-1987 IN BK. 401, MAPS, PGS. 11-12
Parcel Map No. 92-084
REC. 02-17-1995 IN BK. 535, MAPS, PGS. 24-26
Parcel Map No. 94-345
REC. 10-04-1995 IN BK. 543, MAPS, PGS. 4-6
Parcel Map No. 95-1013
REC. 10-30-1996 IN BK. 555, MAPS, PGS. 13-15




REVISED
12-04-96=33-RL
01-10-01=35-RL
02-21-03=BLA-RL
11-03-11=R/S-BJ
07-07-16=37-KR

NOTE: This map was prepared for Assessment purposes only and does not indicate either parcel legality or a valid building site. No liability is assumed for the accuracy of the data delineated. The acreages are based on the information supplied to the Assessor (i.e. recorded survey maps recorded deeds, prior assessment maps, etc.)

NOTE: Assessor's parcels do not necessarily constitute legal lots. To verify legal parcel status, check with the appropriate city or county community development or planning division.

Assessor's Map Bk. 141, Pg. 18
Sonoma County, Calif. (ACAD)

KEY 03-11-14 KB

Attachment D

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 41**
(This Section for use by Clerk of the Board Only.)

| | |
|---|---|
| **To:** | Board of Supervisors and Board of Directors of the Sonoma County Water Agency |
| **Board Agenda Date:** | December 13, 2016 |
| **Vote Requirement:** | Majority |
| **Department or Agency Name(s):** | Permit Sonoma and Water Agency |
| **Staff Name and Phone Number:** | Leonard Gabrielson, 565-3711 |
| **Supervisorial District(s):** | Fourth |
| **Title:** | Final Map and Summary Vacation of Sanitary Sewer Easements for Mark West Village Subdivision, Tract No. 1061 |

**Recommended Actions:**

As the Board of Supervisors, Adopt Resolution A:

(1) Approving and accepting the Final Map for "Mark West Village Subdivision, Tract No. 1061"; and
(2) Accepting and rejecting certain offers of dedication and making findings all in accordance with the Subdivision Map Act.

As Water Agency Directors, Adopt Resolution B:

(1) Determining that vacating certain sanitary sewer easements on behalf of the Airport-Larkfield-Wikiup Sanitation Zone will not have a significant adverse effect on the environment, and authorizing, directing and ordering the vacation of certain Airport-Larkfield-Wikiup Sanitation Zone sewer easements under the authority of Section 8333(c) of the Streets and Highways Code of the State of California; and
(2) Authorizing and directing the General Manager to file a Notice of Determination in accordance with the California Environmental Quality Act (CEQA); and
(3) Authorizing and directing the Clerk of the Board to record a certified copy of the resolution at the Office of the County Recorder.

**Executive Summary:**

The matter before the Board today is approval of the Final Map for this subdivision as well as the summary vacation of several sanitary sewer easements which have been superseded and/or relocated within the property being subdivided. The approval of the Final Map is a ministerial action by the Board, subject only to compliance with the applicable conditions of approval which is inclusive of the requirements of the State Subdivision Map Act, and the County Subdivision Ordinance. The conditions of approval cover environmental issues as well as water supply, sewage disposal and physical access to the lots being created.

**Discussion:**

Final Map Related Summary (related to Resolution A):
On December 21, 2006, the Planning Commission adopted a mitigated negative declaration and approved a density bonus project consisting of a 22 lot tentative map and design review of 16 new single family dwellings, 10 new apartments, and rehabilitation of 27 existing apartments for property consisting of three parcels totaling 3.95 acres located at 69 Mark West Springs Rd, Santa Rosa, Assessor Parcel Numbers (APNs) 058-171-023, -024 and -025. This approval granted the developer two years to meet the conditions of approval required prior to filing its map which would create the lots. The State Map Act allows for five, one-year extensions to approved tentative maps upon request by the applicant/subdivider. Additionally, beginning in 2008 due to the economic downturn, the State approved four legislative extensions (automatic extensions to the life of a tentative map without request by the applicant/subdivider), keeping this tentative map active along with the requested extensions.

In order to assure that lots being created through the subdivision process are buildable, a subdivider is required to prove water supply and sewage disposal for each of the lots being created to the satisfaction of Permit and Resource Management Department (PRMD) Project Review Division's Environmental Health Specialist. The Environmental Health Specialist found the following:

- Water will be served by the California American Water Company (public water supply); and
- Sanitary Sewer service will be provided by the Airport-Larkfield-Wikiup Sanitation Zone (public sewage disposal).

The applicant/subdivider, 69 MWS, LLC, A California Limited Liability Company, has completed design of the required improvements both onsite and offsite to the satisfaction of the County Surveyor. 69 MWS, LLC has also completed construction of required roadway, sewer and water improvements to the satisfaction of the County Surveyor and entered into a Subdivision Improvement Maintenance Agreement with the County of Sonoma and posted security in the form of cash to warrant the roadway improvements.

The applicant/subdivider has prepared and/or executed the following documents in order to meet its obligations under the Conditions of Approval: a Homeowner's Association Agreement and Covenant, Conditions and Restrictions (CC&R's); a Density Bonus Affordable Rental Housing Agreement completed in coordination with the Sonoma County Community Development Commission (CDC); and a Subdivision Improvement Maintenance Agreement.

69 MWS, LLC has satisfied the required conditions for filing of the Final Map. Therefore, staff recommends approval of the resolution (Resolution A) approving the Final Map for Mark West Village Subdivision, Tract No. 1061. However, staff recommends that the Public Utility Easements offered for dedication on the map be rejected as is the standard practice, due to maintenance liability and because the County is not a Public Utility under the purview of the Public Utilities Commission.

Sanitary Sewer Easement Related Summary (related to Resolution B):

The owners of the property upon which the development and subdivision is proposed, desire the Board of Directors of the Sonoma County Water Agency to approve the vacation of the following Sanitation Easements previously granted to the County of Sonoma – County Service Area No. 31, AIRPORT-

LARKFIELD-WIKIUP and Sonoma County Water Agency, in order to facilitate the proposed development and subdivision of the property:

1. Sanitation easements granted to the County of Sonoma – County Service Area No. 31, (AIRPORT-LARKFIELD-WIKIUP) the by those certain Grant of Sewer Easement(s): (i) recorded September 11, 1990, as Document(s) 1990-0090458 and 1990-0090459, Official Records of Sonoma County and (ii) recorded April 22, 1992, as Document 1992-0046926, Official Records of Sonoma County and which were subsequently Quitclaimed (for the benefit of the Airport-Larkfield-Wikiup Sanitation Zone) to the Sonoma County Water Agency by that certain Quitclaim Deed recorded February 15, 1995 as Document 1995-0012625, Official Records of Sonoma County; and
2. The sanitation easement granted to the Sonoma County Water Agency by that certain Grant of Sewer Easement recorded December 1, 1995, as Document 1995-0102424, Official Records of Sonoma County.

These sanitation easements fall under the definition of "public service easements" of Section 8306 of the Streets and Highways Code of the State of California, and as such the authority of the Board of Directors of the Water Agency on behalf of the Airport-Larkfield-Wikiup Sanitation Zone to authorize and direct the vacation of these easements falls under the provisions of the applicable sections of the Streets and Highways Code of the State of California for vacation of Public Service Easements.

The owners of the property and the Water Agency have entered into, and recorded a Sewer Dedication and Easement Agreement (SD&EA) that overlaps and supersedes the sanitation easements to allow for the permitting, construction, operation and maintenance of the reconfiguration and relocation of existing sewer facilities that are necessary to facilitate the development and subdivision that is proposed for the property. These easements have been superseded by relocation and are now excess, and there are no other public facilities located within the easements.

Section 8333(c) of the Streets and Highways Code of the State of California, provides for the summary vacation of a public service easement(s) by the Board of Directors of the Water Agency, when such conditions apply.

Permit Sonoma (County) has completed environmental documentation in accordance with the California Environmental Quality Act (CEQA) for the Project. The County prepared an Initial Study/Mitigated Negative Declaration (IS/MND), which addresses the potential impacts related to the Project and measures to mitigate adverse effects of the Project. The County filed a Notice of Determination for the Project on April 1, 2016.

The Water Agency has prepared a Notice of Determination (on file with the Clerk of the Board) in accordance with CEQA, the State CEQA Guidelines, and the Agency's Procedures for the Implementation of CEQA. As a Responsible Agency under CEQA, Water Agency staff considered the MND as prepared by the County. With the incorporation of the mitigation measures identified in the MND, the Project would not have an adverse impact upon the environment.

Water Agency staff recommends that the Board of Directors adopt the attached Resolution (Resolution B), determining that vacation of the easements will not have a significant impact on the environment, authorizing summary vacation of the sewer easements, and authorizing the General Manager to file a Notice of Determination in accordance with the California Environmental Quality Act, the State CEQA Guidelines, and the Agency's procedures for Implementation of CEQA.

**Prior Board Actions:**

None.

**Strategic Plan Alignment** Goal 2: Economic and Environmental Stewardship

By allowing this subdivision, 16 new single family dwellings and 10 new apartments may be built creating jobs and adding to the population base in an orderly fashion. The summary vacation of the sanitary sewer easements is necessary for orderly establishment of property rights related to the already constructed improvements.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

The applicant/subdivider has paid County required fees for review of the subdivision improvement plans, inspection of the installation of the improvements, review of the final map and connection to the sewer system. Due to an increased property tax base, there should be an increase in property tax revenue generated by creation of the new lots.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |

| | | | |
|---|---|---|---|
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

None.

**Attachments:**

A) Draft Board of Supervisors Resolution to approve the Final Map of Mark West Village Subdivision, Tract No. 1061
B) Draft Board of Supervisors Resolution to approve the Summary Vacation of several sanitary sewer easements already existing on the property
C) Location map
D) Portion of subdivision map

**Related Items "On File" with the Clerk of the Board:**

Notice of Determination

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Approving And Accepting The Final Map For Mark West Village Subdivision, Tract No. 1061; Accepting Right-of-way Dedications As Shown On The Map; Rejecting The Public Utility Easements As Shown On The Map; And Making Findings All In Accordance With The Subdivision Map Act.**

**Whereas,** a Final Map of that certain subdivision entitled "Mark West Village Subdivision, Tract No. 1061" located in Santa Rosa has been presented to this Board of Supervisors for approval and acceptance; and

**Whereas,** said map conforms to the requirements of the State Subdivision Map Act and the Sonoma County Subdivision Ordinance; and

**Whereas,** the installation of the required monumentation has been completed to the satisfaction of the County Surveyor; and

**Whereas,** the installation of the public and private improvements has been completed to the satisfaction of the County Surveyor; and

**Whereas,** the owner/subdivider, 69 MWS, LLC, A California Limited Liability Company, has entered into a Subdivision Improvement Maintenance Agreement with the County; and

**Whereas,** in accordance with the requirements of said Subdivision Improvement Maintenance Agreement, the owner/subdivider has posted Cash security in the amount of $129,630.40; and

**Whereas,** the estimated taxes for the 2016 and 2017 fiscal year have been paid or financial arrangements made to the County Tax Collector; and

**Whereas,** said map has been duly acknowledged and executed, and is ready for approval and recordation.

**Now, Therefore, Be It Resolved** that said map of "Mark West Village Subdivision, Tract No. 1061" be and is hereby approved and accepted.

**Be It Further Resolved** that the right-of-way for Alexander David Court, Public Sidewalk Easements on Lots 4 and 22 and Public Street Light Easement on Lot 22 as shown on said map as being offered for dedication for public use thereon, be and are hereby accepted for public use.

**Be It Further Resolved** that the Public Utility Easements, as shown on said map as being offered for dedication for public use thereon, be and are hereby rejected for public use.

**Be It Further Resolved** the Board directs the Clerk of the Board to take the necessary steps to assure that said map and additional documents are filed with the County Recorder.

**Supervisors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution Of The Board Of Directors Of The Sonoma County Water Agency (Water Agency), On Behalf Of The Airport-Larkfield-Wikiup Sanitation Zone, Determining That Vacating Certain Sanitary Sewer Easements Will Not Have A Significant Adverse Effect On The Environment, Authorizing The Summary Vacation Of Certain Airport-Larkfield-Wikiup Sanitation Zone Sewer Easements, And Authorizing The General Manager Of The Sonoma County Water Agency To File A Notice Of Determination In Accordance With The California Environmental Quality Act**

**Whereas,** Division 9, Part 3, Chapters 2 through 4 (commencing with Section 8310 and specifically Section 8333) of the California Streets and Highways Code provides for summary vacation when certain conditions are met; and

**Whereas,** pursuant to Section 65402 of the California Government Code, the proposed vacation has been submitted to the planning agency within whose jurisdiction the proposed vacation is situated, resulting in a finding that the proposed vacation is in conformance with the general plan of said agency; and

**Whereas,** the Sonoma County Resource Management Department (PRMD) has prepared and adopted an Initial Study/Mitigated Negative Declaration, which addresses the potential impacts related to the Mark West Village Project and measures to mitigate adverse effects of the Project; and

**Whereas,** PRMD has filed a Notice of Determination in accordance with the California Environmental Quality Act (CEQA), dated April 1, 2016; and

**Whereas,** the Water Agency has reviewed the summary vacation for the Project, and the General Manager has determined that it will not have any additional significant adverse effects on the environment; and

**Whereas,** the Water Agency as a responsible agency, has prepared a Notice of Determination for the Summary Vacation in accordance with CEQA, the state CEQA Guidelines, and the Water Agency's procedures for implementation of CEQA.

**Now, Therefore, Be It Resolved** that the Board of Directors of the Sonoma County Water Agency hereby finds, determines, and declares as follows:

1. The above recitals are true and correct.

2. The Board of Directors Board hereby determines that the Summary Vacation will not have a significant adverse effect on the environment.

3. The Board of Directors of the Sonoma County Water Agency finds the easements referred to below have been superseded by relocation and are excess, and there are no other public facilities located within the easements.

4. The following public sanitary sewer easements subject to this Resolution are described as follows:

   Real Property situated in an unincorporated area of the County of Sonoma more particularly described as follows:

   All right title and interest conveyed to the County of Sonoma by those certain Grant of Sewer Easement(s): (i) recorded September 11, 1990 as Document(s) 1990-0090458 and 1990-0090459, Official Records of Sonoma County, and (ii) recorded April 22, 1992 as Document 1992-0046926, Official Records of Sonoma County and which were subsequently Quitclaimed (for the benefit of the Airport-Larkfield-Wikiup Sanitation Zone) to the Sonoma County Water Agency by that certain Quitclaim Deed recorded February 15, 1995 as Document 1995-0012625, Official Records of Sonoma County; and together with the Sanitation Easement granted to the Sonoma County Water Agency by that certain Grant of Sewer Easement recorded December 1, 1995 as Document 1995-0102424, Official Records of Sonoma County

5. The vacation of the public sanitary sewer easements is hereby ordered, and the Clerk of the Board of Directors is authorized and directed to record a certified copy of this resolution at the Office of the County Recorder.

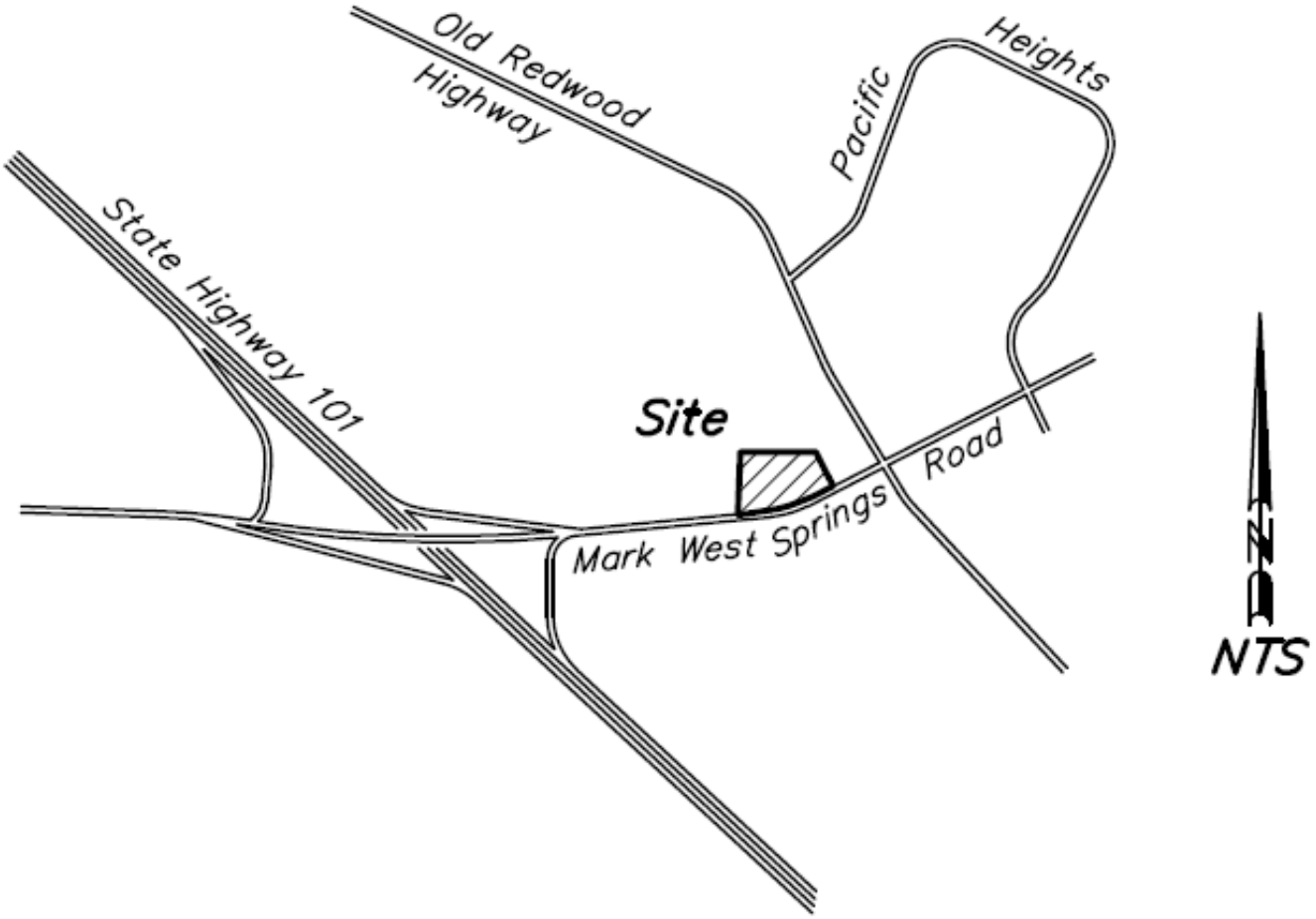
6. The General Manager is hereby authorized and directed to file a Notice of Exemption with the County Clerk in conformance with provisions of the California Environmental Quality Act.

**Directors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**




LOCATION MAP

PORTION OF SUBDIVISION MAP

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 42**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Probation

**Staff Name and Phone Number:**
Vanessa Fuchs, 565-6258

**Supervisorial District(s):**

**Title:** Agreement for Placement of Out-of-County Wards in Juvenile Facilities

**Recommended Actions:**

Adopt a Resolution authorizing the Chief Probation Officer to execute agreements with other counties for the placement of out-of-county wards at the Sonoma County Probation Department Juvenile Hall or Probation Camp beginning July 1, 2016.

**Executive Summary:**

On June 25, 2013, the Board delegated authority to the Chief Probation Officer of Sonoma County to enter into agreements with other counties for the placement of out-of-county youth in the Sonoma County Juvenile Hall and/or Probation Camp. The authority was granted for the period July 1, 2013 to June 30, 2016 (Resolution 13-0273). Also on June 25, 2013, the Board approved a proposed form of agreement between Sonoma County and other counties.

Today, Sonoma County Probation Department requests the Board approve a new resolution (Attachment 1) to continue delegating authority for the Chief Probation Officer to enter any such agreements with other counties, effective retroactively to July 1, 2016. The resolution will authorize the Chief Probation Officer to ratify existing agreements with Napa, Lake and Mendocino Counties, effective July 1, 2016, as well as enter into new agreements with other counties that may be interested. The form of agreement (Attachment 2) sets forth certain criteria and requirements for the placement of out-of-county youth, and continues to require that priority for placement be given to Sonoma County youth. The Chief Probation Officer may in the future revise the form of agreement without obtaining Board approval, only if such revisions do not materially change the terms of the form of agreement, and the revisions are approved by County Counsel.

**Discussion:**

The Sonoma County Probation Department operates the Juvenile Hall for the detention of juveniles under the jurisdiction of the Juvenile Court and the Probation Camp for the residential treatment of

minors designated as wards of the Court. Youth are detained in Juvenile Hall pending their Juvenile Court Hearings, while they are serving court-ordered terms of commitment, or awaiting out-of-home placement in a foster/group home, camp or other institution. To determine whether a particular youth is suitable for placement at the Probation Camp, staff screen youth according to a set of criteria developed to assess the youth's particular needs and issues, and whether the program can accommodate them.

Periodically, the Sonoma County Probation Department has received requests from other California probation departments to allow out-of-county youth to be housed in the Sonoma County Juvenile Hall or at the Probation Camp. Circumstances for such requests vary but typically include emergency placement based on the need to protect the youth from others in the local jurisdiction, or there is a need for a detention bed when the county does not have a juvenile detention facility or juvenile residential treatment facility. While the Department has historically obtained Board authorization for placement of youth in its camp facility for many years, the Board approved the first contract authorizing the Chief to execute an Agreement for the detention of an out-of-county youth at the Juvenile Hall in February 2013.

The Sonoma County Probation Department reserves the right to screen all cases to determine whether a particular youth is suitable for placement in the Juvenile Hall or the Probation Camp. Priority for detention at both facilities has always been given to Sonoma County youth. However, from time to time, there have been vacancies in these programs that the County has filled with out-of-county youth. As in the past, the Probation Department will continue to closely monitor population trends and program vacancy rates and limit the number of out-of-county placements to ensure that no Sonoma County youth is denied access to appropriate services.

The rates charged for out-of-county detention are adjusted annually for placement in the Juvenile Hall and Probation Camp programs. The current rates, paid by the youth's county of origin to Sonoma County Probation, are $125 per day for youth who receive detention services, and $50 per day for youth receiving aftercare services provided by the Probation Camp following program completion. A comparison between Probation's current rates for these services and other Departments throughout California was completed. Sonoma County Probation Department's rates are in line with those charged by other counties. A cost of care analysis also was performed to ensure that the recommended rates do not exceed the actual costs to provide the associated services. The rates cover variable costs associated with the basic care of out-of-county youth placed at the Probation Camp or Juvenile Hall, such as food, clothing, chemical testing, etc. The rates do not include fixed costs, such as staff salaries and overhead, as these costs are incurred by the Department regardless of the additional placement.

Placement in an out-of-county juvenile detention facility is authorized by law for up to 60 days with a written order of the court from the sending county and an agreement for reimbursement between the two counties, in accordance with Welfare and Institutions Code, Section 872. The 60 day limitation does not apply to juvenile residential treatment facilities, therefore out-of-county youth may remain at the Probation Camp until program completion. Placement of out-of-county youth in Sonoma County detention and residential treatment facilities benefits Sonoma County. It enables Probation to maintain a stable resident population while allowing operation of juvenile facilities and generation of additional revenue. At the same time, the out-of-county youth and the county of origin benefit by being able to place the youth at a facility that will address the special needs of the case circumstances. The action also

is consistent with recent Chief Probation Officers of California trend toward exploring greater regionalization of probation services.

**Prior Board Actions:**

**06/25/2013 –** Authorized Chief Probation Officer to execute an agreement with other counties for the detention of out-of-county youth at the Sonoma County Juvenile Hall;
**02/05/2013** – Authorized Chief Probation Officer to execute an agreement with the County of Tuolumne for the detention of out-of-county youth at the Sonoma County Juvenile Hall;
**06/19/2007** - Authorized Chief Probation Officer to sign agreements with other counties for the placement of out-of-county wards at Sierra Youth Center and/or Probation Camp.

**Strategic Plan Alignment** Goal 1: Safe, Healthy, and Caring Community

Accepting out-of-county youth enables Sonoma County to maintain a stable resident population in the operation of its juvenile facilities. The availability of facilities for juvenile probationers helps to ensure a safe community. Acceptance of out-of-county youth also will generate additional revenue. At the same time, the out-of-county youth and the county of origin benefit by being able to place the youth at a facility that will address the special needs of the case circumstances.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

It is not possible to predict the number of out-of-county youth who would be placed at Sonoma County Juvenile Hall or Camp at any time, and therefore no revenue is budgeted.

| Staffing Impacts | | | |
|---|---|---|---|
| **Position Title**<br>(Payroll Classification) | **Monthly Salary Range**<br>(A – I Step) | **Additions**<br>(Number) | **Deletions**<br>(Number) |
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Attachment 1 - Resolution
Attachment 2 - Template Agreement for Placement of Out-of-County Youth

**Related Items "On File" with the Clerk of the Board:**

Professional Services Agreements:
Mendocino Out-of-County Placement of Youth (10/01/2016 to 06/30/2017)
Lake Out-of-County Placement of Youth (09/13/2016 to 11/30/2016)
Lake Out-of-County Placement of Youth (effective date 09/12/2016)
Napa Out-of-County Placement of Youth (effective date July 1, 2016)

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Authorizing the Chief Probation Officer to execute agreements with other counties for the placement of out-of-county wards at the Sonoma County Probation Department Juvenile Hall and Probation Camp beginning July 1, 2016, assuring priority for detention at both facilities for Sonoma County youth.**

**Whereas,** the Sonoma County Probation Department operates the Juvenile Hall and the Probation Camp for the detention of youth and the residential treatment of youth under the jurisdiction of the Juvenile Court; and

**Whereas,** these facilities may have available vacancies that are not filled by Sonoma County youth; and

**Whereas,** other counties, from time to time, are in need to contract with Sonoma County to provide for the detention or residential treatment of youth under the jurisdiction of their County's Juvenile Court.

**Now, Therefore, Be It Resolved** by the Board of Supervisors of Sonoma County that the Chief Probation Officer of Sonoma County is hereby authorized to enter into any future agreements with other counties for the placement of out-of-county youth into the Sonoma County Juvenile Hall and/or Probation Camp in the proposed form of agreement (attached). Such authority to execute and enter into these agreements on behalf of the County is granted to the Chief Probation Officer beginning July 1, 2016. The Board also authorizes the Chief Probation Officer to enter into such agreements with Napa, Lake, and Mendocino counties in arrears, from July 1, 2016 to the date of this Resolution.

**Be It Further Resolved** that the Chief Probation Officer may revise the proposed form of agreement for the placement of out-of-county youth into Sonoma County Juvenile Hall and/or Probation Camp, or any such individual agreement with a particular county, without obtaining Board approval, only if such revisions do not materially change the terms of the form of agreement and are approved by County Counsel.

**Supervisors:**

Gorin: Zane: Gore: Carrillo: Rabbitt:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

# Standard Professional Services Agreement ("PSA")

AGREEMENT FOR PROFESSIONAL SERVICES

This agreement ("Agreement"), dated as of MM/DD/YYYY ("Effective Date") is by and between the County of Sonoma, a political subdivision of the State of California (hereinafter "County"), and County of X (hereinafter " Second County ").

R E C I T A L S

WHEREAS, County has established a detention facility and a residential treatment facility for juveniles under the jurisdiction of the Juvenile Court (hereinafter referred to as "Youth") known as the Sonoma County Juvenile Hall (hereinafter referred to as "Juvenile Hall) and the Sonoma County Probation Camp (hereinafter referred to as "Probation Camp"), in accordance with Welfare and Institutions Code, Sections 850, et seq; and

WHEREAS, from time to time the accommodations at the Second County Juvenile Hall and/or Probation Camp exceed the needs of County, and in those instances the Second County desires to place its own Youth in the Juvenile Hall and/or Probation Camp; and

WHEREAS, in the judgment of the Sonoma County Chief Probation Officer it is necessary and desirable to enter into an Agreement with Second County for the detention and/or placement of out-of-county Youth in Sonoma County's Juvenile Hall and/or Probation Camp.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

A G R E E M E N T

l. Scope of Services.

1.1 Care to be Provided**.** County will provide care and detention for Youth of the Second County at the Probation Camp, which is a program of approximately 5.5 - 9 months (depending on the Youth's progress), or until program completion, subject to the conditions and limitations of this Agreement. Care for Youth will include housing, limited health care (as set forth in Section 2.2, below) counseling, academic assessment, and individual case plans to meet resident/family needs. In addition, County may provide care and detention at the County's Juvenile Hall for a maximum of 21 days for the Youth of the Second County who have been placed at the Probation Camp pursuant to this Agreement, in instances where a "timeout" from Camp for the Youth is warranted due to immediate safety and security reasons.

1.2 Limitations. The Director of the Juvenile Hall and/or the Probation Camp may at his/her discretion decline to accept or retain a Youth of the Second County because of limited residential facilities, or any other reason affecting the welfare of the Youth at Juvenile Hall and/or Probation Camp. Second County agrees to promptly arrange for the transportation of

any Youth out of the Juvenile Hall and/or Probation Camp upon receipt of a written or oral request from the Director (or his/her designee) to remove the identified Youth from the Juvenile Hall and/or Probation Camp. Second County shall cooperate with County and County staff in the performance of all work hereunder.

1.3 Physical Examination Prior to Detention. The Second County agrees to provide a physical examination for each of its Youth prior to detention at the Juvenile Hall and/or Probation Camp. Second County will only place those Youth who are physically fit for detention in a Juvenile Hall and/or Probation Camp in accordance with the standards established by the DJJ.

1.4 Access to Probation Department Facilities. Second County shall be permitted access to Sonoma County facilities for the purpose of performing the services required under this Agreement. Second County agrees to comply with all Sonoma County policies and procedures, and any directives issued by Probation Department staff, relating to safety and security while receiving services in the facilities.

2. Payment.

2.1 Rates for Services.

2.1.1 Second County shall pay County the sum of One Hundred Twenty-Five Dollars ($125) per day during fiscal year 2016-2017, to be adjusted yearly as mutually agreed upon annually by addendum, for each of its Youth who receive detention services at the Juvenile Hall and/or Probation Camp.

2.1.2 Second County shall pay County the sum of Fifty Dollars ($50) per day during fiscal year 2016-2017, to be adjusted yearly as mutually agreed upon annually by addendum, for each of its Youth who only receive “Aftercare Services” from the Probation Camp.

2.1.3 Payment of the aforementioned fees shall constitute full payment and satisfaction of the obligation of Second County for its Youth except as otherwise specified in the Agreement (e.g., see Subsections 2.2, 2.3, and 5). County will bill Second County monthly in arrears of the provision of services. Billing will commence on the day of admission, and will terminate on the day prior to release. Unless otherwise noted in this agreement, payments shall be made within the normal course of county business within 30 days after presentation of an invoice in a form approved by the County for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by the County.

2.2 Cost of Medical Care for Second County’s Youth. Second County agrees to reimburse County for all costs incurred for any and all medical, dental, optical, surgical and psychiatric services (“Medical Costs”) performed on a Youth of the Second County as follows:

2.2.1 Routine medical examinations and first aid will be provided free of charge to Youth of the Second County.

2.2.2 Aside from the exceptions noted above (Subsections 2.2.1), Second County agrees to reimburse County for any additional Medical Costs incurred by Youth of Second County. Second County shall pay for such Medical Costs within 30 days of billing (date on which invoice is mailed).

2.2.3 Second County shall provide County with an adequate supply of any prescription medication, prescribed to Youth at the time of admission for the full period of detention at the Juvenile Hall and/or Probation Camp.

2.3 Cost of Transporting Second County Youth. Second County agrees to provide for transportation, or to reimburse County for actual costs incurred for transportation, of Second County's Youth between the Second County and the Juvenile Hall and/or Probation Camp. Second County shall pay for such transportation costs within 30 days of billing (date on which invoice is mailed).

3. Term of Agreement. The term of this Agreement shall begin from MM/DD/YYYY and automatically renew every July 1st, unless terminated earlier in accordance with the provisions of Article 4 below. The agreement may be re-negotiated at such time as either one of the parties deem appropriate.

4. Termination. Notwithstanding any other provision of this Agreement, at any time and without cause, either party to this Agreement shall have the right in its sole discretion, to terminate this Agreement by giving thirty (30) days written notice to the other party. In the event of such termination, Second County shall provide transportation for all of its Youth at Juvenile Hall and/or Probation Camp to alternative destinations, and shall pay County for all services and expenses rendered prior to the date of termination.

5. Indemnification. To the full extent permitted by law, County and Second County shall each defend, indemnify and hold harmless each other as well as their respective officers, agents, employees, volunteers or representatives from and against any and all liability, claims, actions, proceedings, losses, injuries, damages or expenses of every name, kind and description, including litigation costs and reasonable attorney's fees incurred in connection therewith, brought for or on account of personal injury (including death) or damage to property, arising out of or connected with any acts or omissions of that party or its officers, agents, employees, volunteers, or contractors or their subcontractors, when performing any activities or obligations required of that party under this Agreement. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, providing that nothing shall require either party to disclose any documents, records or communications that are protected under peer review privilege, attorney-client privilege, or attorney work product privilege.

6. Insurance. With respect to performance of work under this Agreement, the parties recognize that County and Second County are both self-insured in whole and/or in part and shall maintain, to the extent not so self-insured, and shall require all of their respective subcontractors and other agents who provide services in connection with this Agreement to maintain, all necessary insurance as described in "Exhibit A", which is attached hereto and incorporated herein by this reference.

7. Extra or Changed Work. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Minor changes, which do not increase the amount paid under the Agreement, and which do not significantly change the scope of work or significantly lengthen time schedules may be executed by the Chief Probation Officer in a form approved by County Counsel.

8. Confidentiality Requirements. Second County and its directors, officers, employees, agents, and subcontractors shall ensure that:

8.1 All records concerning any individual or client made or kept in connection with the administration of any provision of the services provided by this agreement shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of the services provided here, except a requested in writing by County or as required by law.

8.2 No person shall publish, disclose, use, permit, or cause to be published, disclosed, or used any confidential or identifying information pertaining to any individual or client that is obtained in connection with the administration of any provision of the services provided by this Agreement, except as requested in writing by County or as required by law.

8.3 Second County and its officers, employees, agents or subcontractors, shall not voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Second County gives notice to the Probation of such court order or subpoena prior to compliance.

9. Authority. The undersigned hereby represents and warrants that he or she has authority to execute and deliver this Agreement on behalf of Second County.

10. Demand for Assurance. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within

a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance. Nothing in this Article limits County's right to terminate this Agreement pursuant to Article 4.

11. Assignment and Delegation. Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

12. Method and Place of Giving Notice, Submitting Bills and Making Payments. All notices, bills, and payments shall be made in writing and shall be given by personal delivery or by U.S. Mail or courier service. Notices, bills, and payments shall be addressed as follows:

| | |
|---|---|
| TO: COUNTY: | Sonoma County Probation Department<br>600 Administration Dr., #104J<br>Santa Rosa, CA 95403<br>Phone: (707) 565-8077 |
| TO: SECOND COUNTY: | X County Probation Department<br>Address<br>Phone<br>Email address |

When a notice, bill or payment is given by a generally recognized overnight courier service, the notice, bill or payment shall be deemed received on the next business day. When a copy of a notice, bill or payment is sent by facsimile or email, the notice, bill or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill or payment is promptly deposited in the U.S. mail and postmarked on the date of the facsimile or email (for a payment, on or before the due date), (2) the sender has a written confirmation of the facsimile transmission or email, and (3) the facsimile or email is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this paragraph.

13. Miscellaneous Provisions.

13.1 No Waiver of Breach. The waiver by County of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.

13.2 Construction. To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any

provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Second County and County acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Second County and County acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

13.3 Consent. Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

13.4 No Third Party Beneficiaries. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

13.5 Applicable Law and Forum. This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or the forum nearest to the city of Santa Rosa, in the County of Sonoma.

13.6 Captions. The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

13.7 Merger. This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. Each party acknowledges that, in entering into this Agreement, it has not relied on any representation or undertaking, whether oral or in writing, other than those which are expressly set forth in this Agreement. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

13.8. Survival of Terms. All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

13.9 Time of Essence. Time is and shall be of the essence of this Agreement and every provision hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

| SECOND COUNTY: COUNTY OF X |
| --- |
| By_____<br>Chief Probation Officer<br><br>Date_____ |
| APPROVED AS TO FORM<br>Office of County Counsel<br><br>By:<br>_____<br><br>Date:<br>_____ |

COUNTY: COUNTY OF SONOMA

CERTIFICATES OF INSURANCE ON FILE WITH AND APPROVED AS TO SUBSTANCE FOR COUNTY:

By:_____
David Koch, Chief Probation Officer

Date: _____

APPROVED AS TO FORM FOR COUNTY:

By: _____
Tambra Curtis, Deputy County Counsel

Date: _____

# EXHIBIT A
# INSURANCE REQUIREMENTS

With respect to performance of work under this Agreement, Second County shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Any requirement for insurance to be maintained after completion of the work shall survive this agreement.

County reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Second County from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. **Workers Compensation and Employers Liability Insurance**
   - **a.** Required if Second County has employees.
   - **b.** Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
   - **c.** Employers Liability with limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.
   - **d.** *Required Evidence of Insurance*: Certificate of Insurance.

   If Second County currently has no employees, Second County agrees to obtain the above-specified Workers Compensation and Employers Liability insurance should any employees be engaged during the term of this Agreement or any extensions of the term.

2. **General Liability Insurance**
   - **a.** Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
   - **b.** Minimum Limits: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Umbrella Liability Insurance. If Second County maintains higher limits than the specified minimum limits, County requires and shall be entitled to coverage for the higher limits maintained by Second County.
   - **c.** Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by County. Second County is responsible for any deductible or self-insured retention and shall fund it upon County's written request, regardless of whether Second County has a claim against the insurance or is named as a party in any action involving the County.

County of Sonoma, its Officers, Agents and Employees shall be additional insureds for liability arising out of operations by or on behalf of the Second County in the performance of this agreement.

**d.** The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.

**e.** The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in ISO form CG 00 01, or equivalent).

**f.** The policy shall cover inter-insured suits between County and Second County and include a "separation of insureds" or "severability" clause which treats each insured separately.

**g.** *Required Evidence of Insurance:*

**i.** Copy of the additional insured endorsement or policy language granting additional insured status; and

**ii.** Certificate of Insurance.

**3. Automobile Liability Insurance**

**a.** Minimum Limits: $1,000,000 combined single limit per accident.

**b.** Insurance shall apply to all owned autos. If Second County currently owns no autos, Second County agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.

**c.** Insurance shall apply to hired and non-owned autos.

**d.** *Required Evidence of Coverage*: Certificate of Insurance.

**4. Professional Liability/Errors and Omissions Insurance**

**a.** Minimum Limit: $1,000,000 per occurrence.

**b.** Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by County.

**c.** If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.

**d.** Coverage applicable to the work performed under this Agreement shall be continued for two (2) years after completion of the work. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.

**e.** *Required Evidence of Coverage*: Certificate of Insurance.

**5. Standards for Insurance Companies**

Insurers shall have an A.M. Best's rating of at least A:VII.

**6. Documentation**

**a.** The Certificate of Insurance must include the following reference: X Out of County

Placement Agreement.

**b.** All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Second County agrees to maintain current Evidence of Insurance on file with County for the entire term of this Agreement and any additional periods if specified in Sections 1 – 4 above.

**c.** The name and address for Additional Insured endorsements and Certificates of Insurance is:

County of Sonoma, its Officers, Agents and Employees
Attn: Sonoma County Probation Department
600 Administration Drive, Suite 104J
Santa Rosa, CA 95403

**d.** Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

**e.** Second County shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.

**f.** Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

**7. Policy Obligations**

Second County's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

**8. Material Breach**

If Second County fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. County, at its sole option, may terminate this Agreement and obtain damages from Second County resulting from said breach. Alternatively, County may purchase the required insurance, and without further notice to Second County, County may deduct from sums due to Second County any premium costs advanced by County for such insurance. These remedies shall be in addition to any other remedies available to County.

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 43**
(This Section for use by Clerk of the Board Only.)

**To:** The Board of Supervisors of Sonoma County

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Regional Parks

**Staff Name and Phone Number:**
Bert Whitaker 565-2041

**Supervisorial District(s):**
Fourth

**Title:** Cloverdale River Park Joint Powers Agreement with the City of Cloverdale

**Recommended Actions:**

Authorize the Director of Regional Parks to execute a Joint Powers Agreement with the City of Cloverdale for landscape maintenance services from July 1, 2016 through June 30, 2019, not to exceed $115,000 over 3 years.

**Executive Summary:**

Cloverdale River Park is a 44 acre County owned park facility along the Russian River at the north end of the City of Cloverdale adjacent to the City of Cloverdale's 59 acre River Park. Since 2001 Regional Parks has contracted with the City of Cloverdale to provide routine landscape and trail maintenance at Cloverdale River Park. The City of Cloverdale has been a committed partner providing operational and cost efficiencies for Regional Parks with these agreements. In 2009 the City of Cloverdale requested that the agreement format be changed from a Professional Services Agreement to a Joint Powers Agreement (JPA) and Regional Parks complied with that request.

**Discussion:**

Cloverdale River Park is approximately 21 miles north of the closest Regional Park facility at Healdsburg Veterans Memorial Beach. Since opening the park in 2001, Regional Parks has partnered with the City of Cloverdale to perform the daily maintenance and operational tasks including seasonal mowing along trails, trash removal and other minor repairs. Regional Parks estimates that it would cost more than $167,000 over the term of the Agreement to provide comparable services with Regional Parks' maintenance staff.

Other considerations include travel time to and from the maintenance hub at Healdsburg Memorial Beach to Cloverdale River Park, and wear and tear on vehicles and equipment. Utilizing the City of Cloverdale also reduces the carbon footprint due to its proximity to the City's River Park already being maintained by City staff. Additionally, Cloverdale City staff work closely with Regional Parks staff to communicate timely information critical to operating the facility with limited presence from County staff.

In 2009 the City of Cloverdale requested that the agreement format be changed from a Professional Services Agreement to a Joint Powers Agreement. If approved, this would be the third agreement in a Joint Powers Agreement format and the fifth agreement in total with the City for maintenance services at Cloverdale River Park. The City Manager of Cloverdale requests and receives City Council authorization to enter into this agreement. This item was approved at the November 8, 2016 Cloverdale City Council meeting.

Regional Parks requests the Board to authorize the Director of Regional Parks execute the attached Joint Powers Agreement with the City of Cloverdale.

**Prior Board Actions:**

The Board of Supervisors approved Joint Powers Agreements with the City of Cloverdale on November 13, 2013 and on June 15, 2010.

**Strategic Plan Alignment** Goal 2: Economic and Environmental Stewardship

The proposed JPA with the City of Cloverdale will save the County $47,000 over the life of the agreement. By partnering with the City of Cloverdale, this agreement will reduce vehicle miles driven which will reduce the carbon footprint of operating the facility and reduce traffic on Highway 101.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | $35,000 | $35,000 | $35,000 |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **$35,000** | **$35,000** | **$35,000** |
| **Funding Sources** | | | |
| General Fund/WA GF | $35,000 | $35,000 | $35,000 |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$35,000** | **$35,000** | **$35,000** |

**Narrative Explanation of Fiscal Impacts:**

Regional Parks and the City of Cloverdale have agreed to invoice at a flat rate of $8,750 per quarter for services defined in the Scope of Work for the three year term of the agreement. This will simplify budgeting and accounting for both the County and the City.

| Staffing Impacts | | | |
|---|---|---|---|
| **Position Title**<br>(Payroll Classification) | **Monthly Salary Range**<br>(A – I Step) | **Additions**<br>(Number) | **Deletions**<br>(Number) |
| | | | |
| | | | |
| **Narrative Explanation of Staffing Impacts (If Required):** | | | |
| | | | |
| **Attachments:** | | | |
| | | | |
| **Related Items "On File" with the Clerk of the Board:** | | | |
| Cloverdale River Park JPA FY15-16.pdf | | | |

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 44**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Sonoma County Employees' Retirement Association

**Staff Name and Phone Number:**
Julie Wyne, 565-8103

**Supervisorial District(s):**
Countywide

**Title:** Retirement Board Election Results for the Second Trustee Position

**Recommended Actions:**

Adopt a Resolution approving the election results for the Retirement Board Second Trustee position (general members) of the Sonoma County Employees' Retirement Association.

**Executive Summary:**

The Sonoma County Employees' Retirement Association (SCERA) Board must hold elections for the various member representatives as their terms of office expire as outlined in the SCERA Bylaws. An election for the Second Trustee position representing active general members was held on December 6, 2016.

The results of the election must now be declared official by the Board of Supervisors. Michael Gossman is elected to the Second Trustee position and his term of office will begin January 1, 2017 with adoption of the official results by the Board of Supervisors. The newly elected Second Trustee will hold the office until December 31, 2019 at which time the term will expire. A regularly scheduled election will then be held for the Second Trustee position as outlined in the SCERA Bylaws.

**Discussion:**

The SCERA Board of Retirement is a nine-member Board, plus one alternate retiree member. Four of the trustees are appointed by the Sonoma County Board of Supervisors, five are elected by SCERA's membership (two general, one safety, one retired, one retired alternate), and the County Treasurer is elected by the general public. With the exception of the County Treasurer, Board members serve three-year terms of office with no limits on the number of terms that can be served.

Subject to the provisions of Government Code Section 31520.1, any active member of the Sonoma County Employees' Retirement Association shall be eligible to serve on the Board of Retirement of said association unless prohibited by law.

In that regard, it is recognized that Government Code Section 31520.1 provides that position nos. 2 and 3 on the Board of Retirement shall be filled by the election of non-safety members and that only non-safety members are eligible to vote for such officers. Position 7, in turn, is a safety member position with safety members voting for the selection thereof. Position 8 shall be filled by the election of a retired member.

The election held on December 6, 2016, was to elect the Second Trustee position for a term of office that will begin January 1, 2017. The elected candidate will hold the office until December 31, 2019 at which time the term will expire and a regularly scheduled election will then be held for the Second Trustee position as outlined in the SCERA Bylaws.

**Prior Board Actions:**

12-10-13 – Initial election and appointment of Michael Gossman to fill the Second Trustee position on the SCERA Retirement Board.

**Strategic Plan Alignment** Goal 4: Civic Services and Engagement

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

Not applicable.

| Staffing Impacts | | | |
|---|---|---|---|
| **Position Title**<br>(Payroll Classification) | **Monthly Salary Range**<br>(A – I Step) | **Additions**<br>(Number) | **Deletions**<br>(Number) |
| | | | |
| | | | |
| **Narrative Explanation of Staffing Impacts (If Required):** | | | |
| Not applicable. | | | |
| **Attachments:** | | | |
| Resolution - Election results as canvassed by the Registrar of Voters. | | | |
| **Related Items "On File" with the Clerk of the Board:** | | | |
| None. | | | |

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Adopting The Election Results for the Second Trustee Position (General) Of The Sonoma County Employees' Retirement Association Board.**

**Whereas,** on December 6, 2016 an election was held for the Second Trustee position (general members) of the Sonoma County Employees' Retirement Association Board, and

**Whereas,** the election has been completed and the Registrar of Voters Office has submitted to this Board of Supervisors results of this election, and

**Whereas,** Michael Gossman received the most votes and was elected to fill the term of the position of the Second Trustee, and

**Whereas,** the election is deemed effective upon adoption of the results and the candidate elected to the position of the Second Trustee will be seated at a meeting of the Retirement Board following the election,

**Now, Therefore, Be It Resolved** that the results of the Sonoma County Employees' Retirement Association Board Election to fill the position of the Second Trustee of the Sonoma County Employees' Retirement Board with a term from January 1, 2017 to December 31, 2019 are hereby declared in accordance with the Official Statement of Votes Cast herewith adopted.

**Supervisors:**

Rabbitt: Zane: Gore: Carrillo: Gorin:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 45**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Transportation and Public Works

**Staff Name and Phone Number:**
Susan Klassen (707) 565-2440

**Supervisorial District(s):**
Second

**Title:** Boyes Boulevard Road Bridge Replacement Project

**Recommended Actions:**

Adopt a resolution accepting a Grant Deed and authorizing the Chair to execute a Property Purchase Agreement for a full fee-take purchase required for the Boyes Boulevard Road Bridge Replacement Project, authorizing a payment of $285,000, which includes $0 for severance damages; authorizing transfer of taxes on said land; and authorizing refunds, if applicable, pursuant to § 5096 of the Revenue and Taxation Code; lands of Linas Baranauskas, a Married Man as his Sole and Separate Property (APN: 052-191-007); Project C01147

**Executive Summary:**

The Department of Transportation and Public Works (TPW) is requesting the Board of Supervisors adopt a resolution, and authorize the Chair to execute a Property Purchase Agreement, for the purchase of a full fee-take acquisition required for the Boyes Boulevard Road Bridge Replacement Project (Project). The project will replace the existing structurally deficient two-lane Boyes Boulevard Bridge with a new two-lane bridge designed to meet current design standards including improvements to roadway approaches and appurtenant facilities. The replacement bridge will comply with current roadway, drainage, and bridge standards and accommodate the 100-year storm event with freeboard as specified by the County of Sonoma.

The Project is required as part of the Sonoma County's program to replace and/or upgrade structurally deficient bridges throughout Sonoma County. Project construction is expected to begin in 2018 and right-of-way must be acquired from seven (7) separate subject properties adjoining the existing bridge right of way to construct the Project.

**Discussion:**

The subject property is primarily a vacant parcel comprising approximately 10,355 square feet, plus a dilapidated structure that is uninhabitable and scheduled to be demolished and removed as a cost of the project. The property owner purchased the subject property in 2015 with the intention of

developing the property in compliance with residential zoning requirements. Due to the lengthy construction period for this project of up to two years and the significant impact on property owner's utilization of the parcel during this time period, the property owner rejected the initial offer from the County in the amount of $64,400 to acquire right-of-way needed for the Project which included a partial fee-take, a slope easement, and a temporary construction easement with an area of approximately 83% of the total parcel. During the course of negotiations the property owner proposed selling the entire parcel to the County at the purchase price of $285,000 based on the increase in property values since he purchased the property, and fees and carrying costs incurred for the permit process during the negotiation period with the County. Caltrans is in agreement with the process for acquisition of this parcel and funds expended will be federally reimbursable. At the end of the project, the County can choose to sell the parcel with proceeds returning to the applicable funding sources.

The subject property is a key construction staging area for the Project and the property's proximity to Boyes Boulevard Bridge will enable construction crews to store and move construction materials and vehicles efficiently and quickly. The property owner has signed a Property Purchase Agreement and Grant Deed conveying the parcel to Sonoma County.

This project is funded with 88.53% federal bridge program funds and 11.47% local matching funds, of which Sonoma Valley Traffic Mitigation fees will be used on this purchase. Both California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) environmental clearances have been obtained for this project. Negotiations with the remaining six (6) property owners impacted by this Project are on-going. If this purchase is not approved, it could cause delays in project schedule as alternative methods of acquiring the necessary right-of-way such as eminent domain proceedings could become necessary.

**Prior Board Actions:**

3/17/15 No.20: Board approved an agreement with Associated Right of Way Services, Inc. for five federal bridge projects including the Boyes Boulevard Bridge Replacement project; 5/7/13 No. 28 Board approved an engineering design contract with Moffat and Nichol for the Boyes Boulevard Bridge Replacement Project

**Strategic Plan Alignment** Goal 3: Invest in the Future

The project invests in the future by replacing aging public infrastructure to ensure a reliable transportation network for the community.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | $285,000 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **$285,000** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | $252,311 | | |
| Fees/Other | $32,689 | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$285,000** | | |

**Narrative Explanation of Fiscal Impacts:**

Appropriations are budgeted in the Roads Capital Improvement Budget. This purchase is funded with federal bridge program and Sonoma Valley Traffic Mitigation fees.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Resolution; Location Map; Acquisition Map

**Related Items "On File" with the Clerk of the Board:**

Agreement(s)

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2106 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, to Approve Purchase of Real Property and Accept Grant Deed**

**Whereas,** a Grant Deed dated November 11, 2016, conveying land described therein to the County of Sonoma, has been tendered to this Board of Supervisors by Linas Baranauskas, a Married Man as His Sole and Separate Property; and

**Whereas,** the County of Sonoma is desirous of securing said land for a bridge replacement project on Boyes Boulevard in Sonoma.

**Now, Therefore, Be It Resolved** that the Board does hereby accept said deed according to terms set forth herein.

**Be It Further Resolved** that the Chair of the Board be and hereby is authorized and directed to execute the Property Purchase Agreement and the statutory Certificate of Acceptance in connection with said deed.

**Be It Further Resolved** that the financial consideration for said property purchase totals $285,000.

**Be It Further Resolved** that as part of the total financial consideration above, the County Auditor and Treasurer be and hereby are authorized and directed to draw their warrant on the Roads Capital Improvement Budget, in the sum of $285,000 payable to First American Title Company, Escrow No. 4904-4433607 (Linas Baranauskas) payable to Linas Baranauskas, said sum representing the financial consideration agreed upon in connection with the herein described conveyance.

**Be It Further Resolved** that pursuant to § 4986 and § 5096 of the Revenue and Taxation Code of the State of California, the County Auditor and Assessor be and hereby are authorized and directed to prorate, transfer and refund (if applicable) the taxes as of this date on the herein described lands conveyed to the County of Sonoma more particularly described as follows:

See Exhibit “A”.

**Be It Further Resolved** that the County Recorder be and hereby is authorized to record said deed at no cost to the County as provided under Government Code 6103.

**Supervisors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

# COUNTY ASSESSOR'S PARCEL MAP

TAX RATE AREA 158-082

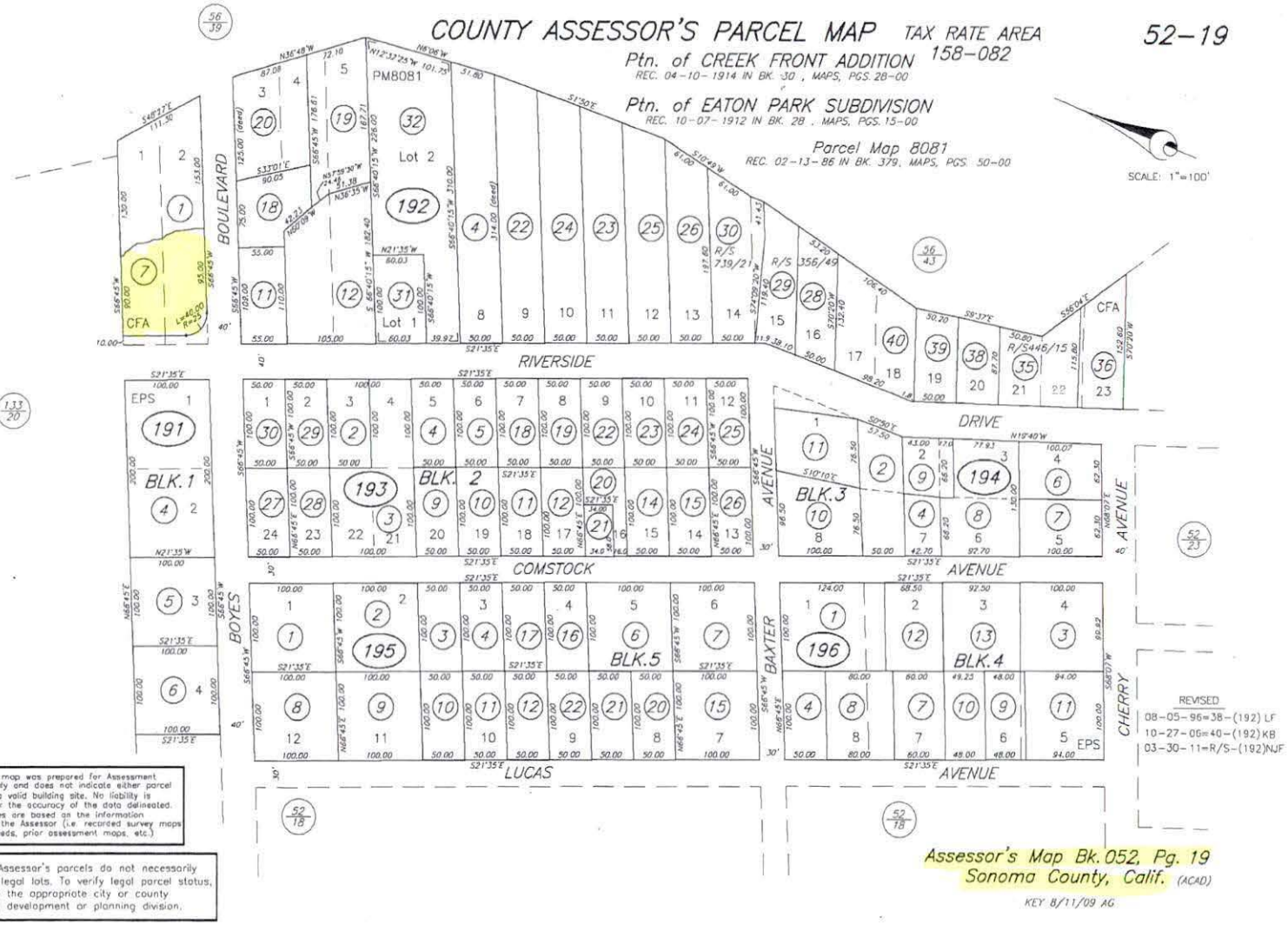
52-19

Ptn. of CREEK FRONT ADDITION
REC. 04-10-1914 IN BK. 30, MAPS, PGS. 28-00

Ptn. of EATON PARK SUBDIVISION
REC. 10-07-1912 IN BK. 28, MAPS, PGS. 15-00

Parcel Map 8081
REC. 02-13-86 IN BK. 379, MAPS, PGS. 50-00

SCALE: 1"=100'




NOTE: This map was prepared for Assessment purposes only and does not indicate either parcel legality or a valid building site. No liability is assumed for the accuracy of the data delineated. The acreages are based on the information supplied to the Assessor (i.e. recorded survey maps recorded deeds, prior assessment maps, etc.)

NOTE: Assessor's parcels do not necessarily constitute legal lots. To verify legal parcel status, check with the appropriate city or county community development or planning division.

Assessor's Map Bk. 052, Pg. 19
Sonoma County, Calif. (ACAD)

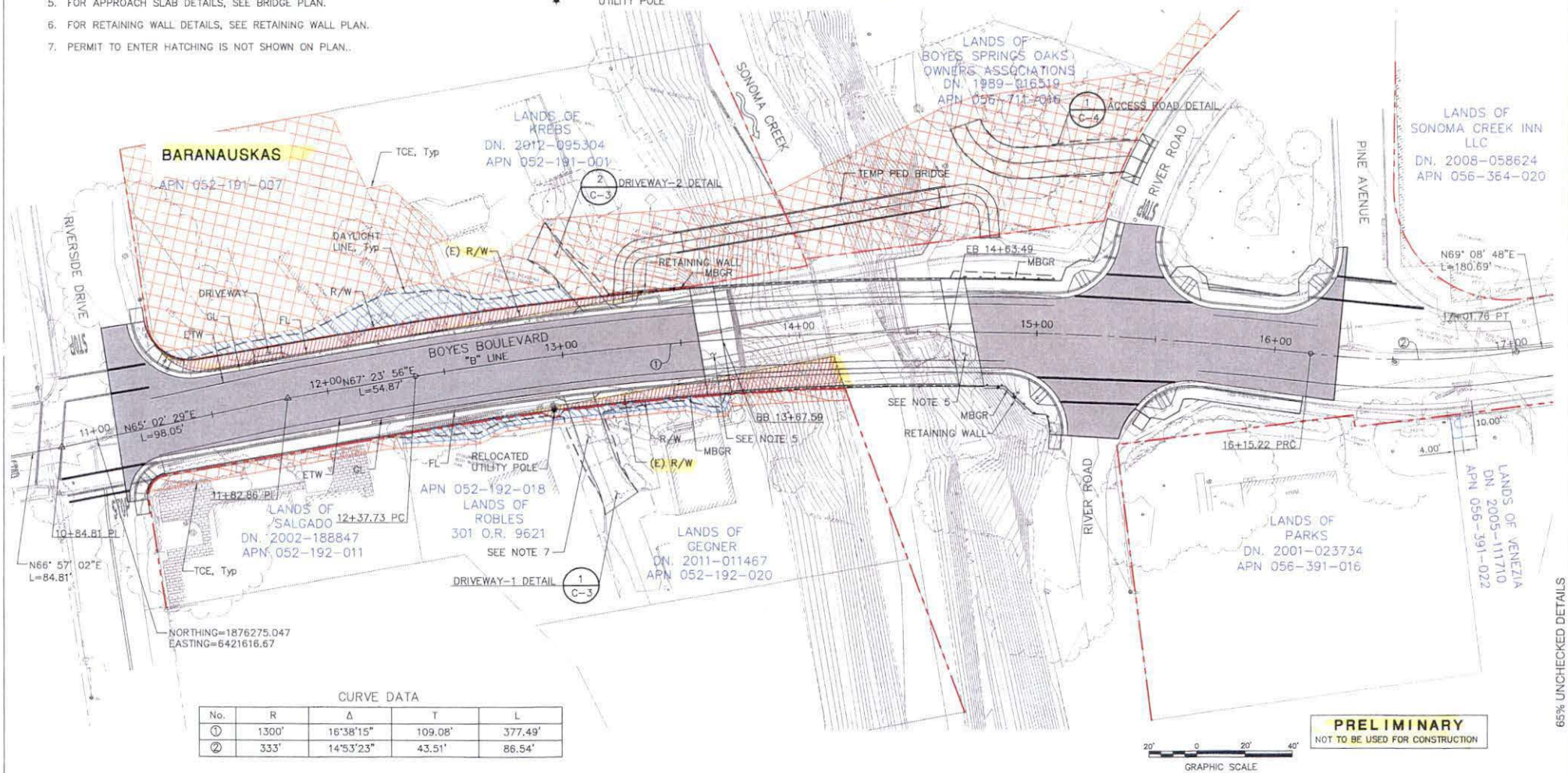
KEY 8/11/09 AG

NOTES:

1. ALL CALLOUTS REFERENCE "B" LINE UNLESS OTHERWISE NOTED.
2. FOR ADDITIONAL DETAILS, SEE CONSTRUCTION DETAILS SHEETS.
3. UNLESS OTHERWISE NOTED ON PLANS, SEE CALTRANS STANDARD PLAN A10A AND REVISED STANDARD PLAN A10B FOR ABBREVIATIONS.
4. FOR BRIDGE DETAILS, SEE BRIDGE PLANS.
5. FOR APPROACH SLAB DETAILS, SEE BRIDGE PLAN.
6. FOR RETAINING WALL DETAILS, SEE RETAINING WALL PLAN.
7. PERMIT TO ENTER HATCHING IS NOT SHOWN ON PLAN..

LEGEND

- AC Pvmt RECONSTRCUTION
- Const DETAIL REFERENCE (X / X-X)
- CREEK FLOWLINE
- UTILITY POLE
- Permanent Right of Way Acquisition
- Permanent Slope Easement
- Temporary Construction Easement
- Permanent Utility Easement




CURVE DATA

| No. | R | Δ | T | L |
|---|---|---|---|---|
| ① | 1300' | 16°38'15" | 109.08' | 377.49' |
| ② | 333' | 14°53'23" | 43.51' | 86.54' |

**PRELIMINARY**
NOT TO BE USED FOR CONSTRUCTION

65% UNCHECKED DETAILS

| | | | | | | |
|---|---|---|---|---|---|---|
| DESIGN: | – | "AS BUILT" INFORMATION TO BE COMPLETED AFTER CONSTRUCTION | DATE | REVISION | BY | APPROVED |
| DRAWING: | – | | | | | |
| CHECKED: | TH | | | | | |
| DATE: | 2014 | REGISTERED CIVIL ENGINEER: | | | | |

MOFFATT & NICHOL
2185 NORTH CALIFORNIA BLVD, SUITE 500
WALNUT CREEK, CALIFORNIA 94596
(925) 944-5411

COUNTY OF SONOMA
2300 COUNTY CENTER DRIVE, SUITE B 100
SANTA ROSA, CALIFORNIA 95403
(707) 565-2231

BOYES BLVD
BRIDGE REPLACEMENT

ROW FIGURE

| ROAD NUMBER | BUDGET NUMBER | FISCAL YEAR | SHEET NUMBER | TOTAL SHEETS |
|---|---|---|---|---|
| 56106 | C01147 | 2014-15 | 3 | – |

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 46**
(This Section for use by Clerk of the Board Only.)

| | |
|---|---|
| **To:** | Board of Supervisors |
| **Board Agenda Date:** | December 13, 2016 |
| **Vote Requirement:** | Majority |
| **Department or Agency Name(s):** | Transportation and Public Works |
| **Staff Name and Phone Number:** | Susan Klassen (707) 565-2231 |
| **Supervisorial District(s):** | All |
| **Title:** | First Amendments to Emergency Fully Operated Equipment Agreements |

**Recommended Actions:**

Approve and authorize Chair to sign First Amendments to Agreements for Emergency Fully Operated Equipment Services with the following companies: CATS4U, Inc., Ghilotti Brothers, Inc., Hanford Applied Restoration & Conservation, Pacific Coast Drilling Company, Parmeter General Engineers & Services, Inc., Rege Construction, and Serres Corporation to include records retention clause with no change to the not-to exceed amount of $50,000 per fiscal year or term end date of June 30, 2018.

**Executive Summary:**

The Department of Transportation and Public Works (TPW) is requesting the Board approve and authorize the chair to sign First Amendments to seven agreements for fully operated equipment services to include standard record retention language that was erroneously omitted at the time of original execution. The incorporation of the additional language will ensure alignment with federal reimbursement requirements in the event of a disaster where relief funding becomes available.

**Discussion:**

In June of 2014, after a competitive solicitation process, the Board approved seven emergency agreements for fully operated equipment services with the following companies: CATS4U, Inc., Ghilotti Brothers, Inc., Hanford Applied Restoration & Conservation, Pacific Coast Drilling Company, Parmeter General Engineers & Services, Inc., Rege Construction, and Serres Corporation. The agreements would allow TPW to obtain additional support to road maintenance crews in the event of major landslides or necessary debris removal by providing fully operated backhoes, loaders, etc. The individual agreements have annual not-to-exceed amounts of $50,000 with terms ending June 30, 2018. They only become active agreements in the event of a declared local, state or federal disaster.

In 2015, in an effort to be better prepared for disaster recovery, TPW entered into an agreement with Kermani Consulting Group (KCG) to provide training to staff on best practices for maximizing state and federal disaster relief funds if/when they become available. As part of the process, KGC reviewed and commented on the TPW's existing emergency agreements. Overall, the agreements and procurement

process were in alignment with federal requirements, however, it was noted that in the operated equipment agreements, the standard records retention section had been erroneously omitted. The requested First Amendments incorporate the needed record retention language, with no other changes to terms of original agreements. If amendments are not approved, the agreements would be out of compliance with federal requirements and costs incurred may be ineligible for future disaster recovery funds.

**Prior Board Actions:**

6/17/2014: Board approved Emergency Fully Operated Equipment Agreements with seven vendors.

**Strategic Plan Alignment** Goal 1: Safe, Healthy, and Caring Community

These agreements position the department to be responsive to community needs in the event of a disaster.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | 300,000 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **300,000** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | 300,000 | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **300,000** | | |

**Narrative Explanation of Fiscal Impacts:**

Appropriations for use of emergency agreements is included in the annual Road Maintenance division budget to be used as-needed. To be funded with operating revenues, largely comprised of state gas taxes up front with potential for federal or state disaster funds if they become available.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |

| | | | |
|---|---|---|---|
| **Narrative Explanation of Staffing Impacts (If Required):** | | | |
| None. | | | |
| **Attachments:** | | | |
| First Amendments. | | | |
| **Related Items "On File" with the Clerk of the Board:** | | | |
| Original Agreements. | | | |

**FIRST AMENDMENT**

**TO AGREEMENT**

This First Amendment ("Amendment"), dated as of _____, 2016, is by and between the County of Sonoma, a political subdivision of the State of California ("County"), and CATS4U, Inc., hereinafter referred to as ("Contractor").

## R E C I T A L S

WHEREAS, County and Contractor entered into that certain Agreement, dated June 17, 2014 for on call emergency fully operated equipment rental; and

WHEREAS, County and Contractor desire to amend the Agreement in order to clarify records retention requirements.

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

## A G R E E M E N T

1. Paragraph 10.11, Records Maintenance, shall be added to the agreement to read as follows:

> 10.11 Records Maintenance. Contractor shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to County for inspection and audit at any reasonable time. Contractor shall maintain such records for a period of four (4) years following completion of work hereunder.

2. Except to the extent the Agreement is specifically amended or supplemented hereby, the Agreement, together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be construed to modify, invalidate or otherwise affect any provision of the Agreement or any right of County arising thereunder.

3. This Amendment shall be governed by and construed under the internal laws of the state of California, and any action to enforce the terms of this Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

COUNTY AND CONTRACTOR HAVE CAREFULLY READ AND REVIEWED THIS AMENDMENT AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS AMENDMENT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the effective date.

**CONTRACTOR:**

By:_____

Name:_____

Title:_____

Date:_____

**COUNTY OF SONOMA:**

CERTIFICATES OF INSURANCE ON FILE AND APPROVED AS TO SUBSTANCE:

By: _____
Department Head

Date: _____

APPROVED AS TO FORM FOR COUNTY:

By: _____Date_____
County Counsel

By: _____Date_____
Chair, Board of Supervisors

ATTEST:

_____Date_____
Clerk of the Board of Supervisors

**FIRST AMENDMENT**

**TO AGREEMENT**

This First Amendment ("Amendment"), dated as of _____, 2016, is by and between the County of Sonoma, a political subdivision of the State of California ("County"), and Ghilotti Bros. Inc, a California Corporation, hereinafter referred to as ("Contractor").

## RECITALS

WHEREAS, County and Contractor entered into that certain Agreement, dated June 17, 2014 for on call emergency fully operated equipment rental; and

WHEREAS, County and Contractor desire to amend the Agreement in order to clarify records retention requirements.

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

## AGREEMENT

1. Paragraph 10.11, Records Maintenance, shall be added to the agreement to read as follows:

10.11 Records Maintenance. Contractor shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to County for inspection and audit at any reasonable time. Contractor shall maintain such records for a period of four (4) years following completion of work hereunder.

2. Except to the extent the Agreement is specifically amended or supplemented hereby, the Agreement, together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be construed to modify, invalidate or otherwise affect any provision of the Agreement or any right of County arising thereunder.

3. This Amendment shall be governed by and construed under the internal laws of the state of California, and any action to enforce the terms of this Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

COUNTY AND CONTRACTOR HAVE CAREFULLY READ AND REVIEWED THIS AMENDMENT AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS AMENDMENT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the effective date.

**CONTRACTOR:**

By:_____

Name:_____

Title:_____

Date:_____

**COUNTY OF SONOMA:**

CERTIFICATES OF INSURANCE ON FILE AND APPROVED AS TO SUBSTANCE:

By: _____
Department Head

Date: _____

APPROVED AS TO FORM FOR COUNTY:

By: _____Date_____
County Counsel

By: _____Date_____
Chair, Board of Supervisors

ATTEST:

_____Date_____
Clerk of the Board of Supervisors

**FIRST AMENDMENT**

**TO AGREEMENT**

This First Amendment ("Amendment"), dated as of _____, 2016, is by and between the County of Sonoma, a political subdivision of the State of California ("County"), and Hanford Applied Restoration & Conservation, hereinafter referred to as ("Contractor").

## RECITALS

WHEREAS, County and Contractor entered into that certain Agreement, dated June 17, 2014 for on call emergency fully operated equipment rental; and

WHEREAS, County and Contractor desire to amend the Agreement in order to clarify records retention requirements.

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

## AGREEMENT

1. Paragraph 10.11, Records Maintenance, shall be added to the agreement to read as follows:

> 10.11 Records Maintenance. Contractor shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to County for inspection and audit at any reasonable time. Contractor shall maintain such records for a period of four (4) years following completion of work hereunder.

2. Except to the extent the Agreement is specifically amended or supplemented hereby, the Agreement, together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be construed to modify, invalidate or otherwise affect any provision of the Agreement or any right of County arising thereunder.

3. This Amendment shall be governed by and construed under the internal laws of the state of California, and any action to enforce the terms of this Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

COUNTY AND CONTRACTOR HAVE CAREFULLY READ AND REVIEWED THIS AMENDMENT AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS AMENDMENT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the effective date.

**CONTRACTOR:**

By:_____

Name:_____

Title:_____

Date:_____

**COUNTY OF SONOMA:**

CERTIFICATES OF INSURANCE ON FILE AND APPROVED AS TO SUBSTANCE:

By: _____
Department Head

Date: _____

APPROVED AS TO FORM FOR COUNTY:

By: _____Date_____
County Counsel

By: _____Date_____
Chair, Board of Supervisors

ATTEST:

_____Date_____
Clerk of the Board of Supervisors

**FIRST AMENDMENT**

**TO AGREEMENT**

This First Amendment ("Amendment"), dated as of _____, 2016, is by and between the County of Sonoma, a political subdivision of the State of California ("County"), and Pacific Coast Drilling Company, hereinafter referred to as ("Contractor").

## RECITALS

WHEREAS, County and Contractor entered into that certain Agreement, dated June 17, 2014 for on call emergency fully operated equipment rental; and

WHEREAS, County and Contractor desire to amend the Agreement in order to clarify records retention requirements.

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

## AGREEMENT

1. Paragraph 10.11, Records Maintenance, shall be added to the agreement to read as follows:

> 10.11 Records Maintenance. Contractor shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to County for inspection and audit at any reasonable time. Contractor shall maintain such records for a period of four (4) years following completion of work hereunder.

2. Except to the extent the Agreement is specifically amended or supplemented hereby, the Agreement, together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be construed to modify, invalidate or otherwise affect any provision of the Agreement or any right of County arising thereunder.

3. This Amendment shall be governed by and construed under the internal laws of the state of California, and any action to enforce the terms of this Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

COUNTY AND CONTRACTOR HAVE CAREFULLY READ AND REVIEWED THIS AMENDMENT AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS AMENDMENT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the effective date.

**CONTRACTOR:**

By:_____

Name:_____

Title:_____

Date:_____

**COUNTY OF SONOMA:**

CERTIFICATES OF INSURANCE ON FILE AND APPROVED AS TO SUBSTANCE:

By: _____
Department Head

Date: _____

APPROVED AS TO FORM FOR COUNTY:

By: _____Date_____
County Counsel

By: _____Date_____
Chair, Board of Supervisors

ATTEST:

_____Date_____
Clerk of the Board of Supervisors

**FIRST AMENDMENT**

**TO AGREEMENT**

This First Amendment ("Amendment"), dated as of _____, 2016, is by and between the County of Sonoma, a political subdivision of the State of California ("County"), and Parmeter General Engineers & Services, Inc, hereinafter referred to as ("Contractor").

## RECITALS

WHEREAS, County and Contractor entered into that certain Agreement, dated June 17, 2014 for on call emergency fully operated equipment rental; and

WHEREAS, County and Contractor desire to amend the Agreement in order to clarify records retention requirements.

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

## AGREEMENT

1. Paragraph 10.11, Records Maintenance, shall be added to the agreement to read as follows:

10.11 Records Maintenance. Contractor shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to County for inspection and audit at any reasonable time. Contractor shall maintain such records for a period of four (4) years following completion of work hereunder.

2. Except to the extent the Agreement is specifically amended or supplemented hereby, the Agreement, together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be construed to modify, invalidate or otherwise affect any provision of the Agreement or any right of County arising thereunder.

3. This Amendment shall be governed by and construed under the internal laws of the state of California, and any action to enforce the terms of this Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

COUNTY AND CONTRACTOR HAVE CAREFULLY READ AND REVIEWED THIS AMENDMENT AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS AMENDMENT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the effective date.

**CONTRACTOR:**

By:_____

Name:_____

Title:_____

Date:_____

**COUNTY OF SONOMA:**

CERTIFICATES OF INSURANCE ON FILE AND APPROVED AS TO SUBSTANCE:

By: _____
Department Head

Date: _____

APPROVED AS TO FORM FOR COUNTY:

By: _____Date_____
County Counsel

By: _____Date_____
Chair, Board of Supervisors

ATTEST:

_____Date_____
Clerk of the Board of Supervisors

**FIRST AMENDMENT**
**TO AGREEMENT**

This First Amendment ("Amendment"), dated as of _____, 2016, is by and between the County of Sonoma, a political subdivision of the State of California ("County"), and Rege Construction, Inc, hereinafter referred to as ("Contractor").

## RECITALS

WHEREAS, County and Contractor entered into that certain Agreement, dated June 17, 2014 for on call emergency fully operated equipment rental; and

WHEREAS, County and Contractor desire to amend the Agreement in order to clarify records retention requirements.

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

## AGREEMENT

1. Paragraph 10.11, Records Maintenance, shall be added to the agreement to read as follows:

> 10.11 Records Maintenance. Contractor shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to County for inspection and audit at any reasonable time. Contractor shall maintain such records for a period of four (4) years following completion of work hereunder.

2. Except to the extent the Agreement is specifically amended or supplemented hereby, the Agreement, together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be construed to modify, invalidate or otherwise affect any provision of the Agreement or any right of County arising thereunder.

3. This Amendment shall be governed by and construed under the internal laws of the state of California, and any action to enforce the terms of this Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

COUNTY AND CONTRACTOR HAVE CAREFULLY READ AND REVIEWED THIS AMENDMENT AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS AMENDMENT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the effective date.

**CONTRACTOR:**

By:_____

Name:_____

Title:_____

Date:_____

**COUNTY OF SONOMA:**

CERTIFICATES OF INSURANCE ON FILE AND APPROVED AS TO SUBSTANCE:

By: _____
Department Head

Date: _____

APPROVED AS TO FORM FOR COUNTY:

By: _____Date_____
County Counsel

By: _____Date_____
Chair, Board of Supervisors

ATTEST:

_____Date_____
Clerk of the Board of Supervisors

**FIRST AMENDMENT**
**TO AGREEMENT**

This First Amendment ("Amendment"), dated as of _____, 2016, is by and between the County of Sonoma, a political subdivision of the State of California ("County"), and Serres Corporation, hereinafter referred to as ("Contractor").

## RECITALS

WHEREAS, County and Contractor entered into that certain Agreement, dated June 17, 2014 for on call emergency fully operated equipment rental; and

WHEREAS, County and Contractor desire to amend the Agreement in order to clarify records retention requirements.

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

## AGREEMENT

1. Paragraph 10.11, Records Maintenance, shall be added to the agreement to read as follows:

> 10.11 Records Maintenance. Contractor shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to County for inspection and audit at any reasonable time. Contractor shall maintain such records for a period of four (4) years following completion of work hereunder.

2. Except to the extent the Agreement is specifically amended or supplemented hereby, the Agreement, together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be construed to modify, invalidate or otherwise affect any provision of the Agreement or any right of County arising thereunder.

3. This Amendment shall be governed by and construed under the internal laws of the state of California, and any action to enforce the terms of this Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

COUNTY AND CONTRACTOR HAVE CAREFULLY READ AND REVIEWED THIS AMENDMENT AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS AMENDMENT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the effective date.

**CONTRACTOR:**

By:_____

Name:_____

Title:_____

Date:_____

**COUNTY OF SONOMA:**

CERTIFICATES OF INSURANCE ON FILE AND APPROVED AS TO SUBSTANCE:

By: _____
Department Head

Date: _____

APPROVED AS TO FORM FOR COUNTY:

By: _____Date_____
County Counsel

By: _____Date_____
Chair, Board of Supervisors

ATTEST:

_____Date_____
Clerk of the Board of Supervisors

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 47**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Transportation and Public Works

**Staff Name and Phone Number:**
Susan Klassen (707) 565-2231

**Supervisorial District(s):**
First

**Title:** Green Valley Consulting Engineers Second Amendment

**Recommended Actions:**

Approve and authorize the Chair to execute the Second Amendment with Green Valley Consulting Engineers for construction management services related to the State Route 12 Corridor Improvement Project extending the term of the agreement to December 31, 2017.

**Executive Summary:**

The Department of Transportation and Public Works (Department) is requesting the Board approve the Second Amendment to the agreement with Green Valley Consulting Engineers (Consultant) for construction management services related to the State Route 12 Corridor Improvement Project (C08002) extending the term of the agreement by one year to December 31, 2017 at no additional cost to provide on-going support to Department for the project close-out period.

**Discussion:**

The State Route 12 Corridor Improvement Project is a complex project consisting of improvements to pedestrian and bicycle facilities, roadway widening, asphalt pavement replacement, installation of curbs, gutters and sidewalks, stormwater treatment devices, street lighting and traffic signal modifications between Agua Caliente Road and Boyes Blvd in the Springs Area of Sonoma Valley. While the bulk of construction has been completed, there are still a “punch list” or tasks that need to be completed within the construction contract. Final closeout of a project of this size and complexity can take several months after the actual work has been completed. In an effort to ensure proper support through the closeout period, the Department is requesting the ability to retain the Consultant who acted as Resident Engineer on the project to assist with the final project documentation and file cleanup for one additional year. There is sufficient contingency funds available under the current not-to-exceed amount of $1,205,237 and no additional dollars are being requested at this time.

If the Second Amendment is not approved, the Department will lose ability to use the Consultant who acted as Resident Engineer as a resource during the project close-out period, putting the burden on staff who may not have the same detailed knowledge of the project.

**Prior Board Actions:**

2/2/2016: Board approved First Amendment to Agreement with Green Valley Consulting Engineers for additional construction management services; 8/5/2014: Board approved agreement with Green Valley Consulting Engineers to provide construction management services for the project.

**Strategic Plan Alignment** Goal 1: Safe, Healthy, and Caring Community

This project will improve pedestrian safety for County residents and visitors to the Springs area of Sonoma Valley.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | $108,000 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **$108,000** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | $108,000 | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$108,000** | | |

**Narrative Explanation of Fiscal Impacts:**

Remaining available balance in agreement is $108,000 which staff does not anticipate fully spending. Appropriations are included in the FY 2016-17 Road Division budget and will be requested as necessary for FY 2017-18. Funding for the agreement is from Successor Agency funds.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

| **Narrative Explanation of Staffing Impacts (If Required):** |
| --- |
| None. |
| **Attachments:** |
| Second Amendment |
| **Related Items "On File" with the Clerk of the Board:** |
| Agreement and First Amendment |

**SECOND AMENDMENT TO**
**AGREEMENT FOR PROFESSIONAL SERVICES**

This Second Amendment, dated, _____, 2016, is to that certain Agreement for Professional Services by and between the County of Sonoma ("County"), and Green Valley Consulting Engineers ("Consultant"), dated as of August 5, 2014 ("Effective Date"), (the "Original Agreement").

RECITALS

WHEREAS, County and Consultant previously entered into the Original Agreement to provide engineering Construction Management Services for the Highway 12 Redevelopment Phase II, Stage II North Project (C08002) on August 5, 2014; and

WHEREAS, County and Consultant amended the Original Agreement to provide additional services on February 2, 2016; and

WHEREAS, County and Consultant desire to further amend the Original Agreement to extend the term; and

WHEREAS, in the judgment of the Board of Supervisors, it is necessary and desirable to amend the Original Agreement as set forth above,

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the receipt and adequacy of which is acknowledged, the parties hereto agree as follows:

AGREEMENT

As of the Effective Date of this Second Amendment, the Original Agreement shall be deemed amended in the following manner

1. Section 3. "Term of Agreement" of the Original Agreement is hereby deleted in its entirety and replaced with the following language:

   Term of Agreement. The term of this Agreement shall be from Effective Date through December 31, 2017, unless terminated earlier in accordance with the provisions of Article 4 below.

2. Section 9.7. "Statutory Compliance" of the Original Agreement is hereby deleted in its entirety and replaced with the following language:

   9.7 Statutory Compliance/Living Wage Ordinance. Consultant agrees to comply with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Consultant expressly acknowledges and agrees that this Agreement is subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material

breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

3. Except to the extent the Original Agreement is specifically amended or supplemented hereby, the Original Agreement, together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be construed to modify, invalidate or otherwise affect any provision of the Original Agreement or any right of County arising thereunder.
4. This Second Amendment shall be governed by and construed under the internal laws of the state of California, and any action to enforce the terms of this Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

COUNTY AND CONSULTANT HAVE CAREFULLY READ AND REVIEWED THIS FIRST AMENDMENT AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS FIRST AMENDMENT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.

-THIS SPACE INTENTIONALLY LEFT BLANK-

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the Effective Date.

CONSULTANT:
Green Valley Consulting Engineers

By: _____

Name: _____

Title: _____

Date: _____

COUNTY: COUNTY OF SONOMA

CERTIFICATES OF INSURANCE ON FILE WITH AND APPROVED AS TO SUBSTANCE FOR COUNTY:

By:_____
Department Head

Date: _____

APPROVED AS TO FORM FOR COUNTY:

By: _____
County Counsel

Date: _____

By: _____
Chair
Board of Supervisors

Date: _____

ATTEST:
_____
Clerk of the Board of
Supervisors

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 48**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Transportation and Public Works

**Staff Name and Phone Number:**
Susan Klassen (707) 565-2231

**Supervisorial District(s):**
Fourth

**Title:** Airport Boulevard East/El Mercado Parkway and Faught Road Stop Controls

**Recommended Actions:**

Adopt a resolution establishing all-way stop controls at the intersection of Airport Boulevard East (#8803A)/El Mercado Parkway (88078) and Faught Road (#8807) in Larkfield-Wikiup.

**Executive Summary:**

The Transportation and Public Works Department (TPW) is recommending approval of a resolution establishing all-way stop controls at the intersection of Airport Boulevard East/El Mercado Parkway and Faught Road in Larkfield-Wikiup. Currently this intersection is only stop controlled for eastbound and westbound traffic on Airport Boulevard East and El Mercado Parkway, while cross traffic along Faught Road does not stop. Faught Road is a major walking route to local schools and the additional stop controls will improve pedestrian safety in the area.

**Discussion:**

Students and parents use Faught Road as major walking route to San Miguel Elementary School located one block north from where Faught intersects with Airport Boulevard East and El Mercado Parkway. During peak hours over 100 pedestrians may use this intersection. A crossing guard is present at this intersection for mornings and afternoons and there are school crosswalks located along three sides of the intersection which gives the intersection the “feel” of a four way stop when it is not. In February of 2016 a teacher was hit in the intersection by a driver who did not realize it was not a four way stop. Additionally, there is a problem with the sun causing severe visual problems for both east and westbound directions during certain times of the year. Considering the current conditions of the intersection TPW staff is recommending the installation of the additional stop controls on Faught Road to improve pedestrian and vehicle safety in the area.

The requested location meets the warrants for stop signs in compliance with California Manual of Uniform Traffic Control Devices, Sec 2B.07 Multiway Stops, criteria A (The need to control left turn conflicts), criteria B (The need to control vehicle/pedestrian conflicts near locations that generate high pedestrian volumes) and criteria D ( An intersection of two residential neighborhood streets of similar

design and operating characteristics where multi-way stop control would improve traffic operational characteristics of the intersection).

With the adoption of this resolution, all vehicles traveling Airport Boulevard East/El Mercado Parkway and Faught Road in Larkfield-Wikiup shall stop prior to proceeding through the intersection. This action will improve safety issues at the intersection for pedestrians and vehicles.

**Prior Board Actions:**

None.

**Strategic Plan Alignment** Goal 1: Safe, Healthy, and Caring Community

Improve vehicle, bicycle and pedestrian safety at the intersection.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | $500 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **$500** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | $500 | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$500** | | |

**Narrative Explanation of Fiscal Impacts:**

Appropriations for installation of signage and pavement markings are included in the FY 2016-17 Road Maintenance Division budget. Funded with operating revenues comprised largely of state gas taxes.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

| **Narrative Explanation of Staffing Impacts (If Required):** |
| --- |
| |
| **Attachments:** |
| Resolution; Location Map |
| **Related Items "On File" with the Clerk of the Board:** |
| None. |

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Establishing All-way Stop Controls At The Intersection Of Airport Boulevard East (#8803A)/El Mercado Parkway (88078) And Faught Road (#8807) In Larkfield-Wikiup, California.**

**Whereas,** pursuant to California Vehicle Code Sections 21354 and 21355, local agencies may identify appropriate locations and erect stop signs;

**Whereas,** Section 32 of the California Vehicle Code states that, whenever local authorities are given the power to take action by ordinance pursuant to Division 11 or Division 15 of the California Vehicle Code, they shall also have the power to take such action by resolution; and

**Whereas,** the Department of Transportation and Public Works has concluded that all-way stop controls are appropriate at the intersection at Airport Boulevard East (#8803A)/El Mercado Parkway (88078) and Faught Road (#8807).

**Now, Therefore, Be It Resolved** that all vehicles on Airport Boulevard East (#8803A)/El Mercado Parkway (88078) and Faught Road (#8807) in Larkfield-Wikiup, shall stop prior to proceeding through the intersection.

**Supervisors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

# Location Map

**Proposed All-Way Stop - Airport Boulevard & Faught Road** **November, 2016**

**Transportation & Public Works Department**
**County of Sonoma**

NORTH 0 250 500 Feet

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 49**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Transportation and Public Works

**Staff Name and Phone Number:**
Susan Klassen (707) 565-2231

**Supervisorial District(s):**
Fifth

**Title:** Edison Street and Donald Street Stop Controls

**Recommended Actions:**

Adopt a resolution establishing all-way stop controls at the intersection of Edison Street (#79030) and Donald Street (#79025) in Graton.

**Executive Summary:**

The Transportation and Public Works Department (TPW) is recommending approval of a resolution establishing all-way stop controls at the intersection of Edison Street and Donald Street in Graton. Currently the intersection is only stop controlled for north and southbound traffic on Edison Street, while cross traffic along Donald Street does not stop. Donald Street is a popular walking route to two local schools and the additional stop controls will improve pedestrian safety in the area.

**Discussion:**

In response to a constituent request, TPW staff performed a field review of conditions surrounding the intersection at Edison and Donald Streets in Graton and determined that pedestrians are using Donald Street to access both Oak Grove Elementary and Pacific Christian Academy. There are no sidewalks in the area so pedestrians must walk along the edge of the street and the children and parents who use Donald Street have to watch carefully for traffic coming from both directions. Additionally, a major housing project is scheduled for construction two blocks north on Edison Street which is anticipated to increase the number of pedestrians using Donald Street. After investigating, TPW staff is recommending the addition of stop controls for cross traffic on Donald Street.

California Vehicle Code Sections 21354 and 21355 grants local agencies the authority to identify appropriate locations and erect stop signs. The requested location meets the warrants for stop signs in compliance with California Manual of Uniform Traffic Control Devices, Sec 2B.07 Multiway Stops, optional criteria D (An intersection of two residential neighborhood streets of similar design and operating characteristics where multi-way stop control would improve traffic operational characteristics of the intersection).

With the adoption of this resolution all vehicles traveling Donald Street and Edison Street shall stop prior to proceeding through the intersection. This action will improve sight distance issues at the intersection and provide a location where parents and children can safely traverse the street.

**Prior Board Actions:**

None.

**Strategic Plan Alignment** Goal 1: Safe, Healthy, and Caring Community

The additional stop controls will improve pedestrian safety along this heavily used walking route.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | $500 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **$500** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | $500 | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$500** | | |

**Narrative Explanation of Fiscal Impacts:**

Appropriations for installation of signage and pavement markings are included in the FY 2016-17 Road Maintenance Division budget. Funded with operating revenues comprised largely of state gas taxes.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

| **Attachments:** |
| --- |
| Resolution; Location Map |
| **Related Items “On File” with the Clerk of the Board:** |
| None |

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Establishing All-way Stop Controls At The Intersection Of Edison Street (#79030) And Donald Street (#79025), Graton, California.**

**Whereas,** pursuant to California Vehicle Code Sections 21354 and 21355, local agencies may identify appropriate locations and erect stop signs;

**Whereas,** Section 32 of the California Vehicle Code states that, whenever local authorities are given the power to take action by ordinance pursuant to Division 11 or Division 15 of the California Vehicle Code, they shall also have the power to take such action by resolution; and

**Whereas,** the Department of Transportation and Public Works has concluded that all-way stop controls are appropriate at the intersection of Edison St. (#79030) and Donald Street (#79025).

**Now, Therefore, Be It Resolved** that all vehicles on Edison Street (#79030) and Donald Street (#79025) in Graton, shall stop prior to proceeding through the intersection of Edison Street (#79030) and Donald Street (#79025).

**Supervisors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

# Location Map

**Proposed All-Way Stop - Donald Street & Edison Street, Graton.** **November, 2016**

**Transportation & Public Works Department**
**County of Sonoma**

NORTH 0 500 1,000 Feet

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 50**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Transportation and Public Works - Airport

**Staff Name and Phone Number:**

Susan Klassen (707) 565-2231

**Supervisorial District(s):**

**Title:** Out-of-state travel requests for the Airport Manager

**Recommended Actions:**

Approve out-of-state travel requests for the Airport Manager

**Executive Summary:**

The Department of Transportation and Public Works (TPW) is seeking approval for two (2) out-of-state trips by the Airport Manager for Airport business for FY 16-17 to attend Routes Americas conference in Las Vegas, Nevada, February 14 to 16, 2017 and as Legislation conference in Washington, DC March 21 to 23, 2017. Pursuant to the Travel and Meal Reimbursement Policy (Administrative Policy #3-2) Department Heads are authorized to approve the first two out-of-state trips and the County Administrator can approve the third out-of-state travel in a fiscal year. Subsequent out-of-state trips require Board of Supervisor's approval.

**Discussion:**

The Airport Manger has attended a total of five trips for FY 16-17. The Department Head of TPW approved two out-of-state trips; Las Vegas, Nevada to attend the summer Southwest Chapter of the American Association of Airport Executives (SWAAAE) and Orlando, Florida to attend the National Airports Conference to represent SWAAAE; and the County Administrator approved a third trip to Scottsdale, Arizona to attend the quarterly Board meeting for SWAAAE. The Board of Supervisors also approved two trips in October, 2016. The first to attend a meeting with United Airlines at their headquarters in Chicago, Illinois to discuss their interest in introducing service to the Charles M. Schulz - Sonoma County Airport. The second to attend a planning meeting with Alaska Airlines at their headquarters in Seattle, Washington.

Although it is not uncommon for the Airport Manager to travel out-of-state in the course of business, this is an exceptionally high year for travel since the runway safety project and runway extension were completed in November 2014. One-on-one meetings with the airlines are essential to promote the Airport and market opportunities in Sonoma County. In addition, the Airport Manager is the First Vice President of the Southwest Chapter of the American Association of Airport Executives (SWAAAE) and in

that role represents the chapter at chapter and national conferences and quarterly board meetings. While the Airport Manager is traveling, he is available by phone and email and other Airport staff are available to handle on-site issues as they arise.

It is requested that the Airport Manager be allowed two (2) additional out-of-state trips this fiscal year for the following purposes:

- Attend the Routes Americas Conference in Las Vegas, Nevada February 14 to 16, 2017. This conference allows the Airport to secure up to ten (10) one-on-one meetings to promote and maintain relationships with current and potential airlines and there will be over 80 airlines in attendance. In addition, the Airport will be partnering with the Sonoma County Tourism Bureau to have a booth in the conference hall promoting the County to airlines and potential partner airports. As part of the involvement from Tourism, Ken Fischang will be attending and participating in the one-on-one meetings with the airlines.
- Attend the joint American Association of Airport Executives and Airports Council International – North American Legislative Conference and American Association of Airport Executives Chapter Officers meeting in Washington DC, March 21 to 23, 2017. The purpose of this trip is to fulfill the duties as the 1st Vice President for the Southwest Chapter of the American Association of Airport Executives by participation in the association's discussions on airport best practices and discussions with high level Federal Aviation Administration and Transportation Security Administration staff on current and upcoming policy impacts.

**Prior Board Actions:**

10/4/16: Board authorized out-of-state travel for Airport Manager
3/15/16: Board authorized out-of-state travel for Airport Manager in FY 15-16
2/3/15: Board authorized out-of-state travel for Airport Manager

| **Strategic Plan Alignment** | Goal 2: Economic and Environmental Stewardship |
|---|---|

Provides opportunities to meet with airlines on a one-to-one basis to discuss potential service opportunities and to gain the most recent industry information. Also provides opportunities to promote Sonoma County tourism and business.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | $2,500 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **$2,500** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | $2,500 | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$2,500** | | |

**Narrative Explanation of Fiscal Impacts:**

Funding for travel expenses related to these trips has been included in the FY 16-17 Airport Enterprise Budget, Airport Operations.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

None

**Attachments:**

None

**Related Items "On File" with the Clerk of the Board:**

None

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 51**
(This Section for use by Clerk of the Board Only.)

| | |
|---|---|
| **To:** | Board of Supervisors |
| **Board Agenda Date:** | December 13, 2016 |
| **Vote Requirement:** | Majority |
| **Department or Agency Name(s):** | Transportation and Public Works |
| **Staff Name and Phone Number:** | Susan R. Klassen, 707-565-2231 |
| **Supervisorial District(s):** | Second |
| **Title:** | First Amendment to the Central Disposal Site Cell Tower Lease Agreement and Sublease to T-Mobile. |

**Recommended Actions:**

Approve and authorize the Chair to:

1. Execute the Settlement Agreement and General Release between the County and T-Mobile which compensates the County $43,710.60 for those years that the second cell tower continued to operate on County property while the County and Lessee negotiated the First Amendment, allows T-Mobile to remain on the property through May 31, 2017 until it completes the co-location of the cell towers, and authorizes execution of the First Amendment to the Lease Agreement;
2. Execute the First Amendment of the Lease Agreement and the Memorandum of First Amendment to Lease Agreement with Crown Castle International Corporation for property located at 403 Meacham Road, Petaluma, updating payment terms, approving co-location of two existing cell phone towers, and increasing the rent for FY 16-17 to $33,029;
3. Approve the sublease of the Lease Agreement from Crown Castle International Corporation to T-Mobile; and
4. Authorize the Director of Transportation and Public Works to record the Memorandum of First Amendment to Lease Agreement as requested by Lessee for its records and to execute the Consent to Sublease and the Property Owner Letter of Authorization.

**Executive Summary:**

On February 3, 2006, the Board approved a Lease Agreement with New Cingular Wireless PCS, LLC, which was subsequently assigned with Board approval to Crown Castle International Corporation ("Crown Castle") on February 25, 2014 ("Crown Castle Lease"). Staff is recommending the approval of the First Amendment to the Crown Castle Lease which will allow co-location of the two cell towers at one location while providing additional rental income to the Department. Crown Castle has notified staff that they plan to sublease the Crown Castle Lease to T-Mobile to better serve the public and minimize the amount of towers in the area. Staff is also recommending that the Board authorize the Director of

Transportation and Public Works to execute any necessary documentation required by Crown Castle to effectuate this sublease.

**Discussion:**

The current Crown Castle Lease allows for operating and maintaining a cell tower on property located at 403 Meacham Road, Petaluma, across from the Central Disposal Site. In addition to the current Lease Agreement, there was a second Communication Site License Agreement entered into on June 30, 2003, between the County and Pacific Bell Wireless, LLC, (Pacific Bell License) for the second cell tower which is located approximately 50 feet from the Crown Castle Lease premises. The Pacific Bell License was assigned to Crown Castle on November 14, 2012. The Pacific Bell License expired August 1, 2014, and due to statutory restrictions under the Government Code, could not be extended. Staff has been working with Crown Castle on relocating the cell tower from the Pacific Bell licensed area to the licensed premises area under the Crown Castle Lease. The proposed First Amendment to the Crown Castle Lease will allow the two cell towers to be co-located on one pad on the County property at 403 Mecham Road, Petaluma.

If the Board approves the First Amendment, the annual rental payment will increase to recognize that two cell towers are operating under the Crown Castle Lease. Crown Castle has agreed to a monthly rental increase of $1,140 ($13,680 per year) in consideration for being able to operate additional equipment under the Crown Castle Lease which increases the annual rent from $19,352 paid on February 1, 2016 to $33,032 which is due on February 1, 2017. The initial term of the Crown Castle Lease agreement was five years commencing February 3, 2006, and included four (4) five-year automatic extensions at the County's option. Currently, the agreement is within the first five-year extension period. Assuming all extensions occur, the end of the current lease will be February of 2031. Annual payments will continue to be due on February 1st of each year and will include an annual adjustment based on the Consumer Price Index.

In addition to the First Amendment, County staff is recommending the execution and recording of the Memorandum of First Amendment to the Lease Agreement ("Memorandum") as requested by the Lessee. The Memorandum allows the Lessee to record a short document in the Sonoma County Recorder's Office that puts third parties on notice of leasehold rights in the property, thereby avoiding a potential situation in the future where a third party may purchase the property or lease a portion of the property, and then attempt to avoid upholding the Lessee's leasehold interest by claiming that it had no notice of the existence of the lease. In addition to providing public notice of the lease, the recorded Memorandum can also be useful in the event any originals are lost in the future.

In consideration of the Board's approval of the First Amendment, the Lessee has agreed to the terms contained in the attached Settlement Agreement and General Release between the County and T-Mobile, including an additional payment of $43,710.60 to the County. This amount represents the rental fee, plus annual consumer price increase adjustments for years 2014, 2015, and 2016, that would have been paid by the Licensee under the terms of the agreement that expired in 2014 for the second cell tower. The Settlement Agreement and General Release compensates the County for those years that the second cell tower continued to operate on County premises while the County and Lessee negotiated the First Amendment, allows T-Mobile to remain on the property through May 31, 2017 until it completes the co-location of the cell towers, and authorizes execution of the First Amendment to the Lease Agreement.

Staff is also requesting that the Board authorize the Director of Transportation and Public Works to execute the Consent to Sublease, which provides authorization for Crown Castle to sublease to T-Mobile, and the Property Owner Letter of Authorization, which provides authorization for T-Mobile to act as the County's agent only when processing and obtaining approval for any building and/or zoning permits necessary for the installation of its facility at the existing cell tower site at no cost to the County. Executing these documents approves actions required for the equipment to operate on one cell tower which will be subleased by Crown Castle to T-Mobile under the Consent to Sublease.

The sublease of rights in the cell tower requires the approval of the County under the terms of the Crown Castle Lease. This sublease will not affect current operations at the Central Disposal Site or alter the character or use of the site. In addition, approval of this sublease will not change the nature of lessee's occupancy of the site. The Department will continue to receive lease payments, as set forth under the current terms and conditions of the existing lease.

The proposed amendment has been reviewed and approved as to form by County Counsel.

**Prior Board Actions:**

02/25/14: Board approved the assignment of the Lease Agreement from New Cingular Wireless PCS, LLC, to Crown Castle International Corporation for equipment at 403 Mecham Road, Petaluma. 02/18/06: Board approved a Lease Agreement with New Cingular Wireless PCS, LLC, for equipment at 403 Mecham Road, Petaluma. 6/30/03: Board approved a Communication Site License Agreement with Pacific Bell Wireless, LLC for equipment at 403 Mecham Road, Petaluma.

| **Strategic Plan Alignment** | Goal 1: Safe, Healthy, and Caring Community |
|---|---|

The First Amendment provides the means to continue maintaining a communication facility that provides reliable communication services, including 911 emergency services, to the community.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | 0 | | |
| Additional Appropriation Requested | 0 | | |
| **Total Expenditures** | **0** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | $76,742.60 | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$76,742.60** | | |

**Narrative Explanation of Fiscal Impacts:**

In the current fiscal year, the Integrated Waste Division will receive a total of $76,742.60 from Crown Castle; $33,032 for the annual lease payment and $43,710.60 for the settlement payment in lieu of prior year lease payments. In the future fiscal years, an annual lease payment will be received in February to include an annual 3% inflationary increase through term end of February 2031.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

1. First Amendment to the Lease Agreement between the County and Crown Castle International Corporation.
2. Consent for Subleasing dated April 1, 2015 from Crown Castle International Corporation.
3. Memorandum of First Amendment to Lease Agreement.
4. Settlement Agreement and General Release between the County and T-Mobile West Tower LLC.

| **Related Items "On File" with the Clerk of the Board:** |
| --- |
| 1. Lease Agreement between the County and New Cingular Wireless PCS, LLC, dated February 7, 2006 ("Crown Castle Lease").<br>2. 2. Communication Site License Agreement between the County and Pacific Bell Wireless, LLC, dated June 30, 2003 ("Pacific Bell License"). |

# FIRST AMENDMENT TO LEASE AGREEMENT

This First Amendment (the "Amendment") dated as of_____, 2016, is by and between the COUNTY OF SONOMA, with a mailing address of 2300 Country Center Drive, Suite B100, Santa Rosa, CA 95403 ("LESSOR"), and AMWOHI MPL TOWER HOLDINGS LLC, a Delaware limited liability company, by and through its attorney in fact, CCATT LLC, a Delaware limited liability company, with a mailing address of 2000 Corporate Drive, Canonsburg, Pennsylvania 15317 ("LESSEE"). The LESSOR and LESSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party." LESSOR is the owner of that certain real property located at an address commonly known as 403 Meacham Road in Petaluma, County of Sonoma, State of California, and as more specifically described on Exhibit "A" attached to the Agreement and incorporated herein (the entirety of LESSOR's property is referred to hereinafter as the "Property").

## RECITALS

WHEREAS, LESSOR approved the Lease Agreement with New Cingular Wireless PCS, LLC ("Original Lessee") dated February 7, 2006, whereby Original Lessee leased certain real property, (approximately 1,000 square feet), together with the non-exclusive right for ingress and egress, and utility easements, for the purpose of operating and maintaining a cell tower on the Property; and

WHEREAS, LESSOR approved the assignment of the Lease Agreement from New Cingular Wireless PCS, LLC, to AMWOHI MPL Tower Holdings LLC on February 25, 2014, and authorized the Director of Transportation and Public Works to execute a Letter of Assignment; and

WHEREAS, AMWOHI MPL Tower Holdings LLC has granted CCATT LLC a limited power of attorney to review, negotiate and execute this Amendment; and

WHEREAS, LESSEE has (1) submitted plans to combine an existing pole tower from a property adjacent to the Property adding it to the cell tower on the Property; and (2) requested approval of its plans to sublease the cell tower to T-Mobile to better serve the public and minimize the amount of towers in the area where the Property is located; and

WHEREAS, the Property may be used for the purpose of constructing, maintaining and operating a communications facility, including tower structures, equipment shelters, cabinets, meter boards, utilities, antennas, equipment, any related improvements and structures and uses incidental thereto; and

WHEREAS, the Agreement had an initial term that commenced on March 1, 2006 and expired on February 28, 2011. The Agreement provides for four (4) extensions of five (5) years each, the first and second of which were exercised by Lessee. According to the Agreement, the final extension expires on February 28, 2031; and

WHEREAS, LESSOR and LESSEE desire to amend the Lease Agreement to

(1) combine the two cell towers located at 403 Meacham Road, Petaluma onto the Property;
(2) authorize the sublease of the cell tower to T-Mobile; and (3) revise the payment terms to add additional consideration for the request and increase the yearly rental payment.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, Lessor and Lessee desire to amend the Agreement on the terms and conditions contained herein.:

## LEASE AGREEMENT

1. Section 5A (Additional Rent) shall be added:

   "5A. Additional Rent. Commencing upon T-Mobile's commencement of construction within the Premises per Exhibit C, the annual rent shall increase by One Thousand One Hundred Forty and 00/100 Dollars ($1,140.00) per month ("Additional Rent"). The Additional Rent shall escalate at the same time and in the same manner as the annual rent as set forth in the Lease. If T-Mobile's collocation expires or terminates for any reason, Lessee shall no longer be obligated to pay the Additional Rent to Lessor.

2. Section 19 (Notices) the Lessee's Primary Contact information shall be amended as follows:

| | |
|---|---|
| LESSEE'S PRIMARY CONTACT | AMWOHI MPL Tower Holdings LLC<br>Legal Department<br>Attn: Network Legal<br>208 S. Akard Street<br>Dallas, TX 75202-4206<br><br><u>With a copy to</u>:<br>CCATT LLC<br>Attn: Legal Department<br>2000 Corporate Drive<br>Canonsburg, PA 15317 |

3. <u>Collocation of T-Mobile</u>. Pursuant to Sections 8 and 18 of the Agreement, Lessor hereby consents to the collocation of T-Mobile at the Premises in accordance with the plans attached hereto as Exhibit C (Addition to Premises), and that such Exhibit C shall be deemed to be attached to and expressly forms a part of the Lease Agreement.
4. <u>Recitals; Defined Terms</u>. The parties acknowledge the accuracy of the recitals set forth above. Any capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement.
5. <u>Ratification</u>.
   a) Lessor and Lessee agree that Lessee is the current lessee under the Agreement, the Agreement is in full force and effect, as amended herein, and the Agreement

contains the entire agreement between Lessor and Lessee with respect to the Premises.

b) Lessor agrees that any and all actions or inactions that have occurred or should have occurred prior to the date of this First Amendment are approved and ratified and that no breaches or defaults exist as of the date of this First Amendment.

c) Lessor represents and warrants that Lessor is duly authorized and has the full power, right and authority to enter into this First Amendment and to perform all of its obligations under the Agreement as amended.

6. IRS Form W-9. Lessor agrees to provide Lessee with a completed IRS Form W-9, or its equivalent, upon execution of this First Amendment and at such other times as may be reasonably requested by Lessee. In the event the Property is transferred, the succeeding lessor shall have a duty at the time of such transfer to provide Lessee with a completed IRS Form W-9, or its equivalent, and other related paperwork to effect a transfer in the rent to the new lessor. Lessor's failure to provide the IRS Form W-9 within thirty (30) days after Lessee's request shall be considered a default and Lessee may take any reasonable action necessary to comply with IRS regulations including, but not limited to, withholding applicable taxes from rent payments.

7. Remainder of Agreement Unaffected. Except to the extent the Lease Agreement is specifically amended or supplemented hereby, the Lease Agreement together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall be construed to modify, invalidate or otherwise affect any provision of the Lease Agreement or any right of LESSOR arising thereunder. This First Amendment may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

8. This First Amendment shall be governed by and construed under the internal laws of the State of California, and any action to enforce the terms of this First Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment as of the date written above.

**LESSOR**:
COUNTY OF SONOMA

By: _____
Print Name: _____
Title: _____

**LESSEE**:
AMWOHI MPL TOWER HOLDINGS LLC,
a Delaware limited liability company

By: CCATT LLC,
a Delaware limited liability company
Its: Attorney In Fact

By: _____
Print Name: _____
Title: _____

CERTIFICATES OF INSURANCE ON FILE WITH
AND APPROVED AS TO SUBSTANCE FOR COUNTY:

_____
Susan R. Klassen, Director
Sonoma County Transportation and Public Works

APPROVED AS TO FORM FOR COUNTY:

_____
County Counsel

**Crown Castle**
4301 Hacienda Drive, Suite 410
Pleasanton, CA 94588

4/1/2015

VIA Certified Mail
7012 2210 0001 4808 9601

County of Sonoma
Public Works Department
2300 County Center Drive, Suite 100B
Santa Rosa, CA 95403

Re: BU:842823 Petaluma Waste Company
Lease Agreement dated February 7th, 2006"Lease"
Consent for Subleasing

Dear County of Sonoma,

Pursuant to an agreement between AMWOHI MPL Tower Holdings LLC ("AT&T") and CCATT LLC ("CCATT"), CCATT subleases and operates the tower site that is subject to the Lease on behalf of AT&T. CCATT is a Crown Castle company. CCATT and its affiliates and subsidiaries own, manage and operate shared wireless communication facilities.

In order to better serve the public and minimize the amount of towers in an area where this property is located, AT&T plans to sublease to T-Mobile. The sublease will not alter the character or use of the site nor will it change the nature of AT&T's occupancy of the site as lessee.

AT&T has authorized CCATT to contact you and request consent to the subletting of ground and tower space Pursuant to Paragraph Section 18 of the Lease, AT&T is required to obtain your consent. Under the Lease, Lessor's consent cannot be unreasonably withheld, conditioned or delayed. Therefore, CCATT, on behalf of AT&T, respectfully requests your consent to this sublease.

As used in this letter, the term "sublease" may include any arrangement by which a third party can install and operate its equipment on the property subject to the Lease.

Please indicate your consent by executing this letter where indicated below and return one original of same to the address indicated above. A prepaid envelope is included for your convenience.

Thank you for your continued cooperation with AT&T and CCATT. If you have any questions concerning this issue, please contact Josh Wagner at 925-737-1232 or Joshua.Wagner.Contractor@crowncastle.com.

Sincerely,

Josh Wagner
Real Estate Specialist

[Enclosures]

Agreed and accepted this ___ day of _____, 20___

_____
(Lessor's signature)

# Property Owner Letter of Authorization

County of Sonoma
2550 Ventura Avenue
Santa Rosa, CA 95403

Re: Zoning/Building Permit Authorization

I hereby represent that I am the legal owner of the property referenced below, and I hereby give my authorization to T-Mobile, and/or its Agents, to act as our Agent in the processing and obtaining approval for Building and/or Zoning permits through the County of Sonoma for the installation of their facility that would be located at the existing wireless communications site described as:

| | |
|---|---|
| **Site Name:** | **Petaluma Waste Company** |
| **Site Number:** | **842823** |
| **Site Address:** | **403 Meacham Road** |
| | **Petaluma, CA 94952** |
| **Legal Description:** | **024-080-020** |

**Property Owner:**

_____ _____
Signature Date

_____
Name

_____
Title

**WHEN RECORDED RETURN TO:**

Prepared by:
Parker Legal Group, PC
600 West Broadway, Suite 700
San Diego, California 92101

Space above this line for Recorder's Use

**A.P.N. 024-080-020**

**Prior recorded document(s) in Sonoma County, California:**
**Recorded on April 3, 2006 at #2006038655**

MEMORANDUM OF FIRST AMENDMENT TO
LEASE AGREEMENT

This Memorandum of First Amendment to Lease Agreement is made effective this _____ day of _____, 2016 by and between COUNTY OF SONOMA, with a mailing address of 2300 Country Center Drive, Suite B100, Santa Rosa, CA 95403 ("Lessor") and AMWOHI MPL TOWER HOLDINGS LLC, a Delaware limited liability company, by and through its attorney in fact, CCATT LLC, a Delaware limited liability company, with a mailing address of 2000 Corporate Drive, Canonsburg, Pennsylvania 15317 ("Lessee").

1. Lessor and New Cingular Wireless PCS, LLC ("Original Lessee") entered into a Lease Agreement dated February 7, 2006, a memorandum of which was recorded on April 3, 2006 at Instrument No. 2006038655 (the "Agreement") whereby Original Lessee leased certain real property, together with access and utility easements, located in Sonoma County, California from Lessor (the "Premises"), all located within certain real property owned by Lessor (the "Property"). The Property, of which the Premises is part, is more particularly described on Exhibit A attached hereto.

2. AMWOHI MPL Tower Holdings LLC is currently the lessee under the Agreement as successor in interest to the Original Lessee.

3. The Agreement had an initial term that commenced on March 1, 2006 and expired on February 28, 2011. The Agreement provides for four (4) extensions of five (5) years each, the first and second of which were exercised by Lessee. According to the Agreement, the final extension expires on February 28, 2031.

4. In the event of any inconsistency between this Memorandum and the First Amendment, the First Amendment shall control.

5. The terms, covenants and provisions of the First Amendment shall extend to and be binding upon the respective executors, administrators, heirs, successors and assigns of Lessor and Lessee.

6. This Memorandum does not contain the social security number of any person.

7. A copy of the First Amendment is on file with Lessor and Lessee.

[*Execution Pages Follow*]

**IN WITNESS WHEREOF**, hereunto and to duplicates hereof, Lessor and Lessee have caused this Memorandum to be duly executed on the day and year first written above.

**LESSOR**:
COUNTY OF SONOMA

By: _____
Print Name: _____
Title: _____

[*Acknowledgment Appears on Following Page*]

## CALIFORNIA ACKNOWLEDGMENT

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

STATE OF CALIFORNIA )
) ss.
COUNTY OF _____ )

On _____ before me, _____, Notary Public,

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

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

WITNESS my hand and official seal

_____
SIGNATURE OF NOTARY PUBLIC

(Seal)

[*Lessee Execution Page Follows*]

**LESSEE**:
AMWOHI MPL TOWER HOLDINGS LLC,
a Delaware limited liability company

By: CCATT LLC,
a Delaware limited liability company
Its: Attorney In Fact

By: _____
Print Name: _____
Title: _____

[*Acknowledgment Appears on Following Page*]

## CALIFORNIA ACKNOWLEDGMENT

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

STATE OF CALIFORNIA )
) ss.
COUNTY OF _____ )

On _____ before me, _____, Notary Public,

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

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

WITNESS my hand and official seal

_____
SIGNATURE OF NOTARY PUBLIC

(Seal)

**EXHIBIT A**
**(Legal Description of Lessor's Property)**

All that certain real property situated in the unincorporated area, County of Sonoma, State of California, described as follows:

**PARCEL ONE**

BEING A portion of Subdivision No. 1 of the land of H. Mecham, as shown on the map recorded in Book 10 of Maps, page 24, Sonoma County Records, and the southerly portion of Parcel 2, as described in the Deed recorded in Book 526 of Official Records, page 259, Sonoma County Records, and particularly described as follows:

BEGINNING at the most southerly corner of Part 1 of Subdivision No. 1, which point is also the most southerly corner of said Parcel 2; thence along the Southerly line of Part I, North 72° 59' East, 4314.6 feet; thence along the Easterly line of Part 1, North 6° 44' West, 1017.6 feet to a ¾ inch pipe monument; thence North 77° 56' West, 2426 West feet to the center of the Meacham County Road, from which point a ¾ inch pipe monument bears South 77° 56' East, 19.7 feet; thence along the center of the said Meacham Road, South 12° 38' West, 265 feet; South 25° 09' West, 232 feet; South 36° 57' West, 677.5 feet; South 18° 14' West, 461.6 feet; South 29° 57' West, 296.1 feet; and South 50° 30' West, 761.1 feet; thence along the Easterly line of the Meacham Road, South 17° 46' West, 622.5 feet to the point of beginning.

EXCEPTING THEREFROM those portions conveyed by Joe V. Cardozo and Rosa Cardozo by Deed recorded January 19, 1972, in Book 2596 of Official Records, page 956 Sonoma County Records and June 28, 1972, in Book 2640 of Official Records, page 926, Sonoma County Records.

**PARCEL TWO**

BEING an easement for water pipeline, well, access and maintenance purposes over and under a portion of the lands of The Bloom Trust, as described in that Deed recorded in Book 2760 of Official Records, page 874, Sonoma County Records, and a portion of Parcel 2 of the lands of The Bloom Trust, as described in that Deed recorded in Book 2721 of Official Records, page 681, Sonoma County Records, said easements being more particularly described as follows:

**PARCEL A**

BEGINNING at the intersection of the westerly line of the lands of the County of Sonoma, as described in that Deed recorded in Book 2622 of Official Records, page 946, Sonoma County Records with the southerly right of way line of the Northwestern Pacific Railroad Company, as described in that Deed recorded in Book 211 of Deeds, page 389, Sonoma County Records; thence along said Westerly line, South 21° 27' 23" West, 15.40 feet; thence leaving said line, North 55° 30' 36" West, 163.74 feet; thence North 60° 42' 03" West, 130.18 feet; thence North 63° 17' 43" West, 50.11 feet; thence North 75° 07' 03" West, 547.41 feet; thence South 16° 49' 25" West, 25.01 feet; thence North 73° 06' 09" West, 50.03 feet; thence North 15° 53' 01" East, 50.00 feet; thence South 73° 06' 59" East, 50.00 feet; thence South 16° 53' 01" West, 10.00 feet; thence South

73° 07’ 03” East, 547.01 feet to a ¾ inch iron pipe tagged “CSSC”, marking a point on the northerly line of said Parcel 2; thence leaving said line, South 63° 46’ 19” East, 50.05 feet to a ¾ inch iron pipe tagged “CSSC” in an existing fence; thence South 60° 42’ 03” East, 134.56 feet to an angle point in the northerly line of the above mentioned Parcel 2; thence along said Northerly line, South 55°30’ 36” East, 160.95 feet to the point of beginning.

EXCEPTING THEREFROM any portion of the above described lands not lying within the lands of The Bloom Trust abovementioned.

**PARCEL B**

BEING an easement 12.00 feet in width for water pipeline, access and maintenance purposes, the easterly line of said easement being more particularly described as follows:

BEGINNING at the intersection of the westerly line of the lands of the County of Sonoma, as described in that Deed recorded in Book 2622 of Official Records, page 946, Sonoma County Records with the southerly right of way line of the Northwestern Pacific Railroad Company, as described in that Deed recorded in Book 211 of Deeds, page 389, Sonoma County Records; thence along said Westerly line being the easterly line of the herein described easement, South 21° 27’ 23” West, 1544.45 feet; thence along a tangent curve to the left having a radius of 1038.00 feet, through a central angle of 8° 26’ 46” and an arc length of 153.01 feet; thence South 13° 02’ 19” West, 1377.12 feet; thence South 13° 08’ 59” East, 702.79 feet to the terminus of the herein described line.

**PARCEL C**

BEING an easement for water pipeline, well, access and maintenance purposes over and under a portion of the lands of The Bloom Trust, as described in that Deed recorded in Book 2760 of Official Records, page 874, Sonoma County Records, said easement being more particularly described as follows:

COMMENCING at the intersection of the westerly line of the lands of the County of Sonoma, as described in that Deed recorded in Book 2622 of Official Records, page 946, Sonoma County Records with the southerly right of way line of the Northwestern Pacific Railroad Company, as described in that Deed recorded in Book 211 of Deeds, page 389, Sonoma County Records; thence along said Southerly right of way, North 55° 30’ 36” West, 142.74 feet to the point of beginning; thence North 34° 29’ 24” East, 5.00 feet; thence North 55° 30’ 36” West, 10.00 feet; thence South 34° 29’ 24” West, 5.00 feet; thence South 55° 30’ 36” East, 10.00 feet to the point of beginning.

APN: 024-080-020

# SETTLEMENT AGREEMENT AND GENERAL RELEASE

THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE ("Agreement") is made and entered into as of _____, 2016, (the "Effective Date") by and between COUNTY OF SONOMA, a political subdivision of the State of California ("County") and T-MOBILE WEST TOWER LLC, a Delaware limited liability company, by and through CCTMO LLC, a Delaware limited liability company, its attorney in fact ("Licensee"). County and Licensee are sometimes individually referred to herein as a "Party" and collectively referred to herein as the "Parties". This Agreement is based upon the following facts:

## RECITALS

A. WHEREAS, County and Pacific Bell Wireless, LLC, a Nevada limited liability company, d/b/a Cingular Wireless ("Original Licensee") entered into that certain Communication Site License Agreement dated June 30, 2003 ("License"), whereby County granted Original Licensee a license to use a portion of County's real property (the "Premises") located at 403 Meacham Road, Petaluma, California, Assessor's Parcel Number 24-080-020 (the "Property") for purposes of constructing, maintaining and operating communications facilities on the Property; and

B. WHEREAS, T-Mobile West Tower LLC is the successor in interest to the Original Licensee under the License; and

C. WHEREAS, a dispute has arisen between County and Licensee with respect to payment under the License (the "Dispute"); and

D. WHEREAS, County and Licensee now desire to fully and finally settle any and all claims, allegations, potential causes of action, issues and matters described relating to the Dispute, and to fully and finally resolve any and all differences and disputes between County and Licensee, including by not limited to those asserted, or which could have been asserted in connection with the Dispute, on the terms and conditions set forth below; and

E. WHEREAS, by entering into this Agreement, neither County nor Licensee admits the allegations or contentions of the other Party and each Party is entering into this Agreement for the purpose of resolving the disputes and differences relating to the Dispute between County and Licensee.

## AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions, warranties and covenants herein, the Parties agree as follows:

1. Recitals. The recitals set forth above are incorporated by this reference as part of the agreement between the Parties.

2. Settlement Compensation. As full and final settlement, the Parties agree that Licensee shall pay to County the sum of Forty-Three Thousand Seven Hundred Ten and 60/100 Dollars ($43,710.60) within thirty (30) days of the full execution of this Agreement.

3. New Ground Lease Agreement. Concurrently with the full execution of this Agreement, County shall execute that certain First Amendment to Lease Agreement by and between County and AMWOHI MPL Tower Holdings LLC, a Delaware limited liability company, by and though CCATT LLC, a Delaware limited liability company, its attorney in fact, a copy of which is attached hereto as Exhibit "A".

4. Possession of Premises. Licensee shall be entitled to remain in possession of the Premises though May 31, 2017, pursuant to the terms and conditions of the License, except that County shall not be entitled to any fee pursuant to the License or any additional consideration for Licensee's use of the Premises through May 31, 2017, except as set forth herein.

5. General Release. County, on behalf of itself, its heirs, executors, successors, and assigns, hereby forever release, remise, and forever discharge Licensee each of its employees, officers, directors, agents, parents, subsidiaries, affiliates, insurers, lessees, sub-lessees, licensees, sub-licensees, assignees, licensees, assigns and successors (collectively, the "Released Parties") from any and all liabilities, claims, demands, causes of action, obligations, costs, expenses, damages, debts, losses, attorneys' fees, and contracts of every type, character, kind, nature or description, whether known or unknown, choate or inchoate, accrued or hereafter accruing, suspected or unsuspected, claimed or unclaimed, asserted or not asserted, by reason of any matter, cause or thing relating to, pertaining to or concerning in any way whatsoever the Dispute, and any and all dealings and interactions between and among the Parties regarding the Dispute (collectively, the "Claims").

6. California Civil Code Section 1542. County acknowledges and agrees: (a) that the foregoing release-of-claims provision applies not only to claims covered by this provision that are presently known, suspected, or disclosed to them, but also to claims covered by the provision that are presently unknown, unsuspected, or undisclosed to them; and (b) that they are aware of the provisions of Section 1542 of the California Civil Code ("Code") regarding the effect of this Agreement on the release of unknown, unsuspected, and undisclosed claims, and freely, voluntarily, and knowingly waive Section 1542 of the Code. Section 1542 of the Code provides:

> **A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**

7. Confidentiality. The Parties understand and agree that the terms of this Agreement, including the Settlement Payment, will be confidential and will not be divulged to any third party other than the Parties' attorney(s), or accountant(s), if any, without the prior consent of Licensee, or except as required by law.

8. Successors and Assigns. Except as explicitly provided herein to the contrary, this Agreement and all rights and obligations set forth herein shall run with the Property and shall be binding upon and inure to the benefit of the Parties, their respective successors and/or heirs, and permitted assigns including subsequent owners of the Property and/or the business and/or improvements located thereon.

9. Advice of Counsel. Each of the Parties warrant and represent that they have been advised by independent counsel, are authorized to enter into this Agreement and knowingly and voluntarily agree to the terms and conditions herein.

10. Severability. If any provision of this Agreement shall be invalid or unenforceable, the remaining provisions shall not be affected, and every provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

11. Entire Agreement. Each of the Parties acknowledges that no promise, inducement or agreement not herein expressed has been made to it by the other in connection with this Agreement, and that this Agreement is intended as a final and complete expression of the Parties' agreement and understanding with respect to the subject matter hereof. This Agreement may not be amended or modified except by a written instrument signed by the Parties which expressly states that modification of this Agreement is intended.

12. Governing Law and Venue. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of California, without regard to its principles of conflicts of laws. Sole and exclusive venue for any legal claim(s) arising under this Agreement shall vest in the Superior Court of California, County of Sonoma.

13. Counterparts. This Agreement may be executed and delivered in one or more counterparts, each of which shall be an original, but all of which, together, shall be deemed to constitute a single document. This Agreement may be executed and signature pages exchanged by facsimile or PDF, and a facsimile or PDF signature shall have the same force and effect as an original signature.

14. Non-waiver. No failure or delay in exercising any right under this Agreement shall operate as a waiver thereof or of any other right.

15. Attorneys' Fees and Expenses. All attorneys' fees and costs incurred by each of the Parties through the Effective Date of this Agreement and thereafter shall be borne by each such Party and such fees and costs are not subject to fee shifting.

16. Drafting Presumption. This Agreement has been and shall be construed to have been drafted by all Parties to it so that the rule of construing ambiguities against the drafter shall have no force or effect.

[*Execution Page Follows*]

IN WITNESS HEREOF, this Agreement has been executed in the State of California on the dates set forth below, and subject to full execution and delivery by all signatories, shall be deemed effective as of the Effective Date written above.

**COUNTY:**
COUNTY OF SONOMA,
a political subdivision of the State of California

By: _____

Print Name: _____

Date: _____

**LICENSEE:**
T-MOBILE WEST TOWER LLC,
a Delaware limited liability company

By: CCTMO LLC,
a Delaware limited liability company
Its: Attorney in Fact

By: _____

Print Name: _____

Print Title: _____

Date: _____

# EXHIBIT A

## First Amendment to Lease Agreement

(*To be attached*)

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 52**
(This Section for use by Clerk of the Board Only.)

| | |
|---|---|
| **To:** | The Board of Supervisors of Sonoma County |
| **Board Agenda Date:** | December 13, 2016 |
| **Vote Requirement:** | Majority |
| **Department or Agency Name(s):** | Transportation and Public Works - Airport |
| **Staff Name and Phone Number:** | Susan Klassen (707) 565-2231 |
| **Supervisorial District(s):** | |
| **Title:** | Agreement for Sale of Mitigation Acreage with Fulton Road Preserve, LLC and Third Amendment to the Agreement for Sale of Conservation Credits with Alton Preserve, LLC. |

**Recommended Actions:**

Authorize the Airport Manager to execute: (A) the Agreement for Sale of Mitigation Acreage with Fulton Road Preserve, LLC for a total cost to the County of $3,078,250 to fulfill mitigation requirements for the Runway Safety Area Improvement Project., and (B) Third Amendment to the Agreement for Sale of Conservation Credits with Alton Preserve, LLC for decreasing and exchanging plant and California Tiger Salamander conservation credits with the Fulton Road Preserve mitigation site with a no cost contract change

**Executive Summary:**

The Airport Manager is requesting authority to execute an Agreement for Sale of Mitigation Acreage with Fulton Road Preserve, LLC (see attached location map) for 3.59 mitigation acres for Burke's Goldfields and 2.10 mitigation acres for California Tiger Salamander (CTS). This will fulfill the final requirements specified in the Biological Opinion for the Runway Safety Area Improvement Project of the Charles M Schulz – Sonoma County Airport (See attached mitigation status table). The first installment is $2,751,250 ($2,540,000 for Plants and $211,250 for CTS) and the second installment is $327,000 ($300,000 Seller's Additional Cost and $27,000 Installment Accommodation Fee) for a total cost of $3,078,250.

The Airport Manager is also requesting authority to execute the Third Amendment to the Agreement for Sale of Conservation Credits with Alton Preserve, LLC. This third amendment decreases the amount of Plant Conservation Credits and CTS Conservation Credits by 0.41 acres and exchanges those credits with the Fulton Road Preserve mitigation site. There are no fiscal impacts as a result of this Third Amendment as the reduction in credits are incorporated into the Fulton Road Mitigation Agreement.

**Discussion:**

In 2012, the Board of Supervisors approved the Runway Safety Area Project (RSA) after certifying an Environmental Impact Report (EIR), and adopted a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program (MMRP) for the Project. In connection with construction of the RSA, the County is required to complete certain riparian and wetland mitigations as part of the permit conditions imposed by the US Army Corps of Engineers, California Department of Fish and Wildlife (CDFW), US Fish and Wildlife Service (USFWS), and the North Coast Regional Water Quality Control Board. Compliance with these permit conditions requires the implementation of mitigation measures and ongoing maintenance and monitoring of the sites after initial construction to ensure viability for 10 years.

**Agreement for Sale of Mitigation Acreage**

In 2013, the Airport's Request for Proposal (RFP) was issued for the acquisition of 3.18 acres of Burkes Goldfield and 1.69 acres of California Tiger Salamander credits and four responses were received to the RFP. Through consultation with the USFWS and CDFW the Fulton Road Preserve site was selected as the most viable option and moved forward for approval by State and Federal Agencies. The USFWS and CDFW provided conceptual approval for this site in August 2016. The original cost proposal for the Fulton Road Mitigation Site (FRMS) as submitted in January 2014 was $2,540,000 for 3.18 acres of Plant Conservation Credits and they did not include CTS Conservation Credits. The Airport and Environmental Consultants had planned for the Plant Conservation Credit site to include 1.69 acres of CTS Conservation Credits, and negotiated with Fulton Road Preserve, LLC to include those credits on the FRMS site at a cost of $211,250. The total for these Conservation Credits is $2,751,250 resulting in the first installment for the proposed Agreement.

Due to delays in approval of the RFP including numerous resubmittals, and additional required elements for the mitigation development from USFWS and CDFW, the Airport and the Environmental Consultants negotiated an additional sum of $300,000 for "Seller's Additional Documented Costs" to cover these costs. In addition, due to timing of the reimbursement from the Federal Aviation Administration (FAA), the seller and the County have agreed to a possible "Installment Accommodation Fee" for Fulton Road Preserve if the first installment is not paid by the due date (45 days after the effective date of the Agreement). The grand total for this Agreement is $3,078,250 and will be reimbursed 90.66% from FAA grants and the remainder being paid from a State Loan for the RSA project to cover local match requirements. Due to potential timing issues with the grant reimbursement, the Agreement allows for a delayed payment of the $300,000 beyond forty-five days with the payment of $27,000 in carrying costs.

The Fulton Road Preserve, LLC is developing the FRMS on 10.32 acres of the 26.25 acre Fulton Road Conservation Site parcel to establish habitat creation for endangered Burke's Goldfields and CTS. The Airport's purchase of 3.59 acres of plant mitigation and 2.10 acres of CTS mitigation is to fulfill final requirements for Burke's Goldfields and CTS as specified in the Biological Opinion (BO) prepared by the USFWS. Documentation of the FRMS has been submitted to the USFWS, the CDFW, the FAA, and to the Airport's biologist. The USFWS has informed the FAA and the Airport that FRMS is in an acceptable location for Burkes Goldfields and CTS compensation under the BO. The original proposal for the FRMS site called for the creation of 3.18 acres of Burke's Goldfield and 1.69 acres of CTS creation due to a request from USFWS to decrease the amount available for purchase at the Alton site by 0.41 acres this acreage would be added to the FRMS site.

**Third Amendment to the Agreement for Sale of Conservation Credits**

The Third Amendment with Alton Preserve, LLC is necessary to facilitate approval of projects that are unrelated to the Airport's RSA project, and is solely to accommodate a request from the USFWS related to timing. The change was requested by the USFWS, and comes at no cost to the County. The Original Sale of Conservation Credits Agreement contemplated the sale and purchase of 1.03 acres of Plant Conservation Credits and CTS Conservation credits for $1,040,300. The First Amendment extended the payment dates to accommodate FAA grant funding needs. The Second Amendment increased the acreage of Plant Conservation Credits and CTS Conservation credits to 1.50 acres and increased the purchase price to $1,515,000. The Third Amendment reduces the amount of Plant Conservation Credits and CTS Conservation Credits from 1.50 acres to 1.09 acres; transfers the 0.41 acres of Plant Conservation Credits and CTS Conservation Credits to the FRMS site; corrects an incorrect title in The First Amendment; corrects the date of the Original Agreement in the preamble to the Second Amendment. The Third Amendment to the Alton Site is a credit exchange with no additional costs.

The creation of this mitigation site has been reviewed by the Permit Resource Management Department (PRMD), Environmental Division and has been determined to be exempt from California Environmental Quality Act (CEQA) requirements pursuant to CEQA Guideline 15061(b)(3). Upon approval of this action by the Board, PRMD will file the required notice of exemption documentation.

**Prior Board Actions:**

9/10/13 Board authorized Second Amendment to the Agreement for Sale of Conservation Credits
12/11/12 Board authorized Agreement for Sale of Conservation Credits
1/24/12 Board certified Final Environmental Impact Report

**Strategic Plan Alignment** Goal 2: Economic and Environmental Stewardship

These agreements support the County's Strategic Plan focus area of Economic and Environmental Stewardship as part of the larger runway safety improvement project that will provide infrastructure that permits a larger variety of aircraft. The ability to serve more aircraft will allow the airlines to provide additional destinations while improving safety at the Airport. This has positive financial impacts on local business and tourism.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | $3,078,250 | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **$3,078,250** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | $2,790,741 | | |
| Fees/Other | $287,509 | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$3,078,250** | | |

**Narrative Explanation of Fiscal Impacts:**

Funding for the Agreements contemplated in this Board item will come from a combination of previously approved Federal Aviation Administration (FAA) Grants and from State Loan Proceeds secured for the Local match requirement which is paid from Passenger Facility Charges collected by the Airport. FAA Grants (AIP 46 & AIP 47) will provide 90.66% of the funding ($2,790,741), while the remaining 9.34% ($287,509) will be paid from the State Loan. The approval of these Agreements was anticipated during the budget process and funds are allocated in the FY 16-17 budget.

The Agreement for Sale of Mitigation Acreage first installment includes $2,540,000 for Plant Purchase and $211,250 for CTS purchase for a total of $2,751,250. The second installment includes $300,000 for the Seller's Additional Cost Payment and a further $27,000 Installment Accommodation Fee (if necessary) for a total of $327,000. The grand total is $3,078,250.

The Third Amendment to the Agreement for Sale of Conservation Credits has no fiscal impacts. The purchase price for the Plant Conservation Credits and CTS Conservation Credits shall remain the same.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

None

| **Attachments:** |
| --- |
| • 2016 Agreement for Sale of Mitigation Acreage with Fulton Road Preserve, LLC.<br>• 2016 Third Amendment to the Agreement for Sale of Conservation Credits with Alton Preserve, LLC.<br>• Mitigation Status Table<br>• Site Map |
| **Related Items "On File" with the Clerk of the Board:** |
| • 2012 Agreement, First and Second Amendment for Sale of Conservation Credits with Alton Preserve, LLC. |

# AGREEMENT FOR SALE OF MITIGATION ACREAGE

This "Agreement for Sale of Mitigation Acreage" ("**FRMS Agreement**") is entered into as of _____, 2016 between Fulton Road Preserve, LLC a California Limited Liability Company ("**Seller**") and the County of Sonoma, a Political Subdivision of the State of California, acting by and through its Department of Transportation & Public Works-Airport Division ("**Buyer**"). Buyer and Seller are collectively referred to as "**Parties**" and individually as "**Party**."

## RECITALS

A. Buyer wishes to obtain mitigation credits to compensate for the loss of Burke's goldfields (*Lasthenia burkei)* habitat ("**Plant Mitigation Acreage**") and for the loss of California tiger salamander habitat for the endangered Sonoma County Distinct Population Segment of the California tiger salamander (*Ambystoma californiense*) ("**CTS Mitigation Acreage**") in connection with the Charles M. Schulz – Sonoma County Airport Runway Safety Area Improvement Project, referred to as Buyer's **"Project,"** more fully described in **"Exhibit A"** to this FRMS Agreement. Plant Mitigation Acreage and CTS Mitigation Acreage are sometimes referred to collectively in this FRMS Agreement as "**Mitigation Acreage**."

B. Seller is developing the Fulton Road Mitigation Site ("**FRMS**") on 10.32 acres of the 26.25 acre Fulton Road Conservation Site located at 2365 Fulton Road in Sonoma County, California (assessor's parcels 034-030-078-000, 034-030-079-000, and 034-030-080-000) to:

(1) Establish habitat creation and enhancement acreage to provide Plant Mitigation Acreage for the endangered Burke's goldfields; and

(2) Provide enhanced CTS Mitigation Acreage for the endangered Sonoma County Distinct Population Segment of the California tiger salamander (*Ambystoma californiense*) ("**CTS**").

C. Buyer wishes to purchase from Seller and Seller wishes to sell to Buyer 3.59 acres of Plant Mitigation Acreage and 2.10 acres of CTS Mitigation Acreage to fulfill the requirements specified in the "Biological Opinion for the Proposed Runway Safety Area Improvement Project, Charles M. Schulz-Sonoma County Airport, Sonoma County, California," dated March 25, 2013, prepared by the U.S. Fish and Wildlife Service ("**USFWS**") (referred to as the "**BO,**" a copy of which is attached as "**Exhibit B**" to this FRMS Agreement and is incorporated by reference).

D. Seller has submitted documentation and information concerning the development of the FRMS to the USFWS and the California Department of Fish and Wildlife ("**CDFW**") (collectively referred to as the "**Approving Agencies**"), including the USFWS Section 7 Off-Site Compensation Checklist and supporting documentation, which documentation Seller has also provided to Buyer, to the Federal Aviation Administration ("**FAA**"), and to Buyer's biologist. On September 14, 2015, the USFWS informed the FAA and the Buyer that FRMS was in an acceptable location for Burke's goldfields and CTS compensation under the BO. As stated in Seller's Site Development Plan for FRMS, Seller intends to create approximately 3.59 acres of Burke's goldfields habitat at FRMS.

E. Buyer and Alton Preserve, LLC a California limited liability company ("**AP**"), and a related entity to Seller, are entering into a separate Third Amendment to the Agreement for Sale of Conservation Credits ("**Third Amendment to AP Agreement**") for the sale of Plant Mitigation Acreage and CTS Mitigation Acreage. The reduction of 0.41 acres (from 1.50 to 1.09 acres) of Plant Conservation Credits and CTS Conservation Credits that is the subject of the Third Amendment to AP Agreement are included in the Plant Mitigation Acreage and CTS Mitigation Acreage being sold to Buyer in this FRMS Agreement. This change in the Third Amendment to AP Agreement has been requested by the U.S. Fish and Wildlife Service in order to facilitate approval of projects that are unrelated to Buyer's Project, and is solely related to timing concerns with respect to these unrelated projects.

## TERMS OF FRMS AGREEMENT

THE PARTIES AGREE AS FOLLOWS:

1. **Recitals**. The Recitals are incorporated by reference into these "Terms of FRMS Agreement" as though fully set forth in these Terms of FRMS Agreement.

2. **Plant Mitigation Acreage Purchase Price**. Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller 3.59 acres of Plant Mitigation Acreage for the purchase price of $2,540,000 (Two Million Five Hundred Forty Thousand Dollars), (referred to as the "**Plant Purchase Price**") for Buyer's Project. In the event that FRMS generates more Plant Mitigation Acreage than 3.59 acres, such additional Plant Mitigation Acreage may be used to satisfy the requirements in the BO for Plant Mitigation Acreage at no additional cost to Buyer.

3. **CTS Mitigation Acreage Purchase Price.** Seller agrees to sell to the Buyer and Buyer agrees to purchase from Seller 2.10 acres of CTS Mitigation Acreage for the purchase price of $211,250 (Two Hundred Eleven Thousand Two Hundred Fifty Dollars), (referred to as the "**CTS Purchase Price**").

4. **Reimbursement for Seller's Additional Costs**. On January 3, 2014 Seller submitted its response to Buyer's "Request for Price ("**RFP**")." Since that submittal the Approving Agencies have required additional information not requested in the RFP. The Seller has incurred additional costs to provide the information requested by the Approving Agencies to complete the permitting process for the approval of the Plant Mitigation Acreage and the CTS Mitigation Acreage on the FRMS, which additional costs are referred to as "**Seller's Additional Costs.**" Buyer has agreed to compensate Seller $300,000 (Three Hundred Thousand Dollars) for Seller's Additional Costs. The Seller's Additional Costs are itemized on "**Exhibit G.**"

5. **Payment of Plant Purchase Price, CTS Purchase Price, and Seller's Additional Costs**. The Plant Purchase Price, CTS Purchase Price, and the Seller's Additional Costs include all costs necessary to obtain approval for 3.59 acres of Plant Mitigation Acreage and 2.10 acres of CTS Mitigation Acreage. The Plant Purchase Price, CTS Purchase Price, and the Seller's Additional Costs shall be paid in following two installments (collectively "**Installment Payments**") pursuant to the following terms:

(a) First Installment Payment. The first installment payment of $2,751,250 (Two Million Seven Hundred Fifty-One-Thousand Two Hundred Fifty) ("**First Installment Payment**") for the Plant Purchase Price of $2,540,000 (Two Million Five Hundred Forty-

Thousand) and the CTS Purchase Price $211,250 (Two Hundred Eleven Thousand Two Hundred Fifty Dollars), shall be paid no later than forty-five days after the Effective Date ("the **First Installment Payment Due Date**").

(b) Second Installment Payment. Subject to the terms of Section 19 of this FRMS Agreement, the second installment payment shall total $327,000 (Dollars) comprising a principal payment of $300,000 (Three Hundred Thousand Dollars) for the Seller's Additional Cost Payment and a further "**Installment Accommodation Fee**" of $27,000 (Twenty-Seven Thousand Dollars), which fee is compensation for Seller delaying receipt of payment for the Seller's Additional Costs no later than September 30, 2017 ("**Second Installment Payment**").

(c) Prepayment: If Buyer pays both the First Installment Payment and the Second Installment Payment by on the First Installment Payment Due Date, then Buyer shall not be required to pay the Installment Accommodation Fee.

(d) Default. The failure of Buyer to timely make either the First Installment Payments by the First Installment Payment Date or the Second Installment Payment by the Second Installment Date shall be deemed a material breach of this FRMS Agreement and Seller shall have all legal and equitable remedies available to Seller to enforce its rights under this FRMS Agreement.

(e) Buyer shall pay each Installment Payment with good, sufficient and readily available funds or according to further written instructions provided by Seller to Buyer.

6. **Bill of Sale and Payment Receipt**. Upon payment of the First Installment, Seller shall deliver to Buyer executed Bills of Sale in the forms attached as **Exhibit C-1** and **Exhibit C-2** and Payment Receipts in forms attached as **Exhibit D-1 and Exhibit D-2** for the Plant Conservation Acreage and CTS Conservation Acreage.

7. **No Real Property Transaction**. The sale and transfer of Mitigation Acreage, under this FRMS Agreement is not a sale or transfer of a security, license, lease, easement, or possessory or non-possessory interest in real property, nor the granting of any interest in any of the Mitigation Acreage.

8. **Buyer Has No Responsibilities With Respect to Mitigation Acreage**. After the consummation of this FRMS Agreement, Buyer shall have no obligation to support, pay for, monitor, report on, sustain, continue in perpetuity, or otherwise be obligated or liable for the success or continued expense or maintenance in perpetuity of the Mitigation Acreage sold to Buyer by Seller.

9. **Seller's Responsibilities With Respect to Mitigation Acreage.** As required by the BO and the project-specific Mitigation Acreage approvals from the Approving Agencies, Seller shall have the obligation to monitor and make the required reports to the Approving Agencies for the period of time specified in the Approving Agencies' approvals, on the status of the Mitigation Acreage sold to Buyer by Seller under this FRMS Agreement. Seller is and shall be fully and completely responsible for satisfying any and all conditions placed on the FRMS and the Mitigation Acreage by the Approving Agencies, including any further actions required by the Approving Agencies to render the Mitigation Acreage located on FRMS acceptable compensation under the BO. Seller shall indemnify Buyer for all such obligations.

10. **Mitigation Acreage is Not Transferable**. Any Mitigation Acreage sold to Buyer shall be non-transferable and non-assignable and shall not be used as compensatory mitigation for any other project or purpose, except for the Buyer's Project.

11. **Fund of Endowment.** Seller shall fund fully the endowment for FRMS, as required by the Approving Agencies, concurrent with the recordation of the conservation easement for FRMS.

12. **Fund Three Years of FRMS Operations**. Seller shall fund fully the three times the annual operations costs, required by the Approving Agencies, to operate the FRMS concurrent with the recordation of the conservation easement.

13. **Seller's Posting of Letter of Credit for the Costs to Construct Wetlands.** The Seller shall post a letter of credit, in an amount required by the Approving Agencies, to secure for the costs to construct the wetlands for Burke's goldfields **("Construction LOC")** at FRMS. The Construction LOC shall be released to Seller upon Seller's completion of the work to the reasonable satisfaction of the USFWS.

14. **Seller's Posting of Letter of Credit as Performance Security.** The Seller shall post a letter of credit in an amount required by the Approving Agencies to secure for the costs to monitor the constructed wetlands **("Performance LOC")** at FRMS. The budget for monitoring is stated in **"Exhibit E"** and the form of the Performance LOC is attached as **"Exhibit F.** The Performance LOC shall be released to Seller upon the determination by the Approving Agencies that Seller has completed the work required of Seller.

15. **Seller's Warranties**. Seller represents and warrants to Buyer that Seller agrees not to enter into any agreement that would "over-sell" the Mitigation Acreage at FRMS or diminish the amount of Mitigation Acreage allocated to Buyer under this FRMS Agreement.

16. **Jurisdiction**. This FRMS Agreement shall be governed by the laws of the State of California. Any action of law or equity brought in connection with this FRMS Agreement shall be filed in the Superior Court for the County of Sonoma.

17. **Attorney's Fees**. If any legal dispute arises under this FRMS Agreement, the prevailing Party shall recover, as an element of its costs of suit, its actual attorney's fees and costs, including expert witness fees, from the other Party. A Party not entitled to recover its costs of suit shall not recover attorney's fees.

18. **Right of Termination**. For a period of thirty-five (35) days from the approval of this FRMS Agreement by the Sonoma County Board of Supervisors, Buyer shall have a right to terminate this FRMS Agreement and all rights and obligations of either Party.

19. **Federal Aviation Administration's (FAA) Approval of Funding for Project**. Notwithstanding any provision in this FRMS Agreement to the contrary, Seller acknowledges that Buyer's obligation to proceed with paying the Second Installment Payment is expressly contingent upon Buyer receiving funding from the FAA for the Buyer's Project. Buyer agrees and acknowledges that Buyer shall use reasonable and good faith efforts to cause the FAA to award said funding to Buyer no later than September 15, 2017. The Second Installment Payment identified in Paragraph 5 of this FRMS Agreement shall be paid by the Buyer, no later than September 30, 2017, from further FAA grant funding or from the Charles M. Schulz – Sonoma

County Airport enterprise fund, which Seller recognizes is a special fund for the Sonoma County Airport as a whole that receives no taxpayer funding. Under no circumstance shall this FRMS Agreement be construed to create any obligation or remedy against Sonoma County's General Fund or Sonoma County's taxing power, nor shall this FRMS Agreement be construed to create any obligation or remedy involving any real or personal property of Sonoma County other than the Sonoma County Airport's enterprise fund.

20. **Seller's Right to Extend**. If by September 15, 2017, the FAA has not awarded said funding to Buyer for the Second Installment Payment, then Seller may extend the FAA Funding Date to May 31, 2018. Within five (5) days of Seller's written request to Buyer, Buyer shall provide Seller with documentation and information concerning the status of the FAA awarding said funding for the Second Installment Payment.

21. **Airport Standard Requirements.** The requirements in Exhibit H are incorporated by reference as if set forth in this FRMS Agreement.

22. **Counterparts**. This FRMS Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

23. **Captions, Sections and Section Numbers**. The captions appearing within the body of this FRMS Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this FRMS Agreement. All references to Section and Section numbers refer to Sections and Sections in this FRMS Agreement.

24. **Further Assurances**. The Parties agree to promptly sign all documents reasonably requested to give effect to the provisions of this FRMS Agreement

25. **Prior Agreements; Amendments**. This FRMS Agreement contains all of the agreements of the Parties regarding any matter covered or mentioned in this FRMS Agreement, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provisions of this FRMS Agreement may be amended or added to except by an agreement in writing signed by the Parties or their respective successors in interest.

26. **Reliance on Counsel**. In entering into this FRMS Agreement, each Party has had the opportunity to rely upon the advice of his/her/its attorney or upon the advice of other competent adviser and has not relied upon any representation of law or fact by any other Party hereto (except for the specific representations, if any, made in this FRMS Agreement).

27. **Time of the Essence**. Time is of the essence of this FRMS Agreement.

28. **Effective Date**. This FRMS Agreement shall be effective as of the last date of execution below ("**Effective Date**")

**The remainder of this page is intentionally left blank.**
**Signature page follows.**

IN WITNESS WHEREOF, the Parties have executed this FRMS Agreement,

**SELLER:**

Fulton Road Preserve, LLC
A California Limited Liability Company

11/9/16, 2016.

By: _____
Harvey O. Rich
Its: Managing Member

**BUYER:**

County of Sonoma,
a Political Subdivision of the State of California

_____, 2016.

By: _____
Jon Stout
Its: Airport Manager, Charles M. Schulz – Sonoma County Airport

**THIRD AMENDMENT TO THE**
**AGREEMENT FOR SALE OF CONSERVATION CREDITS**

This "Third Amendment to the Agreement for Sale of Conservation Credits" ("**Third Amendment to AP Agreement**") amends the original "Agreement for Sale of Conservation Credits" dated December 11, 2012 ("**Original Agreement**"), the "First Amendment to the Agreement for Sale of Conservation Credits" dated May 29, 2013 ("**First Amendment**"), and the "Second Amendment to the Agreement for Sale of Conservation Credits" dated September 10, 2013 ("**Second Amendment**"). The Original Agreement, First Amendment and Second Amendment are collectively referred to as the "**Agreement**." This Third Amendment to AP Agreement is entered into as of _____ 2016 ("**Effective Date**") between Alton Preserve, LLC, a California Limited Liability Company, ("**Seller**") and the County of Sonoma – Department of Transportation and Public Works-Airport Division, a Political Subdivision of the State of California ("**Buyer**"). Buyer and Seller are collectively referred to as "**Parties**." Buyer and Seller agree to the following:

**RECITAL**

A. The Original Agreement contemplated the sale and purchase of 1.03 acres of Plant Conservation Credits for the purchase price of $1,040,300 (One Million Forty Thousand Three Hundred Dollars) which includes 1.03 acres of CTS Conservation Credits.

B. The Second Amendment increases the acreage of Plant Conservation Credits and the included CTS Conservation Credits from 1.03 acres to 1.50 acres and increased the purchase price to $1,515,000 (One Million Five Hundred Fifteen Thousand Dollars0.

C. This Third Amendment to AP Agreement decreases the amount of Plant Conservation Credits and the included CTS Conservation Credits by 0.41 acres. Accordingly, under the Agreement as amended by this Third Amendment to AP Agreement, Seller is selling to Buyer and Buyer is purchasing from Seller 1.09 acres of Plant Conservation Credits and CTS Conservation Credits rather than 1.50 acres of Plant Conservation Credits and CTS Conservation Credits.

D. The purchase price for the Plant Conservation Credits and CTS Conservation Credits shall remain the same.

E. Buyer and Fulton Road Preserve, LLC a California limited liability company ("**FRP**"), a related entity to Seller, are entering into an Agreement for Sale of Mitigation Acreage ("**FRMS Agreement**") for the sale of Plant Mitigation Acreage and CTS Mitigation Acreage. The reduction of 0.41 acres (from 1.50 acres to 1.09 acres) of Plant Conservation Credits and CTS Conservation Credits that is the subject of this Third Amendment to AP Agreement will be added to the Plant and CTS Mitigation Acreage being sold to Buyer in the FRMS Agreement at no further cost to Buyer. The intent of this Third Amendment to AP Agreement, when combined with the FRMS Agreement, is that Buyer shall receive the same credits at the same overall purchase price. This change has been requested by the U.S. Fish and Wildlife Service in order to facilitate approval of projects that are unrelated to Buyer's Project, and is solely related to timing concerns with respect to these unrelated projects.

F. This Third Amendment to AP Agreement will also identify and clarify errors in the name of the First Amendment and the date of the Original Agreement as stated in the Second Amendment.

G. A true and correct copy of the Second Amendment is attached as **Exhibit A** to this Third Amendment to AP Agreement and which Second Amendment contains copies of the Original Agreement and the First Amendment.

## TERMS OF THIRD AMENDMENT TO AP AGREEMENT

1. The Recitals are incorporated by reference into the Terms of this Third Amendment to AP Agreement as though fully set forth herein.

2. Section 1 of the Second Amendment is amended by substituting 1.09 acres of Plant Conservation Credits for 1.50 acres of Plant Conservation Credits and CTS Conservation Credits wherever 1.50 acres of Plant Conservation Acreage or CTS Conservation Credits appears in the Second Amendment.

3. Exhibit F "Bill of Sale" and Exhibit G "Payment Receipt," included in the Original Agreement are replaced with **Exhibit F** "Bill of Sale" and **Exhibit G** "Payment Receipt" attached hereto.

4. The First Amendment was incorrectly titled "First Amendment to the Agreement for Sale of Plant Conservation Acreage." The correct title should have been "First Amendment to the Agreement for Sale of Conservation Credits."

5. The preamble to the Second Amendment incorrectly identifies the date of the Original Agreement as December 26, 2012; the correct date is December 11, 2012.

6. All other Sections of the Original Agreement, the First Amendment and the Second Amendment that are not amended in this Third Amendment to AP Agreement shall remain in full force and effect. If there is any conflict between the terms of the Original Agreement, of the First Amendment, or of the Second Amendment with the terms of this Third Amendment to AP Agreement, the terms of this Third Amendment to AP Agreement shall control.

7. This Third Amendment to AP Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

**The remainder of this page is intentionally left blank**
**Signature page follows.**

IN WITNESS WHEREOF, the Parties have executed this Third Amendment to AP Agreement.

**SELLER:**

Alton Preserve, LLC
A California Limited Liability Company

Dated: _____, 2016

_____
By: Harvey O. Rich
Its: Managing Member

**BUYER:**

Sonoma County of Sonoma, a Political Subdivision of the State of California

Dated: _____, 2016

_____
By: Jon Stout
Its: Airport Manager, Charles M. Schulz – Sonoma County Airport

# EXHIBIT A

## SECOND AMENDMENT TO THE AGREEMENT FOR SALE OF CONSERVATION CREDITS

# SECOND AMENDMENT TO THE AGREEMENT FOR SALE OF CONSERVATION CREDITS

This "Second Amend to the Agreement for Sale of Conservation Credits" ("**Second Amendment**") amends the original "Agreement for Sale of Conservation Credits" dated December 26, 2012, ("**Original Agreement**"), attached hereto as **Exhibit A** and "First Amendment to the Agreement for Sale of Conservation Credits," attached hereto as **Exhibit B**. The Original Agreement, the First Amendment, and this Second Amendment are collectively referred to as the "**Agreement.**" This Second Amendment is entered into as of ~~July~~ September 10th, 2013 ("**Effective Date**") between Alton Preserve, LLC, a California limited liability company, ("**Seller**") and the County of Sonoma – Department of Transportation & Public Works-Airport Division, a Political Subdivision of the State of California ("**Buyer**"). Buyer and Seller are collectively referred to as "**Parties.**" Buyer and Seller agree to the following:

## RECITALS

**A.** This Second Amendment increases the amount of Plant Conservation Credits for Burke's goldfields that Seller is selling to Buyer and Buyer is purchasing from Seller from 1.03 acres to 1.50 acres. The Plant Conservation Credits include 1.50 acres of California tiger salamander credits. The purchase price for the Plant Conservation Credits is increased from $1,040,300 to $1,515,000.

**B.** Recital D in the "Original Agreement" is changed to the following:

> "Buyer's Charles M. Schultz – Sonoma County Airport Runway Safety Enhancement Project, herein referred to as "**Project**," including its mitigation needs, is described in **Exhibit C** and as specified in the U.S. Fish and Wildlife Services "Biological Opinion for the Proposed Runway Safety Area Improvement Project, Charles M. Schultz-Sonoma County Airport, Sonoma County, California," dated March 25, 2013 (herein referred to as the "BO," a copy is attached as **Exhibit D** to the Agreement and is incorporated by reference herein) and as specified in the California Department of Fish and Wildlife's "Incidental Take Permit for 2081-2012-030-03 Charles M. Schultz – Sonoma County Airport Runway Safety Enhancement Project, Sonoma County," dated May 24, 2013 (herein referred to as the "ITP," a copy of which is attached as "**Exhibit E**" to the Agreement and is incorporated by reference herein)."

## TERMS OF SECOND AMENDMENT

1. The Recital is incorporated by reference into the Terms of this Second Amendment as though fully set forth herein.

2. Section 1 of the Original Agreement is deleted in its entirety and is replaced by the following:

> 1. Seller hereby sells to Buyer and Buyer hereby purchases from Seller 1.50 acres of Plant Conservation Credits which includes 1.50 acres of CTS Conservation Credits for the purchase price of $1,515,000 (One Million Five Hundred Fifteen Thousand Dollars). Upon payment of the purchase price by Buyer, Seller shall deliver to Buyer an executed "Bill of Sale" and "Payment Receipt" in the manner and form attached hereto and marked as **Exhibit "F"**

and **Exhibit "G."** The purchase price for said credits shall be paid by check or according to written instructions provided by Seller to Buyer.

3. Section 5 of the Original Agreement is deleted in its entirety and is replaced by the following:

> 5. "Seller represents and warrants to Buyer the following: (1) Seller has obtained all of the necessary approvals from the Approving Agencies to establish ANCB; (2) Seller has good and marketable title to the Plant Conservation Credits and CTS Conservation Credits that are the subject of this Agreement; (3) Seller agrees not to enter into any agreement that would "over-sell" the interest in ANCB or diminish the number of Plant Conservation Credits or CTS Conservation Credits or mitigation acreage allocated to Buyer under this Agreement, and (4) Seller is and shall be responsible for satisfying any and all conditions placed on the first phase of ANCB and the Plant Conservation Acreage and CTS Conservation Acreage by the Approving Agencies including any further actions required by the Approving Agencies to render the Plant Conservation Acreage and CTS Conservation Acreage on ANCB acceptable compensation pursuant to the BO and ITP."

4. All other Sections of the Original Agreement and First Amendment that are not reflected herein remain in full force and effect. If there is any conflict between the terms of the Original Agreement and the First Amendment, the terms of this Second Amendment, the terms of this Second Amendment shall control.

IN WITNESS WHEREOF, the Parties have executed this Second Amendment

**SELLER:**

Alton Preserve, LLC
A California Limited Liability Company

Dated: July 16, 2013

By: Harvey O. Rich
Its: Managing Member

**BUYER:**

Sonoma County of Sonoma, a Political Subdivision of the State of California

Dated: ~~July~~ September 10, 2013

By: Jon Stout
Its: Airport Manager, Charles M. Schulz – Sonoma County Airport

EXHIBIT A

"AGREEMENT FOR SALE OF CONSERVATION CREDITS"
DATED DECEMBER 26, 2012

# Agreement for Sale of Conservation Credits

This Agreement for Sale of Conservation Credits ("Agreement") is entered into this 11TH day of DECEMBER, 2012, between Alton Preserve, LLC a California Limited Liability Company ("Seller") and the County of Sonoma, a Political Subdivision of the State of California, acting by and through its Department of Transportation & Public Works-Airport Division ("Buyer"). Buyer and Seller are collectively referred to as "Parties."

## RECITALS

A. Seller has developed the Alton North Conservation Bank ("ANCB") in Sonoma County, California.

B. Seller's ANCB has been approved by the U.S. Fish and Wildlife Service and the California Department of Fish and Game (herein referred to as the "Approving Agencies"). ANCB was approved on October 17, 2007. Seller has provided Buyer with copies of all of the necessary approvals from the Approving Agencies for the ANCB (Refer to Exhibit "A"). ANCB is currently in good standing with the Approving Agencies.

C. Seller has received approval from the Approving Agencies to offer conservation credits for established plant habitat for the endangered Burke's goldfields (*Lasthenia burkei)* and/or Sonoma Sunshine (*Blennosperma bakeri)* and for the loss of California tiger salamander habitat for the endangered Sonoma County Distinct Population Segment of the California tiger salamander (*Ambystoma californiense*) as specified in ANCB's Conservation Bank Agreement (herein referred to as the "CBA") with the Approving Agencies.

D. Buyer's Charles M. Schultz – Sonoma County Airport Runway Safety Enhancement Project, herein referred to as "Project," including its mitigation needs, is described in Exhibit "B" and in Buyer's Biological Opinion from the U.S. Fish and Wildlife Service (to be added upon receipt), for Buyer's Project herein referred to as the "BO."

E. Buyer wishes to purchase from Seller's ANCB, and Seller wishes to sell to Buyer, conservation credits for the endangered Burke's goldfields, herein referred to as "Plant Conservation Credits" and the Sonoma County Distinct Population Segment of the California tiger salamander, herein referred to as "CTS Conservation Credit" from ANCB

F. A sample "Bill of Sale" is described in Exhibit "C" and a sample "Payment Receipt" is described in Exhibit "D."

THE PARTIES AGREE AS FOLLOWS:

1. Seller hereby agrees to sell to the Buyer and Buyer hereby agrees to purchase from Seller 1.03 acres of Plant Conservation Credits for the purchase price of $1,040,300 (One Million Forty Thousand Three Hundred Dollars) which includes 1.03 acres of CTS Conservation Credits. The 1.03 acres of Plant Conservation Credits and 1.03 acres of CTS Conservation Credits are for the Charles M. Schultz – Sonoma County Airport

Runway Safety Enhancement Project. Upon payment of the purchase price by Buyer, Seller shall deliver to Buyer executed "Bill of Sale" and "Payment Receipt" in the manner and form attached hereto and marked Exhibit "C" and Exhibit "D." The purchase price for said Plant Conservation Acreage shall be paid by check or according to written instructions provided by Seller to Buyer.

2. The sale and transfer of Plant Conservation Credits and CTS Conservation Credits under this Agreement is not a sale or transfer of a security, license, lease, easement, or possessory or non-possessory interest in real property, nor the granting of any interest of the foregoing.

3. The Buyer has no obligation to support, pay for, monitor, report on, sustain, continue in perpetuity, or otherwise be obligated or liable for the success or continued expense or maintenance in perpetuity of the Plant Conservation Credits and the CTS Conservation Credits sold to Buyer by Seller. As required by the provisions of the CBA, the Seller shall monitor and make reports to the Approving Agencies on the status of any Plant Conservation Credits or CTS Conservation Credits sold to Buyer. The Seller shall be fully and completely responsible for satisfying any and all conditions placed on the ANCB or the Plant Conservation Credits and CTS Conservation Credits by all state or Federal jurisdictional agencies. The Seller shall indemnify the Buyer for all such obligations.

4. The Plant Conservation Credits and CTS Conservation Credits sold and transferred to the Buyer shall be non-transferable and non-assignable, and shall not be used as compensatory mitigation for any other project or purpose, except as discussed in this Agreement.

5. Seller represents and warrants to Buyer the following: (1) Seller has obtained all of the necessary approvals from the Approving Agencies to establish ANCB; (2) Seller has good and marketable title to the Plant Conservation Credits and CTS Conservation Credits that are the subject of this Agreement; (3) Seller agrees not to enter into any agreement that would "over-sell" the interest in ANCB or diminish the number of Plant Conservation Credits or CTS Conservation Credits or mitigation acreage allocated to Buyer under this Agreement.

6. This Agreement shall be governed by the laws of the State of California. Any action at law or equity brought in connection with this Agreement shall be filed in the Superior Court for the County of Sonoma.

7. If any legal dispute arises under this Agreement, the prevailing Party shall recover, as an element of its costs of suit, its actual attorney's fees and costs, including expert witness fees, from the other Party. A Party not entitled to recover its costs of suit shall not recover attorney's fees.

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

9. Notwithstanding any provision in this Agreement to the contrary, Seller hereby acknowledges that Buyer's obligation to proceed with this Agreement is expressly contingent upon Buyer receiving funding from the Federal Aviation Administration ("FAA") for the project described in Exhibit "B" and the BO. In the event the FAA does not award said funding to Buyer by May 31, 2013 ("FAA Funding Date"), Buyer may terminate this Agreement upon written notice to Seller, and Seller shall have no claim against Buyer by reason of such termination, including any claim for compensation. Buyer agrees and acknowledges that Buyer shall use reasonable and "good faith" efforts to cause the FAA to award said funding to Buyer by May 31, 2013. Buyer further agrees and acknowledges that Buyer cannot cancel this Agreement prior to May 31, 2013. Buyer shall cause the purchase price identified in Paragraph 1 of this Agreement to be paid to Seller within two (2) weeks of Buyer's Receipt of the fully executed grant agreement from the FAA.

10. If by May 15, 2013, the FAA has not awarded said funding to Buyer, then Seller may extend the FAA Funding Date to September 30, 2013. Within five (5) days of Seller's written request to Buyer, Buyer shall provide Seller with documentation and information concerning the status of the FAA awarding said funding.

IN WITNESS WHEREOF, the Parties have executed this Agreement,

**Seller:**

Alton Preserve, LLC
A California Limited Liability Company

By: _____
Harvey O. Rich
Its: Managing Member

Date: 12/5/12

**Buyer:**

County of Sonoma, a Political Subdivision of the State of California

By: _____
Jon Stout
Its: Airport Manager, Charles M. Schulz – Sonoma County Airport

Date: 12/26/12

EXHIBIT "A"

# ALTON NORTH

# CONSERVATION BANK

# CONSERVATION BANK AGREEMENT
## Table of Contents


Section I: Recitals ..... 1
A. Purpose ..... 1
B. Bank Sponsor's Performance Under the CBA ..... 1
C. Authorities and Permits ..... 1
D. Location and Sponsorship of Parcel ..... 3
E. Project Elements ..... 3
F. Modification of the CBA Template ..... 3
Section II: Definitions ..... 4
Section III. Stipulations ..... 7
A. Baseline Condition ..... 7
B. Disclaimer ..... 7
C. Exhibits and Appendices ..... 7
Section IV: Bank Evaluation and Acceptance ..... 8
Section V: Bank Establishment ..... 9
Section VI: Financial Assurances ..... 9
Section VII. Credit Release Schedule For Covered Species and Covered Habitat Types ..... 9
Section VIII: Operation of the Bank ..... 10
A. Service Area ..... 10
B. Establishment and Use of Credits ..... 10
C. Interim and Long-termMonitoring and Management ..... 11
D. Bank Closure ..... 12
E. Financial Operations ..... 13
Section IX: Reporting ..... 13
A. Long-term Bank Management, Maintenance and Monitoring ..... 13
B. Credit Sales Accounting ..... 13
C. Credit Sales Reporting ..... 14
Section X: Responsibilities of the Bank Sponsor ..... 14
Section XI: Responsibilities of the Wildlife Agencies ..... 14
A. Wildlife Agency Oversight ..... 14
B. Wildlife Agency Review ..... 15
C. Evaluation of Bank Progress ..... 15
D. Compliance Inspections ..... 15
Section XII: Other Provisions ..... 15
A. Force Majeure ..... 15
B. Dispute Resolution ..... 17
C. Transfer ..... 17
D. Execution, Modification and Termination of the CBA ..... 17
E. Specific Language of Bank Enabling Instrument Shall be Controlling ..... 19
F. Entire Agreement ..... 20
G. Reasonableness and Good Faith ..... 20
H. Successors and Assigns ..... 20
I. Partial Invalidity ..... 20
J. Notices ..... 21

K. Restriction on Benefit ..... 22
L. Counterparts ..... 22
M. No Third Party Beneficiaries ..... 22
N. Attorney Fees ..... 22
O. Availability of Funds ..... 22
P. No Partnerships ..... 22
Q. Governing Law ..... 23
R. Continued Authority of Wildlife Agencies ..... 23
S. Elected Officials ..... 23
Section XIII: Execution ..... 23

# ALTON NORTH CONSERVATION BANK

This Conservation Bank Agreement (hereinafter referred to as "CBA") regarding the establishment, use, operation and maintenance of the Alton North Conservation Bank (hereinafter referred to as the "Bank") is made and entered into this _____ day of _____, by and among Alton Preserve, LLC (hereinafter referred to as the "Bank Sponsor") , the Sacramento Field Office of the U.S. Fish and Wildlife Service ("USFWS"), and the State of California, Department of Fish and Game (hereinafter "CDFG"). These agencies are referred to jointly as the Wildlife Agencies, and the Bank Sponsor and the Wildlife Agencies are hereinafter referred to jointly as the "Parties," with reference to the following:

## Section I: Recitals

A. Purpose

The purpose of this CBA is to establish guidelines and responsibilities for the establishment, use, operation and maintenance of the Bank. The Parties have determined the establishment of this Bank will provide compensation, conservation and protection for Covered Species and Covered Habitat Types and any additional species and habitat types the Parties determine will be adequately conserved as a result of implementation of this CBA. Goals and objectives for the Bank are set forth in the Interim Monitoring and Management Plan and Long-term Monitoring and Management Plan ("Management Plan"), Exhibit C. A general baseline description of the Bank's resources may be found in the Biological Assessment, Exhibit B.

B. Bank Sponsor's Performance Under the CBA

The Bank Sponsor agrees to perform all necessary work, in accordance with the provisions of this CBA, and specifically the Interim Monitoring and Management Plan (Exhibit C), to establish, to maintain and to protect the Covered Habitat Types and Covered Species as proposed in this CBA and, to the satisfaction of the Wildlife Agencies, complying in all respects with all conditions contained herein including, but not limited to, funding fully all interim management cost and the Management Endowment Fund.

C. Authorities and Permits

The Bank is available to be used for off-site compensatory mitigation for unavoidable impacts to Covered Species and Covered Habitat Types as regulated by the following, provided the Bank meets all requirements applicable for mitigation or conservation with respect to a particular project and that mitigation or conservation through use of a bank is authorized by the appropriate authority.

1. Federal: The USFWS has jurisdiction over the conservation, protection, restoration, enhancement and management of fish, wildlife, native plants and habitat necessary for biologically sustainable populations of those species pursuant to the provisions

of various Federal laws including the Endangered Species Act, 16 USC § 661-666c, and the Fish and Wildlife Act of 1956, 16 USC § 742(f) et seq.

a. National Environmental Policy Act (42 USC 4321 et seq.);

b. Endangered Species Act (ESA) (16 USC 1531 et seq.), particularly including impacts to Federally-listed threatened or endangered species under §§7 and 10a of the Endangered Species Act (hereinafter "§7" and "§10" respectively) and/or occupied habitat;

c. Fish and Wildlife Coordination Act (16 USC 661 et seq.);

d. National Historic Preservation Act (16 USC 470);

e. Guidance for the Establishment, Use and Operation of Conservation Banks (United States Department of Interior Memorandum, dated May 2, 2003)

2. State: Under the California Endangered Species Act, California Fish and Game Code § 2050 et seq. ("CESA"), the California Fish and Game Code § 1802, and other State laws, CDFG has jurisdiction over the conservation, protection, restoration, enhancement and management of fish, wildlife, native plants and habitat necessary for biologically sustainable populations of those species. CDFG is also the manager and trustee of fish and wildlife resources and their habitat pursuant to Fish and Game Code § 1802.

a. California Environmental Quality Act (CA Pub. Res. Code § 21000 et seq. regulations for implementation at CA Code of Regulations, Title XIV, Section 15000 et seq.), including all regulations promulgated pursuant to that Act;

b. California Endangered Species Act (Fish & Game Code § 2050 et seq.);

c. California Natural Community Conservation Planning Act (Fish & Game Code § 2800 et seq.);

d. Streambed Alteration Agreements (Fish & Game Code §§ 1600 et seq.);

e. Official Policy on Conservation Banks, April 7, 1995, by California Resources Agency and California Environmental Protection Agency, jointly;

f. Mitigation for significant impacts to wetland and wildlife resources under the applicable sections of the California Environmental Quality Act, Public

Resources Code Sections 21000 et seq. (hereinafter "CEQA"); and

g. The establishment and/or preservation of habitat associated with the Natural Communities Conservation Planning program, Fish and Game Code §2800 et seq. (hereinafter "NCCP").

D. Location and Sponsorship of Parcel

The Bank Sponsor is the Optionor of real property located at 2795 Piner Road, Santa Rosa, Sonoma County, California ("Bank Property"). The Bank Property is more completely described in Bank Location Maps (Exhibit A) and in Real Estate Records and Assurances (Exhibit D) attached hereto. The existing 24.77-acre parcel shall be split into two parcels. One parcel shall be 2.10 acres and be retained by the current property owners. The remaining 22.67-acre parcel shall comprise the Bank and will be acquired by CDFG in fee title. The Bank will be established, and Credits can be sold upon the Bank Establishment Date, in accordance with the requirements in Section V.

E. Project Elements

Whereas, under this CBA, the Bank Sponsor may preserve, restore, create, enhance and/or establish, and then manage and maintain any or all of the following types of habitat in accordance with Interim Monitoring and Management Plan (Exhibit C):

1. Habitat(s) of Endangered and Threatened Species listed under the ESA, or any other species deemed to be of concern or special importance to the USFWS;

2. Habitat(s) of Endangered and Threatened Species listed under the CESA;

3. Habitat(s) of special status species or other species impacted by projects under CEQA;

4. Habitat(s) impacted through activities to substantially divert or obstruct the natural flow or substantially change the bed, channel or bank of any river, stream or lake designated by the CDFG; and

5. Non-Corps jurisdictional wetlands as defined by the USFWS and CDFG.

F. Modification of the CBA Template

This section is not applicable to the Bank.

## Section II: Definitions

The terms used in this CBA are defined as set forth below.

1. "Adaptive Management" means changes to the Long-term Monitoring and Management Plan, including any management practices or corrective actions as determined to be necessary by the Wildlife Agencies in discussion with the Bank Sponsor. Bank Sponsor, at Bank Sponsor's expense, is responsible for implementation of any Adaptive Management prior to Bank Sponsor's transferring the Bank Property to CDFG and to any Adaptive Management agreed to in writing by Wildlife Agencies and Bank Sponsor after transfer to CDFG.

2. "Bank Closure Plan" is a plan designed to ensure that the Bank is managed and maintained, in perpetuity, consistent with the conservation purposes of the Bank. The Bank Closure Plan describes actions required to close the Bank. This Plan should include proposed entities for long-term ownership, long-term management, and their agreement to assume all of the ongoing obligations thereof.

3. "Bank Establishment Date" is the date when the Bank is officially considered open for operation and Credit sales may begin. The date occurs when all the requirements of Section V are met.

4. "Bank Sponsor" means the legal optionor of the Bank Property, and the bank operator, unless otherwise specified herein.

5. "Conservation Bank Agreement" (CBA) means this document and all Exhibits, Addenda and Amendments

6. "CDFG" means the California Department of Fish and Game, a subdivision of the California Resources Agency.

7. "CEQA" means the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.; guidelines for implementation at California Public Resources Code Sections 15000 et seq.), including all regulations promulgated pursuant to that Act.

8. "CESA" means the California Endangered Species Act (California Fish and Game Code Sections 2050 et seq.), including all regulations promulgated pursuant to that Act.

9. "Covered Habitat Types" means the habitat upon which the Covered Species depend for their continued viability and any other habitat types which the Parties determine will be adequately conserved as a result of implementation of this CBA as set forth in the Recitals and the Long-term Monitoring and Management Plan.

10. "Covered Species" means the species for which the Bank has been established and for which Credits have been allocated. These may include endangered and threatened

species and any additional species which the Parties determine will be adequately conserved as a result of implementation of the CBA and as set forth in the Recitals and the Long-term Monitoring and Management Plan.

11. "Preservation / CTS (California tiger salamander) Credits" are defined by a measure of habitat function relative to a given unit of aerial measurement (i.e., acres), such that one Preservation / CTS Credit is equal to one unit (or fraction thereof) of the given aerial measurement at full habitat function.

12. "Credit" is a unit of measure representing the accrual or attainment of habitat functions and/or special status species habitat at a conservation bank; the measure of function is typically indexed to the number of special status species habitat acres restored, enhanced, created or preserved. One Credit here is equivalent to one acre. Credits serve as mitigation or compensation for agency-approved projects, and possibly for other impacts, in the Service Area

13. "Endowment Deposit" means monies to be deposited in the Management Endowment Fund in order to fully fund the endowment principal and will be funded fully with the transfer of the Bank Property to CDFG. This amount will be agreed upon by the Bank Sponsor and the Wildlife Agencies, and will be stated in the Financial Assurances Section of Exhibit E.

14. "ESA" means the Federal Endangered Species Act (16 U.S.C. §§ 1531 et seq.), including all regulations promulgated pursuant to that Act.

15. "Financial Assurances Analysis and Schedule" means the spreadsheet or other tool, and the assumptions used to identify the expected annual expenses for the long-term management endowment fund amount needed to generate the interest necessary to fund the Long-term Monitoring and Management Plan annually, in perpetuity. The schedule will contain the endowment interest availability.

16. "Habitat Conservation Plan" (HCP) means a conservation plan prepared pursuant to Section 10(a)(2)(A) of the ESA (16 U.S.C. Section 1539(a)(2)(A)).

17. "Interim Management Period" means the period of time following the transfer of the Bank and the funding fully of the Management Endowment Fund to CDFG. This period pertains to those specific activities described in the Interim Monitoring and Management Plan, which will be implemented and reported by the Bank Sponsor.

18. "Long-term Monitoring and Management" means management of the Bank lands pursuant to the Long-term Monitoring and Management Plan, and incorporation of any subsequent amendments or Adaptive Management related to the Long-term Monitoring and Management Plan. The Long-term Monitoring and Management Plan (Management Plan) means a specific plan developed for the Bank to ensure that the Bank is managed and maintained, in perpetuity, consistent with the conservation purposes of the bank. The Management Plan is the document approved by the Wildlife Agencies that governs the

maintenance, management, monitoring, Adaptive Management, and reporting of the special-status species habitat and other habitats in perpetuity beyond meeting establishment success criteria, after Bank closure and as funded through the Management Endowment Fund.

19. "Management Endowment Fund" (Endowment Fund) means an investment fund maintained in trust by the CDFG and is described in Section VIII.E. The Endowment Fund shall be non-wasting, and a portion of the interest and earnings on the principal balance (minus inflation and re-investment contingency %) shall be used exclusively as an endowment from which the interest earned on the principal balance is to be used exclusively for the management of the Bank's lands in accordance with the terms of the CBA and Long-term Monitoring and Management Plan. "Non-wasting Endowment" means an endowment fund principal amount which does not decrease in value through expenditure, inflation or investment strategy.

20. "NCCP" (Natural Community Conservation Plan) is a conservation plan created pursuant to Fish and Game Code, Section 2801, et seq. An NCCP is a plan developed in accordance with the NCCP Act which provides comprehensive management and conservation of multiple wildlife species, and which identifies and provides for the regional or area-wide protection and perpetuation of natural wildlife diversity while allowing compatible and appropriate development and growth.

21. "Phase I Environmental Site Assessment" is an evaluation of the environmental conditions of the property performed as outlined by the American Society of Testing and Materials (ASTM) 1527 "Standard Practice for Environmental Site Assessments: Phase I Environmental Assessment Process."

22. "Bank Property" or "Property" means Bank Sponsor's real property on which a Bank shall be established by this CBA, Conservation Easements will be recorded, and protection and management will occur in perpetuity.

23. "Property Assessment" means a written evaluation and maps depicting the number of acres on the Bank Property that Bank Sponsor intends to convey for conservation purposes in accordance with California Civil Code Section 815 and this CBA, and which describe any portion of the Bank Property subject to any recorded or unrecorded rights of way, easements, liens or other encumbrances that may prevent establishment of a Conservation Easement on that portion of the Property for conservation purposes in accordance with California Civil Code Section 815 and this CBA, and which shall be attached hereto in Exhibit D.

24. "Property Assessment Acknowledgement" means a Property Assessment that is signed and dated by the Bank Sponsor, a copy to be attached hereto as Exhibit D.

25. "Remediation" means corrective measures taken to ameliorate injury, impact to, or lack of success in accordance with the Management Plans, Conservation Easement or any other portion of this CBA.

26. "Service Area" means the geographic area(s) within which impacts that occur may be mitigated or compensated through the sale or use of Credits in accordance with this CBA.

27. "USFWS" means the United States Fish and Wildlife Service, an agency of the United States Department of Interior.

28. "Wildlife Agencies" means the USFWS and CDFG.

## Section III. Stipulations

A. Baseline Condition

Whereas, the Bank Property is currently as described in the Long-term Monitoring and Management Plan (Exhibit C) and Biological Assessment (Exhibit B).

B. Disclaimer

Whereas, this CBA does not in any manner limit the statutory authorities and responsibilities of the signatory parties, but is, instead, an implementation of such statutory authorities and responsibilities.

C. Exhibits and Appendices

Whereas, the following Exhibits, and all subsequent revisions and addenda to the Exhibits hereto, are attachments incorporated into this CBA:

Appendix 1 – Description of the Exhibits necessary for CBA review and Bank Approval

1. "Exhibit A" - Bank Location, Legal Description of the Parcel, Geographic Service Area
2. "Exhibit B" – Biological Assessment
3. "Exhibit C" – Interim Monitoring and Management Plan, Bank Closure Plan, Long-term Monitoring and Management Plan
4. "Exhibit D" – Real Estate Records and Assurances, Certified Copy of "Grant Deed" granting fee title to the State, Preliminary Title Report, Legal Description, Parcel Map, Easements on each Bank Parcel
5. "Exhibit E" – Financial Assurances and Processes: Management Endowment
6. "Exhibit F" – Table of Credits and Calculations: California Tiger Salamander Credits and Plant Preservation Credits
7. "Exhibit G" – Phase I Environmental Site Assessment
8. "Exhibit H" – Agreement to Purchase California Tiger Salamander / Preservation Habitat Credits, Mitigation Payment Transmittal Form, Agreement For Sale Of California Tiger Salamander / Preservation Mitigation

Credits

9. "Exhibit I" – Results for Two-year Survey for Special-Status Plant Species

10. "Exhibit J" – Evaluation of Cultural and Historic Resource Significance

NOW, THEREFORE, in consideration of the forgoing Recitals and Stipulations and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the following:

**Section IV: Bank Evaluation and Acceptance**

Representatives of the Wildlife Agencies have inspected and generally evaluated the Property's conservation and protection of Covered Species and Covered Habitat Types for the purpose of determining its biological functions and values in connection with the sale of Credits. As a result of benefits accruing to biological resources, upon the establishment of the Bank for conservation purposes, the Wildlife Agencies acknowledge and agree that the Bank Property possesses biological functions and values sufficient for the issuance of the Credits as acknowledged in this CBA.

Notwithstanding anything to the contrary in this CBA, in the event that the Bank Property is evaluated and the Wildlife Agencies reasonably determine that portions of the Bank Property have been damaged subsequent to the Bank Establishment Date and: (1) the effect of such damage has been to materially impair the habitat values on such damaged Bank Property; and (2) Bank Sponsor has not reasonably restored habitat value to such damaged Bank Property or provided the Wildlife Agencies with reasonable evidence that habitat value will be restored, then the Wildlife Agencies may, at their discretion, either reduce the number of Credits allocated to the Bank in proportion to the damaged area or, if the Wildlife Agencies determine that habitat values on the Bank Property have been so impaired as to render the Bank Property unsuitable for use as a Bank, the Wildlife Agencies may terminate this CBA.

Subsequent Phases

Any proposals for subsequent Phase(s) of the Bank must be reviewed and approved by the Wildlife Agencies prior to establishment of that Phase. Each subsequent Phase(s) shall conform with this CBA and shall at a minimum include the documents listed in Appendix 1 of this CBA. The Bank Sponsor shall submit a written request for approval of each subsequent Phase and all relevant documents. Upon written approval from each member of the Wildlife Agencies, the Bank Sponsor may then implement all approved Phases. Subsequent Phases may simply require amendment of the Development Plan, Long-term Monitoring and Management Plan and other CBA Exhibits. Subsequent phases need to comply with Wildlife Agencies' content requirements at the time subsequent phases are proposed.

Bank Sponsor's Performance Under the CBA

The Bank Sponsor agrees to perform all necessary work, in accordance with the provisions of this CBA and the Interim Monitoring and Management Plan, to establish and

protect special-status species habitats, as proposed in Exhibit C, until it is demonstrated to the satisfaction of the Wildlife Agencies that the Bank complies in all respects with all conditions contained herein. Bank Sponsor agrees to be responsible for all costs as defined in the Interim Monitoring and Management Plan (Exhibit C), including installation of fencing and gates, demolition of existing buildings, as needed, and removal of debris and trash. Bank Sponsor agrees to fund fully the Management Endowment Fund. Any deviation from the Interim Monitoring and Management Plan may reduce the number of Credits available, as determined by CDFG and/or USFWS, as appropriate. The Bank Sponsor shall revise the Credit Table as directed by CDFG and/or USFWS, to reflect a reduction, if any, in the available Credits.

## Section V: Bank Establishment

Signature of the CBA will begin when the Exhibits and their associated supporting documents have been filed with, reviewed by and approved substantially in the form attached hereto by the Wildlife Agencies. Required documents for review and establishment of the Bank shall include and adhere to those Exhibits listed in Section III and as fully described in Appendix 1 attached to this CBA. The Bank will be considered established and Credit sales may begin only upon the following:

A. The CBA has been executed fully by all of the signatory parties;

B. The Bank Sponsor has complied with its obligation to furnish financial assurances in accordance with Section VI; and

C. Fee Title has been granted to CDFG and has been recorded in the Official Records of the county in which the Bank Property is located.

## Section VI: Financial Assurances

The Bank Sponsor shall fund fully the Management Endowment Fund in the amount specified in Exhibit E. Prior to payment into the Management Endowment Fund by Bank Sponsor, CDFG shall establish a dedicated interest bearing account for the purpose of holding the "Endowment Fund".

## Section VII. Credit Release Schedule For Covered Species and Covered Habitat Types

Credits for Covered Species and Covered Habitat Types shall be determined as described in this CBA and Exhibit F. Credits have been assigned to the Bank based upon Credit methodologies developed by the Wildlife Agencies.

Upon submittal of all appropriate documentation by the Bank Sponsor, and subsequent approval by the Wildlife Agencies, it is agreed that Credits for Covered Species and Covered Habitat Types will be released by the Wildlife Agencies in accordance with the Table of Credits, Exhibit F.

## Section VIII: Operation of the Bank

A. Service Area

1. The Bank is established to provide mitigation to compensate for unavoidable impacts to threatened, endangered and sensitive species habitat within the Service Area of the Bank shown in Exhibit A, as described in Exhibit B. Decisions authorizing use of Credits from the Bank for project compensation will be made by the appropriate authority on a case-by-case basis in accordance with applicable requirements. In general, it is agreed that use of Credits from the Bank will be authorized whenever the appropriate authority determines that: (i) the particular project requiring compensation/mitigation may purchase Bank Credits; and, (ii) the Bank has available for sale Credits of the type required for the particular project, and in an appropriate location, and (iii) the Bank Sponsor is in compliance with this CBA. Covered Habitat Types and Covered Species Credits at the Bank are intended to provide "in-kind" compensation/mitigation.

2. The Bank shall not be used to mitigate impacts to any State or Federal listed or special status species which does not occur and/or whose habitat does not occur on the Bank Property.

B. Establishment and Use of Credits

1. Upon Bank Establishment, the Bank shall have an initial total of Credits to sell or convey as specified in Exhibit F and the Credit release schedule in this CBA. In no case shall the Credits sold or expended exceed the total number of Credits which have been allocated to the Bank for each Covered Habitat or Covered Species or as released by written verification by the Wildlife Agencies prior to the proposed date of sale. All Credit releases subsequent to this CBA shall be substantiated in writing signed by the Wildlife Agencies, with a copy sent to all Parties, prior to any Credit sales.

2. Subject to Bank Sponsor's obligations under this CBA, Bank Sponsor shall have the exclusive right to determine the price for any and all Credits offered for sale or use at this Bank.

3. Upon determination by the Wildlife Agencies that the purchase of Credits is an appropriate form of compensation, a project applicant will be referred by the appropriate Wildlife Agencies to acceptable Wildlife Agency-approved Banks so that the applicant may determine where the applicant would like to purchase Credits, if the applicant should decide to do so. Bank Sponsor shall follow the agency-specific methodology for selling Credits as detailed in Exhibits F and H.

4. In the event that the Wildlife Agencies reasonably determine that portions of the Bank have been damaged subsequent to the Bank Establishment Date, and the effect of such activity has been to materially impair habitat values on such damaged Property, and Bank Sponsor has not reasonably restored habitat value to such damaged area or provided the Wildlife Agencies with reasonable evidence that habitat value will be restored, then the Wildlife Agencies may, at their discretion,

suspend Credit sales and/or reduce the number of Credits allocated to the Bank in proportion to such damaged area.

5. If any member(s) of the Wildlife Agencies approve(s) an NCCP and/or HCP covering all or any part of the Service Area, and that plan uses habitat categories different from those set forth herein, then, at the request of the Bank Sponsor, the remaining Credits may be reallocated by the Wildlife Agencies in accordance with such different habitat categories.

6. All Credit sales shall be reported to the Wildlife Agencies in accordance with reporting requirements described in the Reporting Section of this CBA.

7. Credit modifications due to Bank expansion, restoration or other proposed means shall be amended to this CBA according to the Modification Section.

8. Credit sales agreements are contracts strictly between the Bank Sponsor and project applicant detailing the sale and purchase of Bank Credits by a specific project applicant.

9. Nothing contained in this Agreement shall be deemed to limit the Wildlife Agencies' respective jurisdiction over impacts and applicable mitigation of endangered, threatened and sensitive species and biological resources, or to restrict the ability of the Wildlife Agencies to fully discharge their respective responsibilities under applicable law, including, without limitation, CESA and ESA, respectively; provided, however, that subject to Section IV, the Wildlife Agencies will not object to the use of Credits as set forth in Exhibit F. When discharging their responsibilities, the Wildlife Agencies will utilize common conservation biology principles to compare the species and habitat aspects of a development site within the Service Area with those at a Conservation Bank. Considered factors may include, but are not limited to, project habitat composition, project size and shape, habitat use patterns by the species, core habitat areas, linkages, adjacent land uses, relationship to other conserved areas, relationship to HCPs and NCCPs and other regional conservation strategies, and other factors. If a development site is determined to provide specific and important species needs or habitat characteristics that are not provided at a bank site, the Wildlife Agencies may, through their approval or oversight role, at their discretion, not authorize or recommend certain projects to mitigate at the Bank.

C. Interim and Long-term Monitoring and Management

1. <u>Interim Management</u>

Interim management shall be implemented by the Bank Sponsor according to the Interim Monitoring and Management Plan in Exhibit C. These interim management measures will be implemented once the Bank Property has been transferred in fee title to CDFG.

2. Long-term Monitoring and Management

a. After the first anniversary of the full funding of the Management Endowment Fund, long-term maintenance, management and monitoring of the Bank shall be implemented by CDFG as per Exhibit C.

b. The Long-term Monitoring and Management Plan prepared for the Bank shall provide the basis for the implementation of the specific management measures and tasks and identify the priority of the various measures and tasks.

c. Any amendments to the Long-term Monitoring and Management Plan which cost more than the anticipated costs estimated for the endowment will only be carried out when there is sufficient funding available in the Management Endowment Fund.

3. Long-term Monitoring

Long-term monitoring shall be performed as described within the Long-term Monitoring and Management Plan. The Long-term Monitoring and Management Plan shall include specific measures for regular and on-going perpetual monitoring of the Bank and the biological resources, to be conducted by a monitoring entity or entities approved by the Wildlife Agencies.

D. Bank Closure

1. The Bank shall be deemed closed upon the following:

a. For habitat creation, restoration and/or enhancement, all performance criteria as defined in the Alton North Table of Credits (Exhibit F) have been met; and

b. Either:

1) The last authorized Bank Credit has been transferred; or

2) The Bank Sponsor requests bank closure by written notice to the Wildlife Agencies, and the Wildlife Agencies provide written approval of the closure; and

c. All financial responsibilities have been met, including full funding of the Management Endowment Fund.

2. Deviation from the approved Bank Closure Plan is subject to review and written approval by the Wildlife Agencies.

E. Financial Operations

1. Management Endowment Fund

a. Endowment Fund Trustee

1) CDFG shall hold the Management Endowment Fund principal and interest monies as required by existing law in the Special Deposit Fund or subsequent State authorized trustee fund, which consists of moneys that are paid into it in trust pursuant to law, and is appropriated to fulfill the purposes for which payments into it are made. CDFG shall manage these monies as required by Fish and Game Code Section 13014 and Section 16370 of the Government Code and use the interest monies to fund long-term management, enhancement, and monitoring activities on habitat lands in a manner consistent with the terms of this CBA, including the Long-term Monitoring and Management Plan and any amendments to the Long-term Monitoring and Management Plan approved by CDFG and USFWS.

b. A portion of the interest and earnings from the Management Endowment Fund shall be used for the long-term management, monitoring, maintenance and reporting of the Bank and Bank related activities. The Management Endowment Fund shall be determined through an economic analysis as provided in Exhibit C of this CBA.

c. Interest earnings on the Endowment Funds available from the Endowment Account, beyond those necessary to provide for Endowment Principal growth commensurate with inflation and a re-investment contingency, may be used by CDFG for management of the Bank Property in accordance with the Long-term Monitoring and Management Plan.

d. If there is not sufficient funding available from the Endowment Fund interest and earnings or if long-term Bank Property management expenses exceed those estimated in the Financial Analysis and Schedule, Bank Sponsor shall have no responsibility. Any endowment fund revenues (including earnings and interest) as adjusted for inflation that may be determined to be generated in excess of the anticipated annual expenditures shall be retained to address unexpected expenses, including but not limited to, Adaptive Management needs and other unexpected events.

## Section IX: Reporting

A. Long-term Bank Management, Maintenance and Monitoring

The reporting requirements for long-term management, maintenance and monitoring are fully described in the Long-term Monitoring and Management Plan.

B. Credit Sales Accounting

Bank Sponsor is responsible for reporting, separately and in writing, to each of the Wildlife Agencies any additional crediting awarded to the Bank after completion of the

CBA. Bank Sponsor shall include a full ledger in the annual reports to the Wildlife Agencies showing all transactions at the Bank to date. Bank Sponsor shall be responsible for entering all required Bank information into electronic databases and tracking systems approved by the Wildlife Agencies and as amended to this Agreement.

C. Credit Sales Reporting

Upon the sale or debit of each and every Credit, regardless of the agency initiating the Credit sale or debit, or under whose jurisdiction the purchase is made, notification in the form of a Credit sale invoice or receipt using the templates in Exhibit H, and a full and complete updated ledger shall be sent to the Wildlife Agencies within ten (10) days of each Credit sale or debit.

## Section X: Responsibilities of the Bank Sponsor

A. Bank Sponsor, prior to the transfer of the Bank Property to CDFG, hereby agrees and covenants to the following:

1. Bank Sponsor shall not discharge or release to the Bank Property, or permit others to discharge or release to the Property, any material or substance deemed hazardous or toxic under any Federal, State, or local environmental law;
2. Bank Sponsor shall not create any encumbrance to the title of the Property other than those set forth in Exhibit D and accounted for in the Property Assessment in Exhibit D, and Bank Sponsor shall not execute, renew or extend any lien, license or similar interest without the prior written consent of the Wildlife Agencies;
3. Bank Sponsor shall not construct any structure or engage in any activity or use of the Property, including mineral exploration, excavating, draining, dredging or other alteration of the Bank Property, that is not consistent with and in accordance with this CBA and the Long-term Monitoring and Management Plan, without the prior written consent of the Wildlife Agencies; and
4. Bank Sponsor shall ensure that the Bank Property is maintained to ensure its suitability as a Bank consistent and in accordance with this CBA and the Long-term Monitoring and Management Plan.
5. The Bank Sponsor shall allow, or otherwise provide for, access to the Bank Property by all signatory Parties, as necessary, for the purpose of inspection and compliance monitoring consistent with the terms and conditions of this CBA. Inspecting Parties shall provide reasonable notice to the Bank Sponsor during normal business hours and not less than 24 hours in advance, prior to inspection of the Bank.

## Section XI: Responsibilities of the Wildlife Agencies

A. Wildlife Agency Oversight

The Wildlife Agencies agree to provide appropriate oversight in carrying out provisions of this CBA.

B. Wildlife Agency Review

The Wildlife Agencies agree to review and provide comments on all required documents for the Bank, as identified or incorporated by reference into this CBA, in a timely manner.

C. Evaluation of Bank Progress

This section is not applicable to the Bank.

D. Compliance Inspections

The Wildlife Agencies will conduct compliance inspections as deemed necessary:

1. To verify the Credits then currently available in the Bank; and/or
2. Recommend corrective measures as needed; or
3. For any other purpose as necessary to assure compliance with this CBA. These inspections shall continue until the effort to restore and enhance the Bank site, as described in this CBA, has been determined to be successful or otherwise ceases, and as necessary thereafter, as determined by the Wildlife Agencies .

## Section XII: Other Provisions

A. Force Majeure

1. The Bank Sponsor, prior to the transfer of the Bank to CDFG, shall be responsible to maintain and remediate the Bank except upon Catastrophic Events, events of Force Majeure or unlawful acts as defined below.

2. Definitions

a. Catastrophic Event shall mean an event, such as a spill of hazardous or toxic substance, the impact of a vehicle or falling aircraft, or a fire, which has a material and detrimental impact on the quality of native vegetation, soils or wildlife of the mitigation bank and over which the Bank Sponsor has no control.

b. Force Majeure shall mean war, insurrection, riot or other civil disorders, flood, earthquake, fire, governmental restriction or the failure by authority, or any injunction, which has a material and detrimental impact on the Bank; provided, however, that (i) a riot or other civil disorder shall constitute an event of Force Majeure only if the event has broad regional impacts and is not endemic to the Bank and its immediate locale; (ii) a flood shall be considered an event of Force Majeure only if it is greater than a presently projected 100-year flood, where "flood" refers to a runoff event; (iii) an earthquake shall constitute an event of Force Majeure only if the ground motion it generates at the Bank is greater than that presently projected from an earthquake with a return period of 475 years;

(iv) disease shall constitute an event of Force Majeure only if such event has broad regional impact and is not endemic to the Bank and its immediate locale; and (v) governmental restriction or the failure by any governmental agency to issue any requisite permit or authority, or any injunction or other enforceable order of any court of competent jurisdiction shall not constitute an event of Force Majeure unless there is no other feasible means of remediation.

c. Unlawful Act shall mean the unlawful act of another and shall include an event or series of events, such as the intentional dumping within the Bank, or any connected watercourse, of a hazardous toxic substance, or the discharge of such a substance by any person or entity other than the Bank Sponsor in violation of a statute, ordinance, regulation or permit, which event or series of events has a material and detrimental impact on the water quality, native vegetation, soils or wildlife of the Bank.

3. Not withstanding the foregoing, subject to the availability of funds in the Management Endowment Fund, and prior to the Bank Sponsor's transfer of the Bank Property to CDFG, the Bank Sponsor shall not be relieved from the obligation to maintain and remediate the Bank by reason of any such discharge which occurs as a result of normal non-catastrophic activities. In case of occurrence of a Catastrophic Event, events of Force Majeure, or unlawful acts, Bank Sponsor, and the Wildlife Agencies shall meet to discuss the future course of action and management of the Bank, and the Wildlife Agencies shall continue their obligation to the extent practicable using the remaining funds in the accounts.

4. The Bank Sponsor shall bear the burden of demonstrating:

a. That the non-compliance was caused by circumstances beyond the control of the Bank Sponsor and/or any entity controlled by the Bank Sponsor, including its contractors and consultants;

b. That neither the Bank Sponsor nor any entity controlled by the Bank Sponsor, including its contractors and consultants, could have reasonably foreseen and prevented such noncompliance; and

c. The period of noncompliance was caused by such circumstances.

5. Reasonably foreseeable technical problems, or unanticipated or increased costs or expenses associated with the implementation of actions called for by this CBA, or changed financial or business circumstances in and of themselves shall not serve as the basis for modifications of this CBA or extensions for the performance of the requirements of this CBA.

6. Compliance with any requirement of this CBA by itself shall not constitute compliance with any other requirement. An extension of one compliance date based on a particular incident shall not necessarily result in the extension of a subsequent

compliance date or dates. The Bank Sponsor must make an individual showing of proof regarding the cause of each delayed step or requirement for which an extension is sought.

B. Dispute Resolution

The Wildlife Agencies and the Bank Sponsor agree to work together in good faith to resolve disputes concerning this CBA, but any party may seek any available remedy. Unless an aggrieved party has initiated legal action, the parties may elect to employ an informal dispute resolution process whereby:

1. The aggrieved Party shall notify the other Parties of the provision that may have been violated, the basis for contending that a violation has occurred, and the remedies for the aggrieved Party proposes to correct the alleged violation;

2. The Party alleged to be in violation shall have thirty (30) days (or such other time as the Parties may mutually agree) to respond. During this time, such Party may seek clarification of the initial written notice; and

3. Within thirty (30) days after such response was provided or due, whichever is later, representative of each Party shall confer and negotiate in good faith toward a resolution satisfactory to each Party, or shall establish a specific process and timetable to seek such resolution.

C. Transfer

1. As part of the establishment of the Bank, the Bank Sponsor shall fund fully the Management Endowment Fund and the Bank Property shall be transferred to CDFG.

2. If any of the required financial obligations under this CBA are not funded completely at the time of transfer, either the current Bank Sponsor, or the replacement Bank Sponsor, successors or assigns, shall deposit or provide security in a form approved by the Wildlife Agencies for any funds necessary to fund completely these accounts prior to the transfer of the Bank. Prior to transfer, and if applicable, the Bank Sponsor shall provide to each Wildlife Agency a signed commitment from the replacement Bank Sponsor stating that the replacement Bank Sponsor accepts all of the responsibilities of the CBA. Transfer or assignment of this CBA to a Party approved in writing by the Wildlife Agencies shall also be subject to the requirement that any funds in the Management Endowment Fund shall continue to be expended in a manner consistent and in accordance with this CBA and the Long-term Monitoring and Management Plan.

D. Execution, Modification and Termination of the CBA

1. Execution

The Bank Sponsor must sign the CBA, prior to the signature and execution of the CBA by the Wildlife Agencies. Subsequently, the CBA shall be executed by each

signatory agency to said document. The CBA will become valid and enforceable as between each signatory agency and the Bank Sponsor when the Wildlife Agencies have signed this CBA. The bank will be established, and Credits may be sold, upon the Bank Establishment Date.

2. Modification

This CBA, including its Exhibits, may be amended or modified with the written approval of each Wildlife Agency and the Bank Sponsor.

3. Termination of this CBA

a. Termination of CBA Prior to Credit Sales

Prior to any Credit sales, the Bank Sponsor may withdraw the entire Bank and terminate this CBA at any time provided that:

1) No Credits developed in the Bank have been sold or conveyed in order to compensate for the loss of Covered Habitat Types, Covered Species or other special status species habitats; and

2) The habitat values of any habitat existing on the Bank site prior to the initiation of efforts to restore and enhance the site shall be preserved in a condition at least equal to that prior to initiation of Bank establishment efforts.

3) Bank Sponsor shall have the right to convey or transfer the Bank Property in conjunction with the establishment of the Bank in accordance with this CBA and subject to written concurrence by the Wildlife Agencies.

b. Termination of CBA after Credit Sales Begin. Termination of the CBA may only happen consistent with the following terms:

1) The CDFG and USFWS may terminate their participation in this CBA on the condition that each of the following has occurred:

a) Bank Sponsor has breached one or more Bank Sponsor responsibilities or terms and conditions set forth herein;

b) Bank Sponsor has received written notice from the CDFG and USFWS of such breach and order to cease Credit sales; and

c) Bank Sponsor has failed to cure such breach within thirty (30) days after such notice; provided that in the event such breach is curable in the judgment of the Wildlife Agencies, but cannot reasonably be cured within such thirty (30) day period, the Wildlife Agencies shall not terminate this CBA so long as Bank Sponsor has commenced the cure of such breach and is diligently pursuing such cure to completion. Nothing in this paragraph is intended or shall be construed to limit the legal or equitable remedies (including specific performance and injunctive relief) at law available to the Wildlife Agencies in the event of a threatened or

actual breach of this CBA.

d) Bank Sponsor is in default under this CBA as described above, and fails to cure such breach, and Bank Sponsor fails to designate a replacement within 180 days of Bank Sponsor's receipt of written notice from the Wildlife Agencies that the Bank Sponsor is in default of its obligations under the CBA. If Bank Sponsor fails to designate a replacement, then such public or private land or resource management organization acceptable to and as directed by the Wildlife Agencies may enter onto the Property in order to fulfill the purposes of the Bank as described in the CBA.

e) Bank Sponsor provides the remainder of any endowment fund deposits necessary to fund fully the Management Endowment Fund to carry out the Long-term Monitoring and Management Plan for the Bank Property.

2) Upon written concurrence of the Wildlife Agencies, this CBA may be terminated following the sale or conveyance of all available Credits and satisfaction of all substantive terms and conditions of this CBA other than ongoing management obligations such as maintenance and monitoring, as set forth in the Long-term Monitoring and Management Plan, provided that the Endowment Fund shall continue to be expended in a manner consistent and in accordance with the conservation purposes for which it was established pursuant to this CBA and California Civil Code Section 815, and the Long-term Monitoring and Management Plan.

3) If requested, the Wildlife Agency proposing to terminate participation in the CBA shall agree to meet with the other Wildlife Agency members to discuss the reason(s) for such termination, prior to the termination taking effect. Notice of a request for such meeting shall be made by the requesting Wildlife Agency member(s) not later than fifteen (15) calendar days from receipt of the notice of termination.

c. Termination by one of the Wildlife Agencies of its involvement in this CBA shall not terminate or affect the relationship between the remaining Wildlife Agency, toward each other or the Bank Sponsor, under this CBA.

d. As regards the termination of the CBA in its entirety, the terms and provisions of this CBA will be valid:

1) For two (2) years from the last date of execution of the CBA by the Parties in the event that no Credits are sold from the Bank; or

2) Until the Bank Closure Plan has been implemented to the satisfaction of the Wildlife Agencies and each provides notice, in writing, to the Bank Sponsor that this instrument may be terminated.

E. Specific Language of Bank Enabling Instrument Shall be Controlling

This section is not applicable to the Bank.

F. Entire Agreement

This CBA, and all exhibits, addenda, schedules and agreements referred to in this CBA, in addition to any other elements of a CBA required under the Authorities in the Recitals Section not heretofore provided by the Bank Sponsor, constitute the final, complete and exclusive statement of the terms of the agreement between and among the Wildlife Agencies and the Bank Sponsor pertaining to the Bank and supersedes all prior and contemporaneous understandings or agreements of the Parties. No other agreement, statement or promise made by the Parties, or to any employee, officer, or agent of the Parties, which is not contained in this CBA, shall be binding or valid. Each Party acknowledges that no representation, inducement, promise or agreement, oral or otherwise, has been made by any other Party or anyone acting on behalf of any Party unless the same has been embodied herein.

All Exhibits referred to in this CBA are attached to this CBA and are incorporated herein by reference.

G. Reasonableness and Good Faith

Except as specifically limited elsewhere in this CBA, whenever this CBA requires Bank Sponsor or the Wildlife Agencies to give their consent or approval to any action on the part of the other, such consent or approval shall not be unreasonably withheld or delayed. If either the Bank Sponsor or the Wildlife Agencies disagree with any determination covered by this provision and reasonably requests the reasons for that determination, the determining Party shall furnish within thirty (30) calendar days following the request its reasons in writing and in reasonable detail.

H. Successors and Assigns

This CBA and each of its covenants and conditions shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns.

Bank Sponsor may only transfer or assign its rights and obligations under this CBA consistent with applicable Federal and State regulations, this CBA, and with the prior written approval of the Wildlife Agencies, which approval shall not be unreasonably withheld.

I. Partial Invalidity

If a court of competent jurisdiction holds any clause of this CBA to be invalid or unenforceable, in whole or in part, for any reason, the validity and enforceability of the remaining clauses, or portions of them, shall not be affected unless an essential purpose of this CBA would be defeated by loss of the invalid or unenforceable provision.

J. Notices

Any notice, demand, approval, request, or other communication permitted or required by this CBA shall be in writing and delivered personally, sent by facsimile, or sent by recognized overnight delivery service, to the persons in the positions set forth below or shall be deemed given five (5) days after deposit in the United States mail, certified and postage prepaid, return receipt requested, and addressed as follows or at such other address as any of the Parties may from time to time specify in writing:

Notices by the Bank Sponsor to the Wildlife Agencies shall be made to each of the Wildlife Agencies. Such notice shall not be effective until deemed received by all members of the Wildlife Agencies.

Addresses for purposes of giving notice are set forth below. Either Party may change its address or telephone or fax number by giving the other party notice of the change in any manner permitted by this Section.

Bank Sponsor:

Mr. Harvey O. Rich, Managing Member
Alton Preserve, LLC
336 Bon Air Center, Box 232
Greenbrae, CA 94904
Telephone: 415-472-1086
Fax: 415-491-1147

Wildlife Agencies:

U.S. Fish and Wildlife Service
Sacramento Field Office
2800 Cottage Way, Room W-2605
Sacramento, CA 95825-1846
Attn: Field Supervisor
Telephone: 916-414-6600
Fax: 916-414-6713

California Department of Fish and Game
Bay Delta Region
Post Office Box 47
Yountville, CA 94599
Attn: Regional Manager
Telephone: 707-944-5500
Fax: 707-944-5563

California Department of Fish and Game
Habitat Conservation Planning Branch
1416 Ninth Street, 12th Floor
Sacramento, CA 95814
Attn: Branch Chief
Telephone: 916-653-4875
Fax: 916-653-2588

K. Restriction on Benefit

No member of or delegate to the United States Congress or Federal Resident Commissioner shall be entitled to any share or part of this CBA, or to any benefit that may arise from it.

L. Counterparts

This CBA may be executed in any number of duplicate and counterpart originals. A complete original of this CBA containing original signatures of each of the Parties shall be circulated to each of the Parties by Bank Sponsor and a complete original of this CBA shall be maintained in the official records of each of the Parties hereto.

M. No Third Party Beneficiaries

This CBA shall not create any third party beneficiary hereto, nor shall it authorize anyone not a party hereto to maintain a suit for personal injuries, property damages or enforcement pursuant to the provisions of this CBA. The duties, obligations and responsibilities of the Parties to this CBA with respect to third Parties shall remain as otherwise provided by law in the event this CBA had never been executed.

N. Attorney Fees

If any action at law or equity, including any action for declaratory relief, is brought to enforce or interpret the provisions of this CBA, each Party to the litigation shall bear its own attorneys' fees and costs.

O. Availability of Funds

The duty of the CDFG and USFWS to carry out their respective obligations under this CBA shall be subject to the availability of State and Federal appropriated funds and is subject to the requirements of the Anti-Deficiency Act, 31 U.S.C. § 1341. Nothing in this CBA may be construed to require the obligation, appropriation or expenditure of any money from the United States Treasury or California State Treasury.

P. No Partnerships

This CBA shall not make or be deemed to make any Party to this CBA an agent for or the

partner of any other Party.

Q. Governing Law

This CBA shall be governed by and construed in accordance with the internal laws of the State of California, the Federal Endangered Species Act and other applicable Federal laws and regulations.

R. Continued Authority of Wildlife Agencies

Nothing contained in this CBA shall be deemed to limit the Wildlife Agencies' respective jurisdiction under applicable law, including, without limitation, CESA, ESA, respectively, to regulate the taking of endangered or threatened species.

S. Elected Officials

No member of or delegate to the California State Legislature, the United States Congress, or any county or city government shall be entitled to any share or part of this CBA, or to any benefit that may arise from it.

**Section XIII: Execution**

This CBA shall become effective on the date of the signature by the last agency to sign this CBA, and shall be binding only upon Bank Sponsor and the agencies so signing.

| | |
|---|---|
| Bank Sponsor<br>Alton Preserve, LLC | 10/17/07<br>Date |
| Susan C Moore<br>Field Supervisor<br>Sacramento Fish and Wildlife Office<br>U.S. Fish and Wildlife Service | 10/17/07<br>Date |
| Regional Manager<br>Bay Delta Region<br>California Department of Fish and Game | Date |

partner of any other Party.

Q. Governing Law

This CBA shall be governed by and construed in accordance with the internal laws of the State of California, the Federal Endangered Species Act and other applicable Federal laws and regulations.

R. Continued Authority of Wildlife Agencies

Nothing contained in this CBA shall be deemed to limit the Wildlife Agencies' respective jurisdiction under applicable law, including, without limitation, CESA, ESA, respectively, to regulate the taking of endangered or threatened species.

S. Elected Officials

No member of or delegate to the California State Legislature, the United States Congress, or any county or city government shall be entitled to any share or part of this CBA, or to any benefit that may arise from it.

**Section XIII: Execution**

This CBA shall become effective on the date of the signature by the last agency to sign this CBA, and shall be binding only upon Bank Sponsor and the agencies so signing.

_____ 9/7/07

Bank Sponsor Date
Alton Preserve, LLC

_____ _____

Manager, California/Nevada Office Date
U.S. Fish and Wildlife Service

_____ 10/11/07

Regional Manager Date
Bay Delta Region
California Department of Fish and Game

Appendix 1 – Description of the Exhibits necessary for Bank Review and Bank Establishment.

1 Index to Exhibits

2 Exhibit A. Bank Location, Legal Description of the Parcel, Geographic Service Area

3 Exhibit B. Biological Assessment

4 Exhibit C. Interim Monitoring and Management Plan, Bank Closure Plan, Long-term Monitoring and Management Plan

5 Exhibit D. Real Estate Records and Assurances: Certified Copy of "Grant Deed" granting fee title to the State, Preliminary Title Report, Legal Description, Parcel Map, Easements on each Bank Parcel

6 Exhibit E. Financial Assurances and Processes: Management Endowment

7 Exhibit F. Table of Credits and Calculations: California Tiger Salamander Credits and Plant Preservation Credits

8 Exhibit G. Phase-1 Environmental Assessment

9 Exhibit H. Agreement To Purchase California Tiger Salamander / Preservation Habitat Credits, Mitigation Payment Transmittal Form, Agreement For Sale Of California Tiger Salamander / Preservation Mitigation Credits

10 Exhibit I. Results For One-year Survey for Special-status Plant Species

11 Exhibit J. Evaluation of Cultural and Historic Resource Significance

**EXHIBIT B**

**U.S. FISH AND WILDLIFE SERVICE'S**

**"BIOLOGICAL OPINION FOR THE PROPOSED RUNWAY SAFETY AREA IMPROVEMENT PROJECT, CHARLES M. SCHULTZ-SONOMA COUNTY AIRPORT, SONOMA COUNTY, CALIFORNIA," DATED MARCH 25, 2013**

# United States Department of the Interior

**FISH AND WILDLIFE SERVICE**
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846


In Reply Refer To:
08ESMF00-2012-F-0050-1

MAR 25 2013

Mr. David B. Kessler, AICP
Regional Environmental Protection Specialist
Federal Aviation Administration
Western-Pacific Region, Airports Division
P.O. Box 92007
Los Angeles, California 90009-2007

Subject: Biological Opinion for the Proposed Runway Safety Area Improvement Project, Charles M. Schulz–Sonoma County Airport, Sonoma County, California

Dear Mr. Kessler:

This letter is in response to your October 19, 2011, letter and supporting documentation requesting initiation of formal section 7 consultation with the U.S. Fish and Wildlife Service (Service) for the proposed Runway Safety Area (RSA) Improvement Project (Proposed Project) at Charles M. Schulz–Sonoma County Airport (Airport), Sonoma County, California, which would be implemented by the County of Sonoma (County). Your request for consultation was received by the Service on October 21, 2011. This document represents the Service's biological opinion on the effects of the action on the endangered Sonoma County Distinct Population Segment (DPS) of the California tiger salamander (*Ambystoma californiense*) (California tiger salamander), its critical habitat, and the endangered Burke's goldfields (*Lasthenia burkei)* in accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

This biological opinion is based on information provided in the following documents: (1) the Federal Aviation Administration's (FAA) consultation request letter, dated October 19, 2011, and associated information about the proposed action; (2) the *Biological Assessment for the Charles M. Schulz–Sonoma County Airport Runway Safety Area Improvement Project* (Biological Assessment), dated October 14, 2011, prepared by LSA Associates, Inc. (LSA); (3) *Supplemental Information Formal Section 7 Endangered Species Act Consultation For Proposed Runway Safety Enhancement Project at Charles M. Schulz- Sonoma County Airport, Santa Rosa, California*, dated April 27, 2012; (4) miscellaneous correspondence and electronic mail concerning the proposed action between the Service, FAA, the Airport, and LSA. This opinion is also based on other relevant published and unpublished studies, communications, and

information available to the Service. A complete record of this consultation is on file at this office.

## CONSULTATION HISTORY

May 18, 2011: The Service, FAA, California Department of Fish and Wildlife (DFW), National Oceanic and Atmospheric Administration (NOAA), Army Corps of Engineers (Corps), the Regional Water Quality Control Board (RWQCB), Sonoma County, and LSA attended a meeting and site visit at the Charles M. Schulz–Sonoma County Airport.

October 21, 2011: The Service received a package from the FAA which contained a letter requesting section 7 consultation and the *Biological Assessment for the Charles M. Schulz–Sonoma County Airport Runway Safety Area Improvement Project.*

April 30, 2012: The Service received *Supplemental Information Formal Section 7 Endangered Species Act Consultation for Proposed Runway Safety Enhancement Project at Charles M. Schulz- Sonoma County Airport, Santa Rosa, California* from the FAA.

June 13, 2012: The Service held a meeting with the County, CDFW, and the County's consultants at the Sacramento Field and Wildlife Service Field Office. The FAA participated by telephone. At this meeting the County and the FAA provided information to the Service concerning the County's conceptual compensation package being proposed as part of the Proposed Project. The proposal would provide compensation for impacts to Burke's goldfields and California tiger salamander at three sites on the Santa Rosa Plain: The Windmill Conservation Site, Alton North Conservation Bank, and Kerry Conservation Site.

June 26, 2012: A consultant working for the owners of the proposed Windmill Conservation Site submitted a conceptual compensation proposal to the Service by email. At the time the County and the owners of the Windmill Site were anticipating completing an agreement to conduct the compensation for impacts to federally listed species at this site.

The consultant of Windmill Conservation Site also notified the Service that the County's consultant was preparing an amended biological assessment.

The Service responded that the Proposed Project could not be appended to the Programmatic Biological Opinion because it was for use by the Corps, and a separate biological opinion would have to be prepared for the proposed airport project. The consultant of the Windmill Conservation

site suggested it might be helpful to have the Corps initiate consultation to allow the proposed project to be appended to the Programmatic Biological Opinion to the Corps in the interest of saving time.

In a separate email, FAA's Western-Pacific Regional Office gave the opinion that having the Corps initiate consultation would delay the project and preferred to stick to the consultation request from FAA. FAA also requested that the Service "use the most current proposed mitigation plan to reduce adverse effects to federally listed species and designated critical habitat. This way the Service can prepare its biological opinion based on the information it already has." FAA requested a draft biological opinion.

July 3, 2012: FAA informally submitted a draft "Supplemental Effects and Mitigation Proposal Enclosures" and if acceptable to the Service, FAA would submit it formally with a letter from FAA. On July 3, 2012 and October 31, 2012, the Service and FAA agreed to have a discussion about the Supplemental Effects and Mitigation Proposal after the biological opinion is issued.

October 5, 2012: FAA provided track change comments on the Service's draft biological opinion, sections *project description* and *terms and conditions*. It includes a list of projects that can be done by avoiding wetland impacts during the first of two construction seasons.

October 26, 2012: The Service provided FAA track change comments on the draft biological opinion, sections *project description* and *terms and conditions* and posed some initial questions about the proposed Windmill Conservation Site.

November 9, 2012: FAA forwarded an e-mail from the County responding to questions posed by the Service in an email dated October 26, 2012, regarding the County's proposed compensation at the Windmill Conservation Site. FAA also responded to track change comments on the draft biological opinion, sections *project description* and *terms and conditions*.

November 20, 2012: FAA addressed an e-mail to Sonoma County Airport outlining biological and documentation issues that cause the previously proposed Windmill Site insufficient as compensation for California tiger salamander and Burke's goldfields compensation. FAA guided that while the Draft Environmental Assessment is out for public review, Sonoma County Airport will continue to search for adequate acreage for both California tiger salamander and Burke's goldfields compensation. Further, Sonoma County Airport will need to find adequate wetland acreage to create Burke's goldfields habitat and plant seeds harvested from the airport. The process will require periodic monitoring to evaluate the success of the compensation program for Burke's goldfields.

December 10, 2012: FAA provided the Service a status update in an e-mail indicating Sonoma County Airport is working to find new locations for the compensation for the impacts to both the California Tiger Salamander and the Burke's Goldfields and welcomed suggestions from the Service of potential locations.

December 12, 2012: FAA summarized to Sonoma County Airport and other FAA staff of a telephone conversation with the Service indicating that the Service will provide a list of information needs and that the Service will try and identify other potential properties for Sonoma County Airport to investigate for their compensation proposal in preparation.

December 13, 2012: In an e-mail to FAA, the Service requested two items of additional project description information and provided a revised draft project description and terms and conditions with compensation site(s) referred to as "Service-approved site(s).

December 14, 2012: FAA wrote to the Service in an e-mail that the Sonoma County Airport must begin the work in calendar year 2013 to ensure it is completed by the date set by December 31, 2015.

December 17, 2012: The Service responded to FAA's December 14, 2012 e-mail, with technical assistance encouraging FAA to submit a revised compensation package so the Service can review and approve the compensation documents in accordance to the Section 7 Offsite Compensation Guidelines and 2005 Santa Rosa Plain Conservation Strategy.

December 19, 2012: FAA responded to the Service's December 13, 2012, e-mail with answers from Sonoma County Airport regarding the project description.

January 4, 2013: The Service asked FAA when to anticipate receiving a complete revised compensation package as the Service will need ample time to review prior to the proposed June 2013 construction start date. FAA responded that FAA will get with Sonoma County to see when the package will be finished and ready to submit. Further, FAA stated that Sonoma County was still looking for a new site for compensation, and there were some prospects.

January 7, 2013 FAA informed the Service that at the suggestion of the Service, Sonoma County Airport was investigating two potential sites for Burke's goldfields (instead of Windmill Site). The Service addressed FAA's questions regarding compensation guidelines including the following:

1. Ideally, compensation including success criteria would need to be completed before the adverse effects of the project at the airport. However, because the success criteria will involve multiple years of sprouting, the Service will probably like as many growing seasons of sprouting at the "to be established site(s)" as possible (in this case maybe only one or two seasons). The main objective is to be successful at the end of the day. Therefore, as long as there are sufficient assurances in the compensation plan that it will happen, then the Service can entertain a proposal.

2. The compensation ratio is the same for preservation or establishment. The objective is success if there is an establishment component. The Service will be looking for the compensation plan to outline that if there is initial failure, there will be subsequent attempts for success. There will need to be demonstrated financial assurances to support the plan.

The Service confirmed working with FAA on details of a compensation plan to be Service-approved.

January 8, 2013: The Service confirmed with FAA the receipt of Volume I and II of a "compensation package" that includes biological assessment type information and mitigation components for other state and federal agencies. The Service provided FAA the *Section 7 Offsite Compensation Guidelines* via e-mail.

February 14, 2013: The Service and FAA discussed Sonoma County Airport to investigate properties on Wood Road for Burke's goldfields compensation.

February 22, 2013: The Service sent FAA a draft biological opinion.

March 12, 2013: FAA provided suggested comments on the February 22, 2012 draft biological opinion.

## BIOLOGICAL OPINION

### Description of Proposed Action

***Project Background.*** The Transportation, Treasury, Housing and Urban Development, the Judiciary, The District of Columbia, and Independent Agencies Appropriations Act, 2006 (Public Law 109-115), November 30, 2005, requires completion of Runway Safety Area improvements at all airports certificated under Title 14, Code of Federal Regulations (CFR) Part 139, to meet FAA design standards by December 31, 2015. Paragraph 102(qqq) of Federal Aviation Administration Advisory Circular 150/5300-13A, Airport Design, defines an RSA as "a defined surface surrounding the runway prepared or suitable for reducing the risk of damage to aircraft in

the event of an undershoot, overshoot, or excursion from the runway". RSAs provide accessibility for firefighting and rescue equipment responding to such incidents.

FAA standards and requirements are contained in FAA AC 150/5300-13A, *Airport Design.* Paragraph 307 of Advisory Circular 150/5300-13A states that RSAs shall be::

- cleared and graded and have no potentially hazardous ruts, humps, depressions, or other surface variations;
- drained by grading or storm sewers to prevent water accumulation;
- capable, under dry conditions, of supporting snow removal equipment, aircraft rescue and firefighting equipment, and the occasional passage of aircraft without causing structural damage to the aircraft; and
- free of objects, except for objects that need to be located in the RSA because of their function. Objects higher than three inches (7.6 centimeters [cm]) above grade should be constructed, to the extent practicable, on low-impact resistant (easily broken) supports (frangible mounted structures) of the lowest practicable height, with the frangible point no higher than three inches (7.6 cm) above grade. In no case should their height exceed three inches (7.6 cm) above grade.

In addition, the ends of Runways 14 and 19 are co-located (overlap). Runway 14 is the primary runway, therefore the threshold for Runway 19 is not clearly marked which can lead to pilot confusion. The FAA's Runway Safety Action Team (RSAT), which is a multi-disciplinary group that is charged with identifying means of improving safety at airports, prepared a Runway Safety Action Plan that was issued on March 24, 2010 (FAA 2010). Action Item Number STS-2010-008 in the RSAT Runway Safety Action Plan indicates that the co-location of the ends of Runways 19 and 14 has caused and continues to cause a high frequency of pilot confusion involving departures on the wrong runway. The Action Item identifies airport risk associated with this problem, and recommends that the County eliminate the present condition of co-located Runway 14 and 19 thresholds. The County is proposing to correct this safety concern by decoupling the runway ends.

The County, as the project proponent for the proposed action at the airport, is requesting FAA unconditional approval of the runway and taxiway modifications and associated changes depicted on the Airport Layout Plan (ALP). The County is also seeking FAA approval of funding support through the Airport Improvement Program (AIP) or Passenger Facility Charges (PFC) program for the eligible components of the proposed action. The FAA is the federal lead agency for the evaluation of the proposed action in compliance with the National Environmental Protection Act, and for consultation with the Service and the National Marine Fisheries Service (NMFS) in compliance with the Act.

***Proposed Action Description.*** The proposed action consists of the following elements:

- Extension of Runway 14-32 from 5,115 feet to 6,000 feet in length (an 885-foot extension); extension of Runway 1-19 from 5,002 feet to 5,202 feet (a 200-foot extension).

- Construction of 200-foot-long blast pads off the ends of Runways 14 and 19.

- Construction of paved run-up aprons and taxiways associated with the two runways; removal of existing taxiways and aprons.

- Filling of a 1,506-linear foot reach of Airport Creek; re-routing of the filled reach into a new 617 -linear foot channel and a 885-linear foot underground culvert for the purposes of meeting FAA RSA design specifications.

- Placement of a 395-linear foot high-water ditch connected to Airport Creek into a culvert for meeting RSA design specifications.

- Construction of a standard (1,000-foot-long by 500-foot-wide) graded RSA beyond the end of Runway 14 and Runway 19, requiring the filling of approximately 2.1 acres of vernal pools and other seasonal wetlands, and filling of an approximately 0.5-acre man-made pond to eliminate a wildlife attractant hazard. The RSA is designed to meet FAA design standards as specified in FAA AC 150/5300-13A, *Airport Design*, Chapter 5 and AC 150/5200-33B, *Hazardous Wildlife Attractants On or Near Airports*.

- Construction of paved access (service) roads along the outside perimeters of the new Runway 14 RSA and the Runway 32 RSA. The roads will be at the same elevation as the RSA. Outside the service road, the area of fill will have a 25% slope until it meets existing ground level. In the case of Runway 14, the service road relocation was shifted outside the Object Free Area (OFA) and further west to minimize impacts to wetlands within the SACMA-2 preserve area.

- Removal of riparian vegetation along an approximately 565-linear foot segment of Airport Creek in order to provide airspace clearance for approaches to Runway 14, as required under Title 14 Code of Federal Regulations (CFR) Part 77, *Objects Affecting Navigable Airspace* Removal of trees and brush is planned to be conducted in two phases. The first phase would be limited to non-riparian vegetation north of the Airport Creek corridor. The second phase would be riparian vegetation.

- Filling of an existing 1.2-acre man-made pond that lies immediately south of Runway 32 in order to eliminate a wildlife attractant hazard.

- Temporary disturbance of approximately 96.3 acres of upland areas for temporary haul roads, staging and spoil areas during construction.

- Creation of three storm water basins within uplands north of Taxiway A, north of Runway 1-19 and east of Runway 14-32. The basin north of Taxiway A is proposed as an under- ground structure that will infiltrate stormwater over a period of time. The storm water basins east of Runway 19 and Runway 32 are proposed as above ground detention basins that would meet FAA drainage standards by emptying within 24 hours of the design storm.

- Relocation of the localizer antenna and equipment building to the north of the Runway 14 RSA.

- Bridging of the service road over Airport Creek and Lower Ordnance Creek on the west side of Runway 14. The bridges will be clear span platforms extending from the tops of banks.

- Addition of a Precision Approach Path Indicator (PAPI) for Runway 1.

***Proposed Construction Timeframe***

The project is proposed to begin construction by June 2013 and be completed by December 2015.

***Proposed Conservation Measures***

*Storm Water Pollution Prevention Plan (SWPPP).* The proposed action would include a SWPPP prepared in full accordance with the State Water Resources Control Board, National Pollutant Discharge Elimination System (NPDES) Construction General Permit. The SWPPP would include Best Management Practices (BMPs) for controlling sediment, turbidity and the release of other pollutants into Airport Creek during construction. The SWPPP would also include a rainy season erosion prevention and monitoring plan to ensure that surface runoff from the construction site meets RWQCB water quality standards and objectives for the Russian River Hydrologic Unit and the Mark West Hydrologic Subunit contained in the North Coast RWQCB Basin Plan (RWQCB 2007). The SWPPP would be subject to the approval of the RWQCB prior to the start of work.

*Standard Urban Storm Water Mitigation Plan (SUSMP).* The proposed action would also be required to include a SUSMP prepared in accordance with Sonoma County and RWQCB standards. The SUSMP would include provisions for on-site detention of storm water runoff during storm event to avoid hydro-modification of downstream receiving waters. The Guidelines for the County's SUSMP can be found at the following website: http://www.sonoma-county.org/prmd/sw/pdf/susmp.pdf

*Measures to Avoid or Minimize Take of California Tiger Salamander.* The proposed action would temporarily or permanently affect 134.10 acres of suitable movement and over-summering habitat for California tiger salamander. The Santa Rosa Plain Conservation Strategy and *Programmatic Biological Opinion for U.S. Army Corps of Engineers Permitted Projects that*

*May Affect California Tiger Salamander and Three Endangered Plant Species on the Santa Rosa Plain, California* (Programmatic) (Service 2007) contain standard avoidance and minimization measures to be applied before and during construction work for projects that would impact California tiger salamander habitat. The County will follow these measures. In addition, avoidance and minimization measures shall include the following:

1. *Service-Approved Project Biologist.* A Service-approved biologist shall monitor the initial phases of construction work (clearing and grading) and shall have the authority to halt construction work as needed to ensure compliance with the measures contained herein. Only Service-approved biologists shall be allowed to handle California tiger salamanders.
2. *Equipment Maintenance.* All equipment shall be maintained such that there shall be no leaks of automotive fluids such as gasoline, oils, or solvents. Hazardous materials such as fuels, oils, solvents, etc., shall be stored in sealable containers in a designated location that is at least 200 feet from aquatic habitats. All fueling and maintenance of vehicles and other equipment and staging areas shall be located at least 200 feet from any aquatic habitat.
3. *Construction Timing.* Grading and clearing work shall be conducted between April 15 and October 15, of any given year, depending on the level of rainfall and site conditions.
4. *Revegetation.* Project areas temporarily disturbed by construction activities shall be re-vegetated with an erosion control seed mix containing grassland species native to the Santa Rosa Plain that will minimize wildlife attractants.

*Compensation for Loss of Suitable California Tiger Salamander Habitat.* As compensation for temporary adverse effects to 96.3 acres and permanent adverse effects to 37.8 acres of suitable California tiger salamander habitat, the County shall implement either of the following compensation actions prior to project commencement or ground disturbance in accordance with the interim mitigation guidelines of the Conservation Strategy and the requirements of the Programmatic:

1. *Compensation Credit Purchase.* The County shall acquire 26.8 acres of California tiger salamander mitigation credits from a Service-approved off-site mitigation or conservation bank on the Santa Rosa Plain, resulting in an overall mitigation ratio of 0.2:1.
2. *Dedicated Mitigation Site.* The County shall preserve at least 26.8 acres of California tiger salamander habitat at an off-site mitigation area on the Santa Rosa Plain at a Service-approved site subject to the Service first reviewing and approving the location, conceptual restoration designs, and all applicable documentation required under the Service's *Selected Review Criteria for Section 7 Off-Site Compensation* (Revised 28 July 2011). The off-site mitigation area shall be prior approved by the Service and shall be managed in perpetuity under a Service and DFW-approved conservation easement, in accordance with the requirements of the Santa Rosa Plain Conservation Strategy. The mitigation habitat may be at the same location as the plant mitigation habitat. A 5-year monitoring plan for verifying compliance with these mitigation measures shall be prepared by a qualified biologist. The monitoring plan shall include detailed monitoring protocols, performance goals, reporting

requirements, and potential remedial measures, and shall be subject to the review and approval of the Service prior to the start of airport construction.

3. *Site Selection.* The Preserve Establishment and Preserve Evaluation Criteria of the Conservation Strategy will be adhered to.

*Compensation Measures for Loss of Burke's Goldfields Habitat.* The County shall implement the following compensation actions prior to any ground disturbance work for the Proposed Project, except for the following project components that will occur outside of wetlands on the airport:

- Add Precision Approach Path Indicator (PAPI) to Runway 1 approach end
- Replace existing wind cone for Runway 1 with a lighted wind cone.
- Install electrical improvements to lighting panel in Airport Traffic Control Tower and airfield electrical vault.
- Construct partial haul road with bridges from top of bank to top of bank where it crosses the on-airport ditches (4.14 ac temporary; 1.66 acre permanent).
- Remove material from borrow area south of southern end of Runway 1/19.
- Install underground storm water retention system (0.50 acre)
- Site preparation for parallel Taxiway Y.
- Install portion of culvert for relocated Airport Creek outside of designated wetland (0.58 acre).

For the remainder of the project components, the following compensation actions will be in accordance with the interim mitigation guidelines of the Conservation Strategy, the Programmatic, and the acquisition of habitat approved by the Service in accordance with the Service's *Selected Review Criteria for Section 7 Off-Site Compensation* (Revised 28 July 2011):

1. *Off-site Compensation Credit/Acreage Purchase.* The County shall acquire 13.8 acres of Burke's goldfields occupied or established habitat from a Service and DFW-approved off-site conservation banks and/or dedicated compensation sites on the Santa Rosa Plain. This effort will compensate for 4.6 acres of impacted habitat. The acquired habitat shall result in an overall mitigation ratio of 3:1 for impacts to occupied habitat.

   In addition to those non-wetland impacting projects described above and direct impacts to Burke's goldfields, ground disturbance on all other project components may proceed after the following conditions have been met: (1) Service approval of the acquisition of compensation acreage is subject to the Service first reviewing and approving the location, seed source, conceptual restoration and/or establishment designs, and all applicable documentation required for the site(s) under the Service's Selected Review Criteria for Section 7 Off-Site Compensation (Revised 28 July 2011); (2) the Service has provided FAA with conceptual approval of the County's Burke's Goldfields compensation plan, and (3) the County has posted the full amount of funding necessary to implement the compensation plan in an escrow account; (4) escrow account instructions shall be reviewed and approved by the Service; and (5) the compensation plan containing all required documentation under *Selected*

*Review Criteria for Section 7 Off-Site Compensation* shall be submitted by the FAA to the Service for review and approval and executed within 18-months of the date of this Biological Opinion. It is anticipated that some aspects of the compensation plan shall be accomplished in full after construction of the proposed project begins, such as meeting full success criteria for Burke's goldfields as described in the *Effects of the Proposed Action* of this biological opinion.

2. *Site Selection.* The Preserve Establishment and Preserve Evaluation Criteria of the Conservation Strategy will be adhered to. Compensation sites shall be a minimum of 10 acres in size and include the entire watershed of the pool(s) and swale(s) being protected. Sites that have or previously had Burke's goldfields shall be the priority focus unless otherwise waived in writing by the Service.

3. *Preservation of Extant Occurrence(s).* Each 0.1 acre of occupied wetlands shall have a mean density of at least 4,000 plants unless biological justification justifies otherwise and at the discretion of the Service.

4. *Establishment and/or Restoration of New or Degraded Occurrence.* Each 0.1 acre of occupied wetlands shall have a mean density of at least 4,000 plants by the 5$^{th}$ year of establishment, without supplemental seeding, and without decline unless biological justification justifies otherwise and at the discretion of the Service.

5. *Burke's Goldfields Salvage.* Beginning as soon as the seeds are mature in 2013, the County shall salvage seed for at least two growing seasons from the 0.005 acre Burke's goldfields colony that will be directly impacted by the proposed Taxiway D improvement work. Salvage work will be conducted prior to the commencement of the construction work for Taxiway D improvements. Salvaged seed material will be properly stored for future application at Service and DFW – approved location(s).

6. *Burke's Goldfields Seed Harvesting from the on-airport Goldfields Preserve.* The County shall allow harvesting of Burke's goldfields seeds from the existing Goldfields Preserve population at the airport subject to the prior approval of the Service and DFW. The purpose of such seed harvest will be to establish or expand populations of this species elsewhere on the Santa Rosa Plain, where deemed genetically appropriate by the two agencies. All such harvesting shall be conducted in accordance with the guidelines and protocols of the Service and DFW and will be coordinated with the County to ensure coordination with on-going aviation operations. The County shall not charge a fee for any such harvesting.

7. *Burke's Goldfields Management Plan.* The County shall prepare and commence implementation of a plan to manage existing populations of Burke's goldfields at the airport, in a manner consistent with the restrictions for avoiding wildlife attractants under FAA Advisory Circular 150/5200-33B *Hazardous Wildlife Attractants On or Near Airports* and consistent with airport operational needs. The plan shall be submitted to the Service and DFW for review and approval at least 8 weeks prior to the commencement of ground disturbance work for the Taxiway D portion of the Proposed Project, and shall include the following key elements:

a. Implementation of an annual mowing regime for all goldfields populations within the airport infield area designed to reduce competition by non-native annual grasses and forbs while also reducing the accumulation of thatch.

b. Implementation of an annual livestock grazing regime within the Sonoma County Consolidated Wetland Mitigation Area (SACMA) Preserve (which lies outside the airport Active Operations Area) designed to maintain and potentially expand the existing population of Burke's goldfields there.

**Action Area**

As defined by the implementing regulations of the Act (50 CFR Part 402.2), the action area includes the limits of direct and indirect effects of the proposed action on federally listed species. The action area encompasses three major categories of project activities: permanent ground-disturbing construction activities, including grading and placement of fill; temporary ground-disturbing activities required during construction that would not permanently remove habitat; and temporary noise, visual, and human disturbances to listed species present or attempting to use habitat during construction. The action area defines the boundaries for the permanent and temporary effects evaluation. For the proposed action, the action area encompasses a substantial portion of the airfield, including runways, and a buffer zone around the RSA construction zones. The northern portion of the action area includes the area between Sanders Road and the northern ends of the runways, reaches of Redwood Creek, Airport Creek, and Ordinance Creek; a small reach of Mark West Creek is located immediately southeast of the action area. The action area also includes the compensation sites that will minimize the direct and indirect effects of the Proposed Action. The compensation sites will be located within the Santa Rosa Plain in Sonoma County.

**Analytical Framework for the Jeopardy Analysis**

In accordance with policy and regulation, the jeopardy analysis in this biological opinion relies on three components: (1) the *Status of the Species and Environmental Baseline,* which evaluates the range-wide conditions of the California tiger salamander and Burke's goldfields, the factors responsible for that condition, and the species' survival and recovery needs; (2) *Effects of the Proposed Action,* which determines the direct and indirect effects of the proposed Federal action and the effects of any interrelated or interdependent activities on these species; and (3) *Cumulative Effects,* which evaluates the effects of future, non-Federal activities in the action area on these species.

In accordance with policy and regulation, the jeopardy determination is made by evaluating the effects of the proposed action in the context of the current status of California tiger salamander and Burke's goldfields, taking into account any cumulative effects, to determine if implementation of the proposed action is likely to cause an appreciable reduction in the likelihood of both the survival and recovery of these species in the wild. The jeopardy analysis in this biological opinion places an emphasis on consideration of the range-wide survival and recovery needs of the California tiger salamander and Burke's goldfields and the role of the

action area in the survival and recovery of these species as the context for evaluating the significance of the effects of the proposed action, taken together with cumulative effects, for purposes of making the jeopardy determination.

**Analytical Framework for the Adverse Modification Determination**

This biological opinion does not rely on the regulatory definition of "destruction or adverse modification" of critical habitat described within 50 CFR 402.02. Instead, we have relied upon the statutory provisions of the Act to complete the following analysis with respect to critical habitat.

In accordance with policy and regulation, the adverse modification analysis in this biological opinion relies on four components: (1) the *Status of Critical Habitat*, which evaluates the range-wide condition of the designated critical habitat for the California tiger salamander in terms of Primary Constituent Elements (PCEs), the factors responsible for that condition, and the intended recovery function of the critical habitat overall; (2) the *Environmental Baseline*, which evaluates the condition of the critical habitat in the action area, the factors responsible for that condition, and the recovery role of the critical habitat in the action area; (3) the *Effects of the Action*, which determines the direct and indirect impacts of the proposed Federal action and the effects of any interrelated or interdependent activities on the PCEs and how that will influence the recovery role of affected critical habitat units; and (4) *Cumulative Effects*, which evaluates the effects of future, non-Federal activities in the action area on the PCEs and how that will influence the recovery role of affected critical habitat units.

For purposes of the adverse modification determination, the effects of the proposed Federal action on California tiger salamander critical habitat are evaluated in the context of the range-wide condition of the critical habitat, taking into account any cumulative effects, to determine if the critical habitat range-wide would remain functional (or would retain the current ability for the PCEs to be functionally established in areas of currently unsuitable but capable habitat) to serve the intended recovery role for the California tiger salamander.

The analysis in this biological opinion places an emphasis on using the intended range-wide recovery function of the California tiger salamander critical habitat and the role of the action area relative to that intended function as the context for evaluating the significance of the effects of the proposed Federal action, taken together with cumulative effects, for purposes of making the adverse modification determination.

**Status of the Species**

California Tiger Salamander

*Listing Status*: On May 23, 2003, the Service proposed to list the Central California DPS of the California tiger salamander as threatened. At this time reclassification of the Santa Barbara County DPS and Sonoma County DPS from endangered to threatened was also proposed (68 FR 28647). In the same notice the Service also proposed a special rule under section 4(d) of the Act

to exempt take for routine ranching operations for the Central California DPS and, if reclassified to threatened, for the Santa Barbara and Sonoma County DPSs (68 FR 28668). On August 4, 2004, after determining that the listed the Central California population of the California DPS of the California tiger salamander was threatened (69 FR 47211), the Service determined that the Santa Barbara and Sonoma County populations were threatened as well, and reclassified the California tiger salamander as threatened throughout its range (69 FR 47211), removing the Santa Barbara and Sonoma County populations as separately listed DPSs (69 FR 47241). In this notice we also finalized the special rule to exempt take for routine ranching operations for the California tiger salamander throughout its range (69 FR 47248).

On August 18, 2005, as a result of litigation of the August 4, 2004, final rule on the reclassification of the California tiger salamander DPSs (Center for Biological Diversity et al. v. United States Fish and Wildlife Service et al., C 04-04324 WHA (N.D. Cal. 2005), the District Court of Northern California sustained the portion of the 2004 rule pertaining to listing the Central California tiger salamander as threatened with a special rule, but vacated the portion of the 2004 rule that re-classified the Santa Barbara and Sonoma DPSs to threatened status thereby reinstating their status as endangered. On August 31, 2011, the List of Endangered and Threatened Wildlife in part 17, subchapter B of Chapter I, title 50 of the Code of Federal Regulations (CFR) was amended to reflect the vacatures contained in the 2005 court order, classifying the Santa Barbara DPS and the Sonoma DPS of the California tiger salamander as endangered, and the Central DPS of the California tiger salamander as threatened with a special rule to exempt routine ranching operations from take. In this same notice, the Service revised the designation of critical habitat for the Sonoma County DPS.

*Description*: The California tiger salamander is a large, stocky, terrestrial salamander with a broad, rounded snout. Recorded adult measurements have been as much as 8.2 inches (20.8 centimeters) long (Petranka 1998; Stebbins 2003). Tiger salamanders exhibit sexual dimorphism (differences in body appearance based on gender) with males tending to be larger than females. Tiger salamander coloration generally consists of random white or yellowish markings against a black body. The markings on adults California tiger salamanders tend to be more concentrated on the lateral sides of the body, whereas other tiger salamander species tend to have brighter yellow spotting that is heaviest on the dorsal surface.

*Distribution*: The California tiger salamander is endemic to California and historically inhabited the low-elevation grassland and oak savanna plant communities of the Central Valley, adjacent foothills, and Inner Coast Ranges (Jennings and Hayes 1994; Storer 1925; Shaffer et al. 1993). The species has been recorded from near sea level to approximately 3,900 feet (1,189 meters) in the Coast Ranges and to approximately 1,600 feet (488 meters) in the Sierra Nevada foothills (Shaffer et al. 2004). Along the Coast Ranges, the species occurred from the Santa Rosa area of Sonoma County, south to the vicinity of Buellton in Santa Barbara County. The historic distribution in the Central Valley and surrounding foothills included northern Yolo County southward to northwestern Kern County and northern Tulare County. Three distinct California tiger salamander populations are recognized and correspond to Santa Maria area within Santa Barbara County, the Santa Rosa Plain in Sonoma County, and vernal pool/grassland habitats throughout the Central Valley.

*Status and Natural History*: The tiger salamander has an obligate biphasic life cycle (Shaffer et al. 2004). Although the larvae develop in the vernal pools and ponds in which they were born, tiger salamanders are otherwise terrestrial and spend most of their post-metamorphic lives in widely dispersed underground retreats (Shaffer et al. 2004; Trenham et al. 2001). Because they spend most of their lives underground, tiger salamanders are rarely encountered even in areas where salamanders are abundant. Subadult and adult tiger salamanders typically spend the dry summer and fall months in the burrows of small mammals, such as California ground squirrels and Botta's pocket gopher (Storer 1925; Loredo and Van Vuren 1996; Petranka 1998; Trenham 1998a). Although ground squirrels have been known to eat tiger salamanders, the relationship with their burrowing hosts is primarily commensal (an association that benefits one member while the other is not affected) (Loredo et al. 1996; Semonsen 1998).

Tiger salamanders may also use landscape features such as leaf litter or desiccation cracks in the soil for upland refugia. Burrows often harbor camel crickets and other invertebrates that provide likely prey for tiger salamanders. Underground refugia also provide protection from the sun and wind associated with the dry California climate that can cause excessive drying of amphibian skin. Although California tiger salamanders are members of a family of "burrowing" salamanders, they are not known to create their own burrows. This may be due to the hardness of soils in the California ecosystems in which they are found. Tiger salamanders depend on persistent small mammal activity to create, maintain, and sustain sufficient underground refugia for the species. Burrows are short lived without continued small mammal activity and typically collapse within approximately 18 months (Loredo et al. 1996).

Upland burrows inhabited by tiger salamanders have often been referred to as aestivation sites. However, "aestivation" implies a state of inactivity, while most evidence suggests that tiger salamanders remain active in their underground dwellings. A recent study has found that tiger salamanders move, feed, and remain active in their burrows (Van Hattem 2004). Because tiger salamanders arrive at breeding ponds in good condition and are heavier when entering the pond than when leaving, researchers have long inferred that tiger salamanders are feeding while underground. Recent direct observations have confirmed this (Trenham 2001; Van Hattem 2004). Thus, "upland habitat" is a more accurate description of the terrestrial areas used by tiger salamanders.

Tiger salamanders typically emerge from their underground refugia at night during the fall or winter rainy season (November-May) to migrate to their breeding ponds (Stebbins 1989, 2003; Shaffer et al. 1993; Trenham et al. 2000). The breeding period is closely associated with the rainfall patterns in any given year with less adults migrating and breeding in drought years (Loredo and Van Vuren 1996; Trenham et al. 2000). Male salamander are typically first to arrive and generally remain in the ponds longer than females. Results from a 7-year study in Monterey County suggested that males remained in the breeding ponds for an average of 44.7 days while females remained for an average of only 11.8 days (Trenham et al. 2000). Historically, breeding ponds were likely limited to vernal pools, but now include livestock stock ponds. Ideal breeding ponds are typically fishless, and seasonal or semi-permanent (Barry and Shaffer 1994; Petranka 1998).

While in the ponds, adult salamanders mate and then the females lay their eggs in the water (Twitty 1941; Shaffer et al. 1993; Petranka 1998). Egg laying typically reaches a peak in January (Loredo and Van Vuren 1996; Trenham et al. 2000). Females attach their eggs singly, or in rare circumstances, in groups of two to four, to twigs, grass stems, vegetation, or debris (Storer 1925; Twitty 1941). Eggs are often attached to objects, such as rocks and boards in ponds with no or limited vegetation (Jennings and Hayes 1994). Clutch sizes from a Monterey County study had an average of 814 eggs (Trenham et al. 2000). Seasonal pools may not exhibit sufficient depth, persistence, or other necessary parameters for adult breeding during times of drought (Barry and Shaffer 1994). After breeding and egg laying is complete, adults leave the pool and return to their upland refugia (Loredo et al. 1996; Trenham 1998a). Adult salamanders often continue to emerge nightly for approximately the next two weeks to feed in their upland habitat (Shaffer et al. 1993).

Tiger salamander larvae typically hatch within 10 to 24 days after eggs are laid (Storer 1925). The larvae are totally aquatic and range in length from approximately 0.45 to 0.56 inches (1.14 to 1.42 centimeters) (Petranka 1998). The larvae feed on zooplankton, small crustaceans, and aquatic insects for about six weeks after hatching, after which they switch to larger prey (J. Anderson 1968). Larger larvae have been known to consume the tadpoles of Pacific treefrogs, western spadefoot toads, and California red-legged frogs (J. Anderson 1968; P. Anderson 1968). Tiger salamander larvae are among the top aquatic predators in seasonal pool ecosystems. When not feeding, they often rest on the bottom in shallow water but are also found throughout the water column in deeper water. Young salamanders are wary and typically escape into vegetation at the bottom of the pool when approached by potential predators (Storer 1925).

Amphibian larvae must grow to a critical minimum body size before they can metamorphose (change into a different physical form) to the terrestrial stage (Wilbur and Collins 1973). In order to be successful, the aquatic phase of this species' life history must correspond with the persistence of its seasonal aquatic habitat. Most seasonal ponds and pools dry up completely during the summer. The tiger salamander larval stage is typically completed in 3 to 6 months with most metamorphs entering upland habitat during the summer (Petranka 1998). The peak emergence of these metamorphs is typically between mid-June and mid-July (Loredo and Van Vuren 1996; Trenham et al. 2000).

Larval development and metamorphosis can vary and is often site-dependent. Feaver (1971) found that larvae metamorphosed and left breeding pools 60 to 94 days after eggs had been laid, with larvae developing faster in smaller, more rapidly drying pools. Longer ponding duration typically results in larger larvae and metamorphosed juveniles that are more likely to survive and reproduce (Pechmann et al. 1989; Semlitsch et al. 1988; Morey 1998; Trenham 1998b Following metamorphosis, juveniles leave their pools and enter upland habitat. This emigration can occur in both wet and dry conditions (Loredo and Van Vuren 1996; Loredo et al. 1996). Wet conditions are more favorable for upland travel but rare summer rain events seldom occur as metamorphosis is completed and ponds begin to dry. As a result, juveniles may be forced to leave their ponds on rainless nights. Under dry conditions, juveniles may be limited to seeking upland refugia in close proximity to their aquatic larval pool. These individuals often wait until the next winter's rains to move further into more suitable upland refugia. Although likely rare,

larvae may over-summer in permanent ponds. Juveniles remain active in their upland habitat, emerging from underground refugia during rainfall events to disperse or forage (Trenham and Shaffer 2005). Depending on location and other development factors, metamorphs will not return as adults to aquatic breeding habitat for 2 to 5 years (Loredo and Van Vuren 1996; Trenham et al. 2000).

Lifetime reproductive success for tiger salamander species is low. Results from one study suggest that the average female tiger salamander bred 1.4 times and produced 8.5 young per reproductive effort that survived to metamorphosis (Trenham et al. 2000). This resulted in the output of roughly 11 metamorphic offspring over a breeding female's lifetime. The primary reason for low reproductive success may be that tiger salamanders require two or more years to become sexually mature (Shaffer et al. 1993). Some individuals may not breed until they are four to six years old. While California tiger salamanders may survive for more than ten years, many breed only once, and in one study, less than 5 percent of marked juveniles survived to become breeding adults (Trenham 1998b). With such low recruitment, isolated populations are susceptible to unusual, randomly occurring natural events as well human-caused factors that reduce breeding success and individual survival. Factors that repeatedly lower breeding success in isolated pools can quickly extirpate a population.

Dispersal and migration movements made by tiger salamanders can be grouped into two main categories: (1) breeding migration; and (2) interpond dispersal. Breeding migration is the movement of salamanders to and from a pond from the surrounding upland habitat. After metamorphosis, juveniles move away from breeding ponds into the surrounding uplands, where they live continuously for several years. At a study in Monterey County, it was found that upon reaching sexual maturity, most individuals returned to their natal/ birth pond to breed, while 20 percent dispersed to other ponds (Trenham et al. 2001). After breeding, adult tiger salamanders return to upland habitats, where they may live for one or more years before attempting to breed again (Trenham et al. 2000).

Tiger salamanders are known to travel large distances between breeding ponds and their upland refugia. Generally it is difficult to establish the maximum distances traveled by any species, but tiger salamanders in Santa Barbara County have been recorded dispersing up to 1.3 miles (2.1 kilometers) from their breeding ponds (Sweet 1998). Tiger salamanders are also known to travel between breeding ponds. One study found that 20 to 25 percent of the individuals captured at one pond were recaptured later at other ponds approximately 1,900 and 2,200 feet (579 to 671 meters) away (Trenham et al. 2001). In addition to traveling long distances during juvenile dispersal and adult migration, tiger salamanders may reside in burrows far from their associated breeding ponds.

Although previously cited information indicates that tiger salamanders can travel long distances, they typically remain close to their associated breeding ponds. A trapping study conducted in Solano County during the winter of 2002/2003 suggested that juveniles dispersed and used upland habitats further from breeding ponds than adults (Trenham and Shaffer 2005). More juvenile salamanders were captured at traps placed at 328, 656, and 1,312 feet (100, 200, and 400 meters) from a breeding pond than at 164 feet (50 meters). Approximately 20 percent of the

captured juveniles were found at least 1,312 feet (400 meters) from the nearest breeding pond. The associated distribution curve suggested that 95 percent of juvenile salamanders were within 2,099 feet (640 meters) of the pond, with the remaining 5 percent being found at even greater distances. Preliminary results from the 2003-04 trapping efforts at the same study site detected juvenile tiger salamanders at even further distances, with a large proportion of the captures at 2,297 feet (700 meters) from the breeding pond (Trenham et al., unpublished data). Surprisingly, most juveniles captured, even those at 2,100 feet (640 meters), were still moving away from ponds (Ben Fitzpatrick, University of California at Davis, personal communication, 2004). In Santa Barbara County, juvenile California tiger salamanders have been trapped approximately 1,200 feet (366 meters) away while dispersing from their natal pond (Science Applications International Corporation, unpublished data). These data show that many California tiger salamanders travel far while still in the juvenile stage. Post-breeding movements away from breeding ponds by adults appear to be much smaller. During post-breeding emigration from aquatic habitat, radio-equipped adult tiger salamanders were tracked to burrows between 62 to 813 feet (19 to 248 meters) from their breeding ponds (Trenham 2001). These reduced movements may be due to adult California tiger salamanders exiting the ponds with depleted physical reserves, or drier weather conditions typically associated with the post-breeding upland migration period.

California tiger salamanders are also known to use several successive burrows at increasing distances from an associated breeding pond. Although previously sited studies provide information regarding linear movement from breeding ponds, upland habitat features appear to have some influence on movement. Trenham (2001) found that radio-tracked adults were more abundant in grasslands with scattered large oaks, than in more densely wooded areas. Based on radio-tracked adults, there is no indication that certain habitat types are favored as terrestrial movement corridors (Trenham 2001). In addition, captures of arriving adults and dispersing new metamorphs were evenly distributed around two ponds completely encircled by drift fences and pitfall traps. Thus, it appears that dispersal into the terrestrial habitat occurs randomly with respect to direction and habitat types.

*Reasons for Decline and Threats to Survival*: The California tiger salamanders are imperiled throughout its range by a variety of human activities (Service 2004). Current factors associated with declining populations of the salamander include continued degradation and loss of habitat due to agriculture and urbanization, hybridization with non-native eastern tiger salamanders (*Ambystoma tigrinum*) (Fitzpatrick and Shaffer 2004; Riley *et al.* 2003), and introduced predators. Hybridization with non-native eastern tiger salamanders has not yet been identified within the Sonoma County population. Fragmentation of existing habitat and agricultural activities that degrade and/or eliminate breeding pools may represent the most significant current threats to California tiger salamanders, although populations are likely threatened by more than one factor. Isolation and fragmentation of habitats within many watersheds have precluded dispersal between sub-populations and jeopardized the viability of metapopulations (broadly defined as multiple subpopulations that occasionally exchange individuals through dispersal, and are capable of colonizing or "rescuing" extinct habitat patches).

Movements and dispersal corridors likely are critical to California tiger salamander population dynamics, particularly because the animals likely currently persist as metapopulations with disjunct population centers. Movement and dispersal corridors are important for alleviating over-crowding and intraspecific competition, and also they are important for facilitating the recolonization of areas where the animal has been extirpated. Movement between population centers maintains gene flow and reduced genetic isolation. Genetically isolated populations are at greater risk of deleterious genetic effects such as inbreeding, genetic drift, and founder effects. The survival of wildlife species in fragmented habitats may ultimately depend on their ability to move among patches to access necessary resources, retain genetic diversity, and maintain reproductive capacity within populations (Hilty and Merenlender 2004; Petit et al. 1995; Buza et al. 2000). Other threats are predation and competition from introduced exotic species; disease; various chemical contaminants; road-crossing mortality; and certain unrestrictive mosquito and rodent control operations.

*Recovery Actions:* A conservation strategy titled "Santa Rosa Plain Conservation Strategy" was developed and finalized (Conservation Strategy Team 2005) by a team of representatives from the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, California Department of Fish and Game, Sonoma County and local Cities, North Coast Regional Water Quality Control Board, local governmental agencies, the Laguna de Santa Rosa Foundation, environmental community, and the private landowner community (Conservation Team).

The purpose of the Conservation Strategy is threefold: (1) to establish a long-term conservation program sufficient to compensate potential adverse effects of future development on the Santa Rosa Plain, and to conserve and contribute to the recovery of the California tiger salamander and the conservation of its sensitive habitat; (2) to accomplish the preceding in a fashion that protects stakeholders' (both public and private) land use interests, and (3) to support issuance of an authorization for incidental take of California tiger salamanders that may occur in the course of carrying out a broad range of activities on the Santa Rosa Plain. The Conservation Strategy is the biological framework upon which this biological opinion and future regulatory actions will be based.

The Service issued a programmatic biological opinion to the Corps for the California tiger salamander based on the Conservation Strategy in 2007. The Service will also prepare a recovery plan for the California tiger salamander as required by the Act. The Conservation Strategy will be the foundation of the recovery plan.

Between 2001 and 2002, five breeding sites for Sonoma County Distinct Population Segment of the California tiger salamander were destroyed. Loss of real and potential salamander breeding sites, upland refugia, dispersal, and foraging habitat continues to occur in the Santa Rosa Plain. To date, there have been 26 biological opinions (*i.e.*, section 7 formal consultations) authorizing incidental take to all individuals inhabiting 676.607 acres (273.814 ha) of California tiger salamander habitat since the emergency listing on July 22, 2002. Five of these 26 biological opinions address adverse and beneficial effects associated with the construction of seasonal

wetlands and creation of California tiger salamander breeding habitat and establishment of Burke's goldfields, Sebastopol meadowfoam, and Sonoma sunshine. These five sites are the Hazel Mitigation Bank, Wright Preservation Bank, Slippery Rock Conservation Bank, Terra Bagnatta Mitigation Site, and the Alton North Conservation Bank. Temporary ground disturbance associated with these five sites include approximately 206.51 acres (83.57 ha). There has been 476.982 acres (193.028 ha) of permanent California tiger salamander habitat loss permitted by the Service through section 7 consultations. The development projects have integrated in their project proposals to conserve a total of 623.5 acres (252.32 ha) of California tiger salamander habitat at Service approved locations within Sonoma County via the purchase of mitigation or conservation credits, recording conservation easements, or offering fee title to the CDFW or another Service approved entity.

As of October 15, 2007, there are approximately 730 ac (295.42 ha) of *existing* Preserves that support occupied California tiger salamander habitat within conservation areas. Some of these existing preserves also support the listed plants.

California Tiger Salamander Critical Habitat

On August 2, 2005, the Service noticed in the **Federal Register** a proposed critical habitat designation (70 **FR** 44301). On December 14, 2005, the Service made a final determination to designate and exclude approximately 17,418 acres (7,049 hectares) of critical habitat for the Sonoma population (70 **FR** 74137). All of the critical habitat was excluded based on interim conservation strategies and measures being implemented by those local governing agencies with land use authority over the area and also as a result of economic exclusions authorized under section 4(b)(2) of the Act. On August 18, 2009, the Service proposed to designate approximately 74,223 acres (30,037 hectares) of critical habitat for the California tiger salamander in Sonoma County, California (74 **FR** 41662). On August 31, 2011, the Revised Designation of Critical Habitat for the Sonoma County Distinct Population Segment of California Tiger Salamander; Final Rule was published (76 **FR** 54346 54372). Approximately 47,383 acres were designated as revised critical habitat.

Within areas essential for the conservation and recovery of the California tiger salamander in Sonoma County, the Service has determined the following primary constituent elements:

- PCE 1: standing bodies of fresh water (including natural and manmade (e.g., stock) ponds, vernal pools and other ephemeral or permanent water bodies that typically support inundation during winter/early spring and hold water for a minimum of 12 consecutive weeks in a year of average rainfall);

- PCE 2: upland habitats adjacent and accessible to and from breeding ponds that contain small mammal burrows or other underground refugia that California tiger salamanders depend upon for food, shelter, and protection from the elements and predation; and

- PCE 3: accessible upland dispersal habitat between occupied locations that allow for

movement between such sites.

Burke's Goldfields

The Service's 2008 five-year review for *Blennosperma bakeri* (Sonoma Sunshine), *Lasthenia burkei* (Burke's Goldfields), and *Limnanthes vinculans* (Sebastopol Meadowfoam) provides a species overview of Burke's goldfields (Service 2008). The Service recommended no change in the classification of Burke's goldfields. The historic and current occurrences within the northern portion of Burke's goldfields range has been extremely reduced, fragmented, and altered due to development and land management altering the landscape (e.g. intense agricultural practices). Human actions, activities, conservation, and preservation of Burke's goldfields in the northern part of its range in the Santa Rosa Plain is imperative to prevent further reductions and loss of suitable and occupied habitat in this area.

**Environmental Baseline**

California Tiger Salamander

Protocol California tiger salamander surveys have not been conducted on the Airport. All occurrences of California tiger salamanders are more than 3.1 miles (5 km) from the Airport. One occurrence north of Santa Rosa Creek is at the Alton Road Mitigation site.

Field assessments have verified the presence of suitable California tiger salamander upland dispersal habitat, and potential breeding habitat. Botta's pocket gopher *(Thomomys bottae)* burrows occur commonly throughout the action area's annual grasslands and ruderal areas. Pocket gopher burrows provide important upland habitat for California tiger salamanders during the dry season. California ground squirrel *(Spermophilus beecheyi)* appears to be absent as is generally the case throughout much of the Plain.

Seasonal wetlands (40.3 acres) occur throughout the Airport Action Area and include vernal pools, swales, ponds, ditches, drainages, and depressions with wetland vegetation. Vernal pools and swales, encompassing more than 7 acres, occur in the SACMA, SACMA-II (Duran) and Goldfields Preserve sites at the north end of the Airport Action Area. There are six ponds in the Airport Action Area encompassing 5.2 acres. A series of four constructed ponds occur in a natural swale/drainage on recently acquired parcels and parcels proposed for acquisition at the northern end of the Airport Action Area, just south of Sanders Road (Ponds 1 through 4). The ponds are fed by seasonal runoff from the local watershed which includes two upstream swales to the east. These ponds have edges of willow scrub/woodland habitat and contain deep water through most of the year. The two easternmost ponds appear connected and may have the same water surface elevation. Overflow from these two ponds may drain partially southward across a dam via a swale to Airport Creek, and partially westward across a dam to the two westernmost ponds. The two westernmost ponds may also be connected; overflow from these two ponds drains westward across a dam and then through partially channelized swales and seasonal wetlands to Airport Creek.

Two inter-connected ponds are located in the southeast corner of the Airport Action Area north of Laughlin Road (Ponds 5 and 6). The upstream, northeastern pond (Pond 5), located on private property, appears to be a dammed natural swale that receives local runoff, is relatively shallow, and may dry during the summer. The lower, southwestern pond (Pond 6) appears to be an excavated and dammed basin which receives overflow from the northeastern pond, is relatively deeper, and contains deep water through most of the year.

Some of the wetlands that are potential breeding habitat for California tiger salamanders found in the Goldfields Preserve, SACMA, and the SACMA-II Preserve have been dip-net surveyed between 2001 and 2007. The pools were sampled once each spring (in years when the pools retained surface water into the mid-spring) on an annual basis and no California tiger salamander larvae have been observed (LSA 2007). The Pacific treefrog *(Pseudacris regilla)* is the only amphibian that has been observed in the pools.

The airport construction area also contains several man-made ponds constructed for borrow materials and other purposes. These ponds are not ideal breeding sites for California tiger salamanders due to the observed presence of American bullfrogs and predatory fishes, including both native and non-native species. Bullfrogs have been observed in Pond 4; largemouth bass and blue gills have been observed in Pond 6. Seining results indicated the presence of a large breeding population of bullfrogs in Pond 4 and a large breeding population of largemouth bass in Pond 6 (LSA 2011b). However, the presence of these non-native species does not preclude the presence of California tiger salamanders.

Under the Conservation Strategy and the Programmatic, the Airport is located within the region of the Santa Rosa Plain within which all non-hardscaped lands are considered to be suitable habitat for California tiger salamanders. The airport construction area supports suitable habitat for this species. There is suitable upland, dispersal, and breeding habitat within the action area of the Airport.

California Tiger Salamander Critical Habitat

The proposed action is entirely within the Santa Rosa Plain Unit for the Sonoma DPS of the California tiger salamander. This unit contains features that are essential for the conservation of the California tiger salamander in Sonoma County and includes aquatic habitat, upland non-breeding habitat with underground refugia, and dispersal habitat connecting occupied California tiger salamander locations. All of the PCE's occur within the Airport action area surrounding the airport runways and facilities.

Previous, current, and proposed land management activities have destroyed, altered, and/or have degraded California tiger salamander habitat within the action area. The greatest activities include development and maintenance of the Airport. Developed areas (237.5 acres) occur throughout the Airport Action Area and include runways, taxiways, Airport facilities, paved roads, houses, buildings, and ornamental landscaping and trees.

The recovery role of critical habitat in the action area include opportunities for providing suitable upland and aquatic habitat that supports or can support one or more life stages of the California tiger salamander as well as buffering incompatible land uses from adjacent current or potentially occupied sites into the future. There are also areas in the action area that may be restored from incompatible land uses and may provide for potential dispersal and expansion opportunities of California tiger salamander populations.

Burke's Goldfields

The airport construction area contains both extant and historic occurrences of Burke's goldfields. The extant occurrences are based on the surveys conducted from 2002 through 2010 and include locations within which historic occurrences were recorded under CNDDB occurrence record number 7. The historic occurrences (CNDDB 2011) are based on pre-1988 observations by Patterson (1987) and others. More precise locations of the historic occurrences were mapped by Patterson (1987). The majority of historic occurrences of Burke's goldfields have largely been extirpated from the Airport. The extirpation of these historic occurrences has been due to past Airport development.

Occurrences of Burke's goldfields are in three locations at the Airport, many of which are designated as protected preserves: the SACMA Preserve, Goldfields Preserve, and the Runway 14-32 Preserve. Most of the Runway 14-32 occurrence is located outside the preserve's boundaries. The SACMA Preserve occurrence was derived from DFW-salvaged soil that contained seeds of Burke's goldfields; the salvaged soil was introduced into constructed vernal pools at the SACMA site in 1999. The source of the salvaged soil was a vernal pool impacted during construction of a project in the industrial park immediately to the east of the Airport. As of 2005, constructed pools at the SACMA site supported approximately 2,700 individual plants of Burke's goldfields (LSA 2006a). The Goldfields Preserve site consists of an estimated >100,000 individuals in a dense cover (LSA 2011a). This occurrence consists of naturally occurring plants and seeded plants introduced into two constructed pools in 1988. Colonies of Burke's goldfields were observed in several shallow pools in the vicinity of Runway 14-32 Preserve in the late 1980s, and were confirmed by botanists in the spring of 2005 and again in 2009-2010 (Patterson 1987; LSA 2011a). Botanists estimated the total individual plants in this vicinity to be approximately 81,000 in 2009, and 156,000 in 2010.

**Effects of the Proposed Action**

California Tiger Salamander

The proposed action likely would have direct effects to California tiger salamanders through direct mortality, injury, harassment, and harm of individual immature animals and adults within 134.1 acres of habitat. No permanent or seasonal wetlands or ponds appropriate for California tiger salamander breeding would be lost from implementation of the proposed action. Implementation of the proposed action would permanently eliminate 96.3 acres and temporarily

affect 37.8 acres of suitable feeding, sheltering, and dispersal habitat available to California tiger salamanders.

Construction related activities are likely to cause disruption of surface movement, harassment from increased human activity, and permanent and temporary loss of shelter. Individual California tiger salamanders could be directly killed or unable to escape and be killed due to desiccation, entombment, or starvation. There are 96.3 acres of habitat on the project site would become permanently unavailable as cover, foraging, and dispersing habitat. Adverse effects will occur in grassland and ruderal areas that will be temporarily disturbed by grading activities during construction but will not be hardscaped.

Successful implementation of the proposed conservation measures is likely to reduce mortality, injury, or harassment of California tiger salamanders. Grading and clearing activities will be conducted during the dry season to avoid affects to moving California tiger salamanders. Consistent with the Conservation Strategy and the Programmatic, the County will acquire 26.8 acres of California tiger salamander compensatoin from a Service-approved preserve(s) on the Santa Rosa Plain, resulting in an overall mitigation ratio of 0.2:1.

California Tiger Salamander Critical Habitat

Implementation of the proposed action would result in the temporary and permanent loss of 96.3 acres and 37.8 acres of California tiger salamander designated critical habitat, respectively. No aquatic breeding habitat (PCE 1) would be affected by the proposed action. The loss would be limited to upland habitat that contains refugia and supports dispersal (PCEs 2 and 3). This loss resulting from the proposed action is not anticipated to significantly interfere with the current capability of the designated critical habitat to satisfy essential requirements of the species because the proposed project includes preparation of a management plan in the action area for the benefit of the California tiger salamander and approximately 47,345 acres of critical habitat will remain. Furthermore, upland and dispersal upland habitat (PCEs 2 and 3) will be preserved on a mitigation site or conservation bank on the Santa Rosa Plain.

Burke's Goldfields

The Proposed Project is located in the northernmost area of Burke's goldfields range within the Santa Rosa Plain. Approximately 4.6 acres of wetlands considered occupied Burke's goldfields habitat will be adversely affected by the proposed action and reduce an already limited amount of Burke's goldfields available habitat in the northern portion of its range in the Santa Rosa Plain. The proposed Taxiway D relocation and associated grading will affect an approximately 200-square-foot (0.005 acre) portion of a 0.04-acre seasonal wetland where Burke's goldfields were observed during recent surveys. This seasonal wetland that will be directly affected by the proposed action supports an estimated number of approximately 6,000 plants, more or less evenly distributed throughout the wetland, based on surveys conducted in 2010. This colony size was re-verified by an LSA botanist in the spring of 2012. Direct effects to this Burke's

goldfields colony would be limited to approximately 750 plants which occur in the 0.005-acre portion of the wetland that will be filled.

The realignment of Taxiway D may not cause adverse indirect impacts to the remaining population of approximately 5,250 Burke's goldfield plants that remain in the occupied wetland. The unaffected portion of the occupied wetland could be impacted if the realigned taxiway were also to result in post-project indirect hydrological impacts to the remaining 0.035-acre wetland area by converting wetted habitat to drier conditions which cannot support Burke's goldfields. We do not believe the realignment will cause adverse impacts to the remaining 5,250 Burke's goldfields at this time, but the proposed management plan will incorporate post project monitoring of the plants here to determine the actual effects.

The northernmost 45 feet of the watershed will be removed due to the new Taxiway D shoulder and safety area. Runoff from the Taxiway D pavement and shoulder will be collected and routed into a storm drain, and therefore will not contribute to the wetland's watershed. However the grading plan also includes a gentle graded slope that will be revegetated following grading and will continue to contribute runoff from the area west of the run-up apron to the seasonal wetland. The total reduction in watershed area is roughly proportionate to the total loss in wetland area. Consequently, no adverse impacts to wetland hydrology are expected.

Upland pollinator habitat may also be removed in this portion of the project and may indirectly adversely affect the colony of Burke's goldfields in this area. Approximately 96.3 acres of upland pollinator habitat will be temporarily removed and 37.8 acres of upland pollinator habitat will be permanently removed. Pollinators that may occupy the upland habitat will likely be killed during ground disturbing activities from heavy earth moving equipment. The loss of pollinators in the upland habitat may have an adverse effect on the remaining occupied habitat within the action area but is difficult to quantify due to lacking survey information of pollinator population(s) within the action area.

Successful implementation of the proposed conservation measures to be Service - approved will benefit Burke's goldfields. Acquiring, protecting, managing, and funding management of 13.8 acres of Burke's goldfields occupied or established habitat from Service and DFW-approved off-site conservation banks and/or dedicated mitigation site(s) on the Santa Rosa Plain will provide more occupied habitat. The acquired habitat shall result in an overall compensation ratio of 3:1 for impacts to occupied habitat. Establishment and/or restoration of Burke's goldfields at a Service – approved location following Service - approved guidelines, and avoidance and minimizations measures will minimize adverse effects to other threatened or endangered species during and after implementation. Meeting Service - approved performance and success criteria will also demonstrate long term viability of self - sustaining population(s). Guidelines of these concepts include at a minimum the following:

*Site Selection*

The Preserve Establishment and Preserve Evaluation Criteria of the Conservation Strategy will be adhered to. Compensation sites will be a minimum of 10 acres and include the entire

watershed of the pool(s) and swale(s) being protected. Sites that have or previously had Burke's goldfields shall be the priority focus unless otherwise waived in writing by the Service. These site selection criteria for the compensation will provide a good chance for the Burke's goldfields to have sufficient watershed available to support hydrology necessary for pool inundation and upland habitat for pollinators and buffer from incompatible land uses.

*Suitable Habitat for Preservation and/or Establishment of Burke's Goldfields*

Suitable habitat is based on a combination of vegetative, topographic, hydrologic, soil, and geographic characteristics. Compensation site(s) that meet the following suitable habitat characteristics will provide the best chance for viable population(s) into the future and will contribute to meet the goals and objectives of the Conservation Strategy and contribute to the recovery of Burke's goldfields.

1. The wetland is an outlet barrier (is a pool), or occurs in a depressional terrain (i.e. is a swale or drainage feature);

2. The wetland contains surface (standing or flowing) water during the rainy season in a normal rainfall year for 7 or more consecutive days, but no more than 60 consecutive days between June 1 and October 1 during a normal rainfall year;

3. The soil type is Huichica loam, Wright loam or Clear Lake clay.

4. The compensation site(s) must be north of Santa Rosa Creek. On the Santa Rosa Plain, Burke's goldfields is distributed primarily in the northwestern and central areas (CH2M Hill 1995). The core of the current range of Burke's goldfields is north of Santa Rosa Creek (north of Highway 12) in the Santa Rosa Plain.

*Seed Source*

The seed source shall come from the affected wetland(s) or other Service - approved gene stock that enables genetic diversity to increase the chances of a viable restored or established colony or population. This criterion may only be waived in writing from the Service with reliable biological justification. Collection of seed and/or soils containing seeds shall be authorized by the Service and CDFW. The compensation plan must disclose the proposed sources of plant material. Meeting these criteria as part of the compensation site(s) is considered a beneficial effect by ensuring genetic diversity and increasing the chance for viable populations into the future.

*Service - approved Performance Standards for Burke's Goldfields*

The Service-approved compensation plan meeting the following performance standards will be considered a beneficial effect to Burke's goldfields by achieving minimum colony sizes based on the best available scientific information and provides the best chance for maintain the opportunity for survival and recovery of Burke's goldfields.

1. Preservation of Extant Occurrences: Acreage of preserved occupied habitat will be equal to the wetted acreage that is hydrologically connected with the Burke's goldfields plants. If Burke's goldfields occurs on a portion of a proposed compensation site and cannot reasonably be expected to occur throughout the entire site by virtue of the site's soils, topography, direction of water flow, or other conditions, then only a portion of the site occupied by the species will count towards the compensation acreage. In such cases, compensation acreage recognized would be equal to the acreage of the pool or hydrologic feature occupied by Burke's goldfields, even if hydrologically connected to other wetland features on the site.

   Each 0.1 acre of occupied wetlands shall have a mean density of at least 4,000 Burke's goldfields unless biological justification indicates otherwise and at the discretion of the Service.

2. Establishment and/or Restoration of New or Degraded Occurrences: Establishment of Burke's goldfields means either seeding or planting rooted individuals in suitable habitat. Acreage of restored or established habitat will be equal to the wetland acres restored or established per a Service - approved development plan (similar to conservation bank establishment). The development plan shall demonstrate compliance with local, state, and federal laws such as: 1) county and/or city; 2. DFW; 3) Regional Water Quality Control Board; 4) United States Army Corp of Engineers; and 5) the Service (Migratory Bird Treaty Act and the Endangered Species Act);

   Each 0.1 acre of established or restored wetlands shall have a mean density of at least 4,000 Burke's goldfields by the 5th year of establishment and including the 5$^{th}$ year of establishment, without supplemental seeding unless biological justification indicates otherwise and at the discretion of the Service.

The County will also allow harvesting of Burke's goldfields seeds from the existing Goldfields Preserve population at the Airport by mitigation/conservation banks and preserves on the Santa Rosa Plain with prior Service and CDFW - approval. This may establish or expand populations of this species elsewhere on the Santa Rosa Plain as appropriate. In addition, existing Burke's goldfields at the Airport will benefit from a Service and CDFW-approved management plan being prepared by the County.

**Cumulative Effects**

Cumulative effects include the effects of future State, tribal, local, or private actions affecting listed species and their critical habitat that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the Act.

There are no state and/or private projects planned to occur in the action area. Therefore, the proposed action is not expected to result in cumulative effects on California tiger salamander, California tiger salamander critical habitat, and/or Burke's goldfields.

**Conclusion**

California tiger salamander

After reviewing the current status of the California tiger salamander in Sonoma County; the environmental baseline for the species; and the effects of the proposed action and the cumulative effects, it is the Service's biological opinion that the proposed Runway Safety Area Improvement Project on the Charles M. Schulz–Sonoma County Airport is not likely to jeopardize the continued existence of the California tiger salamander in Sonoma County. We base this determination on the following: (1) habitat losses would be limited to upland habitat for the California tiger salamander; (2) no California tiger salamander breeding ponds would be directly lost or temporarily affected; (3) numerous conservation measures would be implemented to minimize the adverse effects on individual California tiger salamanders; and (4) the FAA and Sonoma County shall acquire a minimum of 26.80 acres of California tiger salamander mitigation credits from a Service-approved off-site mitigation or conservation bank on the Santa Rosa Plain, resulting in an overall mitigation ratio of 0.2:1 which would offset the adverse effects of the proposed action. All of these measures together will likely prevent an appreciable reduction in the likelihood of both the survival and recovery of this species in the wild.

California tiger salamander critical habitat

Designated critical habitat for the California tiger salamander occurs in the action area. The Service has determined that the proposed action is not likely to result in the destruction or adverse modification of critical habitat for the California tiger salamander. We base this conclusion on the following: (1) habitat losses would be limited to upland and foraging habitat for the California tiger salamander; (2) no California tiger salamander breeding ponds would be directly lost or temporarily affected; and (3) the remaining critical habitat will still be functional or will retain its current ability for the PCEs to be functionally established to serve the intended recovery role.

Burke's goldfields

After reviewing the current status of Burke's goldfields; the environmental baseline for the species; and the adverse and beneficial effects of the proposed action and the cumulative effects, it is the Service's biological opinion that the proposed Runway Safety Area Improvement Project on the Charles M. Schulz–Sonoma County Airport is not likely to jeopardize the continued existence of Burke's goldfields. We base this conclusion on the expected successful implementation of the proposed conservation measures designed to avoid and minimize adverse effects to Burke's goldfields resulting from the proposed action. In addition, the Sonoma County Airport will purchase credits or acquire habitat resulting in an overall compensation ratio of 3:1 for impacts to occupied habitat. By implementing Service - approved avoidance, minimization and conservation measures, the 4.4 acres of Burke's goldfield habitat permanent loss will be minimized in a manner that will prevent an appreciable reduction in the likelihood of both the survival and recovery of this species in the wild.

## INCIDENTAL TAKE STATEMENT

Section 9(a)(1) of the Act and Federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered and threatened fish and wildlife species without special exemption. Take is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harass is defined by the Service as an intentional or negligent act or omission which creates the likelihood of injury to a listed species by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. Harm is defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by impairing behavioral patterns including breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with this Incidental Take Statement.

The measures described below are non-discretionary, and must be implemented by the agency so that they become binding conditions of any grant or permit issued to the applicant, as appropriate, in order for the exemption in section 7(o)(2) to apply. The FAA has a continuing duty to regulate the activity covered by this incidental take statement. If the FAA (1) fails to require the applicant to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit or grant document, and/or (2) fails to retain oversight to ensure compliance with these terms and conditions, the protective coverage of section 7(o)(2) may lapse.

Sections 7(b)(4) and 7(o)(2) of the Act do not apply to listed plant species. However, protection of listed plants is provided to the extent that the Act requires a Federal permit for removal or reduction to possession of endangered and threatened plants from areas under Federal jurisdiction, or for any act that would remove, cut, dig up, damage, or destroy any such species on any other area in knowing violation of any regulation of any State or in the course of any violation of a State criminal trespass law.

### Amount or Extent of Take

Conservation measures proposed by the County and described above in the Description of the Proposed Project section of this biological opinion will reduce, but do not eliminate, the potential for incidental taking of California tiger salamander. The Service anticipates incidental take of California tiger salamander will be difficult to detect or quantify because of the variable, unknown size of populations over time, and the cryptic nature of the California tiger salamander. Due to the difficulty in quantifying the number of California tiger salamander that will be taken as a result of the proposed action, the Service is quantifying take incidental to the project as the number of acres of suitable upland habitat that will be adversely affected as a result of the proposed action. Therefore, the Service anticipates that 134.1 acres of California tiger salamander suitable habitat will be adversely affected as a result of the Proposed Project.

**Reasonable and Prudent Measure**

The Service believes the following reasonable and prudent measure is necessary and appropriate to minimize the impact of take on California tiger salamander:

1. The FAA shall minimize adverse effects to the California tiger salamander.

**Terms and Conditions**

To be exempt from the prohibitions of section 9 of the Act, the FAA shall ensure the County complies with the following terms and conditions, which implement the reasonable prudent measures described above. These terms and conditions are nondiscretionary.

The following terms and conditions implement Reasonable and Prudent Measures 1:

1. The FAA through the County shall minimize the potential for harm or harassment of California tiger salamander resulting from the proposed action by implementing the proposed conservation measures, as described in the Description of the Proposed Action section of this biological opinion, with the inclusion of or modifications by the following Terms and Conditions of this biological opinion for the proposed action.

2. The FAA through the County shall include Special Provisions that incorporate the *Proposed Conservation Measures* and the Terms and Conditions of this biological opinion in the solicitation for bid information. In addition, the FAA shall inform all contractors and subcontractors involved in the proposed action about the requirements of this biological opinion.

3. The Service-approved biologist(s) will conduct environmental awareness training which includes all protection measures to be implemented and complied with to ensure that California tiger salamander are not affected by work activities. New construction employees shall attend a training session prior to participating in work activities that could potentially affect the California tiger salamander.

4. Off-Site Habitat Acquisition & In-perpetuity Preservation. If credits are not available at a mitigation or conservation bank, the County shall contribute toward the acquisition of habitat approved by the Service in accordance with the *Selected Review Criteria for section 7 Off-Site Compensation* requirements (Enclosure) and follow the preserve selection criteria of the Santa Rosa Plain Conservation Strategy.

5. If requested, before, during, or upon completion of any work activities in the action area, the FAA through the County shall allow access by Service and CDFW personnel to the work areas to inspect effects to California tiger salamander and Burke's goldfields habitat subject to Transportation Security Administration badging and access requirements to ensure safety and security on the active airfield.

6. The FAA through the County shall submit a post-project compliance report prepared by a Service-approved biologist(s) to the Service's Sacramento Fish and Wildlife Office within sixty (60) calendar days following completion of Proposed Project. This report shall detail: (i) dates that construction occurred; (ii) pertinent information concerning the success of the proposed action in meeting the *Proposed Conservation Measures* and Terms and Conditions of this biological opinion; (iii) an explanation of any failure to meet such measures; (iv) known project effects on the California tiger salamander, if any; including loss of habitat; (v) occurrences of incidental take of listed species; (vi) documentation of employee environmental awareness training; (vii) documentation of biological monitoring in suitable California tiger salamander habitat; and (viii) other pertinent information.

7. The FAA through the County shall comply with all reporting requirements in this biological opinion.

**Reporting Requirements**

The Service must be notified within 24 hours of the finding of any dead or injured California tiger salamander or any unanticipated damage to their habitat associated with the proposed action. Injured California tiger salamanders shall be cared for by a licensed veterinarian or other qualified person, such as the Service-approved biologist for the proposed action. Notification must include the date, time, and precise location of the specimen/incident, and any other pertinent information. Dead animals should be sealed in a zip lock bag containing a piece of paper indicating the location, date and time when it was found, and the name of the person who found it; and the bag should be frozen in a freezer in a secure location. The Service contact persons are Coast Bay/Forest Foothills Division Chief, Endangered Species Division, at the Sacramento Fish and Wildlife Office at (916) 414-6600 and Resident Agent-in-Charge of the Service's Law Enforcement Division at telephone (916) 569-8444.

## CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities that can be implemented to further the purposes of the Act, such as preservation of endangered species, habitat, implementation of recovery actions, or development of information and databases.

In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefitting listed species or their habitats, the Service requests notification of the implementation of any conservation recommendations. The Service proposes the following conservation recommendations:

1. Encourage or require the use of appropriate California native species in re-vegetation and habitat enhancement efforts associated with projects authorized by the FAA.

2. Facilitate educational programs geared toward the importance and conservation of seasonal wetlands.

3. Assist the Service in implementing the Conservation Strategy and recovery actions being developed for the California tiger salamander and Burke's goldfields.

4. Sightings of any listed or sensitive species should be reported to the California Natural Diversity Database of the CDFW. A copy of the reporting form and a topographic map clearly marked with the location where the individuals were observed should also be provided to the Service.

To be kept informed of actions minimizing or avoiding adverse effects or benefiting listed and/or proposed species or their habitats, the Service requests notification of the implementation of these recommendations.

## REINITIATION STATEMENT

This concludes formal consultation on the Proposed Runway Safety Area Improvement Project, Charles M. Schulz–Sonoma County Airport. As provided in 50 CFR 402.16, re-initiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is authorized by law) and if: (1) the amount of extent of incidental take is exceeded; (2) new information reveal effects of the proposed action may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to listed species or critical habitat that was not considered in this opinion; or (4) a new species or critical habitat is designated that may be affected by the proposed action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending re-initiation.

If you have any questions regarding this opinion, please contact Vincent Griego or Ryan Olah, Coast Bay/Forest Foothills Division Chief, at (916) 414-6600, or electronic mail at Vincent_Griego@fws.gov or Ryan_Olah@fws.gov.

Sincerely,

Jan C. Knight
Acting Field Supervisor

Enclosure

## LITERATURE CITED

Anderson, J. D. 1968. Comparison of the food habits of *Ambystoma macrodactylum sigillatum*, *Ambystoma macrodactylum croceum*, and *Ambystoma tigrinum californiense*. Herpetologica 24(4): 273-284.

Anderson, P. R. 1968. The reproductive and developmental history of the California tiger salamander. Masters thesis, Department of Biology, Fresno State College, Fresno, California. 82 pages.

Barry, S. J. and H. B. Shaffer. 1994. The status of the California tiger salamander (*Ambystoma californiense*) at Lagunita: 50-year update. Journal of Herpetology 28(2): 159-164.

Buza, L., A. Young and P. Thrall. 2000. Genetic erosion, inbreeding and reduced fitness in fragmented populations of the endangered tetraploid pea *Swainsona recta*. Biological Conservation 93:177–186.

California Department of Fish and Wildlife (CDFW). 2011. RAREFIND. California Natural Diversity Data Base, Natural Heritage Division, Sacramento, California.

CH2M Hill. 1995. Phase 1 Final Report, Santa Rosa Plain Vernal Pool Ecosystem Preservation Plan. Prepared for Sonoma County Vernal Pool Task Force.

Federal Aviation Administration (FAA). 2011. Charles M. Schulz Sonoma County Airport Runway Safety Action Plan. Prepared by the FAA Runway Safety Field Operations Group, Western Pacific Region. February 22, 2011.

Feaver, P. E. 1971. Breeding pool selection and larval mortality of three California amphibians: *Ambystoma tigrinum californiense* Gray, *Hyla regilla* Baird and Girard and *Scaphiopus hammondi hammondi* Girard. Master's thesis, Department of Biology, Fresno State College, Fresno, California. 58 pages.

Fitzpatrick, B. M. and H. B. Shaffer. 2004. Environmental-dependent admixture dynamics in a tiger salamander hybrid zone. Evolution 58(6): 1282-1293.

Hilty, J. A. and A. M. Merenlender. 2004. Use of Riparian Corridors and Vineyards by Mammalian Predators in Northern California. Conservation Biology 18(1):126-135.

Jennings, M. R. and M. P. Hayes. 1994. Amphibian and reptile species of special concern in California. Final report to California Dept. of Fish andWildlife. Sacramento, California.

Loredo, I. and D. Van Vuren. 1996. Reproductive ecology of a population of the California tiger salamander. Copeia 1996(4):895-901.

Loredo, I., D. Van Vuren and M. L. Morrison. 1996. Habitat use and migration behavior of the

California tiger salamander. Journal of Herpetology 30(2): 282-285.

LSA Associates, Inc. (LSA). 2006a. Year 4 and 5 Monitoring Results - Sonoma County Airport Consolidated Mitigation Area (SACMA). Prepared for Cobblestone Homes, Inc. and submitted to the U.S. Army Corps of Engineers San Francisco District. February 2006.

_____ (LSA). 2007. 4th Annual Monitoring Report – SACMA-2 Mitigation Site. April 2007.

_____ 2011a. Updated Botanical Survey Report. Charles M. Schulz-Sonoma County Airport, California. Prepared for Sonoma County Department of Transportation and Public Works.

_____2011b. Summary Report – Sonoma County Airport Pond Surveys.

Morey, S. R. 1998. Pool duration influences age and body mass at metamorphosis in the western spadefoot toad: implications for vernal pool conservation. Pages 86-91 *in* Witham, C. W., E. T. Bauder, D. Belk, W. R. Ferren Jr., and R. Ornduff (eds). Ecology, Conservation, and Management of Vernal Pool Ecosystems - Proceedings from a 1996 Conference. California Native Plant Society. Sacramento, California.

Patterson, C. A. 1987. Burke's Goldfields (Lasthenia burkei) Survey Report, Sonoma County Airport, Sonoma County, California. Prepared for Sonoma County Airport, Santa Rosa, California. C.A. Patterson, El Cerrito, California.

Pechmann, J. H. K., D. E. Scott, J. W. Gibbons, and R. D. Semlitsch. 1989. Influence of wetland hydroperiod on diversity and abundance of metamorphosing juvenile amphibians. Wetlands Ecology and Management 1(1):3-11.

Petit, L. J., D. R. Petit, and T. E. Martin. 1995. Landscape-level management of migratory birds: looking past the trees to see the forest. Wildlife Society Bulletin 23:420-429.

Petranka, J. W. 1998. Salamanders of the United States and Canada. Smithsonian Institution Press. Selected pages maintained in file. Washington, D.C.

Regional Water Quality Control Board. 2007. Water Quality Control Plan for the North Coast Region. North Coast Regional Water Quality Control Board, 5550 Skylane Blvd., Suite A, Santa Rosa, CA 95403. January 2007.

Riley, S. P. D., H. B. Shaffer, S. R. Voss, and B. M. Fitzpatrick. 2003. Hybridization between a rare, native tiger salamander (*Ambystoma californiense*) and its introduced congener. Biological Applications 13(5): 1263-1275.

Scott, D. E. 1994. The effect of larval density on adult demographic traits in *Ambystoma opacum*. Ecology 75:1383-1396.

Semlitsch, R. D., D. E. Scott, and J. H. K. Pechmann. 1988. Time and size at metamorphosis related to adult fitness in *Ambystoma talpoideum*. Ecology 69: 184-192.

Semonsen, V. J. 1998. Natural History Notes: *Ambystoma californiense* (California tiger salamander). Survey technique. Herpetological Review 29:96.

Shaffer, H. B., R. N. Fisher, and S. E. Stanley. 1993. Status report: The California tiger salamander (*Ambystoma californiense*). Final report for the California Department of Fish and Wildlife. 33 pages.

Shaffer, H. B., G. B. Pauly, J. C. Oliver, and P. C. Trenham. 2004. The molecular phylogenitics of endangerment: cryptic variation and historic phylogeography of the California tiger salamander, *Ambystoma califoriniense*. Molecular Ecology 13: 3033-3049.

Stebbins, R. C. 1989. Declaration of R. C. Stebbins in support of petition of writ of mandate. Sierra Club and Richard Pontuis v. Gilroy City Council, Shappell Industries *et al.* Santa Clara County Superior Court. March 16, 1989. 11 pages plus exhibits. San Jose, California.

Stebbins, R. C. 2003. A field guide to western reptiles and amphibians. Houghton Mifflin Company, Boston, Massachusetts.

Storer, T. I. 1925. A synopsis of the amphibia of California. University of California Publications in Zoology 27.

Trenham, P. 1998a. Radiotracking information. University of California, Davis, California.

_____ 1998b. Demography, migration, and metapopulation structure of pond breeding salamanders. Ph.D. dissertation. University of California, Davis, California.

Trenham, P. C., H. B. Shaffer, W. D. Koenig and M. R. Stromberg. 2000. Life history and demographic variation in the California tiger salamander (*Ambystoma californiense*). Copeia 2000(2): 365-377.

Trenham, P. C., W. D. Koenig, and H. B. Shaffer. 2001. Spatially autocorrelated demography and interpond dispersal in the salamander *Ambystoma californiense*. Ecology 82: 3519-3530.

Trenham, P. 2001. Terrestrial habitat use by adult California tiger salamanders. Journal of Herpetology 35(2): 343-346.

Trenham, P. C. and H. B. Shaffer. 2005. Amphibians upland habitat use and its consequences for population viability. Ecological Applications.

Twitty, V. C. 1941. Data on the life history of *Ambystoma tigrinum californiense* Gray. Copeia

1941 (1):1-4.

U.S. Fish and Wildlife Service (Service). 2002. Endangered and Threatened Wildlife and Plants; Listing the Sonoma County Distinct Population Segment of the California Tiger Salamander as Endangered; Emergency Rule. **Federal Register** 67: 47726-47740.

_____ 2003. Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Sonoma County Distinct Population Segment of the California Tiger Salamander; Final Rule. **Federal Register** 68: 13497.

_____ 2004. Endangered and threatened wildlife and plants; determination of threatened status for the California tiger salamander; and special rule exemption for existing routine ranching activities; Final rule. **Federal Register** 69: 47212-47248.

_____ 2005a. Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the California Tiger Salamander in Sonoma County. **Federal Register** 70: 44301-44322.

_____ 2005b. Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Sonoma County Distinct Population Segment of the California Tiger Salamander; Final Rule. **Federal Register** 70: 74137-74163.

_____2007a. Programmatic Biological Opinion (Programmatic) for U.S. Army Corps of Engineers (Corps) Permitted Projects that May Affect California Tiger Salamander and Three Endangered Plant Species on the Santa Rosa Plain, California (Corps File Number 223420N). November 7, 2007.

_____2008. 5 - year Review for Sonoma sunshine, Burke's goldfields, and Sebastopol meadowfoam. Sacramento Fish and Wildlife Office, Sacramento, California. 34 pages.

_____ 2009. Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Sonoma County Distinct Population Segment of the California Tiger Salamander (*Ambystoma californiense*). Proposed Rule. **Federal Register** 74: 41662-41673.

_____2011. Selected Review Criteria for Section 7 Off- site Compensation. Sacramento Fish and Wildlife Office, Sacramento, California. 7 pages.

Van Hattem, M. G. 2004. Underground ecology and natural history of the California tiger salamander. Master of Science thesis. San Jose State University, San Jose, California.

Wilbur, H. M. and J. P. Collins. 1973. Ecological aspects of amphibian metamorphosis. Science (n.s.) 182(4119): 1305-1314.

## IN LITT. CITATIONS

Samuel S. Sweet, University of California, Santa Barbara. 31 August 1998 letter to Dwight Harvey, U.S. Fish and Wildlife Service. With enclosed report, "Vineyard development posing an imminent threat to *Ambystoma californiense* in Santa Barbara County, California

**Sacramento Fish and Wildlife Office**
**Review Criteria for Section 7 Off-Site Compensation**
Revised July 28, 2011

**Property Assurances and Conservation Easement**

- ☐ Title Report (preliminary at proposal, and Final Title Insurance at recordation), shall be no older than six months;
- ☐ Property Assessment and Warranty;
- ☐ Subordination Agreement **[if there is any outstanding debt on the property]**;
- ☐ Legal Description and Parcel Map;
- ☐ Conservation Easement (should use the current SFWO standardized CE template); or
- ☐ Non-Template Conservation Easement;

**Site Assessment and Development**

- ☐ Phase I Environmental Site Assessment;
- ☐ Restoration or Habitat Development Plan;
- ☐ Construction Security ***[if applicable]***;
- ☐ Performance Security ***[if applicable]***;

**Site Management**

- ☐ Interim Management Plan;
- ☐ Interim Management Security Analysis and Schedule;
- ☐ Long-Term Management Plan;
- ☐ Endowment Fund Analysis and Schedule;
- ☐ Endowment Funding Agreement or Trust Agreement or Declaration of Trust

**Guidelines to assist in understanding what is required are detailed on pages 2–7.

## Guidelines

### Real Estate Assurances and Conservation Easement (CE)

Title Report

1. Who holds fee title to property? Should be the Project Applicant. If not, there may be liability and contracting issues.
2. Are there any liens or encumbrances (existing debts or easements) on the property?
    a. Review Preliminary Title Report to evaluate liens and encumbrances (see Property Assessment and Warranty, below).
    b. Could any of these liens or encumbrances potentially interfere with either biological habitat values or ownership? If existing easements can potentially interfere with the conservation values/habitat of the property, those portions of the land should be deducted from the total compensation acreage available on the site.

Property Assessment and Warranty

1. Property owner should submit a Property Assessment and Warranty, which discusses every exception listed on the Preliminary Title Report and Final Title Insurance Policy, evaluating any potential impacts to the conservation values that could result from the exceptions (see below).
2. The Property Assessment and Warranty should include a summary and full explanation of all exceptions remaining on the title, with a statement that the owner/Grantor accepts responsibility for all lands being placed under the CE as available for the primary purposes of the easement, as stated in the easement, and assures that these lands have a free and clear title and are available to be placed under the CE.

Subordination Agreement

1. A Subordination Agreement is necessary if there is any outstanding debt on the property. Review Subordination Agreement language for adequacy—the lending bank or other lien holder must agree to fully subordinate each lien or encumbrance under the CE.

Legal Description and Parcel Map

1. Ensure accuracy of map, and location and acreage protected under the CE.
2. Both the map and the legal description should explain the boundaries of the individual project compensation site. The site should *not* have 'leftover' areas for later use.
3. Ask for an easement map to be prepared (if applicable), showing all easements on the property.

Conservation Easement from Template

1. Who will hold the easement?

a. Must have third-party oversight by a qualified non-profit or government agency. Qualifications include:
    i. Organized under IRS 501(c)(3);
    ii. Qualified under CA Civil Code § 815;
    iii. Bylaws, Articles of Incorporation, and biographies of Board of Directors on file at, and approved, by SFWO.
        1. Must meet requirements of SFWO, including 51% disinterested parties on the Board of Directors;
b. Must be accredited by the Land Trust Accreditation Commission http://www.landtrustaccreditation.org/home.

2. Project Applicant should submit a redline version showing all of their proposed revisions in track changes, along with an explanation of all deviations from the template

Non-Template Conservation Easement

1. If not using the CE template, the Project Applicant should specify objections they have to the template. This may substantially delay processing as the non-template CE will require review by the Solicitor's Office. Alternate CEs must be approved by the SFWO prior to recording.
2. The Project Applicant must either 1) add SFWO as a third-party beneficiary, or 2) add language throughout the document, in all appropriate places, that will assure SFWO the right to enforce, inspect, and approve any and all uses and/or changes under the CE prior to occurrence (including land use, biological management or ownership).
3. Include, at a minimum, language to:
    a. Reserve all mineral, air, and water rights under the CE as necessary to maintain and operate the site in perpetuity;
    b. Ensure all future development rights are forfeited;
    c. Ensure all prohibited uses contained in the CE template are addressed; and
    d. Link the CE, Management Plan, and the Endowment Trust Fund within the document (e.g., note that each exists to support the others, and where each of the documents can be located if a copy is required).
4. Insert necessary language, particularly, but not exclusively, per: (can compare to CE template)
    a. Rights of Grantee
    b. Grantee's Duties
    c. Reserved Rights
    d. Enforcement
    e. Remedies
    f. Access
    g. Costs and Liabilities
    h. Assignment and Transfer
    i. Merger
    j. Notices

## Site Assessment and Development

Phase I Environmental Site Assessment

1. The Phase I ESA must show that the compensation site is not subject to any recognized environmental conditions as defined by the American Society for Testing and Materials (ASTM) Standard E1527-05 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, available at http://www.astm.org/Standards/E1527.htm, (i.e., the presence or likely presence of any Hazardous Substances or petroleum products).
2. If the Phase I ESA identifies any recognized environmental conditions, the Project Applicant must represent and warrant to the SFWO that all appropriate assessment, clean-up, remediation, or removal action has been completed.
3. Phase II ESA may be required to investigate subsurface conditions.

Restoration or Habitat Development Plan *[not required if doing preservation only]*

1. The overall plan governing construction and habitat establishment activities required to be conducted on the Property, including, without limitation, creation, restoration, and enhancement of habitat.
   a. This plan should include the baseline conditions of the Property including biological resources, geographic location and features, topography, hydrology, vegetation, past, present, and adjacent land uses, species and habitats occurring on the property, a description of the activities and methodologies for creating, restoring, or enhancing habitat types, a map of the approved modifications, overall habitat establishment goals, objectives and Performance Standards, monitoring methodologies required to evaluate and meet the Performance Standards, an approved schedule for reporting monitoring results, a discussion of possible remedial actions, and any other information deemed necessary by the SFWO.
2. Any permits and other authorizations needed to construct and maintain the site shall be included and in place prior to the start of construction of the habitat.
3. Full construction plans for any habitat construction must be *SFWO-approved prior* to the start of construction of the habitat.

Construction Security

1. The Project Applicant shall furnish a Construction Security in the amount of 100% of a reasonable third party estimate or contract to create, restore, or enhance habitats on the property in accordance with the Restoration or Habitat Development Plan.
2. Construction Security can be drawn on should the project proponent default.
3. The Construction Security shall be in the form of an irrevocable standby letter of credit or a cashier's check.
   a. The letter of credit, if chosen, shall be issued for a period of at least one year, and shall provide that the expiration date will be automatically

extended for at least one year on each successive expiration date unless, until extension is no longer necessary.

b. Construction Security shall be in favor of a third party approved by the SFWO.
c. Language in a draft letter of credit to be approved by the SFWO.

Performance Security *[only necessary if habitat is being restored, enhanced, or constructed]*

1. The Project Applicant shall furnish a Performance Security in the amount of 20% of the Construction Security.
2. Performance Security can be drawn on should the Performance Standards not be met, if remedial action becomes necessary.
3. The Performance Security shall be in the form of an irrevocable standby letter of credit or a cashier's check.
   a. The letter of credit, if chosen, shall be issued for a period of at least one year, and shall provide that the expiration date will be automatically extended for at least one year on each successive expiration date unless, until extension is no longer necessary.
   b. Construction Security shall be in favor of a third party approved by the SFWO.
   c. Language in a draft letter of credit to be approved by the SFWO.

## Site Management

Interim Management Plan

1. The Interim Management Plan should identify the short-term management, monitoring, and reporting activities to be conducted from the time construction ends until the Endowment Fund has been fully funded for one year and all the Performance Standards in the Development Plan have been met. This may be the same as the Long-term Management Plan.

Interim Management Security Analysis and Schedule

*The purpose of the Interim Management Security is to allow the endowment to grow for at least one year without any disbursements, and is a safeguard to ensure that there will be enough funds in the endowment to pay for future management costs. The period can be longer than one year, and is often 3 years for Conservation Banks. Many endowments have recently experienced losses in principal.*

1. The Project Applicant shall furnish an Interim Management Security (in the form of a standby letter of credit) in the amount equal to the estimated cost to implement the Interim Management Plan during the first year of the Interim Management Period, as set for in the Interim Management Security Analysis and Schedule.
2. The Interim Management Security Analysis and Schedule shall consist of a table and/or spreadsheet that shows all of the tasks (management, monitoring, reporting), task descriptions, labor (hours), cost per unit, cost frequency,

timing or scheduling of the tasks, the total annual funding necessary for each task, and any associated assumptions for each task required by the Interim Management Plan. The total annual expenses should include administration and contingency costs.

3. The Interim Management Security must:
   a. Be held by a qualified, SFWO-approved, non-profit organization or government agency [see requirements under CE above], and
   b. Be held according to minimum standards for assuring maximum success in earning potential, and will assurances for no loss of principle.
   c. Disbursements or releases from the fund must be for documented expenditures, as they occur.

Long-Term Management Plan (LTMP)

1. The LTMP template identifies the long-term management, monitoring and reporting activities to be conducted.
2. The LTMP should include at minimum:
   a. Purpose of the Project and purpose of the LTMP;
   b. A baseline description of the setting, location, history, and types of land use activities, geology, soils, climate, hydrology, habitats present (once project meets Performance Standards), and species descriptions;
   c. Overall management, maintenance and monitoring goals; specific tasks and timing of implementation; and discussion of any constraints, which may affect goals;
   d. The Endowment Fund Analysis and Schedule (see below);
   e. Discussion of Adaptive Management actions for reasonably foreseeable events and possible thresholds for evaluating and implementing Adaptive Management;
   f. Rights of access to the Property and prohibited uses of the Property as provided in the CE; and
   g. Procedures for Property transfer, land manager replacement, amendments, and notices.
3. The LTMP must be incorporated by reference in the CE.
4. The LTMP is considered a living document and may be revised as necessary upon agreement of the land manager, easement holder, and SFWO.

Endowment Fund Analysis and Schedule

1. Can use a PAR or PAR-like analysis and must be based upon the final, approved LTMP.
   a. The analysis should be reviewed by the land manager.
2. The analysis and schedule shall consist of a table and/or spreadsheet that shows all of the tasks (management, monitoring, reporting), task descriptions, labor (hours), cost per unit, cost frequency, timing or scheduling of the tasks, the total annual funding necessary for each task, and any associated assumptions for each task required by the Management Plan. The total annual expenses should include administration and contingency costs (contingency

can be included on each line item). Unless there is a separate endowment for the purpose of monitoring and reporting on the CE conditions, then, the analysis should also include costs of

- Monitoring and reporting CE conditions;
- Defending the CE; and
- Liability insurance.

3. The Endowment Fund must:
   a. Be held by a qualified, SFWO-approved, non-profit organization or government agency [see requirements under CE above], and
   b. Be held according to minimum standards for assuring maximum success in earning potential, and will include assurances for no loss of principle.
   c. Disbursements or releases from the fund must be for documented expenditures, as they occur.

<u>Endowment Funding Agreement</u>

1. This is the agreement between the endowment holder and the Project Applicant, as to how the endowment is to be funded, held and disbursed;
2. USFWS is not signatory to this agreement, but should be made a third-party beneficiary of the agreement;
3. USFWS has approval authority over the language in the document, and it must state that modifications or transfer of the endowment to another holder are only allowed with USFWS approval;
4. This agreement can also be called: "Trust Agreement", "Declaration of Trust"
5. When the National Fish and Wildlife Foundation (NFWF) holds the endowment, they call this a "Recipient Agreement", and may have an additional MOA with the Project Applicant.

**EXHIBIT "C"**

# ALTONPRESERVE, LLC

336 Bon Air Center - Box 232
Greenbrae, CA 94904
(415)-472-1086

## BILL OF SALE

Buyer: County of Sonoma Department of Transportation & Public Works-Airport Division, A Political Subidivion of the State of California

Type and Amount of Credits: Burke's goldfields

Project Name: Airport Runway Safety Enhancement Project

Project Assessor's Parcel Number(s):

Contract Date:

Service File Number:

In consideration of $1,040,300 receipt of which is hereby acknowledged, Alton Preserve, LLC, does hereby bargain, well and transfer to the County of Sonoma Department of Transportation & Public Works-Airport Davison, herein referred to as "Buyer," 1.03 acres of Burke's goldfields credits ("Plant Conservation Credits") which includes 1.03 acres California tiger salamander credits ("CTS Conservation Credits") in the Alton North Conservation Bank in Sonoma County, California, developed and approved by the U. S. Fish and Wildlife Service and the California Department of Fish and Game.

Alton Preserve, LLC, represents and warrants that it has good title to 1.03 acres of Plant Conservation Credits (which included 1.03 acres of CTS Conservation Credits), has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

Alton Preserve, LLC, covenants and agrees with the Buyer to warrant and defend the sale of the 1.03 acres of Plant Conservation Credits which include 1.03 acres of CTS Conservation Credits herein before described against all and every person and persons whomsoever lawfully claiming or to claim the same.

DATED: _____

ALTON PRESERVE, LLC
A California Limited Liability Company

By: _____
Harvey O. Rich
Its: Managing Member

**EXHIBIT "D"**

# ALTON PRESERVE, LLC

336 Bon Air Center - Box 232
Greenbrae, CA 94904
(415)-472-1086

**PROJECT.** County of Sonoma Department of Transportation & Public Works-Airport Division

**PAYMENT RECIEPT**. 1.03 Acres of Plant Conservation Credits which Includes 1.03 Acres of CTS Conservation Credits

**PARTICIPANT INFORMATION.**

Name: Sonoma County Department of Transportation & Public Works-Airport Division

Address: 2300 County Center Drive, B100, Santa Rosa, CA 95403

Telephone: 707-565-3580

Contact: Jon Stout, Airport Manager

**PROJECT INFORMATION.**

Project Description: Airport Runway Safety Enhancement Project.
Service File Number:

Species/Habitat Affected: Burke's goldfields and California tiger salamander

Credits Purchased: 1.03 acres Plant Conservation Credits which include CTS Conservation Credits

Payment Amount: $1,040,300

Project Location: Sonoma County Airport

County/Address:

Assessor's Parcel Number(s):

**PAYMENT INFORMATION.**

Payee: Alton Preserve, LLC

Payor: County of Sonoma Department of Transportation & Public Works-Airport Div

Amount: $ 1,040,300

Method of Payment: Exchange of Funds

Date Received: _____

ALTON PRESERVE, LLC
A California Limited Liability Company

By: _____
Harvey O. Rich - Its: Managing Member

EXHIBIT "B"

# FIRST AMENDMENT TO THE AGREEMENT FOR SALE OF PLANT CONSERVATION ACREAGE

This "First Amend to the Agreement for Sale of Plant Conservation Acreage" ("**First Amendment**") amends the original "Agreement for Sale of Plant Conservation Acreage" dated December 11th, 2012, ("**Original Agreement**") and attached hereto as Exhibit A. This First Amendment is entered into as of May 29th, 2013 ("**Effective Date**") between Alton Preserve, LLC, a California limited liability company, ("**Seller**") and the County of Sonoma – Department of Transportation & Public Works-Airport Division, a Political Subdivision of the State of California ("**Buyer**"). Buyer and Seller are collectively referred to as "**Parties**." Buyer and Seller agree to the following:

## RECITALS

**A.** This First Amendment changes the "FAA Funding Date" date from May 31, 2013 to September 30, 2013.

**B.** This First Amendment changes the Seller's right to extend the "FAA Funding Date" from May 15, 2013 to September 15, 2013.

## AGREEMENT

The following Sections of the Original Agreement have been changed or added to read as follow:

9 ~~8.~~ Notwithstanding any provision in this Agreement to the contrary, Seller hereby acknowledges that Buyer's obligation to proceed with this Agreement is expressly contingent upon Buyer receiving funding from the Federal Aviation Administration ("FAA") for the project described in Exhibit "B" and the BO. In the event the FAA does not award said funding to Buyer by September 30, 2013 ("FAA Funding Date"), Buyer may terminate this Agreement upon written notice to Seller and Seller shall have no claim against Buyer by reason of such termination, including any claim for compensation. Buyer agrees and acknowledges that Buyer shall use reasonable and good faith efforts to cause the FAA to award said funding to Buyer by September 30, 2013. Buyer shall cause the purchase price identified in Paragraph 1 of this Agreement to be paid to Seller within five (5) days of Buyer's receipt of the funding from the FAA.

10 ~~9.~~ If by September 15, 2013, the FAA has not awarded said funding to Buyer, then Seller may extend the FAA Funding Date to January 31, 2014. Within five (5) days of Seller's written request to Buyer, Buyer shall provide Seller with documentation and information concerning the status of the FAA awarding said funding.

All other Sections of the Original Agreement that are not reflected herein remain in full force and effect. If there is any conflict between the terms of the Original Agreement and the terms of this First Amendment, the terms of this First Amendment shall control.

THIS SECTION WAS LEFT BLANK ON PURPOSE



/Seller /Buyer

IN WITNESS WHEREOF, the Parties have executed this First Amendment

**SELLER:**

Dated: May 29, 2013

Alton Preserve, LLC
A California Limited Liability Company

By: Harvey O. Rich
Its: Managing Member

**BUYER:**

Dated: ~~May~~ June 14, 2013

Sonoma County of Sonoma, a Political Subdivision of the State of California

By: Jon Stout
Its: Airport Manager, Charles M. Schulz – Sonoma County Airport



/Seller /Buyer

**EXHIBIT A**

**TO**

**AGREEMENT FOR SALE OF CONSERVATION CREDITS**
**DATED DECEMBER 11, 2012**

**FOR 1.03 PLANT CONSERVATION CREDITS**

---

# NOT ATTACHED SINCE THIS AGREEMENT IS ALREADY ATTACHED AS EXHIBIT A TO THE SECOND AMENDMENT

**Exhibit F**

**Alton Preserve, LLC**
**336 Bon Air Center - Box 232**
**Greenbrae, CA 94904**
**(415) 472-1086**

# BILL OF SALE

Buyer: County of Sonoma, a Political Subdivision of the State of California – Department of Transportation & Public Works-Airport Division

Type and Amount of Credits: 1.09 Acres of Burke's Goldfields Credits which include 1.09 acres of California Tiger Salamander Credits

Project Name: Runway Safety Area Improvement Project, Charles M. Schulz-Sonoma County Airport

Project Assessor's Parcel Number(s): Sonoma County Airport

Contract Date: August 7, 2013

U.S. Fish and Wildlife Service File Number: 08ESMF00-2012-F-0050-1

U.S. Army Corps of Engineers File Number: 2010-00072N

In consideration of $1,515,000 (One Million Five Hundred Fifteen Thousand Dollars), receipt of which is hereby acknowledged, Alton Preserve, LLC does hereby bargain, sell and transfer to Sonoma County Department of Transportation & Public Works-Airport Division, herein referred to as "Buyer," 1.09 acres of Burke's goldfields credits which include 1.09 acres of California tiger salamander credits ("Credits") in the Alton North Conservation Bank in Sonoma County, California, developed and approved by the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife.

Alton Preserve, LLC represents and warrants that it has good title to the Credits, has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

Alton Preserve, LLC covenants and agrees with the Buyer to warrant and defend the sale of the Credits hereinbefore described against all and every person and persons whomsoever lawfully claiming or to claim the same.

DATED: _____, 2016

Alton Preserve, LLC
A California Limited Liability Company

By: _____
Harvey O. Rich
Its: Managing Member

**Exhibit G**

# Alton Preserve, LLC

**336 Bon Air Center - Box 232**
**Greenbrae, CA 94904**
**(415) 472-1086**

## PAYMENT RECEIPT

**PROJECT: ALTON NORTH CONSERVATION BANK: 1.09 ACRES OF BURKE'S GOLDFIELD CREDITS WHICH INCLUDE 1.09 ACRES OF CALIFORNIA TIGER SALAMANDER CREDITS**

**PARTICIPANT INFORMATION:**

Name: Sonoma County Department of Transportation & Public Works-Airport Division

Address: 2300 County Center Drive, B100
Santa Rosa, CA 95403

Telephone: 707-565-7247

Contact: Jon Stout

**PROJECT INFORMATION:**

Project Description: Runway Safety Area Improvement Project

U.S. Fish and Wildlife Service File Number: 08ESMF00-2012-F-0050-1

U.S. Army Corps of Engineers File Number: 2010-00072N

Species/Habitat Affected: Burke's Goldfields and CTS

Credits to be Purchased: 1.09 Acres Burke's Goldfields Credits which include 1.09 Acres of CTS

Payment Amount: $1,515,000 (One Million Five Hundred Fifteen Thousand Dollars)

Project Location: Sonoma County Airport

County: Sonoma County

Assessor's Parcel Number(s): Airport

**PAYMENT INFORMATION:**

Payee: Alton Preserve, LLC

Payer: Sonoma County

Amount: $1,515,000 (One Million Five Hundred Fifteen Thousand Dollars)

Method of Payment: Check

**RECEIVED BY:**

Alton Preserve, LLC
A California Limited Liability Company

By: _____
Harvey O. Rich
Its: Managing Member

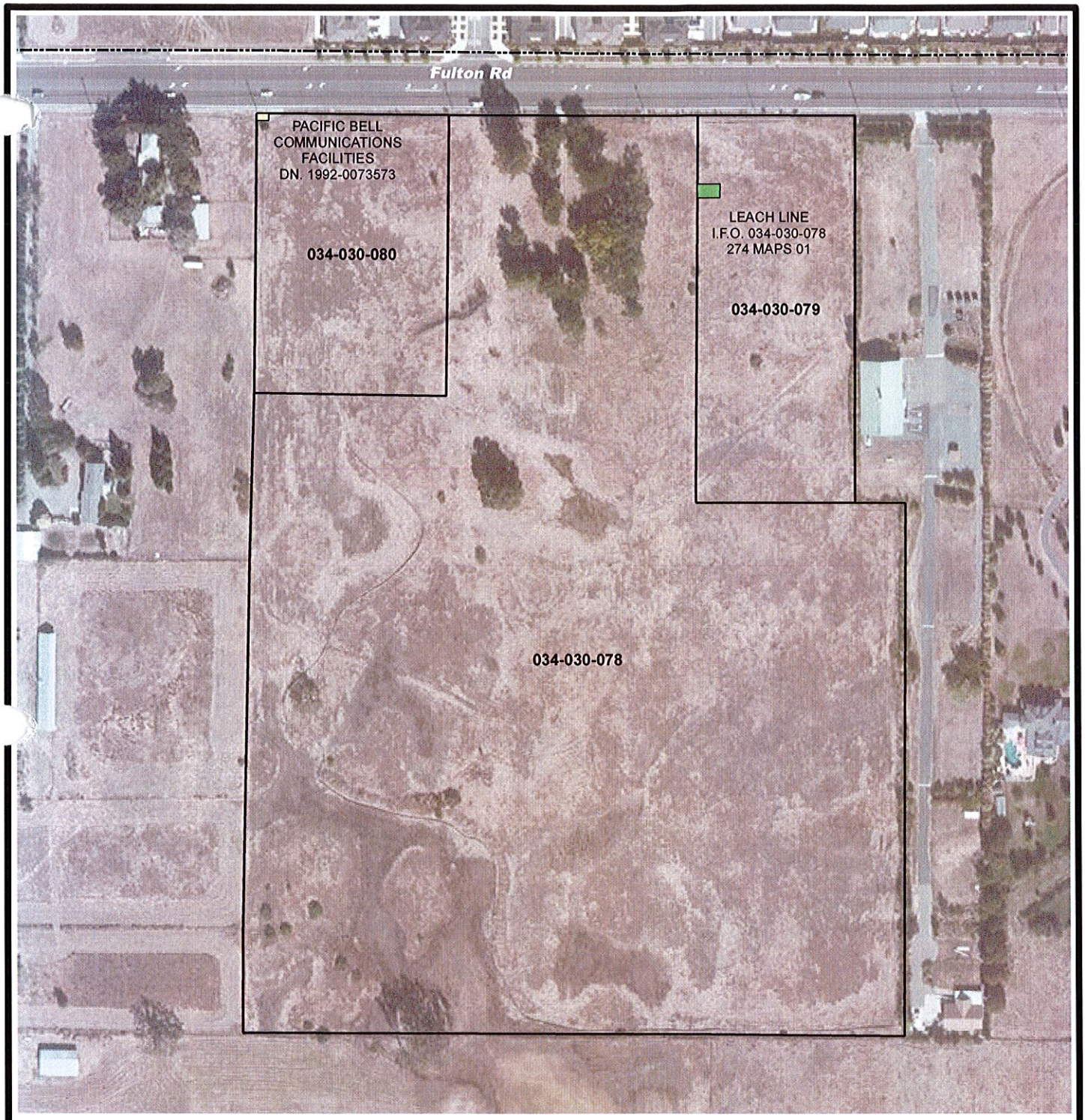
Date: _____, 2016

**Summary of the Status of Wetland, Endangered Species, and Riparian Mitigation Requirements – Sonoma County Airport Runway Safety Enhancement Project (October 2016)**

| Mitigation Action/Site | Acres | Linear Feet | Type of Mitigation | Agency Requiring Mitigation | Status | Comment |
|---|---|---|---|---|---|---|
| **Wetland Mitigation** | | | | | | |
| Horn Mitigation Bank | 7.55 | n/a | Wetland Establishment Credits | Corps, RWQCB | **Credits Acquired 2013.** | |
| Desmond Mitigation Bank | 3.90 | n/a | Wetland Establishment Credits | Corps, RWQCB | **Credits Acquired 2014.** | |
| Alton South Site | 1.47 | n/a | Wetland Establishment | Corps, RWQCB | Contracted 2014. Implementation in 2017. | Currently awaiting USFWS approval of all required documentation and CDFW approval of the seed collection plan. |
| **Endangered Species Mitigation** | | | | | | |
| Carinalli-Todd Road Conservation Bank | 16.32 | n/a | California Tiger Salamander Compensation Credits | USFWS | **Credits Acquired 2014.** | |
| Alton North Conservation Area | 5.12 | n/a | Burke's Goldfields and California Tiger Salamander Compensation | USFWS | **Credits Acquired 2014.** | |
| Fulton Road Mitigation Site | 3.18 | n/a | Burke's Goldfields Compensation | USFWS | Contract being finalized; to go the BOS in early 2017. Implementation in 2017. | Currently awaiting USFWS approval of all required documentation and CDFW approval of the seed collection plan. |
| Fulton Road Mitigation Site | 2.69 | n/a | California Tiger Salamander Compensation | USFWS | (see above) | (see above) |
| Kerry Conservation Site | 1.43 | n/a | Burke's Goldfields Compensation | USFWS | To be implemented 2017. | Currently awaiting USFWS approval of all required documentation. |

| Mitigation Action/Site | Acres | Linear Feet | Type of Mitigation | Agency Requiring Mitigation | Status | Comment |
|---|---|---|---|---|---|---|
| SACMA Preserve | 2.00 | n/a | Burke's Goldfields Compensation | USFWS | To be implemented 2017. | Currently awaiting USFWS approval of all required documentation and CDFW approval of the seed collection plan.<br>Currently awaiting FAA approval of the land use change.<br>Currently awaiting County Attorney guidance on procedure for selecting conservation easement and endowment holder.<br>Request for bids for implementation needs to be out no later than mid-January 2017. |
| Alton South Site | 1.47 | n/a | Burke's Goldfields and California Tiger Salamander Compensation | USFWS | Contracted 2014. Implementation in 2017. | Currently awaiting USFWS approval of all required documentation and CDFW approval of the seed collection plan. |
| **Riparian Mitigation** | | | | | | |
| East Austin Creek | 2.06 | 1,119 | Stream/Riparian Enhancement Acreage | Corps, RWQCB, CDFW | **Acreage Acquired 2013.** | |
| Airport Creek | 1.00 | 617 | Stream/Riparian Establishment | Corps, RWQCB, CDFW | **Implemented 2014-2015.** | |
| Airport Creek | 0.70 | 565 | Stream/Riparian Enhancement | Corps, RWQCB, CDFW | **Implemented 2015.** | Enhancement work completed in November 2015. |
| Windsor Creek | n/a | 1,600 | Stream/Riparian Enhancement | CDFW | **Phase 1 implemented 2015.**<br>**Phase 2 implemented 2016.** | Phase 1 work (bank stabilization and seeding) was completed in October 2015. Phase 2 work (exotic vegetation removal/ planting) conducted in 2016. |

| Mitigation Action/Site | Acres | Linear Feet | Type of Mitigation | Agency Requiring Mitigation | Status | Comment |
|---|---|---|---|---|---|---|
| Gravenstein Creek (Brown Farm Site) | 10.71 | 2,643 | Stream/Riparian Re-establishment, Enhancement | Corps, RWQCB, CDFW | Implementation to be completed by December 2016. | Implementation was delayed due to the Section 106 (cultural resources - SHPO) approval process. Approval from SHPO was not received until July 21, 2015. Corps permit modification (based on the 106 approval) was received October 30, 2015. |
| Hessel Creek (Desmond Mitigation Bank) | 4.51 | 2,632 | Stream/Riparian Re-establishment, Rehabilitation, Enhancement | Corps, RWQCB, CDFW | Contracted 2014. To be implemented 2017. | Implementation was delayed due to the Section 106 (cultural resources - SHPO) approval process. Approval from SHPO was not received until July 21, 2015. Corps permit modification (based on the 106 approval) was received October 30, 2015.<br>Contract with Laguna Foundation to implement non-construction elements pending. Needs to be executed by mid-December 2016.<br>Request for bids for construction elements being prepared. |




**LEGEND**

- LEACH LINE - IN FAVOR OF 034-030-078- 274 MAPS 01
- COMMUNICATIONS - PACIFIC BELL - DN. 1992-0073573
- CITY LIMITS-SONOMA COUNTY
- FULTON ROAD CONSERVATION SITE

200 100 0 200 Feet

CINQUINI & PASSARINO, INC.
LAND SURVEYING
1360 N. Dutton Ave. #150
Santa Rosa, Ca. 95401
Phone: (707) 542-6268
Fax: (707) 542-2106
WWW.CINQUINIPASSARINO.COM

- BOUNDARY
- TOPOGRAPHIC
- CONSTRUCTION
- SUBDIVISIONS

| | | |
|---|---|---|
| Job Name: FULTON ROAD CONSERVATION SITE | Drawn By: JM | Checked By: JMD |
| | Scale: 1" = 200' | Date: 12/02/2013 |
| Description: EASEMENT MAP | Job Number: 5946-09 | Sheet: 1 OF 1 |

NOTE: This map was prepared for Assessment purposes only and does not indicate either parcel legality or a valid building site. No liability is assumed for the accuracy of the data delineated. The acreages are based on the information supplied to the Assessor (i.e. recorded survey maps recorded deeds, prior assessment maps, etc.)

# COUNTY ASSESSOR'S PARCEL MAP

THIS MAP SHOULD BE USED FOR REFERENCE PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR ZONING ORDINANCES.

PTN. WOODBRIDGE
REC. 05-02-2006 IN BK.693 , MAPS, PGS. 44-50

LANDS OF ALFRED IRWIN
REC. 09-23-1903 IN BK. 16 , MAPS, PGS. 2-00

E.A.BARNES 1ST SUBDIVISION
REC. 10-20-1914 IN BK. 31 , MAPS, PGS. 23-00

Pcl. Map No. 4001
REC. 11-28-1973 IN BK. 201 , MAPS, PGS. 11-00

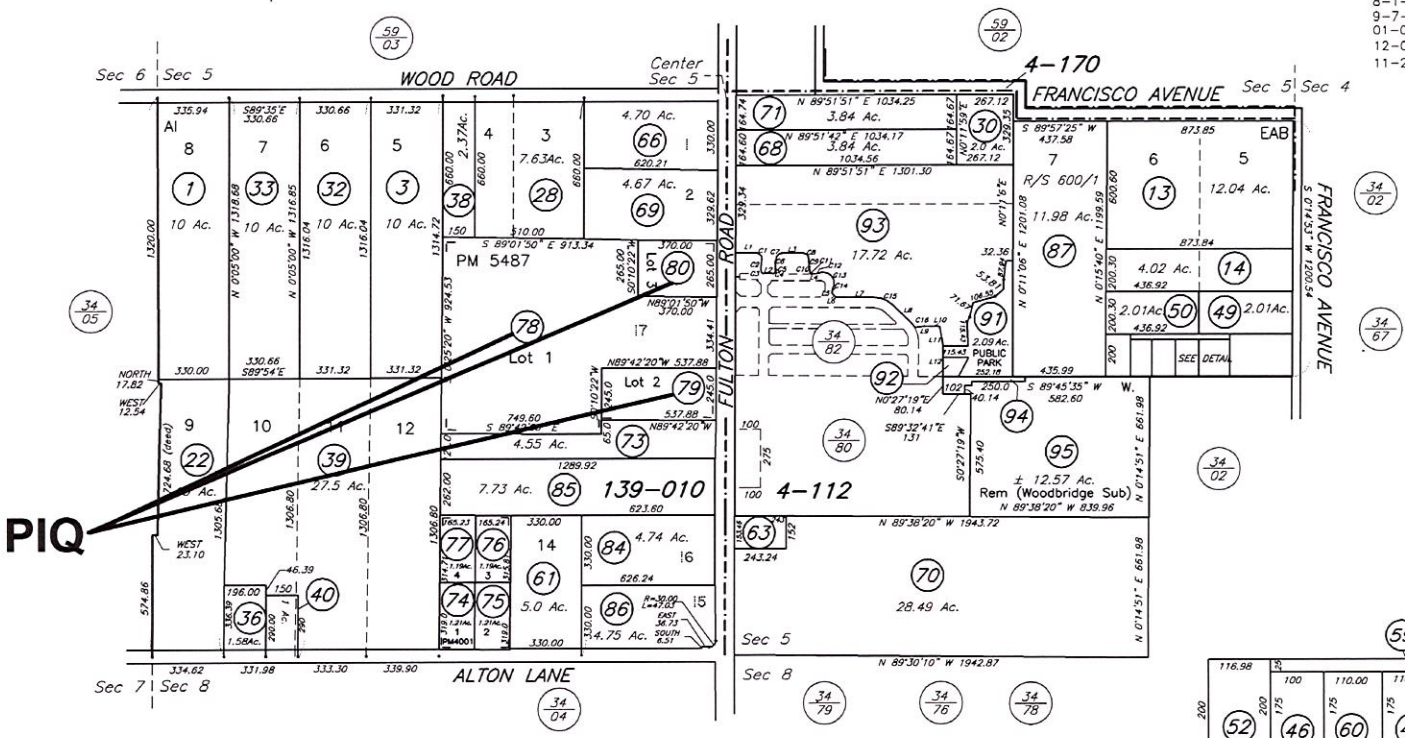
Pcl. Map No. 5487
REC. 08-24-1978 IN BK. 274 , MAPS, PGS. 01-00

TAX RATE AREA
139-010
4-112
4-170

34-03

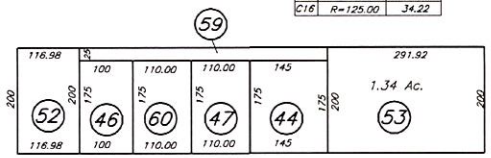
REVISED
8-1-06=90RL
9-7-06=86RL
01-03-07=93 MH
12-05-08=95-KB
11-23-09=Cor-KB

SCALE: 1"= 500'




| LINE TABLE | | |
|---|---|---|
| L1 | N89°32'41"W | 98.12 |
| L2 | N89°32'41"W | 48.47 |
| L3 | N89°32'41"W | 101.00 |
| L4 | N89°32'41"W | 17.57 |
| L5 | N00°27'19"E | 13.96 |
| L6 | N44°32'41"W | 21.97 |
| L7 | N89°32'41"W | 180.90 |
| L8 | N46°29'59"W | 117.09 |
| L9 | S82°23'48"W | 43.08 |
| L10 | S89°32'41"E | 71.77 |
| L11 | N11°03'00"W | 93.89 |
| L12 | N00°27'19"E | 145.00 |

| CURVE TABLE | | |
|---|---|---|
| C1 | R=25.5 | 44.71 |
| C2 | R=199.5 | 57.36 |
| C3 | R=9.5 | 13.93 |
| C4 | R=9.5 | 13.39 |
| C5 | R=49.5 | 15.57 |
| C6 | R=115.50 | 55.75 |
| C7 | R=25.5 | 31.67 |
| C8 | R=25.5 | 39.60 |
| C9 | R=199.5 | 36.39 |
| C10 | R=105.5 | 24.88 |
| C11 | R=9.5 | 15.26 |
| C12 | R=33.0 | 14.43 |
| C13 | R=52.0 | 127.16 |
| C14 | R=33.0 | 14.43 |
| C15 | R=125.0 | 93.91 |
| C16 | R=125.00 | 34.22 |




DETAIL
1"=200'

NOTE: Assessor's parcels do not necessarily constitute legal lots. To verify legal parcel status, check with the appropriate city or county community development or planning division.

**IMPORTANT: This plat is not a survey, it is merely furnished as a convenience to locate the land in relation to adjoining streets and other lands, and not to guarantee dimensions, distances, bearings or acreage.**

*Assessor's Map Bk.034, Pg. 03*
*Sonoma County, Calif.* (ACAD)
KEY 12/20/08 RL

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 53**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Transportation and Public Works

**Staff Name and Phone Number:**
Susan Klassen (707) 565-2231

**Supervisorial District(s):**
Fourth

**Title:** OPAC Consulting Engineers, Inc. First Amendment

**Recommended Actions:**

Approve and authorize Chair to execute the First Amendment to the agreement with OPAC Consulting Engineers, Inc. for the design of the replacement Bridge over the Pena Creek (C01293) increasing the contract amount by $2,526 in an amount not to exceed $517,100 which includes a contingency of $46,780, and extending the term of the agreement to December 31, 2021.

**Executive Summary:**

Due to necessary design changes for public safety and environmental clearance, the Department of Transportation and Public Works (TPW) is requesting Board approval of the First Amendment to the agreement with OPAC Consulting Engineers, Inc. for the design of the replacement Bridge over Pena Creek (C01293) extending the original term by five years to December 31, 2021, and increasing the contract amount by $2,526 to an amount not to exceed $517,100.

**Discussion:**

This project will replace the existing structurally deficient two-lane West Dry Creek Road Bridge (Bridge No. 20C-0407) with a new two-lane bridge designed to meet current design standards including improvements to roadway approaches and appurtenant facilities. The National Environmental Policy Act and California Environmental Quality Act CEQA documents for this project will be prepared by PRMD environmental staff. The replacement bridge will comply with current roadway, drainage and bridge standards, and accommodate the 100-year storm event with freeboard as specified by the County of Sonoma. Roadway improvements will conform to the County General Plan and Public Road Standards for the appropriate road classification including design speed, maximum grade and minimum centerline curve radius. Bridge improvements will conform to the latest Caltrans specifications. Due to the low traffic volume on West Dry Creek Road, pedestrians, bicycles and vehicles will share the travel lanes and shoulders.

In December 2013, the Board approved the original agreement with OPAC Consulting Engineers, Inc. in the amount of $514,574, which included a 10% contingency, with an initial term of three years.

| |
|---|
| Following preliminary design and environmental study, it was determined that multiple design changes were necessary to improve public safety on the new bridge and its approaches, and to meet environmental needs for Pena Creek. This resulted in a significant increase in time to achieve environmental clearance and added approximately 400 additional hours of work for the consultant. The majority of this additional work can be paid for with contingency funds included in the original agreement, however there is an overrun of $2,526. This extended design and environmental phase has caused significant delays to final design and right-of-way acquisition, which typically require up to three years to complete, followed by support through the bidding and construction process. Therefore, TPW is requesting a five-year extension of the term to December 2021. Currently, construction is estimated for summer 2020 at an estimated cost of $4M.<br><br>This project is 100% federally funded for preliminary engineering and eligible for 100% funding for right-of-way acquisition and construction. The total cost of the project is estimated to be $5,000,000. If the amendment is not approved, the design of a new bridge will not proceed, and the approximate $395,000 in federal funds spent to date will be at risk of being returned. |
| **Prior Board Actions:** |
| 11/5/2013: Board approved agreement with OPAC Consulting Engineers, Inc. for the design of the replacement Bridge over the Pena Creek. |
| **Strategic Plan Alignment** Goal 3: Invest in the Future |
| The project invests in the future by replacing aging infrastructure. |

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | $45,000 | $40,000 | $20,000 |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **$45,000** | **$40,000** | **$20,000** |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | $45,000 | $40,000 | $20,000 |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$45,000** | **$40,000** | **$20,000** |

**Narrative Explanation of Fiscal Impacts:**

Appropriations are included in the FY 2016-17 Roads Capital Improvements budget for this agreement. Estimated remaining balance of agreement is $122,000. Estimated FY breakdown is detailed above with small amount remaining for bidding and construction support.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

First Amendment

**Related Items "On File" with the Clerk of the Board:**

Original Agreement

# FIRST AMENDMENT TO
# AGREEMENT FOR PROFESSIONAL SERVICES

This amendment ("Agreement"), effective as of _____, 20__ ("Effective Date") is to that certain agreement by and between the County of Sonoma, a political subdivision of the State of California (hereinafter "County"), and OPAC Consulting Engineers, Inc. (hereinafter "Consultant"), dated as of December 3, 2013 (the "Original Agreement," and as supplemented and amended by this First Amendment the "Agreement").

## R E C I T A L S

WHEREAS, County and Consultant previously entered into the Original Agreement to provide for design of a replacement bridge for West Dry Creek Road over Pena Creek (C01293);

WHEREAS County and Consultant desire to amend the Original Agreement in order to extend the term and to provide additional services;

WHEREAS, in the judgment of the Board of Supervisors of the County of Sonoma, it is necessary and desirable to amend the Original Agreement as set forth above;

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

## A G R E E M E N T

1. Paragraph 1.1 Consultant's Specified Services, shall be amended to read as follows:

   1.1 Consultant's specified services. Consultant shall perform services as described in Exhibit A and E attached hereto and incorporated herein by this reference (hereinafter "Scope of Work") under the direction of the County, at its sole discretion. In the event of a conflict between the body of this Agreement and Exhibit A and E, the provisions in the body of this Agreement shall control. Without limiting the foregoing, Consultant expressly agrees to comply with all Disadvantaged Business Enterprise ("DBE") requirements imposed on this Agreement as more specifically described in Section 13.4, below, and Attachment D hereto.

2. Paragraph 2 Payment, shall be amended to read as follows:

   2. Payment. For all services and incidental costs required hereunder, Consultant shall be paid on a time and material/expense basis in accordance with the budget set forth in Exhibit A and E, provided, however, that total payments to Consultant shall not exceed $470,320, without the prior written approval of County. Consultant shall submit its bills in arrears on a monthly basis in a form approved by County's Auditor and the Head of the County Department receiving the services. The bills shall show or include: (i) the task(s) performed; (ii) the time in quarter hours devoted to the task(s); (iii) the hourly rate or rates of the persons performing the task(s); and (iv) copies of receipts for reimbursable materials/expenses, if any. Expenses not expressly authorized

by the Agreement shall not be reimbursed. Consultant must submit required DBE Subcontractor Payment Declaration with every invoice. All amounts paid to the Consultant shall be subject to audit by the County.

Contingency: A contingency of up to $46,780 will be paid for authorized services as deemed necessary for services not included in Exhibit A. Work shall not commence on any contingency services until written authorization is received from the County. Any contingency work done without written authorization may not be reimbursable.

Unless otherwise noted in this agreement, payments shall be made within the normal course of county business after presentation of an invoice in a form approved by the County for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by the County.

Pursuant to California Revenue and Taxation code (R&TC) Section 18662, the County shall withhold seven percent of the income paid to Consultant for services performed within the State of California under this agreement, for payment and reporting to the California Franchise Tax Board, if Consultant does not qualify as: (1) a corporation with its principal place of business in California, (2) an LLC or Partnership with a permanent place of business in California, (3) a corporation/LLC or Partnership qualified to do business in California by the Secretary of State, or (4) an individual with a permanent residence in the State of California.

If Consultant does not qualify, County requires that a completed and signed Form 587 be provided by the Consultant in order for payments to be made. If consultant is qualified, then the County requires a completed Form 590. Forms 587 and 590 remain valid for the duration of the Agreement provided there is no material change in facts. By signing either form, the contractor agrees to promptly notify the County of any changes in the facts. Forms should be sent to the County pursuant to Article 12. To reduce the amount withheld, Consultant has the option to provide County with either a full or partial waiver from the State of California.

3. Paragraph 3 Term of Agreement, shall be amended to read as follows:

3. Term of Agreement. The term of this Agreement shall be from Effective Date to December 31, 2021 unless terminated earlier in accordance with the provisions of Article 4 of the Original Agreement. Each project scope of services shall specify its own term, which shall conclude before the termination date of this Agreement.

4. Paragraph 9.7 Statutory Compliance Shall be amended to read as follows:

9.7 Statutory Compliance/Living Wage Ordinance. Consultant agrees to comply with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Consultant expressly acknowledges and agrees that this Agreement is subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered

employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

5. The Agreement shall be amended to add Exhibit E (West Dry Creek Road over Pena Creek Bridge Request for Additional Compensation)

6. Except to the extent the Agreement is specifically amended or supplemented hereby, the Agreement, together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be construed to modify, invalidate or otherwise affect any provision of the Agreement or any right of County arising thereunder.

7. This Amendment shall be governed by and construed under the internal laws of the state of California, and any action to enforce the terms of this Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CONSULTANT: _____

_____

By: _____

Name: _____

Title: _____

Date: _____

COUNTY: COUNTY OF SONOMA

CERTIFICATES OF INSURANCE ON FILE WITH AND APPROVED AS TO SUBSTANCE FOR COUNTY:

By:_____
Department Head

Date: _____

APPROVED AS TO FORM FOR COUNTY:

By:
_____
County Counsel

Date: _____

By: _____
Chair
Board of Supervisors

Date: _____

ATTEST:
_____
Clerk of the Board of Supervisors

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 54**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Transportation and Public Works

**Staff Name and Phone Number:**
Susan Klassen, 707-565-2231

**Supervisorial District(s):**
Second

**Title:** Environmental Mitigation and Monitoring Plan for Adobe at East Washington

**Recommended Actions:**

1. Approve and authorize the Chair to sign agreement with Habitat Restoration Services Inc. to provide design, installation and watering services for Environmental Mitigation and Monitoring Plan as required by the Adobe at East Washington Signalization project (C02279), in a not-to-exceed amount of $257,000, with a term ending December 31, 2021.
2. Authorize the Director of Transportation and Public Works to execute the Landowner Mitigation Agreement for implementation of mitigation project at Sears Point with Sonoma Land Trust, with a term ending December 31, 2021.

**Executive Summary:**

The Adobe at East Washington Signalization project is a federally funded safety improvement project located east of Petaluma which includes signalization and roadway widening. The roadway widening includes culvert work within the banks of Adobe Creek requiring permits from multiple regulatory agencies. As part of the permitting process, an Environmental Mitigation and Monitoring Plan is required to help offset the potential environmental impacts of the project. For this project, an off-site location for the mitigation efforts is required due to constraints of project site. The Landowner Mitigation Agreement with Sonoma Land Trust is mutually beneficial to both parties, by allowing TPW to install required environmental mitigation, which simultaneously improves Sonoma Land Trust's land at the Sears Point site. A License Agreement allowing TPW to use Sonoma Land Trust's land is included in the Landowner Mitigation Agreement, and TPW will be reimbursing Sonoma Land Trust's staff review time.

**Discussion:**

The Environmental Mitigation and Monitoring Plan (EMMP) for the Adobe at East Washington Signalization Project (Project) requires creek restoration work to include planting of 138 trees, 59 of which are specified to be native oaks. It also includes 1200 feet of wildlife-friendly fencing to keep out

nearby livestock to help ensure viability of the plantings. The proposed agreement with Habitat Restoration Services, Inc. includes the design, installation and specifications for planting and irrigation, fencing, monitoring plant survival, and maintenance and watering for a five year period. This is considered specialty work and current staff is unable to provide these services. The work will be directed by written task order and overseen by an applicable project manager within Transportation and Public Works (TPW) who will also provide close coordination with Sonoma Land Trust (SLT).

The mitigation work required by the EMMP was not possible within the Project limits, so off-site creek restoration was the next best option. Staff at the Permit and Resource Management Department (PRMD), in conjunction with SLT, were able to find an appropriate location at Sears Point Ranch located north of State Route 37 between State Route 121 and Lakeville Hwy. The Sears Point Ranch site, owned by SLT, contains areas that can benefit from creek restoration, and SLT is a willing partner for this project. Authority for the Director of TPW to execute the required Landowner Mitigation Agreement between the County and SLT is requested as part of this Board Item, this agreement allows TPW use of the land for the mitigation project while protecting interests of SLT.

In February 2016, TPW advertised a Request for Proposal (RFP) in a newspaper of general circulation, and on April 14, 2016, received 3 proposals from qualified consultants. The proposals were reviewed and ranked by TPW and PRMD staff based on the following criteria: understanding the work to be done, experience and expertise of staff, quality of work verified by reference or prior experience, ability to complete the work in specified time, experience with similar kinds of work, and quality and completeness of the proposal. On May 31, 2016, TPW met with the firm that ranked number one, Habitat Restoration Services, Inc. to discuss the work and begin financial negotiations. This firm ranked highest due to their knowledge and experience with similar projects. Further, on June 10, 2016, TPW staff met at the Sears Point site, with both the consultant, and the landowner, Sonoma Land Trust and have successfully negotiated the terms of both agreements.

Estimated baseline costs of the agreement are $177,000, but an additional $80,000 is identified for as-needed work, including $50,000 for additional hand delivered irrigation (weather/system dependent), $5,000 for fence maintenance, and a $25,000 contingency. The Landowner Mitigation Agreement with SLT includes reimbursement for staff review time, estimated not-to-exceed$30,000.00. The Project is funded by a $900,000 Highway Safety Improvement Program (HSIP) grant, state Proposition 1B funds and Countywide Traffic Mitigation funds.

**Prior Board Actions:**

Item #18, 4/26/16: Award construction contract to low bidder, O.C. Jones & Sons, Inc. for $1,692,596.20.

| **Strategic Plan Alignment** | Goal 1: Safe, Healthy, and Caring Community |
|---|---|

This Environmental Mitigation and Monitoring Plan will allow the construction of a signal and roadway widening project that will enhance the safety of the traveling public.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | $93,000 | $33,500 | $33,500 |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **$93,000** | **$33,500** | **$33,500** |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | $93,000 | $33,500 | $33,500 |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$93,000** | **$33,500** | **$33,500** |

**Narrative Explanation of Fiscal Impacts:**

There are appropriations available in the FY 2016-17 Roads Capital Improvement budget. Estimated first year cost for mitigation agreement is$83,000; with annual costs in years 2-3 estimated at $28,500 depending on weather. Years 4 and 5 estimated at $18,500 each. SLT staff expenses are also included in estimates above with $10,000 estimated in first year and $5,000 for years 2-5. The mitigation expenses and cost of SLT staff will be funded with County-Wide Traffic Mitigation fees.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Sonoma Land Trust Resolution

**Related Items "On File" with the Clerk of the Board:**

Agreement with Habitat Restoration Services, Inc. and Land Mitigation Agreement with Sonoma Land Trust.

SONOMA LAND TRUST

822 Fifth Street
Santa Rosa, California 95404
(707) 526-6930
www.sonomalandtrust.org

Board Resolution #06-27-2016B

# RESOLUTION OF THE BOARD OF DIRECTORS OF SONOMA LAND TRUST AUTHORIZING EXECUTIVE DIRECTOR TO ENTER INTO AGREEMENT WITH COUNTY OF SONOMA FOR MITIGATION AT SEARS POINT

WHEREAS, Sonoma Land Trust (SLT) has been active in protecting, restoring, and providing access to open space, recreation, and natural resource land in Sonoma County; and,

WHEREAS, SLT holds fee title to the 1142-acre Sears Point Ranch and completed the *Sears Point Wetlands and Watershed Restoration Final Preliminary Plan* (Plan) which identifies priority areas of the ranch for riparian restoration; and,

WHEREAS, the Sonoma County Department of Transportation and Public Works (County) seeks an area to implement a riparian restoration project in fulfillment of mitigation requirements that stem from a public works road widening project; and,

WHEREAS, County's mitigation proposal is consistent with SLT's Mitigation Guidelines which were approved by SLT Board of Directors in 2006; and,

WHEREAS, the County will hire a consultant to implement and monitor the restoration project in the location of SLT's choosing; and,

WHEREAS, SLT will bear no responsibility for the success or failure of the project but will serve as an advisor and have authority to approve or reject the restoration design; and,

WHEREAS, County will pay SLT for all staff time and other costs incurred while working on the project; and,

WHEREAS, the State Coastal Conservancy, a primary funder of the Sears Point Ranch acquisition, approves of the mitigation project.

NOW THEREFORE, BE IT RESOLVED,
That the Board of Directors of the Sonoma Land Trust hereby authorizes the Executive Director to enter into an agreement with the Sonoma County Department of Transportation and Public Works for implementation of a mitigation project at Sears Point.

* * * * * *

I certify that the foregoing resolution was adopted by the Board of Directors of Sonoma Land Trust at a duly noticed special meeting on June 27, 2016.

By: R Brent
Robert Brent, Secretary

Date: 6/27/16

Vote: 14 Yes 0 No 0 Abstain

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 55**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Transportation and Public Works

**Staff Name and Phone Number:**
Susan Klassen (707) 565-2231

**Supervisorial District(s):**
Fourth

**Title:** First Amendment to Agreement with TRC Engineers

**Recommended Actions:**

Approve and authorize Chair to execute the First Amendment to the agreement with TRC Engineers for engineering design services for the Geysers Road Bridge over Frasier Creek, extending the term of agreement to December 31, 2021 with no change in not-to-exceed amount of $559,261.

**Executive Summary:**

Due to significant delays related to required environmental clearance, and to appropriately extend the agreement term through the completion date of construction, the Department of Transportation and Public Works (TPW) is requesting Board approval of the First Amendment to the agreement with TRC Engineers for engineering design services related to replacement of Geysers Road Bridge over Frasier Creek (C11005) extending the original term of the agreement by five years to December 31, 2021 at no additional cost.

**Discussion:**

The existing one lane bridge on Geysers Road over Frasier Creek (20-C0227) has been deemed structurally deficient and will be replaced with a new two lane bridge designed to meet current standards. The project will include improvements to the roadway approaches and appurtenant facilities.

The replacement bridge will comply with current roadway, drainage and bridge standards and accommodate the 100-year storm event with freeboard as specified by the County of Sonoma. The project does not increase vehicular traffic capacity, but will provide two traffic lanes with shoulders. Due to the low traffic volume on Geysers Road, pedestrians, bicycles and vehicles will share the travel lanes and shoulders.

In October 2014, after a competitive solicitation process, the Board approved the original agreement with TRC Engineers in the amount of $559,261 with an initial term of two years. At that time TPW was optimistic the project could be brought forward in an accelerated manner, however, environmental clearance has taken significantly longer than originally planned for. Additionally, it has been determined

that further archeological study may be necessary to meet federal requirements. This additional work falls outside of the original scope of work and pending Caltrans authorization TPW anticipates that there will be a second amendment to this agreement forthcoming that will modify the scope of work as necessary. The extended environmental clearance period will cause delays to preparation of final plans and right-of-way acquisition which typically require up to three years to complete, followed by support through the bidding and construction process. Therefore, TPW is requesting a five year extension of the term to December 2021, which will allow some flexibility should other issues arise in later phases of the design process, and will extend the agreement through the completion date of construction and project closeout. Currently, construction is estimated for summer of 2020 at an estimated cost of $4.5M.

This project is 100% federally funded and must satisfy all requirements under the Federal Highway Bridge Program criteria, including approval by Caltrans. Under the original scope of services, extensive preliminary engineering, field investigation, and structural design services have already been provided. Under this extended agreement, this work will continue as well as preparation of final plans, specifications and estimates, and design support during the construction process. The environmental documents for this project are being prepared by County Permit and Resource Management Department (PRMD) staff. If the amendment is not approved, the design of a new bridge will not proceed, and the approximate $300K in federal funds spent to date will be at risk of being returned.

| **Prior Board Actions:** | |
|---|---|
| 10/7/14: Board approved agreement with TRC Engineers for engineering design work for Geysers Road Bridge over Frasier Creek. | |
| **Strategic Plan Alignment** | Goal 3: Invest in the Future |
| The project invests in the future by replacing aging public infrastructure. | |

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | $100,000 | 100,000 | 111,769 |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | **$100,000** | **$100,000** | **$111,769** |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | $100,000 | $100,000 | $111,769 |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$100,000** | **$100,000** | **$111,769** |

**Narrative Explanation of Fiscal Impacts:**

Appropriations for this agreement are included in the FY 2016-17 Road Division Capital Improvement budget. It is estimated that approximately $100,000 will be used this year. Appropriations for future years will be requested during budget preparation.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

First Amendment

**Related Items "On File" with the Clerk of the Board:**

Original Agreement

**FIRST AMENDMENT**
**TO**
**PROFESSIONAL SERVICES AGREEMENT**

This First Amendment ("Amendment"), dated as of _____, 2016 (“Amendment Effective Date”), is to that certain Agreement for Professional Services by and between the County of Sonoma, a political subdivision of the State of California ("County"), and TRC Engineers, Inc. a California Corporation (“Consultant”), dated as of October 7, 2014 (“Original Agreement,” and as supplemented and amended by this First Amendment, the “Agreement”).

R E C I T A L S

WHEREAS, County and Consultant entered into that certain Original Agreement, dated October 7, 2014, for the engineering design services related to the replacement of Geysers Road Bridge over Frasier Creek; and

WHEREAS, County and Consultant desire to amend the Original Agreement in order to extend the term.

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

A G R E E M E N T

As of the Amendment Effective Date, the Original Agreement shall be deemed to be amended in the following manner:

1. Section 3 of the Original Agreement entitled “Term of Agreement”, is hereby deleted in its entirety and replaced with the following language:

   The term of this Agreement shall be from Effective Date to December 31, 2021 unless terminated earlier in accordance with the provisions of Article 4 of the Original Agreement.

2. Paragraph 9.7 Statutory Compliance Shall be amended to read as follows:

   9.7 Statutory Compliance/Living Wage Ordinance. Consultant agrees to comply with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Consultant expressly acknowledges and agrees that this Agreement is subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

Except to the extent the Original Agreement is specifically amended or supplemented hereby, the Original Agreement, together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be construed to modify, invalidate or otherwise affect any provision of the Original Agreement or any right of County arising thereunder.

COUNTY AND CONSULTANT HAVE CAREFULLY READ AND REVIEWED THIS FIRST AMENDMENT AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS FIRST AMENDMENT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.

SIGNATURES FOLLOW ON NEXT PAGE

THIS SPACE LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the Effective Date.

CONSULTANT: _____

_____

By: _____

Name: _____

Title: _____

Date: _____

COUNTY: COUNTY OF SONOMA

CERTIFICATES OF INSURANCE ON FILE WITH AND APPROVED AS TO SUBSTANCE FOR COUNTY:

By:_____
Department Head

Date: _____

APPROVED AS TO FORM FOR COUNTY:

By:
_____
County Counsel

Date: _____

By: _____
Chair
Board of Supervisors

Date: _____

ATTEST:

_____
Clerk of the Board of Supervisors

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 56**
(This Section for use by Clerk of the Board Only.)

| | |
|---|---|
| **To:** | Board of Supervisors |
| **Board Agenda Date:** | December 13, 2016 |
| **Vote Requirement:** | Majority |
| **Department or Agency Name(s):** | Board of Supervisors |
| **Staff Name and Phone Number:** | Supervisor David Rabbitt 565-2241 |
| **Supervisorial District(s):** | Second |
| **Title:** | Reappointment |

**Recommended Actions:**

Approve the re-appointment of Brian Sobel to serve as a public member-at-large of the Golden Gate Bridge, Highway and Transportation District Board of Directors serving a two-year term beginning on January 1, 2017 and ending on January 1, 2019.

**Executive Summary:**

**Discussion:**

**Prior Board Actions:**

**Strategic Plan Alignment** Goal 4: Civic Services and Engagement

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

**Related Items "On File" with the Clerk of the Board:**

| | |
|---|---|
| # County of Sonoma Agenda Item Summary Report<br><br>Clerk of the Board<br>575 Administration Drive<br>Santa Rosa, CA 95403 | **Agenda Item Number: 57**<br>(This Section for use by Clerk of the Board Only.) |
| **To:** Board of Supervisors | |
| **Board Agenda Date:** December 13, 2016 | **Vote Requirement:** Majority |
| **Department or Agency Name(s):** Board of Supervisors | |
| **Staff Name and Phone Number:**<br>Supervisor David Rabbitt 565-2241 | **Supervisorial District(s):**<br>Second District |
| **Title:** Re-appointment | |
| **Recommended Actions:** | |
| Approve the re-appointment of Fran Adams to the Sonoma County Mental Health Board for a three-year term beginning December 31st, 2016 and ending on December 31st, 2019. (Second District) | |
| **Executive Summary:** | |
| | |
| **Discussion:** | |
| | |
| **Prior Board Actions:** | |
| Fran Adams has served on the Sonoma County Mental Health Board for the past three years. | |
| **Strategic Plan Alignment** Goal 4: Civic Services and Engagement | |
| | |

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

None.

**Related Items "On File" with the Clerk of the Board:**

None.

| | |
|---|---|
| # County of Sonoma Agenda Item Summary Report<br><br>Clerk of the Board<br>575 Administration Drive<br>Santa Rosa, CA 95403 | **Agenda Item Number: 58**<br>(This Section for use by Clerk of the Board Only.) |
| **To:** | |
| **Board Agenda Date:** December 13, 2016 | **Vote Requirement:** Majority |
| **Department or Agency Name(s):** | |
| **Staff Name and Phone Number:**<br><br>Supervisor Shirlee Zane<br>(707) 565-2241 | **Supervisorial District(s):**<br><br>Third District |
| **Title:** Appointment | |
| **Recommended Actions:** | |
| Approve appointment of Carol S. McHale to the Commission on Human Rights, representing the Third District, for a term of two years, beginning December 13, 2016 and ending December 13, 2018. (Third District) | |
| **Executive Summary:** | |
| Approve appointment of Carol S. McHale to the Commission on Human Rights, representing the Third District, for a term of two years, beginning December 13, 2016 and ending December 13, 2018. (Third District) | |
| **Discussion:** | |
| | |
| **Prior Board Actions:** | |
| | |
| **Strategic Plan Alignment** Goal 4: Civic Services and Engagement | |
| | |

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

**Related Items "On File" with the Clerk of the Board:**

| | |
|---|---|
| # County of Sonoma Agenda Item Summary Report<br><br>Clerk of the Board<br>575 Administration Drive<br>Santa Rosa, CA 95403 | **Agenda Item Number: 59**<br>(This Section for use by Clerk of the Board Only.) |
| **To:** Board of Supervisors | |
| **Board Agenda Date:** December 13, 2016 | **Vote Requirement:** Majority |
| **Department or Agency Name(s):** Board of Supervisors | |
| **Staff Name and Phone Number:**<br>Supervisor Efren Carrillo 565-2241 | **Supervisorial District(s):**<br>Fifth District |
| **Title:** Re-appointment | |
| **Recommended Actions:** | |
| Approve the re-appointment of Paul Kelley to the North Coast Railroad Authority Board for a two year term, retroactive from April 16th, 2016 and expiring on April 15th, 2018. (Fifth District) | |
| **Executive Summary:** | |
| | |
| **Discussion:** | |
| | |
| **Prior Board Actions:** | |
| Previously appointed to the North Coast Railroad Authority Board in 2014. | |
| **Strategic Plan Alignment** Goal 4: Civic Services and Engagement | |
| | |

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

None.

**Related Items "On File" with the Clerk of the Board:**

None.

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 60**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors of Sonoma County

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Department of Health Services

**Staff Name and Phone Number:**
Barbie Robinson, 565-7876

**Supervisorial District(s):**
Countywide

**Title:** Maternal, Child and Adolescent Health Advisory Board Appointments and Reappointments

**Recommended Actions:**

Appoint Rachel Napoli, Rebecca Timme, Maria Avina and Katie Luciani to the Sonoma County Maternal, Child and Adolescent Health Advisory Board for a term beginning January 1, 2017 and ending December 31, 2018.

Reappoint Karla Fittipaldi, Jeff Miller, Casey McChesney, Annie Nicol, Ed Sheffield, Amanda Silva, and Marta Tilling to the Sonoma County Maternal, Child and Adolescent Health Advisory Board for a term beginning January 1, 2017 and ending December 31, 2018.

Reappoint Gina Cuclis to the Sonoma County Maternal, Child and Adolescent Health Advisory Board to complete her current term, ending December 31, 2017, as an Elected Officials representative.

**Executive Summary:**

The Sonoma County Maternal, Child and Adolescent Health (MCAH) Program promotes the physical, social, and emotional health of childbearing women, children, adolescents, and their families in Sonoma County. The Program's Advisory Board, created in 1982 as required by state legislation, acts in an advisory capacity to the Board of Supervisors through the Department of Health Services. This item requests the appointment and reappointment of several proposed and current MCAH Advisory Board members.

**Discussion:**

**New Appointments to the Sonoma County Maternal, Child and Adolescent Health Advisory Board**

The Sonoma County MCAH Advisory Board bylaws specify that members will be appointed by the Board of Supervisors. When vacancies on the MCAH Advisory Board occur, the openings are posted on the County website in accordance with the Maddy Act and replacements are recruited from the community. Following procedures outlined in the bylaws, all applications are reviewed by the MCAH Advisory Board Chairperson and Vice-Chairperson, who make recommendations to the Department of Health Services. The Department of Health Services requests that the Board appoint the following new members to the

Sonoma County MCAH Advisory Board for a term beginning January 1, 2017 and ending December 31, 2018.

Rachel Napoli – Holds a Doctor of Nursing Practice degree and is an Assistant Professor of Nursing at Sonoma State University. She is currently working on completing the International Board Certified Lactation Consultant (IBCLC) certificate. Rachel completed her doctoral research on breastfeeding and skin-to-skin in order to help hospitals implement the baby friendly initiative within their facilities to bring more breastfeeding to Sonoma County. She will serve as School Health Personnel – Nurse.

Rebecca Timme – Holds a Doctor of Osteopathy degree and is a Pediatrician and Child and Adolescent Psychiatrist. She currently works as a Psychiatrist at the Petaluma Health Center. Rebecca has expertise in child development as well as adult psychology and its impact on child development. She brings a clinical perspective as well as an interest and commitment to early child mental health. Rebecca will serve as Health Professional – Health Specialist.

Maria Avina – Holds a Master of Arts in Counseling and is currently working as a School Counselor in the Roseland School District. She has been a mentor for the Puente Program for many years and has directly worked with Maternal, Child and Adolescent Health's Teen Parent Connections program as a Social Worker. Maria is interested in improving access to health care services and mental health resources to vulnerable MCAH populations. She will serve as Community Representative – Parenting.

Katie Luciani - Holds a Master of Science in Psychology and currently works at Child Parent Institute with families in the Child Welfare System who are working towards reunification with their children. She has experience working with individuals who are survivors of trauma and youth in foster care. Among other things, Katie is interested in promoting health services for more vulnerable populations, such as the homeless population. She will serve as Health Professional – Behavioral Health.

| **New Appointments Summary** | | |
|---|---|---|
| Name | Representation Category | Representation Sub-Category |
| Rachel Napoli | School Health Personnel | Nurse |
| Rebecca Timme | Health Professional | Health Specialist |
| Maria Avina | Community Representative | Parenting |
| Katie Luciani | Health Professional | Behavioral Health |

**Reappointments to the Sonoma County Maternal, Child and Adolescent Health Advisory Board**

The Sonoma County MCAH Advisory Board bylaws specify that at the end of a member's term, members in good standing will be invited to remain on the Advisory Board and, upon their consent, reappointment will be recommended to the Board of Supervisors. The Department of Health Services requests that the Board reappoint the following members to the Sonoma County MCAH Advisory Board for a term beginning January 1, 2017 and ending December 31, 2018.

| **Reappointments Summary** | | |
|---|---|---|
| Name | Representation Category | Representation Sub-Category |
| Karla Fittipaldi | Consumer/Parent/Advocate | N/A |
| Jeff Miller[1] | Health Professional | Physical Health |
| Casey McChesney | School Health Personnel | Youth/Adolescent Health Educator |
| Annie Nicol | Community Representative | Homeless/Hunger/Poverty |
| Ed Sheffield | Elected Officials | N/A |
| Amanda Silva | Community Representatives | Safety and Prevention of Violence |
| Marta Tilling | Community Representatives | Child Health |
| Gina Cuclis[2] | Elected Officials | N/A |

Note 1: Dr. Jeff Miller currently represents the Health Professional – Health Specialist position on the MCAH Advisory Board but will represent the Health Professional – Physical Health position during his next term if reappointed. Dr. Miller is a retired pediatrician and has been an active MCAH Advisory Board member for many years.

Note 2: Gina Cuclis currently serves on the MCAH Advisory Board as a Consumer/Parent/Advocate representative, with a term ending on December 31, 2017. This item requests reappointment of Gina to the Elected Officials position for the remainder of her current term. Gina Cuclis is an elected member of the Sonoma County Board of Education and has been an active MCAH Advisory Board member for many years.

With Board approval, all newly appointed and reappointed members will be sworn in at the next MCAH Advisory Board meeting on January 5, 2017.

The MCAH Program interacts with community systems as a partner in providing direct safety net services to high risk MCAH populations, as a coordinator of community-wide services and programs, and as a convener of the MCAH Advisory Board and other collaborative groups to address emerging health needs in the community. The MCAH Advisory Board has been an important vehicle for implementing prevention strategies and coordinating services that benefit the entire community. Partnering with local organizations and individuals is critical to reducing disparities and improving the overall health of women, children, and adolescents in Sonoma County.

**Prior Board Actions:**

Most recently, on August 9, 2016 the Board approved appointment/reappointments to the Sonoma County Maternal, Child and Adolescent Health Advisory Board.

| **Strategic Plan Alignment** | Goal 1: Safe, Healthy, and Caring Community |
|---|---|
| Supporting the Sonoma County MCAH Program aids in promoting the physical, social, and emotional health of childbearing women, children, adolescents and their families in Sonoma County. | |

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

There are no fiscal impacts associated with this item.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

None

**Related Items "On File" with the Clerk of the Board:**

None

| | |
|---|---|
| # County of Sonoma Agenda Item Summary Report<br><br>Clerk of the Board<br>575 Administration Drive<br>Santa Rosa, CA 95403 | **Agenda Item Number: 61**<br>(This Section for use by Clerk of the Board Only.) |
| **To:** | |
| **Board Agenda Date:** December 13, 2016 | **Vote Requirement:** No Vote Required |
| **Department or Agency Name(s):** Board of Supervisors | |
| **Staff Name and Phone Number:**<br>Susan Gorin / 565-2241 | **Supervisorial District(s):**<br>First |
| **Title:** Gold Resolution | |
| **Recommended Actions:** | |
| Adopt a Resolution Of The Board Of Supervisors Of The County Of Sonoma Celebrating and Honoring the 40th Anniversary of the Sonoma Land Trust | |
| **Executive Summary:** | |
| Gold Resolution for Sonoma Land Trust's 40th Anniversary | |
| **Discussion:** | |
| | |
| **Prior Board Actions:** | |
| | |
| **Strategic Plan Alignment** Not Applicable | |
| | |

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

**Related Items "On File" with the Clerk of the Board:**

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution of the Board of Supervisors of the County of Sonoma, State of California, Celebrating Sonoma Land Trust's 40th Anniversary**

**WHEREAS,** Sonoma Land Trust, founded by local visionaries in the Sonoma Valley in 1976, is an accredited land trust that is respected nationally, regionally and locally for its land conservation and stewardship, for its ability to marshal millions of dollars in public and private funding to protect land, for its commitment to connecting people with nature, and for its dedication to being a good partner and civic leader. Since 1976, Sonoma Land Trust has protected nearly 50,000 acres of natural, agricultural, open and wild land around Sonoma County for future generations; and

**WHEREAS,** Sonoma Land Trust identified the Sonoma Baylands region at the top of San Pablo Bay as a target area in the 1980s and, over the next several decades, expanded protected lands in the area to 6,000 acres and restored more than 1,300 acres to tidal marsh for habitat and storm surge protection for climate change adaptation; and

**WHEREAS,** Sonoma Land Trust recognized the Laguna de Santa Rosa as an area of special significance in the 1980s, and worked with the California Department of Water Resources and Department of Fish & Game (now Fish & Wildlife) to negotiate the protection of 535 acres as part of the Geysers geothermal development; and

**WHEREAS,** Sonoma Land Trust actively supported the creation and funding of the Sonoma County Agricultural Preservation and Open Space District in 1990, and its successful reauthorization in 2006, collaborating via the public/private partnership model that has enabled the protection of thousands more acres of open space than would be possible without both entities; and

**WHEREAS**, Sonoma Land Trust has emphasized the importance of sustainable food production through land protection since the 1990s, and is a respected member of the local agricultural community through its grazing and crop land leases; and

**WHEREAS**, Sonoma Land Trust focuses its acquisition efforts on linking large landscapes to each other for maximum connectivity, wildlife passage, natural systems protection and public recreation opportunities, such as was achieved by uniting Little Black Mountain Preserve's 500 acres to the Jenner Headlands' 5,630 acres via Pole Mountain's 238 acres; and

**WHEREAS,** Sonoma Land Trust is working diligently to protect the critical wildlife corridor that runs from Napa and Lake Counties down through Sonoma County to the Marin Coast, and has focused considerable efforts on keeping open the narrow "pinchpoint" in the Sonoma Valley between the Mayacamas and Sonoma Mountain; and

**WHEREAS,** Sonoma Land Trust has acquired numerous properties that it has ultimately conveyed to organizations that provide public access, such as Red Hill Ranch to California State Parks; Sears Point and Haire Ranches to the U.S. Fish and Wildlife Service; Jenner Headlands and Estero Ranch to The Wildlands Conservancy; Tolay Creek Ranch to Sonoma County Regional Parks, and more, with the end goal being making more land available for public

recreation and enjoyment for present and future generations, as well as habitat and natural resource protection; and Sonoma Land Trust also makes its own fee lands available for recreation through its innovative On the Land program; and

**WHEREAS,** Sonoma Land Trust practices exemplary stewardship, that has included changing the map of San Francisco Bay by restoring 1,000 acres of diked baylands to wetlands, repairing the riparian areas of Tolay Creek Ranch, restoring forestland along Sonoma's North Coast, removing barriers to steelhead migration on Stuart Creek, building trails at Glen Oaks Ranch and Little Black Mountain Preserve, making our properties available for scientific research, and much more; and

**WHEREAS,** Sonoma Land Trust is a sought-after partner in land protection, working companionably with related entities to reach conservation goals for the region, and also an important community convener, having co-founded the Sonoma Developmental Center Coalition and also the Sonoma County Parks Alliance, which has ensured that Sonoma County's five state parks have remained open despite the State Parks ongoing funding crisis; and

**NOW, THEREFORE, BE IT RESOLVED, Board of Supervisors of the County of Sonoma is Honored to Celebrate Sonoma Land Trust's 40th Anniversary.**

**Supervisors:**

Gorin: Zane: Gore: Carrillo: Rabbitt:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

.

.

| | |
|---|---|
| # County of Sonoma Agenda Item Summary Report<br><br>Clerk of the Board<br>575 Administration Drive<br>Santa Rosa, CA 95403 | **Agenda Item Number: 62**<br>(This Section for use by Clerk of the Board Only.) |
| **To:** | |
| **Board Agenda Date:** December 13, 2016 | **Vote Requirement:** Majority |
| **Department or Agency Name(s):** | |
| **Staff Name and Phone Number:**<br><br>Supervisor Shirlee Zane<br>(707) 565-2241 | **Supervisorial District(s):**<br><br>Third District |
| **Title:** Gold Resolution | |
| **Recommended Actions:** | |
| Adopt a Gold Resolution Celebrating Dan Condron's retirement from Sonoma State University. | |
| **Executive Summary:** | |
| Adopt a Gold Resolution Celebrating Dan Condron's retirement from Sonoma State University. | |
| **Discussion:** | |
| | |
| **Prior Board Actions:** | |
| | |
| **Strategic Plan Alignment** Goal 2: Economic and Environmental Stewardship | |
| | |

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

**Related Items "On File" with the Clerk of the Board:**

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Celebrating Dan Condron's Well Deserved Retirement.**

**Whereas,** Dan Condron has served as the Vice President of University Affairs for Sonoma State University since 2005; and

**Whereas,** prior to that he spent 33 years working for Hewlett-Packard and Agilent Technologies in Research and Development, Marketing, Manufacturing, Human Resources and Public Affairs; and

**Whereas,** Dan joined HP in Palo Alto after completing his Masters in Electrical Engineering at Stanford University. In 1974 as HP established a facility in Santa Rosa, he and his wife, Janet, decided they wanted to move to Santa Rosa and raise their family here; and

**Whereas,** as Hewlett-Packard's representative in the community, Dan had the opportunity to pursue his goal of being involved in Santa Rosa and continuing to support a quality of life that is important to all of us; and

**Whereas** Dan has served on and chaired the Boards of Santa Rosa City Schools Board of Education, the Wells Fargo Center for the Arts, the Santa Rosa Chamber of Commerce, the Sonoma County Business Education Roundtable and the Boy Scouts of the Redwood Empire; and

**Whereas,** Dan was asked to join the board of the Santa Rosa Chamber in 1985 to start the Leadership Santa Rosa program. He continued his involvement in the Chamber and has chaired Governmental Review Council, Work Force Development, Leadership Santa Rosa, and the Board of Directors; and

**Whereas,** Dan's education includes a Master of Science degree in Electrical Engineering from Stanford University where he received a National Science Foundation Fellowship. He also received a Bachelor of Science degree in Electrical Engineering from Stanford University

where he graduated Phi Beta Kappa, Tau Beta Pi and received the Terman Engineering Award; and

**Whereas,** at Sonoma State University Dan was involved in the area of education and served at the Sonoma County level as the chair of Cradle To Career which allowed him to facilitate much needed communication and coordination at all levels of education within the county.

**NOW THEREFORE BE IT RESOLVED** that the Sonoma County Board of Supervisors hereby wishes to congratulate Dan Condron for his many years of community service and his much deserved retirement from Sonoma State University.

**Supervisors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 63**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Directors, Sonoma County Water Agency

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Sonoma County Water Agency

**Staff Name and Phone Number:**
Dale Roberts 707-547-1979

**Supervisorial District(s):**
Fourth

**Title:** Floating Solar Power Purchase Agreement

**Recommended Actions:**

Authorize the Water Agency's General Manager to execute a Power Purchase Agreement with Pristine Sun Corporation for a floating solar system at Airport-Larkfield-Wikiup Sanitation Zone's Oceanview Reservoir.

**Executive Summary:**

The Sonoma County Water Agency's (Water Agency) Energy Policy directs the Water Agency to reduce its greenhouse gas production and seek to develop more reliable sources of electricity for the region. In alignment with these goals, the Water Agency has engaged Pristine Sun to develop floating solar photovoltaic systems on seven of its recycled water ponds. Six of these systems were approved under previous agreements and are currently under development, with power generated to be sold to Sonoma Clean Power. A lease has also been approved for the seventh pond, Oceanview Reservoir. Unlike the other ponds, the Water Agency has determined that it would be advantageous to purchase power from this array.

This agenda item recommends authorization for the Sonoma County Water Agency's General Manager to execute the Power Purchase Agreement (PPA) for the Oceanview Reservoir Floating Solar Project with solar photovoltaic developer Pristine Sun Corporation (Pristine Sun). The PPA would allow the Water Agency to reduce its power costs and continue to cost effectively meet its Energy Policy goal of achieving Carbon Free Water by developing a floating solar photovoltaic system atop a recycled water pond with no capital cost down.

**Discussion:**

The Water Agency's Energy Policy was adopted by the Board on March 22, 2011. The policy directs the Water Agency to implement programs that reduce the Water Agency's greenhouse gas production, The policy has the goal of achieving a net carbon neutral energy supply by 2015, which the Water Agency met and continues to meet. In addition to simply reducing use of greenhouse gasses, the policy also directs

the Water Agency to seek and develop more reliable sources of electricity for the region. Sources include participating in local energy projects and programs that promote self-sufficiency and make North Bay residents less dependent on outside energy sources. The proposed Oceanview Reservoir Floating Solar Project (Project) cost effectively furthers both of these goals.

The Project would use otherwise unusable public space, the pond surface, to host a floating solar photovoltaic system to generate renewable power for use by the Water Agency. Pristine Sun would finance, design, construct, own, operate, monitor and maintain the floating solar photovoltaic system. Pristine Sun would then sell the power generated from the solar array to the Water Agency through a PPA. This structure allows the Water Agency to purchase renewable power and transfer the responsibility of capital financing, ownership, permitting, operations and maintenance to Pristine Sun.

The Water Agency issued a Request for Proposals on April 7, 2014 for a PPA to purchase solar energy from floating solar photovoltaic systems on recycled water ponds owned and/or operated by the Water Agency. The intent of the Request for Proposals was to develop floating solar arrays on up to seven separate ponds.

Four proposals were received by the Water Agency on June 10, 2014. Water Agency staff evaluated the proposals, interviewed two proposers, and selected Pristine Sun as the solar developer with whom to begin negotiating development of their proposed project. The Water Agency's Board of Directors approved lease agreements with Pristine Sun for six recycled water ponds in October 2014. One of the initial potential ponds, the Oceanview Reservoir, was not included in Pristine Sun's proposal or the agreements. Since the Water Agency would simply have been a pass through for the power sold, the power from these six ponds would be sold directly by Pristine Sun to Sonoma Clean Power through a PPA between those two parties. Design is underway on the floating solar photovoltaic systems for these six ponds, and they are expected to be operational by the end of 2017.

Pristine Sun later submitted a follow-up proposal to lease and develop the Airport-Larkfield-Wikiup Sanitation Zone's (ALWSZ) Oceanview Reservoir as a seventh recycled water pond. The Water Agency's Board of Directors approved a lease agreement with Pristine Sun on April 14, 2015, based on a follow-up proposal from Pristine Sun. Having this leasehold interest allowed Pristine Sun to submit an interconnection agreement application with PG&E based on the size of the pond and the size of a floating solar photovoltaic system that could be hosted on the pond.

While power generated at the other six sites will be sold to Sonoma Clean Power, Pristine Sun proposed to sell the power to the Water Agency using the Renewable Energy Self-generation Bill Credit Transfer program (RES-BCT). PG&E's RES-BCT program allows a public entity to host a renewable power generation facility at one site and offset power consumption at up to 49 other power accounts. Pristine Sun determined that a floating solar system on the Oceanview reservoir could produce 1,713 MWh in the first year, which would be the same amount as the Oceanview reservoir's power load and 49 other Water Agency top consuming power accounts served by PG&E and Sonoma Clean Power. The fixed cost for power would be approximately $43,000 less than the Water Agency's current cost for these 50 accounts, in the first year alone. Approximately $10,000 would be paid annually by the Water Agency's power fund to the Airport-Larkfield-Wikiup Sanitation Zone to lease the pond surface. The lease rate is based on the residual value of the pond surface, $800/acre, and the approximate size of the pond site which is 12.5

acres. The net annual power cost savings Water Agency-wide would still be $33,000 annually. The floating PV system at Oceanview Reservoir is expected to be operational by the end of 2017. A similar arrangement would not be beneficial at the other six ponds because the Water Agency gets sufficient cost effective electricity for its other power accounts through renewable power contracts with its primary electricity provider, the Power and Water Resources Pooling Authority (PWRPA).

The Water Agency Board of Directors approved on July 15, 2008 the Memorandum of Agreement Regarding the Sonoma County Water Agency Internal Service Fund for Electrical Generation and Supply (Memorandum of Agreement). The Memorandum of Agreement allows the Water Agency to charge a blended electricity rate to the Water Agency operated water systems, sanitation zones, and sanitation districts. The Memorandum of Agreement allows the Agency to develop renewable power assets, reduce greenhouse gas emissions, cost effectively provide renewable power buffered from market fluctuations.

To compensate the Airport Larkfield Wikiup Sanitation Zone for use of their property and to make the transaction simpler, the Water Agency's Power Fund Enterprise would pay the lease fee to ALWSZ, as the Water Agency does with all its other solar photovoltaic systems at Sonoma Valley Treatment Plant, Airport Larkfield Wikiup Sanitation Zone Treatment Plant, and 404 Aviation office under the Memorandum of Agreement.

Once the actual amount of acreage used by the solar system is established based on the final design layout, the lease payment can be established. Water Agency staff would return to the board to amend the current lease agreement with Pristine Sun and to amend the Memorandum of Agreement with more precise dollar values.

The amount of power would constitute five percent of the Water Agency's system wide electric power usage. Pristine Sun proposed a power price less expensive than the Water Agency's current power price for accounts served by Sonoma Clean Power's Evergreen program. 95 percent of the Water Agency's power comes from renewable power contracts through PWRPA at a price approximately 15 percent less than PG&E and Sonoma Clean Power. The remaining five percent of the Water Agency's power comes from PG&E and Sonoma Clean Power. Switching these accounts to PWRPA would require new transformers at each site which would not be cost effective. By using the RES-BCT program, it allows these power accounts to reduce the Water Agency's system wide power bill even further.

In addition to being a local and innovative source of clean renewable power, the price negotiated is among the lowest power purchase prices in the market today for solar power.

The PPA requires the tenant, Pristine Sun, be solely responsible for obtaining any environmental impact review, permit, entitlement, approval, authorization or other rights necessary for the project, including but not limited to documents required to comply with the California Environmental Quality Act (CEQA).

**Prior Board Actions:**

04/14/2015: Authorize the Water Agency's General Manager to execute a Lease Agreement for a floating solar project on 12 acres at Oceanview Reservoir; Authorize the Water Agency's General Manager to file Notice of Exemption for execution of the Lease Agreement under the California Environmental Quality Act; and Authorize the Water Agency's General Manager

to execute the Project Development and Coordination Services Agreement for the Floating Solar Project.

10/14/2014: Authorize the Water Agency's General Manager to execute a Lease Agreement for a floating solar project on six recycled water ponds.

07/08/2008: Authorize the Agency's General Manager/Chief Engineer to execute the Memorandum of Agreement for the Internal Service Fund for Electrical Generation and Supply on behalf of the Sonoma County Water Agency and the County Sanitation Districts.

**Strategic Plan Alignment** Goal 2: Economic and Environmental Stewardship

The Oceanview Floating Solar Project would innovatively and cost effectively meet the Water Agency's carbon free water goal.

Water Agency Energy Goals and Strategies, Goal 1: Provide carbon free water by reducing overall energy use, improving system efficiency, and developing and utilizing renewable energy sources.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

Execution of the agreement would reduce energy costs by approximately $43,000 annually to 50 Water Agency power accounts when the solar arrays go on line, with no capital cost down.

Airport-Larkfield-Wikiup Sanitation Zone would receive from the Water Agency's Power Fund approximately $10,000 annual rental payment for use of the reservoir to host the floating PV system.

| Staffing Impacts | | | |
|---|---|---|---|
| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Power Purchase and Sale Agreement (one copy)

**Related Items "On File" with the Clerk of the Board:**

rw S:\Agenda\agrees\12-13-2016 WA Floating Solar Power Purchase_summ.docm

CF/46-706-21 Pristine Sun, LLC ((PPA) and Sale Agree for Floating Solar Photovoltaic at Oceanview Reservoir) TW No (ID 5021)

# POWER PURCHASE AND SALE AGREEMENT

## COVER SHEET

**Seller**: Pristine Sun Corporation, a Delaware corporation

**Buyer**: Sonoma County Water Agency

**Effective Date**: December 13, 2016

**Description of Facility**: As set forth in Exhibit A hereto.

**Contract Term**: Commencing on the Effective Date and ending on the last day of the Delivery Term, unless otherwise specified herein or extended pursuant to Section **2.1(b)**.

**Delivery Term**: Commencing on the Commercial Operation Date and ending thirty (30) years thereafter, unless otherwise specified herein or extended pursuant to Section **2.1(b)**.

**Contract Price**:

(a) Product or Replacement Product. The Contract Price for all Product and Replacement Product sold to Buyer pursuant to this Transaction other than Products associated with Excess Energy is **$73.00 per MWh**.

(b) Excess Energy Products. The Contract Price for Products (other than Capacity Attributes) associated with Excess Energy sold to Buyer pursuant to this Transaction is equal to eighty percent (80%) of the applicable Contract Price set forth in clause (a) of this definition.

**Assets Sold**:

Energy, sold on an as-available, as-generated basis

Green Attributes (if Renewable Energy Credit, please check the applicable box below):

x Renewable Energy Credit (Bucket 1)

☐ Renewable Energy Credit (Bucket 2)

☐ Renewable Energy Credit (Bucket 3)

Capacity Attributes

**Governing Law**: California

DRAFT

**Notice Addresses**:

Seller:

Pristine Sun Corporation
548 Market Street, Suite 13000
San Francisco, CA 94104
Attention: Troy Helming
Phone No.: 415-848-8146
email: troy.helming@pristinesun.com

With a copy to:

General Counsel
c/o Pristine Sun Corporation
970 West Broadway, Suite E-393
Jackson Hole, WY 83002
Attention: General Counsel
Phone No.: 415-848-8100
email: gosolar@pristinesun.com

Buyer:

Sonoma County Water Agency
404 Aviation Blvd
Santa Rosa, CA 95403
Attention: Dale Roberts
Phone No.: 707 547-1979
email: dale.roberts@scwa.ca.gov

With a copy to:

Braun Blaising McLaughlin & Smith, P.C.
915 L Street, Suite 1480
Sacramento, CA 95814
Attention: Bruce McLaughlin
(916) 531-5566 (direct)
mclaughlin@braunlegal.com

IN WITNESS WHEREOF, the Parties have caused this Transaction to be duly executed as of the Effective Date.

| SELLER<br>Pristine Sun Corporation | BUYER<br>Sonoma County Water Agency |
|---|---|
| By: _____ | By: _____ |
| Name: Troy A. Helming | Name: _____ |
| Title: CEO | Title: _____ |

DRAFT

**TABLE OF CONTENTS**

Page

**ARTICLE 1** DEFINITIONS ..... 1
1.1 Contract Terms ..... 1
1.2 Rules of Interpretation ..... 10

**ARTICLE 2** TERM; CONDITIONS PRECEDENT ..... 11
2.1 Contract Term. ..... 11
2.2 Conditions Precedent ..... 12
2.3 Failure to Satisfy Conditions Precedent ..... 12
2.4 Progress Reports ..... 12

**ARTICLE 3** PURCHASE AND SALE ..... 13
3.1 Sale of Product ..... 13
3.2 Contract Price ..... 13
3.3 Ownership of Renewable Energy Incentives ..... 13
3.4 Future Environmental Attributes. ..... 13
3.5 Test Energy ..... 14
3.6 Capacity Attributes. ..... 14
3.7 CEC Certification and Verification ..... 14
3.8 Eligibility ..... 15
3.9 California Renewables Portfolio Standard ..... 15
3.10 Change in Compliance Costs ..... 15

**ARTICLE 4** DELIVERY; TITLE; RISK OF LOSS ..... 16
4.1 Delivery ..... 16
4.2 Title and Risk of Loss. ..... 16
4.3 Forecasting ..... 16
4.4 Events Downstream of the Delivery Point ..... 17

**ARTICLE 5** REDUCTIONS IN DELIVERY; TEMPORARY SHUTDOWN ..... 17
5.1 Delivery Obligation ..... 17
5.2 Reduction in Delivery Obligation. ..... 17
5.3 Buyer's Failure to Take Energy. ..... 18

**ARTICLE 6** TAXES ..... 18
6.1 Allocation of Taxes and Charges ..... 18
6.2 Cooperation ..... 19

**ARTICLE 7** MAINTENANCE OF THE FACILITY ..... 19
7.1 Maintenance of the Facility ..... 19
7.2 Maintenance of Health and Safety ..... 19
7.3 Shared Facilities ..... 19

**ARTICLE 8** METERING ..... 19
8.1 Metering ..... 19

DRAFT

8.2 Meter Verification ..... 20

**ARTICLE 9** INVOICING AND PAYMENT ..... 20
9.1 Invoicing. ..... 20
9.2 Payment; Buyer's Prepayments During First Four Contract Years. ..... 20
9.3 Books and Records. ..... 21
9.4 Payment Adjustments; Billing Errors. ..... 21
9.5 Billing Disputes. ..... 21
9.6 Payments Due to Buyer. ..... 21
9.7 Netting of Payments. ..... 22
9.8 Payment Obligation Absent Netting. ..... 22

**ARTICLE 10** NOTICES ..... 22
10.1 Addresses for the Delivery of Notices ..... 22
10.2 Acceptable Means of Delivering Notice ..... 22

**ARTICLE 11** FORCE MAJEURE ..... 23
11.1 Definition. ..... 23
11.2 No Liability If a Force Majeure Event Occurs ..... 23
11.3 Notice ..... 24
11.4 Partial or Full Termination Following Force Majeure Event ..... 24

**ARTICLE 12** DEFAULTS; REMEDIES; TERMINATION ..... 24
12.1 Seller Defaults ..... 24
12.2 Buyer Defaults ..... 26
12.3 Buyer's Remedies ..... 27
12.4 Seller's Remedies ..... 27
12.5 Termination for an Event of Default. ..... 27

**ARTICLE 13** LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES ..... 28
13.1 Limitation of Liability ..... 28
13.2 NO CONSEQUENTIAL DAMAGES ..... 28
13.3 WAIVER AND EXCLUSION OF OTHER DAMAGES. ..... 28

**ARTICLE 14** REPRESENTATIONS AND WARRANTIES; AUTHORITY ..... 29
14.1 Seller's Representations and Warranties ..... 29
14.2 Buyer's Representations and Warranties ..... 30
14.3 General Covenants ..... 31

**ARTICLE 15** ASSIGNMENT ..... 31
15.1 General Prohibition on Assignments ..... 31
15.2 Seller's Permitted Assignment ..... 31
15.3 Buyer's Permitted Assignment ..... 32

**ARTICLE 16** LENDER ACCOMMODATIONS ..... 32
16.1 Granting of Lender Interest ..... 32
16.2 Rights of Lender ..... 32
16.3 Cure Rights of Lender ..... 33

DRAFT

**ARTICLE 17** DISPUTE RESOLUTION ..... 33
17.1 Governing Law ..... 33
17.2 Dispute Resolution ..... 33
17.3 Attorneys' Fees ..... 34

**ARTICLE 18** INDEMNIFICATION ..... 34
18.1 Indemnification. ..... 34
18.2 Claims ..... 34

**ARTICLE 19** CONFIDENTIAL INFORMATION ..... 35
19.1 Definition of Confidential Information ..... 35
19.2 Duty to Maintain Confidentiality ..... 35
19.3 Irreparable Injury; Remedies ..... 35
19.4 Disclosure to Lender ..... 36

**ARTICLE 20** MISCELLANEOUS ..... 36
20.2 Entire Agreement; Integration; Exhibits ..... 36
20.3 Amendments ..... 36
20.4 No Agency, Partnership, Joint Venture or Lease ..... 36
20.5 Severability ..... 36
20.6 Mobile-Sierra ..... 37
20.7 Counterparts ..... 37
20.8 Facsimile or Electronic Delivery ..... 37
20.9 Binding Effect ..... 37

**Exhibits and Schedules:**

Exhibit A Description of the Facility
Exhibit B Facility Construction and Commercial Operation; Prevailing Wages
Exhibit C Emergency Contact Information
Exhibit D Output of the Facility
Schedule D-1 Expected Energy
Exhibit E Milestones
Exhibit F Quarterly Milestone Progress Reporting Form
Exhibit G Integration Cost Charge Code
Exhibit H Form of Commercial Operation Certificate
Exhibit I Form of Construction Start Certificate
Exhibit J: Insurance Requirements

DRAFT

# POWER PURCHASE AND SALE AGREEMENT

This Power Purchase and Sale Agreement ("**Transaction**") is entered into as of the Effective Date, between Seller and Buyer (each also referred to as a "**Party**" and collectively as the "**Parties**").

## RECITALS

WHEREAS, Seller intends to finance, develop, design, construct, operate, and maintain the solar photovoltaic generating facility to be located in California in the location identified in Exhibit A (the "**Facility**"); and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, on the terms set forth in this Transaction, all Energy generated by the Facility, any Green Attributes related to the generation of such Energy, and all Capacity Attributes associated with the Facility or the Energy generated by the Facility;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

## ARTICLE 1
## DEFINITIONS

1.1 Contract Terms Terms used in this Transaction not otherwise defined on the Cover Sheet or in the Preamble to this Transaction shall have the meaning set forth below:

"**Affiliate**" means, with respect to any Person, each Person that directly or indirectly controls, is controlled by, or is under common control with such designated Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such Person or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in such Person, or (b) the right to direct the policies or operations of such Person.

"**Available Contract Capacity**" means the Contract Capacity from the Facility that is available to generate Energy.

"**Business Day**" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday in California.

"**Buyer**" shall have the meaning set forth on the Cover Sheet to this Transaction.

"**Buyer Curtailment Period**" shall have the meaning set forth in Section 5.2(e).

"**Buyer Default**" shall have the meaning set forth in Section 12.2.

"**CAISO**" means the California Independent System Operator Corporation or any successor entity performing similar functions.

"**Calculation Period**" means the twenty-four (24) month period commencing two (2) years after the Commercial Operation Date and each subsequent twenty-four (24) month period thereafter.

"**California Public Records Act**" means California Government Code Section 6250 *et seq.*, as amended or supplemented from time to time.

"**California Renewables Portfolio Standard**" or "**RPS**" means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), and X-1 2 (2011), codified in, *inter alia*, California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

"**Capacity Attribute**" means any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the amount of power that the Facility can generate and deliver to the CAISO or the PTO grid at a particular moment and that can be purchased and sold under CAISO or the PTO market rules, including Resource Adequacy Benefits.

"**Capacity Damages**" shall have the meaning set forth in Exhibit B.

"**CEC**" means the California Energy Commission or its successor agency.

"**CEC Certification and Verification**" means that the CEC has certified (or, with respect to periods before the Facility has been constructed, that the CEC has pre-certified) that the Facility is an Eligible Renewable Energy Resource for purposes of the California Renewables Portfolio Standard and that all Energy produced by the Facility qualifies as generation from an Eligible Renewable Energy Resource for purposes of the Facility.

"**Change in Compliance Costs**" means the adoption, promulgation, modification, or re-interpretation after the Effective Date (or the taking of any other action by any Governmental Authority) of or with respect to any Law that materially affects the obligations and requirements under this Transaction related to the Facility's compliance, reporting and eligibility requirements, including but not limited to certification as a Participating Intermittent Resource, an Eligible Renewable Energy Resource, WREGIS compliance, Green Attributes conveyance, and the provision of Capacity Attributes and Resource Adequacy Benefits.

"**Commercial Operation**" shall have the meaning set forth in Exhibit B.

"**Commercial Operation Date**" shall have the meaning set forth in Exhibit B.

"**Commercial Operation Delay Damages**" shall have the meaning set forth in Exhibit B.

"**Confidential Information**" shall have the meaning set forth in Section 19.1.

"**Construction and Capacity Damages**" shall mean, collectively, Construction Delay Damages, Commercial Operation Delay Damages, and Capacity Damages.

"**Construction Delay Damages**" shall have the meaning set forth in Exhibit B.

"**Construction Start**" shall have the meaning set forth in Exhibit B.

"**Construction Start Date**" shall have the meaning set forth in Exhibit B.

"**Contract Capacity**" means at least **1.00 MW** ac, as measured by the sum of the inverter nameplate capacity of the Facility.

"**Contract Price**" shall have the meaning set forth on the Cover Sheet to this Transaction.

"**Contract Term**" shall have the meaning set forth in Section 2.1.

"**Contract Year**" means the twelve (12) month period commencing on the Commercial Operation Date and each successive twelve (12) month period thereafter during the Delivery Term.

"**Costs**" means, with respect to the non-defaulting Party, brokerage fees, commissions, legal expenses and other similar third party transaction costs and expenses reasonably incurred by that Party in entering into any new arrangement which replaces this Transaction.

"**CPUC**" means the California Public Utilities Commission, or successor entity.

"**Curtailment Period**" means a period during which any of the following events exists:

a) CAISO or the PTO orders, directs, alerts, or provides notice to a Party to curtail Energy deliveries for reasons including, but not limited to, (i) any System Emergency, or (ii) any warning of an anticipated System Emergency, or warning of an imminent condition or situation, which jeopardizes CAISO or the PTO's electric system integrity or the integrity of other systems to which CAISO or the PTO is connected;

b) a curtailment ordered by the Participating Transmission Owner or distribution operator (if interconnected to distribution or sub-transmission system) for reasons including, but not limited to, (i) any operating situation that affects normal function of the electric system including, but not limited to, any abnormal condition that requires action to prevent circumstances such as equipment damage, loss of load, or abnormal voltage conditions, or (ii) any warning, forecast or anticipation of conditions or situations that jeopardize the Participating Transmission Owner's electric system integrity or the integrity of other systems to which the Participating Transmission Owner is connected;

c) CAISO or the PTO orders, directs, alerts or provides notice to a Party, as a result of physical operational constraints on the CAISO or the PTO electric system, to reduce Energy production from a Facility to a level lower than the amount of Energy forecasted to be produced by the Facility for the same period of time as determined reasonably by Seller pursuant to this Transaction;

d) a curtailment ordered by CAISO or the Participating Transmission Owner due to scheduled or unscheduled maintenance on the Participating Transmission Owner's transmission or distribution facilities that prevents (i) Buyer from receiving or (ii) Seller from delivering Energy to the Delivery Point; or

e) a curtailment in accordance with Seller's obligations under its interconnection agreement with the Participating Transmission Owner or distribution operator.

"**Deemed Energy Calculation**" has the meaning set forth in Section 5.3(a).

"**Deemed Energy Generation**" means the amount of electric energy, expressed in MWh, that the Facility would have produced and delivered to the Delivery Point, but for a curtailment event arising under Section 5.2, which amount shall be equal to (A) an amount of MWh calculated based on an equation that incorporates relevant Facility availability, weather and other pertinent data for the period of time during the curtailment event in order to approximate the amount of Energy that would have been delivered, less (B) the amount of Energy delivered to the Delivery Point during the curtailment event, if any; provided that, if the applicable difference calculated pursuant to either of the formulas provided above is negative, the Deemed Energy Generation shall be zero (0). The equation in (A) and (B) shall be subject to review and approval by Buyer.

"**Delivery Point**" means the point of interconnection at the Water Agency's recycled water pump station at the Facility.

"**Delivery Term**" shall have the meaning set forth on the Cover Sheet to this Transaction.

"**Effective Date**" shall have the meaning set forth on the Cover Sheet of this Transaction.

"**Electric Power Grid**" means the transmission and distribution facilities operated by CAISO and/or Pacific Gas and Electric, now or hereafter in existence, which provide electric power downstream from the Delivery Point.

"**Eligible Renewable Energy Resource**" or **"ERR"** has the meaning set forth in California Public Utilities Code Section 399.12(e) and California Public Resources Code Section 25741(a) and (2), as either code provision is amended or supplemented from time to time.

"**Energy**" means electrical energy, measured in MWh, that is produced by the Facility.

"**Event of Default**" means, as applicable, either a Seller Default or Buyer Default as specified in Article 12.

**"Excess Energy"** means, in any Contract Year, any Energy delivered in excess of one hundred twenty percent (120%) of the Expected Energy for such Contract Year.

"**Expected Energy**" means, for the relevant Contract Year, the estimated Energy to be delivered from the Facility as set forth on Schedule D-1 for such period to be updated in accordance with Section 2(a) of Exhibit B.

"**Facility**" means the facility described more fully in Exhibit A attached hereto.

"**FERC**" means the Federal Energy Regulatory Commission or any successor or replacement government agency thereto.

"**Force Majeure Event**" shall have the meaning set forth in Section 11.1.

"**Forced Facility Outage**" means an unexpected failure of one or more components of the Facility or any outage on the electric power grid that prevents Seller from making power available at the Delivery Point and that is not the result of a Force Majeure Event.

"**Forward Settlement Amount**" means the non-defaulting Party's Costs and Losses, on the one hand, netted against its Gains, on the other. If the non-defaulting Party's Costs and Losses exceed its Gains, then the Forward Settlement Amount shall be an amount owing to the non-defaulting Party. If the non-defaulting Party's Gains exceed its Costs and Losses, then the Forward Settlement Amount shall be zero dollars ($0). The Forward Settlement Amount shall not include consequential, incidental, punitive, exemplary or indirect or business interruption damages.

"**Future Environmental Attributes**" means any and all generation attributes (other than Green Attributes or Renewable Energy Incentives) under applicable state RPS regulations and/or under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now, or in the future, to the generation of electrical energy by the Facility.

"**Gains**" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Transaction for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining the economic benefit to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the non-defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NYMEX), all of which should be calculated for the remaining Contract Term, and includes the value of Green Attributes, Capacity Attributes and Resource Adequacy Benefits.

"**Governmental Authority**" means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO or the PTO; provided, however, that "Governmental Authority" shall not in any event include any Party.

"**Green Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Facility, and its displacement of conventional Energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or

water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) production tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with the project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits.

"**Guaranteed Capacity**" shall have the meaning set forth on Exhibit A.

"**Guaranteed Commercial Operation Date**" means the date specified in Exhibit B.

"**Guaranteed Construction Start Date**" means the date specified in Exhibit B.

"**Guaranteed Output**" means, for each Calculation Period, one hundred sixty percent (160%) of the Expected Energy during such Calculation Period.

"**Indemnified Party**" shall have the meaning set forth in Section 18.1.

"**Indemnifying Party**" shall have the meaning set forth in Section 18.1.

"**Installed Capacity**" means the sum of the Inverter Capacities of all the installed inverter units at the Facility, expressed in MW.

"**Interconnection Agreement**" means the interconnection agreement entered into by Seller pursuant to which the Facility will be interconnected with the electric power grid, and pursuant to which Seller's Interconnection Facilities and any other Interconnection Facilities will be constructed, operated and maintained during the Delivery Term.

"**Interconnection Facilities**" means the interconnection facilities, control and protective devices and metering facilities required to connect the Facility with the electric power grid in order to meet the terms and conditions of this Transaction.

"**Inverter Capacity**" means the manufacturer's output rating (expressed in MW) of the electrical current inverter, as indicated on the nameplate physically attached to such inverter.

"**Law**" means any applicable law, statute, regulation, rule, regulation, decision, writ, order, decree or judgment, permit or any interpretation thereof, promulgated or issued by a Governmental Authority.

**"Lease"** means the agreement between Seller and the Sonoma County Water Agency related to the real property on which the Facility is, or will be located, as further described in Exhibit A.

"**Lender**" means, collectively, any Person (i) providing senior or subordinated construction, interim or long-term debt or equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Facility, whether that financing or refinancing takes the form of private debt, equity, public debt or any other form (including financing or refinancing provided to a member or other direct or indirect owner of Seller), including any equity investor directly or indirectly providing financing or refinancing for the Facility or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent acting on their behalf, (ii) providing interest rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations and/or (iii) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Facility.

"**Lien**" means any mortgage, pledge, lien (including mechanics', labor or materialmen's liens), charge, security interest, encumbrance or claim of any nature.

"**Losses**" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Transaction for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the non-defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NYMEX), all of which should be calculated for the remaining Contract Term and must include the value of Green Attributes, Capacity Attributes and Resource Adequacy Benefits.

"**Milestones**" means the development activities for significant permitting, interconnection, financing and construction milestones set forth in Exhibit E.

"**Moody's**" means Moody's Investors Service, Inc., or its successor.

"**MW**" means megawatts measured in alternating current.

"**MWh**" means megawatt-hour.

"**Output Event of Default**" has the meaning set forth in Exhibit D.

"**Outside Commercial Operation Date**" means two hundred seventy (270) days after the Guaranteed Commercial Operation Date (as may be extended pursuant to Exhibit B).

**"Participating Transmission Owner**" or "**PTO**" means an entity that owns, operates and maintains transmission or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities where the Facility is interconnected. For purposes of this Transaction, the Participating Transmission Owner is Pacific Gas and Electric Company.

"**Party**" shall have the meaning set forth in the Preamble.

**"Payments in Lieu of Performance"** shall have the meaning set forth in Exhibit D.

**"Performance Security"** means (i) cash, (ii) an irrevocable, non-transferable standby letter of credit issued by a U.S. commercial bank, or a U.S. branch or subsidiary of a foreign commercial bank with a Credit Rating of at least A- from S&P or A3 from Moody's, (iii) any combination of the foregoing, in each case in an aggregate amount equal to one hundred fifty thousand dollars ($150,000), or (iv) a bond from a surety company with a rating from Moody's, Standard & Poor's, or Fitch.

"**Person**" means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

"**Product**" means (i) Energy, (ii) Green Attributes and (iii) Capacity Attributes.

"**Prudent Operating Practice**" means the practices, methods and standards of professional care, skill and diligence engaged in or approved by a significant portion of the electric power industry for facilities of similar size, type, and design, that, in the exercise of reasonable judgment, in light of the facts known at the time, would have been expected to accomplish results consistent with Law, reliability, safety, environmental protection, applicable codes, and standards of economy and expedition. Prudent Operating Practices are not necessarily defined as the optimal standard practice method or act to the exclusion of others, but rather refer to a range of actions reasonable under the circumstances.

"**Qualified Assignee**" means any Person that has (or will contract with a Person that has) competent experience in the operation and maintenance of similar electrical generation systems and is financially capable of performing Seller's obligations (considering such Person's own financial wherewithal and that of such Person's guarantor or other credit support) under this Transaction.

"**Renewable Energy Credit**" has the meaning set forth in California Public Utilities Code Section 399.12(h), as may be amended from time to time or as further defined or supplemented by Law.

"**Renewable Energy Incentives**" means: (a) all federal, state, or local Tax credits or other Tax benefits associated with the construction, ownership, or production of electricity from the

Facility (including credits under Sections 38, 45, 46 and 48 of the Internal Revenue Code of 1986, as amended); (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the Facility; and (c) any other form of incentive relating in any way to the Facility that are not a Green Attribute or a Future Environmental Attribute.

"**S&P**" means the Standard & Poor's Financial Services, LLC (a subsidiary of The McGraw-Hill Companies, Inc.) or its successor.

"**Schedule**" or "**Scheduling**" means the actions of Buyer and the persons conducting scheduling on behalf of Buyer, their authorized representatives, and their transmission providers, if applicable, of notifying, requesting and confirming to CAISO or the PTO the amounts of Energy and Replacement Product expected to be delivered consistent with the Scheduling interval at the Delivery Point on any given date during the Delivery Term, all in the manner contemplated by the CAISO or the PTO Tariff.

"**Seller**" shall have the meaning set forth on the Cover Sheet to this Transaction.

"**Seller Default**" shall have the meaning set forth in Section 12.1.

"**Shortfall Amount**" means, in each Calculation Period, the difference between the Guaranteed Output and the amount of Product actually delivered.

"**Site**" means the real property on which the Facility is, or will be located, as further described in Exhibit A, and as shall be updated by Seller at the time Seller provides an executed Form of Construction Start Date Certificate in Exhibit I to Buyer.

"**Site Control**" means that, for the Contract Term, Seller is the lessee of the Site under a Lease.

"**Solar NQC Factor**" means the applicable monthly solar factor for a particular month and calendar year as published in CAISO's Final Net Qualifying Capacity List.

"**System Emergency**" means any condition that: (a) requires, as determined and declared by CAISO or the PTO, automatic or immediate action to (i) prevent or limit harm to or loss of life or property, (ii) prevent loss of transmission or distribution facilities or generation supply in the immediate vicinity of the Facility, or (iii) to preserve electric power grid system reliability, and (b) directly affects the ability of any Party to perform under any term or condition in this Transaction, in whole or in part.

"**Tax**" or "**Taxes**" means all U.S. federal, state and local and any foreign taxes, levies, assessments, surcharges, duties and other fees and charges of any nature imposed by a Governmental Authority, whether currently in effect or adopted during the Delivery Term, including ad valorem, excise, franchise, gross receipts, import/export, license, property, sales and use, stamp, transfer, payroll, unemployment, income, and any and all items of withholding, deficiency, penalty, additions, interest or assessment related thereto.

"**Termination Payment**" means the sum of the Forward Settlement Amount plus all amounts owed by the defaulting Party to the non-defaulting Party under this Transaction, less any

amounts owed by the non-defaulting Party to the defaulting Party determined as of the date of termination.

"**Test Energy**" means the Energy produced by the Facility delivered commencing on the first date that CAISO or the PTO informs Seller in writing that Seller may deliver Energy from the Facility to CAISO or the PTO and ending when Seller advises Buyer of the occurrence of the Commercial Operation Date.

"**Transaction**" shall have the meaning set forth in the Preamble.

"**WREGIS**" means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

1.2 Rules of Interpretation. In this Transaction, except as expressly stated otherwise or unless the context otherwise requires:

(a) headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Transaction;

(b) words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders;

(c) the words "hereof", "herein", and "hereunder" and words of similar import shall refer to this Transaction as a whole and not to any particular provision of this Transaction;

(d) a reference to an Article, Section, paragraph, clause, Party, or Exhibit is a reference to that Section, paragraph, clause of, or that Party or Exhibit to, this Transaction unless otherwise specified, and in the event of a conflict, the provisions of the main body of this Transaction shall prevail over the provisions of any attachment or annex;

(e) a reference to a document or agreement, including this Transaction shall mean such document, agreement or this Transaction including any amendment or supplement to, or replacement, novation or modification of this Transaction, but disregarding any amendment, supplement, replacement, novation or modification made in breach of such document, agreement or this Transaction;

(f) a reference to a Person includes that Person's successors and permitted assigns;

(g) the term "including" means "including without limitation" and any list of examples following such term shall in no way restrict or limit the generality of the work or provision in respect of which such examples are provided;

(h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

(i) in the event of a conflict, a mathematical formula or other precise description of a concept or a term shall prevail over words providing a more general description of a concept or a term;

(j) references to any amount of money shall mean a reference to the amount in United States Dollars;

(k) the expression "and/or" when used as a conjunction shall connote "any or all of";

(l) words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Prudent Operating Practice shall have such meaning in this Transaction or (ii) do not have well known and generally accepted meaning in Prudent Operating Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings; and

(m) each Party acknowledges that it was represented by counsel in connection with this Transaction and that it or its counsel reviewed this Transaction and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Transaction.

## ARTICLE 2
## TERM; CONDITIONS PRECEDENT

2.1 Contract Term.

(a) The term of this Transaction shall commence on the Effective Date and shall remain in full force and effect until the last day of the Delivery Term, subject to any early termination provisions set forth herein ("**Contract Term**").

(b) Eighteen (18) months prior to the expiry of the initial Delivery Term, the Parties shall negotiate in good faith whether the Parties should extend the Delivery Term at a mutually agreeable Contract Price for an additional five-year period. After the first five-year extension of the Delivery Term (if agreed), the Parties have to option to agree to an additional five-year extension.

(c) Applicable provisions of this Transaction shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. The confidentiality obligations of the Parties under Article 19 shall remain in full force and effect for two (2) years following the termination of this Transaction, and all indemnity and audit rights under Article 18 and Section 9.3 shall remain in full force and effect for one (1) year following the termination of this Transaction.

2.2 Conditions Precedent Subject to Section 3.5, Buyer shall have no obligation whatsoever to purchase the Product from the Facility under this Transaction until Seller completes to Buyer's reasonable satisfaction each of the following conditions:

(a) Seller shall have constructed the Facility and met all of the requirements of Exhibit B, and shall have delivered to Buyer a completion certificate from an independent engineer substantially in the form of Exhibit H;

(b) An Interconnection Transaction between Seller and the PTO has been executed, delivered and shall remain in full force and effect and a copy of each agreement has been delivered to Buyer;

(c) All applicable regulatory authorizations, approvals and permits for the operation of the Facility and sale of power have been obtained and shall remain in full force and effect, including that Seller has completed all necessary studies and procedures under the California Environmental Quality Act (if any) and has obtained all applicable land use and regulatory authorizations, approvals and permits for the construction and operation of the Facility, and such authorizations, approvals and permits remain in full force and effect;

(d) Seller has received the requisite pre-certification of the CEC Certification and Verification (and shall receive in no more than six (6) months from the Commercial Operation Date the final CEC Certification and Verification) for the Facility;

(e) Seller (with the reasonable participation of Buyer) shall have completed all applicable WREGIS registration requirements, including the completion and submittal of all applicable registration forms and supporting documentation, which may include applicable interconnection agreements, informational surveys related to the Facility and other appropriate documentation required to effect Facility registration with WREGIS and to enable Renewable Energy Credit transfers related to the Facility within the WREGIS system or have completed any other similar requirements applicable to Seller to enable Buyer to fulfill its RPS requirements; and

(f) Seller shall have provided to Buyer Performance Security in accordance with the definition of "Performance Security" in Section 1.1; and

(g) Seller has procured and maintained throughout the Term, at its own expense, the policies of insurance set forth on Exhibit J.

2.3 Failure to Satisfy Conditions Precedent If Seller fails to complete the conditions precedent set forth in Section 2.2 by the Outside Commercial Operation Date, then either Party shall have the right to terminate this Transaction, and neither Party shall have any further liability hereunder; provided, however, to the extent that neither Party elects to exercise such termination right, Seller shall be obligated to continue to pay the liquidated damages set forth in Exhibit B until the termination of this Transaction or the satisfaction of the conditions precedent set forth in Section 2.2(a).

2.4 Progress Reports Seller shall report to Buyer quarterly on progress of the Milestones, from the Effective Date until the start of construction, at which point Seller shall report

to Buyer monthly, until the Commercial Operation Date. The form of these progress reports are set forth as Exhibit F.

## ARTICLE 3
## PURCHASE AND SALE

3.1 Sale of Product In accordance with and subject to the terms and conditions of this Transaction, during the Delivery Term, Seller shall sell to Buyer, and Buyer shall purchase from Seller, all of the Energy, Green Attributes and Capacity Attributes produced by the Facility (as and when the same is produced) at the Contract Price.

3.2 Contract Price During the Delivery Term, Buyer shall pay Seller the applicable Contract Price for all Product generated by the Facility, calculated based on all Energy deliveries by Seller to Buyer at the Delivery Point. For the avoidance of doubt, the Contract Price for Excess Energy shall be seventy percent (70%) of the Contract Price for Product and Replacement Product.

3.3 Ownership of Renewable Energy Incentives During the Contract Term, Seller shall have all right, title and interest in and to all Renewable Energy Incentives that are available with respect to the Facility or as a result of Energy being produced by the Facility. Buyer acknowledges that such Renewable Energy Incentives relating to such Renewable Energy Incentives belong to Seller. If any such Renewable Energy Incentives are initially credited or paid to Buyer, Buyer shall cause such Renewable Energy Incentives to be assigned or transferred to Seller without delay. Buyer agrees to indemnify, defend, hold harmless and compensate Seller for any losses, claims, liabilities, or expenses arising out of or resulting from Buyer claiming any right with respect to the Renewable Energy Incentives not expressly granted to Buyer under this Transaction. Buyer shall cooperate with Seller in Seller's efforts to meet the requirements for any certification, registration, or reporting program relating to Renewable Energy Incentives.

3.4 Future Environmental Attributes.

(a) The Parties acknowledge and agree that as of the Effective Date, environmental attributes sold under this Transaction are restricted to Green Attributes; however, Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Effective Date. In such event, Seller shall notify Buyer of the availability of such Future Environmental Attributes. Within sixty (60) days of receiving Seller's notice, Buyer shall notify Seller whether Buyer intends to claim such Future Environmental Attributes. If Buyer does not notify Seller within sixty (60) days of receiving Seller's notice, or if Buyer does not intend to claim such attributes, Seller shall retain all right, title and interest in and to such Future Environmental Attributes. Buyer shall bear all costs associated with the transfer, qualification, verification, registration and ongoing compliance for such Future Environmental Attributes, but there shall be no increase in the Contract Price. Upon Seller's receipt of notice from Buyer of Buyer's intent to claim such Future Environmental Attributes, the Parties shall determine the necessary actions and reasonable additional costs associated with transferring, qualifying, verifying and registering such Future Environmental Attributes to Buyer, and Buyer shall notify Seller of its election to pay such costs within forty-five (45) days after such costs are determined

by the Parties; provided, that if Buyer does not notify Seller of its election to pay such costs within such forty-five (45) day period, Seller shall retain all right, title and interest in and to such Future Environmental Attributes. Seller shall have no obligation to alter the Facility unless the Parties have agreed on all necessary terms and conditions relating to such alteration and Buyer has agreed to reimburse Seller for all costs associated with such alteration.

(b) If Buyer elects to pay costs associated with transferring, qualifying, verifying and registering such Future Environmental Attributes pursuant to Section 3.4(a), the Parties agree to negotiate in good faith with respect to the development of further agreements and documentation necessary to effectuate the transfer of such Future Environmental Attributes, including agreement with respect to (i) appropriate delivery and risk of loss mechanisms, and (ii) appropriate allocation of any reasonable additional costs, as set forth above; provided, that the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Transaction.

3.5 Test Energy If and to the extent the Facility generates Test Energy, Seller shall make available to Buyer and Buyer shall take all Test Energy, Green Attributes and Capacity Attributes made available prior to the Delivery Term. Seller shall provide Buyer with reasonable advance notice and an estimate of the available Test Energy. During such period of availability prior to the Delivery Term, Buyer shall be obligated to purchase from Seller all such Test Energy, Green Attributes and Capacity Attributes attributable to the Test Energy produced by the Facility, at an amount equal to seventy percent (70%) of the Contract Price.

3.6 Capacity Attributes.

(a) During the Delivery Term and any period during which Seller delivers Test Energy to Buyer:

(i) Seller shall be responsible for the cost, installation, and maintenance of any network upgrades associated with the Facility;

(ii) Seller shall use commercially reasonable efforts to obtain and maintain Full Capacity Deliverability Status for the Facility and shall perform all commercially reasonable actions necessary to ensure that the Facility qualifies to provide Resource Adequacy Benefits to Seller;

(iii) Seller shall grant, pledge, assign and otherwise commit to Buyer all of the Capacity Attributes from the Facility; and

(iv) Seller hereby covenants and agrees to transfer all Resource Adequacy Benefits to Buyer.

(b) To the extent that information is required by Buyer from Seller to complete its plans related to Resource Adequacy (as defined in the CAISO or the PTO Tariff), Seller shall promptly provide such information at no additional cost to Buyer.

3.7 CEC Certification and Verification Subject to Sections 2.2(d) and 3.10, Seller shall take all necessary steps including, but not limited to, making or supporting timely filings with

the CEC to obtain and maintain CEC Certification and Verification for the Facility throughout the Contract Term.

3.8 Eligibility Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Transaction that: (i) the Facility shall qualify and be certified by the CEC as an Eligible Renewable Energy Resource; and (ii) the Facility's output delivered to Buyer shall qualify under the requirements of the California Renewables Portfolio Standard consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1). To the extent a change in law occurs after execution of this Transaction that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law and provided notice to the Buyer in sixty (60) days advance of this change in eligibility. The term "commercially reasonable efforts" as used in this Section 3.8 means efforts consistent with and subject to Section 3.10.

3.9 California Renewables Portfolio Standard Subject to Sections 2.2(d) and 3.10, Seller shall take all actions necessary to ensure that the Energy produced from the Facility is tracked for purposes of satisfying the California Renewables Portfolio Standard requirements, as may be amended or supplemented by the CPUC or CEC from time to time; provided that Buyer, at Seller's request and sole cost (which shall only include documented third party costs), shall use commercially reasonable efforts to assist Seller and cooperate with Seller, as necessary, in connection with such actions.

3.10 Change in Compliance Costs Seller shall deliver written notice to Buyer sixty (60) days after any change, amendment, repeal or enactment of Law which results in the occurrence of any Change in Compliance Costs, which notice shall describe in reasonable detail the Change in Compliance Costs, its effects on Seller or the Facility, and the additional costs associated with remedial measures or other expenses to be undertaken with respect to Compliance Costs for Seller or the Facility. Seller shall pay all such costs up to a maximum of $100,000 per Contract Year and $1,150,000 in the aggregate over all Contract Years. Seller shall provide all information reasonably requested by Buyer to verify any Change in Compliance Costs. If such costs exceed the maximum in a Contract Year, Seller shall have no responsibility to pay such costs and Seller shall submit an invoice to Buyer for such costs in accordance with Section 9.1. Buyer shall have sixty (60) days to evaluate such notice, and shall, by the end of such period, either (i) agree to reimburse Seller for all or some of the costs that exceed the maximum established herein, or (ii) waive Seller's obligation to take such actions, or any part thereof for which Buyer has not agreed to reimburse Seller and, in either case, Seller shall not be in default under this Transaction for failure to meet any Law or requirement related to such Change in Compliance costs for such Contract Year. If Buyer waives Seller's obligation pursuant to (ii) above, this Transaction shall remain in effect (without any reduction in Buyer's obligations hereunder to purchase or pay for all Product), and Buyer and Seller shall work in good faith to try and revise this Transaction to minimize the impact of such waiver on Buyer without materially impacting the economic benefits or burdens of the Parties.

## ARTICLE 4
## DELIVERY; TITLE; RISK OF LOSS

4.1 Delivery.

(a) Energy. During the Delivery Term and any period during which Seller delivers Test Energy to Buyer:

Seller shall make available, and Buyer shall accept delivery at the Delivery Point of, all Energy produced by the Facility on an as-generated, instantaneous basis. Seller shall arrange and pay independently for any and all necessary electrical interconnection, distribution and/or transmission service (and any regulatory approvals required for the foregoing), sufficient to allow Seller to deliver the Product to the Delivery Point for sale pursuant to the terms of this Transaction. Seller shall bear all risks and costs associated with such transmission service, including, but not limited to, any transmission or distribution outages or curtailment to the Delivery Point. Buyer shall (i) arrange and be responsible for transmission or distribution service at and from the Delivery Point, (ii) bear all risks and costs associated with such transmission or distribution service, including, but not limited to, any transmission or distribution outages or curtailment from the Delivery Point, (iii) schedule or arrange for Scheduling Coordinator services, if necessary, with its transmission or distribution providers to receive the Product at the Delivery Point, and (iv) be responsible for all CAISO and PTO costs and charges, electric transmission or distribution losses and congestion at and from the Delivery Point. The Parties agree to use commercially reasonable efforts to comply with all applicable policies of CAISO and PTO in connection with the scheduling and delivery of Energy hereunder.

(b) Green Attributes. During the Delivery Term and any period during which Seller delivers Test Energy to Buyer:

Seller hereby provides and conveys all Green Attributes associated with all electricity generation from the Facility to Buyer as part of the Product being delivered. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Facility, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product from the Facility.

4.2 Title and Risk of Loss.

(a) Energy. Title to and risk of loss related to the Energy shall pass and transfer from Seller to Buyer at the Delivery Point.

(b) Green Attributes. Title to and risk of loss related to the Green Attributes shall pass and transfer from Seller to Buyer upon the transfer of such Green Attributes in accordance with WREGIS.

4.3 Forecasting By December 1 for each Contract Year, Seller shall provide to Buyer and Buyer's designee (if applicable) a non-binding forecast of the hourly Available Contract

Capacity for an average day in each month of the following calendar year in a form reasonably acceptable to Buyer.

During the Delivery Term and any period during which Seller delivers Test Energy to Buyer, Seller shall notify Buyer (or Buyer's designee) of any changes in Available Contract Capacity of five per cent (5%) or more as compared to the daily forecast of Available Contract Capacity, as soon as reasonably possible. Such notices shall contain information regarding the beginning date and time of the event resulting in the change in Available Contract Capacity, the expected end date and time of such event, the expected Available Contract Capacity in MW, and any other information required by CAISO or the PTO or reasonably requested by Buyer.

4.4 Events Downstream of the Delivery Point Seller shall be responsible for all interconnection, electric losses and transmission or distribution arrangements and costs required to make available Energy and Test Energy from the Facility to the Delivery Point. Buyer shall be responsible for all CAISO or the PTO costs and charges, electric transmission or distribution losses and congestion at and from the Delivery Point to points beyond.

## ARTICLE 5
## REDUCTIONS IN DELIVERY; TEMPORARY SHUTDOWN

5.1 Delivery Obligation Seller shall make Product available to Buyer pursuant to this Transaction on an as-generated, instantaneous basis. Seller's failure to make Product available to Buyer shall not give the Buyer the right to any damages other than as set forth in Section 12.1(i) and Exhibit D.

5.2 Reduction in Delivery Obligation. For the avoidance of doubt, and in no way limiting Section 5.1 or Exhibit D:

(a) Facility Maintenance. Seller shall be permitted to reduce deliveries of Product during any period of scheduled maintenance on the Facility previously agreed to between Buyer and Seller.

(b) Forced Facility Outage. Seller shall be permitted to reduce deliveries of Product during any Forced Facility Outage. Seller shall provide Buyer with notice and expected duration (if known) of any Forced Facility Outage, and shall provide Buyer with regular updates on the status of the Forced Facility Outage.

(c) System Emergencies and other Interconnection Events. Seller shall be permitted to reduce deliveries of Product during any period of System Emergency or upon notice of a Curtailment Period pursuant to the terms of the Interconnection Transaction or applicable tariff.

(d) Health and Safety. Seller shall be permitted to reduce deliveries of Product as necessary to maintain health and safety pursuant to Section 7.2.

(e) Optional Curtailment Period. In addition to the curtailments described in Section 5.2(a)-(d), Buyer shall have the right to curtail deliveries of Energy at any time and for the duration specified by Buyer (each such Buyer-directed curtailment, a "**Buyer Curtailment**

**Period**"), subject to Buyer's obligation to pay the Contract Price for Deemed Energy Generation in accordance with this Section 5.2(e). Buyer shall provide a minimum of 24 hours' written notice to Seller of a request for a Buyer Curtailment Period under this Section 5.2(e), and Seller shall comply with such request in accordance with Prudent Operating Practice. In its curtailment notice to Seller, Buyer shall indicate the duration of the proposed Buyer Curtailment Period, which shall be for a minimum of thirty (30) minutes, and the time at which Buyer requests Seller to resume delivery of the Energy to Buyer. To the extent Buyer requests any change in the duration of the requested Buyer Curtailment Period, Seller shall effectuate any such change no later than ten (10) minutes following notice from Buyer's notification to Seller of the proposed change to such Buyer Curtailment Period. Seller shall respond to Buyer's curtailment notices (including the end of such curtailment periods) in accordance with Prudent Operating Practices. Buyer shall pay Seller for any Deemed Energy Generation during any curtailment under this Section 5.2(e) in an amount equal to the Contract Price.

(f) Excess Deliveries. Buyer shall not be obligated to accept delivery of Energy in excess of the Guaranteed Capacity.

5.3 Buyer's Failure to Take Energy. Compensation for Unexcused Failure to Take or Buyer Default. If (i) Buyer fails or is unable to take Product made available at the Delivery Point during any period and such failure to take is not excused by a Seller Default or a Force Majeure Event, or (ii) Seller is not able to make available Product due to a Buyer Default, Buyer shall pay Seller an amount equal to the product of (1) the Deemed Energy Generation for such period and (2) the Contract Price (the "**Deemed Energy Calculation**").

(b) Information Sharing for Deemed Energy Generation. Seller shall provide Buyer with a calculation of the amounts due under this Section 5.3, and shall provide all relevant data used for the Deemed Energy Calculation at Buyer's request. Any amounts due for Deemed Energy Generation shall be included on the monthly invoice, and disputes thereof shall be handled in accordance with Article 9.

## ARTICLE 6
## TAXES

6.1 Allocation of Taxes and Charges Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the Energy (and any contract associated with the Energy) arising before the Delivery Point, including ad valorem taxes and other taxes attributable to the Facility, land, land rights or interest in land for the Facility. Buyer shall pay or cause to be paid all Taxes on or with respect to the Energy at and from the Delivery Point (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees). If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other Party for such Taxes; provided, however if Buyer is required by law or regulation to remit or pay Taxes which are Seller's responsibility hereunder, Buyer may deduct such amounts from monthly Product payments to Seller made pursuant to Article 9. In the event any sale of Energy hereunder is exempt from or not subject to any particular Tax, Buyer shall provide Seller with all necessary documentation within sixty (60) days after the Effective Date to evidence such exemption or exclusion. If Buyer does not provide such documentation, then Buyer shall indemnify, defend,

and hold Seller harmless from any liability with respect to Taxes from which Buyer claims it is exempt.

6.2 Cooperation Each Party shall use reasonable efforts to implement the provisions of and administer this Transaction in accordance with the intent of the Parties to minimize all Taxes, so long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; provided, however, that neither Party shall be obligated to incur any financial or operational burden to reduce Taxes for which the other Party is responsible hereunder without receiving due compensation therefore from the other Party. All Energy delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Energy.

## ARTICLE 7
## MAINTENANCE OF THE FACILITY

7.1 Maintenance of the Facility Seller shall comply with applicable Law (including the prevailing wage provisions set forth in Exhibit B) and Prudent Operating Practice relating to the operation and maintenance of the Facility and the generation and sale of Product. Unless otherwise provided, Seller bears sole responsibility for any costs associated with operation, maintenance, repair, and refurbishment of the Facility.

7.2 Maintenance of Health and Safety Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of the Facility. If Seller becomes aware of any circumstances relating to the Facility that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Buyer's emergency contact identified on Exhibit C prompt notice of such condition. Such action may include disconnecting and removing all or a portion of the Facility, or suspending the supply of Energy to Buyer.

7.3 Shared Facilities The Parties acknowledge and agree that certain of the Interconnection Facilities, and Seller's rights and obligations under the Interconnection Transaction, may be subject to certain shared facilities and/or co-tenancy agreements to be entered into among Seller, the Participating Transmission Owner, Seller's Affiliates, and/or third parties pursuant to which certain Interconnection Facilities may be subject to joint ownership and shared maintenance and operation arrangements; provided that such agreements (i) shall permit Seller to perform or satisfy its obligations hereunder and (ii) provide for separate metering of the Facility. Seller shall provide Buyer with notice of any changes to Shared Facilities that may impact Seller's ability to perform or satisfy its obligations hereunder.

## ARTICLE 8
## METERING

8.1 Metering During the Delivery Term and during its delivery of Test Energy to Buyer, Seller shall measure the amount of Energy produced at the Facility and delivered to the Delivery Point using a commercially available, CAISO or the PTO revenue-grade metering system adjusting for any applicable transformation losses and transmission or distribution losses to the Delivery Point in accordance with a methodology reasonably agreed to by Buyer. Such meter

shall be installed on the low side or the high side of Seller's transformer at Seller's determination and maintained at Seller's cost. The meter shall be kept under seal, such seals to be broken only when the meters are to be tested, adjusted, modified or relocated. If Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO or the PTO the CAISO or the PTO meter data applicable to the Facility and all inspection, testing and calibration data and reports. Seller and Buyer, or Seller's Scheduling Coordinator, shall cooperate to allow both Parties to retrieve the meter reads from the CAISO or the PTO Operational Meter Analysis and Reporting (OMAR) web and/or directly from the CAISO or the PTO meter(s) at the Facility. Seller shall comply with all CAISO or the PTO rules and regulations, including those in the CAISO or the PTO Tariff and Business Practices Manual, required to ensure Energy is capable of being scheduled and settled with the CAISO or the PTO.

8.2 Meter Verification At least annually during the Delivery Term, or if Seller has reason to believe there may be a meter malfunction, or upon Buyer's reasonable request, Seller shall test the meter. The tests shall be conducted by independent third parties qualified to conduct such tests. Buyer shall be notified seven (7) days in advance of such tests and have a right to be present during such tests. If a meter is inaccurate it shall be promptly repaired or replaced. If a meter is inaccurate by more than plus or minus one percent (+/- 1%) and it is not known when the meter inaccuracy commenced (if such evidence exists such date will be used to adjust prior invoices), then the prior invoices shall be adjusted for the amount of the inaccuracy during one-half of the period of time since the last meter read. The cost of such tests shall be borne by Seller; provided that Buyer shall reimburse Seller for the costs of any such test requested by Buyer if such test indicates that a meter is not inaccurate by more than plus or minus one percent (+/- 1%).

## ARTICLE 9
## INVOICING AND PAYMENT

9.1 Invoicing. Seller shall make good faith efforts to deliver an invoice to Buyer for Product delivered under any Transactions within ten (10) Business Days after the end of the prior monthly billing period during the Delivery Term for such Transaction. During Seller's delivery of Test Energy under a Transaction, Seller shall make good faith efforts to deliver an invoice to Buyer (i) for Test Energy within ten (10) Business Days after the end of the prior monthly billing period and (ii) for Renewable Energy Credits attributable to the Test Energy within ten (10) Business Days after Seller transfers the WREGIS certificates to Buyer's account and Buyer accepts the transfer.

9.2 Payment; Buyer's Prepayments During First Four Contract Years.

(a) Buyer shall make payment to Seller for Product by wire transfer or ACH payment, or by any other means mutually agreed to by the Parties, to the bank account provided on each monthly invoice. Such payment shall occur within ten (10) days following the date Seller sent the invoice to Buyer. If such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance at the Interest Rate. For the purposes of Article 9, Interest Rate shall mean the lesser of (i) two percent (2%) above the per annum Prime Rate reported daily in *The Wall Street Journal,* or (ii) ten percent (10%) per annum.

(b) If any other payment that is due and owing from one party to another is not paid on or before its applicable due date, payment will be considered late and will bear interest on the unpaid balance at the Interest Rate. If the due date occurs on a day that is not a Business Day, interest shall begin to accrue on the next succeeding Business Day.

9.3 Books and Records.

To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years, or until the CAISO or the PTO has issued its final settlement statement with respect to any payment to be received from the CAISO or the PTO, or as otherwise required by applicable Law. Upon fifteen (15) days advance written notice to Seller, Buyer shall be granted reasonable access to the accounting books and records pertaining to all invoices generated pursuant to this Agreement, at address for Seller set forth on the Cover Sheet to this Master Agreement. If Buyer chooses to exercise its audit rights under this Section 9.3, any third party costs, incidental expenses (including travel), and related charges associated with Buyer's exercise of this provision shall be the responsibility of the Buyer.

9.4 Payment Adjustments; Billing Errors.

Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 9.5, or there is determined to have been a meter inaccuracy sufficient to require a payment adjustment. If the required adjustment is in favor of Buyer, Buyer's next monthly invoice shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer's next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear Interest, until settled in full, in accordance with Section 9.2, accruing from the date on which such payment is due.

9.5 Billing Disputes.

Either Party may dispute invoiced amounts, but shall pay to the other Party the undisputed invoiced amounts on or before the invoice due date. To resolve any billing dispute, the Party disputing a payment shall promptly notify the other Party of the basis for the dispute, setting forth the details of such dispute in reasonable specificity. Parties shall use reasonable efforts to amicably and promptly resolve such Disputes, and any failure to agree shall be subject to resolution in accordance with Articles 9 and 13. Upon resolution of any dispute, if all or part of the disputed amount is determined to have been due, then the Party owing such payment or refund shall pay within ten (10) days after receipt of notice of such determination the amount determined to be due plus interest thereon at the Interest Rate from the due date until the date of payment.

9.6 Payments Due to Buyer.

Buyer shall invoice Seller promptly (or as specified in a Transaction) for any Construction and Capacity Damages owed pursuant to Exhibit B of a Transaction or Payments in Lieu of Performance owed pursuant to Exhibit D of a Transaction. With respect to any Transaction, during the Delivery Term and during Seller's delivery of Test Energy, Seller shall deduct any payments due to Buyer in accordance with Exhibit B and Exhibit D of a Transaction from Seller's invoice

to Buyer for the month in which such amount becomes due to Buyer. In the event that, for any month, amounts due to Buyer exceed amounts due to Seller for such month, Seller shall provide payment to Buyer for the excess amount within twenty (20) days from the end of the prior monthly billing period.

9.7 Netting of Payments.

The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date pursuant a Transaction through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period, including any related damages calculated pursuant to the terms of a Transaction, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it. For purposes of clarity, there shall be no cross-netting and no cross-set off between Transactions. The Parties may net payments owing between them within a Transaction but shall not net or set off payments owing between them between all Transactions.

9.8 Payment Obligation Absent Netting.

If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, including, but not limited to, any related damage amounts calculated pursuant to a Transaction, interest, and payments or credits, that Party shall pay such sum in full when due.

## ARTICLE 10
## NOTICES

10.1 Addresses for the Delivery of Notices Any notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth on the Cover Sheet to this Transaction or at such other address or addresses as a Party may designate for itself from time to time by notice hereunder.

10.2 Acceptable Means of Delivering Notice Each notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, within three (3) Business Days following the date of the postmark on the envelope in which such notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including electronic mail, facsimile, or other electronic means) and if concurrently with the transmittal of such electronic communication the sending Party provides a copy of such electronic notice by hand delivery or express courier, at the time indicated by the time stamp upon delivery; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, notices of outages or other scheduling or dispatch information or

requests, may be sent by electronic communication and shall be considered delivered upon successful delivery of such transmission.

## ARTICLE 11
## FORCE MAJEURE

11.1 Definition.

(a) "**Force Majeure Event**" means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Transaction or from complying with all or a portion of the conditions under this Transaction if such act or event, despite the exercise of reasonable efforts, cannot be avoided by and is beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance, or noncompliance.

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic; landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; war; blockade; civil insurrection; riot; civil disturbance; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

(c) Notwithstanding the foregoing, the term "Force Majeure Event" does not include (i) economic conditions that render a Party's performance of this Transaction at the Contract Price unprofitable or otherwise uneconomic (including Buyer's ability to buy Energy at a lower price, or Seller's ability to sell Energy at a higher price, than the Contract Price); (ii) Seller's inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility (unless such inability is due to a change in Law or other Force Majeure Event); (iii) the inability of a Party to make payments when due under this Transaction, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above; (iv) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility, except to the extent Seller's inability to obtain sufficient labor, equipment, materials, or other resources is caused by a Force Majeure Event; (v) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, Seller's contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vi) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (vii) the exercise by any mineral estate holder of its right to use the surface of the Site.

11.2 No Liability If a Force Majeure Event Occurs Neither Seller nor Buyer shall be liable to the other Party if it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to

fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the party having such difficulty. Neither Party shall be considered in breach or default of this Transaction if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. The occurrence and continuation of a Force Majeure Event shall not suspend or excuse the obligation of a Party to make any payments due hereunder, but if Seller is unable to deliver, or any Buyer is unable to receive, Product due to a Force Majeure, then such Buyer shall have no obligation to pay Seller for Product not delivered or received by reason thereof.

11.3 Notice A Party shall not be considered to be in default in the performance of any of its obligations under this Agreement (other than the obligation to pay amounts due) when and to the extent such Party's performance is prevented by a Force Majeure *provided* the Party has given a written detailed description of the Force Majeure to the other Party promptly after becoming aware thereof (and in any event within fourteen (14) days after becoming aware of the claimed Force Majeure event), which notice shall include information with respect to the nature, cause and date and time of commencement of such event, and the anticipated scope and duration of the delay. The Party suffering the Force Majeure event shall also notify the other Party of the cessation of the termination of the Force Majeure Event.

11.4 Partial or Full Termination Following Force Majeure Event If a Force Majeure Event has occurred that materially and adversely affects the claiming Party from performing its obligations hereunder, and has continued for a consecutive twelve (12) month period, then the non-claiming Party may terminate this Transaction upon thirty (30) days written notice to the other Party. If at the end of such thirty (30) day period after notice, such Force Majeure Event is still in effect, this Transaction will automatically terminate. Upon any such termination, neither Party shall have any liability to the other, save and except for those obligations specified in Section 2.1(c). Notwithstanding the foregoing, if the Facility is destroyed or rendered inoperable by a Force Majeure Event, and an independent, third party engineer determines in writing that the Facility cannot be repaired or replaced within an aggregate period of twelve (12) months after the first day of such Force Majeure, Seller shall have no obligation to, rebuild the Facility and recommence delivery of Product to Buyer. If Seller (a) notifies Buyer within sixty (60) days of the Force Majeure Event that Seller intends to rebuild the Facility and recommence delivery of Energy to Buyer and (b) makes good faith efforts to order replacement equipment within ninety (90) days of the occurrence of a Force Majeure Event, then, Seller shall have twelve (12) months after the first day of such Force Majeure to reestablish deliveries subject to all terms and conditions of this Transaction will and shall be deemed to be in full force and effect upon the date of commercial operation of the rebuilt Facility.

## ARTICLE 12
## DEFAULTS; REMEDIES; TERMINATION

12.1 Seller Defaults The occurrence of any of the following events or circumstances shall constitute an "Event of Default" upon its occurrence but shall be subject to cure within the

applicable cure periods set forth below after the date of written notice from Buyer to Seller and Lender, if any, as provided for in Section 16.3 (each, a "**Seller Default**"):

(a) Seller breaches any material term of this Transaction, including any representation or warranty, and (i) Seller has failed to cure the breach within thirty (30) days of Buyer's notice of such breach, or (ii) if Seller has diligently commenced work to cure such breach during such thirty (30) day period but additional time is needed to cure the breach, not to exceed a total of sixty (60) days from the date of Buyer's notice, Seller has failed to cure the breach within such sixty (60) day period;

(b) Seller's actual fraud or willful misconduct in connection with this Transaction;

(c) Seller delivers or attempts to deliver to the Delivery Point for sale under this Transaction any Product that was not generated by the Facility;

(d) Seller consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of Seller under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to Buyer;

(e) Either (i) Seller fails to pay any Payment in Lieu of Performance damages in accordance with Exhibit D; or (ii) an Output Event of Default has occurred;

(f) Except as permitted in Article 15, Seller does not own or otherwise have control of the Facility; provided that Seller may exercise control of the Facility pursuant to one or more operations and maintenance, management services, or similar agreements with service providers;

(g) Seller does not have Site Control in accordance with Section 14.1(f) and Seller has not cured such failure within sixty (60) days after the occurrence of the event that results in the failure;

(h) Seller removes from the Facility equipment upon which the Contract Capacity has been based, except for the purposes of replacement, refurbishment, repair or maintenance, and the equipment is not returned within five (5) Business Days after Notice from Buyer;

(i) Except where there has been a change in Law that would affect Seller's status as an Eligible Renewable Energy Resource, and Seller has made commercially reasonable efforts in accordance with Section 3.8 to comply with such change in Law, the Facility fails to qualify as an Eligible Renewable Energy Resource;

(j) Except where there has been a change in Law that would affect the eligibility of Energy to qualify under the requirements of the California Renewables Portfolio Standard consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1), and Seller has made commercially reasonable efforts in accordance with Section 3.8

to comply with the change in Law (including providing Buyer notice), any Energy from the Facility and sold or to be sold to Buyer hereunder fails to qualify under the requirements of the California Renewables Portfolio Standard consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1);

(k) A termination of, or cessation of service under, any agreement necessary for Seller:

(i) To interconnect the Facility to the electric power grid; or

(ii) To transmit the electric energy on the electric power grid;

provided, however, if a termination of, or cessation of service under any such agreement is not due to the fault of Seller, Seller shall have sixty (60) days from such termination or cessation to cure such failure, so long as Seller is diligently pursuing such a cure;

(l) Subject to Article 3 and Article 4, Seller fails to take any actions necessary to dedicate, convey or effectuate the use of any and all Green Attributes, Capacity Attributes and Resource Adequacy Benefits, if any, for Buyer's sole benefit as specified in Article 3 and Article 4;

(m) The membership interests in Seller have been transferred, pledged or assigned as collateral or otherwise to any party other than (i) Lender in accordance with Article 16 or (ii) a Qualified Assignee;

(n) Seller is in default in performance of any of its obligations under the Master Agreement; or

(o) The termination of, or cessation of service under, the Lease due to an event of default, as defined in the Lease, a breach of material term(s), or any other reason; provided, however, that the Seller shall have thirty (30) days from such termination or cessation to cure such failure or obtain other means of Site Control, so long as Seller is diligently pursuing such a cure.

12.2 Buyer Defaults The occurrence of any of the following events or circumstances shall constitute an "Event of Default" upon its occurrence but shall be subject to cure within the applicable cure periods set forth below after the date of written notice from Seller to Buyer (each, a "**Buyer Default**"):

(a) Buyer breaches any material term of this Transaction, including any representation or warranty, and (i) Buyer has failed to cure the breach within forty-five (45) days after Seller's notice of such breach, or (ii) if Buyer has diligently commenced work to cure such breach during such forty-five (45) day period but additional time is needed to cure the breach, not to exceed a total of ninety (90) days from the date of Seller's notice, Buyer has failed to cure the breach within such ninety (90) day period; or

(b) Buyer's actual fraud or willful misconduct in connection with this Transaction.

12.3 Buyer's Remedies Subject to Article 13, upon the occurrence and notice to Seller of a Seller Default, Buyer shall have the right (but not the obligation) to:

(a) suspend performance of its obligations under this Transaction; and/or

(b) receive from Seller direct damages incurred by Buyer in connection with such Seller Default (including during any applicable cure period, whether or not Buyer has elected to suspend performance during such cure period); provided, however that Buyer shall use commercially reasonable efforts to mitigate any damages it may incur as a result of such Seller Default.

12.4 Seller's Remedies Subject to Article 13, upon the occurrence and notice to Buyer of a Buyer Default, Seller shall have the right (but not the obligation) to:

(a) suspend performance of its obligations under this Transaction;

(b) sell to a third Person, free and clear of any claims by Buyer, all Product for such period during which Seller suspends performance hereunder; and/or

(c) receive from Buyer direct damages incurred by Seller in connection with such Buyer Default (including during any applicable cure period, whether or not Seller has elected to suspend performance during such cure period); provided, however that Seller shall use commercially reasonable efforts to mitigate any damages it may incur as a result of such Buyer Default.

12.5 Termination for an Event of Default.

(a) In addition to those remedies in Sections 12.3 and 12.4, if a Seller Default or a Buyer Default, as applicable, has occurred and remains uncured by the expiration of the applicable cure period, the non-defaulting Party may terminate this Transaction within thirty (30) days after the expiration of such cure period upon notice to the defaulting Party; provided, that if the non-defaulting Party does not terminate this Transaction within such thirty (30) day period, the Seller Default or Buyer Default, as the case may be, shall be deemed to have been waived by the non-defaulting Party.

(b) As soon as practicable after notice of termination, the non-defaulting Party shall provide notice to the defaulting Party of the Termination Payment. The notice must include a written statement setting forth, in reasonable detail, the calculation of such Termination Payment, together with appropriate supporting documentation.

(c) If the Termination Payment is positive, the defaulting Party shall pay such amount to the non-defaulting Party within ten (10) Business Days after the notice is provided. If the Termination Payment is negative (i.e., the non-defaulting Party owes the defaulting Party more than the defaulting Party owes the non-defaulting Party), then the non-defaulting Party shall pay such amount to the defaulting Party within thirty (30) days after the notice is provided.

DRAFT

(d) The Parties shall negotiate in good faith to resolve any disputes regarding the calculation of the Termination Payment. Any disputes which the Parties are unable to resolve through negotiation may be submitted for dispute resolution as provided in Article 17.

## ARTICLE 13
## LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES

13.1 Limitation of LiabilityNotwithstanding anything to the contrary in this Transaction, Seller's sole liability for a failure of (i) Seller to construct the Facility, (ii) the Facility to achieve Commercial Operation by the Guaranteed Commercial Operation Date, or (iii) the Facility to achieve Commercial Operation at any specific capacity by the applicable dates set forth in Exhibit B, shall be the payment by Seller of Construction and Capacity Damages as specified in Exhibit B Sections 1, 2, and 5, and termination rights as specified in Exhibit B Section 3.

13.2 NO CONSEQUENTIAL DAMAGES EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS TRANSACTION, NEITHER SELLER, NOR BUYER SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS TRANSACTION.

13.3 WAIVER AND EXCLUSION OF OTHER DAMAGES.

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS TRANSACTION SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS TRANSACTION, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS TRANSACTION ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE VALUE OF ANY TAX BENEFITS LOST DUE TO BUYER'S DEFAULT (WHICH SELLER HAS NOT BEEN ABLE TO MITIGATE AFTER USE OF REASONABLE EFFORTS) AND AMOUNTS DUE IN CONNECTION WITH THE RECAPTURE OF ANY RENEWABLE ENERGY INCENTIVES, IF ANY, SHALL BE DEEMED TO BE DIRECT DAMAGES.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTION 12.5, AND AS PROVIDED IN EXHIBIT B

AND EXHIBIT D, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS TRANSACTION, AND EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS TRANSACTION.

## ARTICLE 14
## REPRESENTATIONS AND WARRANTIES; AUTHORITY

14.1 Seller's Representations and Warranties As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and is qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and perform this Transaction and is not prohibited from entering into this Transaction or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Transaction, except where such failure does not have a material adverse effect on Seller's performance under this Transaction. The execution, delivery and performance of this Transaction by Seller has been duly authorized by all necessary corporate action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Transaction, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Transaction will not conflict with or constitute a breach of or a default under any applicable Law presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Transaction has been duly executed and delivered by Seller. This Transaction is a legal, valid and binding obligation of Seller enforceable in accordance with its

terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) The Facility is located in the State of California.

(f) Seller has Site Control, and hereby covenants that it will maintain Site Control for the Contract Term in a manner that will allow it to perform its obligations hereunder.

(g) OTHER THAN THOSE WARRANTIES AND GUARANTIES EXPRESSLY SET FORTH IN THE TERMS OF THIS TRANSACTION, SELLER MAKES NO WARRANTIES AND GUARANTIES OF ANY KIND WHATSOEVER, EXPRESS, IMPLIED, ORAL, WRITTEN OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING BY CUSTOM, TRADE USAGE, PROMISE, EXAMPLE OR DESCRIPTION, ALL OF WHICH WARRANTIES AND GUARANTIES ARE EXPRESSLY DISCLAIMED BY SELLER AND WAIVED BY BUYER.

14.2 Buyer's Representations and Warranties As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a public agency created by special act of the California Legislature in 1949 (Stats. 1949, c. 994), duly organized, validly existing and in good standing under the laws of the State of California. All persons making up the governing body of Buyer are the elected incumbents in their positions and hold their positions in good standing in accordance with Buyer's enabling statute and other applicable laws. All persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Transaction and other applicable laws.

(b) Buyer has the power and authority to enter into and perform this Transaction and is not prohibited from entering into this Transaction or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Transaction, except where such failure does not have a material adverse effect on Buyer's performance under this Transaction. The execution, delivery and performance of this Transaction by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Transaction, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Transaction will not conflict with or constitute a breach of or a default under any applicable Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, the Joint Powers Act, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Transaction has been duly executed and delivered by Buyer. This Transaction is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Transaction, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court, (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment.

14.3 General Covenants Each Party covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(a) It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and to be qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

(b) It shall maintain (or obtain from time to time as required) all regulatory authorizations necessary for it to legally perform its obligations under this Transaction; and

(c) It shall perform its obligations under this Transaction in compliance with all terms and conditions in its governing documents and any contracts to which it is a party and in material compliance with any applicable Law.

## ARTICLE 15
## ASSIGNMENT

15.1 General Prohibition on Assignments Except as provided below and in Article 16, neither Seller nor Buyer may voluntarily assign its rights nor delegate its duties under this Transaction, or any part of such rights or duties, without the written consent of the other Party. Neither Seller nor Buyer shall unreasonably withhold, condition or delay any requested consent to an assignment that is allowed by the terms of this Transaction. Any such assignment or delegation made without such written consent or in violation of the conditions to assignment set out below shall be null and void.

15.2 Seller's Permitted Assignment Seller may, without the prior written consent of Buyer, transfer or assign this Transaction to: (a) an Affiliate of Seller; (b) any Person succeeding to all or substantially all of the assets of Seller (whether voluntary or by operation of law); or (c) subject to Section 16.1, a Lender as collateral, provided, however, that in the case of (a) or (b), the assignee shall be a Qualified Assignee; provided, further, that in each such case, Seller shall give notice to Buyer no fewer than fifteen (15) Business Days before such assignment that (i) notifies Buyer of such assignment and (ii) provides to Buyer a written agreement signed by the Person to which Seller wishes to assign its interests which (y) provides that such Person will assume all of Seller's obligations and liabilities under this Transaction upon such transfer or assignment and (z) certifies that such Person shall meet the definition of a Qualified Assignee. In the event that Buyer, in its good faith and sole discretion, does not agree that Seller's assignee has the financial

capability to perform all of Seller's obligations under this Transaction, then prior to any such transfer either Seller must agree to remain financially responsible under this Transaction, or Seller's assignee must provide performance security in an amount and form reasonably acceptable to Buyer. Any assignment by Seller, its successors or assigns under this Section 15.2 shall be of no force and effect unless and until such notice and agreement by the assignee have been received by Buyer.

15.3 Buyer's Permitted Assignment Subject to the following sentence, Buyer may assign its interests in this Transaction to Sonoma Clean Power Authority or a buyer of comparable creditworthiness ("Prospective Buyer Assignee"), provided that no fewer than fifteen (15) Business Days before such assignment Buyer (a) notifies Seller of such assignment and (b) provides to Seller a written agreement signed by the Prospective Buyer Assignee stating that (i) the Prospective Buyer Assignee agrees to assume all of Buyer's obligations and liabilities under this Transaction and under any consent to assignment and other documents previously entered into by Seller as described in Section 16.2(b) and (ii) the Prospective Buyer Assignee has the financial capability to perform all of Buyer's obligations under this Transaction. Any assignment by Buyer, its successors or assigns under this Section 15.3 shall be of no force and effect unless and until such notice and agreement by the Prospective Buyer Assignee have been received by Seller. In the event that Seller in its good faith and sole discretion, does not agree that Buyer's assignee has the financial capability to perform all of Buyer's obligations under this Transaction, then prior to any such transfer either Buyer must agree to remain financially responsible under this Transaction, or Buyers assignee must provide performance security in an amount and form reasonably acceptable to Seller.

## ARTICLE 16
## LENDER ACCOMMODATIONS

16.1 Granting of Lender Interest Notwithstanding Section 15.2, Seller may, without the consent of Buyer, grant an interest (by way of collateral assignment, or as security, beneficially or otherwise) in its rights and/or obligations under this Transaction to any Lender. Seller's obligations under this Transaction shall continue in their entirety in full force and effect. Promptly after granting such interest, Seller shall notify Buyer in writing of the name, address, and telephone and facsimile numbers of any Lender to which Seller's interest under this Transaction has been assigned. Such notice shall include the names of the Lenders to whom all written and telephonic communications may be addressed. After giving Buyer such initial notice, Seller shall promptly give Buyer notice of any change in the information provided in the initial notice or any revised notice.

16.2 Rights of Lender If Seller grants an interest under this Transaction as permitted by Section 16.1, the following provisions shall apply:

(a) Lender shall have the right, but not the obligation, to perform any act required to be performed by Seller under this Transaction to prevent or cure a default by Seller in accordance with Section 12.1, and such act performed by Lender shall be as effective to prevent or cure a default as if done by Seller.

(b) Buyer shall cooperate with Seller or any Lender, to execute or arrange for the delivery of certificates, consents, opinions, estoppels, amendments and other documents reasonably requested by Seller or Lender in order to consummate any financing or refinancing and shall enter into reasonable agreements with such Lender that provide that Buyer recognizes the Lender's security interest and such other provisions as may be reasonably requested by Seller or any such Lender; provided, however, that all costs and expenses (including reasonable attorney's fees) incurred by Buyer in connection therewith shall be borne by Seller.

(c) Buyer agrees that no Lender shall be obligated to perform any obligation or be deemed to incur any liability or obligation provided in this Transaction on the part of Seller or shall have any obligation or liability to Buyer with respect to this Transaction except to the extent any Lender has expressly assumed the obligations of Seller hereunder; provided that Buyer shall nevertheless be entitled to exercise all of its rights hereunder in the event that Seller or Lender fails to perform Seller's obligations under this Transaction.

16.3 Cure Rights of LenderBuyer shall provide notice of the occurrence of any Event of Default described in Section 12.1 or 12.2 hereof to any Lender, and Buyer shall accept a cure performed by any Lender and shall negotiate in good faith with any Lender as to the cure period(s) that will be allowed for any Lender to cure any Seller Event of Default hereunder. Buyer shall accept a cure performed by any Lender so long as the cure is accomplished within the applicable cure period so agreed to between Buyer and any Lender. Notwithstanding any such action by any Lender, Seller shall not be released and discharged from and shall remain liable for any and all obligations to Buyer arising or accruing hereunder.

## ARTICLE 17
## DISPUTE RESOLUTION

17.1 Governing Law This Transaction and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Transaction.

17.2 Dispute Resolution The sole procedure to resolve any claim arising out of or relating to this Transaction is the dispute resolution procedure set forth in this Section 17.2. In the event of any dispute arising under this Transaction, within ten (10) days following the receipt of a written notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within thirty (30) days of initiating such discussions, or within forty (40) days after notice of the dispute, then the Parties shall resolve such controversy through Arbitration. Either Party may initiate Arbitration by filing with the JAMS a notice of intent to arbitrate. The Arbitration shall be adjudicated by one retired judge or justice from the JAMS panel. The Arbitration shall take place in Santa Rosa, California, and shall be administered by and in accordance with JAMS's Commercial Arbitration Rules ("Arbitration"). If the Parties cannot mutually agree on the arbitrator who will adjudicate the dispute, then JAMS shall provide the Parties with an arbitrator pursuant to its then-applicable Commercial Arbitration Rules. The arbitrator shall have no affiliation with, financial or other interest in, or prior

employment with either Party and shall be knowledgeable in the field of the dispute. The California Superior Court of Sonoma may enter judgment upon any award rendered by the arbitrator. The Parties are aware of the decision in *Advanced Micro Devices, Inc. v. Intel Corp.*, 9 Cal. 4th 362 (1994) and, except as modified by this Transaction, intend to limit the power of the arbitrator to that of a Superior Court judge enforcing California Law.

17.3 Attorneys' Fees If Arbitration is pursued for the enforcement of this Transaction or because of an alleged dispute, default, misrepresentation, or breach in connection with any of the provisions of this Transaction, each Party shall be responsible for its own attorneys' fees and costs.

## ARTICLE 18
## INDEMNIFICATION

18.1 Indemnification.

(a) Each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold harmless the other Party and its directors, officers, employees and agents (collectively, the "**Indemnified Party**") from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) for personal injury or death to Persons and damage to the property of any third party to the extent arising out of, resulting from, or caused by the negligent or willful misconduct of the Indemnifying Party, its Affiliates, its directors, officers, employees, or agents.

(b) Nothing in this Section 18.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Transaction. Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

18.2 Claims Promptly after receipt by a Party of any claim or notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 18 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by such Party and satisfactory to the Indemnified Party, provided, however, that if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs.

(a) If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement.

(b) Except as otherwise provided in this Article 18, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 18, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

## ARTICLE 19
## CONFIDENTIAL INFORMATION

19.1 Definition of Confidential Information The following constitutes "**Confidential Information**," whether oral or written, which is delivered by Seller to Buyer or by Buyer to Seller including information that either Seller or Buyer stamps or otherwise identifies as "confidential" or "proprietary" before disclosing it to the other. Confidential Information does not include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Transaction; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Transaction.

19.2 Duty to Maintain Confidentiality Buyer and Seller agree not to disclose Confidential Information received from the other to anyone (other than Buyer's and Seller's Affiliates, counsel, consultants, lenders, prospective lenders, purchasers, prospective purchasers, investors, prospective investors, contractors constructing or providing services to the Facility (including suppliers), employees, officers and directors who agree to be bound by the provisions of this Article), without the deliverer's prior written consent. Confidential Information will retain its character as Confidential Information but may be disclosed by the recipient if and to the extent such disclosure is required (a) to be made by any requirements of Law (including the California Public Records Act), (b) pursuant to applicable regulation or an order of a court or (c) in order to enforce this Transaction. The originator or generator of Confidential Information may use such information for its own uses and purposes, including the public disclosure of such information at its own discretion. If the recipient is required by Law or by a court or regulatory agency to disclose Confidential Information, the recipient shall, to the extent possible, give the disclosing Party prompt notice of such request so that the disclosing Party may seek an appropriate protective order. If, in the absence of a protective order, the receiving Party is nonetheless advised by counsel that disclosure of the Confidential Information is finally required (after, if advance notice to the disclosing Party is permitted by applicable Law, exhausting any appeal requested by the disclosing Party at the disclosing Party's expense), the receiving Party may disclose such Confidential Information. Notwithstanding anything in this Section 19.2 to the contrary, however, Buyer may share Confidential Information with the Sonoma Clean Power Authority provided that the Sonoma Clean Power Authority agrees to maintain the confidentiality of such Confidential Information as provided in this Section 19.2.

19.3 Irreparable Injury; Remedies Buyer and Seller each agree that disclosing Confidential Information of the other in violation of the terms of this Article may cause irreparable

harm, and that the harmed Party may seek any and all remedies available to it at law or in equity, including injunctive relief.

19.4 Disclosure to Lender Notwithstanding anything to the contrary in this Article 20, Confidential Information may be disclosed by Seller to any potential Lender or any of its agents, consultants or trustees so long as the Person to whom Confidential Information is disclosed agrees in writing to be bound by the confidentiality provisions of this Article 19 to the same extent as if it were a Party.

## ARTICLE 20
## MISCELLANEOUS

Seller shall procure and maintain throughout the Term, at its own expense, the policies of insurance set forth on Exhibit J.

20.2 Entire Agreement; Integration; Exhibits The Master Agreement, together with all Transactions and any exhibits, schedules and any written supplements thereto, any designated collateral, security, credit support or margin agreement or similar arrangement between the Parties constitute the entire agreement between the Parties relating to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Transaction by reference. In the event of a conflict between the provisions of this Transaction and those of the Cover Sheet to this Transaction, any Exhibit, or the Master Agreement, the provisions of first the Cover Sheet to this Transaction, and second this Transaction, and third such Exhibit, and forth the Master Agreement shall prevail.

20.3 Amendments This Transaction may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer; provided, that, for the avoidance of doubt, this Transaction may not be amended by electronic mail communications.

20.4 No Agency, Partnership, Joint Venture or Lease Seller and the agents and employees of Seller shall, in the performance of this Transaction, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Transaction, Seller and Buyer intend to act as energy service provider and energy service recipient, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Facility or any business related to the Facility. This Transaction shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Transaction).

20.5 Severability If any provision of this Transaction is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Transaction have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Transaction as a whole.

20.6 Mobile-Sierra Notwithstanding any other provision of this Transaction, neither Party shall seek, nor shall they support any third party seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Transaction through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior written agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Transaction proposed by a Party, a non-Party or the FERC acting *sua sponte* shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956).

20.7 Counterparts This Transaction may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

20.8 Facsimile or Electronic Delivery This Transaction may be duly executed and delivered by a Party by execution and facsimile or electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party, and, if delivery is made by facsimile or other electronic format, the executing Party shall promptly deliver, via overnight delivery, a complete original counterpart that it has executed to the other Party, but this Transaction shall be binding on and enforceable against the executing Party whether or not it delivers such original counterpart.

20.9 Binding Effect This Transaction shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

DRAFT

# EXHIBIT A

## DESCRIPTION OF THE FACILITY

**Site Name:** **Airport Larkfield Wikiup Sanitation Zone Oceanview Reservoir**

**APN:** **066-280-047**

**Buyer:** **Sonoma County Water Agency**

**Guaranteed Capacity:** **1.0 MW AC (alternating current)**

**Delivery Point:** Point of interconnection at the Water Agency's recycled water pump station at the Facility

**Additional Information:**

**Map:**

1 PV SITE PLAN

# EXHIBIT B

## FACILITY CONSTRUCTION AND COMMERCIAL OPERATION; PREVAILING WAGES

1. **Construction of the Facility**.

   a. Seller shall cause construction of the Facility to begin on or before the Milestone Date for Completion of **"Guaranteed Construction Start Date"** in Exhibit E (as may be extended pursuant to this Exhibit B, the "**Guaranteed Construction Start Date**"). Seller shall sufficiently demonstrate to the Buyer the start of construction through mobilization to site by Seller and/or its designees, including sufficient activity to reasonably demonstrate that Seller is acting in good faith to prepare the location for the prompt and timely construction of the Facility ("**Construction Start**"). On the date of the beginning of construction (the "**Construction Start Date**"), Seller shall deliver to Buyer a certificate substantially in the form attached as Exhibit I hereto.

   b. If construction does not begin on the Facility by the Guaranteed Construction Start Date, Seller shall pay "**Construction Delay Damages**" to Buyer on account of such delay. Construction Delay Damages shall be payable in the amount of One Thousand Dollars ($1,000.00) per day for which construction has not begun by the Guaranteed Construction Start Date. Construction Delay Damages shall be payable to Buyer by Seller until the earlier of: (a) the beginning of construction for the Facility or (b) termination of this Transaction. On or before the tenth (10th) day of each month, Buyer shall invoice Seller for Construction Delay Damages, if any, accrued during the prior month.

2. **Commercial Operation of the Facility**. "**Commercial Operation**" means the condition existing when (i) all necessary permits have been obtained to operate the Facility and to produce, sell and transmit Energy, (ii) ninety percent (90%) of the Guaranteed Capacity has been completed and is ready to produce and deliver Energy to Buyer, and (iii) Seller has fulfilled all of the conditions precedent in Section 2.2. The "**Commercial Operation Date**" shall be the date on which Commercial Operation is achieved.

   a. Seller shall cause Commercial Operation for the Facility by the Milestone Date for Completion for **"Guaranteed Commercial Operation Date"** in Exhibit E (as may be extended pursuant to this Exhibit B, the "**Guaranteed Commercial Operation Date**"). Seller shall notify Buyer not less than twenty (20) Business Days in advance of the Commercial Operation Date and shall update Buyer regarding any changes to the Commercial Operation Date so noticed and shall confirm to Buyer in writing when Commercial Operation has been achieved. Seller shall provide Buyer with an updated Schedule D-1 containing updated Expected Energy values for the Facility within thirty (30) days of the Commercial Operation Date, and such updated Schedule D-1 shall be considered Schedule D-1 for all purposes of this Transaction thenceforth; provided that Expected Energy values shall not be adjusted by more than 5% for any Contract Year.

b. If Seller does not achieve Commercial Operation by the Guaranteed Commercial Operation Date, Seller shall pay "**Commercial Operation Delay Damages**" to Buyer on account of such delay in the amount of Seven Thousand Five Hundred Dollars ($7,500.00) per day for each day that Seller has not achieved Commercial Operation past the Guaranteed Commercial Operation Date. Commercial Operation Delay Damages shall be payable to Buyer by Seller until the earlier of: (a) the Commercial Operation Date or (b) termination of this Transaction. On or before the tenth (10th) day of each month, Buyer shall invoice Seller for Commercial Operation Delay Damages, if any, accrued during the prior month.

3. **Termination for Failure to Commence Construction of the Facility or Achieve Commercial Operation**. If Seller has not caused construction to begin on the Facility within two hundred seventy (270) days after the Guaranteed Construction Start Date, Buyer may elect to terminate this Transaction, which termination shall be effective thirty (30) days after written notice to Seller. If Seller has not caused the Facility to achieve Commercial Operation within two hundred seventy (270) days after the Guaranteed Commercial Operation Date, either Party may elect to terminate this Transaction, which termination shall be effective thirty (30) days after written notice by the terminating Party to the non-terminating Party. Upon termination pursuant to this Exhibit B, neither Party shall have further liability or obligation to the other Party, other than Construction and Capacity Damages accrued prior to the date of notice of termination.

4. **Extension of the Guaranteed Dates**. The Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date shall be extended:

   a. by a number of days equal to the period of Buyer's failure to perform any covenant or obligation under this Transaction; or

   b. by a number of days equal to the period of a Force Majeure Event; or

   c. by sixty (60) days if Seller, despite having taken all commercially reasonable actions to apply for and meet all of its requirements and deadlines, has not obtained permits necessary for the construction and operation of the Facility, including all necessary studies and procedures under the California Environmental Quality Act and all applicable land use approvals and permits for the construction and operation of the Facility.

5. **Failure to Reach Guaranteed Capacity**. If, sixty (60) days after Commercial Operation, one hundred percent (100%) of the Guaranteed Capacity has not been completed and is not ready to produce and deliver Product to Buyer, Seller shall have until one (1) year after the Commercial Operations Date to install additional capacity such that the Installed Capacity is equal to the Guaranteed Capacity. In the event that Seller fails to construct the Guaranteed Capacity by such date, Seller shall pay "**Capacity Damages**" to Buyer, in an amount equal to One Hundred Thousand Dollars ($100,000) for each MW that the Guaranteed Capacity exceeds the Installed Capacity and the Guaranteed Capacity and other applicable portions of the Transaction shall be adjusted accordingly.

DRAFT

6. **Buyer's Right to Draw on Development Security**. If Seller fails to timely pay any Construction and Capacity Damages due hereunder, Buyer may draw upon the Development Security pursuant to the Master Agreement to satisfy Seller's payment obligation thereof.

7. **Construction and Capacity Damages As Liquidated Damages and Sole Remedy**. Construction and Capacity Damages shall be payable as liquidated damages and in lieu of actual damages accrued. Buyer's sole remedy and Seller's sole liability for the failure of (i) Seller to construct the Facility, (ii) the Facility to achieve Commercial Operation by the Guaranteed Commercial Operation Date; or (iii) the Facility to achieve Commercial Operation at any specific Capacity shall be the payment by Seller of Construction and Capacity Damages as specified in Section 1, 2, and 5 above, and termination rights as specified in Section 3 above.

8. **Prevailing Wages Required**.

(1) General. In connection with the construction or maintenance of the Seller shall pay to any worker on the job for whom prevailing wages have been established, including but not limited to pre-construction activities, such as geotechnical work, including soil testing, drilling and potholing, an amount equal to or more than the general prevailing rate of per diem wages for (1) work of a similar character in the locality in which the work is performed and (2) legal holiday and overtime work in said locality. The per diem wages shall be an amount equal to or more than the stipulated rates contained in a schedule that has been ascertained and determined by the Director of the State Department of Industrial Relations and Water Agency to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this Agreement. Seller shall also cause a copy of this determination of the prevailing rate of per diem wages to be posted at each site work is being performed, in addition to all other job-site notices prescribed by regulation. Copies of the prevailing wage rate of per diem wages are on file at Water Agency and will be made available to any person upon request.

(2) Compliance Monitoring and Registration. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Seller shall furnish and shall require all subcontractors and subSellers to furnish the records specified in Labor Code section 1776 (e.g. electronic certified payroll records) directly to the Labor Commissioner in a format prescribed by the Labor Commissioner at least monthly. Seller and all subcontractors performing work that requires payment of prevailing wages shall be registered and qualified to perform public work pursuant to Labor Code section 1725.5 as a condition to engage in the performance of any services under this Agreement.

(3) Subcontracts: Seller shall insert in every subcontract or other arrangement which Seller may make for performance of such work or labor on work provided for in the Agreement, provision that Subcontractor shall pay persons performing labor or rendering service under subcontract or other arrangement not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed in the Labor Code. Pursuant to Labor Code Section 1775(b)(1), Seller shall provide to

each Subcontractor a copy of Sections 1771, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code.

(4) Compliance with Law: Seller stipulates that it shall comply with all applicable wage and hour laws, including without limitation Labor Code Sections 1725.5, 1775, 1776, 1777.5, 1813, and 1815 and California Code of Regulations, Title 8, Section 16000, et seq. Seller agrees it shall pay prevailing wages in connection with the construction and operation of the Facility.

DRAFT

**EXHIBIT C**

**EMERGENCY CONTACT INFORMATION**

BUYER:

Dale Roberts
c/o Sonoma County Water Agency
404 Aviation Blvd
Santa Rosa, CA 95403
Phone No: 707 547-1979
Email: dale.roberts@scwa.ca.gov

SELLER:

Kenny Forrest
c/o Pristine Sun Corporation
107 Lone Oak Lane
Sebastopol, CA 95472
Phone No: 707-548-4544
Email: kenny.forrest@pristinesun.com

DRAFT

# EXHIBIT D

# OUTPUT OF THE FACILITY

## SECTION 1 – PAYMENTS IN LIEU OF PERFORMANCE

Payments in Lieu of Performance shall be calculated pursuant to the following formula at the end of the relevant Calculation Period:

(Bp - Cp) * (G - A1)

where:

Bp = the average price per MWh paid by Buyer to third parties during the relevant Calculation Period for equivalent energy and Green Attributes plus any reasonable transactional costs associated with such purchases;

Cp = the Contract Price;

G = the Guaranteed Output for the relevant Calculation Period;

A1 = the actual amount of Energy produced by the Facility and delivered to Buyer during the relevant Calculation Period, as adjusted pursuant to Section 3, below.

No payment shall be due if the calculation of (Bp - Cp) or (G - A1) yields a negative number.

For each Contract Year, Seller shall send Buyer an audit within sixty (60) days of the anniversary of such date summarizing the output of the Facility during the preceding twelve (12) month period. Buyer shall have thirty (30) days following receipt of such audit to dispute the conclusions therein, after which time the audit shall be binding on the Parties. Any payments due to Buyer shall be remitted to Buyer within twenty (20) days of the binding audit.

## SECTION 2 – OUTPUT EVENT OF DEFAULT

(a) "**Output Event of Default**" occurs if, for any two (2) consecutive Contract Years, the actual amount of Energy produced by the Facility and delivered to Buyer, as adjusted pursuant to Section 3 below, fails to exceed fifty percent (50%) of the Expected Energy for the relevant period.

## SECTION 3 – ADJUSTED ANNUAL PRODUCTION

(a) For purposes of the calculations in Sections 1 and 2 above, the actual amount of Energy produced and delivered by the Facility during the Contract Year shall be increased to account for:

(i) any period during which a Force Majeure Event has occurred and is continuing;

(ii) any Curtailment Period;

(iii) any period during which a Buyer Default has occurred; *and*

(iv) any Buyer Curtailment Period.

(b) The additional MWh contemplated in paragraph (a) shall be calculated by using the methodology described in the definition of Deemed Energy Generation. In the event that it is not possible to use such methodology, the additional MWh contemplated in paragraph (a) shall be calculated by assuming that the Facility would have produced an amount of electricity in such periods equal to (x) the average production during the month of such non-production in the preceding two (2) Contract Years, if available, divided by the total number of days in all such months; (y) if in the second Contract Year, the average production during the month of such non-production in the preceding Contract Year, divided by the total number of days in such month; or (z) if in the first Contract Year, the average production during the previous month, divided by the total number of days in such month with respect to (i) (ii) and (iv) above and subject to adjustment with respect to (iii) above.

**SECTION 4 – SOLE AND EXCLUSIVE REMEDIES**

(a) The Payments in Lieu of Performance shall be payable as liquidated damages and in lieu of actual damages. The Parties agree that the extent and amount of actual damages that would be suffered by Buyer as a result of Seller's failure to achieve the performance standards set forth in this Exhibit D is impractical and extremely difficult to determine or estimate. Therefore, Payments in Lieu of Performance set forth in this Exhibit D represent the Parties' best estimate of the sums that would be fair, average compensation for all losses that may be sustained as a consequence of the Facility's failure to achieve performance standards set forth in this Exhibit D.

(b) Notwithstanding anything to the contrary herein, Buyer and Seller agree that where there are any Shortfall Amounts, Buyer's sole and exclusive damage remedies shall be (i) the payment of liquidated damages provided for in Section 2 of this Exhibit D, (ii) the delivery of Replacement Product or (iii) some combination of (i) and (ii).

DRAFT

**SCHEDULE D-1**

**EXPECTED ENERGY**

| Contract Year | Expected Energy (MWh) |
|---|---|
| 1 | 1,713 |
| 2 | 1,705 |
| 3 | 1,697 |
| 4 | 1,688 |
| 5 | 1,680 |
| 6 | 1,671 |
| 7 | 1,663 |
| 8 | 1,655 |
| 9 | 1,646 |
| 10 | 1,638 |
| 11 | 1,630 |
| 12 | 1,622 |
| 13 | 1,614 |
| 14 | 1,606 |
| 15 | 1,598 |
| 16 | 1,582 |
| 17 | 1,574 |
| 18 | 1,566 |
| 19 | 1,558 |
| 20 | 1,550 |
| 21 | 1,542 |
| 22 | 1,535 |
| 23 | 1,527 |
| 24 | 1,519 |
| 25 | 1,512 |
| 26 | 1,504 |
| 27 | 1,497 |
| 28 | 1,489 |
| 29 | 1,481 |
| 30 | 1,475 |

DRAFT

**EXHIBIT E**

**MILESTONES**

| **Milestone** | **Date for Completion** |
|---|---|
| *Close of Construction Financing, if applicable* | *04/30/2017* |
| *Receive Construction Permits* | *03/30/2017* |
| *Guaranteed Construction Start Date* | *06/30/2017* |
| *CEC Precertification* | *06/30/2017* |
| *Completion of Interconnection Facilities* | *08/31/2017* |
| *Guaranteed Commercial Operation Date* | *08/31/2017* |

DRAFT

# EXHIBIT F

## QUARTERLY MILESTONE PROGRESS REPORTING FORM

Prior to Commercial Operation, Seller shall prepare a written report (this "Quarterly Milestone Progress Reporting Form") at the end of each calendar quarter on its progress on the Milestones and the development construction, testing and start-up of the Facility.

Within fifteen (15) days of the end of the applicable calendar quarter, Seller must (a) complete this Quarterly Milestone Progress Reporting Form and (b) submit such completed report to Buyer.

Each Milestone Progress Report must include the following items:

1. Executive Summary.

2. Facility description.

3. Site plan of the Facility.

4. Description of any planned changes to the Facility or the site.

5. Bar chart schedule showing progress on achieving each of the Milestones.

6. Summary of activities during the previous calendar quarter.

8. Forecast of activities scheduled for the current calendar quarter.

7. Written description about the progress relative to Seller's Milestones.

8. Description of issues that could potentially impact Seller's Milestones, as well as notice of any anticipated Milestone delays.

9. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.

10. Progress and schedule of all agreements, contracts, permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.

11. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the electric power grid and all other interconnection utility services.

DRAFT

# EXHIBIT G

## INTEGRATION COST CHARGE CODE

This Exhibit shall be completed and updated from time to time by the Parties in accordance with the definition of "CAISO Integration Amounts" in Section 1.1.

DRAFT

# EXHIBIT H

## FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of the Commercial Operation is delivered by [independent engineer] ("**Engineer**") to Sonoma County Water Agency ("**Buyer**") in accordance with the terms of that certain Power Purchase Transaction dated _____ ("**Transaction**") by and between [SELLER] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Transaction.

1. Seller has successfully completed an initial Facility performance test under Seller's EPC contract for the Facility which demonstrates peak Facility electrical output of no less than ninety percent (90%) of the Guaranteed Capacity (as adjusted for ambient conditions on the date of the performance test), and Seller has delivered to Buyer a certification of a licensed professional engineer certifying that Seller has installed equipment with a nameplate capacity of no less than ninety percent (90%) of the Guaranteed Capacity and that such equipment is capable of generating energy in accordance with the manufacturer's specifications ("***Initial Mechanical Completion***");
2. The electrical collection system related to the Facility comprising the total installed power capacity referenced in (1) above is substantially complete (subject to completion of punch-list items), functional, and energized for the Facility;
3. The substation for the Facility is substantially complete (subject to completion of punch-list items) and capable of delivering the Energy;
4. The Initial Commissioning Completion (defined below) has been achieved for the equipment that has achieved Initial Mechanical Completion; and
5. The Facility is operational and interconnected with the CAISO or the PTO grid, has been approved by CAISO or the PTO to commence operations, and is capable of delivering Energy through the permanent interconnection facilities for the Facility.

For purposes of Section 4 above, "***Initial Commissioning Completion***" means that the electrical and control systems have been energized and tested in accordance with the equipment manufacturer's specifications.

EXECUTED by **[**INDEPENDENT ENGINEER**]**

this _____ day of _____, 20__.

**[**INDEPENDENT ENGINEER**]**

By:_____

Its:_____

Date:_____

DRAFT

# EXHIBIT I

## FORM OF CONSTRUCTION START DATE CERTIFICATE

This certification ("***Certification***") of the Construction Start Date is delivered by [SELLER] ("***Seller***") to the Sonoma County Water Agency ("***Buyer***") in accordance with the terms of that certain Power Purchase and Sale Agreement dated _____ ("***Transaction***") by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Transaction.

Seller hereby certifies and represents to Buyer the following:

1. the EPC Contract related to the Facility was executed on _____;
2. the Notice to Proceed with the construction of the Facility was issued on _____ (attached);
3. the Construction Start as defined in Exhibit B of the PPA has occurred;
4. the precise Site on which the Facility is located is, which must be within the boundaries of the previously identified Site:
   _____
   (such description shall amend the description of the Site in Exhibit A).

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the ___ day of _____.

[SELLER]

By:_____
Its:_____

Date:_____

DRAFT

# Exhibit J

## Insurance Requirements

J.1. Duty to Maintain Insurance. Tenant shall obtain insurance as described below from an insurance company or companies with an A.M. Best Rating of B+VIII or better. The required documentation of insurance shall be furnished to Landlord upon the execution of this Lease.

J.2. General Liability Insurance. Commercial general liability insurance covering bodily injury and property damage using an occurrence policy form, in an amount no less than Two Million Dollars ($2,000,000) limit for each occurrence and Two Million Dollars ($2,000,000) each for the general aggregate and the products/completed operations aggregate. Said commercial general liability insurance policy shall either be endorsed with the following specific language or contain equivalent language in the policy:

a. "The Sonoma County Water Agency, and its officers and employees are named as additional insured for all liability arising out of the on-going and completed operations by or on behalf of the named insured in the performance of the Photovoltaic Energy Facility Lease Agreement between Water Agency and Pristine Sun Fund 8, LLC."

b. "The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability."

c. "The insurance provided herein is primary and non-contributory coverage to the Sonoma County Water Agency with respect to any policy of insurance or self-insurance programs maintained by the Agency."

d. "The insurer waives the right of subrogation against the Sonoma County Water Agency, and against its agents and representatives."

e. "This policy shall not be canceled or materially changed without first giving the Sonoma County Water Agency thirty (30) days' prior written notice by certified mail."

J.3. Workers' Compensation Insurance. Workers' Compensation Insurance with statutory limits as required by the Labor Code of the State of California. Tenant shall require all subtenants and subcontractors similarly to provide Workers' Compensation Insurance for all of their employees. All policies shall be endorsed with the following specific language: "This policy shall not be canceled or materially changed without first giving thirty (30) days' prior written notice to the Sonoma County Water Agency by certified mail."

DRAFT

J.4. Hazard Insurance. Hazard insurance with standard extended coverage, including vandalism and malicious mischief endorsements, covering all of Tenant's property, improvements and alterations in, on or about the Lease Site to the extent of at least 80% of their full replacement cost, without depreciation. The proceeds from any such policy shall be used by Tenant for the replacement of property or the restoration of Tenant's improvements or alterations. All policies shall be endorsed with the following specific language: "This policy shall not be canceled or materially changed without first giving thirty (30) days' prior written notice to the Sonoma County Water Agency by certified mail."

J.5. Automobile Insurance. Automobile liability insurance covering bodily injury and property damage in an amount no less than One Million Dollars ($1,000,000) combined single limit for each occurrence. Said insurance shall include coverage for owned, hired, and non-owned vehicles. Said policy shall be endorsed with the following language: "This policy shall not be canceled or materially changed without first giving thirty (30) days' prior written notice to the Sonoma County Water Agency by certified mail."

J.6. Policy Obligations. Tenant's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

J.7. Increases in Minimum Policy Limits. Policy limits on insurance policies regarding coverage shall be periodically increased in a commercially reasonable manner reasonably satisfactory to the Landlord.

J.8. Certificate of Insurance. Tenant shall furnish Landlord with copies of all such policies promptly on receipt of them, or with certificates evidencing the insurance. Before commencement of the Lease, Tenant shall furnish Landlord with certificates of insurance representing all insurance required by this Lease.

J.9. Failure to Maintain Insurance, Proof of Compliance. Tenant shall deliver to Landlord, in the manner required for notices, copies or certificates of all insurance policies required by this Lease, together with evidence satisfactory to Landlord of payment required for procurement and maintenance of the policy, within the following time limits:

J.10. Execution of Lease. For insurance required at the commencement of this Lease, upon execution of the Lease by all Parties thereto.

J.11. After Execution of Lease. For insurance required at a later date, at least ten (10) days before the requirement takes effect, or as soon thereafter as the requirement, if new, takes effect.

J.12. Renewals and Replacements. For any renewal or replacement of a policy already in existence, at least ten (10) days before expiration or other termination of the existing policy.

DRAFT

J.13. Failure to Procure and Maintain Insurance. Notwithstanding anything stated to the contrary herein, if Tenant fails or refuses to procure or maintain insurance as required by this Lease, or fails or refuses to furnish Landlord with required proof that the insurance has been procured and is in force and paid for, and either such failure or refusal continues for ten (10) days after written notice to Tenant by Landlord, Landlord shall have the right, at its election and without notice, to procure and maintain such insurance.

DRAFT

# Oceanview Floating Solar Power Purchase Agreement

Solar Array

Dale Roberts
Principal Engineer
*Dale.Roberts@scwa.ca.gov*

Cordel Stillman
Deputy Chief Engineer
*Cordel.Stillman@scwa.ca.gov*

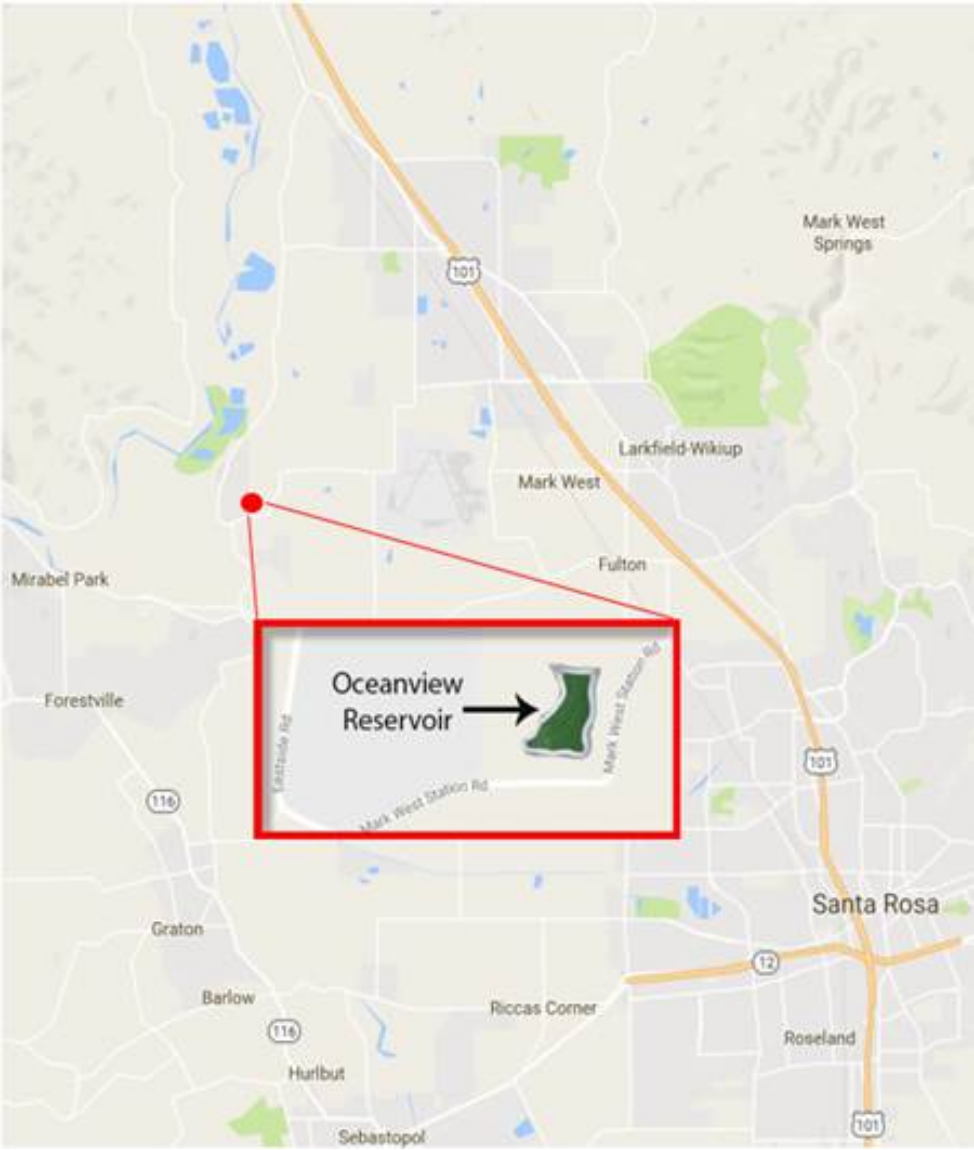
CARBON FREE
SONOMA COUNTY WATER AGENCY

# Background

- SCWA Energy Policy
  - *Watershed health*
  - *Carbon Free Water*
  - *Develop local reliable electricity*

# Background

- Floating Solar PV
  - *Local land precious, ponds already in use, ponds out of view, dark shiny quiet*
  - *RFP – 6 of 7 ponds for Sonoma Clean Power*
  - *7th pond offered later*



# RES-BCT

- Renewable Energy Self-generation Bill Credit Transfer (RES-BCT)
  - *Pond site host*
  - *49 other sites credited with power*
  - *Oceanview good size*
  - *Water Agency wants cost effective power*
  - *Opt out of SCP*
  - *Up to $10,000 rent to Sanitation Zone*
  - *Annual Savings $33,000*

# Power Purchase Agreement

- Pristine Sun PPA
  - *Finance, design, construct, own, operate, monitor, & maintain PV System*
  - *Sell SCWA power through RES-BCT*
  - *Fixed power cost (30 years)*
  - *1 MW serves 50 accounts*
  - *Permitting, CEQA, risk on developer*

*Array Installation*

# Benefits

- No Capital Cost
  - *Low Power Price*
  - *$33,000 Annual Savings*
  - *If power's not there, buy from grid*
  - *Minimal impact*
- Renewable Power on Existing Asset
- Energy Policy Goal: *Carbon Free Water*

*Array Construction*

# Recommended Action

- Authorize the Water Agency's General Manager to execute a Power Purchase Agreement with Pristine Sun Corporation for a floating solar system at Airport-Larkfield-Wikiup Sanitation Zone's Oceanview Reservoir
  - *Action would allow the Water Agency to reduce its power costs and continue to cost effectively meet its Energy Policy goal of achieving Carbon Free Water by developing a floating solar photovoltaic system atop a recycled water pond with no capital cost down*

# Thank you

*Sonoma County Vineyards*

Dale Roberts
Principal Engineer
*Dale.Roberts@scwa.ca.gov*

Cordel Stillman
Deputy Chief Engineer
*Cordel.Stillman@scwa.ca.gov*

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 64**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Directors, Sonoma County Water Agency

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Sonoma County Water Agency

**Staff Name and Phone Number:**
Michael Gossman, 707 521-6207

**Supervisorial District(s):**
All

**Title:** Biological Opinion Phase 3 Letter of Credit

**Recommended Actions:**

Authorize the Water Agency's General Manager to undertake actions necessary to procure a standby Letter of Credit in the amount of $12,765,840 as described in the Memorandum of Agreement with California Department of Fish and Wildlife, including execution of an agreement with U.S. Bank for such a Letter of Credit in substantially the form presented to this Board, following review and approval by County Counsel as to form.

**Executive Summary:**

The National Marine Fisheries Service and California Department of Fish and Wildlife are requiring the Sonoma County Water Agency (Water Agency) to undertake projects in the Russian River and its tributaries in order to protect endangered salmon and steelhead in the river system. As part of implementation, the Water Agency is required to provide assurance that it has adequate funding to complete these projects. This agenda item requests authorization for the Sonoma County Water Agency's General Manager to undertake actions necessary to procure a standby Letter of Credit from U.S. Bank in the amount of $12,765,840 for Phase 3 Biological Opinion activities related to coho salmon, as proof of available funding. It also requests authorization for the General Manager to execute an agreement with U.S. Bank for such a Letter of Credit in substantially the form presented to this Board, following review and approval by County Counsel as to form.

**Discussion:**

On September 24, 2008, the National Marine Fisheries Service issued its Biological Opinion and Incidental Take Statement under the federal Endangered Species Act. The Sonoma County Water Agency's (Water Agency) water supply and flood control operation and maintenance activities in the Russian River Watershed were considered to likely affect three species of fish listed under the Endangered Species Act: Central California Coast steelhead, Central California Coast coho salmon, and California Coastal Chinook salmon. Biological Opinion implementation activities include monitoring and management of the Russian River estuary, and monitoring, management, and construction of habitat enhancement projects in Dry Creek, and the tributaries to Dry Creek. The Biological Opinion provides an Incidental Take Statement for

the taking of listed salmonids that is likely to occur as a result of the implementation activities. Pursuant to the Incidental Take Statement, taking that is incidental to and not intended as part of the Water Agency's activities as it implements the provisions of the Biological Opinion is not considered to be prohibited under the Endangered Species Act.

On November 9, 2009, the Water Agency requested and received a Consistency Determination from the California Department of Fish and Wildlife (Department of Fish and Wildlife). The Consistency Determination provides the Water Agency with incidental take coverage under the California Endangered Species Act for the same Russian River activities as does the Biological Opinion under the federal Endangered Species Act. Under the Consistency Determination and state law, the Water Agency is required to provide assurances that it will have adequate funding to implement and comply with the Biological Opinion and the Department of Fish and Wildlife Incidental Take Statement as it pertains to coho-related activities. Financial security provisions required under the Consistency Determination are guided by a Memorandum of Agreement approved by the Board and signed by the Water Agency's General Manager and Department of Fish and Wildlife on October 5, 2009.

To comply with the Consistency Determination and the terms of the Memorandum of Agreement, the Water Agency is required to obtain a standby Letter of Credit for each phase of work. The Department of Fish and Wildlife's ability to draw on the standby Letter of Credit is subject to a number of conditions. Most importantly, the Department of Fish and Wildlife must give the Water Agency written notice of any alleged default by the Water Agency in its Biological Opinion obligations, as well as an opportunity to cure any such default. If the Department of Fish and Wildlife draws on the standby Letter of Credit, it must use all proceeds to complete coho-related work under the Biological Opinion.

The Water Agency completed Phase 1 activities under the Biological Opinion, and on January 9, 2015, the Department of Fish and Wildlife executed a Certificate of Cancellation of the Phase 1 standby Letter of Credit with North Coast Bank, as contemplated by the Memorandum of Agreement. An $8,606,560 standby Letter of Credit with U.S. Bank with more favorable terms was approved and executed on December 31, 2014, for Phase 2 coho-related activities. Phase 2 includes ongoing Biological Opinion activities in the Russian River estuary, Russian River tributaries, and the Coho Salmon Captive Broodstock Program, as well as enhancement for miles 2 through 3 of the Dry Creek Habitat Improvement Project.

As required by the terms of the Memorandum of Agreement, the Water Agency recommends amending the U.S. Bank standby Letter of Credit to extend the expiration date to December 30, 2018, and increase the dollar amount to $12,765,840. The amendment covers ongoing Phase 2 activities and additional Phase 3 activities that include enhancement of miles 4 through 6 of the Dry Creek Habitat Improvement Project. The U.S. Bank standby Letter of Credit is secured by a first lien on the Water Agency's U.S. Treasury Separate Trading of Registered Interest and Principal of Securities (STRIPS) held by the Water Agency's debt service fund to repay the U.S. Army Corps of Engineers for the cost of constructing and maintaining Warm Springs Dam. The Water Agency's investment in U.S. Treasury STRIPS as of June 30, 2016, was $29,890,000. Debt payments to the U.S. Army Corps of Engineers are approximately $6 million per year and will terminate in 2035. The average cash balance in the Warm Springs Dam fund, which receives all revenue from the $6-million Warm Springs Dam-Russian River Project "override" property tax, is projected to be $26 million over the remaining 5 years of the Biological Opinion. The U.S. Treasury STRIPS would continue to be released to the Water Agency as they mature. Issuance and maintenance fees for the standby Letter of Credit would be calculated at 55 basis points per annum ($70,212 per year) on the total amount of the standby Letter of

Credit. In the event of default, an additional 100 basis points above the current pricing level would be assessed. Should the Department of Fish and Wildlife need to draw on this Letter of Credit due to failure of the Water Agency to fulfill its obligations under the Biological Opinion, any drawn portions would be charged at the Bank's prime rate plus 5%, which today would be 8.5%. This would be charged until all amounts were repaid. The Water Agency will also pay the Bank's legal and administrative costs associated with the development of the necessary documents to effect this standby Letter of Credit, up to $5,300.

On October 24, 2014, the Sonoma County Debt Advisory Committee reviewed and approved the Phase 2 Letter of Credit and subsequent phases of the Letter of Credit with U.S. Bank, provided the terms and conditions remained unchanged, and following review and approval by County Counsel. Water Agency staff request that the Board approve procurement of the proposed amended standby Letter of Credit in the amount of $12,765,840 with U.S. Bank.

**Prior Board Actions:**

| | |
|---|---|
| 12/09/2014: | Authorized the General Manager to undertake actions necessary to procure a standby Letter of Credit in the amount of $8,606,560, including execution of an agreement with U.S. Bank for such a Letter of Credit. |
| 09/22/2009: | Authorized the General Manager to execute a Memorandum of Agreement between the Sonoma County Water Agency and California Department of Fish and Wildlife regarding implementation of financial assurances for a Consistency Determination. |
| 09/22/2009 | Approved purchase of a certificate of deposit in the amount of $7,770,280 and authorized the General Manager to execute an Agreement for a standby Letter of Credit with North Coast Bank. |
| 09/22/2009: | Approved submission of a written request to California Department of Fish and Wildlife for a Determination of Consistency with the California Endangered Species Act for listed coho salmon. |

**Strategic Plan Alignment** Goal 2: Economic and Environmental Stewardship

County Goal 2: Economic and Environmental Stewardship: Protect the Water Agency's existing water rights and our clean, high-quality water supply, and improve system resiliency by continuing to develop alternative supplies.

This item achieves this goal by ensuring that the Water Agency meets its obligations for implementation of the Biological Opinion.

Water Supply Goals and Strategies, Goal 2: Protect water quality, improve scientific understanding of our existing water supply, and continue implementation of the Russian River Biological Opinion.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | 52,508 | 70,212 | 70,212 |
| Additional Appropriation Requested | 23,004 | | |
| **Total Expenditures** | **75,512** | **70,212** | **70,212** |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | 52,508 | 70,212 | 70,212 |
| Use of Fund Balance | 23,004 | | |
| Contingencies | | | |
| **Total Sources** | **75,512** | **70,212** | **70,212** |

**Narrative Explanation of Fiscal Impacts:**

Funding is from the Warms Springs Dam Special Revenue Fund. Additional appropriations are required to process this expense. The current appropriation of $52,508 was budgeted to cover Letter of Credit annual expenses for Phase 2 activities. With Board approval, appropriations for 2016/2017 in the amount of $23,004 will be made in the next quarterly consolidated budget adjustments. The value of the Letter of Credit to incorporate Phase 3 activities results in $5,300 in issuance costs, and increased annual costs of $17,704. Appropriations of $70,212 will be programmed in subsequent fiscal years per Agreement with U.S. Bank.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| N/A | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Attachment A: Memorandum of Agreement.
Attachment B: Amended Agreement with U.S. Bank.

| Related Items “On File” with the Clerk of the Board: |
| --- |
| N/A |

djs\\S:\Agenda\agrees\12-13-2016 WA Biological Opinion Phase 3 Letter of Credit _trans.docm

CF/45-0-20 US Bank (Letter of Credit Providing Financial Assurances for Phase 3 Biological Opinion) TW No (ID 5904)

California Natural Resources Agency
DEPARTMENT OF FISH AND GAME
Bay Delta Region
Post Office Box 47
Yountville, California 94599
(707) 944-5500
http://www.dfg.ca.gov

***ARNOLD SCHWARZENEGGER**, Governor*
***DONALD KOCH**, Director*

ORIGINAL DOCUMENT
SONOMA COUNTY WATER AGENCY
To POOLE, GRANT, BADER, MANNING, SHOPE, VAIL
OCT - 5 2009

October 1, 2009

CF/45-0-21 California Department of Fish and Game (Memorandum of Agreement [MOU] Regarding Implementation of Financial Assurances)

Randy Poole
General Manager/Chief Engineer
Sonoma County Water Agency
404 Aviation Boulevard
Santa Rosa, California 95403-9019

Attention: David Manning, Principal Environmental Specialist

Dear Mr. Poole:

Subject: Memorandum of Agreement Between Sonoma County Water Agency and California Department of Fish and Game Regarding Implementation of Financial Assurances for a Consistency Determination

Enclosed are two original copies of the subject Memorandum of Agreement (MOA). Please sign both copies and return one fully executed original as soon as possible to the address listed below. The Department of Fish and Game needs the fully executed agreement either before the Sonoma County Water Agency submits the request for a Consistency Determination or concurrent with its submission.

Please return to:

Department of Fish and Game
Attention: Kathy Geary
Post Office Box 47
Yountville, California 94599

Please note that on page 2, section 1.1 of the MOA, an error in the written dollar amount was corrected to match the numerical amount ($7,770,280) which was verified as the correct amount.

If you have any questions, please contact Dan Wilson, Environmental Scientist, at (707) 944-5534; or Richard Fitzgerald, Senior Environmental Scientist, at (707) 944-5568.

Sincerely,

Charles Armor
Regional Manager
Bay Delta Region

Enclosures

# MEMORANDUM OF AGREEMENT BETWEEN SONOMA COUNTY WATER AGENCY AND CALIFORNIA DEPARTMENT OF FISH AND GAME REGARDING IMPLEMENTATION OF FINANCIAL ASSURANCES FOR A CONSISTENCY DETERMINATION

This Memorandum of Agreement ("MOA") between Sonoma County Water Agency ("SCWA") and the State of California, acting by and through the California Department of Fish and Game, ("CDFG") is entered into and effective on the date of the last signature below.

**Purpose**

A. On September 24, 2008, the National Marine Fisheries Service ("NMFS") issued its biological opinion and incidental take statement ("ITS") regarding SCWA's operation and maintenance activities in the Russian River Watershed (the "Russian River Project") in accordance with the authority of NMFS under the federal Endangered Species Act, 16 U.S.C. § 1531, et seq. ("ESA"). The ITS covers three species of fish listed under ESA, Central California Coast steelhead (*Oncorhynchus mykiss*), Central California Coast coho salmon *(O. kisutch*), and California Coastal Chinook salmon (*O. tshawytscha*). The ITS serves as the basis for the Consistency Determination by CDFG with respect to coho salmon (*O. kisutch*), which is listed under the California Endangered Species Act, Fish and Game Code § 2050, et seq. ("CESA").

B. An applicant for a Consistency Determination must ensure adequate funding to carry out the terms of the ITS. This MOA is intended to provide a mechanism to ensure such adequate funding. Pursuant to this MOA, CDFG shall be the beneficiary of a letter of credit ("Letter of Credit") pursuant to a Consistency Determination based upon the ITS and its associated requirements and supporting documentation.

C. This purpose of this MOA is to ensure adequate funding, and this MOA shall not be construed to alter or amend the ITS or any of its associated requirements.

**NOW THEREFORE, IT IS MUTUALLY AGREED THAT:**

1. Financial Security Under the BO. The BO provides as follows:

*SCWA shall provide security (Security), in a form and an amount to be approved by DFG, to cover all costs of monitoring and management of the Russian River estuary, and for monitoring, management and construction of habitat enhancement projects in Dry Creek, and the tributaries to Dry Creek, as specified in Sections [X 2.1.1], [X 2.2-2.4], [X 3.1.1 and 3.1.2] and Section [X 4.3] (coho broodstock smolt program) of this Biological Opinion.*

*SCWA shall provide Security in three stages: (1) Stage 1 shall cover years 1-6 (2009-2013) and shall be provided to DFG prior to receiving take authorization for coho*

*salmon from DFG (i.e., prior to issuance of a consistency determination); (2) Stage 2 shall cover years 7-9 (2014-2016) and shall be provided to DFG no later than January 1, 2013; and (3) Stage 3 shall cover years 10-15 (2017-2022) and shall be provided to DFG no later than January 1, 2016. Table 34 sets forth the monitoring, management, and construction activities included in each of the three Security/funding stages.*

To meet the obligation of SCWA to provide financial security with respect to Stage One activities, within fifteen (15) calendar days of the date on which SCWA sends its request for a Consistency Determination for the Russian River Project, SCWA shall provide CDFG with a Letter of Credit substantially in the form of Exhibit A, to be utilized by CDFG in accordance with the terms of and subject to the limitations set forth in this MOA. The parties intend that SCWA will provide financial security with respect to Stage Two and Stage Three activities through MOAs and Letters of Credit that are substantially similar in form to this MOA and the Letter of Credit attached hereto as Exhibit A, and in amounts to be mutually agreed upon (with the current estimates of such amounts being $8,606,560 for Stage Two and $12,765,840 for Stage Three).

1.1 Form and Amount of the Credit. The Principal Sum of the Letter of Credit shall be in the amount of Seven Million Seven Hundred and Seventy Thousand Two Hundred Eighty Dollars ($7,770,280). Said Principal Sum may be reduced from time to time in accordance with the provisions of Section 4. The Letter of Credit must be issued by a financial institution chartered by the United States or State of California, or by an insurance firm authorized to operate in the State of California and subject to the jurisdiction of the State of California in the conduct of its business.

1.2 Term of Letter of Credit. Notwithstanding the approved 15-year term of the ITS, SCWA shall maintain the Letter of Credit on an annual basis, and if the Consistency Determination is withdrawn, SCWA shall maintain the Letter of Credit for 365 days following the effective date of the withdrawal of the Consistency Determination.

1.3 Replacement of the Letter of Credit. If the issuer of the Letter of Credit becomes insolvent, files for bankruptcy, begins dissolution proceedings under State law, or otherwise becomes unable to provide reasonable assurances of its ability to honor the Letter of Credit, SCWA shall: (a) within ten (10) days from the date SCWA becomes aware such circumstances exist, provide notice to CDFG of this occurrence; and (b) within sixty (60) days from the date SCWA becomes aware such circumstances exist, secure a replacement Letter of Credit. SCWA shall notify CDFG when a replacement Letter of Credit is in place. Upon receipt of such notice, CDFG shall execute and submit a Certificate of Cancellation for the prior Letter of Credit within five (5) business days.

1.4 Cancellation of Letter of Credit. To cancel the Letter of Credit, CDFG shall execute a Certificate of Cancellation that shall be substantially in the form in Exhibit B hereto. Within 365 days following the withdrawal of the Consistency Determination, CDFG shall complete any determination with respect to a Determination of Inconsistency, if any, and cancel the Letter of Credit if it is still in effect. CDFG shall cancel the Letter of Credit on or before the termination or expiration of this MOA.

2. CDFG Participation in Letter of Credit. If, pursuant to California Fish and Game Code section 2080.1, CDFG issues and maintains a Consistency Determination based upon NMFS's ITS and its associated requirements and supporting documentation, CDFG shall be the beneficiary of a Letter of Credit subject to the conditions and limitations contained in this MOA.

2.1 Designation as Beneficiary. In accordance with the terms of this Section 2, CDFG may, subject to the limits of CDFG authority, draw upon the Letter of Credit, for all or any portion of the amount of the Letter of Credit, if CDFG determines that implementation of the ITS is no longer consistent with those provisions of California Fish and Game Code section 2050, et seq. authorizing incidental take of coho salmon due to a material failure on the part of SCWA to carry out the terms of Sections 2.1.1, 2.2-2.4, 3.1.1, 3.1.2, or 4.3 of the ITS ("draft Determination of Inconsistency"). In this event, CDFG may draw on the Letter of Credit, subject to the terms of and in the manner provided below, and using the form in Exhibit A hereto.

2.2 Notice of Inconsistency. Prior to making a demand on the Letter of Credit, CDFG shall provide SCWA and NMFS written notice of and justification for the draft Determination of Inconsistency and shall allow SCWA a sixty (60) day opportunity to consult with CDFG on the merits of the determination and/or negotiate a cure acceptable to CDFG. For purposes of this MOA, a draft Determination of Inconsistency by CDFG shall not constitute a Determination of Inconsistency by CDFG unless expressly provided in writing by CDFG to SCWA and NMFS in accordance with the notice provisions of this MOA.

2.2.1 Contents of Written Notice. The written notice of and justification for a draft Determination of Inconsistency must contain (a) an identification of the specific term or terms of the ITS that CDFG claims that SCWA has failed to carry out, (b) an explanation of the basis for CDFG's determination that implementation of the ITS by SCWA is no longer consistent with those provisions of California Fish and Game Code section 2080, et seq. authorizing incidental take of coho salmon (*O. kisutch*), and (c) an identification of the specific actions required by SCWA to cure the claimed deficiency.

2.2.2 Consultation. CDFG shall meet with SCWA regarding any Notice of Inconsistency within ten (10) days of any SCWA request for a meeting. Subject to Sections 2.2.3 and 2.4, CDFG and SCWA shall reasonably cooperate to negotiate, develop, and agree upon a plan to cure the claimed failure of SCWA to carry out the specified terms of the ITS.

2.2.3 Cure Plan. If CDFG and SCWA agree on a cure plan within sixty (60) days of SCWA's receipt of CDFG's written notice of inconsistency, then CDFG shall withdraw the written notice. The cure plan shall not require SCWA to perform any activities other than those necessary to cure a then-existing failure of SCWA to carry out the specified terms of the ITS as identified in the written notice of and justification for the draft Determination of Inconsistency.

2.3 Emergency Procedures. In the event of an "Emergency," as defined in herein, CDFG may include within the written notice and justification of the draft Determination of Inconsistency a declaration of an Emergency and explanation of the basis for such a declaration

of an Emergency. Under a Declaration of an Emergency, SCWA shall be provided with notice as provided in Section 2.2 and 2.2.1 and a ten (10) day opportunity to consult with CDFG on the merits of the draft Determination of Inconsistency and/or negotiate a cure acceptable to CDFG. "Emergency" means a sudden, unexpected occurrence, which poses a clear and imminent danger of a take of coho salmon that is not contemplated by the ITS.

2.4 Consultation with NMFS on a Determination of Inconsistency. If CDFG and SCWA have not agreed upon a cure plan with respect to the circumstances giving rise to a draft Determination of Inconsistency within forty-five (45) days of SCWA's receipt of written notice from CDFG (or within five (5) days of initiation by written notice of an Emergency), CDFG shall notify NMFS of the circumstances resulting in the draft Determination of Inconsistency and the manner, means, and appropriate draw amount necessary to cure the claimed failure of SCWA to carry out the specified terms of the ITS. The draw amount shall not exceed the amount necessary to fund activities necessary to cure the then-existing failure of SCWA to carry out the specified terms of the ITS, as identified in the written notice of and justification for the draft Determination of Inconsistency. In the event there is a disagreement between CDFG and NMFS regarding any proposed draw on the Letter of Credit by CDFG, CDFG shall give notice to SCWA of such a disagreement, and CDFG shall make good-faith efforts to meet and confer with appropriate staff at NMFS to resolve such disagreement through informal consultation within thirty (30) days of such notice. If NMFS and CDFG are unable to resolve the disagreement, CDFG may draw on the Letter of Credit after providing notice to the NMFS and SCWA that the consultation is concluded. The decision by CDFG to draw on the letter of credit must be approved by the Regional Manager of CDFG's Bay Delta Region or a higher CDFG official.

2.5 Beneficiary's Use of Sums Drawn on the Letter of Credit. If CDFG draws on the Letter of Credit, all sums derived from the Letter of Credit shall be used by CDFG solely for purposes relating to the activities set forth in Sections 2.1.1, 2.2-2.4, 3.1.1, 3.1.2, or 4.3 of the ITS and, in particular, to cure the then-existing failure of SCWA to carry out the specified terms of the ITS as identified in the written notice of and justification for the draft Determination of Inconsistency. If CDFG's draw on the Letter of Credit and subsequent expenditure of those funds to cure the then-existing failure of SCWA to carry out the specified terms of the ITS leaves insufficient funds to secure completion of the project to which the draw related, SCWA shall, within fifteen (15) days, increase the amount of the Letter of Credit in an amount sufficient to secure completion of the project to which the draw related. Upon final completion of the activity, CDFG shall consent to a reduction in the Letter of Credit pursuant to Section 4 of this MOA.

3. Conversion of Letter of Credit to a Bond. Conversion of the Letter of Credit to a Bond is permissible if SCWA and CDFG agree Security in the form of a Bond is appropriate.

4. Reduction in Principal Sum of Letter of Credit. Upon completion of each of the components of the activities set forth in Sections 2.1.1, 2.2-2.4, 3.1.1, 3.1.2, or 4.3 of the ITS to the reasonable satisfaction of CDFG, CDFG shall consent to a corresponding reduction in the amount of the Principal Sum of the Letter of Credit. CDFG shall evidence its consent to such reductions by executing and forwarding to SCWA and the Issuer of the Letter of Credit a

"Consent to Reduction in Principal Sum of Letter of Credit" substantially in the form attached as Exhibit B.

5. Effective Date and Term of the MOA. Unless extended by written amendment or sooner terminated, this MOA shall become effective as of the date of last signature below, and shall remain in force during the term of the ITS and through the date that is 365 days after the effective date of a Determination of Inconsistency (a withdrawal of the Consistency Determination) by CDFG.

6. Termination. This MOA may be terminated by either party upon providing twelve (12) months written notice to the other party. When the MOA terminated while CDFG is still a beneficiary, and provided there is no other security agreement acceptable to CDFG, the Consistency Determination may be withdrawn at CDFG's discretion. Upon termination of this MOA, CDFG shall immediately cancel the Letter of Credit. In the event CDFG determines that the continued take of coho salmon associated with the Russian River Project would jeopardize the continued existence of the species, CDFG shall terminate this MOA and cancel the Letter of Credit immediately, and shall provide SCWA with written notice by personal delivery, facsimile, and/or email as soon as possible.

7. Notice. All notices provided under this MOA shall be in writing and sent by first-class mail or comparable method of distribution to the other party. For purposes of this MOA, a notice shall be effective seven (7) days after the date on which it is mailed.

8. Authorized Representatives. All communications, notices, and contacts made under this MOA shall be directed to the following individuals. Any party may designate new authorized representatives by providing written notice to the other parties:

| | |
|---|---|
| For SCWA: | General Manager/Chief Engineer<br>Sonoma County Water Agency<br>404 Aviation Boulevard<br>Santa Rosa, CA 95403 |
| For NMFS: | Supervisor, Protected Resources Division<br>Santa Rosa Area Office<br>National Marine Fisheries Service<br>777 Sonoma Avenue, Room 325<br>Santa Rosa, CA 95494 |
| For CDFG: | Regional Manager<br>Department of Fish and Game<br>7329 Silverado Trail<br>Napa, CA 94558 |

9. Modification, Amendment, or Extension. This MOA may be modified, amended, or extended by mutual written consent of the signatory parties.

10. No Alteration of Existing Agreements. This MOA does not constitute an amendment to the ITS. This MOA is a ministerial action for the implementation of the financial assurances provided in the ITS.

11. Compliance with Law. All activities undertaken pursuant to this MOA must be in compliance with all applicable state and federal laws and regulations.

12. No Third-Party Beneficiaries. This MOA shall not create any right or interest in the public, or any member of the public, as a third-party beneficiary of this MOA and shall not authorize any non-party to maintain a suit at law or in equity pursuant to this MOA.

13. Signatory Authority. Each signatory to this MOA certifies he or she is authorized to execute this MOA and to legally bind the party he or she represents, and such party shall be fully bound by the terms hereof upon such signature without any further act, approval, or authorization of such party.

14. Counterparts. This MOA may be signed in any number of counterparts, and each executed copy shall have the same force and effect as an original instrument as if all the signatory parties to all of the counterparts had signed the same instrument.

15. Assignment. The duties, rights, and obligations under this MOA and any associated Letter of Credit may be assigned to a new party upon the express written consent of CDFG and SCWA.

16. Entire Agreement. This MOA sets forth the entire agreement and process of the Parties with respect to the subject matter discussed herein, and it supersedes any other agreements on this subject matter whether oral or in writing.

**APPROVAL**

Randy Poole
General Manager/Chief Engineer
Sonoma County Water Agency

10/5/09
Date

Charles Armor
Regional Manager
Bay Delta Region
California Department of Fish and Game

10/1/09
Date

**STANDBY LETTER OF CREDIT**
**Providing Financial Assurances For**
**CONSISTENCY DETERMINATION**

North Coast Bank- CONFIDENTIAL

STANDBY LETTER OF CREDIT NO. _____

DATE:

ISSUING BANK
North Coast Bank
90 S E Street, Suite 110
Santa Rosa, CA 95404

TO BENEFICIARY:

California Department of Fish and Game
7329 Silverado Trail
Napa, California, 94558
Attention: Regional Manager

Dear Sir or Madam:

1. At the request and on the instructions of our CUSTOMER, Sonoma County Water Agency ("PERMITTEE"), we hereby establish in favor of the BENEFICIARY, the California Department of Fish and Game ("CDFG"), this Irrevocable Standby Letter of Credit ("CREDIT") in the Principal Sum of $7,770,280.

2. We are advised this CREDIT is established for the benefit of the BENEFICIARY, pursuant to CDFG's consistency determination based on the biological opinion and incidental take statement approved by the National Marine Fisheries Service on September 24, 2008.

3. We are further advised this CREDIT is intended by the PERMITTEE and the BENEFICIARY to serve as a security device for the performance by PERMITTEE of its obligations under the biological opinion and incidental take statement that is the basis for CDFG's consistency determination.

4. The BENEFICIARY shall be entitled to draw upon this CREDIT by presentation of a duly executed CERTIFICATE OF DRAWING in the same form as Attachment A hereto, at our office located at North Coast Bank, 90 S E Street, Santa Rosa, CA 95404.

("ISSUER").

5. The CERTIFICATE OF DRAWING shall be completed and signed by the "Authorized Representative" of the BENEFICIARY as defined in paragraph 12 below. Presentation by the BENEFICIARY of a completed CERTIFICATE OF DRAWING may be made in person or by registered mail, return receipt requested.

6. Upon presentation of a duly executed CERTIFICATE OF DRAWING as provided above, payment in immediately available funds shall be made to the BENEFICIARY in the manner provided on the CERTIFICATE OF DRAWING.

7. Funds may be drawn in one or more drawings not to exceed the Principal Sum in any calendar year.

8. If a demand for payment does not conform to the terms of this CREDIT, the ISSUER shall provide the BENEFICIARY with prompt notice the demand for payment was not made in accordance with the terms of this CREDIT, state the reasons therefore, and await further instructions.

9. Upon being notified the demand for payment was not made in conformity with the CREDIT, the BENEFICIARY may correct any such non-conforming demand for payment prior to the expiration of the CREDIT.

10. All drawings under this CREDIT shall be paid with ISSUER'S funds. Each drawing honored by ISSUER hereunder shall reduce the Principal Sum provided as CREDIT for a calendar year. By paying to the BENEFICIARY an amount demanded in accordance herewith, ISSUER makes no representations as to the correctness of the amount demanded.

11. BENEFICIARY shall cancel this CREDIT by providing ISSUER with a CERTIFICATE OF CANCELLATION, which (i) shall be in the form of Attachment B hereto; (ii) shall be completed and signed by the Authorized Representative of the BENEFICIARY as defined in Paragraph 12 below; and (iii) shall be accompanied by the surrender of this CREDIT.

12. The "Authorized Representative" is the Regional Manager of the Bay Delta Region of the California Department of Fish and Game, or the Regional Manager's designee.

13. Communications with respect to this CREDIT shall be in writing and addressed to North Coast Bank, 90 S E Street, Santa Rosa, CA 95404 with reference made to this CREDIT number.

14. This CREDIT shall expire on the earlier of (a) cancellation by BENEFICIARY pursuant to Paragraph 11 or (b) December 31, 2014.

15. This CREDIT is subject to and governed by Article 5 of Uniform Commercial Code of the State of California.

THEREFORE, North Coast Bank has executed and delivered this Irrevocable Standby Letter of Credit to the BENEFICIARY as of this ____ day of _____, 2009.

**Exhibit A**
**Attachment A**

CERTIFICATE OF DRAWING

ISSUER
North Coast Bank, 90 S E Street, Santa Rosa, CA 95404

CUSTOMER
Sonoma County Water Agency

IRREVOCABLE LETTER OF CREDIT NO. _____

BENEFICIARY: California Department of Fish and Game
7329 Silverado Trail
Napa, California 94558
Attention: Regional Manager

The undersigned, as a duly authorized representative of the BENEFICIARY, the California Department of Fish and Game ("CDFG"), hereby certifies to issuer that:

1. CDFG has made a Determination of Inconsistency and demand for payment after compliance with the standards and procedures set forth in the Memorandum of Agreement between Sonoma County Water Agency and CDFG, dated _____, 2009; and

2. The undersigned is an Authorized Representative under the terms of the above-referenced CREDIT with authority to present this CERTIFICATE OF DRAWING as the sole means of demanding payment on the CREDIT; and

3. The BENEFICIARY is therefore making a drawing under the above-referenced CREDIT in the amount of $ _____; and

4. The BENEFICIARY directs that the drawing be paid to and deposited in the account of: California Department of Fish & Game, North Coast Bank; Account Number: _____.

5. The amount demanded does not exceed the Principal Sum; and

6. Sums received shall be used by the BENEFICIARY in accordance with the terms of that certain Memorandum of Agreement between Sonoma County Water Agency and CDFG dated _____, 2009.

THEREFORE, the undersigned Authorized Representative(s) has executed and delivered this CERTIFICATE OF DRAWING as of the ____ day of _____, 20____.

California Department of Fish and Game

By _____
Regional Manager

**Exhibit A**
**Attachment B**

CERTIFICATE OF CANCELLATION

| ISSUER | CUSTOMER |
|---|---|
| North Coast Bank, 90 S E Street, Santa Rosa, CA 95404 | Sonoma County Water Agency |

IRREVOCABLE LETTER OF CREDIT NO. _____

BENEFICIARY: California Department of Fish & Game
7329 Silverado Trail
Napa, California, 94558
Attention: Regional Manager

The undersigned Authorized Representative of the California Department of Fish and Game hereby certifies to issuer that:

1. The BENEFICIARY hereby requests the above-referenced CREDIT be cancelled.

2. The BENEFICIARY hereby surrenders the attached original Letter of Credit to the Issuer.

Therefore, the BENEFICIARY has executed and delivered this CERTIFICATE OF CANCELLATION as of the ___ day of _____, 20___.

California Department of Fish and Game

By _____
Regional Manager

Exhibit B

CONSENT TO REDUCTION IN PRINCIPAL SUM
OF LETTER OF CREDIT

| ISSUER | CUSTOMER |
| --- | --- |
| North Coast Bank, 90 S E Street, Santa Rosa, CA 95404 | Sonoma County Water Agency |

IRREVOCABLE LETTER OF CREDIT NO. [redacted]

BENEFICIARY: California Department of Fish & Game
7329 Silverado Trail
Napa, California, 94558
Attention: Regional Manager

The undersigned Authorized Representative of the California Department of Fish and Game hereby certifies to issuer that:

3. The BENEFICIARY hereby consents to a reduction of $_____ in the Principal Sum of the above-referenced Letter of Credit.

4. The BENEFICIARY hereby acknowledges that from and after the date set forth below, the new amount of the Principal Sum of the above-referenced Letter of Credit is $_____.

Therefore, the BENEFICIARY has executed and delivered this CONSENT TO REDUCTION as of the [redacted] day of [redacted], 20[redacted].

California Department of Fish and Game

By _____
Regional Manager

# Standby Letter of Credit Amendment Application

**To: International Banking Division, Standby Letters of Credit**
By: Portland, OR

U.S. Bank National Association
555 SW Oak Street, Suite 400-P, PD-OR-P4CE
Portland, OR 97204
SWIFT: USBKUS44PDX
Phone: 503-464-3604
Fax: 503-464-4125

**Please provide the following information:**
Amendment Application Date: 10-05-16
Letter of Credit Reference Number: SLC PPDX06488

## Party Information

**Applicant (or Account Party named in the LC)**
Name: Sonoma County Water Agency
Address: 404 Aviation Boulevard
City: Santa Rosa State: CA Zip: 95403
Country: USA

**In favor of Beneficiary**
Name: California Department of Fish and Wildlife
Address: 1416 Ninth Street, 12th Floor
City: Sacramento State CA Zip 95814
Country: USA

**Please amend as follows on our behalf the Standby Letter of Credit ("Letter of Credit") referenced above.**

## Primary Details to Amend:

Amount Increase/Decrease: Increase
Amendment Amount: $4,065,840.00
New Total Amount: $12,765,840.00
New Expiration Date: 12-31-18

## Amendment Text: *if applicable, please provide other details and/or additional requirements*

Increase to be effective on 12/30/16.

All other terms and conditions of Letter of Credit remain unchanged. We understand that this Amendment is subject to your acceptance and to the Beneficiary. We understand all amendments are also subject to the Credit Agreement, the Continuing Reimbursement Agreement for Letters of Credit or other such agreement however titled applicable to your Letters of Credit issued on your behalf (the "Agreement"). We represent and warrant to you that we have received a copy of the Agreement and we further acknowledge having read and understood the terms and conditions contained in the Agreement. Applicant further represents and warrants that the execution, delivery and performance of this Standby Letter of Credit Amendment Application is within its authority and is not in contravention of law, of any terms of any agreement, instrument, order or judgment to which Applicant is a party or by which it or its property may be bound or of any provision of its charter document or bylaws, and that it has obtained all necessary approvals and consents therefore.

We hereby authorize you to amend this Letter of Credit with such variations as you may, in your sole discretion, determine are necessary and not materially inconsistent with this amendment application.

**Applicant/Obligor Company Name:** Sonoma County Water Agency

**Authorized Signer:** Grant Davis, General Manager **Date:** 10/5/2016

**Authorized Signature:**

**Phone:** 707-547-1900 **E-mail:** grant.davis@scwa.ca.gov

# Biological Opinion Phase 3 Letter of Credit

Michael Gossman
Division Manager
mgossman@scwa.ca.gov

SONOMA COUNTY WATER AGENCY

# Biological Opinion Phase 3 Letter of Credit

- Requested Action: Authorize the Water Agency to procure a standby Letter of Credit in the amount of $12,765,840 as described in the Memorandum of Agreement with California Department of Fish and Wildlife.
- A Standby Letter of Credit is required by the California Department of Fish and Wildlife for each phase of work on Dry Creek Habitat Enhancement.
- Water Agency will pay US Bank an annual maintenance fee of $75,512 in year 1, and $70,212 in years 2 and 3.

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 65**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Transportation and Public Works

**Staff Name and Phone Number:**
Susan Klassen, 565-2231

**Supervisorial District(s):**
Countywide

**Title:** Subsidized Transit Fare Program for Veterans and College Students – Program update and recommendation for 2017.

**Recommended Actions:**

1. Provide funding to continue the College Student Subsidized Transit Fare Program through December 31, 2017 in an amount up to $236,831, accept financial assistance from the Santa Rosa Junior College (SRJC) and Sonoma State University (SSU) to "bridge" the program through 2017 and Authorize the Chair to execute a Memorandum of Understanding with SRJC and SSU for $19,477 to accept their financial contributions in the amounts of $30,000 and $19,477 respectively to the program for 2017.
2. Approve use of Contingency funds in the amount of $103,416 to fund College Student Subsidized Transit Fare Program and $20,500 to fund the permanent Veterans Subsidized Fare Program from January-June 2017.
3. Direct staff to develop a multi-year agreement with SRJC and SSU that further reduces County general fund contributions beginning in 2018. Staff will report on progress made and recommendations towards this effort in November, 2017.

**Executive Summary:**

This action provides an update on year two of the Subsidized Transit Fare Program for Sonoma County Veterans and College Students and recommends actions for the Board to consider for continuance in 2017.

**Discussion:**

On September 30, 2014, the Board approved funding for Sonoma County Transit to implement a subsidized transit fare pilot-program for eligible College Students and Veterans, effective January 1 thru December 31, 2015. The approved program established a reimbursement rate for each eligible College Student and Veteran trip taken on Sonoma County Transit.

Staff updated the Board on the program on August 18, 2015 and on November 17, 2015, made recommendations for 2016. On November 17, 2015, the Board took actions that made the Subsidized

Fare Program for Veterans permanent effective January 1, 2016 and extended the College Student Subsidized Fare Program through December 31, 2016.

This report provides an update on how the programs have performed in 2016 and a recommendation regarding the College Student Subsidized Fare program for 2017.

**Veterans Subsidized Fare Program:** The program commenced on January 1, 2015 and provides Veterans free use of Sonoma County Transit upon their display of a Veterans Administration (VA) identification card or a Sonoma County Veterans ID card, upon boarding a Sonoma County Transit bus.

The program provided 29,912 trips to Veterans during 2015 and is projected to provide 40,844 trips in 2016, a 36.6% increase. In October, average ridership by Veterans was 123 on weekdays, 57 on Saturdays and 50 on Sundays.

From January – October, 2016, 81% of Veterans trips were taken on Sonoma County Transit's main north/south, east/west intercity routes. 10% of Veterans trips were made on Route 62 which serves the Veterans Outpatient Clinic on Airport Blvd. The remaining 9% of Veterans trips were made on various local and intercity routes within the Sonoma County Transit network.

Due to higher than anticipated ridership by Veterans, 2016's subsidy is projected at $35,649, a $7,515 increase over the November, 2015 projection of $28,134. It should be noted that 2016's Veterans subsidy was reduced by a one-time $10,000 contribution from the Sonoma County Veterans Services Department. Therefore, the projected general fund contribution will be $25,649 vs. the budgeted $18,134. Staff continues to work with Sonoma County Veterans Services Department to identify other funding opportunities to offset general fund costs. While these efforts continue, no additional funding to assist the Veterans program in 2017 has been identified to date.

It is estimated that the Veterans Subsidized Fare Program will provide 47,000 trips in 2017, a 15% increase over 2016, and require a subsidy of $41,000.

**College Student Subsidized Fare Program**: Also commencing on January 1, 2015, the College Student Subsidized Fare Program provides currently enrolled students attending a Sonoma County college unrestricted use of Sonoma County Transit. This includes non-school bound trips, weekend trips and trips during school breaks.

In October, average ridership by College Students was 820 on weekdays, 160 on Saturdays and 115 on Sundays.

Usage of the program is split between students attending Santa Rosa Junior College (SRJC) and Sonoma State University (SSU.) During 2015, the split was 86% SRJC and 14% SSU. Total 2015 ridership was 153,665 SRJC and 25,119 SSU. Total cost to the general fund for the 178,784 trips taken during 2015 was $283,570.

While the ridership split between the two colleges has remained the same during 2016, overall college student ridership declined 1.36%. College student ridership is projected to be 176,350 trips in 2016. The total fare subsidy for 2016 is projected at $276,885.

In its update to the Board in November, 2015, staff provided cost estimates for both the Veterans and College Student programs for 2016. To reduce general fund contributions during 2016, the Sonoma County Veterans Services Department made a one-time contribution of $10,000, SRJC contributed $60,000 and SSU contributed $15,000 as shown in the chart below. Overall, the general fund contribution

for the combined Veterans and College Student Subsidized Fare programs is projected to decrease from $310,089 in 2015, to a projected $227,533 in 2016, a 26.62% decrease.

The chart below compares projected 2016 costs with 2015 actual costs and the projected costs provided to the Board in November, 2015:

| Program | 2015 Actual Costs | 2016 Projected Year-End | November 2015 Projection | Difference from 2016 Projections | % Difference from 2016 Projections |
|---|---|---|---|---|---|
| Veterans | 26,519 | 35,649 | 28,134 | 7,515 | 26.71% |
| College Students | 283,570 | 276,885 | 295,658 | (18,773) | -6.35% |
| Totals | 310,089 | 312,533 | 323,792 | (11,259) | |
| Less Contributions | 0 | 85,000 | 87,500 | | |
| Net General Fund Cost | 310,089 | 227,533 | 236,292 | (8,759) | -3.71% |
| General Fund Contribution - 2016 Projected Year End vs. 2015 Actuals | | -26.62% | | | |
| | | (82,556) | | | |

When the Board took action to extend the College Student Program in November, 2015, it directed staff to work with SRJC and SSU to identify additional funding opportunities to support the College Student program that, if continued beyond 2016, would reduce or eliminate the County's general fund contribution.

This fall, staff has worked with both SRJC and SSU to identify outside funding for 2017 that will reduce reliance on the general fund to support this program. Below is the status of those efforts:

**SRJC:** SRJC administration has notified Sonoma County Transit of its intent to place an initiative on its April 2017 student body election ballot that would impose a student fee for transportation purposes. Staff estimates that if the initiative passes, SRJC's contribution for 2017 would be $123,543, approximately 50% of the estimated subsidy for SRJC student use in 2017 (shown as Scenario A in the chart below.) If the measure does not pass, SRJC's 2017 contribution would be limited to $30,000, shown as Scenario B.

**SSU:** For 2017, SSU has committed $19,477 towards the program for its students using Sonoma County Transit. This contribution represents approximately 50% of the estimated subsidy associated with SSU student use in 2017.

| | Contribution Rate | Scenario A | Contribution Rate | Scenario B |
|---|---|---|---|---|
| SRJC Portion of Projected Cost* | ---- | 247,087 | ---- | 247,087 |
| SSU Portion of Projected Cost* | ---- | 39,489 | ---- | 39,489 |
| Projected 2017 Cost: | | 286,575 | | 286,575 |
| SRJC Contribution | 50.00% | 123,543 | Fixed | 30,000 |
| SSU Contribution | 50.00% | 19,744 | 50.00% | 19,744 |
| County Contribution | | $143,288 | | $236,831 |
| % of Projected Cost | | 50.00% | | 82.64% |

* based on 2016 ridership

Both colleges have expressed interest in the development of a multi-year funding agreement, each providing up to 75% of the subsidy associated with use by their respective students, beginning with calendar year 2018. Under such an agreement, the County's contribution for the College Student Subsidized Fare program would be reduced to approximately $75,000, a 74% reduction in general fund contributions when compared to 2015, the first year of the program.

**Beyond 2017:** In November, 2015, the Board deferred consideration of expanding the program to include K-12 students until such time the College Student Subsidized Fare Program was fully funded by other than general fund sources. While unlikely that the College Student program will be fully funded by others, it is anticipated that SRJC and SSU will fund 75% of the College Student subsidy, beginning in 2018. When staff provides the next update on this program in November, 2017, it will provide the Board ridership and cost estimates, for its consideration, that would allow the inclusion of K-12 students into the Subsidized Transit Fare program at a future date.

**Prior Board Actions:**

11/17/15: Board approved funding on an annual basis and adopt the Subsidized Transit Fare Program for Veterans as a permanent program beginning January 1, 2016 and funding to continue the College Student Subsidized Fare Pilot Program through December 31, 2016 in the amount of $218,158 and accept financial assistance from Santa Rosa Junior College (SRJC) ($60,000) and Sonoma State University (SSU) ($17,500) to "bridge" the program through 2016.

08/18/15: Board received Mid-Year Report on the 2015 Subsidized Transit Fare Program and Upcoming Implementation of the Regional Clipper Card Fare Payment System on Sonoma County Transit.

09/30/14: Board approved (1) Funding to Sonoma County Transit to implement a Subsidized Fare Pilot Program for eligible College Students and Veterans, effective January 1 thru December 31, 2015, with an estimated cost of $311,000.

07/29/14: Board approved development of a Pilot Student Transit Pass Program.

**Strategic Plan Alignment** Goal 1: Safe, Healthy, and Caring Community

The provision of public transit services assists the County's goals of providing safe, healthy and caring community. The subsidized transit fare pilot program for College Students and Veterans compliments these goals.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | 123,916* | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | 123,916 | 153,915 | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | 123,916 | **$153,915** | |

**Narrative Explanation of Fiscal Impacts:**

Reflects the projected maximum general fund contribution per Scenario B in the chart above. It is estimated that the Veterans Subsidized Fare Program will provide 47,000 trips in 2017, a 15% increase over 2016, and require a subsidy of $41,000. Since this is a calendar year program, half of the County contribution listed in the table as $236,831, will occur in FY 16-17 and the other half in 17-18 as noted above in the fiscal summary. The first half costs for the general fund are less under Scenario B as the SRJC's $30,000 would be applied in the January-June, 2017 timeframe, while SSU's $19,477 is split between the two periods. If approved the balance of appropriations for calendar year 2017 would be included in the Requested FY 17/18 budget.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Proposed funding agreements with Santa Rosa Junior College and Sonoma State University.

**Related Items "On File" with the Clerk of the Board:**

# Memorandum of Understanding

Subsidized Fare Program for College Students on Sonoma County Transit

Agreed to by the following parties:

*The Administration and the Students of the Sonoma County Junior College District (SCJCD)*
*The County of Sonoma, Board of Supervisors and Sonoma County Transit*

The Administration of the Santa Rosa Junior College recognizes the importance of Sonoma County Transit's College Student Subsidized Fare Program and are willing to financially support the program should the Board of Supervisors choose to extend the program through 2017. In addition to the environmental benefits, this program directly impacts the College's ability to provide access to educational services for some of the County's most economically challenged students. During the past two years, the program has been very successful by both anecdotal accounts provided by students and empirical data submitted by Transit Manager, Bryan Albee.

To that end, the administration has agreed to contribute $30,000 for the 2017 program with the possibility of an increased level of funding participation per the following:

- It is the intention of the Student Government officials of SCJCD to place a ballot measure before the student body that if approved by a simple majority of the voters, will enact a fee for the purpose of subsidizing public transit services provided by Sonoma County Transit, beginning fall semester 2017. The fee, if passed, will enable the SCJCD to increase its subsidy (undetermined at this time) during the 2017 fall semester for trips taken by its students on Sonoma County Transit. If the measure does not pass, the SCJCD maximum contribution for 2017 will be $30,000.
- If the above described ballot measure is approved, SCJCD will develop a multi-year agreement with County of Sonoma/Sonoma County Transit that details funding participation by both parties effective January 1, 2018.
- The County of Sonoma and the Board of Supervisors agree to provide free ridership for SCJCD college students who display validated ID cards to bus drivers from January 1, 2017 to December 31, 2017.

*Signatures:*

_____

Doug Roberts, Senior Vice President Date
Finance & Administrative Services, SCJCD

_____

Chair, Sonoma County Board of Supervisors Date
County of Sonoma

_____

President, Jordan Panana Carbajal Date
SCJCD Associated Students

*11.4.16*

# Memorandum of Understanding

Subsidized Fare Program for College Students on Sonoma County Transit

Agreed to by the following parties:

*Sonoma State University and*
*The County of Sonoma, Board of Supervisors and Sonoma County Transit (SCT)*

Sonoma State University (SSU) recognizes the value and importance of Sonoma County Transit's College Student Subsidized Fare Program and is willing to financially support the program should the Board of Supervisors choose to extend the program through 2017. In addition to the environmental benefits, this program directly impacts the College's ability to provide access to educational services for some of the County's most economically challenged students. During the past two years, the program has been very successful by both anecdotal accounts provided by students and empirical data provided by Sonoma County Transit.

To this end, SSU and Sonoma County/SCT agree to the following:

- SSU agrees to contribute up to 50% of the cost of subsidized fares as it pertains to transit trips taken by SSU students during 2017, up to a maximum amount of $19,477. Billings will occur in arrears and be made in July, 2017 for the January-June, 2017 period and in January 2018 for the July-December, 2017 period.
- This one year agreement will permit SSU to consider ways to continue and expand its participation in the College Student Subsidized Fare program beyond 2017 with the intention of establishing a multi-year funding agreement should the program continue in 2018.
- The County of Sonoma and the Board of Supervisors agree to provide free ridership for Sonoma State University students who display validated ID cards to bus drivers from January 1, 2017 to December 31, 2017.

*Signatures:*

_____

Sonoma State University Date

_____

Chair, Sonoma County Board of Supervisors Date
County of Sonoma

*11.4.16*

SonomaCountyTransit

# **Subsidized Fare Pilot-Program for College Students & Veterans -** Program Update and Recommendation for 2017

December 13, 2016

# Subsidized Fare Pilot-Program Chronology:

- **September 30, 2014** - Board approved funding to Sonoma County Transit to implement a Subsidized Fare Pilot-Program for eligible College Students and Veterans, effective January 1 thru December 31, 2015, with an estimated cost of $311,000.
- **August 18, 2015** - Mid-Year report on January-June results.
- **November 17, 2015** - Pilot-Program Update and Recommendations for 2016. Board took actions to make the Veterans program permanent and to extend the College Student program through December 31, 2016.

# Subsidized Fare Pilot-Program Chronology:

- **December 13, 2016** - Update on 2016 Subsidized Transit Fare Program for Veterans & College Students and Recommendations for 2017.

# Subsidized Transit Fares for Veterans

## Veterans Subsidized Transit Fare Program

# 2016 Ridership & Cost Summary:

| | Number of Trips taken by Veterans | Fare Subsidy |
|---|---|---|
| 2016 - Projected | 40,844 | $35,649 |
| 2015 - Acutal | 29,912 | 26,519 |
| Change 2016 vs. 2015 | 10,932 | 9,130 |
| % Change | 36.55% | 34.43% |

## Veterans Subsidized Transit Fare Program

# Veterans Ridership by Route:

| | | Veterans Ridership |
|---|---|---|
| 10, 12, 14 | Rohnert Park, Cotati, SSU | 3.08% |
| 24 | Sebastopol | 0.26% |
| 28 | Guerneville Area | 0.00% |
| 32 | Sonoma / Sonoma Valley | 1.52% |
| 66, 67, 68 | Windsor, Healdsburg, Cloverdale | 0.33% |
| | Total - Local Routes | 5.18% |
| 20 | West County / Santa Rosa | 12.89% |
| 30 | Sonoma Valley / Santa Rosa | 7.89% |
| 44 | Santa Rosa, Rohnert Park, SSU, Petaluma | 24.12% |
| 48 | Santa Rosa, Rohnert Park, Cotati, Petaluma | 18.39% |
| 60 | Cloverdale, Healdsurg, Windsor, Santa Rosa | 18.29% |
| | Total - Core Intercity Routes | 81.59% |
| 22 | Santa Rosa / Sebastopol | 0.83% |
| 26 | Sebastopol / Rohnert Park | 0.61% |
| 34 | Sonoma Valley / Santa Rosa | 0.13% |
| 38 | Sonoma / San Rafael | 0.11% |
| 40 | Sonoma / Petaluma | 0.42% |
| 42 | Downtown Santa Rosa / Industry West Park | 0.58% |
| 46 | Santa Rosa / SSU | 0.25% |
| 62 | Santa Rosa / Airport / Windsor Depot | 10.29% |
| | Total - Tier Two Intercity Routes | 13.23% |
| | Total - System | 100.00% |

GFI - January - October, 2016

SonomaCountyTransit

## Veterans Subsidized Transit Fare Program

# Veterans Ridership by Route:

| | | Veterans Ridership |
|---|---|---|
| 10, 12, 14 | Rohnert Park, Cotati, SSU | 3.08% |
| 24 | Sebastopol | 0.26% |
| 28 | Guerneville Area | 0.00% |
| 32 | Sonoma / Sonoma Valley | 1.52% |
| 66, 67, 68 | Windsor, Healdsburg, Cloverdale | 0.33% |
| | Total - Local Routes | 5.18% |
| 20 | West County / Santa Rosa | 12.89% |
| 30 | Sonoma Valley / Santa Rosa | 7.89% |
| 44 | Santa Rosa, Rohnert Park, SSU, Petaluma | 24.12% |
| 48 | Santa Rosa, Rohnert Park, Cotati, Petaluma | 18.39% |
| 60 | Cloverdale, Healdsurg, Windsor, Santa Rosa | 18.29% |
| | Total - Core Intercity Routes | 81.59% |
| 22 | Santa Rosa / Sebastopol | 0.83% |
| 26 | Sebastopol / Rohnert Park | 0.61% |
| 34 | Sonoma Valley / Santa Rosa | 0.13% |
| 38 | Sonoma / San Rafael | 0.11% |
| 40 | Sonoma / Petaluma | 0.42% |
| 42 | Downtown Santa Rosa / Industry West Park | 0.58% |
| 46 | Santa Rosa / SSU | 0.25% |
| 62 | Santa Rosa / Airport / Windsor Depot | 10.29% |
| | Total - Tier Two Intercity Routes | 13.23% |
| | Total - System | 100.00% |

GFI - January - October, 2016

SonomaCountyTransit

# Subsidized Transit Fares for College Students

## College Students

Ride Free in 2016!

*Your **valid ID card** is your 2016 **sctransit pass.**

visit **sctransit.com** for more information.

College Student Subsidized Transit Fare Program

# 2016 Ridership & Cost Summary:

| | Number of Trips taken by College Students | Fare Subsidy |
|---|---|---|
| 2016 - Projected | 176,350 | $276,885 |
| 2015 - Acutal | 178,784 | 283,570 |
| Change 2016 vs. 2015 | -2,434 | -6,686 |
| % Change | -1.36% | -2.36% |

## College Student Subsidized Transit Fare Program

# College Student Ridership by Route:

| | | SRJC Students | SSU Students | Total College |
|---|---|---|---|---|
| 10, 12, 14 | Rohnert Park, Cotati, SSU | 1.10% | 19.81% | 3.64% |
| 24 | Sebastopol | 0.03% | 0.03% | 0.03% |
| 28 | Guerneville Area | 0.00% | 0.01% | 0.00% |
| 32 | Sonoma / Sonoma Valley | 0.38% | 0.15% | 0.35% |
| 66, 67, 68 | Windsor, Healdsburg, Cloverdale | 0.54% | 0.03% | 0.47% |
| | Total - Local Routes | 2.04% | 20.02% | 4.49% |
| 20 | West County / Santa Rosa | 11.94% | 2.44% | 10.65% |
| 30 | Sonoma Valley / Santa Rosa | 11.71% | 2.26% | 10.43% |
| 44 | Santa Rosa, Rohnert Park, SSU, Petaluma | 22.79% | 49.95% | 26.48% |
| 48 | Santa Rosa, Rohnert Park, Cotati, Petaluma | 16.31% | 11.79% | 15.69% |
| 60 | Cloverdale, Healdsurg, Windsor, Santa Rosa | 27.92% | 4.17% | 24.69% |
| | Total - Core Intercity Routes | 90.67% | 70.61% | 87.94% |
| 22 | Santa Rosa / Sebastopol | 0.90% | 0.49% | 0.85% |
| 26 | Sebastopol / Rohnert Park | 0.45% | 0.76% | 0.50% |
| 34 | Sonoma Valley / Santa Rosa | 0.33% | 0.03% | 0.29% |
| 38 | Sonoma / San Rafael | 0.16% | 0.13% | 0.16% |
| 40 | Sonoma / Petaluma | 0.36% | 0.23% | 0.34% |
| 42 | Downtown Santa Rosa / Industry West Park | 0.97% | 0.25% | 0.88% |
| 46 | Santa Rosa / SSU | 0.60% | 6.72% | 1.43% |
| 62 | Santa Rosa / Airport / Windsor Depot | 3.50% | 0.75% | 3.13% |
| | Total - Tier Two Intercity Routes | 7.29% | 9.36% | 7.57% |
| | Total - System | 100.00% | 100.00% | 100.00% |

GFI - January - October, 2016

## College Student Subsidized Transit Fare Program

# College Student Ridership by Route:

| | | SRJC Students | SSU Students | Total College |
|---|---|---|---|---|
| 10, 12, 14 | Rohnert Park, Cotati, SSU | 1.10% | 19.81% | 3.64% |
| 24 | Sebastopol | 0.03% | 0.03% | 0.03% |
| 28 | Guerneville Area | 0.00% | 0.01% | 0.00% |
| 32 | Sonoma / Sonoma Valley | 0.38% | 0.15% | 0.35% |
| 66, 67, 68 | Windsor, Healdsburg, Cloverdale | 0.54% | 0.03% | 0.47% |
| | Total - Local Routes | 2.04% | 20.02% | 4.49% |
| 20 | West County / Santa Rosa | 11.94% | 2.44% | 10.65% |
| 30 | Sonoma Valley / Santa Rosa | 11.71% | 2.26% | 10.43% |
| 44 | Santa Rosa, Rohnert Park, SSU, Petaluma | 22.79% | 49.95% | 26.48% |
| 48 | Santa Rosa, Rohnert Park, Cotati, Petaluma | 16.31% | 11.79% | 15.69% |
| 60 | Cloverdale, Healdsurg, Windsor, Santa Rosa | 27.92% | 4.17% | 24.69% |
| | Total - Core Intercity Routes | 90.67% | 70.61% | 87.94% |
| 22 | Santa Rosa / Sebastopol | 0.90% | 0.49% | 0.85% |
| 26 | Sebastopol / Rohnert Park | 0.45% | 0.76% | 0.50% |
| 34 | Sonoma Valley / Santa Rosa | 0.33% | 0.03% | 0.29% |
| 38 | Sonoma / San Rafael | 0.16% | 0.13% | 0.16% |
| 40 | Sonoma / Petaluma | 0.36% | 0.23% | 0.34% |
| 42 | Downtown Santa Rosa / Industry West Park | 0.97% | 0.25% | 0.88% |
| 46 | Santa Rosa / SSU | 0.60% | 6.72% | 1.43% |
| 62 | Santa Rosa / Airport / Windsor Depot | 3.50% | 0.75% | 3.13% |
| | Total - Tier Two Intercity Routes | 7.29% | 9.36% | 7.57% |
| | Total - System | 100.00% | 100.00% | 100.00% |

GFI - January - October, 2016

## College Student Subsidized Transit Fare Program

# College Student Ridership by Route:

| | | SRJC Students | SSU Students | Total College |
|---|---|---|---|---|
| 10, 12, 14 | Rohnert Park, Cotati, SSU | 1.10% | 19.81% | 3.64% |
| 24 | Sebastopol | 0.03% | 0.03% | 0.03% |
| 28 | Guerneville Area | 0.00% | 0.01% | 0.00% |
| 32 | Sonoma / Sonoma Valley | 0.38% | 0.15% | 0.35% |
| 66, 67, 68 | Windsor, Healdsburg, Cloverdale | 0.54% | 0.03% | 0.47% |
| | Total - Local Routes | 2.04% | 20.02% | 4.49% |
| 20 | West County / Santa Rosa | 11.94% | 2.44% | 10.65% |
| 30 | Sonoma Valley / Santa Rosa | 11.71% | 2.26% | 10.43% |
| 44 | Santa Rosa, Rohnert Park, SSU, Petaluma | 22.79% | 49.95% | 26.48% |
| 48 | Santa Rosa, Rohnert Park, Cotati, Petaluma | 16.31% | 11.79% | 15.69% |
| 60 | Cloverdale, Healdsurg, Windsor, Santa Rosa | 27.92% | 4.17% | 24.69% |
| | Total - Core Intercity Routes | 90.67% | 70.61% | 87.94% |
| 22 | Santa Rosa / Sebastopol | 0.90% | 0.49% | 0.85% |
| 26 | Sebastopol / Rohnert Park | 0.45% | 0.76% | 0.50% |
| 34 | Sonoma Valley / Santa Rosa | 0.33% | 0.03% | 0.29% |
| 38 | Sonoma / San Rafael | 0.16% | 0.13% | 0.16% |
| 40 | Sonoma / Petaluma | 0.36% | 0.23% | 0.34% |
| 42 | Downtown Santa Rosa / Industry West Park | 0.97% | 0.25% | 0.88% |
| 46 | Santa Rosa / SSU | 0.60% | 6.72% | 1.43% |
| 62 | Santa Rosa / Airport / Windsor Depot | 3.50% | 0.75% | 3.13% |
| | Total - Tier Two Intercity Routes | 7.29% | 9.36% | 7.57% |
| | Total - System | 100.00% | 100.00% | 100.00% |

GFI - January - October, 2016

## College Student Subsidized Transit Fare Program

# College Student Ridership by Route:

| | | SRJC Students | SSU Students | Total College |
|---|---|---|---|---|
| 10, 12, 14 | Rohnert Park, Cotati, SSU | 1.10% | 19.81% | 3.64% |
| 24 | Sebastopol | 0.03% | 0.03% | 0.03% |
| 28 | Guerneville Area | 0.00% | 0.01% | 0.00% |
| 32 | Sonoma / Sonoma Valley | 0.38% | 0.15% | 0.35% |
| 66, 67, 68 | Windsor, Healdsburg, Cloverdale | 0.54% | 0.03% | 0.47% |
| | Total - Local Routes | 2.04% | 20.02% | 4.49% |
| 20 | West County / Santa Rosa | 11.94% | 2.44% | 10.65% |
| 30 | Sonoma Valley / Santa Rosa | 11.71% | 2.26% | 10.43% |
| 44 | Santa Rosa, Rohnert Park, SSU, Petaluma | 22.79% | 49.95% | 26.48% |
| 48 | Santa Rosa, Rohnert Park, Cotati, Petaluma | 16.31% | 11.79% | 15.69% |
| 60 | Cloverdale, Healdsurg, Windsor, Santa Rosa | 27.92% | 4.17% | 24.69% |
| | Total - Core Intercity Routes | 90.67% | 70.61% | 87.94% |
| 22 | Santa Rosa / Sebastopol | 0.90% | 0.49% | 0.85% |
| 26 | Sebastopol / Rohnert Park | 0.45% | 0.76% | 0.50% |
| 34 | Sonoma Valley / Santa Rosa | 0.33% | 0.03% | 0.29% |
| 38 | Sonoma / San Rafael | 0.16% | 0.13% | 0.16% |
| 40 | Sonoma / Petaluma | 0.36% | 0.23% | 0.34% |
| 42 | Downtown Santa Rosa / Industry West Park | 0.97% | 0.25% | 0.88% |
| 46 | Santa Rosa / SSU | 0.60% | 6.72% | 1.43% |
| 62 | Santa Rosa / Airport / Windsor Depot | 3.50% | 0.75% | 3.13% |
| | Total - Tier Two Intercity Routes | 7.29% | 9.36% | 7.57% |
| | Total - System | 100.00% | 100.00% | 100.00% |

GFI - January - October, 2016

## Subsidized Transit Fare Program

# Cost Comparison - Projected 2016 vs. 2015

| Program | 2015 Actual Costs | 2016 Projected Year-End | November 2015 Projection | Difference | % Difference |
|---|---|---|---|---|---|
| Veterans | $26,519 | $35,649 | $28,134 | $7,515 | 26.71% |
| College Students | 283,570 | 276,885 | 295,658 | (18,773) | -6.35% |
| Totals | $310,089 | $312,533 | $323,792 | ($11,259) | |
| Less Contributions | 0 | 85,000 | 87,500 | | |
| Net General Fund Cost | $310,089 | $227,533 | $236,292 | ($8,759) | -3.71% |
| General Fund Contribution - 2016 vs. 2015 | | -26.62% | | | |
| | | ($82,556) | | | |

College Student Subsidized Transit Fare Program

# Funding Scenarios for 2017:

| | Contribution Rate | Scenario A | Contribution Rate | Scenario B |
|---|---|---|---|---|
| SRJC Portion of Projected Cost* | ---- | $247,087 | ---- | $247,087 |
| SSU Portion of Projected Cost* | ---- | 39,489 | ---- | 39,489 |
| Projected 2017 Cost: | | $286,575 | | $286,575 |
| SRJC Contribution | 50.00% | 123,543 | Fixed | 30,000 |
| SSU Contribution | 50.00% | 19,744 | 50.00% | 19,744 |
| County Contribution | | $143,288 | | $236,831 |
| % of Projected Cost | | 50.00% | | 82.64% |

* based on 2016 ridership

## College Student Subsidized Transit Fare Program

# Long-Term Funding beyond 2017:

| | 2017 | | | | 2018** | |
|---|---|---|---|---|---|---|
| | Contribution Rate | Scenario A | Contribution Rate | Scenario B | Contribution Rate | Scenario B |
| SRJC Portion of Projected Cost* | ---- | $247,087 | ---- | $247,087 | ---- | $255,735 |
| SSU Portion of Projected Cost* | ---- | 39,489 | ---- | 39,489 | ---- | 40,871 |
| Projected 2017 Cost: | | $286,575 | | $286,575 | | $296,606 |
| SRJC Contribution | 50.00% | 123,543 | Fixed | 30,000 | | |
| SSU Contribution | 50.00% | 19,744 | 50.00% | 19,744 | | |
| County Contribution | | $143,288 | | $236,831 | | $296,606 |
| % of Projected Cost | | 50.00% | | 82.64% | | 100.00% |

* based on 2016 ridership

** reflects a 3.5% cost increase over 2017

| | | |
|---|---|---|
| 2015 General Fund Contribution (actual): | $283,570 | |
| 2016 General Fund Contribution (projected): | $201,885 | -28.81% |
| 2017 Anticipated General Fund Contribution: | $143,288 | -49.47% |
| 2018 Anticipated General Fund Contribution: | $296,606 | 4.60% |

## College Student Subsidized Transit Fare Program

# Long-Term Funding beyond 2017:

| | 2017 | | | | 2018** | |
|---|---|---|---|---|---|---|
| | Contribution Rate | Scenario A | Contribution Rate | Scenario B | Contribution Rate | Scenario B |
| SRJC Portion of Projected Cost* | ---- | $247,087 | ---- | $247,087 | ---- | $255,735 |
| SSU Portion of Projected Cost* | ---- | 39,489 | ---- | 39,489 | ---- | 40,871 |
| Projected 2017 Cost: | | $286,575 | | $286,575 | | $296,606 |
| SRJC Contribution | 50.00% | 123,543 | Fixed | 30,000 | 75.00% | 191,801 |
| SSU Contribution | 50.00% | 19,744 | 50.00% | 19,744 | 75.00% | 30,653 |
| County Contribution | | $143,288 | | $236,831 | | $74,151 |
| % of Projected Cost | | 50.00% | | 82.64% | | 25.00% |

* based on 2016 ridership

** reflects a 3.5% cost increase over 2017

| | | |
|---|---|---|
| 2015 General Fund Contribution (actual): | $283,570 | |
| 2016 General Fund Contribution (projected): | $201,885 | -28.81% |
| 2017 Anticipated General Fund Contribution: | $143,288 | -49.47% |
| 2018 Anticipated General Fund Contribution: | $74,151 | -73.85% |

## College Student Subsidized Transit Fare Program

# Long-Term Funding beyond 2017:

| | 2017 | | | | 2018** | |
|---|---|---|---|---|---|---|
| | Contribution Rate | Scenario A | Contribution Rate | Scenario B | Contribution Rate | Scenario B |
| SRJC Portion of Projected Cost* | ---- | $247,087 | ---- | $247,087 | ---- | $255,735 |
| SSU Portion of Projected Cost* | ---- | 39,489 | ---- | 39,489 | ---- | 40,871 |
| Projected 2017 Cost: | | $286,575 | | $286,575 | | $296,606 |
| SRJC Contribution | 50.00% | 123,543 | Fixed | 30,000 | 75.00% | 191,801 |
| SSU Contribution | 50.00% | 19,744 | 50.00% | 19,744 | 75.00% | 30,653 |
| County Contribution | | $143,288 | | $236,831 | | $74,151 |
| % of Projected Cost | | 50.00% | | 82.64% | | 25.00% |

* based on 2016 ridership

** reflects a 3.5% cost increase over 2017

| | | |
|---|---|---|
| 2015 General Fund Contribution (actual): | $283,570 | |
| 2016 General Fund Contribution (projected): | $201,885 | -28.81% |
| 2017 Anticipated General Fund Contribution: | $143,288 | -49.47% |
| 2018 Anticipated General Fund Contribution: | $74,151 | -73.85% |

## College Student Subsidized Transit Fare Program

# Long-Term Funding beyond 2017:

| | 2017 | | | | 2018** | |
|---|---|---|---|---|---|---|
| | Contribution Rate | Scenario A | Contribution Rate | Scenario B | Contribution Rate | Scenario B |
| SRJC Portion of Projected Cost* | ---- | $247,087 | ---- | $247,087 | ---- | $255,735 |
| SSU Portion of Projected Cost* | ---- | 39,489 | ---- | 39,489 | ---- | 40,871 |
| Projected 2017 Cost: | | $286,575 | | $286,575 | | $296,606 |
| SRJC Contribution | 50.00% | 123,543 | Fixed | 30,000 | 75.00% | 191,801 |
| SSU Contribution | 50.00% | 19,744 | 50.00% | 19,744 | 75.00% | 30,653 |
| County Contribution | | $143,288 | | $236,831 | | $74,151 |
| % of Projected Cost | | 50.00% | | 82.64% | | 25.00% |

* based on 2016 ridership

** reflects a 3.5% cost increase over 2017

| | | |
|---|---|---|
| 2015 General Fund Contribution (actual): | $283,570 | |
| 2016 General Fund Contribution (projected): | $201,885 | -28.81% |
| 2017 Anticipated General Fund Contribution: | $143,288 | -49.47% |
| 2018 Anticipated General Fund Contribution: | $74,151 | -73.85% |

# Staff Recommendation:

- Provide general fund assistance to continue the College Student Subsidized Fare Pilot Program through December 31, 2017 and accept financial assistance from SRJC and SSU.
- Direct staff to develop a multi-year agreement with SRJC and SSU that further reduces County general fund contributions beginning in 2018 and report back on progress made in November, 2017.

sct

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 66**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Transportation and Public Works

**Staff Name and Phone Number:**
Susan Klassen (707) 565-2231

**Supervisorial District(s):**
Second, Third, Fourth

**Title:** Establishment of Quiet Zones at Railroad Crossings in Sonoma County

**Recommended Actions:**

1) Direct staff to submit a Notice of Intent for Quiet Zones at Railroad Crossings within Sonoma County relating to the rail operations of Sonoma Marin Area Rail Transit (SMART).
2) Authorize the Director of Transportation and Public Works to negotiate cooperative agreements with Rohnert Park and Cotati regarding joint quiet zone applications.

**Executive Summary:**

This action initiates the federal process of establishing Quiet Zones within Sonoma County relating to the rail operations of SMART. A quiet zone is a segment of rail line at least one half mile in length that contains one or more consecutive highway-rail crossings where the train horn is not routinely sounded. The locomotive engineer is required by law to sound the train's horn no more than twenty seconds and no less than fifteen seconds prior to arrival at the crossing between 96 and 110 decibels. With the establishment of a quiet zone, locomotive engineers approaching a designated crossing must refrain from sounding the train's horn. The locomotive engineer may sound the horn to provide a warning to animals, vehicle operators, pedestrians, trespassers, crews of other trains, in an emergency situation if in the locomotive engineer's sole judgment such action is appropriate.

**Discussion:**

The Federal Railroad Authority (FRA) is responsible for quiet zone regulations nationwide. In 2005, the FRA published a rule that requires the use of locomotive horns at public grade crossings with exceptions to that rule, where no significant risk exists to promote quality of life without compromising safety, through the creation of quiet zones. The rule is currently codified at Title 49, Code of Federal Regulations, Part 222 (Quiet Zone Regulations).

The rule provides public authorities the option to establish a quiet zone provided certain Supplemental Safety Measures (SSM) or Alternative Safety Measures (ASM) are in place and the Quiet Zone Risk Index

for the subject grade crossing is at or below the Nationwide Significant Risk Threshold or the Risk Index with Horns.

Supplemental Safety Measures are safety systems or procedures which are provided by the appropriate traffic control authority or law enforcement authority responsible for safety at the highway-rail grade crossing, that are determined by the Associate Administrator to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties. Alternative Safety Measures are safety system or procedures, other than an SSM, established in accordance with 49 CFR Appendix B to Part 222 which are provided by the appropriate traffic control authority or law enforcement authority and which, after individual review and analysis by the Associate Administrator, are determined to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties at specific highway-rail grade crossings.

Examples of additional safety engineering improvements that may be necessary to reduce the risk of collisions include: medians on one or both sides of the tracks to prevent a motorist from driving around a lowered gate; a four-quadrant gate system to block all lanes of highway traffic; converting a two-way street into a one-way street; permanent closure of the crossing to highway traffic; or approved variations of these treatments.

Every public grade crossing in a quiet zone must be equipped at minimum with the standard or conventional automatic warning devices (i.e. flashing lights and gates). Quiet zone regulations do not eliminate the use of locomotive bells or lights at crossings.

The Department has identified eleven crossings within the County's jurisdiction that are proposed to be included in the quiet zone and has grouped them geographically in three areas, southern, central, and northern. The southern crossings include the Ely Road, Main Street, Adobe Road, and East Railroad Avenue. The central crossings include the Scenic Avenue, Todd Road, and West Robles Avenue. The northern crossings include the Fulton Road, River Road, Airport Boulevard, and Aviation Boulevard.

The required Formal Diagnostics Field Review meeting with the Federal Railroad Authority, California Public Utilities Commission, and SMART, in which the crossings are evaluated, has been conducted. The cities of Rohnert Park and Cotati also had their Field Review at the same time. The City of Rohnert Park will work with the County and the City of Cotati may be willing to work with the County on a combined quiet zone application, which would combine all public crossings between Ely Road and Aviation Boulevard into one quiet zone. This approach is highly encouraged by the FRA and SMART and would simplify the process by the submission of only one Notice of Intent.

The Department is seeking Board authorization to submit a Notice of Intent for the establishment of the quiet zones. The railroads and State agencies have up to 60 days in which to provide comments and potentially require additional improvements for each crossing from the date of the Notice of Intent. The Department is further seeking Board authorization for the Director of Public Works to work with Rohnert Park and Cotati to reach agreement on the terms of the potential joint submission of a combined quiet zone application, which agreement will be negotiated concurrently with the agencies' analysis of the proposed quiet zone crossings.

After the 60 days comment period and the required improvements agreed upon for each crossing, the Department will return to the Board to request funding and authorization to proceed with construction/installation of improvements from the Board. If the Director is successful in reaching an agreement with the cities, the proposed agreements will also be brought to the Board for approval.

Upon completion and verification of all required improvements for establishment of the quiet zones, and execution of any cooperative agreements with other local agencies, staff will return to the Board to request authorization to file a Notice of Establishment of the quiet zones. The quiet zone can take effect no earlier than 21 days from the date on which the Notice of Quiet Zone Establishment is mailed.

**Prior Board Actions:**

None

**Strategic Plan Alignment** Goal 1: Safe, Healthy, and Caring Community

Establishing the quiet zones will reduce risk at the crossings and promote the safe passage of motorists, pedestrian, and bicyclists at both intersections.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

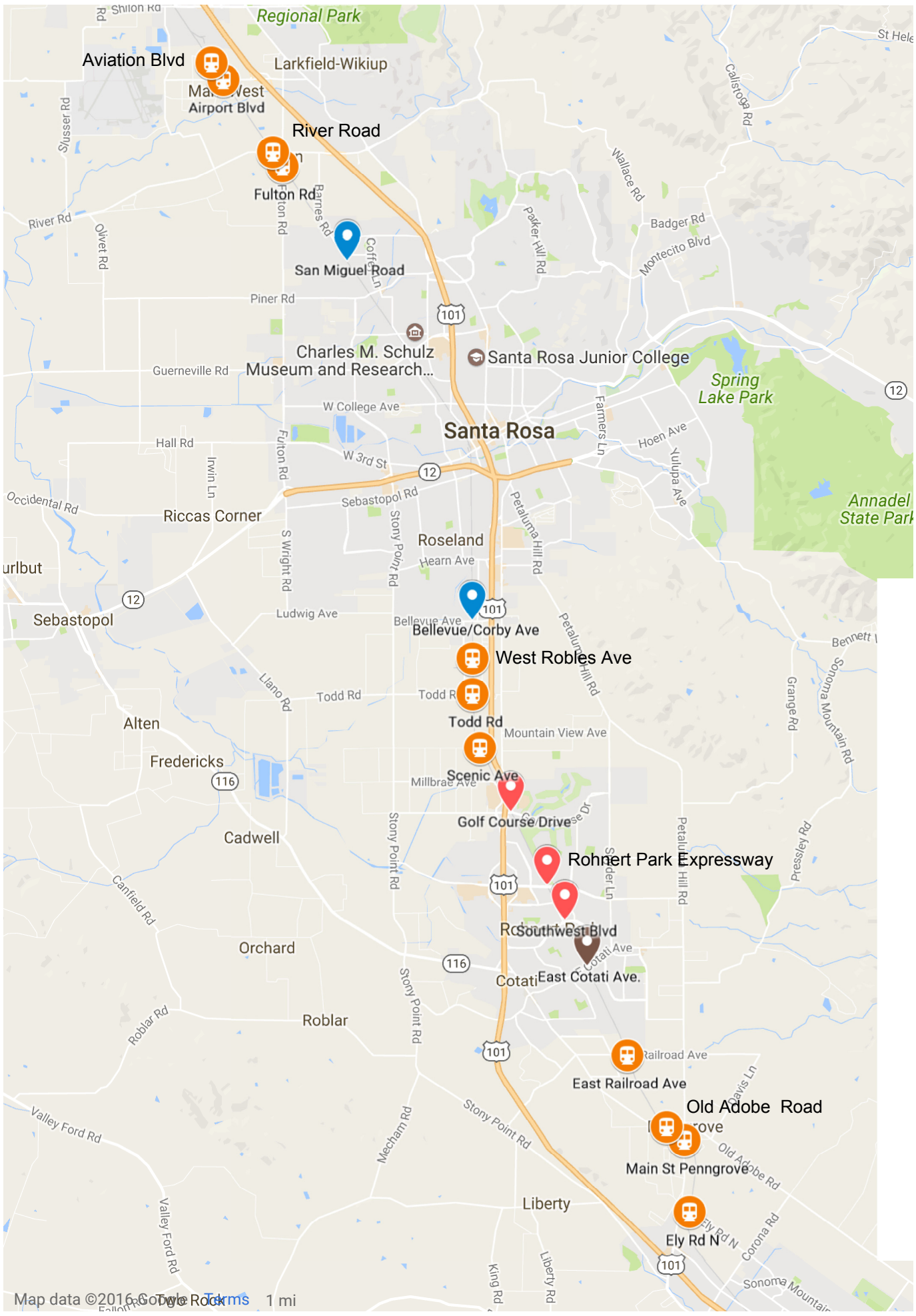
There are no fiscal impacts associated with this item.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

| **Narrative Explanation of Staffing Impacts (If Required):** |
| --- |
| |
| **Attachments:** |
| Crossings Map, Proposed Quiet Zone Risk Calculations |
| **Related Items "On File" with the Clerk of the Board:** |
| None. |

# Proposed Combined Quiet Zone Railroad Crossings




## Legend

**Orange** pins: Sonoma County crossings
**Brown** pin: City of Cotati crossing
**Red** pins: City of Rohnert Park crossings
**Blue** pins: City of Santa Rosa crossings showing city boundaries only.

# Proposed Combined Quiet Zone Risk Index without Supplemental Safety Measures

**Home** | **Help** | **Contact** | **logoff** johannes.hoevertsz@sonoma-county.org

**Cancel** Change Scenario: PROPOSED_Q_49269 **Continue**

**Create New Zone**

**Manage Existing Zones**

**Log Off**

| Crossing | Street | Traffic | Warning Device | Pre-SSM | SSM | Risk | |
|---|---|---|---|---|---|---|---|
| **498570P** | **FULTON ROAD** | **15966** | **Gates** | 0 | 0 | 70,045.26 | MODIFY |
| **498571W** | **RIVER ROAD** | **15544** | **Gates** | 0 | 0 | 69,688.85 | MODIFY |
| **498572D** | **AIRPORT BLVD** | **17579** | **Gates** | 0 | 0 | 48,610.84 | MODIFY |
| **498665X** | **WEST ROBLES AVE.** | **783** | **Gates** | 0 | 0 | 29,811.79 | MODIFY |
| **498670U** | **TODD ROAD** | **13365** | **Gates** | 0 | 0 | 55,405.28 | MODIFY |
| **498671B** | **SCENIC AVE.** | **1491** | **Gates** | 0 | 0 | 42,397.26 | MODIFY |
| **498673P** | **GOLF COURSE DRIVE** | **7004** | **Gates** | 0 | 0 | 59,495.25 | MODIFY |
| **498674W** | **ROHNERT PARK EXPY** | **10000** | **Gates** | 0 | 0 | 69,848.67 | MODIFY |
| **498675D** | **SOUTHWEST BLVD** | **10000** | **Gates** | 0 | 0 | 58,154.10 | MODIFY |
| **498676K** | **EAST COTATI AVE.** | **8080** | **Gates** | 0 | 0 | 45,962.49 | MODIFY |
| **498677S** | **EAST RAILROAD AVE** | **1383** | **Gates** | 0 | 0 | 39,151.81 | MODIFY |
| **498678Y** | **OLD ADOBE ROAD** | **3933** | **Gates** | 0 | 0 | 45,026.18 | MODIFY |
| **498679F** | **MAIN ST/WOODWARD** | **7875** | **Gates** | 0 | 0 | 52,090.94 | MODIFY |
| **498680A** | **ELY ROAD N** | **3595** | **Gates** | 0 | 0 | 51,659.62 | MODIFY |
| **912093R** | **AVIATION BLVD** | **5210** | **Gates** | 0 | 0 | 38,118.30 | MODIFY |

**Step by Step Instructions:**

**Step 1:** To specify New Warning Device (For Pre-Rule Quiet Zone Only) and/or SSM, click the MODIFY Button

**Step 2:** Select proposed warning device or SSM. Then click the UPDATE button.To generate a spreadsheet of the values on this page, click on ASM button—This spreadsheet can then be used for ASM calculations.

**Step 3:** Repeat Step (2) until the SELECT button is shown at the bottom right side of this page. Note that the SELECT button is shown ONLY when the Quiet Zone Risk Index falls below the NSRT or the Risk Index with Horn.

**Step 4:** To save the scenario and continue, click the SELECT button

* Only Public At Grade Crossings are listed.

**Click** for Supplementary Safety Measures [SSM]

**Click** for ASM spreadsheet: **ASM** * Note:The use of ASMs requires an application to and approval from the FRA.

| Summary | |
|---|---|
| **Proposed Quiet Zone:** | PROPOSED_QZ_12-7-16 |
| **Type:** | New 24-hour QZ |
| **Scenario:** | PROPOSED_Q_49269 |
| **Estimated Total Cost:** | $0.00 |
| **Nationwide Significant Risk Threshold:** | 14347 .00 |
| **Risk Index with Horns:** | 30993.87 |
| **Quiet Zone Risk Index:** | 51697.78 |

# Proposed Combined Quiet Zone Risk Index with Supplemental Safety Measures

**Home** | **Help** | **Contact** | **logoff** johannes.hoevertsz@sonoma-county.org

**Cancel** Change Scenario: PROPOSED_Q_49269 **Continue**

**Create New Zone**

**Manage Existing Zones**

**Log Off**

**Step by Step Instructions:**

**Step 1:** To specify New Warning Device (For Pre-Rule Quiet Zone Only) and/or SSM, click the MODIFY Button

**Step 2:** Select proposed warning device or SSM. Then click the UPDATE button.To generate a spreadsheet of the values on this page, click on ASM button—This spreadsheet can then be used for ASM calculations.

**Step 3:** Repeat Step (2) until the SELECT button is shown at the bottom right side of this page. Note that the SELECT button is shown ONLY when the Quiet Zone Risk Index falls below the NSRT or the Risk Index with Horn.

**Step 4:** To save the scenario and continue, click the SELECT button

| Crossing | Street | Traffic | Warning Device | Pre-SSM | SSM | Risk | |
|---|---|---|---|---|---|---|---|
| **498570P** | **FULTON ROAD** | **15966** | **Gates** | 0 | 13 | 14,009.05 | MODIFY |
| **498571W** | **RIVER ROAD** | **15544** | **Gates** | 0 | 13 | 13,937.77 | MODIFY |
| **498572D** | **AIRPORT BLVD** | **17579** | **Gates** | 0 | 13 | 9,722.17 | MODIFY |
| **498665X** | **WEST ROBLES AVE.** | **783** | **Gates** | 0 | 12 | 7,452.95 | MODIFY |
| **498670U** | **TODD ROAD** | **13365** | **Gates** | 0 | 12 | 13,851.32 | MODIFY |
| **498671B** | **SCENIC AVE.** | **1491** | **Gates** | 0 | 12 | 10,599.32 | MODIFY |
| **498673P** | **GOLF COURSE DRIVE** | **7004** | **Gates** | 0 | 0 | 59,495.25 | MODIFY |
| **498674W** | **ROHNERT PARK EXPY** | **10000** | **Gates** | 0 | 13 | 13,969.73 | MODIFY |
| **498675D** | **SOUTHWEST BLVD** | **10000** | **Gates** | 0 | 13 | 11,630.82 | MODIFY |
| **498676K** | **EAST COTATI AVE.** | **8080** | **Gates** | 0 | 13 | 9,192.50 | MODIFY |
| **498677S** | **EAST RAILROAD AVE** | **1383** | **Gates** | 0 | 12 | 9,787.95 | MODIFY |
| **498678Y** | **OLD ADOBE ROAD** | **3933** | **Gates** | 0 | 12 | 11,256.54 | MODIFY |
| **498679F** | **MAIN ST/WOODWARD** | **7875** | **Gates** | 0 | 6 | 11,980.92 | MODIFY |
| **498680A** | **ELY ROAD N** | **3595** | **Gates** | 0 | 12 | 12,914.91 | MODIFY |
| **912093R** | **AVIATION BLVD** | **5210** | **Gates** | 0 | 12 | 9,529.57 | MODIFY |

* Only Public At Grade Crossings are listed.

**ALERT: Quiet Zone qualifies because QZRI is less than Risk Index with Horns.**

**Click** for Supplementary Safety Measures [SSM]

**Click** for ASM spreadsheet: **ASM** * Note:The use of ASMs requires an application to and approval from the FRA.

| Summary | |
|---|---|
| **Proposed Quiet Zone:** | Proposed_QZ_12-7-16 |
| **Type:** | New 24-hour QZ |
| **Scenario:** | PROPOSED_Q_49269 |
| **Estimated Total Cost:** | $309,000.00 |
| **Nationwide Significant Risk Threshold:** | 14347 .00 |
| **Risk Index with Horns:** | 30993.87 |
| **Quiet Zone Risk Index:** | **14622.05** |

**Select**

SSM#13 non-traversable curb medians with or without channelization devices
SSM#12 mountable medians with reflective traffic channelization devices
SSM#6 Four quadrant gates update from two quadrant gates with vehicle presence detection.
Fulton Road crossing requires the closure of D Street and Hart Lane.

# Quiet Zones at Railroad Crossings

**Sonoma County**

**Department of Transportation and Public Works**

# Why Do Trains Sound Their Horn?

- **The locomotive engineer is required by law to sound the horn to warn pedestrians/motorists/bicyclists/animals a train is approaching.**
- **In 2005, the Federal Railroad Authority published a nationwide rule to sound train horn at crossings, pattern, and sound level.**
- **The publication provides options to establish Quiet Zones.**

# The Train Horn Rule

- **Under the Train Horn Rule, locomotive engineers must begin to sound train horns at least 15 seconds, and no more than 20 seconds, in advance of all public grade crossings.**
- **Train horns must be sounded in a standardized pattern of 2 long, 1 short and 1 long blasts. The pattern must be repeated or prolonged until the lead locomotive or lead cab car occupies the grade crossing. The rule does not stipulate the durations of long and short blasts.**
- **The maximum volume level for the train horn is 110 decibels. The minimum sound level is 96 decibels.**

# Sound Levels

| | |
|---|---|
| Weakest sound heard | 0dB |
| Normal conversation (3-5') | 60-70dB |
| Telephone dial tone | 80dB |
| City Traffic (inside car) | 85dB |
| Train whistle at 500' | 90dB |
| Subway train at 200' | 95dB |
| Power mower | 107dB |
| *Pain begins* | *125dB* |
| Pneumatic riveter at 4' | 125dB |
| Jet engine at 100' | 140dB |
| Death of hearing tissue | 180dB |
| Loudest sound possible | 194dB |

# What is a Quiet Zone?

- **A rail corridor at least one half mile in length, containing one or more public highway-rail grade crossings, within which routine sounding of train horns is prohibited, except in certain circumstances while still maintaining the highest standards of safety.**
- **Train horns may still be used in emergency situations or to comply with other Federal regulations or railroad operating rules.**
- **Localities desiring to establish a quiet zone are first required to mitigate the increased risk caused by the absence of a horn by installing Supplemental Safety Measures (SSM) or Alternative Safety Measures (ASM).**

# Supplemental Safety Measures (SSM)

- A safety system or procedure which is provided by the appropriate traffic control authority or law enforcement authority responsible for safety at the highway-rail grade crossing, that is determined by the Associate Administrator to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties.
- Temporary/Permanent Closures
- 4-Quadrant Gates
- Gates with Medians or Channelization Devices
- One-way Streets with Gates

# Alternative Safety Measures (ASM)

- A safety system or procedure, other than an SSM, established in accordance with 49 CFR Appendix B to Part 222 which is provided by the appropriate traffic control authority or law enforcement authority and which, after individual review and analysis by the Associate Administrator, is determined to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties at specific highway-rail grade crossings

# How is a Quiet Zone Created?

- **Identify all the crossings to be included in the Quiet Zone**
- **Conduct a Formal Diagnostic Field Review meeting with the California Public Utilities Commission, Federal Railroad Authority and Sonoma Marin Area Rail Transit**
- **Submit a Notice of Intent to Federal Railroad Authority – 60 day comment period**
- **Install Supplemental and/or Alternative Safety Measures**
- **Submit Notice of Establishment**
- **21 Day Waiting Period**

# A Combined Application for the Quiet Zone

- The County has reached out to both the City of Rohnert Park and the City of Cotati to participate on a combined quiet zone application to avoid duplication of efforts and coordinate implementation.
- The City of Rohnert Park has agreed to work with the County on the application.
- The City of Cotati has scheduled a meeting to discuss the matter.

# Recommendations

- Direct staff to submit a Notice of Intent for Quiet Zones at Railroad Crossings within Sonoma County relating to the rail operations of Sonoma Marin Rail Transit (SMART).
- Authorize the Director of Transportation and Public Works to negotiate agreements with the cities of Rohnert Park and Cotati regarding the joint quiet zone application.

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 67**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors, Community Development Commission Board of Directors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** County Administrator's Office, Permit and Resource Management Department, Community Development Commission

**Staff Name and Phone Number:**

Sita Kuteira 565-3771
Margaret Van Vliet 565-7505

**Supervisorial District(s):**

Fourth and Fifth

**Title:** Total Maximum Daily Load Memorandum of Understanding

**Recommended Actions:**

Authorize the County Administrator to execute a Memorandum of Understanding with the North Coast Regional Water Quality Control Board relating to the reduction of pathogens in the Russian River Watershed and implementation of the Pathogen Indicator Bacteria Total Maximum Daily Load Action Plan.

**Executive Summary:**

This Memorandum of Understanding (MOU) between the County of Sonoma, the Community Development Commission (CDC) and the North Coast Regional Water Quality Control Board (Regional Water Board) establishes a mutual understanding of the roles and responsibilities of each party with regards to decreasing contamination from point sources to improve the water quality of the Russian River. A key priority identified by the Board was to improve the water quality of the Russian River, increase sustainability of the watershed, and get the waterbody delisted from the federal list of impaired waters, and successful implementation of the Total Maximum Daily Load Action Plan (TMDL Action Plan) is key component of achieving that goal.

**Discussion:**

The Russian River Watershed encompasses a total of 1,484 square miles with approximately 920 in Sonoma County and the remainder in Mendocino County. In addition to supporting the preservation and enhancement of fish and wildlife resources and public recreation, the Russian River is an important source of agricultural, industrial, and domestic water supply.

Several surface waters in the Russian River Watershed are identified on the 2012 Clean Water Act section 303(d) List of Impaired Waters due to pathogen indicator bacteria concentrations exceeding water quality standards. To reduce concentrations of pathogens to levels that minimize human exposure to waterborne diseases and to protect uses of water for recreational activities, the Regional Board is

developing a Pathogen Total Maximum Daily Load (Pathogen TMDL) that identifies discharge sources and an Action Plan to govern the cleanup of the watershed.

Although the Regional Water Board is the lead agency for implementing the Pathogen TMDL, the Pathogen TMDL identifies Bacteria Source Categories of Onsite Wastewater Treatment Systems, Recreational Water Use, and Homeless Encampments, which the County has existing regulatory authority over or which the County and/or the Community Development Commission (CDC) have existing or planned programs. Implementing the TMDL Action Plan and reducing the pathogen levels in the Russian River is an immense project and clear delineation of roles and responsibilities and a commitment to collaborative approaches is critical to its success.

**Onsite Wastewater Treatment Systems (OWTS)**

The Permit and Resource Management Department (PRMD) has an effective local program for implementing water quality control regulations. OWTS, most often septic systems, that have been installed, repaired, and replaced under these local standards are generally acknowledged to be in good working order and to be protective of public health and water quality. However, there are many older septic systems that predate County Code and are nonconforming or failing. The highest concentration of these systems is in the lower Russian River Watershed.

Repairing or replacing failing septic systems is a priority of the TMDL Action Plan. Under the MOU, the Regional Water Board, with assistance from the County, will identify high priority areas and minimum requirements for systems in those areas. The Regional Water Board will be in charge of gathering information on the systems in those areas and requiring repair or replacement, while the County will ensure that all new or repaired systems are in compliance with the Pathogen TMDL.

Repair and replacement of septic systems will be expensive and especially difficult for owners of lower valued homes such as those in lower Russian River neighborhoods. The County, CDC and the Regional Water Board will partner to obtain grants, loans or other funding streams to assist homeowners with this expense.

Efforts to address waste water treatment solutions in the lower Russian River have been undertaken for a number of years. Prior to the dissolution of redevelopment, the CDC had convened a Redevelopment advisory group, the Monte Rio Wastewater Task Group. This group was working towards reviewing potential solutions for the waste water challenges in the lower Russian River Region. This group expanded its work scope to encompass more areas of the Russian River watershed which had similar waste water challenges such as the Fitch Mountain area. While the Task Group has been disbanded, some of the members are still interested in and involved with the TMDL process and are ready to work with the County and the Regional Water Board on this issue.

With the dissolution of Redevelopment, the Board earmarked $1.02 million in Reinvestment and Revitalization (R&R) funds for similar efforts in Monte Rio. Some of these funds were utilized to provide the Lower Russian River Wastewater Treatment Stakeholder Issue Assessment, which was intended to guide future engagement efforts. At this juncture, the engagement and feasibility study project has been on hold pending final adoption of the TMDL and $975,000 of the original earmark remains available. Per the MOU, the County would fund research of technical solutions for wastewater treatment and community engagement and planning for community solutions and alternatives. The earmarked R&R

funds could be used to fund these research and planning efforts throughout the lower Russian River. If the MOU is approved, staff would return with a proposed budget and scope of work once the TMDL Action Plan is adopted.

**Homeless Issues**
Pursuant to this MOU, the Regional Water Board has agreed to work with and support the CDC in its existing and planned efforts with regards to homeless encampments along the Russian River. The parties will jointly engage the community, seek funding for clean-up efforts and sanitary facilities, and prioritize homeless and affordable housing. With the CDC advancing the Lower Russian River Homeless Services Center Project, the potential exists that the new facility could be utilized to pilot a waste water treatment system alternative in order to bring the Center online. The Homeless Services Center could be a key part of the feasibility study process.

**Recreational Water Users**
Recreational water users can cause contamination of the river. While the County's authority is often limited given the number of private beaches and recreational businesses, the County, primarily through Regional Parks, agrees to work with the Regional Water Board to seek funding and identify opportunities to increase sanitary facilities for recreational water users.

Restoration of the water quality on the Russian River will take decades. The Regional Water Board's Pathogen TMDL is a fundamental step in beginning and guiding that process and this proposed MOU is critical to its successful implementation. The Regional Water Board plans on releasing the next version of its Draft Pathogen TMDL in early 2017. Following execution of the MOU, the parties will begin planning and investigating funding opportunities that will assist with implementation of the TMDL Action Plan. Staff will return to the Board once the TMDL Action Plan is finalized with a scope of work and budget for accomplishing the County's responsibilities under the TMDL.

| **Prior Board Actions:** | |
|---|---|
| 10/6/2015 – Approved the submittal of comments to the Regional Water Board on the initial Draft Pathogen TMDL and Action Plan. | |
| **Strategic Plan Alignment** | Goal 2: Economic and Environmental Stewardship |
| This MOU will facilitate the improvement of the water quality of the Russian River Watershed. | |

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Proposed Memorandum of Understanding

**Related Items "On File" with the Clerk of the Board:**

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN THE**

**NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD,**

**THE COUNTY OF SONOMA,**

**AND THE COMMUNITY DEVELOPMENT COMMISSION**

**RELATING TO THE REDUCTION OF PATHOGENS IN THE RUSSIAN RIVER WATERSHED AND IMPLEMENTATION OF**

**THE RUSSIAN RIVER WATERSHED PATHOGEN INDICATOR BACTERIA TMDL ACTION PLAN**

**December 13, 2016**

This Memorandum of Understanding (MOU) is made and entered into by and between the County of Sonoma (County), and the Sonoma County Community Development Commission (CDC) and the Regional Water Quality Control Board, North Coast Region (Regional Board), collectively referred to herein as the "Parties" or individually as "Party."

## I. Introduction and Background

The Russian River Watershed encompasses a total of 1,484 square miles with approximately 920 in Sonoma County and the remainder in Mendocino County. In addition to supporting beneficial uses such as preservation and enhancement of fish and wildlife resources and public recreation, surface water and groundwater resources in the watershed are important sources of agricultural, industrial, and domestic water supply.

Several surface waters in the Russian River Watershed are identified on the 2012 Clean Water Act section 303(d) List of Impaired Waters due to pathogen indicator bacteria concentrations exceeding water quality standards. High concentrations of pathogen indicator bacteria in ambient waters infer the presence of human or animal fecal waste and associated disease-causing microorganisms (e.g., bacteria, protozoans, and viruses) that pose a risk to human health. To reduce concentrations of pathogen indicator bacteria to levels that minimize human exposure to waterborne disease-causing pathogens and to protect uses of water for recreational activities, the North Coast Regional Water Quality Control Board ("Regional Water Board") is developing a Total Maximum Daily Load (TMDL) Action Plan for pathogen indicator bacteria for the Russian River Watershed (Pathogen TMDL).

Although the Regional Water Board is the lead agency for implementing the Pathogen TMDL, the Pathogen TMDL identifies Bacteria Source Categories of Onsite Wastewater Treatment Systems, Recreational Water Use, and Homeless Encampments in which the County of Sonoma ("County") has existing regulatory authority over or in which the County and/or the Community Development Commission ("CDC") have existing or planned programs.

### *Onsite Wastewater Treatment Systems (OWTS)*

Sonoma County's Regulations for Onsite Sewage Disposal in Sonoma County (revised November 2002, et seq.) has been an effective local program to implement Sonoma County

Code and the Water Quality Control Plan for the North Coast Region (Basin Plan) for the Regional Water Board. OWTS that have been installed, repaired, and replaced under these local standards are generally acknowledged to be in good working order and to be protective of public health and water quality. Additionally, the County and the CDC have dedicated considerable resources toward waste management solutions including commissioning the study of new or alternative wastewater system treatment technology, conducting public outreach on discharge standards, and investigating regional sewer system options.

However, it is also acknowledged that there are existing OWTS in several areas of the County that predate County Code and do not conform to local adopted standards for minimum parcel size, OWTS replacement area, or minimum allowable setbacks from structures, water features, and large or abrupt changes in slope. The highest concentration of these older, nonconforming OWTS are in the lower Russian River Watershed, specifically, in the communities of Jenner, Cazadero, Camp Meeker, Guerneville, Rio Nido, Summer Home Park, Hacienda, Mirabel, and Fitch Mountain. Because many of these OWTS are located on small lots, repairs and replacement of nonconforming OWTS is challenging.

The Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy) was adopted by the State Water Resources Control Board on June 19, 2012, and became effective on May 13, 2013. The Regional Board, in accordance with the OWTS Policy, amended the Basin Plan on June 18, 2015, to incorporate requirements of the OWTS Policy into the Basin Plan. The Policy establishes a risk-based, tiered approach for the regulation and management of OWTS installation and replacements and sets the level of performance expected from OWTS. Existing OWTS that are properly functioning, are not failing or otherwise require corrective action, and are not contributing to an impairment of surface waters have minimal additional requirements under the OWTS policy. For local agencies wishing to implement a local program as an alternative to the most protective tier for low risk new or replacement OWTS (Tier 1), the local agency must propose and implement an approved Local Agency Management Program (LAMP) that includes minimum standards for the siting, design, construction, maintenance and management of OWTS within its jurisdiction (Tier 2). Existing, new, and replacement OWTS in areas near impaired water bodies must meet requirements of an adopted TMDL, special protections established in an approved LAMP, or Tier 3 requirements set forth in the OWTS Policy. On May 13, 2016, Sonoma County provided notice of its intent to regulate OWTS using a LAMP under Tier 2 of the OWTS Policy. For areas of the Russian River Watershed that are listed as impaired due to pathogens pursuant to section 303(d) of the Clean Water Act, an Advanced Protection Management Program (APMP) is the minimum required local management program for OWTS.

***Recreational Water Use***

Swimming and other water contact recreation in the river can be a source of bacteria and other pathogens through direct human urination or defecation in the water or along the shore. Pathogens may also be washed off the body during immersion. There are many public and private swimming beaches and a number of commercial kayak and canoe outfitters that operate along the mainstem Russian River. River and river-front properties are owned by various entities, including the State, the County, and private property-owners. While the County's authority over many related discharge sources is limited, this MOU outlines the Parties' communication and outreach strategies to reduce contamination by recreational water users.

***Homeless Encampments***

As in many communities, homelessness is recognized as a complex problem with multiple underlying causes. In Sonoma County, the Board of Supervisors is committed to a "Housing First" strategy to end homelessness as an alternative to emergency shelters and transitional housing for unsheltered homeless people. The County has identified increasing the amount of affordable housing as the most effective overall approach to end chronic homelessness.

The County's strategy for ending homelessness is laid out in *Building HOMES: A Policymaker's Toolbox for Ending Homelessness.* This document seeks to provide an understanding of the needs and opportunities to end homelessness in Sonoma County by 2025. It reviews proven strategies, proposes new initiatives to strengthen and build upon the 10-Year Homeless Action Plan: 2014 Update (Sonoma County Continuum of Care), and acknowledges that hard choices, substantial investments, and committed action will be required.

Sonoma County Board of Supervisors has funded the Homeless Outreach Services Team (HOST), to engage the unsheltered homeless people living near the County's waterways and trails to connect people to services and mitigate the impacts of homelessness. This program will provide unsheltered homeless people with a variety of services that will move them out of these areas and into housing, and improve their health and well-being. The County and the CDC have also provided other solutions including constructing public restrooms in downtown Guerneville to be used by homeless residents, recreational water users and other visitors and residents.

While ending homelessness is beyond the scope of the Russian River Watershed Pathogen TMDL, this MOU seeks to find common ground in addressing the complex problem of discharges of waste associated with homeless encampments.

## II. Purpose

The purpose of this MOU is to establish the mutual understandings of the Parties with respect to their joint efforts and responsibilities related to bacteria source categories of Onsite Wastewater Treatment Systems, Recreational Water Use, and Homeless Encampments.

## III. Authority to Enter into MOU

The County has authority to enter into this MOU pursuant to its police powers. The CDC has authority to enter into this MOU pursuant to Health and Safety Code sections 34112, 34141, 34143, and 34149. The Regional Board has authority to enter into this MOU pursuant to California Water Code section 13225, subsection (b) and (j).

## IV. Goals

The goals of this MOU are:

a. To make record of the mutually agreed upon intentions of the Parties to reduce pathogens in the Russian River watershed;

b. To outline interagency coordination in the sharing of information, management, and outreach related to the Pathogen TMDL; and

c. To outline respective roles and responsibilities associated with implementation of Pathogen TMDL actions.

## V. Onsite Waste Treatment Systems

a. **Defining the Geographic Areas of the APMP and Mapping Services:** The Regional Water Board shall determine the precise geographic boundaries for the APMP in addition to other parameters necessary to identify affected parcels. The Sonoma County Permit and Resource Management Department (PRMD) will assist as necessary in developing and mapping the geographic boundary of the APMP identified by the Regional Water Board. The maps and description of the location of the APMP area shall be included in the Pathogen TMDL. The Regional Water Board, with help from the County, will create a list of parcels located with the APMP area and will make it available to the public on the Regional Water Board website.

b. **Requirements for OWTS in the APMP:** In the Pathogen TMDL, the Regional Water Board, with input from the County, will define the minimum requirements for existing, new and replacement OWTS within the boundaries of the APMP.

c. **Assessments of OWTS:**

   i. **Regional Water Board**. In coordination with the County, but relying on its authority under the Porter-Cologne Water Quality Control Act, the Regional Water Board will be the lead organization for issuing informational orders to OWTS owners to obtain targeted information pertaining to existing OWTS to determine if the OWTS is meeting the minimum requirements defined in the Pathogen TMDL.

   ii. **Sonoma County**. Consistent with the OWTS Policy, Sonoma County will implement a water quality assessment program for OWTS and will share water quality data, reports of complaints, variances, and failures, and any information resulting from inspections with the Regional Water Board.

   iii. **Regional Water Board and Sonoma County.** The Parties will share and analyze information obtained during the assessment process described in sections V(c)(i) and (ii) to identify OWTS that require additional assessment and/or corrective action.

d. **Compliance Tools and Authorities**. Property owners with OWTS that do not meet minimum requirements defined in the TMDL may be required to repair or replace the OWTS. Property Owners that are required to upgrade, repair, replace an existing OWTS or acquire a new OWTS must obtain the appropriate County permit in accordance with County ordinances and policies. Should any property owner refuse to obtain the appropriate permit or fail to follow conditions of the permit, the Parties agree to coordinate in necessary actions to gain compliance. The Regional Water Board has jurisdiction to enforce the minimum requirements defined in the Pathogen TMDL. The County and the Regional Water Board intend to coordinate their respective enforcement authorities to attain compliance with the Pathogen TMDL as follows: The Regional Water Board will use its authority, including but not limited to its informational order authority under the Porter-Cologne Water Quality Control Act, to investigate unpermitted or sub-standard systems and require upgrades. The County agrees to coordinate in enforcement actions by supplying the Regional Water Board with available property and owner information. The County will ensure new and upgraded systems are in compliance with the Pathogen TMDL.

e. **Permitting and Monitoring:** PRMD will be the lead organization for plan review, construction inspection and monitoring of new OWTS and upgrades, and repairs or replacement of existing OWTS. Monitoring of OWTS shall be performed in accordance with Sonoma County's Onsite Wastewater Treatment System Regulations and Technical Standards (OWTS Manual), except when monitoring is required by the Regional Water Board in accordance with individual monitoring requirements or other informational orders.

f. **Planning, Research, and Funding:**

   i. The County and its agencies shall fund research of technical solutions for wastewater treatment and planning for community solutions and alternatives, and shall undertake community engagement with regards to planning and research conducted. The Parties shall confer with one another to coordinate this research. The Regional Water Board shall participate in this community engagement and a representative of the Regional Water Board will attend any community meetings on such planning and research.

   ii. The State Water Resources Control Board (State Water Board) administers funding assistance programs for qualifying wastewater projects. Funding for planning and assessment, technical assistance, and construction of small community wastewater projects is available from the State Water Board's Small Community Grant (SCG) program and through the Clean Water State Revolving Fund (CWSRF) program. Eligible projects include design, construction, upgrade, and repair of centralized wastewater treatment plants and decentralized treatment systems, wastewater collection systems, storm water projects, "septic to sewer" projects and OWTS replacement projects.

   iii. The Parties will work together to prepare an application to the State Water Board for funding assistance for local actions related to implementation of the Pathogen TMDL. No later than six months after the Regional Water Board's adoption of the Pathogen TMDL, the County and the CDC will submit a completed application to the State Water Board for funding assistance for planning activities related to Pathogen TMDL implementation. Upon completion of a planning study, the Parties will work together to prepare and submit funding application(s) for construction of projects described in the planning study. Thereafter, the Parties will work together to seek funding from the State Water Board and/or other funding entities for qualifying projects identified by the County and the CDC.

   iv. So long as construction funding is procured, the CDC and/or the County will administer a funding program for qualifying projects. The County and CDC will be responsible for determining qualifying projects and parties for the purposes of providing funding. The Parties will work jointly on outreach and education regarding funding.

g. **Community Solutions:** The Parties will identify possible community based approaches for OWTS that fail to meet the minimum requirements defined in the Pathogen TMDL. The Parties will facilitate the formation of third party community advisory groups, identify possible sources of funding, and assist in feasibility studies and project implementation, as appropriate.

## VI. Homeless Issues

a. **Joint Policy:** Recognizing that homelessness and homeless encampments on public and private land present a complex and dynamic problem, and recognizing that uninformed actions and actions focused solely on the short term can be counter-productive, the Parties wish to work together to reduce associated water quality impacts in a manner that, to the extent feasible, gains the trust of the homeless and prevents unintended consequences.

b. **Joint Protocol:** To respond to dynamic conditions, the parties are adopting a Joint Protocol. It is the intent of the Parties that this Joint Protocol will address water quality impacts relative to homeless encampments. Nothing in this provision shall be construed to limit the Regional Water Board's authority.

   i. **Communication:** Each Party shall designate a contact to exchange information and concerns regarding homeless issues, including but not limited to issues with encampments. The CDC project contact shall serve as the designated contact for CDC and the County.

   ii. **Quarterly Meetings:** The Parties shall meet quarterly to discuss activities and programs addressing homeless issues in the Russian River areas.

   iii. **Technical Assistance**: The Regional Water Board will provide technical assistance as necessary to support the County's HOST program efforts.

   iv. **Notice:** For any encampment on County land, the Regional Water Board shall provide written notification to the designated contacts for homeless issues at the CDC and the County prior to initiating any enforcement action based on a homeless encampment or other homeless-related issue.

c. **Funding for Clean-up Efforts and Sanitary Facilities:** The Parties will work proactively to find funding for clean-up efforts, installation and location of sanitary facilities along the Russian River to address homeless impacts.

d. **Prioritization of Permitting for Homeless and Affordable Housing:** Throughout implementation of the Pathogen TMDL, the Regional Water Board will prioritize permitting for homeless-dedicated and affordable housing projects in the Russian River area for which Regional Water Board permits are required. These projects may include, but are not limited to, the Homeless Day Services Center planned in Guerneville.

## VII. Recreational Water Use

a. **Joint Policy:** The Parties have a joint interest in maintaining water quality for the benefit of the public and the environment, and further recognize that the goal of the Pathogen TMDL is to protect contact recreation. The Parties agree to meet and work together in good faith to evaluate means to reduce the pathogen load from recreational uses of the Russian River.

b. **Access:** The Parties recognize that access issues to the river can implicate the public trust doctrine (and the jurisdiction of the State Lands Commission), civil rights, and in some cases property disputes. The Parties further recognize that many recreational users of the river do not use lands that are within County jurisdiction, and that both the County and the Regional Water Board may need to engage private landowners or other river users through educational or regulatory activities designed to reduce pathogen load from recreational activities.

c. **Funding for Sanitary Facilities:** The Parties will work proactively to find funding for installation and location of sanitary facilities along the Russian River to address sanitation needs by the recreational water users. The Parties will work proactively to find funding for education and outreach to recreational users on available sanitary facilities.

VIII. **General Implementation**

a. **Information Sharing:** As necessary to maintain a record of OWTS within the APMP area, the Parties will share parcel-specific information for properties within the boundaries of the APMP area. As necessary to assess the impact of OWTS on groundwater quality and surface water quality, the Parties will share information related to water quality monitoring, inspection results, and other relevant information.

b. **Revisions to Pathogen TMDL:** The Regional Water Board shall consult with the County and the CDC prior to revising the Pathogen TMDL when the revision is expected to have an impact on the County or the CDC.

c. **Updates:** The Parties agree to provide periodic updates on the progress of this MOU to the Sonoma County Board of Supervisors, the CDC Board of Directors and the Regional Water Board.

d. **Community Engagement and Education:** The Parties will work together on ongoing public engagement and education opportunities related to funding for OWTS repair and replacement, sanitation facilities for homeless encampments, sanitation facilities and related signage for recreational users of the Russian River and any other issues related to Pathogen TMDL implementation. The Parties will coordinate so that a representative of the Regional Water Board, the County, and the CDC will attend community events related to Pathogen TMDL implementation and Russian River water quality hosted by the Regional Water Board, the County, or the CDC.

e. **Timeline and Schedule**. The Parties recognize that attainment of water quality standards for bacteria will take time and staff resources from all Parties and the Parties agree to make a good faith effort to make timely progress in these actions. The Parties shall work together to meet actions and the timeline delineated in the Pathogen TMDL Action Plan.

f. **Project Coordination and Communication:** The Sonoma County Administrator's Office will provide overall coordination on behalf of the County. Additionally, there will be designated departmental contacts at the Permit and Resource Management Department, Community Development Commission, and Regional Parks. The sharing of information regarding OWTS, homeless encampments and reports of complaints pertaining to recreational users of the Russian River and its tributaries is critical to the effective regulation of these sources of pathogenic bacteria, and the Parties agree to make a good faith effort to cooperate in information collection, sharing, and dissemination.

g. **Project Contacts:** The parties' project contacts are designated as follows. Each Party may change its designated contacts.

   i. County Administrator's Office: Sita Kuteira

   ii. Permit & Resource Management Department (OWTS): Tennis Wick

   iii. Community Development Commission (homeless issues): Jim Leddy

   iv. Regional Parks Department (recreational water use issues): Bert Whitaker

   v. Regional Water Board: Matthias St. John

## IX. Terms

a. **Good Faith Effort:** The Parties agree to make a good faith effort to fulfill commitments in this MOU. Examples of good faith efforts include the consideration of new policies, appropriate enforcement action, or programs that promote the goals and objectives of this MOU.

b. **Severability:** In the event that individual and severable portions of this MOU are found to be in conflict with either State or federal law, regulations or policies, and, therefore, of no effect, the MOU will remain in effect without those provisions unless one Party notifies the other Parties in writing that the entire MOU is terminated.

c. **Modification/Termination of MOU:** This MOU may be amended by the Sonoma County Administrator and the Regional Water Board, or persons to whom this authority is delegated by them, through a written, signed amendment hereto. This MOU may be terminated by the Sonoma County Administrator or Regional Water Board, or persons to whom this authority is delegated by them, at any time following thirty (30) days written notice of such termination to the other Party.

d. **Reservation of Rights:** For purposes of this MOU, the relationship of the parties is that of independent entities and not as agents of each other or as joint venturers or partners. The parties shall maintain sole and exclusive control over their personnel, agents, consultants, and operations. Nothing in this MOU is intended to limit the legal authority or responsibilities of the Parties, except as agreed to herein.

e. **Legal Authority:** Nothing in this MOU is intended to give any signatory, agency, entity or organization expansion of any existing authority.

f. **Third Parties:** Nothing in this MOU is intended to create duties or obligations to or rights in third parties to this MOU.

This Memorandum of Understanding is hereby approved by the following parties:

| | |
|---|---|
| _____ | _____ |
| Sheryl Bratton<br>County Administrative Officer<br>County of Sonoma County | Matthias St. John<br>Executive Officer<br>Regional Water Board |
| _____ | _____ |
| Date | Date |

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 68**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** Regional Parks

**Staff Name and Phone Number:**
Scott Wilkinson, 565-2734

**Supervisorial District(s):**
Fifth

**Title:** Andy's Unity Park – Construction Bid Award and Direction on Funding Gap

**Recommended Actions:**

A. Adopt and approve the Project Manual and Drawings ("plans and specifications") entitled "Andy's Unity Park" on file with the Clerk of the Board.
B. Direct staff of Regional Parks to work with the County Administrator's Office and community stakeholders to identify the needed $1,651,473 to complete base bid construction and up to $2,630,573 for all additive alternatives.
C. Award the contract to Argonaut Constructors for the amount of $3,316,516 and authorize the Chair of Board to execute the contract.
D. Authorize the Director of Regional Parks (or their designee) to select additive alternates if there are adequate resources to do so.
E. Authorize the Director of Regional Parks (or their designee) to make other minor and related changes to the project required by the final conditions and agency approvals and other project conditions so long as the total does not exceed 10% of the total project cost.

**Executive Summary:**

Andy's Unity Park grew from a community's commitment, perseverance and belief in the healing power of a park. The proposed 4 acre park provides much needed parkland for neighborhood residents and remembers the life of Andy Lopez, who was tragically killed at the site in 2013. Regional Parks has worked closely with the community to design a park that meets the needs and desires of the neighborhood. In October, construction of Andy's Unity Park went out to bid and Argonaut Constructors submitted the lowest base bid. This item will award the contract to Argonaut Constructors for the amount of $3,316,516. In addition to the 4 acre park, the construction contract includes sidewalks, curb ramps and pedestrian crossings to provide safe access to the park and adjacent neighborhood. Construction will begin in May of 2017.

**Discussion:**

**Background:**
In December 2014 the County acquired the 4.22 acre park site comprised of two separate parcels at the corner of Moorland and West Robles Avenues in unincorporated Sonoma County immediately south and west of the city limits of Santa Rosa. The County of Sonoma and the City of Santa Rosa have long identified the development of a park in this neighborhood as a priority, and the creation of Andy's Unity Park has been eagerly awaited by area residents. Over the fall and winter of last year Regional Parks worked closely with the community to develop a Master Plan for the new neighborhood park. Last spring the Board of Supervisors approved the Master Plan for the project with the proposed name of Andy's Unity park, and adopted the Mitigated Negative Declaration pursuant to the California Environmental Quality Act (CEQA).

**Design Development and Construction Documentation:**
With continued community participation, Regional Parks with the services of a design consultant team, developed the detailed design plans for the park project. In addition to all the various park improvements in the Master Plan, the final construction plans have also been required to include significant public improvements around the street frontages of the park in the form of new sidewalks, pedestrian ramps and crossings, roadway widening, parking and street lighting. The public improvements amount to about 20% of the total cost of the project.

**Bid Selection Process and Award:**
The County and Regional Parks are committed to developing as complete a park as possible with access to both parcels of the site. To that end the base project was established in the bid documents with the goal of creating a meaningfully complete park given the available resources including a complete pathway network, gathering areas, play equipment, public improvements, and a memorial landscape for Andy Lopez. A selection of ten park elements from the overall plan were selected and included as additive alternates preserving the ability to coordinate the implementation of these elements subsequently. The alternate items include: seat walls around the memorial oak tree, rectangular shade structure, skate spot, seat wall around the shade structure area, basketball court, mural wall panels, wood privacy fence, off leash dog area (fencing etc.), secondary pathways through the natural area, and community garden (fencing etc.). Lime treatment as an alternate subgrade preparation method was included as an eleventh alternate item, and was anticipated to result in a savings for the project, but the bids did not reflect this so has been removed from consideration.

The project was advertised for bids on October 6, 2016 in the Press Democrat, and a pre-bid conference was held on site on October 11, 2016. Under the solicitation, the County has 90 days following the opening of bids to award the contract. On November 9, 2016 the County publicly opened bids for the project. A total of four (4) bids were received:

| | Base bid | Additive Alternates (sub total) |
|---|---|---|
| Bidder #1 – Thompson Builders Corporation | $5,046,160 | $838,600 |
| Bidder #2 – Siri Grading and Paving | $3,353,000 | $722,750 |
| Bidder #3 – Oak Grove Construction | $3,349,027 | $685,609 |
| Bidder #4 – Argonaut Constructors | $3,316,516 | $979,100 |

Argonaut Constructors submitted the lowest base bid of $3,316,516. The engineer's estimate for the project ranged from $3,000,000 to $3,500,000.

**Current Project Funding:**
As reflected in the higher than originally anticipated contract costs, financing needed for construction has increased significantly since initial inception due to various factors outside of the County's control, such as environmental mitigation. As shown in the table below, staff have leveraged a number of revenue streams to develop a funding mix of approximately $3.2 million. To date, through property acquisition and other related costs, the County has spent approximately $1.6 million on the project.

| | |
|---|---|
| **Funds** *(received and committed)* | |
| Housing Related Parks Program (HRPP) grant award (State) | $483,425 |
| General Fund - CALLE FY15-16 | $500,000 |
| SCAPOSD 2014 matching Grant | $84,239 |
| SCAPOSD 2016 matching Grant | $1,000,000 |
| Additional CALLE Funds – FY16-17 | $1,216,745 |
| **Total Funds** | $3,284,409 |
| **Current Expenditures** *(spent and encumbered)* | |
| Acquisition, planning, project administration, community engagement, engineering, environmental review, permitting | $875,366 |
| Mitigation credit purchase | $744,000 |
| **Total Current Expenditures** | $1,619,366 |
| **Construction Costs** *(projected)* | |
| Base bid | $3,316,516 |
| Alternate elements bid | $974,100 |
| **Total Construction Cost** | $4,290,616 |
| **Total Funding Gap, base bid** | $1,651,473 |
| **Total Funding Gap, base & alternates bid** | $2,625,573 |

Based on the recommended contractor, Argonaut's proposal, construction costs range from a minimum of $3.3 million to a maximum of $4.2 million. Based on existing funding and construction costs, the project has a funding gap of $1.6 million for completion of Argonaut's base bid up to $2.6 million factoring in the bid cost for all additive alternatives.

With the existing funds, staff estimates the park could be developed to approximately 50% completion of the base project or 40% of the overall project (including alternate elements). Provided construction is proceeds in the Spring, and focusing on the base project, this could include completion of the off-site improvements (roadways, sidewalks and pedestrian crossings), utilities, rough grading and site preparation by the end of FY 16-17. Site work in FY 17-18 could include the development of the main pathways, limited picnic area facilities, the restroom building, play area, and main components of the memorial area. Substantial completion including the kiosco and shade structure, site furnishings, additional paved areas, memorial details, site lighting, planting, the large turf field, and the alternates including the basketball court, skate spot, shade structure, dog park, and community garden would not be implemented until additional funding is identified.

**Direction on Project Funding:**
County staff have been highly collaborative to date to identify financing strategies, leveraging multiple revenue streams. Currently, identified sources have been exhausted. For example, the County's General Fund contingencies in FY 16-17 are less than this financing gap, and drawing from the Regional Parks Department's FY 17-18 budget will shift funding away from existing budgeted projects.

The County Administrator's Office has identified a potential of approximately $700,000 in unanticipated revenue growth in the County's Reinvestment and Revitalization fund. This funding would decrease the construction financing gap to approximately $951,000 to $1.9 million. However, the exact amount of this funding will not be known until closer to the end of the current fiscal year.

As previously noted, the County has 90 days following the opening of bids to award the contract. This provides a timeline extending to February 7 to award a contract under the cost/proposal terms outlined above. Recognizing the Board's clearly stated priority of developing this project, if the Board does not want to approve a contract without sufficient budgeted finances, it could take no action this meeting and direct staff to return to the board when funding has been identified, no later than February 7, 2017. As part of this direction, the Board may wish to identify other projects or priorities that could be delayed to make available new financing for this project. Regardless of the Board direction, staff will engage with the contractor to identify cost reduction strategies for both components of the base project work, and for the alternate items.

**Prior Board Actions:**

June 14, 2016, Board approved the purchase of a set of off-site mitigation credits required for impacts associated with the development of Andy's Unity Park.

March 29, 2016, by Reso. No. 16-0108, Board Authorized the Director of Regional Parks to apply for the Agricultural Preservation and Open Space District's Matching Grant Program, 2016 for Moorland Neighborhood Park.

March 15, 2016, Board approved the Master Plan for the Moorland Neighborhood Park project with the proposed park name of "Andy's Unity Park", and adopted the Mitigated Negative Declaration and Monitoring Program for the project.

| |
|---|
| June 23, 2015, Board approved a professional service agreement with Royston, Hanamoto, Alley and Abey to prepare a Master Plan and Environmental review document pursuant to the California Environmental Quality Act (CEQA).<br><br>December 9, 2014, by Reso. No. 14-0514, Board authorized execution of a State Standard Agreement for Housing-Related Parks Program Grant for Moorland Neighborhood Park.<br><br>October 21, 2014 by Reso. No. 14-0425, Board authorized the sale of properties located in Moorland.<br><br>October 14, 2014, Board accepted the recommendations for Moorland Neighborhood Park in the SCAPOSD Matching Grant Program.<br><br>April 8, 2014, Board Authorized the Director of Regional Parks to apply for the Agricultural Preservation and Open Space District's Matching Grant Program for Moorland Neighborhood Park.<br><br>January 14, 2014, Board accepted report on progress creating a Moorland Avenue Neighborhood Park and authorized application for Housing Related Parks Grant towards acquisition and development.<br><br>December 5, 2013 Board directed Regional Parks and the Agricultural Preservation and Open Space District to create a plan for a park in the Moorland neighborhood. |
| **Strategic Plan Alignment** Goal 2: Economic and Environmental Stewardship |
| The park will fill a long standing need for parkland in the unincorporated Moorland neighborhood providing recreational and educational opportunities for residents. |

| Fiscal Summary - FY 15-16 | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | $1,665,043 | $1,651,473 | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | $1,665,043 | $1,651,473 | |
| **Funding Sources** | | | |
| General Fund/WA GF | $580,804 | | |
| State/Federal | | | |
| Fees/Other | $1,084,239 | $1,651,473 | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$1,665,043** | **$1,651,473** | |

**Narrative Explanation of Fiscal Impacts:**

Funding of $1,665,043 is budgeted in FY 16-17 for the construction of the park. This funding comes from a combination of sources including: The State Housing Related Parks Grant Program, The Sonoma County Agriculture and Open Space Preservation District's Matching Grant Program, and general fund contributions made available through the CALLE Task Force. Additional funds are needed to complete the financing of the complete park. Approximately $700,000 in unanticipated Reinvestment and Revitalization fund revenue may be available. Additional sources are not yet identified.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

No impact on staffing.

**Attachments:**

None

**Related Items "On File" with the Clerk of the Board:**

- Project Manual and Drawings
- Agreement between the County and Argonaut Constructors (Contractor)

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 68A**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** 4/5

**Department or Agency Name(s):** Auditor-Controller-Treasurer-Tax Collector (ACTTC) and County Counsel

**Staff Name and Phone Number:**

Donna Dunk 565-3295
Bruce Goldstein 565-6118

**Supervisorial District(s):**

All

**Title:** IRS Appeal and Sonoma County Payroll Process Audit

**Recommended Actions:**

1. Direct County Counsel to take all steps necessary to continue to challenge and favorably resolve the inappropriate tax levy by the Internal Revenue Service including any related penalties and interest. (Majority)
2. Review and accept the Sonoma County Payroll Process Internal Audit Report for the period July 1, 2011 through June 30, 2015, which includes a significant subsequent event regarding the discovery of penalties and interest assessed by the IRS. (Majority)
3. Adopt a FY 2015-16 budget resolution totaling $4.7 million to authorize the Auditor-Controller-Treasurer-Tax Collector (ACTTC) and County Administrator (CAO) to record a general fund payable to the IRS at June 30, 2016, and make payments to the IRS in amounts not to exceed $4.0 million to preserve appeal rights and safe guard County credit rating and financial status, and record a general fund payable at June 30, 2016, to reimburse to the Unemployment Insurance Internal Service Fund for penalties and interest payments made to the Employment Development Department (EDD) in an amount of $674,000. (4/5 Vote)
4. Adopt a FY 2016-17 budget resolution totaling $525,000 to authorize the ACTTC and CAO to make payments to the IRS in amounts not to exceed $300,000 for additional penalties that may have accrued to IRS accounts and encumber a legal services agreement in an amount not to exceed $225,000. (4/5 Vote)
5. Authorize County Counsel to enter into agreements with the Hanson Bridgett LLP law firm and/or other lawyers for legal services to represent the ACTTC and the County regarding the tax dispute in an aggregate total not to exceed $225,000. (4/5 Vote)

**Executive Summary:**

This item authorizes County Counsel to continue to challenge inappropriate tax levies and potential related penalties and interest with regard to the IRS' failure to properly allocate past tax payments

among separate legal entities. In addition to engaging outside counsel to assist in the effort, approval of the proposed Resolution would also authorize payment to address the IRS' disputed November 17, 2016 payment demand. Authorization of a payment not to exceed $4.3 million is requested to preserve appeal rights, prevent a lien, and/or otherwise protect the County's financial status. The item also requests acceptance of the Payroll Process Audit Report and the ability to make corresponding accounting adjustments.

**Discussion:**

Background

In January 2016, a draft of an internal audit made the ACTTC's Office aware of an accounting error by ACTTC staff that resulted in a number of employment tax issues during the period from January 2011 through December 2015 as follows:

1. All federal employment taxes were paid timely during that period but were credited to the wrong IRS accounts. The County maintained three accounts during that time—one for the County, one for the Community Development Commission (CDC), and one for the Sonoma Marin Area Rail Transit (SMART). Payments made for all three entities by the ACTTC were timely paid but were miscoded. The miscoding resulted in these payments primarily credited to the County account, creating an overpayment in the County's account and underpayment in the other accounts. The IRS has demanded penalties and interest on these phantom underpayments.
2. Several State and federal employment tax returns were filed late due to obstacles in the County implementing a new payroll system and difficulty in reporting features functions.
3. State employment tax penalties and interest payments were also made to the EDD during this period of time. The amounts paid are currently under appeal.

Starting in February, 2016, ACTTC staff met with an IRS Representative (Representative) to discuss the resolution of the County's employment tax accounts. During that meeting, staff provided the Representative with copies of bank statements and amounts demonstrating that the required tax payments were transmitted timely every two weeks. At the conclusion of the meeting, the Representative indicated that she understood that payments had been transmitted timely to the wrong accounts and that she would process paperwork to properly credit the payments. At that time, she indicated that penalties and interest should be abated. ACTTC staff also discussed the issue of tax returns filed late and the need to amend some returns. The Representative agreed that problems associated with implementation of a new payroll system in January 2011 constituted good cause for filing late tax returns and that she anticipated those penalties and interest charges could also be abated. Based on the Representative's statements, staff proceeded to provide the IRS with the information requested so that the IRS could make the account adjustments to resolve the claim.

On March 15, 2016, the ACTTC's Office reported to your Board issues with state employment taxes that had come to light in January 2016 and sought approval from your Board to work with Counsel to appeal any payments of penalties and interest. (An appeal hearing with the EDD has not yet been scheduled.) Although it was mentioned in the Report, at that time, the IRS issue was not deemed significant as no penalty and interest payments had been made, all employment taxes were transmitted timely, and the Representative had recently acknowledged the accounting error and had committed the IRS to work in good faith to resolve the County, CDC and SMART account imbalances.

Over the next several months the IRS inexplicably reneged on its commitment. ACTTC staff has provided all information requested and offered its own technical assistance to insure that the transfers between the accounts were properly made. During this time, the Representative became increasingly erratic and difficult to work with, cancelled meetings, and ultimately was unresponsive. At the end of June 2016, ACTTC staff became concerned that the requested and agreed upon transfers were not made. On June 29, 2016, without warning, the Representative informed staff that her supervisor instructed her to place a lien on the County's bank accounts if the County did not pay a still undetermined liability by October 2016.

Due to the seriousness of the lien threat, ACTTC immediately reached out to County Counsel for assistance. County Counsel retained outside tax counsel to facilitate resolution of this matter. Outside counsel contacted the Representative to discuss the County's employment tax issue. During a phone conference with outside counsel on August 4, 2016, the Representative again indicated that the requested adjustments could be made and applied to avoid penalties and interest.

On September 9, 2016, outside counsel submitted a letter of instruction to the Representative that not only established the legal basis for applying credits and refunds but provided detailed instructions to implement the County's requests. Outside counsel also arranged an in-person meeting with the Representative and her supervisor for September 21, 2016. As previously, this meetings was cancelled at the last minute by the Representative.

Rather than reschedule the meeting, on September 26, 2016 the Representative requested that the previously submitted information now be provided in a different format. On October 4, 2016, outside counsel communicated to the Representative that it was crucial to reschedule the September 21, 2016 meeting and expressed a willingness to be available any time during the week of October 4, 2016, or the following week. The Representative stated that earliest they could be available was by phone on October 19, 2016.

Outside counsel met by conference call with the Representative and her supervisor on that date, and during that call, the supervisor suddenly and unexpectedly stated that the IRS will take action in two days, on October 21, 2016, to lien and levy the County's bank accounts effective Monday, October 24, 2016, unless the County immediately paid $2 million or filed for a lien appeal hearing. During this call, outside counsel requested additional time to obtain Board approval to make a payment. The IRS supervisor refused this request.

On October 20, 2016, the County filed a lien appeal which was granted. The reviewer found that the tax lien violated the County's due process on two grounds: (i) the IRS failed to provide the County sufficient notice and (ii) the lien failed to provide certainty as to the actual amount owed. Undaunted, on November 17, 2016, the IRS sent a new demand totaling over $4 million and again threatened to file a new lien on the County's accounts if payment was not made by December 14, 2016. Although the County vigorously disputes the liability, it is with this threat in place that the ACTTC seeks authority to make this disputed payment if another stay of the lien cannot be achieved in a timely manner or payment is necessary to best preserve the County's position on appeal.

Discussion

Since February 2016, the County has dealt with the IRS in good faith and has been led to believe that the requested adjustments would be made and applicable penalties and interest abated. The autocratic actions by the Collections Unit has led the County to engage with the IRS' Taxpayer Advocacy Service (TAS) which appears to agree that the Collection's Unit has applied the wrong methodology and ignored that another government agency made payments on time and in good faith. In addition, Congressman Mike Thompson's Office has assisted in asking that the IRS follow its own guidelines and act in a responsible manner.

On November 14, 2016, IRS Collections filed an assessment against the County of Sonoma, the Sonoma County Community Development Commission (CDC) and the Sonoma-Marin Area Rail Transit (SMART) for alleged employment tax liability, as well as related penalties and interest, for tax year 2011 through the third quarter of 2016. On November 17, 2016, the Collections Unit adjusted the total amount of the assessment to $3,973,559. As detailed above, this action was preceded by months of interaction between the IRS Collections Office and the County in which the County attempted to insure payments received by the IRS from the County had been properly applied.

On November 17, 2016, the County, CDC and SMART jointly filed a collections due process hearing with IRS Appeals challenging the outstanding employment tax liability calculation, as well as the assessment of penalties and interest, that is shown on the current IRS assessment. The County, CDC and SMART believe that had the IRS properly handled the crediting of the payments made by the County, the outstanding tax liability, if any, would be significantly less, and that the IRS should waive most of the assessed penalties and interest in this situation.

Unfortunately, the Collections Unit continues to assert that it will file a lien against the County, CDC and SMART if the full amount assessed is not paid by December 14, even though there is an appeal pending on these issues. The County, CDC and SMART have made the Collections Unit aware that the filing of a lien would cause significant hardship. County staff an outside counsel believe the County, CDC, and SMART will prevail on the merits of their appeal. However, the appeals process does not prevent the Collections Unit from filing a lien. Without assurance from the Collections Unit that it will not file a lien during the period of appeal, the County feels it must seek authorization from the Board of Supervisors now to pay the disputed amounts if necessary in order to stop the lien process. If the full amount claimed by the IRS is paid, the County, CDC and SMART will immediately take appropriate further action to seek a refund of the amounts the County, CDC and SMART believe are erroneously being collected. While we maintain our position, the County simply cannot allow its bank accounts to be frozen. Such an action would prevent the County from performing vital services could negatively impact our ability to receive grant funds and reduce our credit rating. If the County appeal is successful, the IRS will be forced to return funds wrongly collected.

This Board action also requests the acceptance of the Payroll Process Audit for the period January 2011 through June 30, 2015. The Payroll Process Audit has a number of observations and recommendations which management intends to implement or has already implemented. That audit is attached for your review.

FY 2015-16 budget adjustments totaling $4.7 million are necessary to record a general fund payable to the IRS as if June 30, 2016, in accordance with generally accepted accounting principal (GAAP) and make payments to the IRS in amounts not to exceed $4.0 million, and to record a general fund payable to reimburse the Unemployment Insurance ISF for EDD penalties and interest payments of $700,000. The FY 2015-16 unanticipated expenditures will be financed by a release of $3.5 million from the Malpractice Insurance ISF originally established for County Hospital claims which is no longer needed due to statutory claim limits and an early payment of $1.15 million from the Human Resources Management System (HRMS) associated with the general fund advance for system implementation.

FY 2016-17 budget adjustments are requested to pay additional IRS penalties up to $300,000 that may be due and payable as of December 14, 2016, but to-date have not posted to IRS accounts and for the outside legal services agreement for tax disputes in an amount not to exceed $225,000. FY 2016-17 budget adjustments will be financed with an additional HRMS early repayment to the general fund. Since this issue was discovered in January 2016, ACTTC staff have worked extensively to identify the cause of and remedies to this issue. As a result, the ACTTC's office has made significant numbers of changes and improvements in the bi-weekly payroll processing and tax filing areas. Additional controls have been put into place, which will prevent this issue from occurring again such as assigned new management to the Payroll Division, implemented bi-weekly reporting on the payroll process including all remittances and tax return filings, redirected all mail to be opened and distributed centrally, and separated remittances to the IRS into the appropriate accounts.

Contract for Legal Services:
In August 2016, the Hanson Bridgett law firm was retained for $50,000 to assist the County in resolving these employment tax issues with the EDD and the IRS. A new contract is needed for Hanson Bridgett to continue to support the County throughout the appeal process. Staff requests the approval of legal services contract(s) with Hanson Bridgett, and other counsel if necessary to represent the County and the ACTTC regarding the tax dispute in total contract amounts not to exceed $225,000 for legal services.

**Prior Board Actions:**

March 15, 2016: Item to ratify the ACTTC's decision to seek administrative relief for reasonable cause from penalties associated with late payroll tax filings.

| **Strategic Plan Alignment** | Not Applicable |
|---|---|

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | $525,000 | | |
| **Total Expenditures** | **$525,000** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | $525,000 | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | **$525,000** | | |

**Narrative Explanation of Fiscal Impacts:**

FY 2015-16 budget adjustments totaling $4.7M (not included in the table above) increases expenditure appropriations in the Non-Departmental General Fund budget to cover the IRS payment and to reimburse the Unemployment Insurance ISF for EDD penalty and interest payments.
The unanticipated expenditure will be financed as follows:

1) Release of $3.5M in the Malpractice Insurance Internal Service Fund originally established to cover County Hospital claims which is no longer needed as given statutory claim limits; and
2) Receive $1.2M early payment from the Human Resources Management System (HRMS) associated with the General Fund advanced for system implementation.

FY 2016-17 budget adjustment totaling $525,000 to cover additional IRS accrued amounts and increased legal services agreement will be financed with additional HRMS repayment to the General Fund.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Internal Audit: Sonoma County Payroll Process

| Resolutions |
| --- |
| **Related Items “On File” with the Clerk of the Board:** |
| Agreement for Legal Services with Hanson Bridgett |

Sonoma County

Auditor-Controller-Treasurer-Tax Collector

Internal Audit Report

ATTACHMENT A-1

# Internal Audit:
# Sonoma County Payroll Process

For the Period:
July 1, 2011 to June 30, 2015

Engagement No: 4050
Report Date: May 31, 2016

**Donna M. Dunk, CPA**
Auditor-Controller-Treasurer-Tax Collector

# Table of Contents

**Internal Audit:**
**Sonoma County Payroll Process**
**Engagement No. 4050**

For the Period July 1, 2011 to June 30, 2015

**Page**

Significant Subsequent Event....1
Executive Summary....2
Introduction & Background....4
Objectives, Scope & Methodology....5
Results....6
Conclusions....13
Recommendations....14
Staff Acknowledgement....22
Appendix A: Payroll Process....23
Appendix B: Payroll Risk Mitigation Matrix....24
Appendix C: Table 1 –Penalties and Interest Assesed....27
Appendix C: Table 2 - State and Federal Missed Filing Deadlines Analysis....27
Appendix D: Report Item Risk Classification....28

## Significant Subsequent Event

Subsequent to the completion of audit procedures, but prior to the issuance of this audit report, the Auditor-Controller-Treasurer-Tax Collector (ACTTC) received important information from the Internal Revenue Service (IRS). The information is related to Finding 4 on page 11 of the audit report ($1.8 million in penalties and interest assessed by the IRS). The ACTTC received a letter dated November 17, 2016 from the IRS stating that the County of Sonoma, Community Development Commission (CDC) and Sonoma Marin Area Transit (SMART) collectively owe approximately $4 million in back payroll taxes, interest and penalties. The IRS communications state that if payment is not received by December 14, 2016, a $4.3 million Notice of Federal Lien will be filed against any and all unpaid liabilities of the County of Sonoma, CDC, and SMART.

The differences between the $1.8 million mentioned in the audit report and the $4 million and the $4.3 million discussed above will be investigated by the Audit Division of the ACTTC. As warranted, the Audit Division of the ACTTC will provide support to dispute IRS's assessments of taxes penalties and interest.

## Executive Summary

As a part of the 2015/2016 Annual Audit Plan, the Internal Audit Division (Internal Audit) of the Sonoma County Auditor-Controller-Treasurer-Tax Collector's Office (ACTTC) conducted the audit of the Sonoma County (County) payroll process, reviewing payment and reporting activities and identified opportunities for improvement. The following observations are noted as a result of this audit:

- The ACTTC Payroll Division (Payroll) issues approximately 125,000 checks, valued at over $500 million, to approximately 4,700 employees annually. Virtually all of these checks were issued without employees raising concerns about the accuracy of the payment amount.

- Although it is a business function that extends to all County departments, no single department is responsible or accountable for establishing and maintaining uniform County-wide payroll policies and procedures. Presently, Payroll and the Human Resources Department, with support from each County department, share responsibility for payroll processing.

- The current internal controls for accurate processing of payroll transactions need further development, updating, and uniform execution. We found significant differences in payroll procedures followed by the six departments included in our review because the County does not have comprehensive countywide policies and procedures. As a result, Payroll administers a substantial amount of work, some of it redundant and unnecessary, to accurately process payroll. In 2015, Payroll re-opened and reviewed 4,232 department certified time and labor reports, or about 3.6% of all timecards processed.

- Payroll staff spends a substantial amount of time checking the accuracy of time and labor reporting, leaving insufficient time to perform key internal controls. Payroll management has been splitting their time among multiple priorities and have not been able to identify, implement and/or perform certain key internal control procedures, needed to mitigate risks identified in our report.

- By making improvements recommended in this audit, the County can prevent incurring material amounts in penalties and interest, non-compliance with State and Federal payroll reporting requirements and reduce fraud risk to a low level.

- TimeSaver and ePersonality (HRMS) are key information systems that support the processing and reporting of payroll transactions. We noted a number of instances where appropriate system controls were not implemented or properly operated. To ensure that these systems continue to function as designed and calculate payroll accurately, appropriate system controls need to be implemented and reviewed periodically.

This report provides 10 recommendations to assist ACTTC Payroll in improving the processing and reporting of payroll transactions. The recommendations cover County-wide payroll policies and

## Executive Summary

procedures, training of department payroll staff, and the restructuring of payroll processing. Our recommendations also cover ways to improve payroll processing administered by department employees, and the implementation of quality assurance activities for ensuring compliance with State and Federal payroll reporting requirements.

**Summary of Recommendations**

- Payroll should assume responsibility for developing, evaluating and enforcing organization wide payroll policies and procedures that focus on the accuracy of payroll.

- Payroll should develop a County-wide training program and conduct related training for all staff that perform payroll-related activities.

- Payroll should coordinate with the Information Systems Department (ISD) to improve controls over application access, change management and disaster recovery to ensure payroll information continues to be available, is safeguarded and the integrity of the payroll systems are maintained.

- ISD should ensure County departments are aware of and adhere to Information Security, Account Management, and Change Management policies and standards as systems are added or updated on the County's network. ISD should develop a compliance program to ensure County Departments are following ISD guidance to safeguard the County's network and integrity and confidentiality of data. Policies and standards should be evaluated and reviewed on a regular basis.

- ISD, working with Payroll, should test the HRMS and TimeSaver systems to ensure the systems and data can be recovered in a timely manner after a natural or man-made disaster. Testing should be scheduled periodically with findings from the tests incorporated into the disaster recovery procedures.

- The Payroll Manager should restructure and streamline processes performed by Payroll.

- ACTTC management should conduct an internal risk assessment over the biweekly payroll process and develop policies and procedures for fund reconciliations, request and approval of payments, and monitoring of IRS and State account activities to reduce the risk of non-compliance with the State and IRS Requirements resulting in penalty and interest assessment.

- Payroll and the Human Resources Department (and applicable sub-divisions) should work to improve coordination and communication with ISD for HRMS and TimeSaver support.

- Payroll should develop and adopt a set of performance metrics to assist with continuous process improvement over the County-wide payroll process.

- The Payroll Manager should, in collaboration with the Human Resources Department, develop a program to eliminate manual check issuance for new employees and encourage existing employees to convert to electronic deposit.

# Introduction and Background

## Introduction

The Internal Audit Division of the ACTTC completed the audit of the County payroll process for the period July 1, 2011 thru June 30, 2015, reviewing payment and reporting activities and identified opportunities for improvement. We conducted the audit in accordance with the *International Standards for the Professional Practice of Internal Auditing (Standards)*. These Standards require that sufficient information and evidence to achieve audit objectives are identified, evaluated and documented. The evidence obtained provides a reasonable basis for the results, observations, and recommendations contained in our report.

The purpose of this audit report is to furnish management independent and objective analyses and recommendations and other information concerning the activities reviewed. The audit report is a tool to help management identify and implement improvements.

## Background

Payroll and the Sonoma County Human Resources Department (HR) are primarily responsible for:

- The accurate and timely payment of wages and salaries to County employees.
- Timely remittance of withholdings and deductions to the appropriate State and Federal agencies or other third parties.

Payroll employs a total of 12 full time equivalent (FTE) employees and is one of nine divisions of the ACTTC Office. In FY 2014-15, Payroll processed approximately 125,000 pay checks (direct deposits and physical checks), disbursed bi-weekly to approximately 4,700 unionized and non-represented County employees, totaling approximately $500 million in employee gross earnings for the fiscal year.

The County's payroll process is complex, requiring the involvement of Payroll, each County department, HR, ISD, and the Treasury and General Accounting Divisions of the ACTTC Office. The process, as shown in Appendix A, begins when employees record their time worked and leave taken each pay period. The process ends when 1) the employees receive their pay either through direct deposit at their financial institution or through hand delivery by department staff and 2) the County submits tax and other liability payments to the State and Federal agencies or other third parties.

Payroll relies on three main information systems; TimeSaver, HRMS, and the Enterprise Financial System (EFS). TimeSaver is used by County departments to capture time and attendance data. HRMS is an integrated system utilized primarily by HR and other departments to manage employee benefits and personnel functions and by Payroll to process payroll transactions. EFS is the County's financial accounting system in which the aggregate pay data is recorded and is used to support the preparation of the County's Comprehensive Annual Financial Report (CAFR).

## Objectives, Scope & Methodology

### Objectives

In 2014, ACTTC conducted a county wide risk assessment that identified Payroll processing as having inherently high potential risk, primarily due to the large dollar value of payments (approximately $500 million annually) and its impact on all 26 County departments. Our objectives were to determine if: (1) controls were in place to ensure accurate processing of payroll, and (2) systems and processes to recognize, process, remit, and report payroll transactions can be improved.

### Scope

The scope of our audit covered the fiscal year (FY) 2015 and included the examination of the payroll processing and reporting activities during that period. During the audit we expanded our scope to cover State and Federal payments made in FY 2011 through FY 2015.

### Methodology

To address our audit objectives, Internal Audit conducted the following activities:

- Identified and obtained payroll requirements subject to compliance.
- Selected six County departments and assessed their internal controls over time and labor reporting. We also evaluated payroll processing activities for opportunities to improve efficiency.
- Interviewed the County Payroll Manager and staff about payroll processes and related activities.
- Reviewed payroll reports, payroll audit reports, reconciliation documents, and system generated exception reports.
- Conducted a general controls review of the County's TimeSaver and HRMS applications to assess potential risks to the accuracy, integrity, and reliability of the payroll information. The review addressed application controls, system edit checks, information security, and change management controls.
- Compared County payroll information systems activities to leading practices obtained from published standards.

Internal Audit conducted the audit from July 2015 to February 2016.

## Results

### Finding 1: Countywide Policies and Procedures can Enhance Coordination and Implementation of Payroll Processing (Risk Classification C)

**County Departments Implement Different Procedures**

To minimize the risk of errors in payroll transactions, payroll processing should be administered organization-wide through a uniform set of policies and procedures. These policies and procedures provide guidance to all employees involved with payroll processing on a number of activities, such as time and attendance processing, leave processing, and employee set up in the payroll system. However, our review found that although each of the various County departments perform key payroll functions, the County does not have a comprehensive set of policies and procedures to govern the payroll process. As a result, the implementation of payroll processing activities varies across the County, which leads to multiple instances of errors and other discrepancies, requiring excessive reviews and edits by Payroll staff. Specifically, we found the following:

- **Departments differ on supervisory review and approval procedures.** Supervisory review of employee timesheets provide assurance that the time and attendance reported by employees are accurate. Among the departments included in our review, supervisors reported reviewing and approving timesheets of employees that are not under their direct supervision. Some supervisors reviewed timesheets for only the employees they supervise while other supervisors reviewed the timesheets of up to 80 employees, a number of whom worked for other supervisors. Uniform timesheet review procedures facilitate timely identification of time and labor reporting errors.

- **Departments do not utilize uniform procedures for timesheet audits**. Prior to submitting timesheets to Payroll, departments must perform a series of quality assurance activities to certify the accuracy of time and attendance data. A uniform set of such activities have not been established for all departments to follow. Some departments follow outdated Payroll guidelines for timesheet audits and other departments have added other procedures to follow. Uniform timesheet audit procedures will improve timely identification of errors and reduce the need for detailed reviews and corrections to minimize process errors and risks.

- **Departments do not submit leave requests in a timely manner.** Leave processing requirements vary by department and are governed by County policy and collective bargaining agreements. Historically, Payroll has found material errors in time cards of individuals on leave. The Payroll Manager has dedicated one individual to perform review of time cards received from departments and make corrections to time cards as necessary.

## Results

- **Departments train staff differently on payroll procedures**. Some departments do not provide formal training to their payroll staff at all while others do so routinely. None of the departments routinely train staff on changes to payroll requirements. While Payroll has conducted payroll clerk training in the past, including holding monthly payroll roundtables, they do not cover a number of key areas such as processing of garnishments, leave without pay, and family leave. Payroll's annual training budget of $7,000 is not sufficient to provide the type of countywide training discussed above.

Due to the lack of uniform payroll procedures, Payroll is not able to place sufficient reliance on the department certification of the payroll data submitted. As a result, over a 12 month period in 2014 and 2015, Payroll re-opened and reviewed 4,232 department certified time and labor reports, or about 3.6 percent of all timecards processed. A number of errors were identified, some by individual departments and others by Payroll staff. Due to the number of errors in time and labor reports previously certified by departments as being accurate, Payroll continues to perform several redundant payroll processing activities.

Even with the redundant payroll audits and reviews conducted by Payroll staff, the County overpaid employees 156 times, made 21 check corrections after issuance, and reversed payroll transactions 41 times during FY 2014-15. These errors comprise approximately 0.2 percent of all payroll transactions.

Although Payroll is primarily responsible for processing countywide payroll, policies and procedures have not been fully developed. Payroll should develop and administer countywide payroll processes and procedures.

**Finding 2: Information system controls need better execution (Risk Classification C)**

Information systems provide controls to ensure the accuracy, integrity, and completeness of electronic payroll processing. These controls include system edit checks to identify payroll amounts that may not be correct, enforcement of password changes, configuration to prevent unauthorized access, and documentation of changes to the payroll system.

These controls are a shared responsibility between Payroll, HR, and ISD. ISD provides data center, network server, application, and database hosting and support functions. Payroll and HR provide TimeSaver and HRMS applications administration (code tables, security tables, etc.…), user account administration, and end user support.

In certain areas of payroll processing, some system controls need to be changed for improved implementation and others to be added to reduce risks of errors and irregularities as discussed below:

a. **System edits checks have not been properly adjusted.** System edit checks are the first line of electronic defense to identify potential errors. These are generally used to identify unusual transactions for further review. Presently, the payroll system edit check is set to identify pay amounts computed at or above $10,000 as a potential error in computation. Based on a pay analysis conducted by Payroll, only 86 payroll checks are subject to additional scrutiny for potential calculation errors. About 97 percent of all County employee are issued payroll checks of $6,000 or less. As a result, 867 payroll checks are not subject to additional system edits to

## Results

ensure payroll computation accuracy. In response to this audit, Payroll took action to update the system edit check.

b. **Password settings are outdated.** The password settings for the HRMS and Timesaver applications are not sufficiently complex given the critical nature of functions they support. Although industry guidance calls for the change of passwords at least every 90 days, there are no current County policies and procedures to change application related passwords. Many Payroll staff have not changed their application password since the system was implemented in 2009. Network access administered by ISD does comply with these standards but should not be considered a substitute for application level access.

c. **User access reviews are not routinely performed.** Periodic application user access review provides assurance that active employees have the correct set of access rights to critical information based on business need, and ensures terminated employees no longer have access to the system. Generally, a log is maintained by position that shows the access rights to be granted to employees. Payroll does not have standard logs nor have they performed annual audits to insure access rights have been properly assigned. At the time of our audit, the Payroll Manager recognized the importance of this control and plans to address the need. Network access rights are currently reviewed by ISD / all departments annually and ISD deletes network access from terminated employees based upon reports received from HR.

d. **Change notification procedures do not occur.** While changes to pay codes do not happen frequently, when they do occur in the HRMS system, these changes are not communicated to ISD timely. As a result, ISD does not use the most current codes when transferring data from HRMS to EFS, resulting in corrections and reworks causing delays.

e. **Application changes are not properly documented**. Presently, Payroll does not systematically record changes made to pay tables, the extent of system testing performed, and the results of the testing. Proper management of application changes is critical to ensuring integrity and availability of systems. A number of standards and best practices are available as guidance over the performance and documentation of change management procedures. ISD has a change control process in place for network, server, and database updates. ISD is taking a lead role in introducing change management processes to Payroll and HR.

f. **Documented Communication and Coordination protocols between Technical and Functional subject matter experts is needed:** HRMS and TimeSaver applications could benefit from better communication and coordination between technical and functional subject matter experts and ongoing governance. During the audit we noted that upgrades to TimeSaver and HRMS experienced delays due to constrained resources and other competing priorities for both teams. We also noted that there are not clear

policies related to payroll data ownership that caused confusion amongst team members.

g. **A tested disaster recovery plan is not in place**. A standard activity to assure continuity of service in issuing payroll checks in the event of a disaster is to perform disaster recovery testing. The County has not performed this type of testing for the full scope of the payroll systems. Disaster recovery testing is a component of ISD's information security programs, but County departments are allowed to develop their own security policies and procedures, as long as they provide greater security governance than the basic ISD requirements. We noted, however, that the ISD information security policies and standards were last updated in calendar year 2011. Best practices in internal controls requires that policies, procedures and standards be reviewed at least annually to remain current and relevant.

   Without improved implementation of information system controls, current risks include: unauthorized user access, system calculation errors, data corruption, errors or delays in the upload process, a lack of timely data recovery, and unavailability of the system.

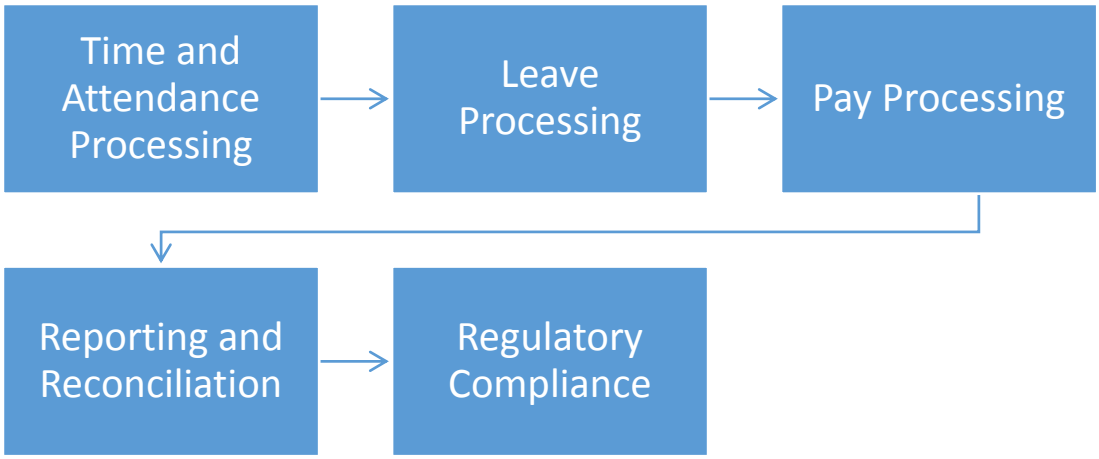
h. **Customized Exception Reports and Systematic Payroll Calculations are not periodically reviewed.** Standardized reports that usually come with each software program do not always provide the necessary information needed to complete departmental tasks, in that event, customized reports are developed to provide the information needed. Once the reports are created and tested, they are not reviewed periodically. To ensure that customized reports provide accurate information that can be relied upon for financial reporting purposes, the reports should be reviewed periodically and when major system updates have been completed.

**Finding 3: Opportunities are present to improve and update processes for payroll activities (Risk Classification C)**

Organizations responsible for payroll activities have defined processes in place to address related administration and management aspects of payroll processing as shown below:

## Results

**Figure 1: Payroll Process**




Payroll could better utilize resources and plan activities by having a clearly defined organizational structure around key aspects of payroll processing as shown above. Under the current structure, we noted the following issues:

a. There is no one dedicated group of individuals fully responsible for certain portions of pay processing, except in the area of time and attendance processing and leave processing.

b. Few of the staff are cross trained to assume roles and responsibilities of others should any prolonged absence occur.

c. Payroll staff perform activities that are outside of key Payroll processing activities that are already performed by County departments. These activities could be discontinued if uniform county wide procedures are developed and appropriate training is provided to department payroll clerks.

d. Payroll conducts audits and other review tasks even though County departments have not yet completed their time and attendance processing activities, further creating inefficiencies through overlap in processes.

e. Payroll does not have adequate controls over unemployment insurance payments and pays unemployment insurance without checking to ensure that the payments are for eligible employees.

f. Payroll does not have adequate controls over direct deposit account changes. Employees can submit requests for account changes without requiring proper identification.

## Results

**Finding 4: Internal Controls over calculation and payment of State and Federal Taxes should be improved. (Risk Classification A)**

To minimize the risk that material amounts of penalty and interest charges will be assessed, paid and remain undiscovered, a number of preventive and detective internal control procedures are generally utilized. The nature and materiality of the risk to be managed dictates the optimum combination of the two. During the audit, we noted that the Payroll Manager's delay in filing required returns and the resulting payments of penalties and interest happened without the ACTTC management's awareness because of a lack of appropriate preventive and detective controls. As a result of returns being filed late, over a period of five years, the County paid approximately $700,000 in penalties and interest to the State. The IRS transferred approximately $600,000 from the County's credit balance to pay penalties and interest. The County was also assessed approximately $1.2 million by the IRS due to errors in application of payments submitted for the County and other entities. For penalty and interest details see Table 1, found in Appendix C of this report. The following are the weaknesses we noted and their impact:

a. There was no initial or secondary review of tax liability payments processed (preventive control). Although there were several people involved in the payment process in addition to the Payroll Manager, none were assigned the responsibility to identify and act upon potentially inappropriate payments such as penalties and interest.

b. There were no fund reconciliations or other procedures to monitor the effectiveness of the preventive controls (detective controls). Reconciliation is a common way to identify in a timely manner errors that were not prevented. Had appropriate detective controls been in place, ACTTC management would have become aware of the assessment and payment of penalties and interest sooner.

c. The budgetary process did not result in closely estimating expenditures for the unemployment insurance (UI) fund, which reduced the usefulness of the budget variance analysis (budgetary control). The budget development process for the UI fund relied primarily on prior year expenditures and did not include 1) an evaluation of internal and external factors and challenges that could impact future UI benefits payments and 2) a review of the backup for quarterly expenditures.

d. There was no separate oversight of the payroll tax filing process and IRS and State payroll account activities performed by the Payroll Manager (detective control). This allowed the delays in filing of the payroll taxes and assessment of penalties and interest to continue without the knowledge of ACTTC management. For delays in filing payroll tax returns see Table 2, found in Appendix C of this report.

e. Appropriate supporting documents were not used to process payments from the UI fund (preventative controls). Although the County had engaged a contractor to review and approve bills for unemployment benefits from the State, their reports were not used as supporting documents.

## Results

Absent or ineffective governance and internal control activities have contributed to these issues. A number of these issues would have been avoided or corrected timely if appropriate policies and procedures existed covering 1) segregation of incompatible functions, 2) detail procedure requiring appropriate reconciliations, recording and classification of transactions, and maintenance of appropriate supporting documents, 3) oversight including verification of key control activities being performed and review of relevant variances, and 4) clearly defined roles and responsibilities. Through enhancing governance over Payroll, the recurrence of penalties and interest could be avoided.

**Finding 5: County needs could be better met with business intelligence activities (Risk Classification C)**

One of the key aspects of advanced payroll departments is the ability to conduct advanced analytics or business intelligence activities. These activities can help department officials and managers identify areas for operating efficiency and effectiveness, such as overtime analysis, employee leave analysis, and project related direct and indirect costs for grant-related reporting.

Although Payroll does not perform payroll-related analytics, our analysis of key metrics show some potential opportunity for improvement. Another area of potential improvement is payroll cost efficiency.

In the absence of conducting payroll analytics by Payroll, some departments have contacted the ISD to run ad-hoc and other special reports, which raises a critical internal policy issue for the County on data ownership and protection. Data ownership and data confidentiality needs to be addressed to help clarify roles and responsibilities in this area.

## Conclusions

Payroll processing is a set of essential business functions that are County-wide. These functions require uniform administration and oversight to ensure the accuracy of the County's $500 million annual payroll requirement. While Payroll ultimately processes the vast majority of checks correctly, a number of conditions support that the payroll process requires substantial updating and added internal controls. These conditions include a wide range of transaction corrections made each pay period, differences in payroll transaction processing within and across departments, system issues, absence of appropriate payroll reconciliations and tax liability reporting concerns.

The existing operating structure delegating responsibility to County departments for payroll processing without well-developed oversight authority by Payroll coupled with the absence of a uniform set of policies and procedures to govern payroll processing hampers needed process improvement. These issues highlight the need for re-structuring payroll processing to increase its efficiency and effectiveness. Restructuring current business processes to spend more time on payroll reconciliation activities, developing and administrating training programs, and providing actionable data and reports to county departments on operating efficiencies through payroll analytics offers the County an enhanced potential to maximize the capabilities of current staff and information systems.

## Recommendations

**Recommendation #1: Developing Countywide Policies and Procedures can Enhance Coordination and Implementation of Payroll Processing (Risk Classification C)**

Payroll should assume responsibility for developing, evaluating and enforcing County-wide payroll policies and procedures that focus on the accuracy of payroll processing. This should include an updated County-wide policies and procedures manual. The manual should include, at a minimum:

a. Procedures for time and labor reporting:
   - Management review of time and labor reports,
   - Vacation, sick, and family leave reporting,
   - Overtime processing,
   - Garnishment processing,
   - Workers compensation requirements.
b. Payroll audits:
   - Monitoring and reporting, temporary employees, and terminated employees.
c. Policies for ownership of payroll data:
   - Check distribution,
   - Oversight,
   - Changing direct deposit information,
   - System quality assurance checks,
   - Removing extra help employees from the system.
d. Payroll-related training requirements for staff.
e. Uniform and rigorous county wide policy for employee privacy protection.

These policies and procedures should be centrally maintained, and reviewed and updated at least annually. After uniform County-wide policies and procedures have been implemented, Payroll should reduce the time it spends reviewing payroll transactions submitted by departments and focus their efforts on higher payback activities.

**ACTTC Management Response:**

ACTTC management concurs that Recommendation #1 could add value to the payroll process. However, management does not believe there are sufficient resources in payroll that could be devoted to this effort, and current payroll resources need to be assigned to processing bi-weekly payroll, filing payroll tax returns, and maintaining and configuring the system. ACTTC management will evaluate the resources needed to fully implement this recommendation.

**Recommendation #2: Develop County-wide payroll training program (Risk Classification C)**

The Payroll Manager should develop a County-wide training program and conduct related training for all staff that process or work on other payroll-related activities. The training program should address the newly developed County-wide policies and procedures, requirements for supervisory review as well as changes to State and Federal payroll reporting requirements. The training program should also address requirements for privacy protection.

## Recommendations

**ACTTC Management Response:**

ACTTC management concurs that Recommendation #2 could add value to the payroll process. The Board of Supervisors recently approved a new position that will be shared by HR and ACTTC that will specifically focus on countywide training for both HRMS and TimeSaver. ACTTC and HR Management will evaluate a feasible training plan given the limited resources in this area.

**Recommendation #3: Information System controls need better execution (Risk Classification C)**

Payroll should coordinate with ISD to improve controls over application access, and change management to ensure payroll information is safeguarded and the integrity and continued availability of the payroll systems. Updates on these controls should include but not be limited to:

a. Passwords, should meet minimum requirements as set by ISD Account Management Policy to include:
    - Be a minimum of eight characters,
    - Contain three of the following character types: lower case letters, upper case letters, numbers, and special characters,
    - Have an expiry period of between 60 and 90 days,
    - Prohibit passwords being re-used until changed at a specified number of times.

b. User account privileges based on best practices requirements should be implemented for the applications:
    - The reviews should be conducted on the principal of least privilege, whereby each individual is only granted access to the functions and data that are required for the performance of their primary duties,
    - User access reviews should be performed at least annually,
    - Accounts should be reviewed to ensure that the system enforces a proper segregation of duties,
    - Review access authorization to outside entities such as EDD and IRS to verify that only authorized County employees have system access.

c. Periodic review of custom applications settings. System edit checks for payroll amounts, deductions, accruals, and overtime should be updated to reflect the average payroll amount for the County employees. These procedures should be documented and performed on a regular basis.

d. Change notification procedures. ISD should be notified upon any HRMS pay code updates so that they can be mapped and added to EFS or other system interfaces.

e. In accordance with best practices, Payroll should perform the following relating to change management procedures and documentation over major system front-end changes (pay tables, reports, system alert settings):
    - Identify change to be made
    - Require the programmer to make the change in a test environment
    - Require a person other than the programmer to test the change in the test environment,

## Recommendations

- Require completed change to be moved to production only after appropriate approval and sign offs have been made and documented.

Once Payroll calculations have been tested and set, they should be reviewed, at least annually, to ensure complex calculations are functioning as designed. Reviews of systems calculations should be conducted after major system changes as updates could have effects on the systems calculations. As the system calculations are set and will calculate the same for all in a set group, a test of one could be calculated.

**ACTTC Management Response:**

ACTTC management concurs with Recommendation #3. ISD has assigned a project manager to the HRMS and TimeSaver systems. The ISD project manager has already implemented additional change management controls in this area. ACTTC management will continue to work with the ISD project manager to further improve controls over system access and change management.

**ISD Management Response:**

Passwords: Management Agrees: The current version of TimeSaver is 6.0.x which the vendor will stop supporting August 2016. There is currently a project in pilot mode to migrate to TimeSaver 8.0 which can include functionality to use the ISD maintained Active Directory (AD) as the primary authentication system. ACTTC Payroll division and ISD S&P should assess the viability of AD authentication as part of the phase 1 of the upgrade project or in an additional phase. AD functionality within TimeSaver system would provide improved compliance to the account management policy and would provide additional functionality for user account management privileges. User account management privileges could be managed using AD group management for improved control. A similar approach should also be considered with ePersonality.

User Account Privileges: Management Agrees: Human Resources and Payroll are the process owners and control access to the actual production applications. If access is driven by Active Directory (AD) groups as described above, HR and/or Payroll team would submit a request to Information Systems Department (ISD) indicating which staff should be included or removed. ISD team would execute the request providing a desired separation of duties control; however, they do not do so without explicit instruction from the process owners. In terms of ISD access to production systems, these protocols are in place:

- There is a specific Active Directory group whose members only include those developers who actively support the application. It does not include members of the team who do not typically support this product.
- The AD group for developers has access to test servers, but does not have access to production servers or databases. There are production network shares which the team can access for production support purposes. These directories are used to pick up / drop off files for batch processing.
- There are additional AD groups for ISD infrastructure teams such as server support or database administration support roles. These groups have access to the production databases and servers as this is a requirement to administer them at a systems level. Examples of when this need occur:
    - To install application patches provided by the vendor
    - To install server related software or patches

## Recommendations

- To install, schedule, and run programs written in-house by ISD developers which extract payroll or benefits data that must be sent to outside sources such as health plan administrators.

Periodic Review of Application Custom Settings: This is a function that would not typically be performed by ISD as we are not subject matter expects in payroll processing.

Change Notification Procedures: Management Agrees. For ISD related changes to the HRMS and TimeSaver applications, infrastructure and application development teams follow the ISD protocol for Change Management. This involves, (1) Opening a change ticket to document the nature of the change and time of change (2) Seeking management approval for the change (3) Communicating with the application owner.

However, changes to the system can also be made via the application itself and by functional users having elevated application privileges. To date, these application changes have not been formalized as part of the change management process for the HRMS and TimeSaver applications. The County has been very successful in instituting this process with the support organization for the Enterprise Financial System (EFS). Both technical and functional teams are required to provide documentation for any proposed change to the system. Once going through an internal approval process, the changes are coded and tested within test environments. Outputs of test results are also captured and documented. After testing is successfully performed, the team seeks approval for the move to production from EFS project managers. After approval, changes are scheduled into pre-determined maintenance windows depending on complexity of changes (more complex changes requiring database backup are typically scheduled in the evenings). This formal process provides transparency around all changes that are made to the production system and has resulted in increased application stability as it relates to change. It is the intent to incorporate this same process for the HRMS and TimeSaver applications. The support team has begun to have discussions in this direction, but nothing has yet been finalized. This is primarily due to workload constraints in HR and Payroll affecting the functional teams due to current business cycles for open enrollment and labor negotiations.

**Recommendation #4: Develop program to monitor compliance with ISD security, account management and change management guidance (Risk Classification C)**

ISD should ensure County departments are aware of and adhere to Information Security, Account Management, and Change Management policies and standards as systems are added or updated on the County's network. ISD should develop a compliance program to ensure County departments are following ISD guidance to safeguard the Counties network and integrity and confidentially of data. Policies and standards should be evaluated and reviewed on a regular basis to ensure they are up-to-date as technology, overall, changes rapidly.

ISD Information Security Policies and Guidance

Policy for Information Security – dated: 5/2/2011

Policy for Account Management – dated: 7/15/2011

Policy for Change Management – dated: 7/15/2011

## Recommendations

Standards for Account Management – dated: 7/15/2011

**ISD Management Response:** Management Agrees.

A committee which is comprised of technology liaisons from Health Services, Sherriff, Probation, DA, HR, and County Counsel was developing a new policy for IT professionals to cover IT controls, information security, and compliance at the time of the Payroll Audit. The policy has replaced those referenced in the above recommendation and add other compliance controls consistent with the industry standards. The 9-4 Information Technology (IT) Professional Policy development process along with periodic Technical Advisory group meetings has provided information security awareness and directives to the IT professionals to ensure appropriate and authorized access, integrity, confidentiality, and availability of data and information systems within the County of Sonoma. The new policy has been reviewed by the County Administrator's Office (CAO) and County Counsel, and meet and confer sessions with the labor groups have been completed. The policy has been presented to Management Advisory and Department heads prior to the Board of Supervisors adoption which occurred on July 12, 2016.

ISD, in conjunction with our departmental partners are planning a significant outreach and awareness training campaign program including plans for compliance monitoring to comply with 9-4.

Additionally, HR (Risk Management) purchased countywide Security Awareness Training and Education (SATE) SANS software entitled "SANS Securing the End User." HR and ISD intend to pilot the program in May and June 2016.

**Recommendation #5: Perform and document disaster recovery testing on payroll systems (Risk Classification C)**

ISD, working with Payroll, should test the HRMS and TimeSaver systems to ensure the systems and data can be recovered in a timely manner after a natural or man-made disaster. Testing should be scheduled periodically with findings from the tests incorporated into the disaster recovery procedures.

**ISD Management Response: Management Agrees.**

ACTTC has assembled a team from both ISD, ACTTC, and management from other departments to address this need. The objective of the team is to develop a comprehensive solution to providing support in the event of a disaster. This solution should encompass plans for both technical and non-technical strategies for maintaining business continuity for critical services. ACTTC is currently identifying and prioritizing Payroll/HR processes and the timeframe for which they will need to be recovered. In parallel, ISD team is preparing the infrastructure in our data recovery (DR) site which is located at the Emergency Operations Center within the County Campus. While this is an ongoing project which is likely not to complete for several months, it is still possible to recover critical Payroll applications (TimeSaver and HRMS) from the nightly server backups. Depending upon when an actual event occurs, a loss of some data is likely so this, of course, is not the preferred solution. DR to existing systems, including full refresh to test and demo environments is routinely performed. Once the DR sites are available a rehearsal will be performed.

## Recommendations

**Recommendation #6: Evaluate and restructure Payroll to mitigate critical risks and achieve operational objectives (Risk Classification C)**

The Payroll Manager should restructure Payroll implementing, at a minimum, the following changes:

a. Update the Payroll accounting policies and procedures to cover required reconciliations, classification of payroll transactions, maintenance of documentation adequately supporting transactions, segregation of functions etc.
b. Provide targeted payroll processing training program based on identified payroll processing needs.
c. To the extent possible, delay payroll transaction review until Departments have certified the accuracy of their payroll records.
d. Eliminate payroll transaction reviews that have already been performed by County departments.
e. Defer non-critical work activities until after employee paychecks have been issued.
f. Delegate a Payroll staff person to formally track all inquiries received by the Payroll System Applications Help Desk; prepare an annual report and incorporate the results into annual payroll training.
g. Conduct additional work flow reviews to evenly distribute workloads among staff. The work flow reviews should identify all tasks performed weekly, bi-weekly, and monthly and reassignment of activities should be based on the skill set of existing staff.
h. Require Payroll staff to participate in American Payroll Association monthly meetings.
i. Require verification of identity for employees requesting direct deposit changes.

**ACTTC Management Response:**

ACTTC management concurs with Recommendation #6. The Board of Supervisors recently approved the addition of one Department Information Systems Specialist position to Payroll, and Payroll has been separated into a daily operations section and a system support section. The Assistant Payroll Manager has been assigned oversight of the daily operations section, and the Department Information Systems Coordinator has been assigned oversight of the system support section. The Payroll Manager will oversee both the Assistant Payroll Manager and the Department Information Systems Coordinator. ACTTC management believes that this restructuring will continue to mitigate critical risks and achieve operational objectives. ACTTC management will continue to evaluate the resources needed to fully implement this recommendation.

**Recommendation #7: - Internal Controls over calculation and payment of State and Federal Taxes should be improved. (Risk Classification A)**

The ACTTC management should evaluate internal controls over filing of Federal and State payroll tax returns and the operation of the Unemployment Insurance (UI) and the payroll revolving funds. At a minimum the following actions should be completed, a number of which management has started to implement:

a. Perform a comprehensive risk assessment of the area.

## Recommendations

b. Reconcile the Payroll Revolving and UI Funds periodically.
c. Perform prior period fund reconciliation to gain assurance that improper payments were not made in the past.

d. Assign a second person to review payments from the two funds for appropriateness (require reporting of penalties and interest payments or other possible inappropriate payments)

e. Assign an individual independent from the tax return filing responsibilities to monitor activities in IRS and State accounts.

f. Review the methodology for estimating unemployment benefits payments and adjustments as necessary. Annual variances analysis should be performed.

g. Credit balances in the IRS and the State accounts should be subject to the same type of controls as cash outside of the Treasury. They should be recorded in the County's books (some, but not all, were recorded as Salary & Benefits) if they are material and not temporary. The causes for all material variances should be investigated and corrections made to internal processes to minimize credit balances in accounts with IRS and the State.

h. Payments to EDD should be made only after ensuring that individuals requesting unemployment benefits were County employees and entitled to unemployment benefits.

Once Payroll calculations have been tested and set they should be reviewed, at least annually, to ensure calculations are functioning as designed.

**ACTTC Management Response:**

ACTTC management concurs with Recommendation #7 and has implemented all of the recommendations. Additionally, ACTTC management is working with County Counsel to seek the abatement of all remaining State Economic Development Department (EDD) and Internal Revenue Service (IRS) penalties and interest for reasonable cause. Work toward penalty abatement is ongoing as of this writing. Over the 5 year period covered by this audit, the individual amounts of penalties and interest assessed by the EDD, and the IRS represent less than .050% of the $2.5 Billion in total payroll processed

**Recommendation #8: Documented Communication and Coordination protocols between Technical and Functional subject matter experts is needed (Risk Classification C)**

HRMS and TimeSaver applications could benefit from better communication and coordination between technical and functional subject matter experts and ongoing governance. During the audit we noted that upgrades to TimeSaver and HRMS experienced delays due to constrained resources and other competing priorities for both teams. We also noted that there are not clear policies related to payroll data ownership that caused confusion amongst team members.

## Recommendations

**ISD and ACTTC Management Response: Management Agrees**

A steering committee and a leadership team has been established consisting of key stakeholders from both the functional and technical areas. This team includes representatives from Human Resources, Auditor-Controller-Treasurer-Tax Collector, Information Systems Department, General Services, Human Services, Transportation and Public Works, Water Agency and Health Services. The leadership team discusses and sets the priority for projects such as upgrades and will provide guidance to the functional and technical teams. The leadership team will also discuss policies related to data ownership, confidentiality of data, disaster recovery, along with other major county initiatives and how they impact the HRMS and TimeSaver systems. During the audit period the County was implementing a new financial system, PeopleSoft and the decision was made to focus on this implementation first, then undertake upgrades to the HRMS and TimeSaver systems after PeopleSoft went live.

**Recommendation #9: Develop, implement, and monitor payroll performance metrics (Risk Classification C)**

The Payroll Manager should develop and adopt a set of performance metrics to assist with continuous process improvement. These analytics should be performed by staff with the knowledge, skills and abilities to compute these metrics, interpret trends and recommend corrective actions for improvements. Examples of relevant performance metrics include, but are not limited to:

a. Number of incorrect vacation payouts upon employee termination per pay period.
b. Number of incorrect data entries per pay period.
c. Number of adjustments not made by the departments per pay period.
d. Time to setup new employee profiles in the payroll system.
e. Number of work hours to perform payroll audits.
f. Number of exceptions identified while performing department payroll audits.
g. Average cost to issue a paycheck.

**ACTTC Management Response:**

ACTTC management concurs that Recommendation #9 could add value to the payroll process. However, management does not believe there are sufficient resources in payroll that could be devoted to this effort, and current payroll resources need to be assigned to processing bi-weekly payroll, filing payroll tax returns, and maintaining and configuring the system. ACTTC management will evaluate the resources needed to fully implement this recommendation.

**Recommendation #10: Eliminate manual payroll check issuance (Risk Classification C)**

The Payroll Manager should, in collaboration, with the Human Resources Department, develop a program to eliminate manual check issuance for new employees and encourage existing employees to convert to electronic deposit.

## Recommendations and Staff Acknowledgement

**ACTTC Management Response:**

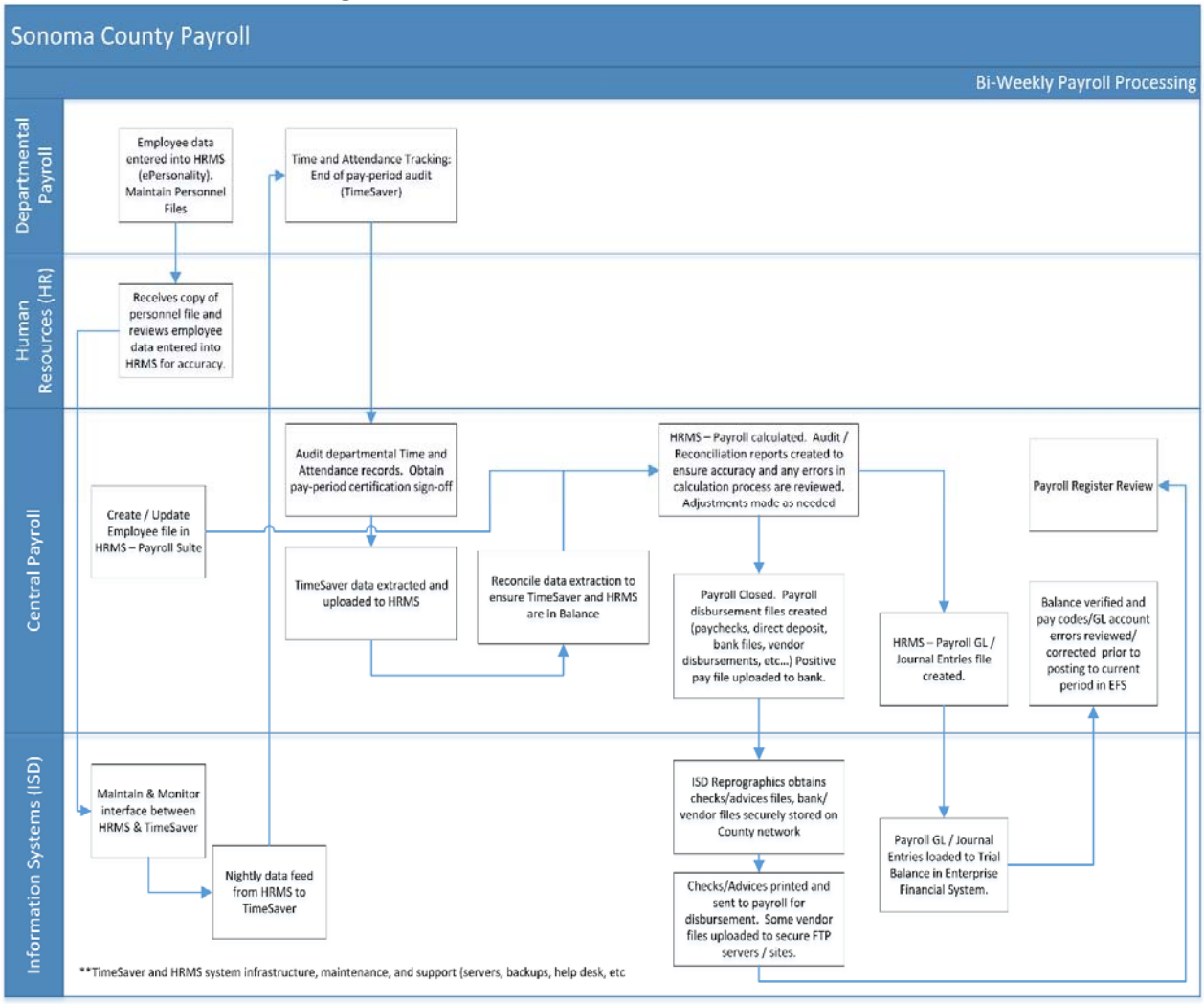
ACTTC management concurs, in concept, with Recommendation #10. Payroll clerks already encourage employees to utilize the HRMS portal and eliminate manual check issuances. The bargaining agreements with the unions do not mandate eliminating manual check issuances so employees must still be given the option of receiving a manual check until this is included in the bargaining agreements. As such, payroll will continue to encourage and promote the use of the HRMS portal and the elimination of manual check issuances. ACTTC management has made the suggestion to employee relations on many occasions that it would be beneficial to include this requirement in the bargaining agreements. However, to date this provision has not been bargained into the agreements.

**Staff Acknowledgement**

We would like to thank the ACTTC Payroll Division, ISD, and County Departmental Management and Staff for their time, information and cooperation throughout the review.

## Appendix A –Payroll Process

Time and Labor Processing



## Appendix B – Payroll Risk Mitigation Matrix

ACTTC conducted a countywide risk assessment in 2014 that assessed twelve key countywide business processes that without sufficient policies, procedures, and systems in place could pose a higher risk to the County of fraud, waste, and abuse. In one business process, payroll, which is administered by nearly all county departments, the risk assessment identified eleven key high risk areas. The table below shows these potential risk and their relevance to the current audit. Specific issues are discussed in the Results section of this report.

| Identified Potential Risk (County wide risk assessment) | Existence of Risk Identified from the Current Audit | Action Recommended to Mitigate the Risk |
|---|---|---|
| **1. Fictitious employees in the system** | **Yes**. The audit identified that temporary employees who are no longer employed with the system remained in the payroll system. These accounts can be reactivated without knowledge of the County department. | Develop County-wide policies, procedures and standards governing the payroll process, including but not limited to: procedures for time and labor reporting, management review of time and labor reports, vacation, sick, and family leave reporting, overtime processing, garnishment processing, workers compensation requirements, payroll audits, monitoring and reporting, temporary employees, and terminated employees**.** |
| **2. Recurring errors due to heavy reliance on computer systems** | **Yes**. The audit identified multiple recurring errors with payroll processing by various departments. These areas are related to the re-opening of payroll records after the information has been certified and reoccurring errors with processing employees with leave without pay status. | Develop a County-wide training program and conduct related training for all staff that process or work on other payroll-related activities. The training program should address the newly developed County-wide policy and procedures, requirements for supervisory review as well as changes to state and federal payroll reporting requirements. |
| **3. Incorrect changes in employee status, pay rates, withholding etc.** | **Yes.** The audit identified that processes for accurately capturing leave without pay status do not contain sufficient controls to prevent the occurrence of errors. | Develop County-wide policies, procedures and standards governing the payroll process, including but not limited to: procedures for time and labor reporting, management review of time and labor reports, vacation, sick, and family leave reporting, overtime processing, garnishment processing, workers compensation requirements, payroll audits, monitoring and reporting, temporary employees, and terminated employees. |

## Appendix B – Payroll Risk Mitigation Matrix

| | | |
|---|---|---|
| **4. Employee contract terms not entered correctly in the system** | **No. Contract and MOU information is entered into the HRMS system and the data is sent to HR to review for accuracy.**<br>. | **None.** |
| **5. Payments made for time not worked** | **Yes.** The audit identified that the County must issue promissory notes for employees who have been overpaid under multiple circumstances, which can include, but not limited to, over reporting of hours worked. | Develop, document and implement County-wide policies, procedures and standards governing the payroll process, including but not limited to: procedures for time and labor reporting, |
| **6. Inaccurate labor reports that are used for claiming** | **Yes.** The audit identified that the County's ISD department prepares time and labor distribution reports for departments for grant related purposes, but concerns exist about the accuracy and confidentiality of information of those reports because of the absence of Payroll Section involvement in their preparation and review. | Develop, document and implement County-wide policies, procedures and standards governing the payroll process, including but not limited to policies for ownership of payroll data, check distribution, oversight, changing direct deposit information, payroll-related training requirements for staff, system quality assurance checks, removing temporary employees from the system, and uniform and rigorous county wide policy for employee privacy protection. |
| **7. Errors in interpreting State and Federal withholding requirements** | **Yes**. The audit identified the Payroll Section did not comply with requirements for timely filing of state and federal withholding requirements, leading to late penalties and fines. | Revamp the process for state and federal tax liability reporting, including the development of quality assurance activities to ensure proper oversight and compliance. |

## Appendix B – Payroll Risk Mitigation Matrix

| | | |
|---|---|---|
| **8. All compensations subject to withholding and reporting are not captured** | **Not tested.** | **Not tested.** |
| **9. Time and labor data is not reviewed and approved by supervisors** | **Yes**. The audit identified that County departments responsible for their time and labor processing have different procedures for supervisory review and approval of employee timesheets. Some departments require supervisors to review and others departments delegate responsibility to other personnel. In addition, some departments have one supervisor review up to 80 timesheets while other departments have one supervisor review no more than 15 timesheets for accuracy and completeness. | Develop County-wide policies, procedures and standards governing the payroll process, including but not limited to: procedures for management review of time and labor reports. |
| **10. Overtime payments are incorrectly calculated** | **Yes.** The audit examined processes for reviewing overtime pay by selected departments. No substantial exceptions were identified. | Develop County-wide policies, procedures and standards governing the payroll process, including but not limited to: procedures for time and labor reporting and overtime processing. |
| **11. Correct tax payer identification** | **Yes.** The audit identified that the Payroll Section does not have processes in place or other controls to check for the accuracy of the information presented by the employee when requesting changes in direct deposit accounts. | The Payroll Manager should restructure its Central Payroll requiring verification of identity from employees requesting direct deposit changes. |

## Appendix C – Table 1 and Table 2

**Table 1**
**County of Sonoma, CDC, and SMART**
**Penalties and Interest Assessed**
**January 1, 2011 to September 30, 2015**

| | State (EDD)* | Federal (IRS)* | Total* |
|---|---|---|---|
| **Assessed and Paid** | | | |
| Sonoma County | 642,485 | 612,019 | 1,254,504 |
| CDC | 26,555 | | 26,555 |
| SMART | 4,670 | | 4,670 |
| **Total** | **673,710** | **612,019** | **1,285,729** |
| | | | |
| **Assessed but not Paid** | | | |
| Sonoma County | | | |
| CDC | | 818,964 | 818,964 |
| SMART | | 378,610 | 378,610 |
| **Total** | | 1,197,574 | 1,197,574 |
| **Grand Total** | **673,710** | **1,809,593** | **2,483,303** |
| **Waivers requested from the EDD by management and awaiting determination** | **673,710** | | **673,710** |
| **Waivers anticipated by management from the IRS based on the verbal representations of the IRS agent assigned to Sonoma County** | | **1,809,593** | **1,809,593** |

***Rounded to nearest whole dollar**

**Table 2**
**State and Federal Missed Filing Deadlines Analysis**
**January 1, 2011 to September 30, 2015**

| | Returns Required | Returns Filed Late | Average Days Late | % Late |
|---|---|---|---|---|
| **State** | | | | |
| State Income Tax | 19 | 14 | 143 | 75% |
| State Wage Returns | 19 | 16 | 92 | 84% |
| UI Returns | 19 | 11 | 122 | 58% |
| UI Wage Returns | 19 | 16 | 126 | 84% |
| **Total** | **76** | **57** | **121** | **75%** |
| **Federal** | | | | |
| Sonoma County | 19 | 19 | 239 | 100% |
| CDC | 16 | 16 | 575 | 100% |
| SMART | 10 | 10 | 364 | 100% |
| **Total** | **45** | **45** | **393** | **100%** |

## Appendix D – Report Item Risk Classification

For purposes of reporting our audit findings and recommendations, we classify audit report items into three distinct categories to identify the perceived risk exposure:

- **Risk Classification A: Critical Control Weakness:**
  Serious audit findings or a combination of Significant Control Weaknesses that represent critical exceptions to the audit objective(s), policies, and/or business goals of a department/agency or the County as a whole. Management is expected to address Critical Control Weaknesses brought to their attention immediately.

- **Risk Classification B: Significant Control Weakness:**
  Audit findings or a combination of Control Findings that represent a significant deficiency in the design or operation of internal controls. Significant Control Weaknesses generally will require prompt corrective actions.

- **Risk Classification C: Control Findings:**
  Audit findings concerning internal controls, compliance issues, or efficiency/effectiveness issues that require management's corrective action to implement or enhance processes and internal controls. Control Findings are expected to be addressed within our follow-up process of six months, but no later than twelve months.

The current status of implementation of recommendations will be followed up no later than the end of the second fiscal year after the report has been issued. Critical control weakness findings will be followed up between six months and one year of the date of the report.

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☑ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Authorizing Budgetary Adjustments To The 2015-2016 Final Budget For Other General Government And The Malpractice Insurance And Human Resources Management System Internal Service Funds, In The Amount of $4,647,269.**

**Whereas,** the Board of Supervisors has adopted a 2015-2016 Final Budget for the County of Sonoma, and

**Whereas,** the Government Code allows for adjustments to the Final Budget for the 2015-2016 Fiscal Year.

**Now, Therefore, Be It Resolved** that the County Auditor-Controller-Treasurer-Tax Collector (ACTTC) is hereby authorized and directed to make all necessary operating transfers, accounting entries and the following budgetary adjustments:

**Financing Uses:**

General Fund (10005): County General Fund
16020200-53202: Other General Government-Penalties and Fines $4,647,269

**Financing Sources:**

Internal Service Fund (ISF) (51225): Malpractice Insurance ISF
23022000: Net Position - Unrestricted $3,500,000
Internal Service Fund (51405): Human Resources Mgmt System ISF
11020100: Net Position - Unrestricted $1,147,269

**Supervisors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☑ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Authorizing Budgetary Adjustments To The 2016-2017 Final Budget For The Auditor-Controller-Treasurer-Tax Collector, Other General Government And The Human Resources Management System Internal Service Fund, In The Amount of $525,000.**

**Whereas,** the Board of Supervisors has adopted a 2016-2017 Final Budget for the County of Sonoma, and

**Whereas,** the Government Code allows for adjustments to the Final Budget during the 2016-2017 Fiscal Year.

**Now, Therefore, Be It Resolved** that the County Auditor-Controller-Treasurer-Tax Collector (ACTTC) is hereby authorized and directed to make all necessary operating transfers, accounting entries and the following budgetary adjustments:

**Financing Uses:**

General Fund (10005): County General Fund

| | |
|---|---|
| 11010104-51212: ACTTC Payroll - Outside Counsel Legal Advice | $225,000 |
| 16020200-53202: Other General Government - Penalties and Fines | $300,000 |

**Financing Sources:**

Internal Service Fund (51405): Human Resources Mgmt System ISF

| | |
|---|---|
| 11020100: Net Position - Unrestricted | $525,000 |

**Supervisors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 69**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority

**Department or Agency Name(s):** BOS

**Staff Name and Phone Number:**
Supervisor Efren Carrillo 565-2241

**Supervisorial District(s):**
Fifth District

**Title:** Fee Waiver

**Recommended Actions:**

Approve Fee Waiver of $7584 for the Forestville Planning Association's Forestville Downtown Park use permit (Fifth District)

**Executive Summary:**

The Agricultural Preservation and Open Space District approved acquisition of the Forestville Town Square Parcel in 2013. The Forestville Planning Association, is the owner of the future public park, they are a community non-profit organization. They have since worked on a plan for the area which will partner with Regional Parks for a trail connector to the West County trail and implement an open space park in the Oak woodlands and a public town square on Highway 116. The current phase of development results in permit fees of $15343.00. The request is to waive fees for the use permit portion of the application.

**Discussion:**

**Prior Board Actions:**

11/17/15 The Board approved a Fee Waiver for the lot line adjustment to split the parcel in the amount of $3171.
10/22/2013 – The Board approved a grant to the Forestville Planning Association to acquire the Forestville Town Square Parcel and authorized the execution of a conservation easement and recreation covenant on the property.

**Strategic Plan Alignment** Goal 2: Economic and Environmental Stewardship

This action will support open space systems that promote recreation, health and biodiversity while also contributing to the economic vitality of the area.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | 7584 | | |
| **Total Expenditures** | **7584** | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | 7584 | | |
| **Total Sources** | **7584** | | |

**Narrative Explanation of Fiscal Impacts:**

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

None.

**Attachments:**

Fee Waiver Application.

**Related Items "On File" with the Clerk of the Board:**

None.

SUBMIT TO:
Board of Supervisors
575 Administration Dr, Ste 100A
Santa Rosa, CA 95403

# COUNTY OF SONOMA

RECEIVED
NOV 0 8 2016
BOARD OF SUPERVISORS
COUNTY OF SONOMA
For Board of Supervisors Use Only

## Fee Waiver/Board Sponsorship Request Form

1. Contact information for individual requesting fee waiver/sponsorship:

   Name: Richard (First) Norman (Middle) Naegle (Last)

   Mailing Address: 7365 Covey Road (Number, Street, Apt/Suite) Forestville (City) CA (State) 95436 (Zip)

   Phone: (707) 887-1985 (Area Code, Number) Email: richardnaegle@sbcglobal.net

2. Name of Community Based Organization, Non-Profit, or Government Agency for which fee waiver/sponsorship is requested:

   Name: Forestville Planning Association

   Mailing Address: P.O. Box 184 (Number, Street, Apt/Suite) Forestville (City) CA (State) 95436 (Zip)

   Phone: (707) 887-1985 (Area Code, Number) Email: richardnaegle@sbcglobal.net

3. Please indicate by check mark the supervisory district in which the organization or agency submitting this request is located, where the project/activity/event will be held, and the district office to whom you would like to submit this request:

| Board Member and District | Gorin District 1 | David Rabbitt District 2 | Shirlee Zane District 3 | James Gore District 4 | Efren Carrillo District 5 |
|---|---|---|---|---|---|
| Entity or organization location (select all that apply) | | | | | ✓ |
| Project/activity/event location (select all that apply) | | | | | ✓ |
| District office to receive request (select only one) | | | | | ✓ |

4. Type of Community Based Organization, Non-profit, or Government Agency for which the fee waiver/sponsorship is requested:

   ☐ City ☐ Special District ☐ Other Local Government

   ☐ School ☑ Non-profit or CBO

   Other (please specify): _____

5. Please provide a description of the project/activity/event for which a fee waiver/sponsorship is being requested on a separate sheet of paper. Please include the number of individuals who will participate or be served, etc.

6. Please indicate if this is a one-time or annual event: ☑ One Time ☐ Annual

   Project is Forestville Downtown Park
   See Attached Site Plan
   Address is 6720 Hwy. 116, Forestville



Reset Form

7. Type and amount of fee waiver/sponsorship requested. Please list all County fees you are requesting be waived/sponsored in conjunction with this project/activity/event. Please attach a copy of an estimate or receipt from the County Department or Veteran's Building Operator documenting the amount of each fee you are requesting be waived/sponsored. See PRMD Invoice # 286766, File PLP16-0054K

| Department Assessing Fee | Type of Fee | Amount of Fee |
|---|---|---|
| Sonoma County PRMD | TECH Enhancement Fee<br>Drainage Review, minor development | 48-<br>1555- |
| " | Health Review, Public Sewer, Public Water<br>Administrative Design Review | 203-<br>708- |
| " | Use Permit Level II<br>Environmental Review Level II w/ tech report | 7584-<br>4595- |
| " | Public Works Review | 650- |
| | TOTAL | $ 15,343.00 |

8. If your Community Based Organization, Non-Profit, or Governmental Agency has received a fee waiver/sponsorship for a similar project/activity/event in the past, please list below:

| Date of Fee Waiver | Department Assessing Fee | Type of Fee | Amount of Fee |
|---|---|---|---|
| 11 / 17 / 15 | PRMD | lot line adjustment | $3171 |
| / / | | | |
| / / | | | |
| / / | | | |

9. Does the organization or agency for which the fee waiver/sponsorship is requested receive funding from any of the following sources? If so, please specify:

☐ Property Tax ☐ Sales Tax ☐ Special Assessment

☐ User Fees

Other (please specify): None

10. If you checked any of the boxes in number 9 above, please provide an explanation and supporting documentation regarding the inability of the organization or agency to pay the fees which you are requesting be waived/sponsored. Please attach to this form and submit with your request.

11. Will the organization or agency be charging an entry fee or be requesting a donation for the project/activity/event for which you are requesting a fee waiver/sponsorship? If so, please provide an explanation detailing why the fees to be waived/sponsored cannot be recovered through the entry fee. Please attach to this form and submit with your request.

Richard Naegle
Authorized Signature

Forestville Planning Association
Title
Treasurer

10 / 21 / 16
Date

Form Revised 8/17/2012



Reset Form

October 21, 2016

FORESTVILLE PLANNING ASSOCIATION
P.O. BOX 184, FORESTVILLE, CA 95436

Description of Project:

Forestville Downtown Park
6720 Hwy. 116 North, Forestville

(Item 5 on attached form, "Fee Waiver/Board Sponsorship Request Form")

In collaboration with the Sonoma county Open Space District, the Forestville Planning Association (a 501 c3 non-profit corporation) has purchased 4.25 acres in downtown Forestville to serve as a town square and open space park. Conservation and recreation easements have been placed on the property.

The area is already used for an annual Holiday Tree Lighting (200+ participants), a Farmers' Market (weekly 150+ participants, June-October), periodic Business Expos and Town Socials (150+ participants), a parking area for the trailhead of the West County Trail and for overflow parking for downtown merchants (10-20 vehicles per day). Locals daily use the benches and tables there for meeting (10-20 per day). Once the proposed design is approved, other community gatherings are planned for the area, such as music concerts (100+ participants anticipated).

With extensive community input (and under Open space guidelines), a design has been submitted to the PRMD for the property. A fee waiver/Board Sponsorship is being requested for the use permit fees.

See attached overall site plan.

16188

# COUNTY OF SONOMA
## PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

2550 VENTURA AVENUE, SANTA ROSA, CA 95403-2829
(707) 565-1900 FAX (707) 565-1103

## Application Fees / Invoice # 286766 for: PLP16-0054

**Project Address:** 6720 HWY 116
**Printed:** October 28, 2016
**APN:** 084-031-070
**Initialized by:** MGROSCH
**PCAS #:**
**Activity Type:** Planning Project
**Description:** Request for a Use Permit and Design Review for a new public park on 4.25 acres.
**Valuation:** $0.00
**Ag/Comm/Res:**

**Owner:** FORESTVILLE PLANNING ASSOCIATION
PO BOX 184
FORESTVILLE, CA
95436

**Applicant:** FORESTVILLE PLANNING ASSOCIATION
PO BOX 184
FORESTVILLE, CA
95436
707-887-1985

### Fees:

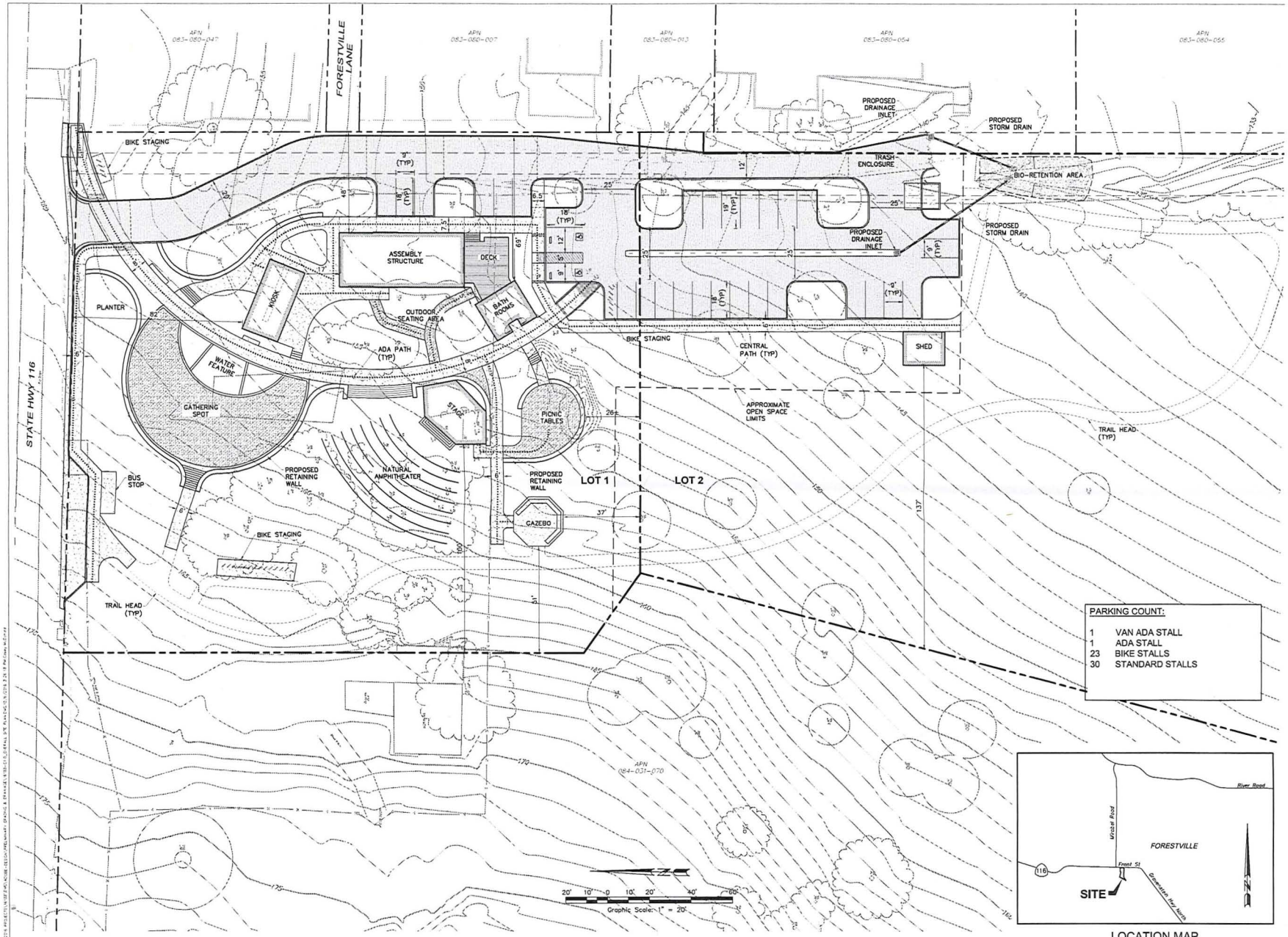
| Fee Item | Description | Account Code | Total Fee |
|---|---|---|---|
| 0140-015 | Technology Enhancement - Type III | 26010104-46040-10005 | $48.00 |
| 0705-000 | Drainage Review - Minor Developments | 26010111-45061-10005 | $1,555.00 |
| 0334-000 | Health Review, Public Sewer And Public Water | 26010113-45181-10005 | $203.00 |
| 1048-000 | Administrative Design Review Minor (<1,000 sf) | 26010121-45061-10005 | $708.00 |
| 1131-000 | Use Permits Level II | 26010121-45063-10005 | $7,584.00 |
| 1053-000 | Environmental Review Level II/MND With Tech Report | 26010122-45068-10005 | $4,595.00 |
| 3802-000 | Public Works Review | 34010101-46029-11051 | $650.00 |
| | | **Total Fees:** | **$15,343.00** |
| | | **Total Paid:** | **$0.00** |
| | | **Balance Due:** | **$15,343.00** |

Refunds of fees paid may be made pursuant to Section 108.6 of Appendix 1 of the California Building Code and adopted model codes, subject to the following:
1) 100% of a fee erroneously paid or collected.
2) 90% of the plan review fee when an application for a permit is withdrawn or cancelled or expires or becomes void before any plan review effort has been expended. No portion of the plan review fee shall be refunded when any plan review effort has been expended.
3) 90% of the building, plumbing, electrical, and/or mechanical fee may be refunded when a permit is withdrawn, or cancelled or expires or becomes void before any work was done and before any inspections are performed. No portion of these fees shall be refunded when any work was done and/or any inspections have been performed.
4) Application for refund must be made within one year.

When validated below, this is your receipt



paid




PARKING COUNT:

| | |
|---|---|
| 1 | VAN ADA STALL |
| 1 | ADA STALL |
| 23 | BIKE STALLS |
| 30 | STANDARD STALLS |




LOCATION MAP
NOT TO SCALE

SB ARCHITECTS
One Beach Street, Suite 301
San Francisco, CA 94133
T 415/672-8990
F 415/274-2003
A California Corporation

LandDesign.
CREATING PLACES THAT MATTER.
Consultant
LANDDESIGN
461 Bush Street
San Francisco, CA 94108
(415) 915-1994
www.LandDesign.com
CKovalenski@landdesign.com

adobe associates, inc.
civil engineering | land surveying | wastewater
1220 N. Dutton Ave., Santa Rosa, CA 95401
P (707) 541-2300 F (707) 541-2301
Website: www.adobeinc.com
"At Service You Can Count On"

# Forestville Downtown Park

6708 HIGHWAY 116, FORESTVILLE, CA 95436

Owner
FORESTVILLE PLANNING ASSOCIATION
P.O. Box 184
Forestville, CA 95436
707-887-1985

REGISTERED PROFESSIONAL ENGINEER
TIMOTHY LEE SCHOLL
No. C67690
Exp 9/30/2017
CIVIL
STATE OF CALIFORNIA

Issued

| | |
|---|---|
| Use Permit Application | 10/3/2016 |

NOT ISSUED FOR CONSTRUCTION

Sheet Title
**Overall Site Plan**

Phase
**Use Permit**

Sheet No.
**C1.0**

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 75**
(This Section for use by Clerk of the Board Only.)

| | |
|---|---|
| **To:** | Sonoma County Board of Supervisors |
| **Board Agenda Date:** | December 13, 2016 |
| **Vote Requirement:** | Majority |
| **Department or Agency Name(s):** | Permit Sonoma |
| **Staff Name and Phone Number:** | Melinda Grosch 707-565-2397 |
| **Supervisorial District(s):** | Second |
| **Title:** | Agricultural Preserve expansion and a new Land Conservation (Williamson) Act Contract; Terry Zimmerman; AGP15-0026. |

**Recommended Actions:**

Adopt a Resolution to expand Agricultural Preserve 2-423 and authorize the Chair of the Board of Supervisors to execute a Non-Prime Land Conservation Act Contract for 96.56 acres located at 6340 Bodega Avenue, Petaluma; APN 022-080-018.

**Executive Summary:**

The Board is asked to review the combined request for an expansion of an existing Agricultural Preserve and a new Land Conservation Act Contract for 96.56 acres of grazing land. Requests for the expansion of Agricultural Preserves require a Public Hearing with the Board of Supervisors. Staff has reviewed the requests and found that all criteria have been met and that both requests can be approved.

**Discussion:**

Project Description, Location, and Zoning:
Terry Zimmerman seeks approval of an expansion of Agricultural Preserve 2-423 and a new Non-Prime Land Conservation Act Contract for grazing land. The project site is 96.65 acres developed with a single family dwelling, garage, and hay barn. Water is provided to the cattle by a well. The approximately 95 acres devoted to grazing of cattle (cows and calves) meets the criteria for inclusion in the Land Conservation Act program. The project is located at 6340 Bodega Avenue, Petaluma. The base zoning is LEA (Land Extensive Agriculture) B6 100 acre density with the Z (second Dwelling Unit Exclusion) and SR (Scenic Resources) combining districts.

Background:
As part of the Board of Supervisors' December 2011 update of the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones ("Uniform Rules") the Board eliminated the distinction between Prime (Type I) and Non-Prime (Type II) Agricultural Preserves. This allows the County to enter into either a Prime or Non-Prime contract in any established Preserve. The subject land at issue here is adjacent to established Preserve Number 2-353.

As part of the update of the Uniform Rules, the County has implemented use of a Land Conservation Plan which is incorporated into a Land Conservation Act Contract. The Land Conservation Plans show locations of various agricultural, open space, permitted, and compatible land uses on contracted land. Future changes to the Land Conservation Plan may be approved by the Director of PRMD and recorded on title of the subject parcel.

Enlargement of the Agricultural Preserve:
Terry Zimmerman's parcel qualifies for inclusion in an Agricultural Preserve for the reasons specified in Findings 1 - 5 of the attached Resolution which discusses the suitability of the parcel for inclusion in the Agricultural Preserve. The findings are made under Government Code Section 51231 and under the County's Uniform Rules (Uniform Rule 3.5.A.). Additionally, the board finds the project Categorically Exempt from the California Environmental Quality Act (CEQA) per Section 15317 of the CEQA Guidelines.

New Land Conservation (Williamson) Act Contract:
The Terry Zimmerman parcel qualifies for a Land Conservation Act Contract for non-prime agricultural land for the reasons specified in findings a. through f. of the attached Resolution which discusses the suitability of the parcel for inclusion in an individual Land Conservation Contract, including among others that it exceeds the minimum parcel size of 40 acres, almost one hundred percent of the parcel is used for grazing, the cattle operation averages more than the minimum $2,000 per year gross income, and the structures on the site are all compatible uses.

Staff Recommendation:
Staff recommends the Board of Supervisors approve the request because all of the state and local requirements for a Non-Prime Land Conservation Act Contract for the 96.56 acres within the expanded Agricultural Preserve have been met.

**Prior Board Actions:**

On December 13, 2011, the Board approved the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones (Resolution No. 11-0678).

| **Strategic Plan Alignment** | Goal 2: Economic and Environmental Stewardship |
|---|---|

Agricultural Preserves and Land Conservation Act Contracts support agriculture and agribusiness by assisting in the preservation of agricultural land through the incentive of reduced property taxes in exchange for retaining the land in agricultural production.

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

Approval of the Land Conservation Act Contract means that the owner will pay a reduced property tax assessment based upon the value of the agricultural uses rather than the land value under Proposition 13. This results in a reduction in the County's share of property tax revenue for each parcel under a Land Conservation Act Contract. The amount of this reduction for an individual contract depends on parcel-specific variables including the Proposition 13 status of the land and the value of the agricultural crop, and is determined annually by the Assessor's office. The Assessor has estimated that the 2016 Proposition 13 Value of this parcel would be $1,358,126.00 and that the Estimated California Land Conservation Act Value will be $90,000.00 for an estimated savings of $430,000.

The Board has directed that, as a policy matter, approving new contracts is important to the County's agricultural economy and outweighs the cost in reduced property tax revenue.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Draft Board of Supervisors Resolution

| Attachment A: Map |
| --- |
| **Related Items "On File" with the Clerk of the Board:** |
| Land Conservation Act Contract with attached Exhibit A (legal description) and Exhibit B (Land Conservation Plan with attached Site Plan). |

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

AGP15-0026 Melinda Grosch

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Approving The Request By Terry Zimmerman, To 1) Approve An Expansion Of Agricultural Preserve 2-423; 2) Approve A New Land Conservation (Williamson) Act Contract And Attached Land Conservation Plan; And 3) Authorize The Chair To Execute The New Land Conservation Act Contract And Land Conservation Plan, For Non-Prime Agricultural Land Located At 6340 Bodega Avenue, Petaluma; APN 022-080-018.**

**Whereas,** a request has been made by property owner Terry Zimmerman, to expand Agricultural Preserve 2-423 and to authorize the Chair to approve a new Land Conservation Act Contract and attached Land Conservation Plan, for non-prime agricultural land located within that Agricultural Preserve, at 6340 Bodega Avenue, Petaluma; APN 022-008-018, Supervisorial District No. 2; and

**Whereas,** on December 13, 2011, the Board of Supervisors adopted the updated *Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones (Uniform Rules)* (Resolution No. 11-0678); and

**Whereas,** consistent with the *Uniform Rules*, County Counsel has revised the Land Conservation Act Contract form, which now incorporates a Land Conservation Plan identifying the various uses of the contracted land. Future changes to identified land uses require amendment of the Land Conservation Plan. The Board, pursuant to Resolution No. 11-0678, has authorized the Director of PRMD to approve amendments to executed Land Conservation Plans; and

**Whereas,** the Board of Supervisors finds that the 96.56 +/- acre parcel is suitable to be added to the Preserve, and

**Whereas,** consistent with the *Uniform Rules*, the Board of Supervisors may concurrently consider and approve both the enlargement of Agricultural Preserve 2-423 and the new Land Conservation Contract, and

**Whereas,** the Board of Supervisors finds that the inclusion of the 96.65 +/- acres, identified as APN 022-080-018, into Agricultural Preserve 2-423 is consistent with the

Sonoma County General Plan and the applicable provisions of state law, and

**Whereas,** the Board of Supervisors finds that the 96.65 +/- acre parcel, once included in Agricultural Preserve 2-423, will meet the requirements for a new Non-Prime (Type II) Land Conservation Act Contract.

**Now, Therefore, Be It Resolved** that the Board of Supervisors makes the following specific findings concerning the requirements for enlargement of Agricultural Preserve 2-423:

1. Pursuant to Government Code Section 51231 and under the County's Uniform Rules (Uniform Rule 3.5.A.) the Board of Supervisors may modify an existing Agriculture Preserve by a Resolution after a public hearing. Pursuant to Government Code Section 51237, the Resolution and enlarged Agricultural Preserve Map (Attachment A of the Resolution) depicting the 96.56 acres added to the preserve area will be recorded.

2. Pursuant to Government Code Section 51234, enlargement of an Agricultural Preserve must be consistent with the General Plan. Also, the use of any land within an Agricultural Preserve must be restricted by zoning that is compatible with the agricultural or open space uses of the land within the preserve subject to Land Conservation contracts. Enlarging the existing Agricultural Preserve 2-423 is consistent with the General Plan because the land is devoted to an agricultural use consisting of grazing, is designated as Land Extensive Agriculture under the General Plan, and the zoning is LEA (Land Extensive Agriculture) which restricts land to agriculture and compatible uses. The enlargement of the existing Agricultural Preserve Area does not result in any loss of land under the Land Conservation Act program since 96.56 acres is being added.

3. Generally an Agricultural Preserve must contain at least 100 contiguous acres of land unless the Board of Supervisors finds that a smaller preserve is necessary due to the unique characteristics of the agricultural enterprises in the area and that such preserve is consistent with the General Plan and Zoning Code (Rule 3.3 A of the Uniform Rules for Agricultural Preserves). The existing preserve, 2-423, is 833.92 acres in size. The addition of 96.56 acres further increases the size of the preserve.

4. The enlargement of Agricultural Preserve 2-423 can be considered concurrently with the application for a new contract and approved by one action.

5. Pursuant to Section 15317 of the CEQA Guidelines, the project is Categorically Exempt from CEQA.

**Be It Further Resolved** that the Board of Supervisors makes the following specific findings concerning the requirements for a new Non-Prime (Type II) Land Conservation Act Contract ("Contract"):

a. Land is within an Agricultural Preserve: The 96.56 acre parcel will be located within Agricultural Preserve 2-423. The Board of Supervisors may approve an application for the establishment or alteration of an Agricultural Preserve concurrently with its approval of an application for a contract or contracts within the Preserve.

b. Agricultural Use of the Land: In Sonoma County this means that at least 50% of the land is used for agriculture purposes unless there is an applicable exception. The 96.56 acre parcel is developed with a single family dwelling, garage, and hay barn and 95 acres are used for grazing; therefore, exceeding the 50% requirement.

c. Single Legal Parcel Requirement: The land proposed for the contract is comprised of a single legal parcel with the following Assessor's Parcel Number: 022-080-018.

d. Minimum Parcel Size: The land must be at least 40 acres in size for a Non-Prime Land Conservation Act contract. The 96.56 acre parcel exceeds the 40-acre minimum parcel size for a new non-Prime Land Conservation Act Contract.

e. Minimum Income Requirement: For grazing land, the minimum income requirement is $2,000.00 gross total annual income and $2.50 gross income per acre of production. The cattle opperation averages $30,000.00 per year resulting in $312.00 per acre per year.

f. Non-Agricultural Compatible Uses: Non-agricultural uses of the land must be listed in the Uniform Rules as compatible uses. The parcel is developed only with a residence, garage, and hay barn, and all are compatible uses.

**Be It Further Resolved** that the Board of Supervisors finds the requested action categorically exempt from the California Environmental Quality Act pursuant to Section 15317, of the State CEQA Guidelines, which provides that executing a new Land Conservation Act Contract is exempt from the California Environmental Quality Act.

**Be It Further Resolved** that the Board of Supervisors hereby grants the request

by Terry Zimmerman by approving a new Non-Prime Land Conservation Act Contract and attached Land Conservation Plan, to restrict the 96.56 +/- acre parcel located at 6340 Bodega Avenue, Petaluma; APN 022-080-018.

**Be It Further Resolved** that the Board of Supervisors authorizes the Chair of the Board of Supervisors to execute the Land Conservation Act Contract and attached Land Conservation Plan.

**Be It Further Resolved** that the Clerk of the Board of Supervisors is hereby instructed to record within 20 days and no later than December 31, 2016 (1) this Resolution and Attachment A (the Agricultural Preserve Map) and (2) the associated Land Conservation Act Contract and attached Land Conservation Plan with the Office of the Sonoma County Recorder.

**Be It Further Resolved** that the Board of Supervisors designates the Clerk of the Board as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based, including the original executed Contract and Land Conservation Plan. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

**Supervisors:**

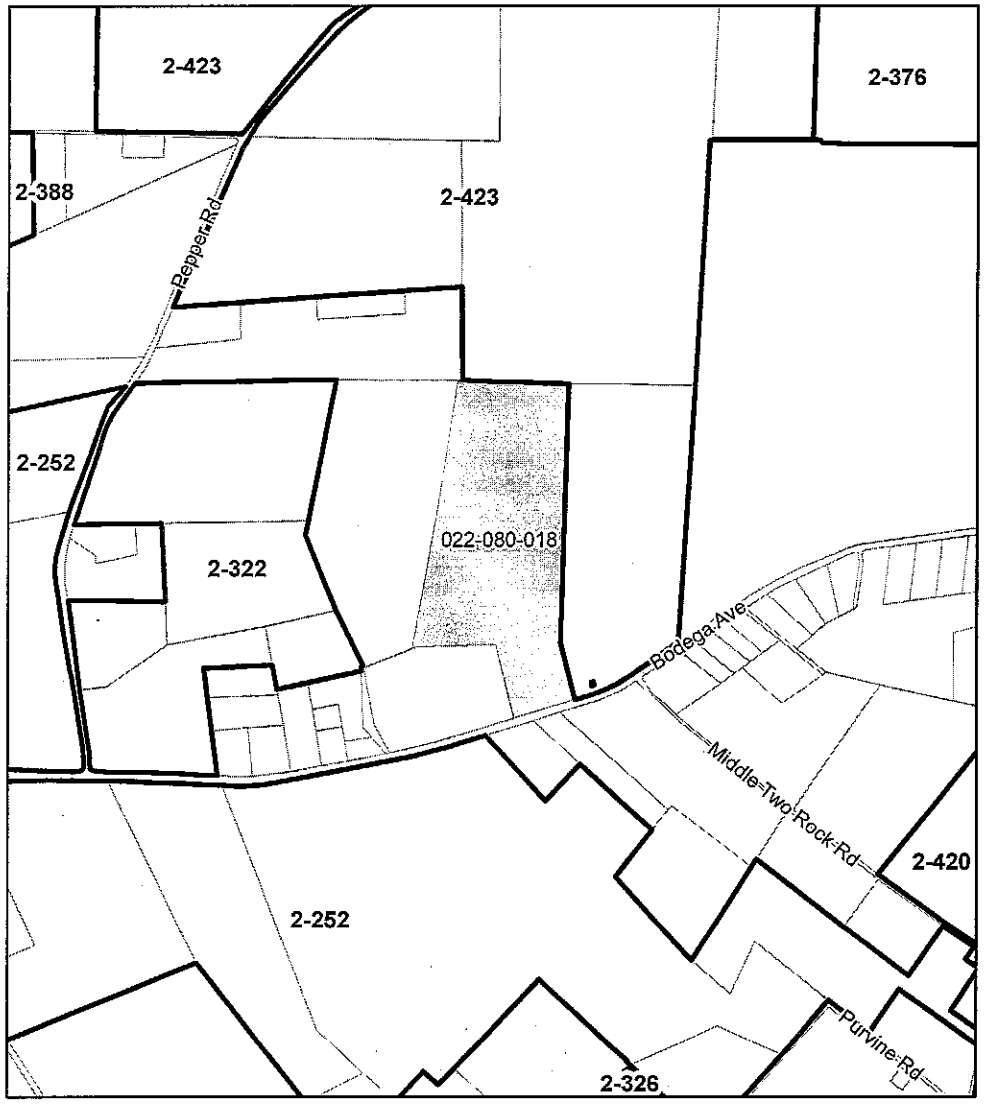
Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

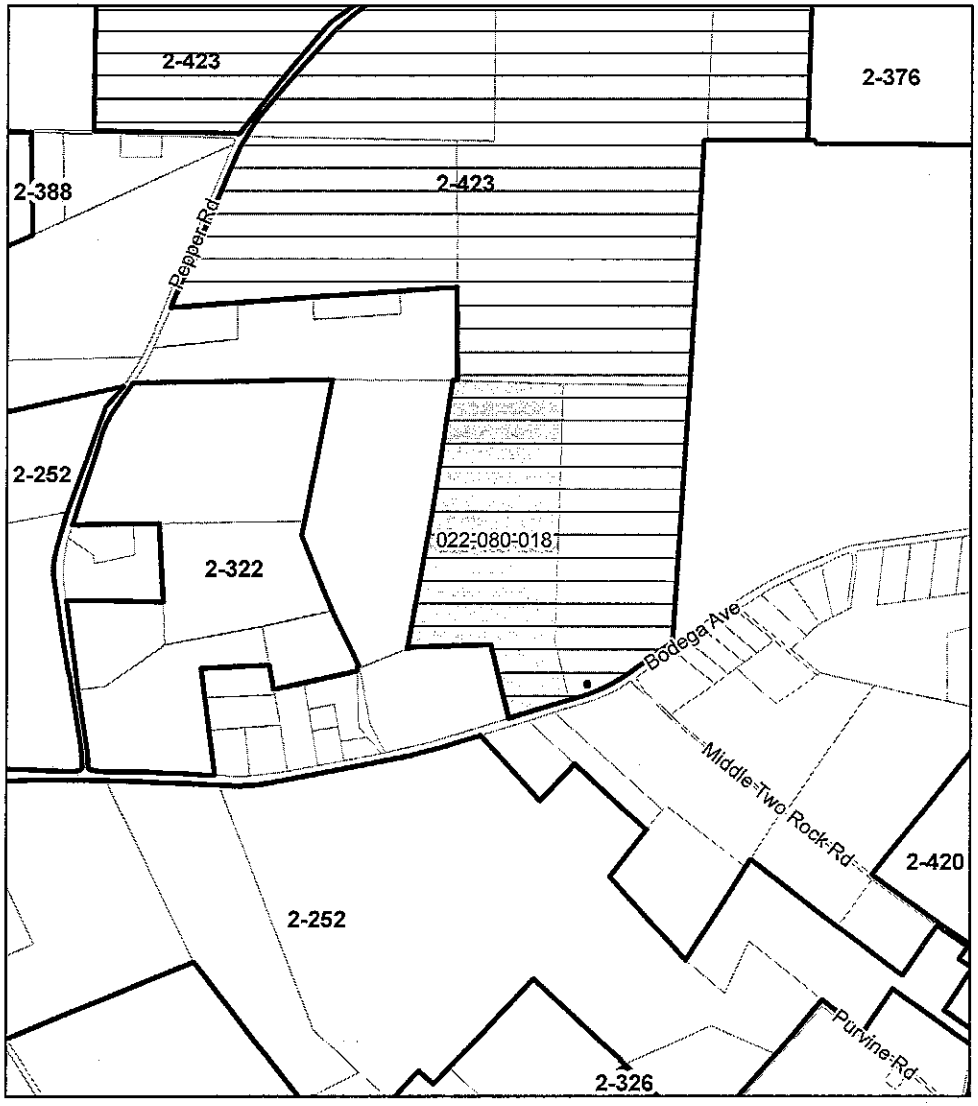
**So Ordered.**

Attachment A

# **Existing** Agricultural Preserve Area




# **Proposed** Agricultural Preserve Area




**Base Data**

- Parcels
- State Highway

**Ag Preserve Amendment Data**

- Subject Area and/or Parcel
- Existing Agricultural Preserve Boundary
- Proposed Agricultural Preserve Boundary [Expand 2-423]

FILE: AGP15-0026
APN: 022-080-018
Resolution No.: TBD
Adopted Date: TBD

0 1,000 2,000 Feet

1 inch equals 2,000 feet

Map Scale and Reproduction methods limit precision in physical features displayed. This map is for illustrative purpose only, and is not suitable for parcel-specific decision making. The parcels contained here-in are not intended to represent surveyed data.

Site-specific studies are required to draw parcel-specific conclusions.

Assessor's parcel data are current as of April 2016. For more current parcel data consult the County of Sonoma Assessor's Office.

No part of this map may be copied, reproduced, or transmitted in any form or by any means without written permission from the Permit and Resource Management Department (PRMD), County of Sonoma, California.

permit SONOMA

*County of Sonoma*
Permit and Resource Management Department
2550 Ventura Avenue, Santa Rosa, CA 95403

Author: PRMD GIS File No.: S:\GIS-DATA\PRMD_BASE\PRMD Department Projects\Comprehensive Planning\Williamson Act\Ag Preserve PROPOSED Boundary Amendment\AGP15_0026\Agricultural Preserve Boundary Proposed Amendment AGP15_0026.mxd BOS Hearing Date: 12/13/2016

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 76**
(This Section for use by Clerk of the Board Only.)

| | |
|---|---|
| **To:** | Board of Supervisors |
| **Board Agenda Date:** | December 13, 2016 |
| **Vote Requirement:** | Majority |
| **Department or Agency Name(s):** | Permit Sonoma |
| **Staff Name and Phone Number:** | Sandi Potter 565-8351 |
| **Supervisorial District(s):** | Fifth |
| **Title:** | Appeal of the Planning Commission approval of a Minor Subdivision; PRMD File No. MNS06-0032 |

**Recommended Actions:**

Approve a Resolution denying an appeal from a decision of the Planning Commission, making findings pursuant to CEQA and the Subdivision Map Act, adopting a Mitigated Negative Declaration and Mitigation Monitoring Program, and approving a tentative map for property located at 12924 Bones Lane, Occidental; APN 074-030-043.

**Executive Summary:**

This item is to approve a resolution adopting the revised Mitigated Negative Declaration denying the appeal, and upholding the Planning Commission approval of a Minor Subdivision of 189 acres located at 12924 Bones Lane, Occidental, into four parcels, 40, 60, 42, and 47 acres in size. The project site's General Plan designation is Resources and Rural Development (RRD). The site's zoning is RRD (Resources and Rural Development), B6-40 acre density. The primary issues include 1) potential impacts of groundwater use on groundwater supply; 2) potential impacts of groundwater pumping on flow in Green Valley Creek and on listed salmonid habitat; 3) adequate site characteristics for septic systems; 4) additional traffic on Bones Lane and Dupont Road; 5) impacts associated with on-site vineyards; and 6) loss of trees for construction.

**Discussion:**

**Background:**

On May 28, 2009, Sonoma County Permit and Resource Management Department (Permit Sonoma) published an Initial Study and Mitigated Negative Declaration (IS/MND) for the project and circulated it for public review and comment. The Project Review and Advisory Committee (PRAC) adopted the MND and approved the project on June 18, 2009. On June 28, 2009, neighboring residents appealed the PRAC approval, requesting additional studies of the project's impact on groundwater resources and biological habitats.

On November 4, 2010, on a 4-0-1 vote, the Planning Commission denied the appeal and approved the project. On November 11, 2010, Ann Maurice on behalf of the Ad hoc Committee for Clean Water appealed the Planning Commission approval to the Board of Supervisors. In response to issues raised before the Planning Commission and in the appeal, the applicant modified the proposed project, and its consultants submitted updated and clarifying information.

Permit Sonoma retained an independent hydrogeologist to peer review the groundwater assessment prepared for the project. Staff conducted additional analysis and revised the IS/MND to clarify the project description, its potential environmental effects, and mitigation measures. The revised IS/MND ("Revised MND") was circulated for a 30-day comment period beginning November 9, 2016, and reflects the following changes over the original MND:

- Reduced building envelope footprints for the four proposed parcels.
- Clarification of groundwater demand and aquifer testing conducted for the project and for impacts to nearby wells and surface waters.
- Expanded discussions of biological resources and mitigation measures to avoid significant effects.
- Expanded analysis of traffic and noise.
- Analysis of potential visual impacts.

Please refer to Attachment P for the revised MND and attachments.

**Project Description**

The 189-acre project site is located in an upland area between Sebastopol and Occidental. The site currently consists of rolling hillsides with valleys, flats, and benches with an average ground slope of approximately 13 percent. Vegetation includes numerous potentially sensitive species associated with serpentine habitat near the south end of the property, vineyards in the central part of the site, and heavily wooded hillsides in the northeasterly area. The site is currently used for agricultural production (25 acres of vineyards) and the remainder of the site is generally vacant land. Existing improvements include single family residence, guest house, barn, two water wells, a septic system, vineyards, and two agricultural reservoirs. The existing water wells would serve proposed Lot 1 and proposed Lot 2 and are currently used for domestic water supply for the existing residence on Lot 2.

Access to the proposed lots is via an easement to use Bones Lane, a private road, from Dupont Road. Bones Lane currently serves eight parcels, including the project site. It is primarily dirt, and is narrow in some locations as it passes between large trees; it is 20 feet wide from Dupont Road to the southern project boundary, and is 40 feet wide from proposed Lot 1 to proposed Lot 2.

The project site is located in the Upper Green Valley Creek watershed. Green Valley Creek is a major tributary in the lower Russian River watershed, and is designated as critical rearing habitat for State- and Federally-listed Central California Coast coho salmon and Central California Coast steelhead. Green Valley Creek is currently subject to the State Water Resources Control Board's 2016 Russian River Tributaries Emergency Regulation, which is aimed at protection of these fisheries in specified tributaries to the Russian River. The Emergency Regulation expires on December 28, 2016. It requires submission

of water source and use information, or clarification of previously submitted information, but does not impose water use restrictions or additional fees. Green Valley Creek is about 775 feet from the northeast corner of the project site, and 1,200 feet away from the nearest proposed building envelope. A small tributary to Green Valley Creek is about 620 feet from the western property line. There are no blue line creeks on the parcel (see Attachment C).

The proposed project would subdivide a 189.4-acre parcel to create a total of four new lots, as outlined below. Table 1 below summarizes the lot size, proposed building envelopes, existing built features, and natural features of each proposed lot. The construction area will be limited to 2 acres within a single proposed building envelope per newly created lot (see Attachment D for the tentative parcel map).

Proposed Lot 1 (approximately 40 acres) is located in the southerly portion of the site. This parcel contains most of the serpentine formation on the site. Serpentine minerals are high in metals and support rare and endangered plants. Three optional building envelopes between 2.16 and 2.32 acres in size were identified on this site outside of the area underlain by serpentine.

Proposed Lot 2 (approximately 60 acres) is currently developed with the existing house, second dwelling unit, and several outbuildings, as well as a large pond used for vineyard irrigation. Proposed Lot 2 also contains most of the existing vineyards on the project site. Two alternate building envelopes are proposed to give owners options of areas to construct. One envelope includes the existing residence. The site's zoning density would allow only one residence, so the existing residence would have to be converted to another use or demolished before an additional unit could be constructed. (See Table 1 for additional details).

Proposed Lot 3 (approximately 42 acres) is located on the northerly portion of the site. There is an existing agricultural irrigation pond and vineyard on this lot. Three alternate building envelopes were identified within this proposed lot.

Proposed Lot 4 (approximately 47 acres) is partially constrained by geologic and special-status plants issues. Only one building envelope is proposed and would be 14.05 acres in size.

**Table 1.** Summary of key features found on the proposed subdivided lots.

| Lot Number | Lot Size | Proposed Building Envelope Total | Building Envelopes (Acres) Per Lot | | Built Features | Natural Features |
|---|---|---|---|---|---|---|
| LOT 1 | 40 Acres | 6.64 Acres | A | 2.32 | Water well installed for domestic water use. | Southerly portion of the site and contains most of the serpentine rare plants and redwood trees. |
| | | | B | 2.16 | | |
| | | | C | 2.16 | | |
| LOT 2 | 60 Acres | 10.95 Acres | A | 6.20 | Existing house, second dwelling unit, and outbuildings. Approximately 23.5 acres of existing vineyards and a man-made pond for vineyard irrigation. Water well for domestic water use. | Endangered plant species habitat and mixed redwood and conifer forest in the eastern portion of the lot. |
| | | | B | 4.71 | | |
| LOT 3 | 42 Acres | 7.78 Acres | A | 5.60 | Most northern property and has approximately 1.5 acres of vineyards with a man-made irrigation pond. | Redwoods and ephemeral drainages. |
| | | | B | 1.33 | | |
| | | | C | 0.85 | | |
| LOT 4 | 47 Acres | 14.05 Acres | 14.05 Acres | | No existing built structures. | Redwoods and mixed conifer forest dominate the landscape along with ephemeral drainages. |

**Surrounding Land Use and Zoning**

The parcels immediately to the north of the project site are zoned Rural Residential (RR), B6-15 acre density base zoning district. The parcels to the west and east are zoned Resource and Rural Development (RRD), B6-40 acre density base zoning district on parcels that range from 4.5 to 80 acres. The southeast parcel is zoned Agriculture and Residential (AR), B6-10 acre density base zoning on

parcels ranging from 2 to 10 acres in size. The parcels to the southwest are zoned Agriculture and Residential, B6-5 acre density base zoning on parcels ranging from 1.5 to 17 acres in size.

**Discussion of Project Issues**

Issues discussed during Planning Commission Public Hearing and raised in the appeal and comment letters include: 1) potential impacts of groundwater use on groundwater supply; 2) potential impacts of groundwater pumping on flow in Green Valley Creek and on listed salmonid habitat; 3) adequate site characteristics for septic systems; 4) additional traffic on Bones Lane and Dupont Road; 5) impacts associated with on-site vineyards; and 6) loss of trees for construction.

**Issue #1 Water Availability**:
The project site is located primarily in Groundwater Availability Zone 4 (highly variable groundwater yield), which includes all of proposed Lots 2, 3, and 4, and a portion of proposed Lot 1. A smaller portion of the site, which is contained in a portion of proposed Lot 1, is in Zone 3 (marginal groundwater yield). A Hydrogeologic (Groundwater) Assessment was completed in 2010 and updated in 2016 for the proposed subdivision by Richard Slade & Associates in accordance with General Plan Policy WR-2e (Attachment H and K). The Assessment determined that it is feasible to develop groundwater in adequate quantities and quality from the project site, in those areas underlain by the Wilson Grove Formation. The Assessment also determined that the pumping of existing or future onsite wells in the Wilson Grove Formation would not induce water level drawdown in offsite wells in the future based on the projected relatively low rates at which future wells would be pumped to meet estimated demand at full-build out (approximately 2.2 gallons per minute, 12 hours per day, every day), and based on the relative geologic isolation of the Wilson Grove Formation beneath proposed Lots 2, 3, and 4 from offsite wells. Permit Sonoma retained an independent third-party consultant hydrogeologist to peer review and thoroughly investigate the water demands of the project and information contained in the Slade Hydrogeologic Assessment.

The County's independent peer reviewer, Todd Groundwater (Attachment J), reviewed Slade's analysis and responses. Todd Groundwater agreed with the findings and recommended that Slade prepare a monthly water demand and water balance analysis in order to assess any impacts to groundwater levels and to Green Valley Creek. In response, Slade provided an expanded evaluation of the estimated monthly distribution of water demand at the site after full build out, an analysis of groundwater elevation records, 2013 well pumping test results, a groundwater cycle model, and a simple water balance of the site (Attachment K).

***Appellant Comments***
In the June 2009 appeal, the Appellant and Appellant's consultant, Robert Curry Ph.D., P.G. (Dr. Curry) commented on the water scarcity of the Green Valley Watershed Area and requested additional field data to demonstrate that a sustainable amount of groundwater is available for present and future wells at the project site, and to support adequate flows in Green Valley Creek to support the endangered salmonid habitat. Dr. Curry was skeptical of Slade's groundwater recharge estimate for maximum build out of the proposed lots (single family residence, guest house, and outbuildings) water demand for all 4 Lots was estimated to be 7.2 acre-feet per year (AFY). In Dr. Curry's opinion the groundwater recharge estimate was too conservative and did not consider sewage recharge or rainfall. Dr. Curry also requested Slade consider the 2010-2011

drought conditions and the potential impacts to all users in the Cumulative Impact Area (CIA).

***Response***

Slade responded by a letter dated June 15, 2009. Slade and Curry agreed that the 7.2 AFY was conservative and did not factor in any septic recharge that will occur. The Water Well Feasibility report was revised and resubmitted in September 2010 to respond to the appellant's and Dr. Curry's request for additional evaluation. Dr. Curry submitted additional comments on the Slade study on February 3, 2011 in which he states the proposed project's water demands do not exceed the capacity of local wells to supply required water. However, Curry requested that Slade evaluate the potential impacts of groundwater extraction and recharge from the Wilson Grove Formation aquifer on the adjacent watercourse, Green Valley Creek, including performing a well pump test of the existing wells on the property. Slade performed a well pump test of two existing wells on the property in June and September 2011, and submitted its report to Permit Sonoma on November 8, 2013. Slade responded to Dr. Curry's additional comments via letter dated October 7, 2014, providing extended analysis and the results of the submitted pump 2011 test (Attachment I).

***Resolution***

Slade provided the additional analysis requested by Curry. Slade evaluated a conservative monthly water demand, prepared for the project by Brelje & Race Consulting Engineers (BRCE). To demonstrate seasonal water demand and effects on summer baseflows, assuming that each lot would be built out with primary residence, a secondary unit, a guest house, and attendant landscaping, BRCE estimated the net domestic demand (i.e. "indoor demand") of the four proposed lots to be 141,474 gallons per year (gpy). Irrigation demands for each lot were estimated to be 180,148 gpy. The total average annual demand for each new lot at full build out would be 321,623 gpy (just less than 1 AFY). BRCE estimated an average, combined annual demand for all four of the proposed parcels to be of 3.95 AFY, Slade used this estimate for the water balance instead of his 7.2 AFY estimate provided in the September 2010 report. The assumption was made to decrease the average water demand due to the drought and new requirements from the County that reduce average domestic water use. Water efficiency improvements and voluntary water conservation adopted during the project once subdivided will be subject to the Water Efficient Landscape Ordinance. This Ordinance went into effect on January 15, 2010 and requires a landscape plan check, water budget, rainwater capture, irrigation design and irrigation scheduling. Any future structures built on the property will be subject to the current codes for water conservation.

Slade tested Well No. 2 in September 2011, by pumping the existing well at a constant rate of 9.3 gallons per minute (gpm) for the entire 72 hours of the test (the test complied with Sonoma County's well testing requirements (Attachment I). The test pumped 0.12 AF in 72 hours from the aquifer. Following that test, water levels in the well recovered to a level equal to 98% of the drawdown observed during the pumping period (Attachment I). The report concluded that groundwater in storage is adequate for the proposed project water use (3.95 AFY) and for peak summer water needs of 0.12 AF (May through August). Slade has estimated that the thickness of the Wilson Grove Formation beneath the subject property ranges about 115 feet at its thickest point, to about 50 at the edges of the formation (Attachment I). A static water level of 25 feet below ground surface was measured in 2006. When Well No. 2 was tested again in 2011, the

static water level was measured at 25 feet. Slade concluded, the thickness of the formation and the lack of static water fluctuation indicated the Wilson Grove Formation aquifer is isolated and can accommodate proposed pumping rates without lowering water levels (Attachment I). Slade also has addressed that alluvium of Green Valley Creek is not in direct contact with the isolated Wilson Grove Formation at any location. The project well draws from the Wilson Grove Formation and is over 550 feet from Green Valley Creek and because of this isolation and distance the proposed groundwater use would not have a measurable impact on the Creek flow.

Staff and Todd Groundwater, reviewed the 2016 Slade memorandum and concluded, that there would not be a significant impact on Green Valley Creek from existing and future wells. Because new wells will be placed an equal or greater distance from the stream, drawing from the Wilson Grove Formation at the subject property and will be capable of pumping at the maximum pumping rate required to provide the proposed subdivision. Staff added the supporting information to the revised MND and conditioned the project to avoid any impacts to adjacent wells and Green Valley Creek. Staff has included conditions of approval on the map and plans that would for any new well permits for subdivided Lots 1, 2, 3, and 4. First that the developer submit maps demonstrating a distance of approximately 1,500 feet from any known off-site well and Green Valley Creek. Secondly, submit a geologic map and cross section demonstrating the proposed well would draw from the Wilson Grove formation. Thirdly, the developer submit a well pump test conducted by a professional Geologist in accordance with general Plan Policy WR-2e,(and Sonoma County Code Sections 7-12, 205-17, 25-56 and 26-88-060H) for the subdivided parcel.

**Issue #2 Potential Groundwater Pumping-Induced Impacts on Green Valley Creek and Listed Salmonids**

The northeast corner property line is about 775 feet from Green Valley Creek, which is designated critical habitat for Central California Coast (CCC) coho salmon and CCC steelhead. Green Valley Creek and its tributaries support a remnant population of natural self-sustaining salmon and steelhead population, the watershed is now part of a hatchery salmonid program. Steelhead and coho salmon need cool water temperatures, high dissolved oxygen, and low quantities of fine sediment for successful juvenile rearing, smolt outmigration, adult migration and spawning. Sufficient stream flows in summer are needed to provide optimal rearing potential, which can be compromised when pools become isolated or dry up.

Salmonid production within the Green Valley Creek watershed appears to be limited due to the physical structure of instream habitat, below optimal water quality conditions, and insufficient stream flows (Attachment L).

***Appellant Comments***

Appellant hired consulting fisheries biologist Patrick Higgins to review and comment on the project (Ad Hoc Committee for Clean Water 2011 Appeal). Higgins asserted that Green Valley Creek is the last bastion of wild coho salmon within the Russian River basin, that it is going dry, and that the last of the gene resources that could be used to restore these fish are being lost. Higgins argued that existing cumulative effects in the Green Valley Creek watershed are widespread and the project will likely contribute to these effects in ways that cannot be

mitigated, and thus that an EIR should be prepared.

***Response***

The Applicants consultants analyzed the domestic groundwater demand resulting from the subdivision of the parcels and subsequent construction on water quality and availability in Green Valley Creek. During the summer months, water use and water demand would be high at the project site, surrounding properties, and by juvenile salmonids in Green Valley Creek. The Appellant and Applicant's Consultants agreed on a conservative estimate of 1.4 acre-feet (AF) for the proposed subdivision's summer water demand. The estimated discharge of Green Valley Creek during the summer for drought years is 301 AF and may go up to 1,806 AF during wet years. Using a conservative and direct approach, the 1.4 AF summer water usage could result in reduction of 0.007 cubic feet per second (cfs). This amount is considered within the measurement of statistical error and is not considered significant. It is unlikely that this project would have direct impacts to surface water in Green Valley Creek. There is no credible evidence that the Wilson Grove aquifer provides a direct hydrologic connection to Green Valley Creek or the stream channel alluvium (Attachments H, I, J, K, and L).

***Resolution***

At full buildout of the subdivision, groundwater pumping would not have a significant impact on summer base flow in Green Valley Creek. Stillwater Sciences has recommended conservation measures, which will be incorporated as conditions of approval, to further enhance and improve instream habitat conditions for fisheries resources in upper Green Valley Creek. The project conditions for approval are similar to efforts in the Green Valley Creek restoration effort has been ongoing by the Gold Ridge Resource Conservation District, state and federal entities, and landowners since 2014. Jackson Family Investments has agreed to participate in the Gold Ridge Resource Conservation District instream restoration program in Green Valley Creek.

In addition, future development would be required to obtain building permits, maintain the required setbacks, comply with Low Impact Development standards and implement land stewardship best management practices.

Permit Sonoma Staff finds the resolution and the conservation measures reasonable for the proposed project and has added the proposed conservation measures to the conditions of approval.

**Issue # 3: Proof of adequate site characteristics for safe disposal of septic**.

The parcel has an existing primary dwelling and accessory unit that have two separate septic and reserve system. Both systems were tested in November 2013 per the County's standards and found to be functioning properly and to the County's current standards.

***Appellant's Comments***

Appellant asserts that the records for the property and the previous perc tests were not complete and consistent with County standards, and that the applicant's Environmental Health Specialist did not submit 1"=20' scale topographic map indicating the location of the perc holes and profile holes where the sites were tested.

***Response***
The applicant provided adequate documentation of the testing results, including the percolation tests for septic suitability to substantiate the availability of water and septic disposal area to serve the project (Attachments M and N).

***Resolution***
A preliminary soils evaluation for the existing on-site sewage disposal purposes (percolation testing) was done in December 2007 and approved for installation the same year. The two existing septic systems were tested in November 2013. The tests concluded that the systems were functioning properly and that there is more than adequate room for the required reserve on the property. The applicant submitted revised septic plans prior to the finalization of the subdivision mapping (Attachments M and N).

**Issue #4: Additional Traffic on Bones Lane and Dupont Road**
Access to the proposed lots is via easement to use Bones Lane, a private road, from Dupont Road. Bones Lane currently serves eight parcels, including the project site. It is primarily dirt, and is narrow in some locations as it passes between large trees; it is 20 feet wide from Dupont Road to the southern project boundary, and is 40 feet wide from proposed Lot 1 to proposed Lot 2. The Traffic Analysis prepared for the project assumes, based on the number of driveways, that Bones Lane currently serves eight existing homes.

***Appellant's Comments***
The appellant argued that the mitigation of hazards posed by the narrow Bones Lane is inadequate. The current condition of the unpaved road limits a driver's speed to less than 15 miles per hour. Appellant is concerned that grading and asphalt will increase driving speeds on the road.

***Response***
Although traffic studies are not usually required for a minor subdivision, the applicant submitted a traffic study prepared by W-Trans for this project. Traffic impacts were evaluated and met the County thresholds. Using the screening criteria established by the County of Sonoma Guidelines for traffic studies, which states that Permit Sonoma and the Sonoma County Department of Transportation are both responsible for the review and condition of private development projects. Traffic related conditions must be based on an analysis of the potential traffic impacts that establish a reasonable nexus between the impacts of the project and the required improvements or conditions. Staff concluded that the proposed subdivision would not result in significant traffic impacts. Road grading or paving would require proper permits from the county which would implement erosion and best management practices to protect Green Valley Creek (see Attachment O).

***Resolution***
The traffic study determined that, at buildout of all four lots (which assumed three net new residences plus three net new guest houses), the project would be expected to add an average of four new trips during the morning peak hour and five during the evening peak hour, and add an

average of 56 trip ends (or 28 round trips) daily. If added to the assumed trips for the assumed eight homes currently using Bones Lane, the total daily volume on Bones Lane would remain below 150 vehicles per day, with ten trips during the a.m. peak hour and 13 during the p.m. peak hour. Development on the site would use an existing private road (Bones Lane) off of Dupont Road for access. To allow for the smooth and safe movement of passenger vehicles entering and exiting the public road (Dupont Road) that provides access to the property, the Sonoma County Department of Transportation and Public Works is requiring that entry to the public road conform to AASHTO standards. More specifically, the Developer must construct a road way with a throat width of 18 feet and entrance curves having a radius of at least 25 feet. The road must enter the public road as close to perpendicular as possible, but in no case must the road enter the public road at more than 20 degrees from perpendicular. The minimum sight distance for vehicles entering and exiting the driveway must be in accordance with AASHTO requirements for the speed traveled on the public road servicing the property. The Developer must surface the entry with asphalt concrete a minimum distance of 25 feet from the edge of pavement. The improvements must be in place prior to occupancy of any new dwelling. With these requirements in place, there would be a less than significant impact relative to potential roadway hazards.

Staff concludes that the proposed subdivision will add a minimal amount of traffic to a roadway that has very low traffic volume. Conditions of approval would be placed on the map to improve road conditions by alleviating existing hazards and maintaining a reduced speed, this would be a less than significant impact.

**Issue #5: Impacts associated with on-site vineyards**

The project site has approximately 25 acres of existing vineyards that are irrigated from the two existing man-made rainfall catchment ponds.

***Appellant Comments***

In comments on the previous IS/MND, Appellant commented that the IS/MND did not analyze the cumulative impacts of possible additional vineyards on Green Valley Creek and wildlife.

***Applicant Comments***

The proposed subdivision would allow development of three additional homes on four parcels. No vineyard development or reservoirs are proposed. Any future vineyard development would occur within the building envelopes which have been carefully located outside of any potentially sensitive resource areas on the property.

***Resolution***

Cumulative impacts related to vineyard development were not analyzed because vineyard development is not included in the project application and description or illustrated on the tentative parcel map. See Exhibit D tentative parcel map. Future vineyard construction would be regulated by the County's Grading, Drainage, and Vineyard and Orchard Site Development Ordinance (VESCO). VESCO prohibits vineyard development on slopes greater than 30 percent and requires implementation of best management practices to prevent erosion and protect water quality.

**Issue #6: Loss of trees due to construction**

The 189-acre project site has a variety of habitat types including second growth forest land. The project site is zoned Resource and Rural Development (RRD), which is a zoning district intended for natural resource protection including forest land protection or timberland production. RRD district is also intended to allow agricultural use and very low density residential development where compatible with resource use and available public services. It is possible after subdivision, the lots would be developed with single family residential units, vineyards and associated outbuildings consistent with the designated density. Multiple building envelopes for each lot have been drawn ranging from 6 to 14 acres to minimize impacts to forest resources (See Attachment D). Within these building envelopes the typical development footprint (for a residence, second dwelling, landscaping and driveway) would be 2 acres. To be consistent with the density requirements only one building envelope per lot would be developed. Therefore, if all four parcels would be built out, the combined anticipated timber loss would be 7.0 acres (2.0 acres of development for the proposed Lots 1, 3, and 4, plus 1.0 acre of new disturbance to demolish the existing residence, outbuildings, and build new roads, residence, and guest house on Lot 2).

***Appellant Comments***

The appellants were concerned with the amount of trees that would be removed in order to accommodate the size of the proposed building envelopes.

***Response***

The application is for a four lot parcel map, and no development is currently proposed on the property. The identified building envelopes were sized to provide the greatest amount of flexibility for locating future home sites, and were all located to avoid any potential sensitive resources. After the PRAC hearing, in response to concern over the size of the building envelopes, the envelopes were reduced in size and adjusted to respond to adjacent neighbors. Additionally, the envelopes were reviewed by qualified Environmental Specialists (Charles A. Patterson and Dennis Halligan) to confirm avoidance of any potential sensitive resources on each proposed lot. Tree removal would be subject to the County Tree Protection and Replacement Ordinance and timber conversion regulations. Any tree removal must be shown on future grading and building plans, and Permit Sonoma staff will confirm compliance with the applicable ordinance or conversion regulation prior to building permit issuance.

***Resolution***

The proposed project application is a four Lot subdivision. However, after the subdivision map has been approved, each parcel could be individually sold, and each divided Lot could be developed. Conversion of up to 2 acres of forest land on Lots 1, 3, and 4 and one acre for Lot 2 for construction of roads, buildings, and landscaping may result. Conditions of approval would be placed on the subdivision map limiting all ground disturbance to a maximum of 2 acres within only one of the identified building envelope Lots 1, 3, and 4 , and for Lot 2 limiting ground disturbance to one acre within one identified building envelope.

Timber harvest plan and timber conversion permit would be required in accordance with the California Forest Practice Rules prior to recording the parcel map and development on each

parcel. A timber conversion permit is an allowed use under the RRD zoning. This is not a substantial loss compared with the remaining trees, as reflected in Table 2. The project would not conflict with existing zoning, or cause rezoning of forest land.

**Table 2** Existing and Proposed Non-Forested Land Uses in Acres

| Non-Forest Land Cover | Acres | Forest Land Cover | Acres |
|---|---|---|---|
| Existing | | | |
| Built Structures | 2 | | |
| Vineyards and Ponds | 25 | Forest | 162 |
| At Buildout of Proposed Lots | | | |
| Built Structures | 7 | | |
| Totals After Buildout | | | |
| Total Non-Forest | 34 | Total Forest | 155 |
| Total Parcel | 189 | Total Parcel | 189 |
| Percent Non-Forest Land Cover | 18% | Percent Forest Cover | 82% |

Sonoma County General Plan 2020 has analyzed policies for forestland conversions in the County. Policy OSRC-12a, b, and e, relates to the conversion of timberland in the RRD and specific zoning regulations and conversion criteria for protection of timberland. These policies reduce the amount of timberland that would be permanently converted to non-timber uses in RRD zones. Permit Sonoma and the California Department of Forestry approved 1,220 acres of timberland for conversion from 1989 to 2004. This amount represents approximately one half of one percent of Sonoma County's 230,000 acres of timberland, which does not represent a significant portion of Sonoma County timberlands. Therefore, the potential conversion of 7 acres (for all four Lots) would be a less than significant impact and 155 acres would remain forested on the whole parcel. Section 4 Biological Resources Mitigation Measure BIO-3 would be noted on project plan sheets to protect and replace trees.

**Prior Board Actions:**

None

**Strategic Plan Alignment** Not Applicable

| Fiscal Summary | | | |
|---|---|---|---|
| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| **Total Sources** | | | |

**Narrative Explanation of Fiscal Impacts:**

The project will not result in direct fiscal impacts. The project would result in potential indirect fiscal impacts related to the potential demand for certain public services such as fire protection and public safety. Upon recordation of the Map and the sale of the individual lots, the tax base will be increased to address fiscal impacts related to potential increase in demand for services.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

Draft Board of Supervisors Resolution with Exhibit A Conditions of Approval
Attachment A: Appeal Form from the Ad Hoc Committee for Clean Water dated November 12, 2010 and supplemental appeal package dated February 14, 2011
Attachment B: Applicant's Response to Appeal dated January 23, 2011
Attachment C: Location Maps
Attachment D: Tentative Parcel Map
Attachment E: Planning Commission Staff Report dated November 4, 2010
Attachment F: Planning Commission Minutes dated November 4, 2010

| |
|---|
| Attachment G: Planning Commission Resolution No. 10-029<br>Attachment H: Hydrogeologic Assessment Water Well Feasibility and Siting Project, 12942 Bones Lane Vicinity Occidental, Sonoma County. Prepared by Richard C. Slade & Associates LLC dated September 2010<br>Attachment I: Letter Response to comments from Richard C. Slade & Associates to Mr. Robert Curry dated October 7, 2014<br>Attachment J: Peer Review Memorandum Prepared by Todd Groundwater dated July 13, 2016<br>Attachment K: Letter (memorandum) Response to Peer Review Prepared by Richard Slade & Associates dated August 5, 2016<br>Attachment L: Fisheries Technical Memorandum Prepared by Stillwater Sciences Dennis Halligan dated August 30, 2016<br>Attachment M: Septic System Letter Prepared By Frank Dono dated December 12, 2013<br>Attachment N: Septic System Tentative Parcel Mapping<br>Attachment O: Traffic Study Prepared by W-Trans dated June 18, 2013<br>Attachment P: Revised Mitigated Negative Declaration |
| **Related Items "On File" with the Clerk of the Board:** |
| None |

# County of Sonoma
State of California

Item Number:

Date: December 13, 2016 Resolution Number: 16-

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Denying An Appeal From A Decision Of The Planning Commission, Making Findings Pursuant To CEQA And The Subdivision Map Act, Adopting A Mitigated Negative Declaration and Mitigation Monitoring Program, And Approving A Tentative Parcel Map For Property Located At 12942 Bones Lane, Occidental; APN 074-030-043; Supervisorial District 5**

**Resolved,** that the Board of Supervisors ("Board") of the County of Sonoma finds and determines as follows:

**1. Application and Project**

1.1 Jackson Family Investments II LLC ("Applicant") filed Application MNS06-0032 with the Sonoma County Permit and Resource Management Department ("Permit Sonoma") for a minor subdivision of an approximately 189.4-acre parcel located at 12942 Bones Lane, Occidental; APN 074-030-043; General Plan Land Use category RRD 40 (Resources and Rural Development, 40 acre minimum parcel size); zoning RRD B6-40 acre density ("Project Site").

1.2 As heard and considered by the Board, Application MNS06-0032 requests approval of a tentative parcel map to subdivide the Project Site into four parcels, 40, 42, 47, and 60 acres in size (the "Project"). No residential development is proposed as part of the Project, but future residential development is anticipated, consistent with the Project Site's zoning.

1.3 The Project Site is currently developed with approximately 25 acres of vineyard, two surface sheet flow fed reservoirs used for vineyard irrigation, one single-family dwelling, one second unit, outbuildings, a septic system serving the residential use, and two wells, one of which serves the existing residential use. Proposed Lot 1 is approximately 40 acres, has an existing well, and three identified alternative building envelopes between 2.16 and 2.32 acres in size. The identified building envelopes on Lot 1 were located to avoid sensitive habitat and plant species. Proposed Lot 2 is 60 acres, with two identified alternative building envelopes 6.2 and 4.71 acres in size. Lot 2 contains the existing structures, the majority of the Project Site's existing vineyards (23.5 acres), and an existing reservoir. Proposed Lot 3 is 42 acres with three identified alternative envelopes, 0.85, 1.33, and 5.60 acres in size; this lot would contain an existing approximately 1.5 acres of vineyard and one existing irrigation reservoir. Proposed Lot

4, 47 acres, has one identified 14.5-acre building envelope.

**2. Procedural History**

2.1 On May 28, 2009, Permit Sonoma published a Mitigated Negative Declaration ("MND") for the Project and circulated it for public review and comment.

2.2 On June 18, 2009, the Project Review and Advisory Committee ("PRAC") adopted the MND and approved the Project. On June 28, 2009, neighbors appealed the PRAC approval to the Planning Commission.

2.3 On November 4, 2010, the Planning Commission denied the appeal, adopted the MND, and approved the tentative parcel map. On November 12, 2010, Ann Maurice on behalf of the Ad Hoc Committee for Clean Water ("Appellant") appealed the Planning Commission's approval to the Board. Appellant supplemented its appeal on February 14, 2011, submitting a letter and attachments from Appellant, a letter from Appellant's attorney Paul Carroll, a report from hydrogeologist Robert Curry, and a report from consulting fisheries biologist Patrick Higgins. The primary issues raised in the Appeal were groundwater availability and potential impacts of groundwater demand at buildout on offsite wells and Green Valley Creek; viability of septic systems; traffic safety on Bones Lane; and potential for inducement of vineyard development.

2.4 Following the filing of the Appeal to the Board, Applicant revised the proposed Project to reduce the size of building envelopes identified on the tentative parcel map. Applicant also submitted an updated hydrogeologic assessment prepared by Richard C. Slade and Associates ("Slade"), and a fisheries assessment prepared by Stillwater Sciences ("Stillwater").

2.5 Permit Sonoma retained an independent hydrogeologist, Todd Groundwater, to peer review the updated groundwater assessment submitted by Slade on behalf of the Applicant. The peer reviewer concluded that the assessment and reports submitted provide adequate discussion of groundwater conditions and reasonable estimates of groundwater demand associated with the proposed Project. The peer reviewer requested additional information, which Slade provided to the satisfaction of staff.

2.6 After reviewing the updated technical studies and revised project, Permit Sonoma determined that a revised mitigated negative declaration ("Revised MND") was required for the Project to comply with CEQA and the CEQA Guidelines. No new impacts were identified. Permit Sonoma notified requesting Native American tribes about the Project application on September 8, 2016. As the result of consultation with and approval by the Lytton Rancheria of California, Permit Sonoma added Mitigation Measure CUL-1 to the Revised MND, which requires that a Lytton Rancheria and/or archaeological monitor be present during all grading and ground disturbance work on the Project Site, and sets forth procedures to be followed in the event that tribal cultural resources are encountered on the Project Site.

2.7 The Revised MND was circulated for public comment for a 30-day period

beginning November 9, 2016. The comment period ended on December 8, 2016.

**3. General Plan, Zoning Code, and Subdivisions Code Compliance**

3.1 The Project is substantially consistent with the Sonoma County General Plan for the following reasons:

a. The Project is consistent with the Resources and Rural Development land use category, which applies to the Project Site. Each new parcel proposed under the Project would meet the 40-acre minimum parcel size for residential development. Consistent with the intent of the RRD district to allow very low density residential development, Future residential development of each parcel could include one primary dwelling, one second/accessory dwelling unit, one guest house, any allowable accessory structures, and agricultural employee housing if applicable, on lots between 40 and 60 acres in size. The identified building envelopes on each proposed new lot are designed to avoid geologic hazards, steep slopes, biotic areas, and other site constraints.

b. As revised and conditioned and with mitigation measures incorporated, the Project complies with the following policy of the General Plan Land Use Element:

> Policy LU-6b: Site specific environmental factors shall be considered in making decisions on development permits. Site specific factors which create health or safety problems or result in unmitigated significant environmental impacts may at times reduce densities that are allowed by the Land Use Map and zoning.

All future development on the four proposed new lots must occur within one of the building envelopes identified on the tentative parcel map. The building envelopes were drawn in response to site-specific environmental factors, and also to avoid off-site impacts to Green Valley Creek. The envelopes would protect biological resource areas on the Project Site, including the identified serpentine habitat and associated rare and sensitive plant species, other scattered sites of rare plants, small wetlands areas, and ephemeral channels, by locating future development away from those areas.

c. As conditioned and with required mitigation measures incorporated, the Project complies with the following goal and objective of the General Plan Land Use Element related to geology and hydrology:

> Goal LU-7: Prevent unnecessary exposure of people and property to environmental risks and hazards. Limit development on lands that are especially vulnerable or sensitive to environmental damage.
>
> Objective LU-7.1: Restrict development in areas that are constrained by the natural limitations of the land, including but not limited to, flood, fire, geologic hazards, groundwater availability and septic suitability.

The identified building envelopes for each proposed lot are sited away from known landslides, as identified and discussed in the geologic feasibility study and building envelope analysis prepared for the Project on behalf of the Applicant. The Project Site does not contain a known active fault. While the Project Site is located in a moderate to high fire hazard zone, Conditions of Approval 7, 9, 11-14, and 43 require the Project, related improvements to Bones Lane, and future development to conform to Fire Safe Standards to reduce the impact from risk of wildland fire less than significant. As discussed herein, the groundwater assessment prepared for the Project demonstrates that there is adequate groundwater available to serve future development. Septic investigation submitted by the Applicant for Lot 2 indicated that the existing septic system on Lot 2 is functioning properly and that there is adequate reserve to serve projected development. Under the Conditions of Approval incorporated herein, the Applicant must submit sufficient evidence to show that each new lot can support a septic system prior to recordation of the parcel map.

d. The Project is consistent with Policy NE-1b of the General Plan Noise Element. Anticipated future residential development of the Project Site is considered a noise sensitive use under the Noise Element. A noise study prepared on behalf of the Applicant and reviewed and accepted by Permit Sonoma staff concluded that the Project Site is not considered noise impacted under the Noise Element standard because the site is not exposed to a noise level exceeding 60 dBA Ldn. Therefore, the Project is consistent with Policy NE-1b, which provides for avoidance of noise sensitive development in noise impacted areas.

e. The Project is consistent with Policy WR-2e of the General Plan Water Resources Element Policy WR-2e, which provides as follows:

> Policy WR-2e: Require proof of groundwater with a sufficient yield and quality to support proposed uses in Class 3 and 4 water areas. Require test wells or the establishment of community water systems in Class 4 water areas. Test wells may be required in Class 3 areas. Deny discretionary applications in Class 3 and 4 areas unless a hydrogeologic report establishes that groundwater quality and quantity are adequate and will not be adversely impacted by the cumulative amount of development and uses allowed in the area, so that the proposed use will not cause or exacerbate an overdraft condition in a groundwater basin or subbasin. Procedures for proving adequate groundwater should consider groundwater overdraft, land subsidence, saltwater intrusion, and the expense of such study in relation to the water needs of the project.

The majority of the Project Site is in Groundwater Availability Class 4, including all of proposed Lots 2, 3, and 4, and a portion of Lot 1. The remainder of proposed Lot 1 is in Groundwater Availability Class 3. Class 3 are Marginal Groundwater Availability Areas, and Class 4 are Areas with Low or Highly Variable Water Yield. As required by Policy WR-2e, Applicant's consultant Slade prepared a hydrogeologic assessment for the 2009 MND, and updated it in 2016 for the Revised MND. The assessment determined that groundwater is available in adequate quantities and quality to support proposed development in those areas of the Project Site underlain by the Wilson Grove Formation, which applies to most of the site. Appellant's hydrogeologist concurred in this assessment. (See February 3, 2011 Curry letter at page 2,

attached to Appellant's February 2011 submission.) The updated assessment determined that the pumping of existing and future wells in the Wilson Grove Formation on site would not induce future water level drawdown in offsite wells. The third party consultant retained by Permit Sonoma to peer review the hydrogeologic assessment opined that the estimated demand from future development of the Project Site and the assessment of groundwater conditions were reasonable, and requested certain additional information. Slade provided that information, and Permit Sonoma staff concluded that the hydrogeologic assessment, as updated and supplemented in response to the peer reviewer, is consistent with Policy WR-2e. The Board concurs in staff's determination.

3.2 The Project is consistent with the Zoning Ordinance (Sonoma County Code Chapter 26), including applicable use and density provisions. The Project Site's zoning is RRD B6 40, which requires a 40-acre minimum density, and the Project proposes to subdivide the approximately 189-acre Project Site into four lots between 40 and 60 acres in size. Single-family dwellings are a permitted use in the RRD zone, and the anticipated future development of each subdivided parcel is one single-family dwelling and related additional development allowed by the Zoning Code.

3.3 As revised and conditioned, the proposed subdivision complies with Sonoma County Code Chapter 25 (Subdivisions).

**4. Subdivision Map Act Compliance**

4.1 The Board finds, pursuant to Government Code section 66473.5, that the proposed minor subdivision, together with the provisions for its design and improvement, is consistent with all applicable policies of the General Plan. As revised and with required mitigation and conditions incorporated, the Project will be consistent with applicable General Plan policies related to residential density, access, water supply, wastewater disposal, noise, and preservation of sensitive species and biotic resources.

4.2 The Board finds, pursuant to Government Code section 66474, that none of the required grounds for denial of a tentative or parcel map apply to the proposed Project as revised and with conditions and mitigation measures applied. The Board makes the following specific findings in support of this determination:

a. The proposed subdivision is consistent with applicable general and specific plans. As discussed in Section 3 of this Resolution, the Project is consistent with all applicable policies of the General Plan. There is no applicable specific plan.

b. The design and improvement of the proposed subdivision is consistent with applicable general and specific plans. As discussed in Section 3 of this Resolution and as revised and conditioned, the proposed minor subdivision is consistent with all applicable policies of the General Plan.

c. The site is physically suitable for the type of development. The resulting parcels would be adequate in size, shape, location and physical characteristics to accommodate

potential future residential development. As discussed herein, portions of the Property contain sensitive plant species, steep slopes, and other constraints. Building envelopes, Conditions of Approval, and mitigation measures have been applied to the Project to reduce potential impacts from the Project on sensitive plant species, nearby watercourses, and any potential cultural resources to less than significant levels. Each new parcel would have the potential to have one primary dwelling and associated accessory uses, consistent with height, setback, and use limitations of the RRD zoning district. Access to the parcels would be via the existing private Bones Lane, which would be improved to meet the Fire Safe Standards Ordinance and the Sonoma County Subdivision Code.

d. The site is physically suitable for the proposed density of development. Development of the project is consistent with the Zoning Code density requirements for the Project Site's RRD B6 40 acre zoning district. As revised and conditioned, no slopes, faults, hazards, or other site constraints make the site physically unsuitable for the proposed density of development, because all future development will occur within identified building envelopes that are located to avoid slopes, landslide hazards and other site constraints.

e. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. "Substantial environmental damage" under the Subdivision Map Act is the equivalent of "significant effect on the environment" under CEQA. () As discussed in Section 5 of this Resolution and the Revised MND, with required mitigation measures incorporated and as conditioned, the potential environmental impacts from the Project have been reduced to less than significance consistent with CEQA. Therefore, the design of the subdivision and its proposed improvements would not cause substantial environmental damage and would not substantially injure fish or wildlife or their habitat.

f. The design of the subdivision or type of improvements is not likely to cause serious public health problems. Future development on the Project Site will not result in significant public health impacts. The Conditions of Approval will minimize construction-related air emissions. Project-related traffic will not result in significant air quality impacts. Therefore, as conditioned, the project will not result in serious public health problems.

g. The design of the subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. The proposed project will not impact, alter or affect any existing public access easements.

4.3 The Project Site is not subject to a contract entered into pursuant to the California Land Conservation Act of 1965. Therefore no finding is required under Government Code section 66474.4.

4.4 The Board finds, pursuant to Government Code section 66474.6, that future residential development on the Project Site would not discharge waste from the proposed subdivision into an existing community sewer system that would result in violation of existing requirements prescribed by the Regional Water Quality Control Board under Division 7 of the

State Water Code. Waste discharge from future residential structures will be accommodated by a private septic systems and leach fields, and would not discharge to or have any impact on any community sewer system. Staff has reviewed the proposed project and has determined that septic systems and leach fields will be feasible and adequate to serve domestic wastewater discharges based on favorable percolation tests, and that as conditioned, said waste discharges will not violate applicable existing requirements.

4.5 The Board finds that the Project Site is located in a state responsibility area for fire, and makes the following further findings in accordance with Government Code section 66474.02:

a. The design and location of each lot in the subdivision, and the subdivision as a whole, are consistent with any applicable regulations adopted by the State Board of Forestry and Fire Protection pursuant to sections 4290 and 4291 of the Public Resources Code. Conditions of Approval 7, 9, 11, 12-14, and 43 (see Exhibit "A") relate to required compliance of access, road improvements, water supply, and future development with the County Fire Safe Standards Ordinance (Sonoma County Code, Chapter 13) ("Fire Safe Standards"). The Fire Safe Standards expressly comply with Public Resources Code 4290 and 4291 and associated State regulations. (See sections 13-21(c) and 13-59.5(d).)

b. Structural fire protection and suppression services will be available for the subdivision through a special district. Structural fire protection and suppression services will be provided by Occidental Community Services District.

c. To the extent practicable, ingress and egress for the subdivision meets the regulations regarding road standards for fire equipment access pursuant to Public Resources Code Section 4290 and any applicable local ordinance. As conditioned, ingress and egress must meet the Fire Safe Standards or, if exempt, must be inspected by the Fire Marshall to ensure that emergency equipment can traverse the road safely. (Condition of Approval 9.) A road width of 12 feet requires inspection and written approval by the County Fire Chief, potentially requires additional conditions to mitigate the narrower width, and also requires written approval by the County Surveyor. (Condition of Approval 12.) The Bones Lane improvements must have an all weather surface per the Fire Safe Standards. (Condition of Approval 13.) Turnarounds must be constructed per the Fire Safe Standards, at intervals to be determined by the Fire Marshall, to ensure adequate emergency vehicle circulation. (Condition of Approval 14.)

**5. CEQA Compliance**

5.1 In making its determination to adopt the Revised MND and approve the Project, the Board has reviewed and considered the entire record of these proceedings, including the Revised MND, the MND as approved by the BZA; the technical reports and responses prepared by the Applicant's consultants; the information presented in the Appeal and in the February 2011 supplement to the Appeal; the peer review report; and Permit Sonoma staff responses addressing those reports and comments, and bases its findings on the entire record.

5.2 The Board finds that the Revised MND was completed in compliance with CEQA. The Revised MND reflects changes, mitigations, and conditions that have been required in, or incorporated into, the Project through the Conditions of Approval imposed herein to reduce the Project's potentially significant environmental effects to a less than significant level. The Applicant agreed to these alterations to the Project. The Board further finds that the mitigation measures described in the Revised MND sufficiently identify the performance criteria the County will apply in determining that the identified potential environmental impacts of the Project will be mitigated, and do not improperly defer mitigation. Requiring implementation of best management practices ("BMPs") is acceptable as mitigation because there are specific, clear performance standards that the BMPs must meet, and County staff review, approval, and inspection requirements ensure that BMPs meet those performance standards.

5.3 The Board rejects Appellant's assertions, based on the 2009 MND, that an EIR is required for this Project. The Board finds that there is no substantial evidence in light of the whole record of these proceedings sufficient to support a fair argument that the Project, as revised and conditioned and with all mitigation measures implemented, may have a significant effect on the environment.

5.4 The Board finds that there is no substantial evidence in the record to support a fair argument that the Project would have a significant effect on flows in Green Valley Creek. Appellant's consultant Curry asserts that there are seeps and springs in the Wilson Grove Formation on the Project Site that "leak[] continuously and feed[] the side streams and main-stem of Green Valley Creek." Mr. Curry submitted no evidence of any actual seep or spring on the Project Site, or any evidence to refute Slade's conclusion that the Wilson Grove Formation on the Project Site is geologically isolated from Green Valley Creek and that the creek alluvium is not in direct contact with the Wilson Grove Formation at any location on the Project Site.

5.5 The Board finds that there is no substantial evidence in the record to support a fair argument that the Project would have a cumulatively significant effect on flows in Green Valley Creek. Appellant's consulting fisheries biologist Patrick Higgins submitted ample information to demonstrate the existence of cumulative impacts on Green Valley Creek, but did not submit any evidence to support his assertion that the Project will have any impact on flows in the creek. The existence of significant cumulative effects on the creek caused by other human activity is not evidence that this Project's impact is cumulatively considerable.

5.6 The Board concurs in the Revised MND's determination that, with mitigation incorporated, the Project would have a less than significant impact on groundwater resources. The Revised MND's conclusion is based on a thorough, peer-reviewed hydrogeologic assessment, that pumping of existing or future onsite wells in the Wilson Grove Formation on the Project Site will not result in a lowering of the groundwater table or induce water level drawdown in offsite wells in the future.

5.7 Appellant asserts that the MND, as approved by the BZA, lacked cumulative impact analysis of future applications for vineyards or reservoirs on each subdivided parcel and of the potential adverse impacts of these potential projects on the watershed, wetland and

wildlife. The contemplated development on each lot is residential. Any future vineyard or reservoir development would require a separate application and review process. Appellant has not submitted any evidence to show that additional vineyard development is reasonably foreseeable anywhere on the Project Site. The Board finds that there is no substantial evidence to conclude that the Proposed Project would induce additional vineyard or reservoir development on any of the subdivided parcels.

5.8 Appellant asserts that the MND did not address the potential for adverse watershed impacts from the existing reservoirs on the Project Site. Appellant's consultant Curry argued that the assumed groundwater demand from the Project erred in failing to consider groundwater pumping necessary to fill the reservoirs. However, the two existing reservoirs are part of existing conditions and are not part of this Project. No additional reservoirs are proposed as part of the Project. The existing reservoirs are filled exclusively by surface sheet flow (stormwater runoff); no groundwater is pumped to fill them. The existing reservoirs do not contribute to groundwater demand on the Project Site and did not need to be considered in the groundwater assessment prepared for the Project.

5.9 Appellant raised concerns about traffic safety on Bones Lane, and particularly the intersection of Bones Lane with Dupont Road. These concerns are adequately addressed by the improvements required as conditions of approval and by incorporation of Mitigation Measure Traffic-1.

5.10 The Board finds that noise generated by added daily traffic on Bones Lane as a result of future development of the Project Site will not have any significant effect on neighboring land uses. The Revised MND concludes that noise generated by the projected additional trips on Bones Lane would not exceed the applicable noise standards set forth in Table NE-2 of the General Plan, and therefore that Project impacts from noise would be less than significant.

5.11 The Board finds that the Revised MND was prepared in compliance with CEQA and the CEQA Guidelines, and that it has reviewed and considered the information contained therein. The Board further finds that the Revised MND reflects the Board's independent judgment and analysis.

5.12 Based on the entire record of these proceedings, the Board finds that all potential impacts associated with the Project will be mitigated to less than significant level with the incorporation of conditions and adoption of mitigation measures identified in the Revised MND, and that there is no substantial evidence in the record to support a contrary conclusion.

**Now, Therefore, Be It Resolved,** that based on the findings and determinations set forth in this resolution and on the entire record of these proceedings, the Board hereby declares and orders as follows:

1. The findings and determinations set forth in this resolution are true and correct, are supported by substantial evidence in the record, and are adopted as set forth above.

2. The Revised MND is adopted. PRMD is directed to file a notice of determination in accordance with CEQA and the CEQA Guidelines.

3. The Appeal is denied.

4. The Mitigation Monitoring Program set forth in Exhibit "A" is adopted. PRMD is directed to undertake monitoring in accordance with the mitigation monitoring program to ensure that the required mitigation measures and project revisions are implemented.

5. The Tentative Map is approved, subject to the Conditions of Approval attached as Exhibit "A" and incorporated herein by reference.

6. The Clerk of the Board is designated as the custodian of the documents and other materials that constitute the record of proceedings upon which the Board's decision is based. These documents may be found at the Office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

**Supervisors:**

Gorin: Rabbitt: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain:

**So Ordered.**

# SONOMA COUNTY BOARD OF SUPERVISORS
## Draft Conditions of Approval and Mitigation Monitoring Program
## EXHIBIT A

| | | | |
|---|---|---|---|
| **Date:** | December 13, 2016 | | |
| **Staff:** | Mary Nicholl | **File No.:** | MNS06-0032 |
| **Applicant:** | Jackson Family Investments II LLC | **APN:** | 074-030-043 |
| **Owner:** | Same | | |
| **Address:** | 12942 Bones Lane, Occidental | | |

**Project Description:** Request for a Minor Subdivision of 189 acres creating four parcels, 40, 60, 42, and 47 acres in size.

---

**GENERAL:**

1. The Board of Supervisors decision shall be final on the eleventh (11th) day after final action unless an appeal is taken.

2. These conditions must be met and the map recorded within 24 months (December 13, 2018) unless a request for an extension of time is received before the expiration date.

3. Within five working days after project approval, the applicant shall pay a mandatory Notice of Determination filing fee of $50 (or latest fee in effect at time of payment) for County Clerk processing, and $2,210.25 (or latest fee in effect at the time of payment) because a Negative Declaration was prepared, for a total of $2,260.25 made payable to Sonoma County Clerk and submitted to PRMD. If the required filing fee is not paid for a project, the project will not be operative, vested, or final and any local permits issued for the project will be invalid (Section 711.4(c)(3) of the Fish and Game Code.) NOTE: If the fee is not paid within five days after approval of the project, it will extend time frames for CEQA legal challenges.

**BUILDING:**

4. A grading permit shall be obtained from PRMD prior to the start of any earthwork, unless exempted under the most recent California Building Code (CBC). The grading plan, prepared by a civil engineer who is registered by the State, shall be submitted for review and approval by PRMD prior to grading permit issuance. Any structures to be constructed as part of the required grading, such as retaining or sound walls, shall require separate building applications and permits.

**SURVEYOR:**

5. A Parcel Map, as defined in the State Subdivision Map Act and prepared by a licensed surveyor or civil engineer, showing all easements and parcels shall be filed with the Sonoma County Surveyor. Upon recording of the map, the Subdivision is valid.

6. This subdivision was approved and a finding of site suitability was made based on the representation of the subdivider that he has, or is currently negotiating for and will acquire, the property rights necessary to (1) provide legal access, with a minimum width of 20 feet from a County maintained road to the subdivision, (2) provide the necessary Public Utility easements and (3) make all required off-site improvements. Without this representation, the subdivision would not have been approved. If the subdivider is unable to provide such proof, he shall be deemed to have failed to meet the condition and no subdivision map shall be recorded. The subdivider understands and agrees that the County will not exercise its power of eminent domain to condemn any of the above-described property rights.

7. The subdivider shall retain a registered civil engineer to prepare road construction and drainage plans for submittal to the County Surveyor's Office in accordance with the current adopted Fire Safe Standards Ordinance, Sonoma County Subdivision Ordinance and the following:

a. Construct a private road from DuPont Road to Lots One through Four as shown on the tentative map dated December 2013. Developer shall construct a road way with a throat width of 18 feet and entrance curves having a radius of at least 25 feet. The road shall enter the public road as close to perpendicular as possible, but in no case shall the road enter the public road at more than 20 degrees from perpendicular. The minimum sight distance for vehicles entering and exiting the driveway shall be in accordance with AASHTO requirements for the speed traveled on the public road servicing the property. The Developer shall surface the entry with asphalt concrete a minimum distance of 25 feet from the edge of pavement. The improvements shall be in place prior to occupancy of any new dwelling. The structural section of the road improvements may be designed using a soils investigation which provides the basement soils R-value and expansion pressure test results. A copy of the soils report shall be submitted with the first set of improvement plan check prints. The traffic index to be used for the design is "4". After plan approval, the subdivider shall construct the required improvements as shown on said plans. These requirements are the minimum. It is the design engineer's responsibility to design an adequate road for its intended use.

b. All engineering plans shall be drawn to a scale no smaller than 1 inch = 40 feet, shall show contours and cross-sections at a minimum of every 50 feet and extend at least 50 feet each side of the road.

c. A timber harvest plan must be submitted to the County in addition to the grading permit application.

d. The easement shall be widened as necessary to contain the road base, all cuts and fills and the required side drainage.

e. A grading permit shall be obtained prior to the start of any earthwork.

f. Any roadway structure plans approved by the PRMD shall be attached to, and become a part of, the subdivisions Improvement Plans.

8. Prior to the issuance of a building permit or the recording of the Parcel Map, whichever occurs first, all roads necessary to access the subdivision shall be named if they serve three parcels or more (new or existing parcels). All newly named roads must connect to an existing road with an approved name. A road sign shall be posted at all intersections on the existing and/or new access roads. The signs shall meet the Sonoma County Department of Transportation and Public Works standards. All road names and addresses used will have to be approved by the PRMD. This condition may be altered or waived with written approval of the County Fire Chief, the PRMD and the County Surveyor. Any alteration or waiver of this condition may require other conditions to mitigate the required road standards. NOTICE! You will be charged a fee for processing and approval of a road name application.

9. If the offsite access road is exempt from Fire Safe Standards, the road shall be inspected by the Fire Marshall to assure that emergency equipment can traverse the road safely. The Fire Marshall and/or PRAC may require the applicant to make improvements which meet CEQA safety requirements and may include but are not limited to widening, turnouts and surfacing. These improvements shall meet Fire Safe Standards and plans for the said improvements shall be submitted to the County Surveyors Office for review and approval.

   In complying with this condition, the subdivider shall provide the County Surveyor with a Mitigation Request form from the Department of Emergency Services listing the improvements required or stating that the road is acceptable as it exists. If the subdivider is unable to secure the above mitigation form, the Subdivision Map shall not be recorded.

10. The subdivider shall either complete all required private and public construction or enter into an Improvement Agreement and post security with the County of Sonoma, prior to the filing of the Subdivision Map, agreeing to complete the required construction within 24 months after the filing of the Subdivision Map. If the required construction is completed prior to the filing of the Subdivision Map, the subdivider shall enter into an Improvement Maintenance Agreement and

post security with the County of Sonoma, to guarantee the improvements for a period of one year.

11. The width of this/these roads may be altered (12 feet plus 2 foot shoulders is the minimum road width) with written approval of the County Fire Chief and the County Surveyor. Approval of a 12-foot road will require an inspection by the County Fire Chief and may require other conditions to mitigate the required road standards. This mitigation is for width only and cannot mitigate any other road conditions.

12. If a 12-foot road is approved, in order to provide emergency two-way access, passing turnouts shall be constructed at intervals not exceeding 300 feet or at locations approved by the County Fire Chief. The turnouts shall be constructed per the current adopted Fire Safe Standards Ordinance.

13. The road(s) shall have an “All-weather Driving Surface” per the current adopted Fire Safe Standards Ordinance (Ordinance No. 5905). As defined by the Ordinance, any surface that provides unobstructed access to conventional drive vehicles, including sedans and fire engines, and is capable of supporting a 40,000 pound axle load during wet weather conditions.

14. To ensure adequate emergency vehicle circulation, a turnaround shall be constructed at intervals to be determined by the Fire Marshall. Turnarounds may be circular or may be constructed as a hammerhead. The turnarounds shall be constructed per the current adopted Fire Safe Standards Ordinance. This condition may be altered or waived with written approval of the County Fire Chief and the County Surveyor. Any alteration or waiver of this condition may require other conditions to mitigate the required road standards.

15. A report prepared by a civil engineer which provides sufficient information to demonstrate that the existing private road does meet the Conditions of Approval may be submitted for approval by the County Surveyor. The report shall contain information regarding condition, width, alignment, grade, structural section, compaction, surfacing and any other relevant information necessary to approve the report. If this cannot be demonstrated, the subdivider shall retain a registered civil engineer to prepare road and drainage plans showing how the road is to be up-graded to meet the above stated standards. This condition cannot be mitigated by the Fire Marshall.

**HEALTH:**

<u>Septic:</u>

16. Prior to recording the map, to insure compliance with current sewage disposal regulations, additional requirements may be imposed by PRMD to supplement sewage disposal conditions listed below. Note that Well and Septic fees are separate from Planning fees, and Well and Septic charges per parcel fees for each individual step (pre-perc, perc, wet weather groundwater, plan check, operating permit, etc.).

17. Prior to recording the map, the applicant shall provide evidence of soils suitable for subsurface sewage disposal to the Well and Septic Section for Lots 1, 3, and 4. This shall include, but not be limited to, soil profiles and percolation tests done in accordance with current standards of the Well and Septic Section of PRMD. The work must be certified by a State Registered Civil Engineer, Environmental Health Specialist or Geologist, refer to this subdivision number, and shall be submitted to the District Specialist.

18. Prior to recording the map, the applicant shall provide by means of a (topographic) Plot Plan drawn to a 1"=20' scale, that Lots 1, 3 and 4, contain sufficient area to accommodate a 3-bedroom private sewage disposal system and a 200% unencumbered future reserve area. The plan shall include the location of any existing and potential domestic well site(s). Location of neighboring wells and septic systems within 150 feet of the proposed lots shall be shown, as well as existing and proposed driveways, grading cuts, and drainage ways. The plan is to be prepared by a registered Civil Engineer or Environmental Health Specialist and submitted to the District Specialist. This condition may be modified or waived by the District Specialist if the consultant can clearly demonstrate that adequate primary and reserve area is available.

19. NOTE ON MAP AND IMPROVEMENT PLANS: "All future sewage disposal system repairs shall be completed in the Designated Reserve areas and shall meet Class I Standards. Alternate reserve areas may be designated with the approval of PRMD Well and Septic staff and without a Certificate of Modification, if soil evaluation and testing demonstrate that the alternative reserve area meets or exceeds all of the requirements that would have been met by the original reserve area."

20. The area tested for sewage disposal shall be shown on the map and shall be free of all encumbrances (building envelopes, roads, easements, etc.).

21. NOTE ON MAP AND IMPROVEMENT PLANS: "The area tested for sewage disposal and shown on this map shall be reserved for the construction of future on-site wastewater disposal systems and shall not be encumbered by buildings, roads, soil borrow pits, ponds, parking lots, water wells, easements, or any use incompatible with use as an on-site wastewater disposal system, unless an alternative sewage disposal location on the parcel of similar capability has been tested and accepted by the County as suitable to provide wastewater disposal for a new dwelling, or unless the parcel has been connected to public sewer service."

22. A check print of the map shall be submitted to the County Surveyor who will forward it to the Project Review Health Specialist for review and approval of the Health map notes prior to recording the map.

23. Prior to recording the map, the location, type and proper function of the septic system on Lot 2 shall be verified by a registered Civil Engineer, registered Environmental Health Specialist or C-42 contractor. Septic systems lacking a permit shall be replaced with a permitted system meeting all current standards. Repairs of existing permitted septic systems may be required based on inspection reports. The septic system repairs must meet a minimum of the new system standards in effect at the time of the existing septic system permit and be within the Designated Reserve areas. If reserve areas were not designated (pre-July of 1978 permits), the septic system shall be repaired to a minimum of Class 3 standards. All repairs shall be done under permit of this department. The septic system must be located upon the same lot as the house being served by that septic system. The septic system may not serve additional dwelling units on other lots.

24. Prior to recording the map, demonstrate 200% future reserve area in accordance with current septic system standards (including percolation tests) on Lot 2. The applicant shall provide by means of a (topographic) Plot Plan drawn to a 1"= 20' scale, that sufficient area to accommodate a 200% unencumbered future reserve area is present. The reserve area shall be sized for a 3-bedroom private sewage disposal system, or the number of existing bedrooms, whichever is greater. If the parcel is not served by public water, the plan shall include the location of any existing and potential domestic well site(s). Location of neighboring wells and septic systems within 150 feet of the proposed lots must be shown, as well as existing and proposed roadways, driveways, grading cuts, and drainage ways (including roadside/driveway ditches). The plan is to be prepared by a registered Civil Engineer or Environmental Health Specialist and submitted to the District Specialist. This condition may be modified or waived by the District Specialist if the consultant can clearly demonstrate that adequate reserve area is available.

25. If Subdivision Improvement Plans are submitted, prior to recording the map, one additional copy of Subdivision Improvement Plans shall be submitted to the Survey and Land Development section for Well and Septic Section review (fees apply). Subdivision Improvement Plans shall show the outline of all existing and proposed septic tanks, sumps, wastewater disposal areas, reserve wastewater disposal areas and water wells within 100 feet of the proposed on-site and off-site improvements. Any subdivision improvement requiring a cut three feet or deeper within 100 feet of a septic system component shall dimension that distance on the Improvement Plans. All setbacks to existing and proposed septic systems (including septic system reserve areas) shall be met prior to recording the map.

26. NOTE ON MAP AND IMPROVEMENT PLANS: "All private sewage disposal systems shall be designed by a registered Civil Engineer or registered Environmental Health Specialist" and shall

be shown on the lots of the map where test results indicate that a system requires such a design.

27. Prior to recording the map, for a mound, pressure distribution, filled land, or shallow sloping sewage system, the applicant shall submit to the Project Review Health Specialist an approved form of Declaration of Restrictions with either a Grant Deed/Straw Transfer or Owner's Statement on the map. Approval by the Project Review Health Specialist of the Draft Declaration of Restrictions form shall be obtained prior to signature and notarization.

Water:

28. Prior to recording the map, proof of adequate water yield shall be demonstrated on Lots 1, 3 and 4 in accordance with Chapter 7, Sonoma County Code. At least one gallon per minute for each dwelling unit shall be demonstrated for dry weather test period and yield. Alternatively, the applicant may complete conditions 1 through 3 below to share water from a source of demonstrated yield for any lot lacking its own water source:

    a. A legal Covenant and Easement Agreement acceptable to PRMD shall be drafted to operate and maintain any common water supply system. A sunset clause may be drafted to accommodate parcels that drill and test water wells at a later date. Contact Project Review - Health Specialist at (707) 565-1683 for requirements. A copy of the draft Covenant must be reviewed and approved prior to recording the map or deed.

    b. Water supply easements shall be shown on the map, and shall be conveyed at the time of property sale.

    c. Water system plans shall be submitted to the PRMD Project Review-Health Specialist for review and distribution to the appropriate Plan Check sections, including the PRMD Sanitation Section which shall review for compliance with Sonoma County Water System Standards. To the extent practicable, all portions of an existing system shall be shown on the water system plans, and shall be labeled, "As Built" or "Existing". Repairs of or additions to the existing water system may be required, based upon the information provided about the existing system.

29. Prior to recording the map, the well water shall be tested by a California State certified laboratory and found to meet California State and Federal standards for arsenic and nitrate contamination. If contamination exceeding the arsenic or nitrate standards is found, then the applicant shall re-test the well. The well shall be abandoned under permit from the Well and Septic Section of PRMD if the contamination cannot be cleared from the well. An acceptable water source shall be demonstrated for each lot.

30. Prior to recording the map, a bacteriological sample from the proposed water source shall be analyzed for total coliform and E. coli by a California State certified laboratory. Samples shall be clearly marked to indicate which wells have temporary pumps installed for the purpose of collecting the sample. Wells with temporary pumps for sampling shall meet the State standard for E. coli, and all other water sources shall meet California State drinking water standards for total coliform and E. coli. If analysis does not meet the applicable standard, the applicant will be required to disinfect the well per County requirements and re-test the well. A copy of the analysis shall be submitted to the Project Review Health Specialist.

31. Prior to recording the map, provide the Project Review Health Specialist with a copy of the drillers log for the existing well to verify a minimum of a 20-foot annular seal (the property owner may access existing confidential State records by calling the Department of Water Resources at 916-651-0753). If it is not possible to demonstrate that the well meets minimum construction standards and setbacks a replacement well may be required.

32. NOTE ON MAP AND IMPROVEMENT PLANS: Permit Sonoma will require a note on the map stating that: Any new proposed well permits for subdivided Lots 1, 2, 3, and 4 shall submit to Permit Sonoma Staff Project Review Staff the following (1) Mapping demonstrating a distance of

approximately 1,500 feet from any known off-site well and Green Valley Creek, (2) geologic map and cross section demonstrating the proposed well would draw from the Wilson Grove formation, and (3) a well pump test would be conducted by a professional Geologist in accordance with general Plan Policy WR-2e,(and Sonoma County Code Sections 7-12, 205-17, 25-56 and 26-88-060H).

Mitigation Monitoring:

Well and Septic permits shall not be approved for issuance by Project Review Staff until the above notes are printed on the subdivision map.

**GRADING AND STORM WATER:**

33. Drainage improvements shall be designed by a civil engineer, in accordance with the Sonoma County Water Agency Flood Control Design Criteria, be shown on the improvement plans, and be submitted to the PRMD Grading and Storm Water Section for review and approval. Prior to grading or building permit issuance, construction details for all storm water best management practices shall be submitted for review and approval by the PRMD Grading and Storm Water Section. The Construction Plans shall be in substantial conformance with the Conceptual Plan reviewed at the planning permit stage.

    Storm water best management practices must be installed per approved plans and specifications, and working properly prior to each rainy season (October 15 each year) and remain functional throughout the rainy season. PRMD will verify storm water best management practice installation and functionality, through inspections, throughout the life of the construction permit(s).

    Storm water best management practices shall be designed and installed pursuant to adopted Sonoma County Best Management Practice Guide.

34. The design engineer shall include a site grading plan and an erosion control plan, as part of the required Improvement Plans, which shall also include all pertinent details, notes, and specifications. Prior to grading or building permit issuance, construction details for all post-construction storm water best management practices shall be submitted for review and approval by the PRMD Grading and Storm Water Section. The Construction Plans shall be in substantial conformance with the Conceptual Plan reviewed at the planning permit stage.

    Post-construction storm water best management practices must be installed per approved plans and specifications, and working properly prior to finalizing the grading or building permits. Post-construction storm water best management practices shall be designed and installed pursuant to the adopted Sonoma County Best Management Practice Guide.

    PRMD will verify post-construction storm water best management practice installation and functionality, through inspections, prior to finalizing the permit(s). The owner/operator shall maintain the required post-construction best management practices for the life of the development. The owner/operator shall conduct annual inspections of the post-construction best management practices to ensure proper maintenance and functionality. The annual inspections shall typically be conducted between September 15 and October 15 of each year.

35. The applicant/developer is responsible for obtaining drainage easements necessary for the proposed project. The Construction Plans shall include a storm water drainage system that adequately addresses the impacts and design features, in substantial conformance with the final Drainage Report. The design and sizing of the storm water drainage system shall be in compliance with the adopted Sonoma County Water Agency Flood Control Design Criteria, 1983 or most recently revised edition.

    The Construction Plans and final Drainage Report shall be prepared by a civil engineer, registered in the State of California, be submitted with the grading and/or building permit application and/or Improvement Plans, as applicable.

The plans are subject to review and approval by the PRMD Grading and Storm Water Section prior to the issuance of any grading or building permits.

36. If the cumulative land disturbance of the project is equal to or greater than one acre, then the project is subject to the National Pollutant Discharge Elimination System (NPDES) requirements and coverage under the State Water Resources Control Board's General Construction Permit (General Permit) must be obtained. Documentation of coverage under the General Permit must be submitted to the PRMD Grading and Storm Water Section prior to construction permit issuance.

37. NOTE ON MAP AND IMPROVEMENT PLANS: “Prior to issuance of a grading or building permit, the applicant shall submit for review and approval the Grading and Drainage Improvement Plans necessary for the proposed project. Drainage improvements shall be designed in accordance with the Sonoma County Water Agency Flood Control Design Criteria and shall maintain sheet flow or existing drainage patterns to the maximum extent practicable. The Improvement Plans shall also include erosion prevention/sediment control measures, details, notes, and specifications to prevent damages and minimize adverse impacts to the environment.”

**TRANSPORTATION AND PUBLIC WORKS:**

38. NOTE ON MAP AND IMPROVEMENT PLANS: "To allow for the smooth and safe movement of passenger vehicles entering and exiting the public road that provides access to the property, entry to the public road shall conform to AASHTO standards. More specifically, the developer shall construct a driveway with a throat width of 18 feet and entrance curves having a radius of at least 25 feet. The driveway shall enter the public road as close to perpendicular as possible, but in no case shall the driveway enter the public road at more than 20 degrees from perpendicular. The minimum sight distance for vehicles entering and exiting the driveway shall be in accordance with AASHTO requirements for the speed traveled on the public road servicing the property. The developer shall surface the entry with asphalt concrete a minimum distance of 25 feet from the edge of pavement. The improvements shall be in place prior to occupancy of any new dwelling. This condition shall be void if the existing entry already meets these standards. Location: Bones Road intersection with Dupont Road. Note: Entrance curve radii may be reduced with the approval of the Fire Services Division of the Sonoma County Department of Emergency Services."

39. NOTE ON MAP AND IMPROVEMENT PLANS: "Prior to constructing any new private driveway intersection with the public road, or improving an existing intersection, the applicant shall obtain an encroachment permit from PRMD. The intersection improvements shall be constructed in accordance with the Department of Transportation and Public Works standards and the adopted Conditions of Approval. Improvements shall be completed prior to occupancy of any new dwelling constructed on the parcels shown hereon."

40. NOTE ON MAP AND IMPROVEMENT PLANS: "New construction on the parcels associated with this approval is subject to payment of a development fee (Traffic Mitigation Fee) to the County of Sonoma before issuance of any building permits, as required by Section 26, Article 98 of the Sonoma County Code."

41. Prior to construction of any improvements that are to be made within County road right-of-way, the developer must obtain an encroachment permit from PRMD.

**PLANNING:**

42. Dedication of parkland or payment of fees, in lieu of dedication, shall be paid prior to recordation of the Parcel Map. Alternatively, at the request of the subdivider, fees may be paid prior to issuance of building permits for new residential construction on each lot. If fees are intended to be paid prior to issuance of building permits, the following NOTE shall be placed on the Parcel Map:

    NOTE ON MAP AND IMPROVEMENT PLANS: “New residential construction on these parcels is subject to payment of parkland fees in accordance with Section 25-58 et. seq. of the Sonoma

County Subdivision Ordinance. Evidence that fees are paid shall be provided to the Regional Parks Department prior to the issuance of building permits."

43. NOTE ON MAP AND IMPROVEMENT PLANS: ''Development on this parcel is subject to the Sonoma County Fire Safe Standards and shall be reviewed and approved by the County Fire Marshal/Local Fire Protection District. Said plan shall include, but not be limited to: emergency vehicle access and turn-around at the building site(s), addressing, water storage for firefighting and fire break maintenance around all structures. Prior to occupancy, written approval that the required improvements have been installed shall be provided to PRMD from the County Fire Marshal/Local Fire Protection District.''

44. If it is determined by survey prior to recordation of the Parcel Map that adequate land is not available to meet General Plan and Zoning densities, then the number of lots must be reduced in order to comply with required densities.

45. Prior to submitting the subdivision check print maps to the County Surveyor, the applicant shall submit, to PRMD - Project Review Division, a Condition Compliance Review Fee deposit (amount to be determined consistent with the ordinance in effect at that time). This "At Cost" fee is a minimum deposit and condition compliance is charged on an actual cost basis. Should the actual costs exceed the amount of the fee, the applicant will be billed for additional costs. In addition, the applicant shall also pay any application processing fees that have exceeded the initial deposit fee to process the subdivision application.

46. NOTE ON MAP AND IMPROVEMENT PLANS: "Agricultural uses occur in this area and pesticide applications, dust, odor, and other nuisances associated with agricultural activities may occur."

47. Building Envelopes shall be depicted on the Parcel Map, as shown on the Tentative Map dated March 2009, revised December 2013, and located by survey. Envelope dimensions and "ties" to the property lines shall be shown on the map.

48. NOTE ON MAP AND IMPROVEMENT PLANS: "Prior to construction, an engineering geologist must review the building site to ensure stability."

    Mitigation Monitoring: PRMD Project Review staff will review the map and will not approve it for recordation unless the envelopes and the note have been placed on it.

49. NOTE ON MAP AND IMPROVEMENT PLANS: "Building Envelopes were established due to geologic, archaeological, and biotic concerns. In order to construct outside of the envelope, a Certificate of Modification must be applied for, and studies addressing the above issues must be submitted."

    Mitigation Monitoring: PRMD Project Review staff will review the map and will not approve it for recordation unless the envelopes and the note have been placed on it.

50. NOTE ON MAP AND IMPROVEMENT PLANS: "Building Envelopes apply to all new structures constructed on site."

51. Prior to recording the map, a covenant shall be established over the serpentine areas to protect rare plants from any disturbance. Building envelopes have been established outside of areas with rare/sensitive plant species, but because plants can sometimes spread slightly beyond the most suitable soil type for them, the following is required: NOTE ON MAP AND IMPROVEMENT PLANS: "Prior to issuance of a building permit, a report must be submitted from a qualified biologist addressing potential impacts of the new construction on riparian habitat and rare and endangered plants and establishing measures to protect any such species and/or habitat."

    Mitigation Monitoring: The map cannot be recorded unless the note has been placed on it. When application is made for building permits, the Project Planner reviews the map and will enforce the requirement, requiring that the study be submitted and any protection methods be established prior to construction.

52. NOTE ON MAP AND IMPROVEMENT PLANS: All building and/or grading permits shall have the following note printed on plan sheets:

A Tribal and/or Archaeological Monitor is required to be present onsite during all grading and ground disturbance work. Prior to submittal of the application for Grading Permit or any other ground disturbing activity, please contact the Lytton Rancheria Tribe to make arrangements. The Tribe can currently be reached through "Brenda L. Tomaras Tomaras & Ogas, LLP btomaras@mtowlaw.com or (858) 554-0550.

All building and/or grading permits shall have the following note printed on plan sheets:

53. NOTE ON MAP AND IMPROVEMENT PLANS:
A Tribal and/or Archaeological Monitor is required to be present during all grading or other ground-disturbing work. The Tribal Monitor must be present on site before the start of any ground-disturbing work, including scraping. In the event that cultural resources are discovered at any time during grading, scraping or excavation within the property, all work should be halted in the vicinity of the find. Artifacts associated with prehistoric sites may include humanly modified stone, shell, bone or other cultural materials such as charcoal, ash and burned rock indicative of food procurement or processing activities. Prehistoric domestic resources include hearths, firepits, or house floor depressions whereas typical mortuary resources are represented by human skeletal remains. The Tribal Monitor, Archaeological Monitor, and County PRMD - Project Review staff shall be notified. PRMD staff should consult with the appropriate tribal representative(s) from the tribes known to PRMD to have interests in the area to determine if the resources qualify as Tribal Cultural Resources (as defined in Public Resource Code § 21074). If determined to be a Tribal Cultural Resource, PRMD will further consult with the appropriate tribal representative(s) and project proponents in order to develop and coordinate proper protection/mitigation measures required for the discovery. PRMD may refer the mitigation/protection plan to designated tribal representatives for review and comment. No work shall commence until a protection/mitigation plan is reviewed and approved by PRMD - Project Review staff. Mitigations may include avoidance, removal, preservation and/or recordation in accordance with California law. Evaluation and mitigation shall be at the applicant's sole expense.

''If human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and PRMD staff and County Coroner must be notified immediately pursuant to State law so that an evaluation can be performed. If the remains are deemed to be Native American, the Native American Heritage Commission must be contacted by the Coroner so that a ''Most Likely Descendant'' can be designated and the appropriate provisions of the California Government Code and California Public Resources Code will be followed.''

Mitigation Monitoring: The map cannot be recorded unless the note has been placed on it. When application is made for building permits, the Project Planner reviews the map and will enforce the requirement, requiring that the study be submitted and any protection methods be established prior to construction.

54. NOTE ON MAP AND IMPROVEMENT PLANS: "All grading and development on site shall be done in compliance with the County Tree Protection Ordinance, including protection of trees during construction with a chain link fence at the dripline, and replacement of damaged or removed trees. The projects grading and landscape plans shall detail all tree protection implementation measures."

55. NOTE ON MAP AND IMPROVEMENT PLANS: ''Affordable housing requirements apply to each residential lot pursuant to Section 26-89-040 F of the Sonoma County Code. Each non-exempt residential unit shall pay an in-lieu affordable housing fee at the time of issuance of the building permit, unless a building permit for a qualifying affordable unit is approved prior to or concurrent with the building permit for the non-exempt residential unit.''

56. Prior to recording the Parcel Map, the applicant must obtain a Second Unit Permit to recognize

the existing second dwelling unit located on Lot 2, or, as an alternative, shall obtain proper permits to convert the structure to a non-living unit.

57. NOTE ON MAP AND IMPROVEMENT PLANS: “Lumber materials from the barn shall be reused on-site, if it is demolished.”

58. The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The applicant must submit a written request to PRMD demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. PRMD shall consult with affected departments and agencies and may require an application for modification of the approved Tentative Map. Changes to conditions that may be authorized by PRMD are limited to those items that are not adopted standards or were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from PRMD, and shall not affect the original permit approval date or the term for expiration of the permit.

The owner/operator and all successors in interest, shall comply with all applicable provisions of the Sonoma County Code and all other applicable local, state and federal regulations.

59. Prior to recording the Parcel Map or issuance of any clearing for site development, the applicant must obtain applicable timberland conversion permit and timber harvest plan.

# Planning Commission/Board of Zoning Adjustments
## Appeal Form
PJR-021

To: Board of Supervisors
County of Sonoma, State of California

File # MNS 06-0032

Appeal is hereby made by: Ad Hoc Committee for Clean Water Ann Maurice
Please Print

Mailing Address: PO Box 484
Occidental, CA 95465

The Sonoma County Planning Commission / Board of Zoning Adjustments (circle one) on

Nov. 4, 2010, 20____, approved / denied (circle one) a request by

Jackson Family Investments for a minor

subdivision / adoption of a mitigated negative declaration

located at 12942 Bones Lane, Occidental, CA

APN 074 - 030 - 043 Zoned RRD B6-40 Supervisorial District 5

This appeal is made pursuant to Sonoma County Code Chapter 26 Section 26-92-160 for the following specific reasons:

see attached

Date: 11/12/10 Appellant: Ann Maurice
Signature

**Appeal Fee:** See current PRMD Project Review Fee Schedule

---------- ❶ DO NOT WRITE BELOW THIS LINE - To Be Completed by PRMD Staff ❶ ----------

This appeal was filed with the Permit and Resource Management Department on the 12th day of November, 20 10, receipt of which is hereby acknowledged.

Blake Hillegas
PRMD Staff

Sonoma County Permit and Resource Management Department
2550 Ventura Avenue ❖ Santa Rosa, CA ❖ 95403-2829 ❖ (707) 565-1900 ❖ Fax (707) 565-1103

Ad Hoc Committee for Clean Water
P.O.Box 484 Occidental, CA 95465
707 874-3855ph 707 874-2493 fax



November 12, 2010

To: Sonoma County Board of Supervisors
Re: Appeal of November 4th 2010 Planning Commission Decision file # MNS06-0032
Proposed Subdivision 12942 Bones Lane, Sebastopol
APN 074-030-043

On behalf of the Ad Hoc Committee for Clean Water, myself and neighbors, we appeal PRMD's decision to approve this project. We believe the Mitigated Negative Declaration is inadequate and leaves potential adverse environmental impacts unmitigated.

There are licensed hydrologists that have conflicting analyses of the hydrology of the area and potential for adverse impacts. In addition, we believe that numerous potential impacts remain unmitigated and that the record supports a fair argument that this project may have a significant adverse effect on the environment, such that an EIR should be prepared.

Issues of concern that we believe have still been inadequately addressed in the PRMD environmental review and responses to the Appeal include but are not limited to the following:

- Numerous deferred mitigations in violation of CEQA (Sundstrom vs Mendocino). Conditions 15, 16, 17, 22, 23, 26, 27, 28, 29, 30, for example, relate to septic disposal and water availability. There is no proof of water availability and no proof of adequate septic disposal for each parcel. Those conditions all begin "Prior to recordation of the map...". We believe that proof of adequate water and safe disposal of septic should be shown not just prior to recordation of the map, but now, *during* the CEQA *public* review period and *prior* to certification of the CEQA document;

- Potential harm to the surface flow and underflow of Green Valley Creek and its tributaries and consequent harm to the threatened and/or endangered native aquatic species such as salmon and steelhead breeding populations and endangered freshwater shrimp;

- Potential harm to the health of the residents of the County and the country due to the loss of coldwater fishery (salmonid) habitat. The decline of natural spawning in the de-watered tributaries of the county such as neighboring Green Valley Creek, has contributed to the complete closure of recreational and commercial salmon fishing and the disappearance of native California salmon from our markets. This is not just an adverse economic impact, but of serious and consequential damage to our health and well-being. Our need for anti-oxidants and Omega-3s found in cold-water fish has become a well-known health issue -- of concern under CEQA;

- Potential damage to neighboring wells;
- Potential draining of the wetland on site (potential jurisdictional wetland);
- No traffic and Noise study; Inadequate analysis of the improvements needed due to increased traffic. The subdivision could double the current traffic burden;
- Unusually large size of one of the building envelopes and inadequate detail and clarity of the developer's maps;
- Lack of perc tests and required well tests;
- Lack of cumulative impact analysis of, for example, future applications for vineyards and/ or reservoirs on each subdivided parcel and their potential for adverse impacts on the watershed, wetland and wildlife;
- Potential impact of the use of water for frost protection of grapes. While Jackson family representatives say they do not *currently* use water for frost protection, we see no prohibition or condition preventing it in the future on new subdivided lots;
- Inadequate or faulty hydrological analysis by the developer's consultant regarding the relationship between the "perched aquifer" (Wilson Grove formation) and tributaries of Green Valley Creek, and Green Valley Creek itself;
- No drainage plan, no specific leachfield area or leachfield expansion area.

In conclusion, we believe that the environmental review is not adequate to determine there will be no adverse impacts; the mitigated negative declaration and the conditions of approval are inadequate; and there has been inadequate attention to the valuable and informed testimony of the neighbors whose wells and properties and environmental resources might be severely impaired. Please consider that this property is part of the "Harrison Grade Study Area" which is a water scarce area harboring fragile native plant species as well as other wildlife. The watershed is already under extreme stress naturally and from human development. Per the 6/29/09 letter by neighbors Paul Jaffe, Susan Shaw and Alexandra Hubbard, already submitted for the record, "...if an environmental resource is already under stress, impaired, damaged or degraded, any additional stress, impairment, damage or degradation is, by definition, a significant cumulative impact."

Thank you for your attention to our concerns. Please require an EIR.

Sincerely,

Ann Maurice

Ann Maurice

Ad Hoc Committee for Clean Water
P.O.Box 484 Occidental, CA 95465
707 874-3855ph 707 874-2493 fax

Efren Carrillo, Chairman
Sonoma County Board of Supervisors
575 Administration Drive
Santa Rosa, Ca 95403

RECEIVED
FEB 14 2011
BOARD OF SUPERVISORS
COUNTY OF SONOMA

2/13/11

Table of Contents

Ad Hoc committee for Clean Water Appeal to the Board
Re: Subdivision Application File Number MNS 06-0032
Subdivision by Jackson Family Investments

1. Ad Hoc Committee for Clean Water Response to Staff Report and Jackson Family Investments (with attachments)
2. Letter by Paul Carroll, Attorney at Law, February 2011
3. Report by Dr. Robert Curry, hydrologist, February, 2011
4. Report by Patrick Higgins, Fisheries Biologist, February, 2011 (with attachments)

Ad Hoc Committee for Clean Water
P.O.Box 484 Occidental, CA 95465
707 874-3855ph 707 874-2493 fax

Efren Carrillo, Chairman
Sonoma County Board of Supervisors
575 Administration Drive
Santa Rosa, Ca 95403

2/13/11

Re: Jackson Family Wines, Inc., Subdivision
12942 Bones Lane, Occidental, Ca., APN 074-030-043
**NO WATER, NO FISH**

Dear Supervisor Carrillo and Members of the Board,

We filed this appeal to the Board because we believe **adopting the Negative Declaration would violate the California Environmental Quality Act (CEQA). If this project goes forward, an Environmental Impact Report should be required.**

We have made verbal and written objections to PRAC and PRMD regarding water, specifically the potential for adverse impacts to adjacent landowners and adverse impacts on the tributaries in the watershed of Green Valley Creek and the Creek itself with consequent damage to ***salmonids***, especially ***coho***, shamefully now an endangered species. We have bolstered our arguments with expert opinion by Dr. Robert Curry, hydrologist; Pat Higgins, Fisheries Biologist and Paul Carroll, Attorney at Law.

I wish to correct first of all, two of my own misstatements. I called some of the *future studies*, "deferred mitigations". What I meant was, *essential studies* that have been *deferred* that I believe need to be presented to the public and the Board *prior to* approval of the environmental document. The second is my assertion that there were *no* perc tests at all for any parcels. I have learned that there are in fact perc tests on file, BUT *they do not rise to the minimum standards set by the County.*

**NO HARM**:
Fundamental to any Subdivision application in a water scarce area (see Slade, 2009, applicant's hydrologist), with soils identified as having severe septic constraints, (see Dwyer 2009, applicant's geologist) is proof of adequacy of water and proof of safe disposal of effluent from an on-site septic system. Not just proof of water for the satisfaction of the owners of the parcels, but proof that *water withdrawal will cause no damage to neighbors or to the natural resources enjoyed by us all, especially no damage to resources already* ***threatened, endangered or listed.***

But, there is *little discussion of impacts to Green Valley Creek* and *no consideration of the resident* ***endangered species, namely coho*** in spite of the fact that this project is in the Green

Valley Creek Watershed! As you know, millions have been spent on ***coho, steelhead and chinook*** restoration projects with *little* success! ***Wild coho***, once abundant in Green Valley, are near extirpation in spite of "captive-breeding" efforts. Why? **NO WATER, NO FISH**! (See Higgins).

**NO WATER, NO FISH!:**

Today, Bodega Bay ***salmon*** fishermen are on the verge of extinction along with the ***salmon***. For decades fishermen have argued correctly that if ***salmon and steelhead*** spawning waters (freshwater tributaries like Green Valley Creek) were respected, ***salmonids*** would be abundant, and fresh *local* ***salmon*** would be on the menu instead of *imported* "farmed" fish many regard as grossly inferior.

**IMPACTS TO GREEN VALLEY CREEK NOT EVALUATED:**

The applicant asserts (Jackson Family Enterprises, January 23, 2011, Response to Comment #4) that impacts by their wells on Green Valley Creek is "highly unlikely" ***because*** "the drilled depths of existing and new onsite wells would terminate at an elevation much higher than the elevation of the creek". What does that mean? Doesn't water flow *downhill* on their property like everywhere else? Gravity moves water *underground* as well as above ground. Water goes from higher to lower elevations. Green *Valley* Creek is in the *valley*, below the hills in what we call the "watershed". What is a "watershed"? An area that *sheds* water downhill. So just because wells are higher in elevation than the creek in question does not mean that there is no impact to the creek! Impeding the underground flow of water by sucking it up a well, can deny that water to downhill users-- be they ***salmon*** or people. If enough of us do it all together, especially at the same time of year, cumulatively we can have a dangerous, deleterious impact. If common sense and what we all should have learned in 7th grade earth science escapes us, please refer to hydrologist Dr. Robert Curry's expert opinion for verification that on the subject property, water moves from higher to lower elevations underground and that wells drilled at a higher elevation than a creek, can, of course, have an adverse impact on that creek and the potential impacts to Green Valley Creek by Jackson wells in the nearby hills of the watershed have not been evaluated properly!

Why do many creeks in California flow in the dry season even *after it stops raining*. Where does that water come from? It seeps out of the ground, out of the *hills* of the *watershed* like the hills of the Jackson Family property. That seepage or leakage supports ***coho*** and other freshwater life and recharges downstream wells and alluvium for people and fish during the dry season! Proper evaluation is essential. (See Higgins and Curry as attached)

**MORE ON IMPACTS TO THE WATERSHED:**

But, Jackson Family Enterprises says there's more to the story. They continue in the same paragraph to say that the site is geologically and spatially "isolated" from Green Valley Creek; that their land is recognized as an "isolated cap" that stores water. Therefore, they argue, since it is "isolated", it can't impact or de-water or reduce surface or underflow! To the contrary, it is "isolated" only in the sense that their Wilson Grove "cap" apparently does not *receive* water from other "Merced/Wilson Grove" formations. But seepage IN is not at issue. Water definitely leaks **OUT**! --especially at the contact area between the Wilson Grove and what is called "Franciscan" rock beneath it. (See Dr. Curry for confirmation)

Put a wet sponge on your fine finished wood coffee table! OR NOT! You will ruin the surface with a water stain! Why? Because gravity pulls the water down, it contacts the less absorbent coffee table and seeps out. Now put the sponge on a cutting board and tilt it. The water will eventually run off the board. Why!? Because water in the sponge hits the less absorbent board and runs off the slope because gravity takes it downward. Wilson Grove soils have been likened to a "sponge", meaning it is "water-bearing", sitting atop the less absorbent Franciscan formation.

The Jackson Family water analysis rests on the dubious assertion that the "sponge" on their slope won't seep or leak underground. So perhaps surrounding lands may be in the Green Valley Creek "watershed", but, according to them, not the lands of Jackson! The lands of Jackson shed no water! This extraordinary assertion is contradicted by Dr. Curry producing, we believe, adequate grounds for the Board to require an EIR.

**SEPTIC:**

We find NO percolation test or other soils analysis for Lot 2. Perc test submissions by the consultant for the other 3 proposed lots do NOT meet County standards and all are over three years old. Haven't the courts already ruled that perc tests cannot be deferred outside the public review period for CEQA? Therefore, this negative declaration should be rejected.

The February 8, 2011 staff report alleges *erroneously* (page 2, Issue #2) that *all* perc tests have been completed and demonstrate "that *each* undeveloped lot has an area that can support a septic system consistent with PRMD requirements" (emphasis added). What about Lot 2? The existing farmhouse, has a septic system, all right (per Jackson Family Response to Comment #3). **But they neglected to mention that the system FAILED! yes, FAILED** a few years ago. Staff and the Jacksons also neglected to mention that the repair was accomplished **without** benefit of a soils analysis! (see attached). We see no excuse for **not** doing a soils test at the time given that the septic system failed, needed new leachlines and the applicant knew that a soils test would be needed for subdivision approval anyway!

**So, contrary to Staff assertions, we do not know if Lot 2 can meet perc requirements for a subdivision.** Don't the Jacksons want to assure downhill neighbors that they will not be subject to leachate running into their aquifer downhill from a failed system on Jackson property?

Ms Swedenborg asserted that since each lot is about 40 acres they will surely find adequate area for septic disposal. To the contrary, Lots 3 and 4 perc tests failed for standard septic systems and "mound systems" are required. A "mound system" imports dirt in which to lay the leachlines. The need for mound systems on two of the proposed lots has not been disclosed or discussed in the Staff report regarding potential for adverse impacts. A study years ago indicated a *high failure rate* of mound systems. They have been called "gopher condominiums"! Indeed, not surprisingly, the County requires monitoring, water-saving devices, inspection for gophers and even an easement for access for inspections (see attachment) for these non-standard systems. All this should have been disclosed by staff so that concerned residents could comment on their experience with mound systems and their suitability for this environmentally sensitive area, and to be sure that all related potential adverse impacts have been identified and mitigated.

We expect from the Jackson family first class disclosure, first class septic analysis, first class review and first-class protection of the natural resources of the area and the fishery. There is no reason that we absolve them from first class answers to our concerns.

Substandard presentation of perc and soils profiles:

The handdrawn diagrams of the perc tests and "profile holes" are essentially circles and dots and a few words on an otherwise blank sheet of paper! Is that acceptable to the County? Thank God, NO! Perc holes and profile holes must be shown on a topographic map using a 1" = 20' scale. Obviously, as asserts the County specialist who reviewed Lot 1, that diagram "does not clearly identify the site tested"! Lots 3 and 4 have a tiny map attached with a red circle on each attempting to show where the perc tests were conducted. Should that be acceptable to the County? Of course not. Is the map a 1" = 20' scale? No. This is not rocket science, it's common sense and other applicants and their consultants regularly comply with these reasonable requirements. Why not the Jackson family?

Why is this important? Consider the map by engineers Brelje and Race showing an "S" where the septic field is to be located for lot 3 (attached). It does does not appear to be in the same location as the perc test! So we apparently have a perc test one place and the leachfield somewhere else!

Such defects and concerns in an area of severe septic constraint, where a standard system is not allowed, in a fragile ecosystem (Harrison Grade Study Area) uphill from Green Valley Creek and struggling-to-survive ***salmon***, while the entire ***salmon*** fishing fleet has been shut down along the Coast of California, fishermen have lost their *lives* and livelihoods and we, the general public are reduced to eating an imported, farmed facsimile? We expect higher standards from the Jackson family and a greater respect for the fragile ecosystem in which we and they are neighbors. And greater concern, *per CEQA*, for our health. We want the well-documented benefits from oils from local, wild, cold-water fish. Imported Norwegian *farmed* fish oils are not an adequate substitute!

Rumors abound that Sonoma County lets wineries and vineyard owners do whatever they want to do! I trust that is not true! I have reviewed other septic reports attached to negative declarations that show far higher standards and that do not insult the intelligence of the public. To say that proper septic analysis and perc tests, on proper maps, showing actual locations of leachfields and expansion areas will be done *eventually* at some point, is not acceptable *per CEQA*. To suggest that for *now*, we the public and the Board should be satisfied with substandard assurances is an insult and not acceptable. We want perc tests and soils tests that meet County standards *during* the CEQA review process. Anything less would usurp the rights and *responsibilities* awarded the public and the Board by the state legislature under CEQA to review and comment on potential adverse impacts to ourselves, our neighbors and our resources. We **and** the Jacksons should demand no less.

Please note that Dr. Curry looks at slow percolation as more evidence of water problems and lack of water availability. The Wilson Grove "sponge" on the Jackson property is evidently not that

absorbant! Dr. Curry opines that one of the perc test holes hadn't changed in two hours which, he says, is about as long as anyone wants to stand around looking at water in a hole in the ground!

**ACCESS ROAD FROM DUPONT -- BONES LANE:**

This controversial, narrrow lane has been used without incident by about 10 families. This project has the potential to double the amount of traffic on it. We are not satisfied that with such an increased burden, the road will continue to be safe. Yes, it needs a dust suppressant in the dry-season, but that is a responsibility of the owners and easement holders. Putting a hard surface on the road will lessen dust and make certain neighbors happy, but it will probably increase speed. At present, this dirt/gravel road has what I have dubbed "speed-holes" instead of "speed-bumps". The speed-holes will rattle your brains and intestines if you drive over 10 mph. An "armor-coat", paving or otherwise impermeable surface could produce a driving hazard due to increased speed on this *very narrow* country lane. I do not believe the potential adverse impacts to drivers and their passengers of a "hard coat" surface have been adequately addressed and mitigated.

There is a creek and a gully just west of the road. Runoff from paving or "armor coat" will be much higher and more rapid with increased potential for erosion. There has been no analysis of this increased erosion potential and no suggestions or requirements for mitigation. Such erosion could undermine the existing culvert and damage the road. Also, impacts of project roads on creeks and ***salmon*** spawning is well-known but **not** addressed in the environmental review.

**RESERVOIRS:**

There are two reservoirs on the property. The potential for adverse impacts on the watershed from these reservoirs has not been addressed at all. Where does the water filling these reservoirs come from? We asked the Jackson Family consultant, but there has been no response. The western reservoir appears to have a berm all the way around it so that it cannot be capturing "sheet flow". Is the water being pumped into it from an on-site well?

Why was there no analysis of the potential for adverse impacts of storage, in these reservoirs, of water from this admittedly water scarce and fragile ecosystem? Do these reservoirs lessen the amount of water available to the creeks, salmon and downstream human users? We believe so. How much water that would otherwise be underground is exposed to evaporation from the surface of these ponds? Are they always full? How many times are they filled, and by what means? These ponds have essentially been ignored in this environmental review of this water scarce and already stressed ecosystem.

**In conclusion**, this negative declaration must not be certified due to errors, inadequacies, omissions and deferrals, and due to conflict of opinion between experts. Much of the controversy is about water in a dramatically water scarce area, one of the geatest problems we face today, and about stresses upon an already severely damaged and even endangered cold-water fish species.

Ann Maurice

## Attachment 1

Failed Septic system on Proposed Lot 2 --Repair without soils analysis.

PERMIT & RESOURCE MANAGEMENT DEPARTMENT
WELL & SEPTIC SECTION
2550 VENTURA AVENUE, SANTA ROSA, 95403 TELEPHONE (707) 565-1900

☐ **APPLICATION FOR PRIVATE SEWAGE DISPOSAL PERMIT**

☐ **APPLICATION FOR PUBLIC HEALTH CLEARANCE FOR:** Voluntary Sect 3

Application is hereby made to the Permit & Resource Management Department for a permit to construct or repair a sewage disposal system as described below in compliance with code of Sonoma County or for clearance for other construction.

This permit application must be signed on all 3 signature lines by the same person (i.e., contractor or owner/builder.) A letter of authorization from the owner must accompany this application if an agent is signing on the owner's behalf.

**APPLICANT: PLEASE PRESS HARD (USE BLACK INK). FILL IN BETWEEN HEAVY LINES ONLY.**

| BLDG PERMIT # | SDS PERMIT No. | DATE ISSUED | CLEARANCE | NEW | REPAIR |
|---|---|---|---|---|---|
| | SEP005 0516 | ltr 6/24/12 issued 6/24/12 | | | ✓ |

JOB ADDRESS 12942 ~~DUBOIS~~ Bones Ln
NEAREST CROSS STREET HARRISON GRADE RD
ASSESSOR'S PARCEL No. 074-030-~~010~~ 043
SUBDIVISION _____ LOT _____ LOT _____
CITY SEBASTOPOL ZIP _____

OWNER'S NAME JACKSON ENTERPRISES
MAILING ADDRESS 421 AVIATION
CITY SANTA ROSA STATE CA ZIP _____
PHONE ( ) 544-4000

SEWAGE DISPOSAL SYSTEM CONTRACTOR PRECISION BACKHOE
ADDRESS PO Box 589 GLENBRUK PHONE No. 8879562
GENERAL CONTRACTOR _____

INSTALLATION WILL SERVE:
☐ RESIDENCE ☐ APARTMENT HOUSE ☐ COMMERCIAL ☐ MOBILE HOME
☐ MOTEL ☐ OTHER ☐ NEW BUILDING CONSTRUCTION ☐ ADDITION /ALTERATION

| No. OF UNITS: | TOTAL No. OF BEDROOMS: | WATER SUPPLY: | LOT SIZE: |
|---|---|---|---|
| 1 | 2 | ☐ PUBLIC ☑ PRIVATE | AS SHOWN |

failure

## TERMS OF PERMIT

CONDITIONAL

APPLICANT AGREES THAT:
1. PRMD ENVIRONMENTAL HEALTH SPECIALIST WILL BE NOTIFIED A MINIMUM OF 24 HOURS PRIOR TO COMMENCING WORK.
2. PRMD ENVIRONMENTAL HEALTH SPECIALIST AND ENGINEER'S OR CONSULTING ENVIRONMENTAL HEALTH SPECIALIST'S INSPECTION, WHEN INDICATED, WILL BE OBTAINED PRIOR TO COVERING THE SYSTEM.
3. A COPY OF THE APPROVED SEWAGE DISPOSAL SYSTEM SHALL BE AVAILABLE AT THE JOB SITE AT ALL TIMES.
4. ANY DEVIATION FROM APPROVED PLAN WITHOUT PRIOR APPROVAL OF THE PRMD WILL BE CAUSE FOR STOPPING WORK UNTIL THE CHANGES ARE FULLY JUSTIFIED AND APPROVED.
5. THE SEPTIC TANK MUST BE I.A.P.M.O. APPROVED.
6. PRIOR TO AUTHORIZING OCCUPANCY OF ANY BUILDING WITH AN ENGINEER OR CONSULTING ENVIRONMENTAL HALTH SPECIALIST DESIGNED SYSTEM. A SIGNED STATEMENT BY THE DESIGNER CERTIFYING THAT THE SYSTEM WAS INSTALLED IN COMPLIANCE WITH THE APPROVED PLAN MUST BE SUBMITTED TO PRMD.
7. THIS PERMIT IS SUBJECT TO REVOCATION IF FOUND TO BE IN NONCONFORMANCE WITH SONOMA COUNTY CODE OR STANDARDS OF PRMD.

IT IS UNDERSTOOD THAT THE ISSUANCE OF A PERMIT IN NO WAY INDICATES THAT A GUARANTEE OF PERFECT AND INDEFINITE OPERATION OF THIS SYSTEM IS MADE BY THE COUNTY OF SONOMA AND THE OWNER IS REQUIRED TO MAKE ANY REPAIRS NECESSARY TO CONFINE SEWAGE BELOW THE SURFACE OF THE GROUND. APPROVAL IS BASED UPON INFORMATION SUBMITTED BY THE APPLICANT. FIELD CONDITIONS AT VARIANCE WITH APPLICATION MAY VOID PERMIT.

I HEREBY ACKNOWLEDGE THAT I HAVE READ THIS APPLICATION AND STATE THAT THE ABOVE IS CORRECT AND AGREE TO COMPLY WITH ALL COUNTY ORDINANCE S AND STATE LAWS REGULATING CONSTRUCTION OF PRIVATE SEWAGE DISPOSAL SYSTEMS. **THIS PERMIT SHALL EXPIRE BY LIMITATION IF WORK AUTHORIZED IS NO COMPLETED WITHIN 3 YEARS OF ISSUANCE.**

CONDITIONAL

x Thomas J. Tann
SIGNATURE OF APPLICANT

called 6/24/12

The undersigned applicant for private sewage disposal certifies as follows:

### CONTRACTOR'S LICENSE LAW CERTIFICATE
(COMPLETE EITHER A OR B)

☑ A. THE APPLICANT IS LICENSED UNDER THE PROVISIONS OF THE CONTRACTOR'S LICENSE LAW UNDER LICENSE No. 522707 WHICH LICENSE IS IN FULL FORCE AND EFFECT.

☐ B. THE APPLICANT IS EXEMPT FROM THE PROVISIONS OF THE CONTRACTORS LICENSE LAW FOR THE FOLLOWING REASONS:
1) OWNER/BUILDER ☐ 1) OTHER (EXPLAIN) ☐

6/20/2002 x Tom Tann
DATE SIGNATURE OF APPLICANT

SONOMA COUNTY PERMIT AND RESOURCE MANAGEMENT DEPARTMENT RECEIVED

### WORKER'S COMPENSATION CERTIFICATE
(COMPLETE EITHER 1 OR 2)

☑ 1. A CURRENTLY EFFECTIVE CERTIFICATE OF WORKER'S COMPENSATION INSURANCE IS ON FILE WITH THE SONOMA COUNTY PRMD.

COMPENSATION INSURANCE STATE FUND POLICY # 014-040 [illegible] IS CURRENTLY IN FORCE.

☐ 2. I CERTIFY THAT IN THE PERFORMANCE OF THE WORK FOR WHICH THIS PERMIT IS ISSUED I SHALL NOT EMPLOY ANY PERSON IN ANY MANNER SO AS TO BECOME SUBJECT TO THE WORKER'S COMPENSATION LAWS OF CALIFORNIA.

6/20/2002 x Tom Tann
DATE SIGNATURE OF APPLICANT

LAYOUT PLAN APPROVED BY [illegible] DATE 6-24-2 CONSTRUCTION APPROVED BY [illegible] DATE 6-24-2

0293A0000H06/20/02 SUBTTL 321.00

WELL AND SEPTIC SECTION WHEN APPROVED THIS IS YOUR PERMIT

# COUNTY OF SONOMA
## PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

2550 Ventura Avenue, Santa Rosa, CA 95403
(707) 527-1900 FAX (707) 527-1103

*Field Operations • Code Enforcement • Permits • Environmental & Comprehensive Planning*

# CONDITION OF PRIVATE SEWAGE DISPOSAL REPAIR PERMIT

REVIEW THE FOLLOWING CONDITIONS PRIOR TO PERMIT ISSUANCE

NAME: JACKSON ENTERPRISES

ADDRESS: ~~[illegible]~~ 12942 DUPONT OR JONES LANE

CITY: SEBASTOPOL, CA

PERMIT NO: _____

**CONDITION(S):**

The proposed septic system repair does not meet current Well & Septic Section criteria. Inspection of the repair by this department will be to check proper installation only.

The sewage disposal system is considered non-conforming due to the following reasons. There may be other site limitations that are not apparent at this time.

- ☑ Soils evaluations and/or groundwater determinations have not been conducted. Soil and groundwater conditions may impact proper septic system operation particularly during wet-weather conditions.
- ☐ The size of the leachfield appears smaller than typical for this size house or for soil types in the area.
- ☐ A standard septic system design appears poorly suited for the site. An alternative design would be preferable.
- ☐ The installation does not conform to present code setbacks.
- ☐ Other: _____

Bedroom additions, substantial remodeling or reconstruction cannot be approved unless the septic system can be brought into compliance with present Well & Septic Section Reutilization Policy criteria. The issuance of this permit does not constitute a recognition by the County of the legality of any structures on the parcel.

The Well & Septic Section has authorized this repair to allow continued occupancy of this existing structure and in no way implies any guarantee of the work proposed or of the function, effectiveness or longevity of this repair. The use of low-flow toilets and other water conservation measures are strongly recommended to decrease sewage flow to the septic system.

I understand and accept these conditions:

Signed: Nancy Cathcart, Jackson Enterprises Rep

Date: 6-20-02

# Attachment 2

Required inspections and access for Mound Systems

RECORDED AT THE REQUEST OF,
AND WHEN RECORDED, RETURN TO:

**County of Sonoma**
**Permit and Resource**
**Management Department**
**2550 Ventura Avenue**
**Santa Rosa, CA 95403**

Recording fees waived pursuant to Government Code 6103

**PERMIT CONDITIONS**
**FOR NONSTANDARD SEWAGE DISPOSAL SYSTEM**

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Site Address: _____ ID No.:_____

Please mark the appropriate box:

☐ Nonstandard Septic System ☐ Septic System with Pretreatment Device

☐ Subsurface Drip Disposal System ☐ Other:

NOTICE: The installation permit for the above nonstandard sewage disposal system is issued subject to the following conditions.

1. That the property owner(s) acknowledges the fact that the onsite wastewater disposal system serving the above property is nonstandard, that it is required to be operated under an Operational Permit, and that the County of Sonoma Permit and Resource Management Department (Department) makes no guarantee of satisfactory performance or warranty of the system.

2. That the nonstandard system for the above property is designed to serve a residential/commercial use (circle one) and, that the maximum peak daily wastewater flow is not to exceed _____ gallons per day. Operating the system in excess of its maximum capacity in gallons per day is a violation of the terms and conditions of the Operational Permit which can be cause for the suspension and/or revocation of the permit.

3. That the system is designed to be constructed and operated with water saving devices and, that all such devices shall be properly maintained or replaced with equivalent types of water saving devices in the event that repair becomes necessary.

4. That, after installation and final approval of the nonstandard system, the owner agrees to monitor the system at the frequency required by the Department and/or the Regional Water Quality Control Board (RWQCB) on the self-monitoring forms provided by the Department. The forms require measurement of the depth to water in the monitoring wells, observance of the site and soil conditions, as well as indicating the dose counter readings and volume of wastewater discharged to the nonstandard system. All required self-monitoring reports are to be submitted to the Department in a timely manner.

5. At a minimum of once a year, a sample from the sump tank will be tested for biological oxygen demand (BOD), total suspended solids (TSS), dissolved oxygen (DO), nitrate and total coliform, and fecal coliform, at the owner's expense, on the County's monitoring schedule. Test results must be submitted, with monitoring reports, at least once a year. ***This item to apply only when a subsurface drip disposal system or septic system with a pretreatment device is being installed.***

6. That the area shall not be planted with unacceptable plants, shrubs, trees, ornamentals, vegetative cover, and irrigation system over or too close to a Subsurface Drip (SD) system. All landscaping plans shall be reviewed by the Department. ***This item to apply only when a subsurface drip disposal system is being installed.***

7. That the owners agree to inspect the SD system regularly as part of the monitoring program, especially checking for gopher strikes, damaged or torn SD lines and equipment. Only licensed and experienced professionals, C-36, C-42, or a licensed general engineering contractor shall install and/or repair damaged SD lines and equipment. ***This item to apply only when a subsurface drip disposal system is being installed.***

8. That, in the event of malfunction of the nonstandard system, action will be taken by the Department to abate the failing operation as a public health hazard and nuisance. The cost of repair and/or replacement of the nonstandard system could be significantly more expensive than a standard system repair and is the responsibility of the property owner.

9. That all areas of the parcel held for reserve in which to replace the nonstandard system be protected from development which would have an adverse effect or impact on the function of the system and/or the reserve area.

10. That the owner agrees to renew the required Operational Permit and pay fees annually as required by the Department as long as ownership of the site is retained or until such time the Department notifies the current owner that renewal is no longer necessary. Also, the current owner agrees to notify subsequent owners of this property of the above requirements to monitor and maintain the nonstandard system as well as the necessity to obtain and renew the Operational Permit.

Dated:_____ Property Owner(s):

_____

_____

STATE OF CALIFORNIA ) ss
COUNTY OF_____)
)

On _____ before me, _____, Notary Public,

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

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

WITNESS my hand and official seal.

Signature _____ (SEAL)

RECORDED AT THE REQUEST OF,
AND WHEN RECORDED, RETURN TO:

**County of Sonoma**
**Permit and Resource**
**Management Department**
**2550 Ventura Avenue**
**Santa Rosa, CA 95403**

Recording fees waived pursuant to Government Code 6103

NO TRANSFER TAX DUE PURSUANT TO R&T SEC. 11922

## EASEMENT DEED AND AGREEMENT

### Preamble

This Agreement made this _____ day of _____, 20_____, by and between _____, hereinafter referred to as "Grantor" and **County of Sonoma**, hereinafter referred to as "Grantee".

### Recitals

WHEREAS, Grantor is the owner of certain real property commonly known as _____ in an unincorporated area of Sonoma County, State of California, hereinafter referred to as the "Servient Tenement" and described as Exhibit "A" attached: (include full legal description and the Assessor's Parcel Number).

### Exhibit "A"

WHEREAS, Grantee desires to acquire certain rights in the Servient Tenement:

NOW, THEREFORE, it is agreed as follows:

**Grant of Easement**

1. For valuable considerations, grantor hereby grants to Grantee an easement as hereinafter described.

**Character of Easement**

2. The easement granted herein is an easement in gross, for purposes of ingress and egress pertaining to the use described below.

**Description of Easement**

3. The easement granted herein is a right to come onto the property of Grantor and to bring associates and employees of the County of Sonoma Permit and Resource Management Department and/or the Regional Water Quality Control Board onto the property more fully described in Exhibit "A" attached hereto and incorporated herein by reference.

**Location**

4. The easement granted herein is located as follows:

   The entire Servient Tenement as described in Exhibit "A".

**Use by Grantee**

5. The easement granted herein includes the following use of the Servient Tenement: To come onto the property or accompanied as herein above set forth for the purpose of observing, testing, sampling, placing and removing of test devices and evaluating and monitoring Grantor's nonstandard individual sewage disposal system. Said activity shall be permitted on Servient Tenement only during normal business hours.

**Exclusiveness of Easement**

6. The easement granted herein is not exclusive.

**Entire Agreement**

7. This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing, signed by the party to be charged.

**Attorney's Fees**

8. In the event of any controversy, claim, or dispute relating to this instrument or the breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees, and costs.

## Attachment 3

Evaluations by District Environmental Health Specialist for Perc Tests on Lots 1, 3, 4; Hand drawn diagram of perc and profile holes for each lot and location of map for lots 3 and 4

# COUNTY OF SONOMA
## PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

2550 Ventura Avenue, Santa Rosa, CA 95403
(707) 565-1900 FAX (707) 565-1103

Subject: **Soils Evaluation for On-Site Sewage Disposal Purposes**

Steve Lash
647 Vista Grande PL
Santa Rosa CA 95403

Date: 12-27-07

12942 Bones Ln
Site Address:

074-030-043
Assessor's Parcel Number

Jackson Family Investments II LLC
Property Owner:

SE07-0874
Site I.D. #:

Subdivision #

1
Lot #:

Your soils evaluation for the subject property has been reviewed and filed. Review of the data indicates potential for the following type of sewage disposal system:

Filled land using 47MP1

sized at: 153'/BR

☐ Design by a Registered Environmental Health Specialist or Registered Civil Engineer is required.

☑ Complete topographic map of site is necessary.

☐ The following critical design elements need to be observed. Final approval cannot be given until these have been addressed:

Very limited area tested - two profiles only 30' apart. Perc map submitted does not clearly identify site tested. Topographic survey map must clearly show location of all percs & profile holes in relation to property line and shall be marked properly with a 6' steel fence post at least 4" into the ground

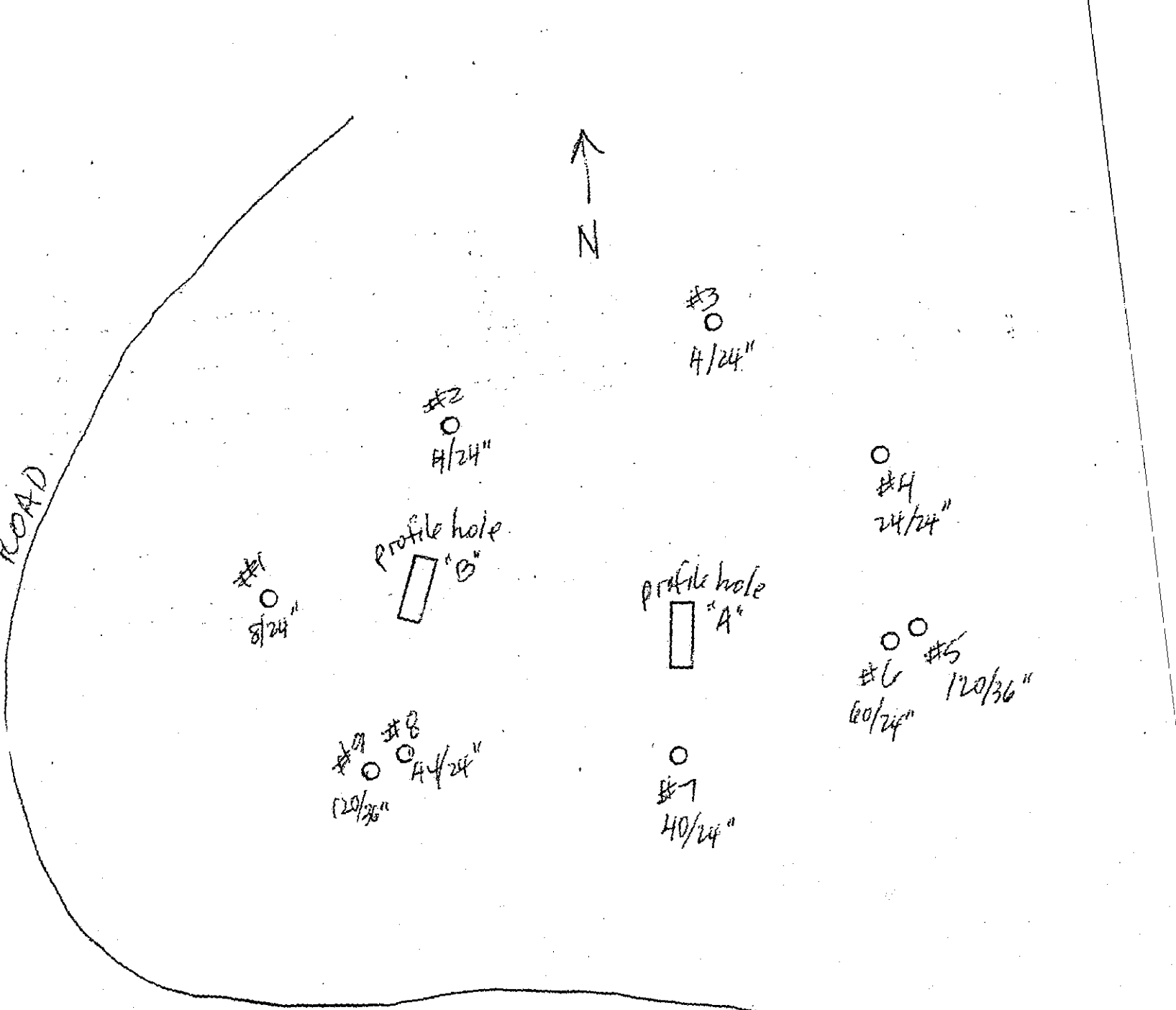
The sewage disposal capability of the site is dependent upon topography and setbacks. The acceptable sewage discharge volume (i.e., number of bedrooms in a dwelling) will be based upon the final sewage disposal system design.

Construction of the septic system cannot occur until plans have been approved and a permit has been issued by our office. **All septic systems must comply with standards in effect at the time of permit application.**

For further information, please feel free to contact the undersigned at (707) 565-3122 between 7:30 & 9:00 a.m.

Very truly yours,

District Environmental Health Specialist




Perc & Profile holes

12942 Bones Ln. OCC.

lot # 1

# COUNTY OF SONOMA
## PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

2550 Ventura Avenue, Santa Rosa, CA 95403
(707) 565-1900 FAX (707) 565-1103

Subject: **Soils Evaluation for On-Site Sewage Disposal Purposes**

Steve Nash
1447 Vista Grande PL
Santa Rosa CA 95403

Date: 12-27-07

12942 Bones Ln
Site Address:

074-030-043
Assessor's Parcel Number

Jackson Family Investments LLC
Property Owner:

SEV07-0713
Site I.D. #:

Subdivision #

3
Lot #:

Your soils evaluation for the subject property has been reviewed and filed. Review of the data indicates potential for the following type of sewage disposal system:
Mound system with a LLR of 6-8 based on average perc of 56 MPI sized at: 0.37

☒ Design by a Registered Environmental Health Specialist or Registered Civil Engineer is required.

☒ Complete topographic map of site is necessary.

☒ The following critical design elements need to be observed. Final approval cannot be given until these have been addressed:

- Limited to slopes <12½%
- Proper Removal of large trees must be addressed in system design

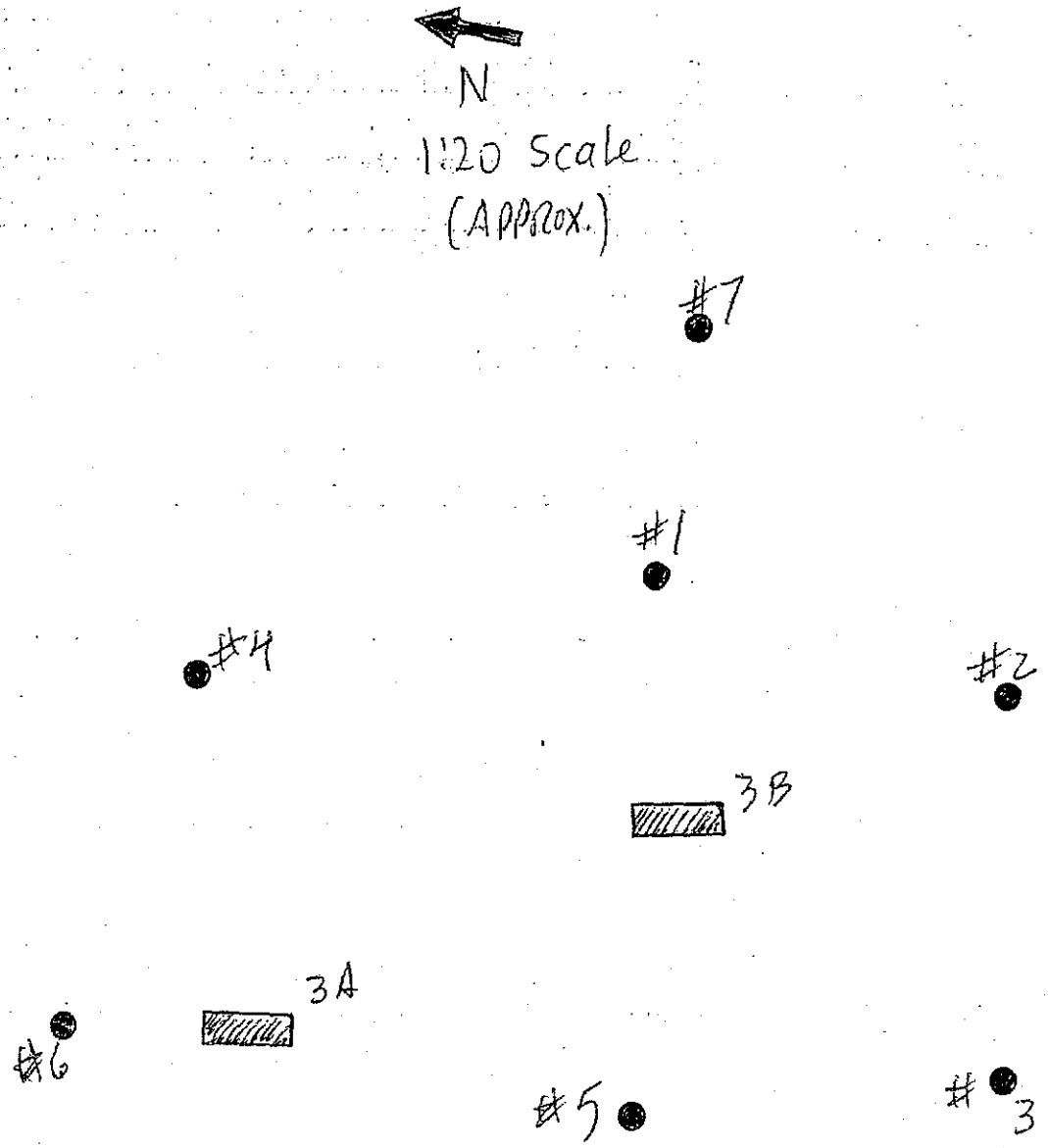
The sewage disposal capability of the site is dependent upon topography and setbacks. The acceptable sewage discharge volume (i.e., number of bedrooms in a dwelling) will be based upon the final sewage disposal system design.

Construction of the septic system cannot occur until plans have been approved and a permit has been issued by our office. **All septic systems must comply with standards in effect at the time of permit application.**

For further information, please feel free to contact the undersigned at (707) 565-3122 between 7:30 & 9:00 a.m.

Very truly yours,

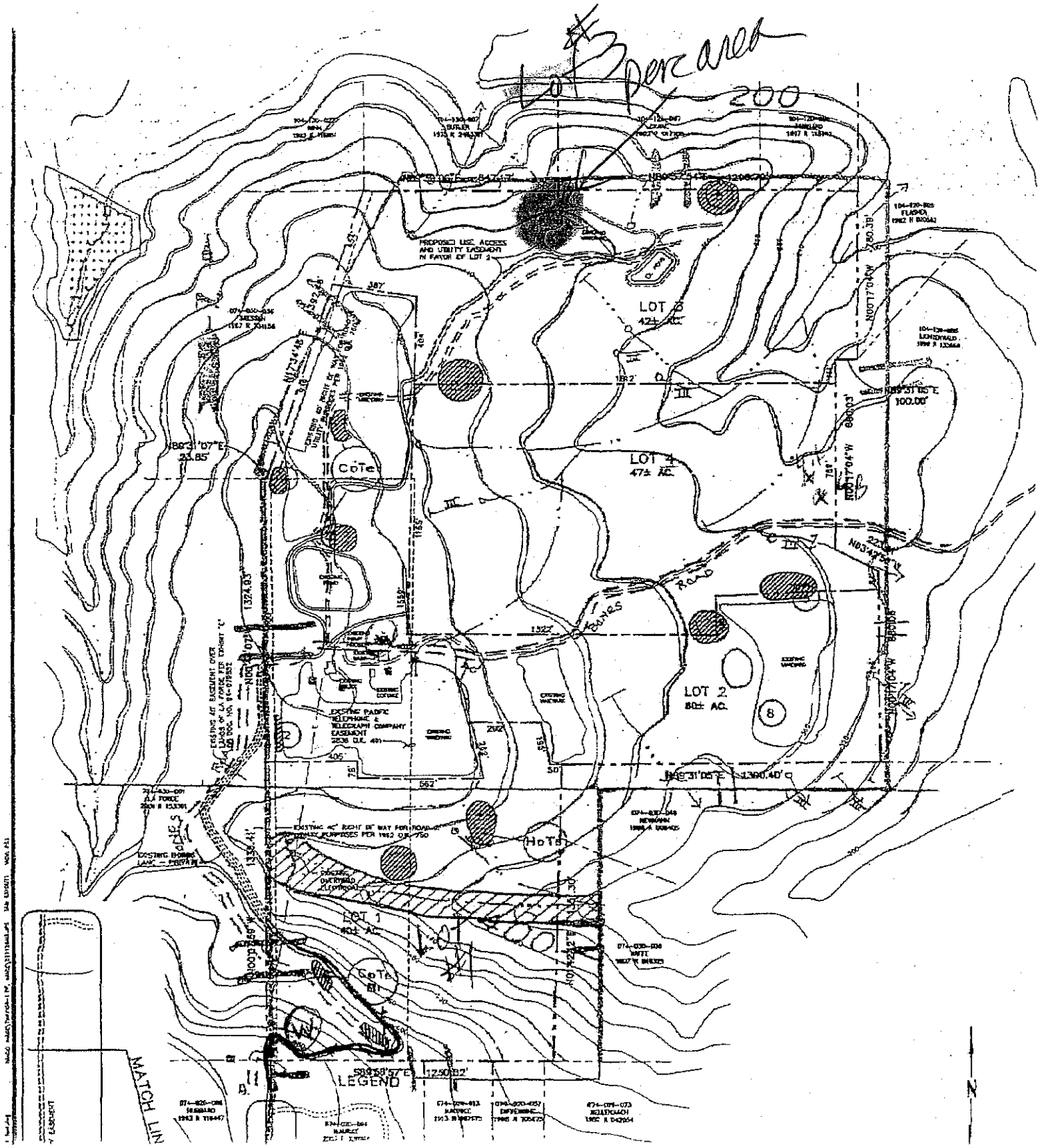
District/Environmental Health Specialist




Profile & Perc holes

12942 Bones Ln., OCC.

Lot #3


Lot #3 per area
200
LOT 3
42± AC.
LOT 4
47± AC.
LOT 2
80± AC.
LOT 1
CoTe
HoTs
CoTs
PROPOSED USE, ACCESS AND UTILITY EASEMENT IN FAVOR OF LOT 1
EXISTING PACIFIC TELEPHONE & TELEGRAPH COMPANY EASEMENT
EXISTING 40' RIGHT OF WAY FOR ROAD PURPOSES PER 1962 O.R. 750
EXISTING OVERHEAD ELECTRICAL
EXISTING BORROW LANE - PRIVATE
BANES ROAD
N89°31'05"E 1390.40'
S89°58'57"E 1750.82'
N89°31'07"E 23.85'
N89°31'05"E 100.00'
N00°17'04"W
N00°17'04"E
N00°42'57"E
N00°42'57"W
MATCH LIN
LEGEND
N

# COUNTY OF SONOMA
## PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

2550 Ventura Avenue, Santa Rosa, CA 95403
(707) 565-1900 FAX (707) 565-1103

Subject: **Soils Evaluation for On-Site Sewage Disposal Purposes**

Steve Lash
647 Vista Grande PL
Santa Rosa CA 95403

Date: 12/26/07

12942 Bones Ln
Site Address:

074-030-043
Assessor's Parcel Number

Jackson Family Investmestments LLC
Property Owner:

SEV07-0714
Site I.D. #:

Subdivision #

4
Lot #:

Your soils evaluation for the subject property has been reviewed and filed. Review of the data indicates potential for the following type of sewage disposal system:

Mound using ave perc rate of 75 MPI
LLR of 6-8 gpd/LF sized at: 0.275 GPD/ft²

☒ Design by a Registered Environmental Health Specialist or Registered Civil Engineer is required.

☒ Complete topographic map of site is necessary.

☒ The following critical design elements need to be observed. Final approval cannot be given until these have been addressed:

- Removal of large trees must be properly addressed
- Zone 4 water scarce area. proof of water required for issuance of a building permit

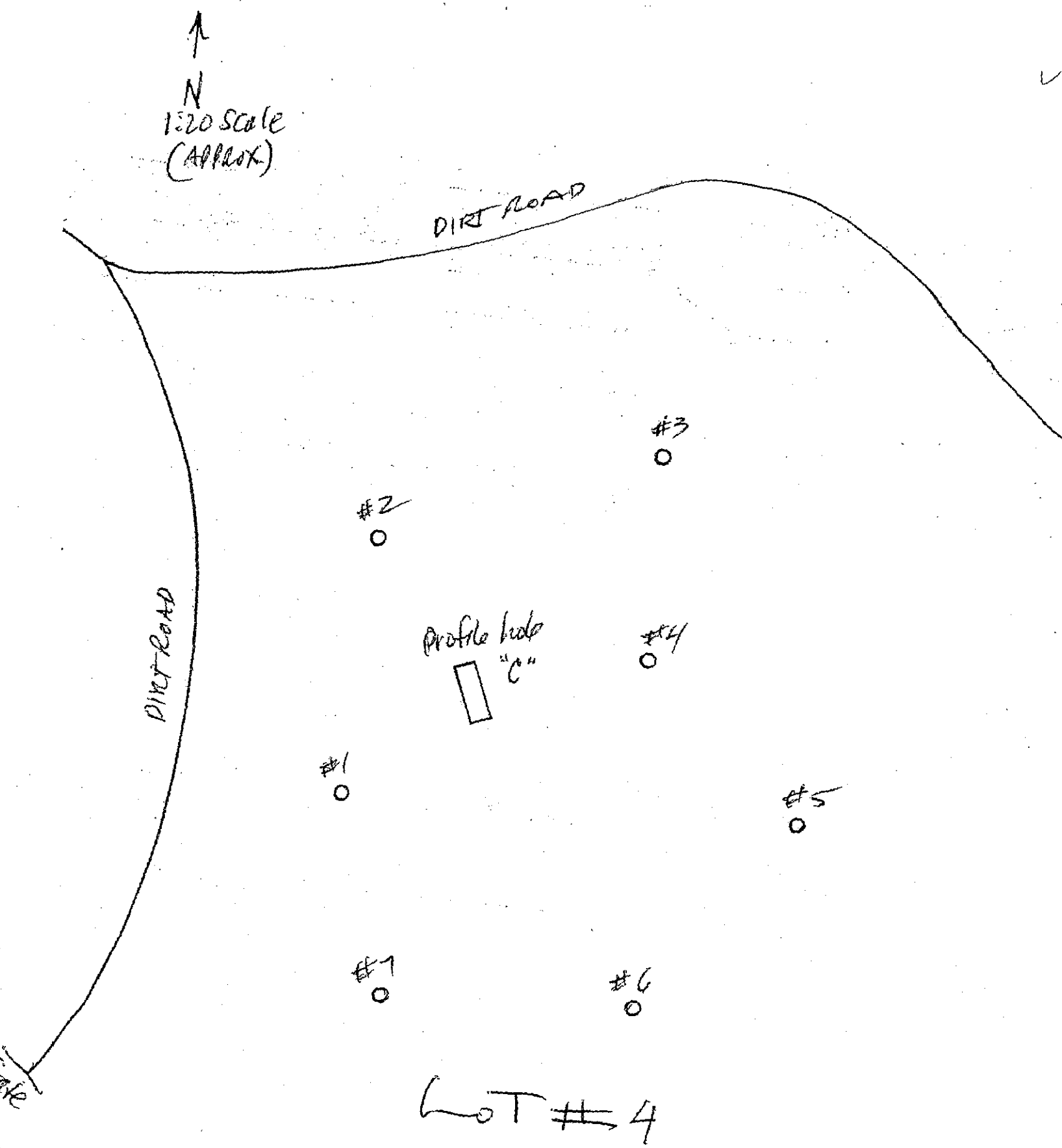
The sewage disposal capability of the site is dependent upon topography and setbacks. The acceptable sewage discharge volume (i.e., number of bedrooms in a dwelling) will be based upon the final sewage disposal system design.

Construction of the septic system cannot occur until plans have been approved and a permit has been issued by our office. **All septic systems must comply with standards in effect at the time of permit application.**

For further information, please feel free to contact the undersigned at (707) 565-3122 between 7:30 & 9:00 a.m.

Very truly yours,

District Environmental Health Specialist

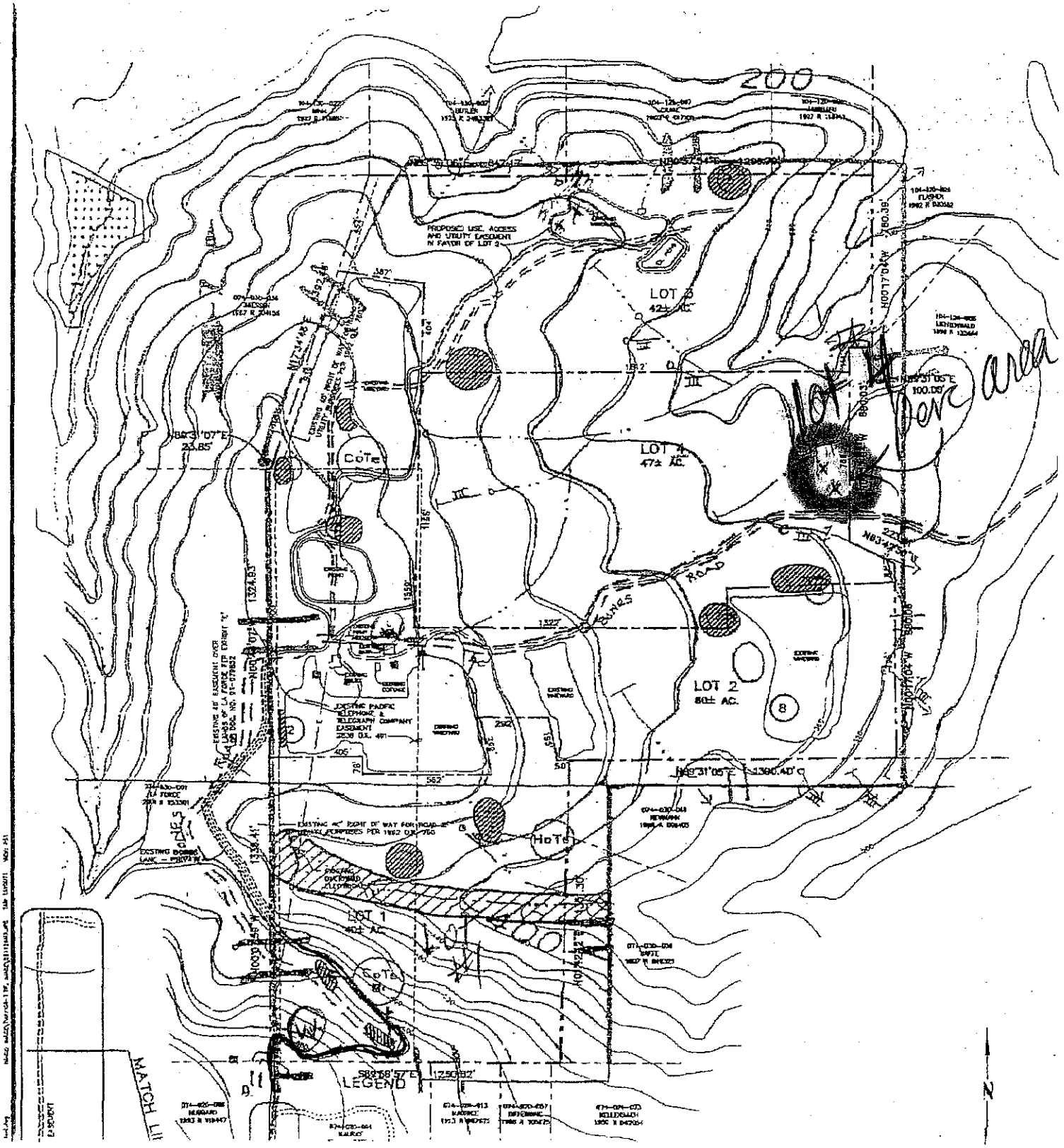



LOT #4

12942 Bones Ln.

Occ.

Perc Area

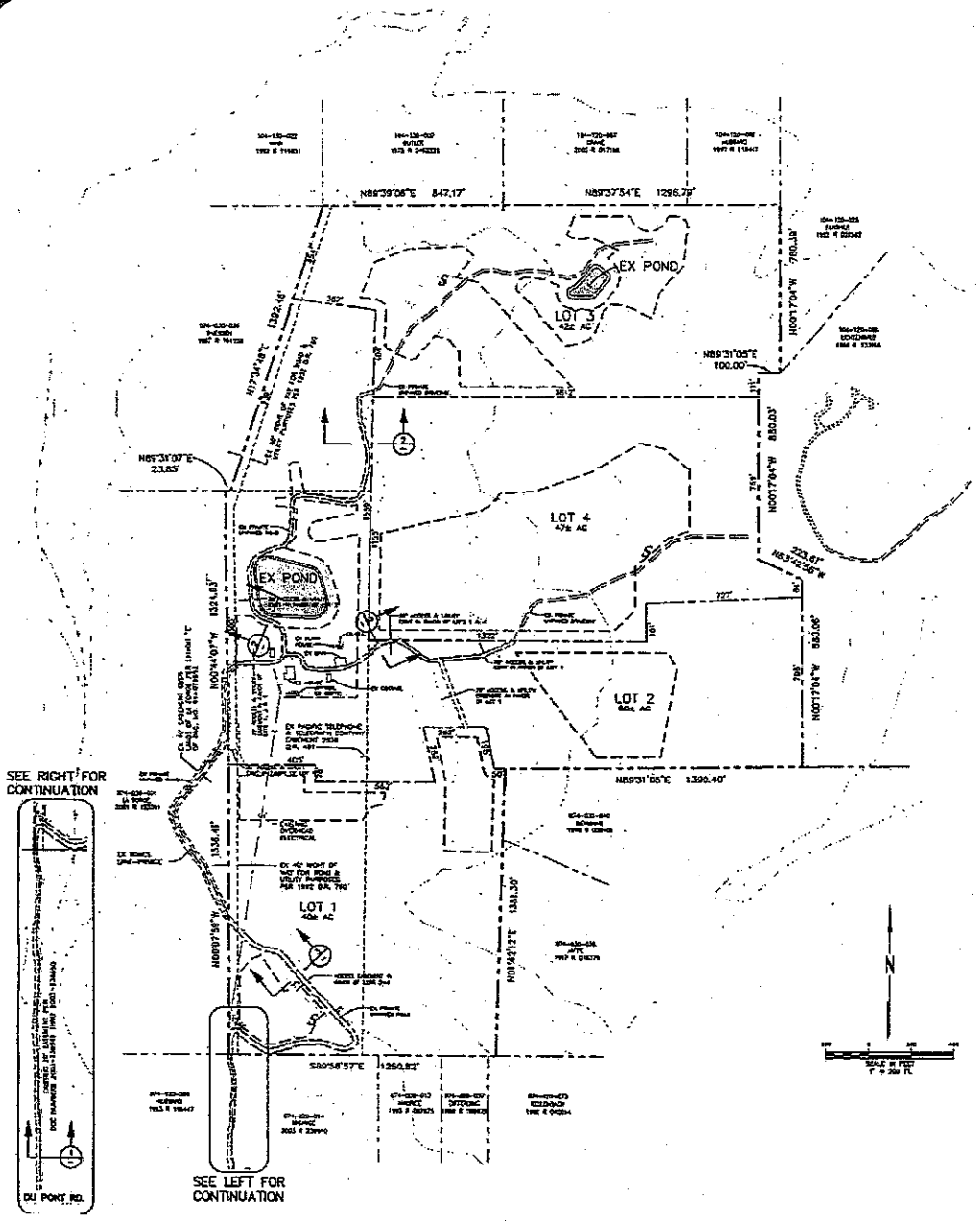

200
LOT 3
42± AC.
LOT 4
47± AC.
LOT 2
80± AC.
LOT 1
40± AC.
PROPOSED USE, ACCESS AND UTILITY EASEMENT IN FAVOR OF LOT 2
EXISTING PACIFIC TELEPHONE & TELEGRAPH COMPANY EASEMENT
EXISTING 40' EASEMENT OVER LANDS OF LA FORCE PER EXHIBIT "A"
EXISTING 40' RIGHT OF WAY FOR ROAD "B"
EXISTING DRAINAGE DITCH
EXISTING BORROW PIT
CoTe
HoTe
MATCH LINE
LEGEND
N
Pond area

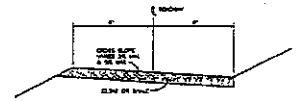
## Attachment 4

Brelje and Race map showing location of Septic area for lot 3 in an area apparently different from the location of the perc test

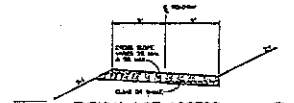
(Conflict also Lot 4)
(Discrepancy Septic area apparently different from location of perc test
Ann Maurice)

EXHIBIT D

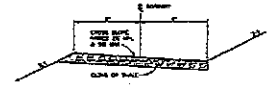


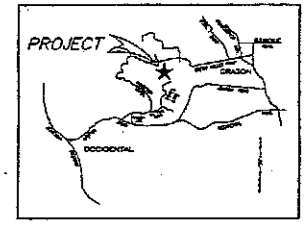
EX BONES LANE (OFF SITE) 1/2
NOT TO SCALE
PRIVATE ACCESS ROAD



TYPICAL LOT ACCESS 2/2
NOT TO SCALE
PRIVATE DRIVEWAY



TYPICAL ROAD SECTION 3/3
NOT TO SCALE
PRIVATE ACCESS ROAD




LOCATION MAP
NOT TO SCALE

## NOTES

1. NO PARTS OF THE SITE ARE SUBJECT TO INUNDATION.
2. TOPOGRAPHIC INFORMATION TAKEN FROM USGS MAPS.
3. ACCESS IS PROVIDED BY AN EXISTING 20' PRIVATE EASEMENT ONCE THOMAS LANE FROM DU PONT ROAD - DOC. NUMBERS 2003139441 THROUGH 2003139444.
4. ACCESS TO LOTS WILL BE VIA EXISTING UNPAVED TRACK WHICH, IF NECESSARY, WILL BE IMPROVED FOR TYPICAL ROADWAY SHOWN. TURNOUTS FOR SIGHT LINE EMERGENCY WILL BE PROVIDED.
5. REPAIRING EASEMENTS WILL BE RECORDED WITH THE FINAL PARCEL MAP FOR INTERNAL PRIVATE DRIVEWAYS.
6. THE PROJECT SITE IS LOCATED IN WATER AVAILABILITY AREA "C". A PARCEL 1 HYDROLOGIC ASSESSMENT COMPLIANT WITH COUNTY REQUIREMENTS WAS CONDUCTED BY RICHARD SLADE & ASSOCIATES IN FEBRUARY 2004.
7. THE LONG TERM OPERATION AND MAINTENANCE OF THE DRIVING TRACKWAYS & IRRIGATION SYSTEM WILL BE CONDUCTED BY STRUCTURE, ESTUARIANS AND HUMANS AND UTILITY EASEMENTS WILL BE PROVIDED WITH THE FINAL MAP.

## LEGEND

LINES
BOUNDARY
PARCEL
EASEMENT
BUILDING ENVELOPE

IMPROVEMENT — EXISTING
WELL
UNPAVED ACCESS
PAVED PRIVATE ROAD
PROPOSED SEPTIC SYSTEM AND EXPANSION AREA

| LOT AREA INFORMATION | |
|---|---|
| TOTAL ACREAGE | 189.4 |
| TOTAL # OF LOTS | 4 |
| MIN. LOT SIZE | 40.0 |
| MAX. LOT SIZE | 80.4 |
| AVG. LOT SIZE | 47.3 |

TENTATIVE PARCEL MAP OF

# BONES LANE PROPERTY

189.4 ACRES 4 SINGLE FAMILY LOTS

MARCH 2003
REV. JUNE 2010

BEING THE LANDS OF JACKSON FAMILY INVESTMENTS II, LLC, A DELAWARE LIMITED LIABILITY COMPANY UNDER DOC.NO. 2001-150706 SONOMA COUNTY RECORDS

PROJECT ADDRESS: 12942 BONES LANE, OCCIDENTAL

SCALE: 1" = 200'

OWNER:
JACKSON FAMILY INVESTMENTS II, LLC
425 AVIATION BOULEVARD
SANTA ROSA, CA 95403
(707) 636-3068

SUBDIVIDER:
JACKSON FAMILY INVESTMENTS II, LLC
425 AVIATION BOULEVARD
SANTA ROSA, CA 95403
(707) 636-3068

ENGINEER:
BRELJE & RACE
5070 SCYLLAN BLVD.
SANTA ROSA, CA. 95403
(707) 575-7222

SEWAGE DISPOSAL:
INDIVIDUAL SEPTIC SYSTEMS

ASSESSOR'S PARCEL NUMBER:
059-020-013

GENERAL PLAN:
RESOURCE AND RURAL DEVELOPMENT

WATER:
INDIVIDUAL WELLS

ZONING:
PRESENT: RRD 40
PROPOSED: RRD 40

Brelje & Race

# Tentative Subdivision Map

MNS06-0032

PAUL V. CARROLL
*Attorney at Law*
1103 17th Avenue
Redwood City, California 94063
telephone (650) 839-8644
pvcarroll@att.net

February 13, 2011

Honorable Supervisors
County of Sonoma Board of Supervisors
575 Administration Drive, Room 100 A
Santa Rosa, CA, 95403

Re: Minor Subdivision at 12942 Bones Lane, Occidental (File No. MNS06-0032, APN 074-030-043)

Dear Supervisors:

I write on behalf of Ann Maurice and the Ad Hoc Committee for Clean Water regarding the above-referenced project.

The applicant seeks to subdivide 189 acres into four parcels for supposed residential development. A mitigated negative declaration has been prepared for the project. The matter is before this Board on appeal from the Planning Commission's November 4, 2010, approval of the project.

Unfortunately, adoption of a negative declaration in this case would violate the California Environmental Quality Act (CEQA). The record before you contains substantial evidence that the project *may* have significant or cumulative impacts on the environment. In such a circumstance, CEQA requires denial of the project and preparation of an environmental impact report (EIR).

## Adoption of the Negative Declaration Will Violate CEQA

The threshold for denial of a negative declaration and preparation of an EIR is well established. A negative declaration is improper whenever "there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment." (Guidelines, § 15063, subd. (b)(1); accord Pub. Res. Code, § 21100, subd. (a); § 15002, subd. (f)(1), (2); *County Sanitation District No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544.) "May" means a reasonable possibility. (§§ 21082.2, subd. (d); 21100, subd. (a); 21151, subd. (a); *League for Protection of Oakland's Architectural Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 904-905.)

If substantial evidence supports the existence of a fair argument, the negative declaration and project must be denied, and an EIR must be prepared, even if the record contains substantial evidence to the contrary. (Guidelines, § 15064, subd. (f)(1); *Pocket Protectors v. City of Sacramento* (2005) 124 Cal.App.4th 903, 930-931; *League for Protection of Oakland's Architectural Resources, supra,* 52 Cal.App.4th at pp. 904-905.) In short, if a fair argument is made, "it cannot be overcome by substantial evidence to the contrary." (*Architectural Heritage Assn. v. County of Monterey* (2004) 122 Cal.App.4th 1095, 1110.) "Substantial evidence" means "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." (Guidelines, § 15384, subd. (a).)

The fair argument standard is thus deemed a "low threshold" for the preparation of an EIR. (E.g., *Pocket Protectors, supra,* 124 Cal.App.4th at p. 928; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 84.) The "low threshold...reflects a preference for resolving doubts in favor of environmental review" and EIR preparation. (*Architectural Heritage Assn., supra,* 122 Cal.App.4th at p. 1110.)

Under these principles, approval of the subdivision and adoption of its mitigated negative declaration would violate CEQA. There is substantial evidence in the record that the project may have significant or cumulative impacts on the environment.

Robert Curry, a respected professional hydrologist and geologist, has reviewed the project and submitted comments. He concludes that the project may adversely impact the environment by drawing water from Green Valley Creek, particularly during drought years. He first explains that the aquifer underlying the project site is hydrologically connected to Green Valley Creek; indeed, it is the Creek's lifeblood. Water constantly leaks from the aquifer and replenishes the Creek. This is why the Creek flows during the summer and fall. Curry then explains that the project, especially during drought years, will de-water the aquifer, reduce underflow to the Creek, and result in habitat loss.

Patrick Higgins, a fisheries biologist and leading authority on the plight of coho salmon and steelhead in California, has also submitted extensive comments on the project. He explains that Green Valley Creek is the last bastion of wild coho salmon within the Russian River basin. The Creek, however, is drying up from over-appropriation of water and illegal water use. This depletion appears to have played a major role in the near extirpation of coho salmon within the last five years. The project will add to this impact by drawing water that otherwise would leak into the Creek and sustain perennial flows. Accordingly, Higgins concludes

that the project will add to the cumulative impacts already affecting the Green Valley Creek watershed, and that its impacts likely cannot be mitigated.

In sum, there is substantial evidence in the record that the project may have significant or cumulative impacts on the environment. Under CEQA, the Board is required to deny approval of the project and adoption of a negative declaration. If the project goes forward, an EIR is required.

Thank you for your consideration of this letter.

Very truly yours,

Paul V. Carroll

Watershed Systems
Hydrology - Geology - Soil Science

Robert Curry, Ph.D., P.G.
600 Twin Lanes, Soquel, Calif. 95073
831 426-6131; curry@ucsc.edu
field: 760 932-7700

February 3, 2011

County of Sonoma
Board of Supervisors
2550 Ventura Avenue
Santa Rosa, CA 95403

Cc: Sigrid Swedenborg, Project Planner

**Subject: Proposed Subdivision 12942 Bones Lane, Sebastopol APN 074-030-043**

Dear Commissioners and PRMD staff

This brief letter is being prepared at the request of local residents Paul Jaffe and Ann Maurice. They have asked me to review the current planned subdivision of the subject parcel. My comments will be short, to-the-point, and cover only geotechnical and hydrologic issues within the professional purview of my California registration.

I have reviewed the file as made available by the Sonoma County PRMD and the more recent additions of January 23, 2011 responsive statement from the Jackson Family Enterprises prepared in response to an appeal of the Sonoma County Planning Commission decision on this matter, as well as Sigrid Swedenborg's memorandum dated February 8, 2011 to accompany your Board packets.

## *Water Availability*:

If you will note on page 2, Issue #1 of Ms. Swedenborg's cover memorandum the statement that the Slade study "...determines that the water available for groundwater recharge is approximately 124 acre-feet per year". This number is in error as was pointed out to Ms. Swedenborg by e-mail sent on Tuesday, November 2, 2010 from Richard Slade's project groundwater geologist, Anthony Hicke. He states that his actual value is "...approximately 31.5 acre-feet per year".

into the alluvium and watercourse of Green Valley Creek. As the perched sandstone aquifer drains laterally in the summer and fall, the rate of flow into Green Valley Creek and its tributaries decreases. One must appreciate that there would be no water in the creek in the summer and fall if the adjacent aquifers did not leak. Further, in drought times, there may be no net recharge to the Wilson Grove caprock system. Without annual recharge, the water table drops and the rate of flow laterally to the creeks diminish. Just because the base of the aquifer is topographically above Green Valley Creek watercourse does not mean that they are not interconnected and that the Creek is not dependent on seasonal storage in the groundwater reservoirs that are topographically higher than the streambed. Water seeks the lowest point in the watershed.

**Drought Impacts:**

Because 90% of this proposed development area is entirely within a Sonoma County Class 4 Water Availability area (and the remainder in Class 3 "Marginal Water Availability Area"), Slade has evaluated impacts of drought. However, the values chosen to represent drought conditions are not at all realistic. We are told that drought year conditions will be characterized by 66 percent of average year rainfall. This is very unrealistic. First, that value is very high. Rather than average conditions when there were droughts elsewhere in California, we should look at the local Sonoma County drought record. Using the Graton station chosen in the Slade report, the recorded 13.51 inches of annual rainfall recorded in 1976 represents the lowest calendar-year value in that short 1949 – to - 2006 record. The actual 1976-77 water-year total (October through September) was even less (12.71 inches). But aquifers hold more than a single years' infiltration, so the standard analysis tool is a 3-year cumulative water-year departure curve[1]. One could argue that the 1976-77 value for rainfall is an extreme value and that some more frequent drought recurrence interval would be more realistic.

The Slade report references a general document on drought conditions in California to suggest that 1987-1992 as well as 1976-77 should be averaged for drought rainfall evaluation. Of course Sonoma County is very different than Orange County and you cannot average local rain with that from the southern part of the state. Thus, the chosen value of 37.5 inches average annual rainfall based on the record at Graton averaged for years of drought elsewhere is invalid. Slade averaged the 33 percent of normal that is represented by the 13.5 inches of rainfall at Graton in 1976 with 92 percent of normal for the 1987-1992 period to give a combined average of 66 percent of normal as constituting limiting Sonoma County drought.

---

[1] Standard groundwater drought analyses usually plot overlapping 3-year weighted running water-year rainfall means and cumulative departures therefrom. An appropriate formula for this small perched aquifer would be (3X current years' total + 2 X prior years' total + the total the value two years earlier) ÷ 6. Thus the current year's value is averaged with the two prior years' values where more weight is given to the current year and progressively less to prior years.

The 2007 Michael Dwyer Geologic Feasibility Study accurately describes the mapped soil associations and site constraints. As with much of the Wilson Grove Formation in southern Sonoma County on gently-sloping land, we are dealing with soils mapped as Goldridge fine sandy loam and Josephine loams over most of the potential development sites. These have moderate to high erosion potentials and severe leach field constraints. This explains the extremely slow percolation rates of > 100 minutes per inch and the > 65% silt and clay content reported for the samples submitted from the percolation testing sites.

With such constraints on percolation, we can expect that the same values characterize rainfall infiltration and thus groundwater recharge. Richard Slade's hydrologist has used a value of 5% for rainfall that can ultimately percolate into deep groundwater. In fact that value, which would be conservative over most of California, may be realistic at the Bones Lane site. Measured percolation rates at 24-36" depth averaged about 57 minutes per inch and sometimes exceeded 120 minutes per inch, which is about the limit of time one can stand around watching water in a hole in the ground. High-intensity rainfall events evidently generate surface runoff based on gully erosion reported on side slopes and headwater rills. That runoff represents water that could not infiltrate to the groundwater. Past agricultural uses of the site for vineyards has necessitated construction of extensive surface water storage reservoirs. This suggests limited available water for the existing well and vineyards and also represents reservoir area where infiltration cannot occur. The limited percolation rates measured for septic suitability studies and the record of septic system failure at the existing residence suggest need for monitored pump testing to establish adequacy of available water.

**Reservoir Impacts:**

There are two or more on-site reservoirs that I see on aerial photos. The largest, along the western margin of Parcel 2, appears to encompass about 60,000 square feet and is constructed at a high point on the parcel. It is enclosed by a full berm and appears to be fed by a pipeline and pump from the east side of the reservoir. Depending upon the depth of water in the reservoir, it may hold from about 4 acre-feet (if 3 feet deep) to as much as 19 acre-feet if completely full. I am unable to establish what the source of water is to fill this reservoir, but it does not receive surface sheet-flow unless that is captured elsewhere on the parcels and pumped into the reservoir.

The significance of the reservoir(s) is that they represent impermeable developments that impair recharge and they also require some source of water in addition to rainfall to fill them. Both of these add demand to the water use on the site in addition to the 7.2 acre-feet modeled by Slade. If maintained at three feet depth by pumping from groundwater or capture of runoff elsewhere and pumping

# CURRICULUM VITA

***Robert R. Curry***

Research Professor, University of California Santa Cruz; Research Coordinator and Senior Scientist, California State University Monterey Bay, Watershed Institute and Adjunct Professor, Earth Systems Science and Policy, California State University. Principal: Watershed Systems, 600 Twin Lanes, Soquel, Calif. 95073 curry@ucsc.edu; 831 426-9604 (fax); 426-6131 (res.). Research Station 760 932-7700

**Research Specialties:**

Fluvial Geomorphology, Geologic Hazards, Wetlands and Stream Restoration, Wetland Delineation, Watershed Systems, Mined-land Reclamation, Environmental Geology, Soil Erosion and Formation, Climatology, Water Quality Protection, Pleistocene Geology, Water and Energy Policy, Arctic & Alpine Plant Ecology, Sierra Nevada Natural History, Water Resources Conservation

**Web Pages:**

Academic: http://watershed.csumb.edu (follow links to faculty)

## *1. EDUCATION*

PhD: University of California, Berkeley, Department of Geology & Geophysics, 1967 in Geomorphology & Paleoclimatology

Dissertation Topics under Professor Clyde Wahrhaftig:

- Holocene Climatic History of the Sierra Nevada.
- Quaternary Glacial and Climatic History of the Sierra Nevada, California.
- Rates and Forms of Mass Wasting in the Sierra Nevada, California.

1.1. Pre-doctoral studies:

- University of Colorado Geology B.A., 1960 Boulder, Colorado
- University of Colorado Geology M.Sc., 1961 Boulder, Colorado
- University of Colorado Plant Ecology M.Sc., 1962

  Geobotanical correlations in the alpine and subalpine regions of the Tenmile Range, Summit County, Colorado, 122 pp. + 3 fold maps in pocket. M.Sc. Directed by: W.C. Bradley.

## 3. PROFESSIONAL -REGISTRATION

Registered Geologist - California

#3295

1994-ff : Consulting rubric: *Watershed Systems*, Soquel, California

## 4. MEMBERSHIP in educational and scholarly associations

(1) Geological Society of America (Fellow - 1977 ff)
- Geomorphology Division - panelest
- Engineering Geology Division
- Hydrogeology Division
- Archaeological Division

(2) Ecological Society of America
- Paleoecology Division

(3) Society for Ecological Restoration
- SERCAL - California Chapter President 1995-96

(4) American Geomorphological Field Group
(5) International Glaciological Society
(6) California Watershed Council
(7) American Geophysical Union
(8) Society for Soil and Water Conservation
(9) Scientists Committee for Public Information (Fellow)
(10) International Ecological Society (Committeeman for Soil Ecology Division)
(11) American Institute of Biological Sciences
(12) American Quaternary Association
(13) Sigma Xi (science honorary)
(14) Sigma Gamma Epsilon (earth sciences honorary)
(15) International Association for Quaternary Research (committee officer)
(16) Friends of the Pleistocene
(17) New Zealand Hydrological Society
(18) American Association for the Advancement of Science
(19) Sierra Club (research advisor)

## 5. MEMBERSHIP on advisory panels, commissions, etc.

### 5.1. -National

(1) Co-chairman, National Coal Policy Project, Georgetown University, Washington, D.C. -1976-1979

(2) U.S. Senate, Public Works & Environment Committee - panel member - 1969-ff

(6) Northern Tier Pipeline - impact assessment and technical stipulation specialist for state of Montana. 1978-1979.
(7) Redwood National Park, Outside Technical Review Committee, Watershed Rehabilitation Program, contracted through the Center for Natural Resource Studies, Berkeley, Calif., 1982-ff
(8) Coordinating Board, Water Resources Center (California), Chair of Research Review Committee, Berkeley, Calif. 1982-86; 1994-ff.
(9) State of California, Departments of Forestry and Water Resources, Resources Agency: Shrubland Watershed Vegetation Management Committee, 1982-84.
(10) State of California, Transportation Department, Consultant and advisor on geologic and hydrologic aspects of highway construction.
(11) State of California, University of California, School of Forestry, Wildlands Resources Institute, Advisory Board, 1987-1992
(12) State of California, California Watershed Management Conference, Coordinating Board, 1985-89
(13) University of California Watershed Management Conference, Steering Committee, UCB, Wildlands Resources Center, School of Forestry, 1986-89
(14) U.S. Forest Service, Academic Peer Review Panel, Cumulative Effects Analysis, U.S. F. S., Region V., California. (letter report of December, 1987), 1986-90
(15) California Dept. of Forestry, Hardwoods Task Force, 1990-92.
(16) University of California, Water Resources Research Review Board, reappointment, 1994-95.
(17) – 1996 & 1997 & 2001-- US EPA and Corps of Engineers - Hydrogeomorphic Wetland Function training (National Wetland Science Training Cooperative)

## *6. PRINCIPAL RESEARCH INTERESTS*

(1) 1959-1961: Geobotanical correlations in the Tenmile Range of central Colorado. Geologic mapping in an area masked by tills using indicator plant species for bedrock mapping. M. Sc. thesis topic, Univ. Colo.
(2) 1962: Santa Cruz, California, marine terrace study. N.S.F.-sponsored study of the origin, deformation, and soil development on the marine terrace sequence of northern Monterey Bay. Wm.C. Bradley - principal investigator.
(3) 1963-1965: Santa Clara County, California landslide hazard mapping project. Co-principal investigator for active and potential slide mapping for land-use planning throughout entire County.
(4) 1965-present: Northern California watershed erosion research. A series of projects initiated through request of California State Assembly to assess stability of California watersheds and to assess the impacts of land use manipulations upon that stability. Subsumed under sponsorship of California Division of Forestry and Dept. of Water Resources in 1983.
(5) 1966-present: Sierra Nevada, California - chronology of glaciations. Ph.D. research topic on radiometric chronology of Tertiary and Quaternary glaciation in the Sierra Nevada, including detailed Holocene climatic history.
(6) 1968-present: Climatic trend analysis. Use of historical climatic data to predict future climatic perturbations based upon correlation of paleoclimatic indicators and use of time-series analyses. 1986-ff PACCLIM - Pacific Basin Climate Group - U.S. Geol. Survey.
(7) 1973-present: East Sierra fault and volcanic hazard evaluation. Planning and theoretical geologic studies of Mono County, California.

(ed), Man's Effect on California Watersheds, Section 3; Inst. of Ecology, University of California, Davis, Calif. 434 p.

(2) Curry, R.R., 1962, Geobotanical Correlations in the Alpine and Subalpine Regions of the Tenmile Range, Summit Co., Colo. Univ. Colo. MSc thesis, 123 p. + maps, unpublished.

(3) Curry, R.R., 1968, Quaternary Climatic and Glacial History of the Sierra Nevada, California: Univ. Microfilms 68-13,896; Ann Arbor, Mich., 238 p. (PhD thesis, University of California, Dept. of Geology and Geophysics, 1968).

(4) Curry, R.R., 1969, Holocene Climatic and Glacial History of the Central Sierra Nevada, p. 1-47, Special Paper 123, Geol. Soc. America.

(5) Committee on Public Works, U. S. Senate, 1970, Toxicological and Environmental Implications on the use of Nitrilotriacetic Acid as a Detergent Builder: Staff Report, Dec. 1971, G.P.O., Washington, D.C. 52-354, 84 p.

(6) Curry, R.R., 1970, Eutrophication and the Role of Phosphates in Eutrophication. Special Staff Report, U.S. Senate Committee on Public Works, Scientific Advisory Panel, July 23, 10 p.

(7) Curry, R.R., 1971, Glacial and Pleistocene History of the Mammoth Lakes Sierra: Univ. Montana, Dept. Geology, Geol Series Publ. 2, 50 pp + map.

(8) Curry, R. R. (ed), 1972, Field Guide: Univ. Montana winter field, Idaho, Washington, Oregon, Feb. 1972, Dept. Geol. Univ. Montana, 81 p.

(9) Curry, R.R., 1972, Technical Comments on the Trans-Alaska Pipeline, vol. 1, tab b; Center for Law and Social Policy, Washington D.C., 107 p.

(10) Curry, R.R., Malde, H.E., Andrus, D.R., and Balzer, J.L., 1975, Reclamation of Mined Lands. The Reclamation Question. Rocky Mountain Center on Environment, Coal in the West Series - A Colorado Business Survey, Denver, Colo. 18 p.

(11) Curry, R.R., Lister, J.C., and Stoffel, Kieth, 1977, Glacial History of Flathead Valley and Lake Missoula Floods. Geol. Soc. America, Rocky Mountain Section, 30th annual meeting, Field Guide No. 4, p. 14-38. in Glacial Geology of the Flathead Valley and catastrophic drainage of Glacial Lake Missoula; Smith, D.G., et al, eds.

(12) Murray, F.X. (ed), 1978, Where We Agree - Report of the National Coal Policy Project: Georgetown University, Center for Strategic and International Studies; Westview Press, Boulder, Colo. vol. 2, Report of the Mining Task Force, 477 p.

(13) Committee on Criteria for Establishing Coal Research Laboratories in Universities, 1979, Criteria for Establishing University Coal Research Laboratories. National Academy of Sciences / National Research Council, Energy Engineering Board, NAS Press, Washington D.C., 20 p. (Committee member and coauthor)

(14) CONAES (Committee on Nuclear and Alternative Energy Systems), 1980, Energy and the Fate of Ecosystems. Supporting Paper 8, Report of Ecosystems Impacts Resource Group, John Harte, Chair. National Academy of Sciences/National Academy of Engineering; NAS Press, Wash. D.C., 399 p. (Member of Group, and author of Chapt. 5, "Land Reclamation in North America", pp. 95-121)

(15) Committee on Soil as a Resource in Relation to Surface Mining for Coal, 1981, Surface Mining: Soil, Coal and Society. National Academy of Sciences, Commission on Natural Resources, National Research Council, NAS Press, Washington DC, 220 p. (co-author of report and primary author of Chapt. 5, pp. 73-105, "The Soil").

(16) Kennett, Gregory A, and R.R. Curry, 1981, Investigations of high groundwater in Polson terminal moraine; Bozeman, Mont.: Montana Water Resources Research Center, Montana State University

(17) National Coal Policy Project, 1981, Final Report, Center for Strategic and International Studies, Georgetown University, Wash. D.C., 124 p. (project co-chair).

(12) Curry, R.R., 1969, Santa Barbara and Beyond: *in*: Olsen, R.A. and M. M. Wallace (eds), Geologic Hazards and Public Problems. Exec. Office of the President, Office of Emergency Preparedness, Reg. 7, Wash. D.C.
(13) Curry, R.R., 1969, Vertical movements of the Sangamon marine terrace around the Santa Barbara Channel, California. p. 300 *in*: Symposium de Nèotectonique du Pacific, Resumes de communications, VIIIe Congress INQUA, Paris, France.
(14) Curry, R.R., 1969, Chronologie Glaciare Absolue de la Sierra Nevada, Californie, pour les derniers 2,700,000 ans. p. 346 *in*: resumes des communications, VIIIe Congress INQUA, Paris, France.
(15) Curry, R.R., 1970, Wilderness as biota refugia. *In*: Luten, D.B. (ed), Wilderness, the Edge of Knowledge; Proc. of the 1969 Sierra Club Wilderness Conf., Sierra Club, San Francisco.
(16) Curry, R.R., 1970, Fluorine in the marine environment—a legislative proposal prepared for the Sub-committee on Ocean Dumping, U.S. Senate Public Works Committee, advisory panel, 9 p.
(17) Curry, R.R., 1970, Lodgepole Subclimax—its maintenance by insects and birds: Reports of the American Quaternary Association, 1st meeting, 1970, p. 26.
(18) Curry, R.R., 1970, Altithermal precipitation maximum: Reports of the American Quaternary Association, 1st meeting, p. 25.
(19) Curry, R.R., 1970, Report to the subpanel on Ocean Dumping, U.S. Senate Committee on Public Works; including a proposal for the establishment of national dumping sites; reports of the Senate Committee on Public Works, advisory panel, 12 p.
(20) Curry, R.R., 1970, A proposal for ecological refugia: Intecol Bulletin, v. 1, p. 3-7.
(21) Curry, R.R., 1971, How to deforest a continent: Not Man Apart, v.1, no. 9, p 25-27.
(22) Curry, R.R., 1971, Soil destruction associated with forest management and prospects for recovery in geologic time: Assoc. Southeastern Biologists Bull. v. 18, no. 3, p 117-128.
(23) Curry, R.R., 1972, Geology, the environmentalists foundation: Michigan Acad. of Science, Arts and Letters Bull., 10 p., East Lansing, Mich.
(24) Curry, R.R., 1972, Rivers—a geomorphic and chemical overview, p. 18-32 *in*: Oglesby, R.T., Carlson, C.A. and McCann, J.A. (eds), River Ecology and Man, Academic Press, New York, 465 p.
(25) Curry, R.R., 1972, Some questions on forest soils, p. 18-32 *in:* Western Montana Scientists' Committee for Public Information, lecture volume of May, 1972, WMSCPI, Missoula, Mt. 212 p.
(26) Curry, R.R., 1973, Geologic and hydrologic effects of even aged management on productivity of forest soils, particularly in the Douglas-fir region, 43 p. *in*: Hermann, R.K. (ed), Even-Aged Management, Oregon State Univ. Press, Corvallis.
(27) Curry, R.R., 1973, Reclamation of Arid Western Lands: Montana Outdoors, v. 4, no. 3, p 18.
(28) Curry, R.R., 1973, The great tree rip-off: Not Man Apart, Oct., 1973, p. 1-7.
(29) Curry, R.R., 1973, A scientific and policy review of the draft environmental impact statement: Crow Ceeded Area Coal Lease Westmorland Resources Mining Proposal; Inst. of Ecology, Applegate, Rick, et al, (eds), Denver, Colo. 69 p.
(30) Curry, R.R., 1974, Reviewers comment: p. 165-171 *in*: Rehabilitation Potential of Western Coal Lands; National Academy of Sciences, Ballanger Publ. Co., Cambridge, Mass., 198 p.
(31) Curry, R.R., 1975, Practices and problems of land reclamation in western North America: Biogeochemical limitations on western reclamation—the high Northern Great Plains example. p. 18-47 *in*: Wali, M.K. (ed), Practices and Problems of

Middlesex, England, 474 p. Penguin Modern Management Readings, Education Series, published simultaneously by Penguin Books, New York; Victoria, Australia; Markham, Ontario, Canada; and Auckland, New Zealand.

(49) Curry, R.R., 1981, Watershed Form and Process, p. 36-52 *in* "Symposium on Watershed Rehabilitation in Redwood National Park and Other Coastal Areas", Symposium Program and Readings, Center for Natural Resource Studies of the John Muir Institute, Berkeley, Calif., R. N. Coats, (ed), 307 p.

(50) Curry, R.R., and G.M. Kondolf. 1981. Strategy for restoration of channel stability, Carmel River, Monterey County, CA. in Watershed Rehabilitation in Redwood National Park and Other Pacific Coastal Areas. Proceedings of a Symposium, August 24-28, 1981. Arcata, California. pp. 191-208.

(51) Curry, R. R., with Peter Berg, 1984, Volcanoes Make Good Neighbors, p. 2-3, Raise the Stakes, No. 9, Planet Drum Foundation, San Francisco.

(52) Curry, R. R., 1984, Competition for Water, Chapt. 3 *in* Engleburt, Earnest, and A.F. Scheuring (eds), Water Scaricity: Impacts on Western Agriculture, Univ. Calif. Press, Los Angeles.

(53) Kondolf, G. M., and R. R. Curry, 1984, Role of Riparian Vegetation in stream channel equilibrium: The Carmel River Example, Monterey County, California. pp. 124 - 133 *in* Warner, R.E. and K.M. Hendrix (eds), California Riparian Systems, Univ. Calif. Press, Los Angeles.

(54) Curry, R. R., 1984, Water Yield and Water Quality in Shrubland Watersheds, Chapt 5, p. 51-60, *in* J.J. deVries (ed), Shrublands in California: Literature Review and Research Needed for Management. Water Resources Center, Univ. of California, Davis, California, June, 1984.

(55) Curry, R.R. and W. Oechel, 1984, Shrubland Ecosystem Dynamics, Chapt 8, p. 98-103, *in* J.J. deVries (ed), Shrublands in California: Literature Review and Research Needed for Management. Water Resources Center, Univ. of California, Davis, Calif., June, 1984.

(56) Kondolf, G.M., and R.R. Curry, 1986, Channel Erosion along the Carmel River, Monterey Co., Calif. Earth Surface Processes and Landforms, v. 11, no. 3, pp. 307-319.

(57) Curry, R.R., 1987, Water quality protection in forest management: Are Best Management Practices working? pp. 55-61 *in* Callaham, R.Z., and J.J. DeVries (eds), Proceed. of the California Watershed Management Conference, Nov. 18-20, Sacramento, Calif. Wildland Resources Center, Univ. Calif., Berkeley, Rept. 11, 167 p.

(58) Chambers, R. L., and R. R. Curry, 1989, Glacial Lake Missoula: Sedimentary evidence for multiple drainages; pp 3-11 *in* International Geological Congress Guidebook T310, Glacial Lake Missoula and the Channeled Scabland, American Geophysical Union, Washington, D.C., July, 1989. Also published in Glacial Geology and Geomorphology of North America, Vol 1, 28th Annual Geological Congress, American Geophysical Union, 1989.

(59) Bailey, Roy A, N.K. Huber, and R.R. Curry, 1990, The diamicton at Deadman Pass, central Sierra Nevada, California: a residual lag and colluvial deposit, not a 3-Ma glacial till. Geol. Soc. America Bull. v. 102, p. 1165-1173.

(60) Curry, R.R., Bret A. Emery and Tom G. Kidwell, 1994, Sources and Magnitudes of Increased Streamflow in the Santa Cruz Mountains for the 1990 water year after the Earthquake. U.S. Geological Survey Professional Paper 1551-E, The Loma-Prieta, California, Earthquake of October 17, 1989 - Hydrologic Disturbances, p. 31-50, Wash. D.C.

(75) W. Newman, T. Anderson, F. Watson, R. Curry, S. Hennessy, L. Pierce, J. Casagrande, J. Hager, D. Kozlowski, A. Oakins, B. Feikert, J. Larson, B. Londquist, W. Cole, A. Rocha. (2000). The Salinas Sediment Study - the challenge of monitoring just about everything in a watershed where we know just about nothing. Poster presentation. 8th Biennial Watershed Management Council conference, Nov. 27-30, Asilomar Beach, California, USA.

(76) Watson, F., Newman, W., Anderson, T., Casagrande, J., Hager, J. Kozlowski, D., Rocha, A., Oakins, A., Feikert, B., Cole, W., Londquist, B., Curry, R., Hennessy, S., Pierce, L., & Angelo, M. 2001, The Salinas Sediment Study. Report to the Central Coast Regional Water Quality Control Board, San Luis Obispo, California. Watershed Institute, California State University Monterey Bay, Seaside, California, USA.

(77) Anderson, T. et al; 2000, Sediment in furrows, farms, and forests multi-scale measurements for multi-scale modeling and management. *Eos Trans. AGU*, 81 (48) Fall Meet. Suppl., Abstract H11B-15

(78) Watson, F , et al, 2000: Measuring sediment across scales to validate a transport model, or modeling it to better understand the measurements? *Eos Trans. AGU*, 81 (48) Fall Meet. Suppl., Abstract H71E-11

(79) Watson, F, et al, 2001: Sediment source analysis through in-stream monitoring of sediment loads at many sites; *Eos Trans. AGU, 82*(47), Fall Meet. Suppl., Abstract H41D-0311

(80) Casagrande, J, et al, 2001, The value of manual, event-based sediment sampling in local-scale sediment budget studies, *Eos Trans. AGU, 82*(47), Abstract H41D-0312

(81) Curry, RR, 2001, Rancho Baulines Land Management Report. http://www.marinwatch.org/information/curry.html

## 7.3. -Selected Professional Reports to Public Agencies

Selected Published Congressional Testimony:

1. Curry, R. R., 1969, The Santa Barbara oil Spill – causes and geologic setting. Congressional testimony, U.S. Senate Committee on Interior and Insular Affairs, Senate Subcommittee on Minerals, Materials, and Fuels, May 19-20, 1969 CIS-NO: 91 S1970-3, p. 129-152
2. Curry, R.R., 1971, Specific recommendations on the Council on Environmental Quality's report on Ocean Dumping: To the U.S. Senate, Committee on Public Works, 3 p.
3. Curry, R.R., 1971, Interim progress report on Montana Power electric utility advertising: To the Montana state Legislature, 19 p.
4. Curry, R.R., 1971, Criteria for evaluating proposals for disposal of underground fluids—suggestions on groundwater pollution control legislation and evaluation of 102-statements: To the U.S. Senate Committee on Public Works, May 18, 7 p.
5. Curry, R.R., 1971, Critical review of the Environmental Impact Statement for the Trans-Alaska Pipeline: Cong. Record, Apr. 21, 1971, submitted by Ed Muskie, (D) Maine, S5298-S5300.
6. Curry, R.R., 1971, Geologic analysis of the draft Environmental Impact Statement, Radioactive Waste Depository, Lyons, Kansas: Cong. Record, submitted by Robt. Dole ® Kansas, 12 p.
7. Curry, R.R., 1971, Management Practices on Public Lands. Part 2: Portland, Oreg, CIS-NO: 72-S441-20, SOURCE: Committee on Interior and Insular Affairs. Senate, DOC-TYPE: Hearing, DATE: Aug. 9, 1971,

26. Curry, R.R., 1973, Minimal requirements for baseline data studies, Northern Cheyenne Reservation. To. U.S. EPA, for establishing the Northern Cheyenne Research Project. Continued review work and reports to EPA in 1975 and 1976.
27. Curry, R.R., 1973, Hazard geology and soils of the proposed Sherwin Bowl ski area, Mono Co., Calif. For: U.S. Forest Service, Inyo N.F.
28. Curry, R.R., 1970-1973, Hydrology and surficial geology (reports) on the White Clouds Peaks area, Idaho. For: American Smelting and Refining Co. through Rocky Mountain Center on Environment. Final report 125 p., September, 1973.
29. Curry, R.R., 1973, Comments on proposed minimum standards and rules for implementation of the Montana Floodway Management Act. For: Montana Dept. Natural Resources & Conservation, May 30, 4 p.
30. Curry, R.R., 1973-1974, Hydrologic findings on impacts of Hindsight Associates Bitterroot River flood diking activities on Odegard, et al, Missoula Co. Mt.
31. Curry, R.R., 1973-1975, Water Quality Impacts of timber practices in the Bull Run Watershed, Oregon, and effects upon domestic water supply for the city of Portland. Series of reports and study plans to City of Portland and local attorneys on geochemical effects of logging and fire suppression.
32. Curry, R.R., 1974-1975, Geologic considerations of location of U.S. 395 near Sherwin Summit, Mono County, Calif. For: Caltrans on protection of geologic locality to be impacted by highway construction.
33. Curry, R.R., 1974, Geologic Hazards and Planning Considerations for the June Lake Loop Area, Mono County, Calif. -General Plan Safety Element for: Ingmire-Patri land planners, through Sedway-Cooke, San Francisco, To the U.S. Forest Service - contracted report of about 100+ pp. + appendices. Incorporated into the initial June Lake Loop General Plan, Mono Co., Calif.
34. Curry, R.R., 1972-1975, Hydrology and soils in the Rock Creek watershed. To: U.S. Forest Service, Rock Creek Advisory Commit-tee, various reports.
35. Curry, R.R., 1973-1974, Black Thunder Research Project, Univ. Wyoming, Laramie - critical reviews. For Atlantic Richfield Corp., under contract through the Wyoming Environmental Inst. Two reports in 1973 and 1974 comprising technical review of ongoing research on proposed coal mining activities.
36. Curry, R.R., 1973-1975, Flood hazards on the Bitterroot and Clark Fork rivers, western Montana. For: Montana Dept. of Natural Resources & Conservation, Floodway Mgmt. Bureau several short reviews and reports.
37. Curry, R.R., 1975, Clark Fork flooding at the site of the proposed Russell Street Bridge, Missoula, Mt. For: Montana Dept. of State Lands, on hydrologic evaluation of proposed highway bridge design.
38. Curry, R.R., 1975, Problems of Mined Land Reclamation. For: Utah International Co., San Francisco, Feb 21, (oral presentation only).
39. Curry, R.R., 1975, Arctic Gas Line impacts upon permafrost. For: Wilson & Furr, attorneys, to the Federal Power Commission, Wash. D.C., April-July.
40. Curry, R.R., 1972-1978, Reports to the County Commissioners Missoula County, Mt. - Surface and Groundwater Hazards in the County. Approximately 10 reports, some 30 pp in length. Primarily deal with geotechnical considerations for decisions facing County government.
41. Curry, R.R., 1977, Contribution to report of the U.S. Fish and Wildlife Service, Western Energy and Land Use Team report: Clarification and standardization of the definition, purpose, and practice of ecological baseline studies in western energy development areas. Ecological Consultants, Inc. Ft. Collins, Colo. I served as advisor to USFWS on this study.
42. Stoffel, Dorothy, and R. R. Curry, 1977, Reanalysis of demands by Basin Electric on the Laramie River and Johnson Well Field. Report to the Laramie River Conservation Council, Wheatland, Wyoming, Oct. 3.
43. Curry, R.R., and Scott Stine, 1980. The role of Mono Basin in California's Water Policy. To California Water Resource Academic Lunch Series, College Eight, Univ. of California, Santa Cruz, Nov. 3.

61. Curry, R.R., 1992, Final Report, Bridgeport Wetland Delineation, 36 pp + map, to Mono County and Lahontan Regional Water Quality Control Board.
62. Curry, R.R., 1993, Identification and Location of Beneficial Uses of Wetlands; 200+ pp + 1000+ maps + database. To: Lahontan Regional Water Quality Control Board.
63. Curry, R.R., C.E. Christian and B.E. Emery, 1996, Mono County, California delineation of certain wetlands and policy recommendations for site-specific restoration mitigation banking. To: Lahontan Regional Water Quality Control Board, 50 pp + maps and data sheets.
64. Curry, R. R., B. Emery, and C. Christian. 1996. Development of specific plans and policies to avoid or mitigate the impacts of future development in certain Mono County wetlands. Final Report prepared for the California Regional Water Quality Control Board, Lahontan Region. Contract No. 4-075-160-0, derived from U. S. Environmental Protection Agency Assistance Agreement.
65. Curry, R. R. and B.E. Emery, 1996, Final report on Water Supply Evaluation for the Kirkwood Meadows Public Utility District. Mapping and evaluation to locate a producing well for public water supply in a bedrock glaciated valley. 10 pp
66. Curry, R.R., American River flow analysis, 1995-97, ElDorado Irrigation District applications for diversions. Reports to Water Rights Bureau and clients Alpine County and Kirkwood Home Owners Association.
67. Curry, R. R., 1997-99 Morongo Tribe of Mission Indians, Analyses of aggregate extraction operations at the Morongo Reservation (near Beaumont, San Bernadino County). Assistance developing a plan for closure of CalMat gravel facilities and development of restoration plans.
68. Curry, R.R. and Charles Striplin, 1996-97, Pala Aggregate Resource Mining Plan Guidelines. Prepared for the Pala Band of Mission Indians, 69 pp. Final document in 4-year negotiated settlement with CalMat aggregate corporation to close down the tribal gravel extraction operations.
69. Curry, R. R., and John Stamm, 1997, El Toro Creek Restoration Plan, Monterey County, California. Report and work plan to Bureau of Land Management.
70. Curry, R.R., 1997, Hydrology and water resources of upper Tularcitos Valley, Monterey County. 40+ pp, plus maps for Rana Creek Ranch and water rights attorneys
71. Curry, R.R., 1997, Report on review of the Mowry Slough Cargill Waste Dump Site, Don Edwards San Francisco Bay National Wildlife Refuge.
72. Curry, R. R., 1997, Green Valley Landowners letter report on Kendall-Jackson timberland conversion of former Meyers Ranch, Sonoma County, Calif.
73. Curry, R., R. and Joseph Scepan, 1997, Review of BuellFlat Aggregate Mining operations, Santa Maria River, Santa Barbara County, near Buellton, Ca, report to attorneys for local landowners following 1969 flooding and incision.
74. Curry, Bob, 1998, Responsive Statement to U.S. Forest Service on soil and vegetation management, Prescott National Forest, Arizona.
75. Curry, R.R., 1998-99, Estudio Conceptual de Characterization de Aguas Subterraneas en El Valle de Aconcagua e Incidencia de y Hacia Otras Cuencas. Project funded by Chilean government to evaluate water supply alternatives for agriculture throughout the valley and headwater watersheds of the Aconcagua River. Presentations and letter reports to Ministers and two successive presidents of Chile.
76. *Gap in record #####*
77. Lee, L.C., P. Fiedler, S. Stewart, R. Curry, D. Partridge, and J. Mason, 2001, Guidebook for referenced-based assessment of the functions of riverine Waters/Wetlands ecosystems in the South Coast region of Santa Barbara County, California – to Santa Barbara County Water Agency ~900 pp.
78. Smith, Douglas; Curry, Robert, et al, 2002, Watershed and Riparian Assessment Report (WRAR): Bureau of Land Management, Fort Ord, Monterey County, California, 85 p.
79. Emery, B, Curry, R., 2003, Management Plan for the Pickel Meadows Wildlife Area, 90 p. to California Department of Fish and Game

for Responsible Growth v. City of Rancho Cordova, 2005 Cal. LEXIS 9278 (Cal., Aug. 16, 2005)

6. Blasdel v. Montana Power Co., No. 80-208, Supreme Court of Montana, 196 Mont. 417; 640 P.2d 889; 1982 Mont. LEXIS 722, October 21, 1981, Submitted, February 2, 1982, Decided 889; 1982 Mont.
7. San Francisco Baykeeper v. Cargill Salt Div., No. C 96-2161 SI , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA , 2003 U.S. Dist. LEXIS 8247, April 29, 2003, Decided, April 30, 2003, Filed, Motion denied by S.F. Baykeeper v. Cargill Salt Div., 2003 U.S. Dist. LEXIS 8246 (N.D. Cal., Apr. 29, 2003)
8. Tri-Valley Cares v. United States DOE, No. C 03-3926 SBA , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA , 2004 U.S. Dist. LEXIS 18777, September 10, 2004, Decided
9. Sierra Club v. County of Napa, A101941 , COURT OF APPEAL OF CALIFORNIA, FIRST APPELLATE DISTRICT, DIVISION ONE , 121 Cal. App. 4th 1490; 19 Cal. Rptr. 3d 1; 2004 Cal. App. LEXIS 1467; 2004 Cal. Daily Op. Service 8146; 2004 Daily Journal DAR 10939, August 6, 2004, Filed, The Publication Status of this Document has been Changed by the Court from Unpublished to Published September 1, 2004. Review denied by, Request denied by Sierra Club v. County of Napa (Beringer Wine Estates), 2004 Cal.

**Patrick Higgins**
**Consulting Fisheries Biologist**
791 Eighth Street, Suite N
Arcata, CA 95521
(707) 822-9428

February 5, 2011

Ms. Sigrid Swedenborg, Project Planner
County of Sonoma
Permit and Resource Management Department
2550 Ventura Avenue
Santa Rosa, CA 95403

Re: Jackson Family Enterprises Development Minor Subdivision at 12942 Bones Lane (Green Valley Creek Watershed), Sonoma County (File No. MNS06-0032, APN 074-030-043)

Dear Ms. Swedenborg,

I have been retained by the Ad Hoc Committee for Clean Water to review Sonoma County Application # MNS06-0032 for a development of a minor subdivision by Jackson Family Enterprises at 12942 Bones Lane near Occidental in the Green Valley Creek watershed. My comments focus on the potential impacts to coho salmon (Oncorhynchus kisutch) and steelhead trout (Oncorhynchus mykiss) because they require year-around cool water habitat, although Chinook salmon (Oncorhynchus tshawytscha) also spawn in the lower reaches of the creek and are included in discussions.

My conclusion is that there needs to be a full Environmental Impact Report (EIR) under the California Environmental Quality Act (CEQA) because of problems posed by additional groundwater use on coho and steelhead in downstream and down slope areas. Green Valley Creek is the last bastion of wild coho salmon within the Russian River basin and it is going dry and the last of the gene resources that could be used to restore these fish are being lost. Sonoma County and the California State Water Resources Control Board (SWRCB) Water Rights Division (WRD) have ignored over-appropriation of water and illegal water use (Stetson Engineers 2007, Higgins 2008a, 2008b) and in this particular case the consequences mean continuing violation of the federal Endangered Species Act (ESA) and the California Endangered Species Act. Existing cumulative effects in the Green Valley Creek watershed are widespread and the project will likely contribute to these effects in ways that cannot be mitigated satisfactorily despite Sonoma County PRMD (2009, 2010, 2011) assertions to the contrary.

In preparation for writing these comments, I have reviewed the Sonoma County Permit and Resources Management Department (PRMD) (2009) Mitigated Negative Declaration, the responses to the Appeals of the Bones Subdivision by Paul Jaffe and Ad Hoc Committee for Clean Water/Ann Maurice (Sonoma County PRMD 2010, 2011), Richard C. Slade and Associates (RCS 2010a) hydrogeologic assessment and their comments on the Jaffe Appeal (RCS 2010b). In addition, I draw from the comments of Professor Robert Curry (Integrated Watershed Group, 1994, 2011) on the hydrology of the area and the issue of water availability. The National Marine Fisheries Service (NMFS 2008a) Biological Opinion (B.O.) for the Russian River and their *Draft Central Coast Coho Salmon Recovery Plan* (NMFS 2008b) also are a source of information as well as various California Department of Fish and Game documents (Shapovalov 1944, CDFG 1976, 1991, 1998, 2002a, 2002b, 2004).

## My Qualifications

I have been a consulting fisheries biologist with an office in Arcata, California since 1989 and my specialty is salmon and steelhead restoration. I authored fisheries elements for several large northern California fisheries and watershed restoration plans (Kier Associates 1991, Pacific Watershed Associates 1994, Mendocino Resource Conservation District 1992) and co-authored the northwestern California status review of Pacific salmon species on behalf of the Humboldt Chapter of the American Fisheries Society (Higgins et al. 1992). Since 1994 I have been working on a regional fisheries, water quality and watershed information database system, known as the Klamath Resource Information System or KRIS. This custom program was originally devised to track restoration success in the Klamath and Trinity River basins, but has been applied to another dozen watersheds in northwestern California. The Sonoma County Water Agency (SCWA) funded regional KRIS projects (IFR 2003), including one for the Russian River (KRIS Russian), in order to provide a seamless regional coverage for coho salmon recovery planning. The North Coast Regional Water Quality Control Board (NCRWQCB) served in an oversight capacity on the latter project for quality assurance and quality control. I draw extensively on information in KRIS Russian River and all data are available with metadata on-line at www.krisweb.com.

I have recently addressed the problems of over-appropriation and illegal diversion of water in northwestern California, including Sonoma County, on behalf of the Redwood Chapter of the Sierra Club (Higgins 2008a) in commenting on the California State Water Resources Control Board (SWRCB) Water Rights Division (WRD) *Draft Policy for Maintaining Instream Flows in Northern California Coastal Streams* (SWRCB WRD 2008. I draw on those comments herein, but also am providing them in their original form as Appendix A. My comments on Mendocino County's updated Draft General Plan (Higgins 2008b), also for the Redwood Chapter of the Sierra Club, are included as Appendix B and are not only relevant to the Bones Minor Subdivision project but may also be useful in the Sonoma County General Plan updating process.

## Mitigated Negative Declaration (MND) Not Justified for Bones Minor Subdivision

The Sonoma County PRMD (2010, 2011) reports on the Bones Minor Subdivision (MNS06-0032) accept the hydrologic assertions of RCS (2010a): "It is highly unlikely that any wells constructed at the subject property would impact the existing creek." Dr. Robert Curry (Integrated Watershed Group 2011) in comments on this MND offered the following contrary view:

> "Just because the base of the aquifer is topographically above Green Valley Creek watercourse does not mean that they are nor interconnected and that the creek is not dependent on seasonal storage in the groundwater reservoirs that are topographically higher than the streambed."

Thus, the claim made by RCS (2010a) that "onsite wells (existing and future) are geologically isolated from Green Valley Creek" is false. The fact that the wells will not be adjacent to the creek in alluvium is not relevant. The cold water from the aquifer upon which the subdivision will draw would otherwise leak as surplus into Green Valley Creek and help sustain its flows perennially.

In denying the Appeals of the project by Paul Jaffe Sonoma County PRMD (2010) states: "There is no evidence in the file that indicates the project will result in a significant impact to the environment; therefore, an EIR is neither warranted nor necessary." The problem with the project's groundwater use and water supply substantiated by Dr. Curry (Integrated Watershed Group 2011) has implications

for fisheries in Green Valley Creek, which is recognized as one of the last streams in the Russian River to maintain a wild coho salmon population (NMFS 2008a, 2008b, CDFG 2002a, 2002b). In fact, on-going water depletion appears to have played a major role in the near extirpation of coho salmon within the last five years (Obedzinski et al. 2007, 2008, 2009). The relationship between stream flow and temperature in Green Valley Creek indicate a problem with increasing water diversion that is causing the stream to become too warm to support coho. This cumulative effect is manifest in the reach immediately below the proposed project and depletion of flow by additional groundwater pumping will further compromise stream temperatures and prevent coho salmon recovery.

There is an additional and significant issue regarding unpermitted impoundments in Sonoma County and in the Green Valley Creek watershed (Stetson Engineers 2007, SWRCB WRD, 2007). There is an impoundment on the parcel and numerous others in the adjacent area. The cumulative effects of impoundments can cause major problems with variability of flow for adult salmonid access and diminishment of rearing habitat (Band 2007, Higgins 2008a) and are a very significant environmental impact issue that Sonoma County refuses to acknowledge. Another issue is whether these ponds may be being filled by pumping groundwater that otherwise might be available as surface water to Green Valley Creek. I am attaching my comments on the Pelton House Winery development (Higgins 2008c) as Appendix C, which raise similar issues.

## Status of Pacific Salmon Species Status and Trends in the Russian River and Green Valley Creek

The MND has no in-depth discussion of the status of Pacific salmon species native to the Russian River and, particularly coho salmon, steelhead trout and Chinook salmon in Green Valley Creek. In fact, the Bones Minor Subdivision project will further deplete flows in reaches of Green Valley Creek that have been known to recently support coho salmon, which are recognized as being at high risk of extinction in the Russian River basin (NMFS 2008a, 2008b). Flow depletion at the project site also has ripple impacts on steelhead trout and Chinook salmon that utilize Green Valley Creek.

According to the National Marine Fisheries Service (1996a, 1997, Good et al. 2005), Russian River coho salmon and steelhead fall into the Central Coast Evolutionarily Significant Unit (ESU), while Chinook salmon group with the California Coast ESU that extends south of the Klamath River. NMFS (1996a) listed the Central California Coast coho salmon as threatened under ESA and more recently upgraded their risk level to endangered (NMFS 2005, Good et al. 2005). Russian River steelhead trout and Chinook salmon have also been listed under ESA and had their status subsequently confirmed (NMFS 1997, 1998a, 1999, 2005).

CDFG (2002b) acknowledge the need to list Central Coast ESU coho under the CESA and surveys conducted annually from 2000-2002 indicated widespread regional extirpations (Figure 1 & 2), with only Green Valley Creek supporting coho salmon in all three years within the Russian River watershed.

> "Extant populations in this region appear to be small. Small population size along with large-scale fragmentation and collapse of range observed in data for this area indicate that metapopulation structure may be severely compromised and remaining populations may face greatly increased threats of extinction because of it."

CDFG (2002b) concluded that "coho salmon in the Central Coast Coho ESU are in serious danger of extinction throughout all or a significant portion of their range" and characterized the Russian River population as "extirpated or nearly so." Figure 2 is a summary chart of CDFG presence/absence coho

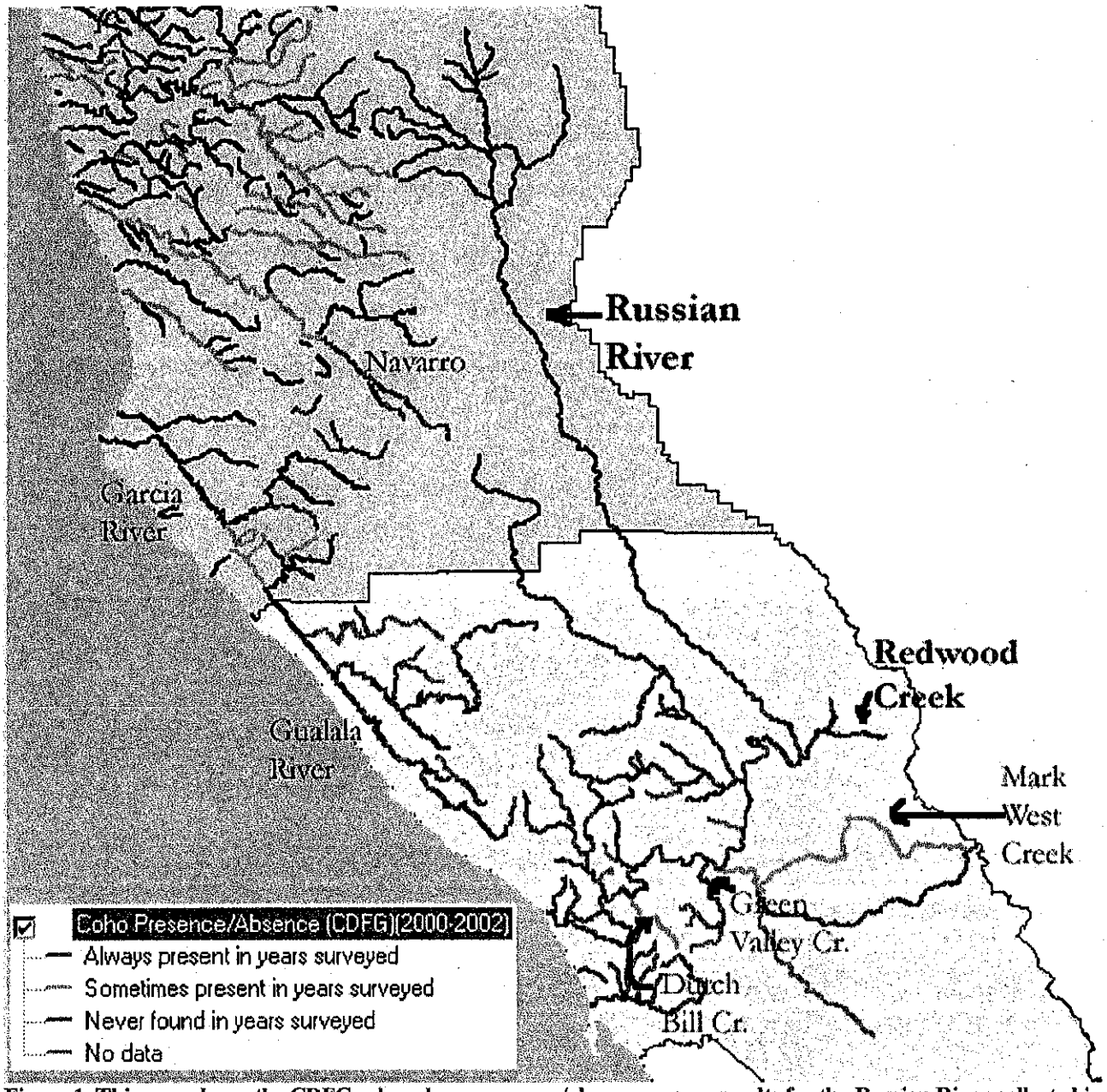



**Figure 1. This map shows the CDFG coho salmon presence/absence survey results for the Russian River collected in years 2000-2002. Red = no coho found in all three years, orange = absent in at least one year and green = present all years. Only Green Valley Creek had coho all three years in the entire Russian River basin.**

salmon survey data from 2000-2002 showing a very high rate of coho extirpation in Sonoma County Coastal watersheds and the Russian River. The recent NMFS (2008a) B.O. for large scale water users in the Russian River includes information on the viability of Russian River coho, including loss of genetic diversity that threatens their future existence:

> "Based on its decline in abundance, restricted and fragmented distribution, and lack of genetic diversity, the Russian River population of coho salmon is likely in an *extinction vortex*, where the population has been reduced to a point where demographic instability and inbreeding lead to further declines in numbers, which in turn, feedback into further declines towards extinction."

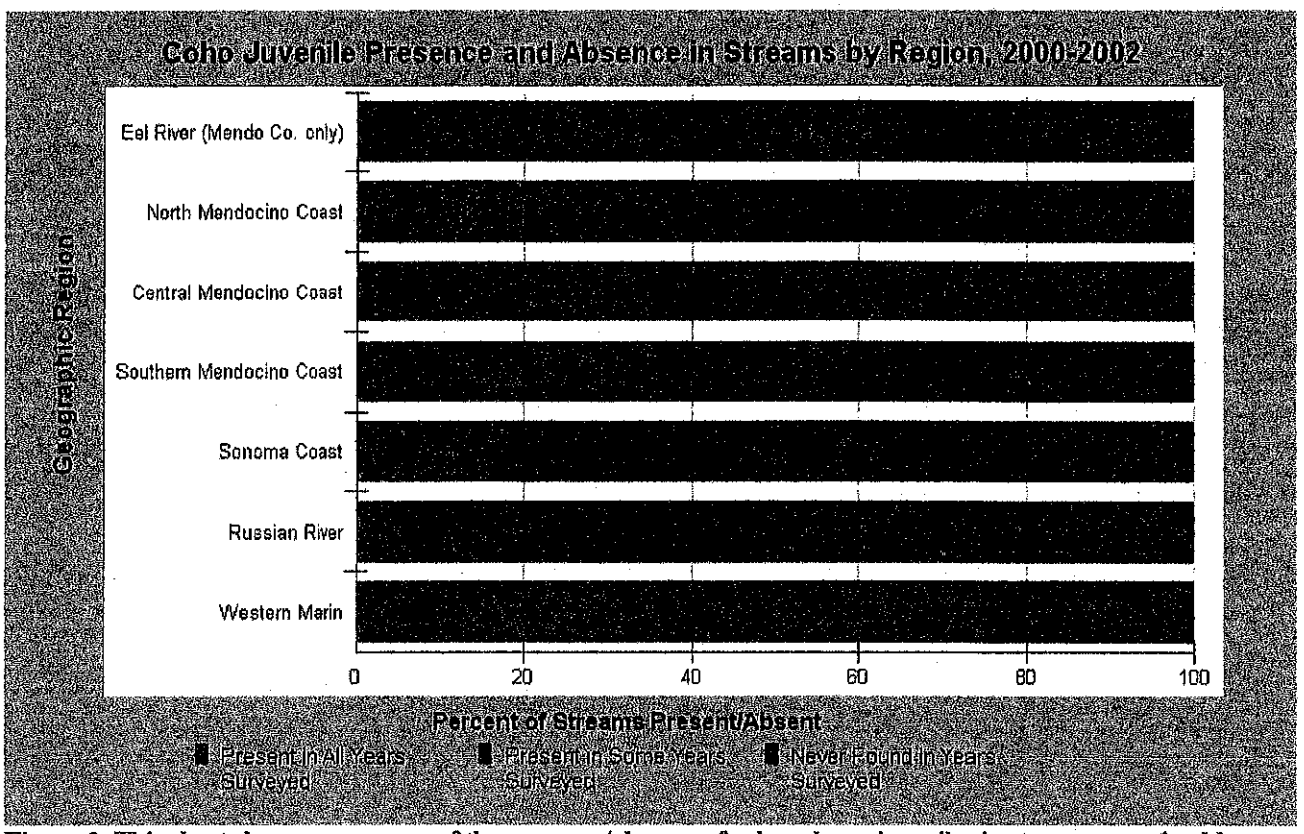



**Figure 2. This chart shows a summary of the presence/absence of coho salmon juveniles in streams examined by CDFG in the years 2000-2002. The numbers shown on the chart bars indicate the number of streams in each region in which surveys always, never, or sometimes found coho. Note high absence rate for the Sonoma County Coast and Russian River basin.**

Shapovalov (1944) noted that Green Valley Creek flow was perennial and CDFG (1976) described it as follows: "Green Valley is an important tributary to the Russian River providing summer and winter flows, valuable spawning and nursery habitat for steelhead and silver salmon." The latter is notable because 1976 was a severe drought year, yet the stream did not lose its surface flow because of lesser agricultural water demand at that time. CDFG (1991) reported that Green Valley Creek was still flowing despite a prolonged drought from 1987-1991 but also expressed concern that there were "more diversions from the stream or its underflow than there were in the past because of more intensive agricultural development."

CDFG electrofishing surveys in Green Valley Creek in 1996 (Figure 3) show that coho salmon and steelhead of various age classes were present throughout the stream system, as well as the ESA listed fairy shrimp. Coho were also present in the stream from 1993 to 2001, when spring and fall annual net surveys were conducted (IFR 2003), but there were substantial inter-annual and seasonal fluctuation (Figure 4). Coho salmon abundance was higher in wet years like 1995, 1996 and 1998 and lower is dry years like 1993 and 1994, but 1999 had almost no fish despite being a wet year. The number of fish in fall was usually substantially less than in spring, indicating shrinking habitat during the summer likely related to flow depletion. Coho almost always spawn at age three and higher abundance in 1995, 1998 and 2001 suggest that that year class is stronger than the other two (1993/1996/1999 and 1994/1997/2000). The year 2001 was also very dry, however, and there appeared to be no survival of juveniles into the fall, based on the net surveys. Loss of the strongest year class of the Green Valley Creek coho has potential major implications for the population's continuing survival.

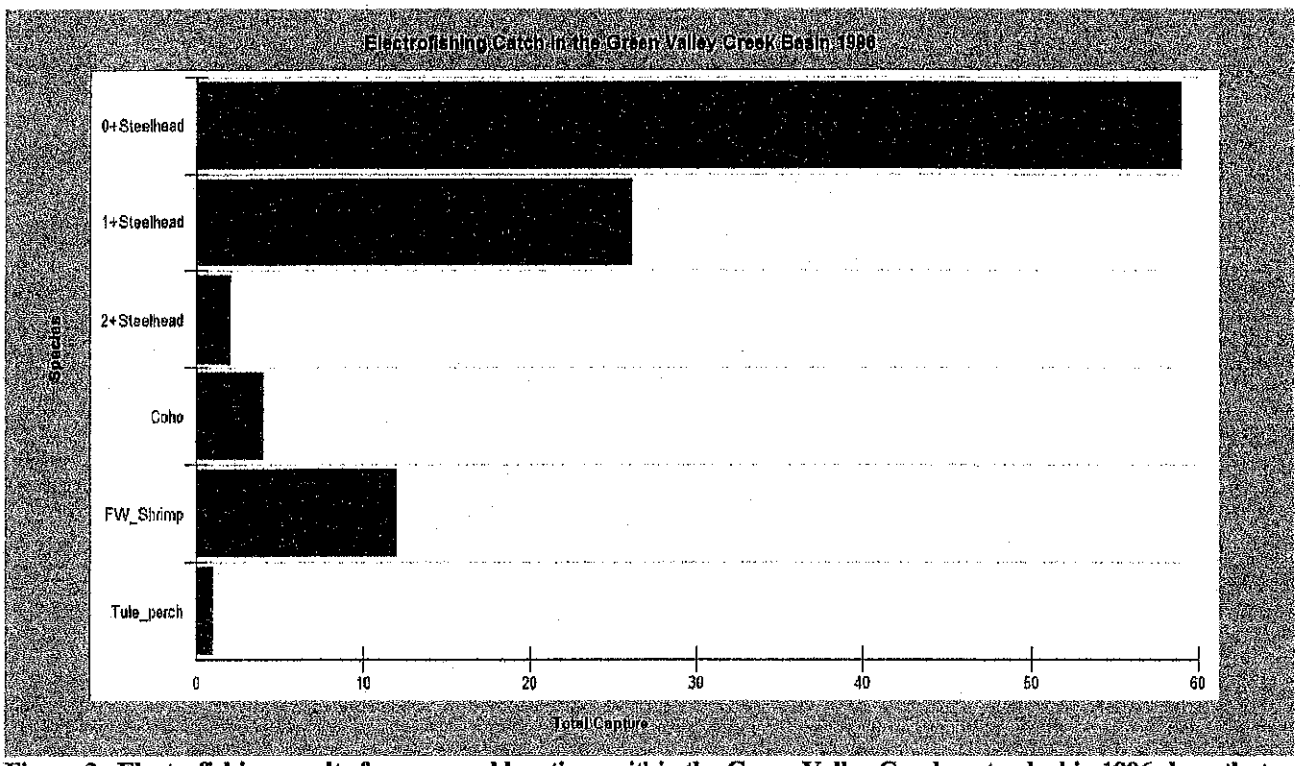



**Figure 3. Electrofishing results from several locations within the Green Valley Creek watershed in 1996 show that coho salmon, steelhead of varying age classes and fairy shrimp were all present.**

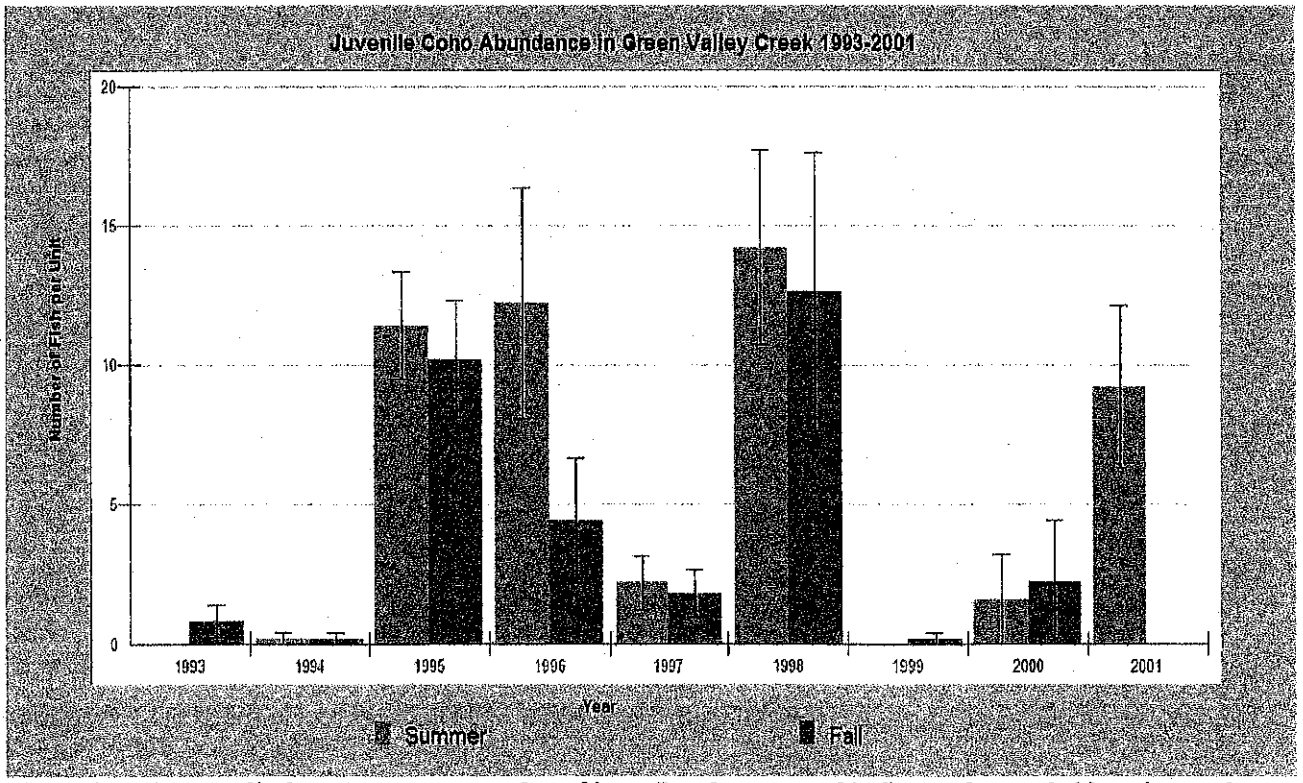



**Figure 4. This chart displays the average number of juvenile coho captured in five pools sampled by seine net in spring and fall within Green Valley Creek during the period 1993-2001. Whiskers show one standard error and represent variation among units in each season. Data were collected by Merrit Smith Consulting for the City of Santa Rosa. From KRIS Russian River.**

The loss of the 2001 year class was confirmed by Obedzinski et al. (2007) who found no coho during August 2005 dives in locations where they had been routinely present or in a downstream migrant trap operated in spring 2005: "The results of our snorkeling surveys and other monitoring efforts suggest that the BY 2004-05 year class in Green Valley has disappeared."

The number of steelhead per reach (Figure 5) from 1993-2001 was consistently higher than that of coho salmon, but that species also displays a pattern of decreasing abundance in fall versus spring. Note that in the drought year 2001 no steelhead juveniles survived until the fall. The consequences for the steelhead population are less because they can return to spawn at varying age classes and may also survive to spawn multiple times (Barnhart 1989).

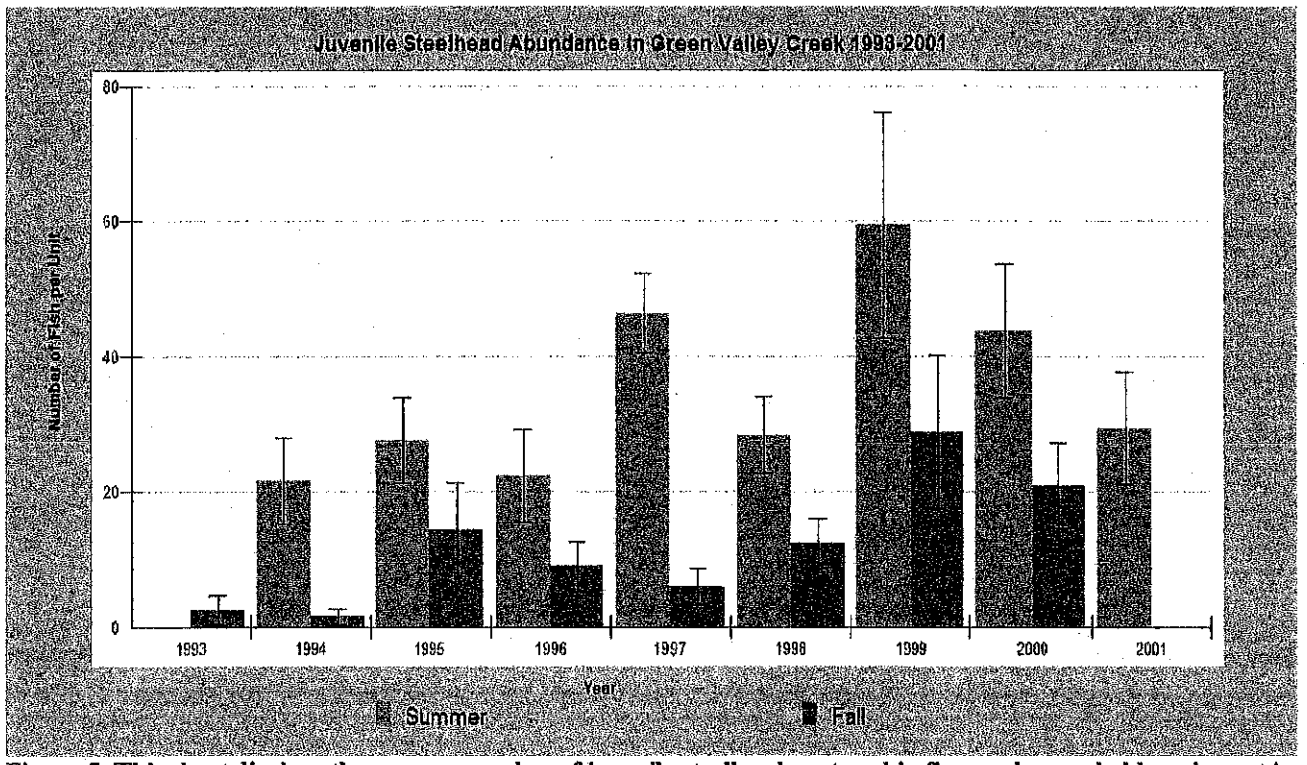



**Figure 5. This chart displays the average number of juvenile steelhead captured in five pools sampled by seine net in Green Valley Creek in spring and fall during the period 1993-2001. Whiskers show one standard error and represent variation among units in each season. Data were collected by Merritt Smith Consulting for the City of Santa Rosa. From KRIS Russian River.**

Green Valley Creek has been closely studied because coho salmon juveniles from it have been used as the basis for a captive broodstock program in an attempt to recover the Russian River population (Conrad et al. 2005). NMFS (2008a) also confirmed that coho salmon are disappearing from Green Valley Creek:

> "Wild young of the year (YOY) coho salmon have not been detected in Green Valley Creek since 2004 (M. Obedzinski, U.C.Davis Extension, personal communication, 2007). Since YOY coho salmon have not been detected for three consecutive years, this may indicate that wild coho salmon have been extirpated from Green Valley Creek" (p. 115).

NMFS (2008a) ascribes the loss of Green Valley Creek coho salmon to depleted flow; "Stream desiccation is related to intensive groundwater pumping and other water uses associated with agricultural, rangeland, and residential developments." Obedzinski et al. (2007, 2008, 2009) report that adult coho returns have not increased in the other Russian River tributaries, despite planting of

thousands of juveniles from the captive broodstock program. Several thousand coho juveniles from the captive broodstock program were planted in 2006 and 2007 in Green Valley Creek (Obedzinski et al. 2009). Although no adult coho returned in 2009, seven adults did spawn in Green Valley Creek in 2010-2011 (UCCE 2011).

## Deteriorated Aquatic Habitat Conditions in Green Valley Creek

The reason juveniles released from the captive broodstock program are not surviving is likely because there is no suitable habitat for the species, specifically restricted pool frequency and depth as well as elevated water temperature. Coho salmon must reside in freshwater for at least a year before migrating to the ocean and require pool depths of greater than three feet deep to successfully rear (Brown et al. 1994). Steelhead must also rear for an extended period in freshwater, with most spending two to three years there before ocean migration, and older age juveniles also prefer deeper pools (Barnhart 1989). Habitat data for Green Valley Creek and other nearby lower Russian River tributaries are available as a result of CDFG habitat typing surveys (CDFG 1998) and data on pool frequency by length and average maximum depth are useful measures of stream health. Results of surveys of Green Valley Creek and nearby tributaries are displayed as Figures 6 and 7. CDFG (1998) rates pool frequencies greater than 40% as properly functioning for salmon and steelhead. The lowest two reaches of Green Valley Creek are optimal by this measure but the upper four reaches are impaired. Similarly, pool depths are over three feet in the lowest two reaches of Green Valley Creek and mostly less than that depth in the four reaches above. The problem with this distribution of habitat is that the lower reaches where pools are frequent and deep are too warm for coho salmon in summer. Upper reaches and tributaries may be cool enough for coho, but pool depths are generally too shallow for successful rearing. Habitat typing data also shed light on the problem of stream dewatering as indicated by five of six reaches of Green Valley Creek having dry habitat sections, which is not a natural condition.

Coho salmon cannot reside in a stream where the maximum floating weekly average water temperature (MWAT) exceeds 16.8$^{O}$ C or 62.2$^{O}$ F (Welsh et al. 2001, U.S. EPA 2003). Green Valley Creek rose to over this limit from 2005 to 2007 (Figure 8) according to data collected by the U.C. Cooperative

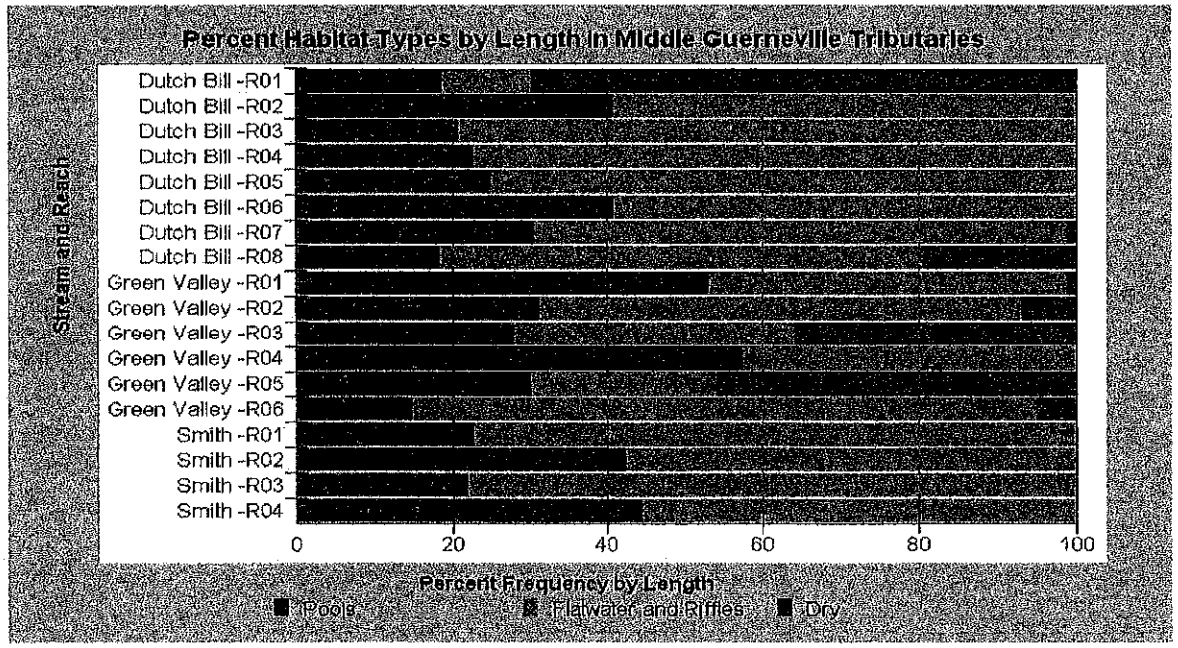



**Figure 6. Habitat typing data shows pool frequency by length for Green Valley, Smith and Dutch Bill creeks. Green Valley Creek has less than optimal pool ratios in four of six reaches and results also indicate impairment due to flow depletion with many reaches dry, which was not the historic condition. Data from CDFG.**

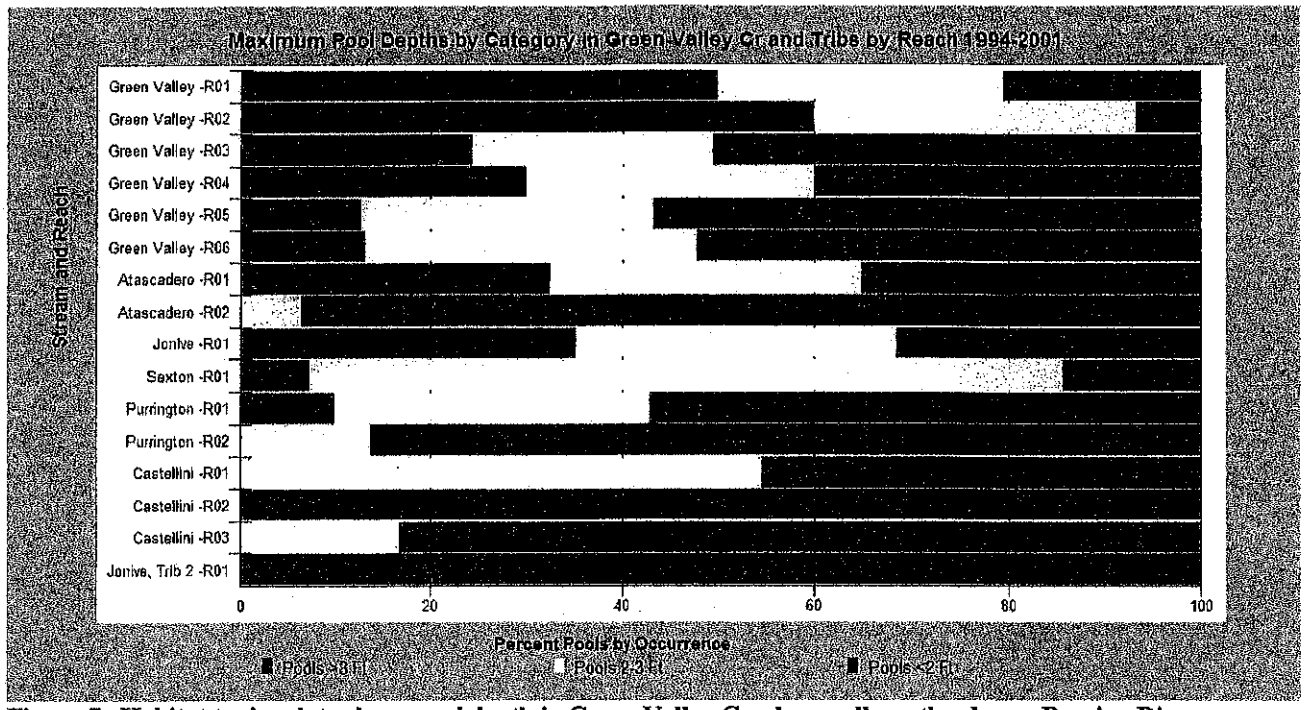



**Figure 7. Habitat typing data shows pool depth in Green Valley Creek as well as other lower Russian River tributaries. Green Valley Creek has less than optimal pool depths in four of six reaches. While the lowest reaches have deeper pools, they have water temperatures that are too high to support coho salmon. Data from CDFG.**

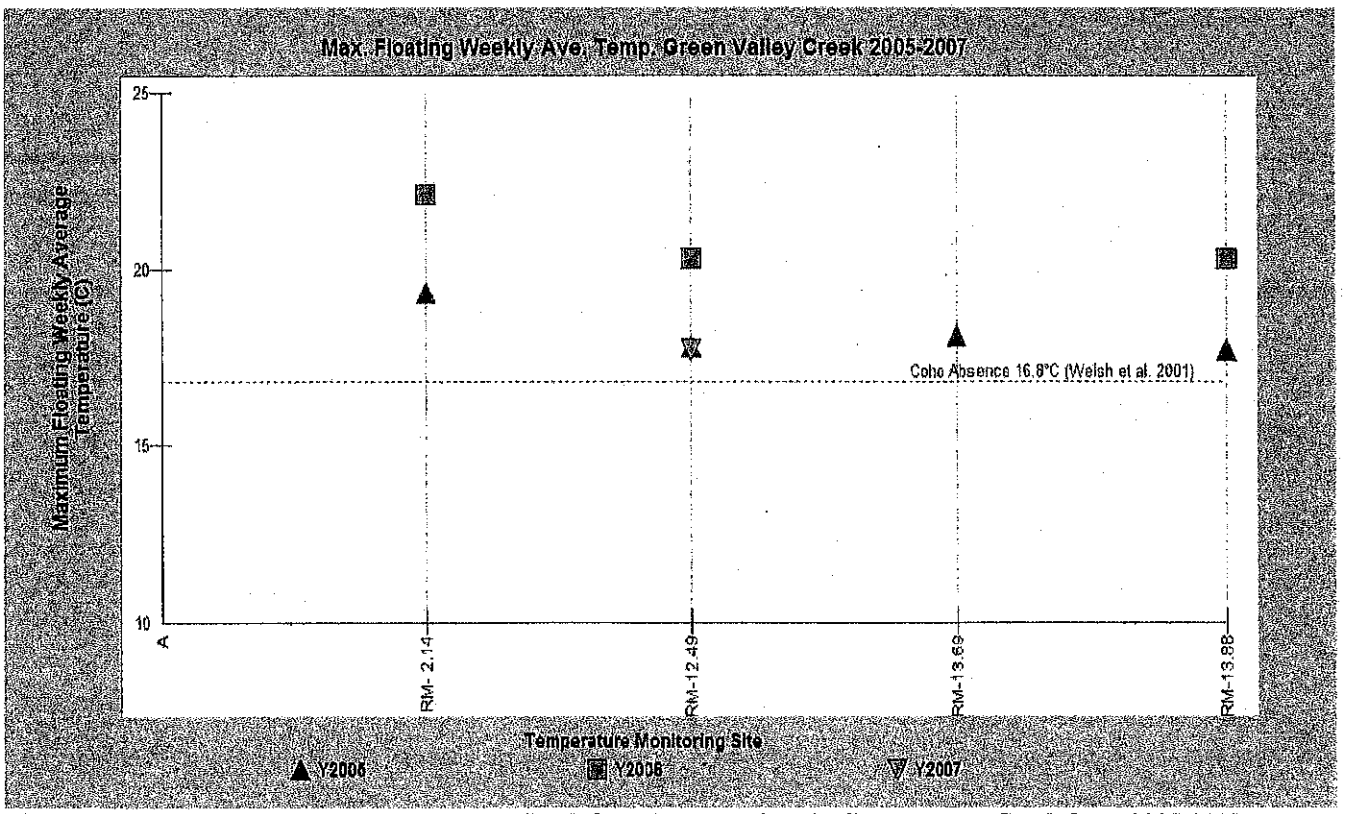



**Figure 8. Water temperature of Green Valley Creek from four locations in Green Valley Creek from 2005-2007 show they are above the level that supports coho salmon, which was not their historic condition. Data from UCCE (Obedzinski et al. 2008, 2009).**

Extension (Obedzinski et al. 2008, 2009). This information alone explains why coho salmon have disappeared from the creek. UCCE collected water temperature information at river mile (RM) 2.14, RM 12.49, RM 13.69 and RM 13.88. This is of particular interest because the Bones Minor Subdivision project is located within the monitored reach and its effects would be felt between RM 13.69 and RM 12.49 (Figure 9). There is a very slight drop in water temperature between these two locations indicating likely contributions from Hoyt Creek and the hillslopes on which the planned project are located (Table 1). Water temperature is a function in part of transit time and volume (Poole and Berman 2001, U.S. EPA 2003); therefore, the increased water temperature is likely owing to decreasing flows. Any additional flow depletion from the Bones Minor Subdivision should be prevented at this time to make sure that Green Valley Creek doesn't depart further from coho salmon temperature tolerance and into the acutely stressful range for steelhead.

## Legal and Illegal Green Valley Creek Water Use Needs Examination in EIS

The study by Stetson Engineers (2007), which was part of the SWRCB WRD (2007) *Draft Policy for Maintaining Instream Flows in Northern California Coastal Streams,* determined that there were 1357 permitted impoundments in the Policy's area of interest and another 1771 unpermitted ones (Figure 10). Hundreds of legal and illegal impoundments are located in Sonoma County but furthermore, many of these are within the Green Valley Creek watershed (Figures 11 & 12), including on and adjacent to the project site (Figure 13). The impoundments add substantial complexity to the question of water supply. Although these impoundments are often allegedly fed by surface water runoff, in many cases they may be filled with groundwater using a pump. Since the ponds are usually lined, once water is withdrawn from the aquifer, it is no longer available as a surplus to supply cool water needed for fishes (Integrated Watershed Group 2011).

Even if the numerous impoundments within the Green Valley Creek watershed only caught surface runoff, they would cause complex hydrologic cumulative effects. When all reservoirs are filled simultaneously with the first rains of fall or winter, Chinook and coho salmon spawning migrations may be impeded (Band 2008). In a drought year, adult steelhead may be similarly stranded or unable to migrate to spawning grounds due to reservoir induced drops in flow. When reservoirs are filled in summer using stream flows or connected groundwater, nearby streams may dry up. Other impoundment related impacts that Sonoma County should be considering are effects of legal and illegal impoundments on water temperatures, the potential they have for introduction of bull frogs that decimate native frog populations, and their contribution to release of non-native warmwater fish that predate upon salmonids or displace them through competition (Higgins et al., 1992). Obedzinski et al. (2007) noted that bluegill and green sunfish were observed during August 2004 Green Valley Creek dives, substantiating the fact that reservoirs within the basin are producing warmwater fish.

## Cumulative Watershed Stress Due to Roads

There are other cumulative effects related to upland disturbance that Sonoma County is ignoring that have the potential to degrade fish habitat in Green Valley Creek. Roads cause increased sediment yield (Hagans et al. 1986) that can fill pools and indirectly cause increased water temperature through an increased width to depth ratio (U.S. EPA 2003). High road densities can also act to extend stream networks and intercept ground water flows (Jones and Grant, 1996), resulting in increased peak flows and decreased base flows (Wemple et al. 1996). Figure 14 shows the difference in response to storm events in roaded and unroaded watersheds. U.S. Forest Service (1996) studies in the interior Columbia River basin found that bull trout were not found in basins with road densities greater than 1.7 $mi/mi^2$. They rank road-related cumulative effects risk as Extreme when road densities exceed 4.7 $mi/mi^2$ (Figure 15). National Marine Fisheries Service (1996b) guidelines for salmon habitat characterize

watersheds with road densities greater than 3 mi/mi$^2$ as "Not Properly Functioning" while "Properly Functioning Condition" is defined as less than or equal to 2 mi/mi$^2$ with no or few stream side roads. Road densities were calculated as part of the KRIS Russian project on a large sub basin scale (Figure 9). All three Green Valley Creek sub-basins fall into the High or Extremely High (USFS, 1996) risk category for hydrologic and geologic perturbation.

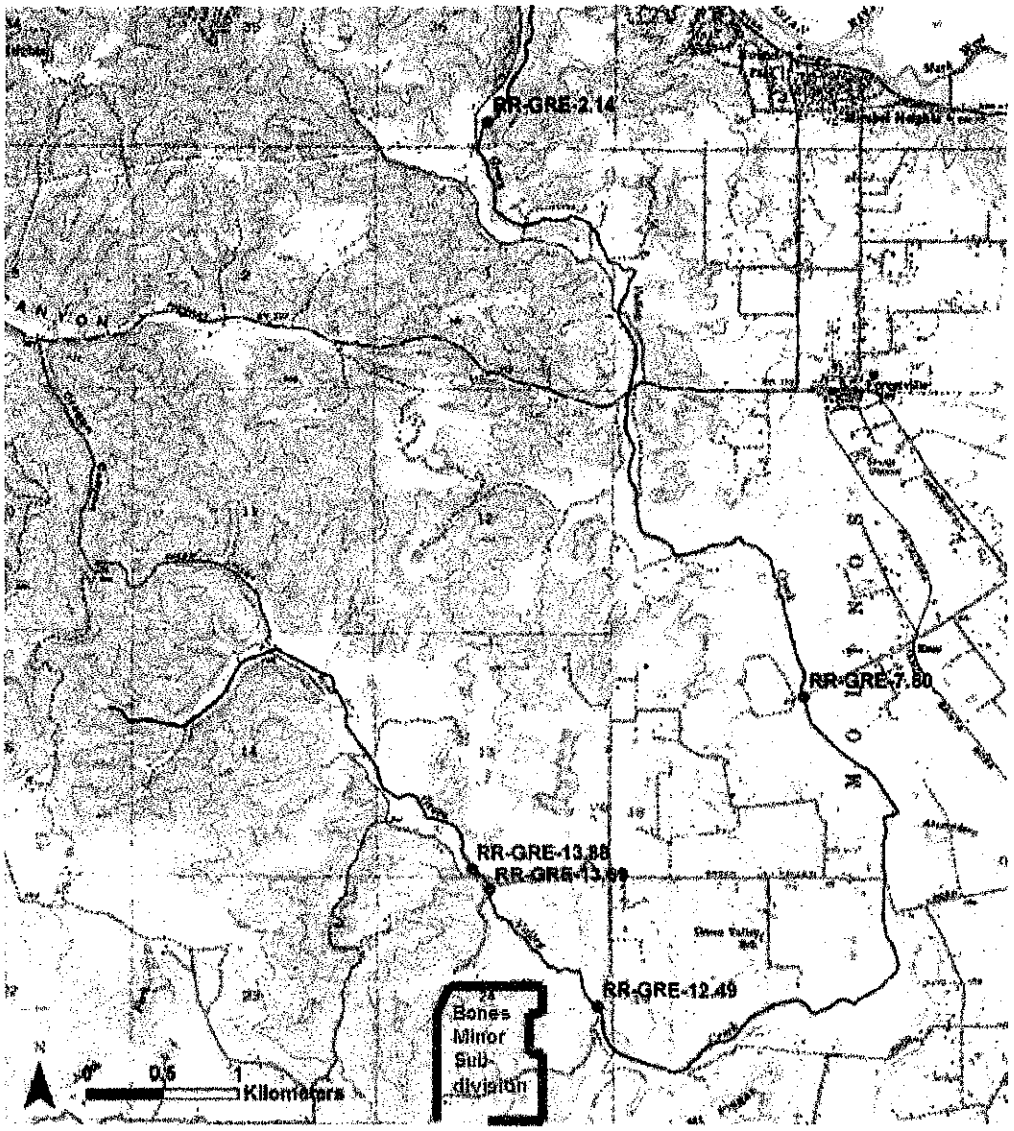



**Figure 9. Water temperature data collection locations in Green Valley Creek from 2005-2007 show that the Bones Minor Subdivision is located between temperature monitoring locations at RM 13.69 and RM 12.49. Map from UCCE (Obedzinski et al. 2008, 2009).**

**Table 1. Maximum floating weekly average water temperatures at four locations within the Green Valley Creek watershed for the years 2005, 2006 and 2007. Data from UCCE (Obedzinski et al. 2008).**

| Location by River Mile | Y2005 | Y2006 | Y2007 |
|---|---|---|---|
| RM 2.14 | 19.3 | 22.1 | |
| RM 12.49 | 17.8 | 20.3 | 17.7 |
| RM 13.69 | 18.1 | | |
| RM 13.88 | 17.7 | 20.3 | |

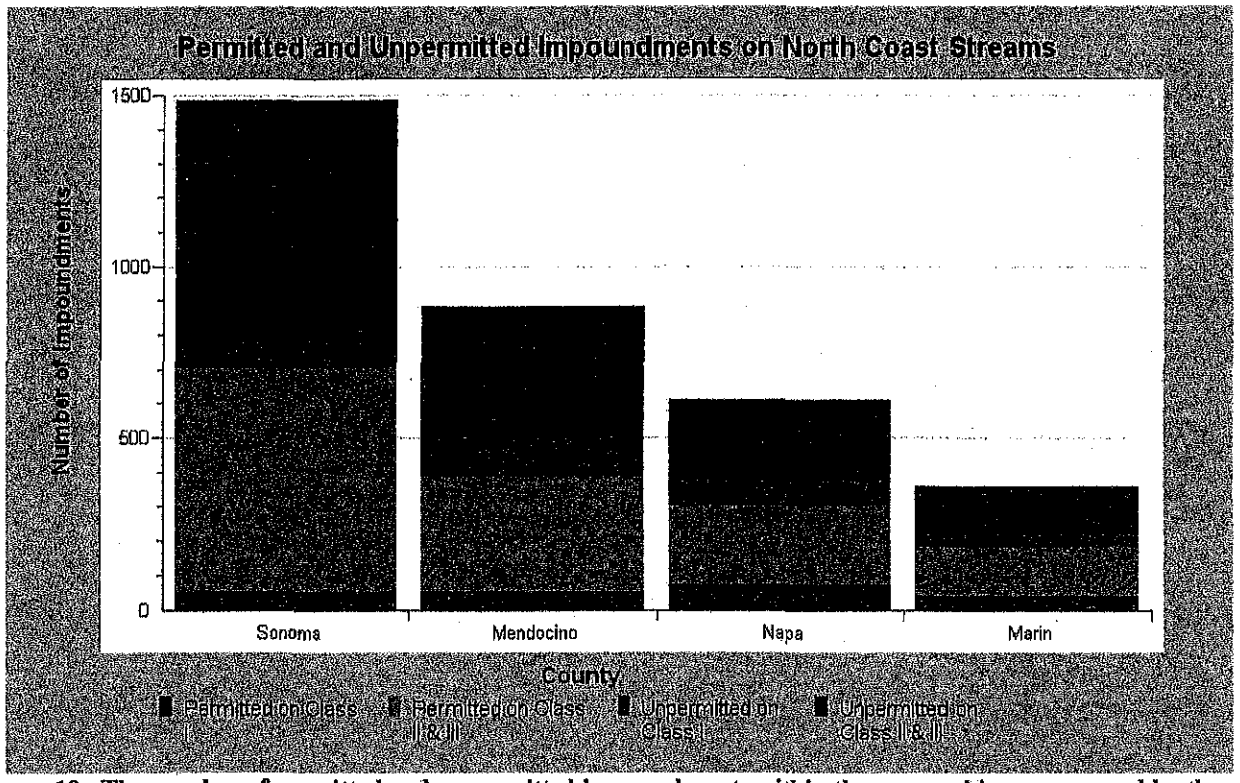



**Figure 10. The number of permitted and unpermitted impoundments within the geographic area covered by the SWRCB WRD (2007) study is displayed above with illegal diversion impoundments outnumbering legal ones. Data from Stetson Engineers (2007a).**

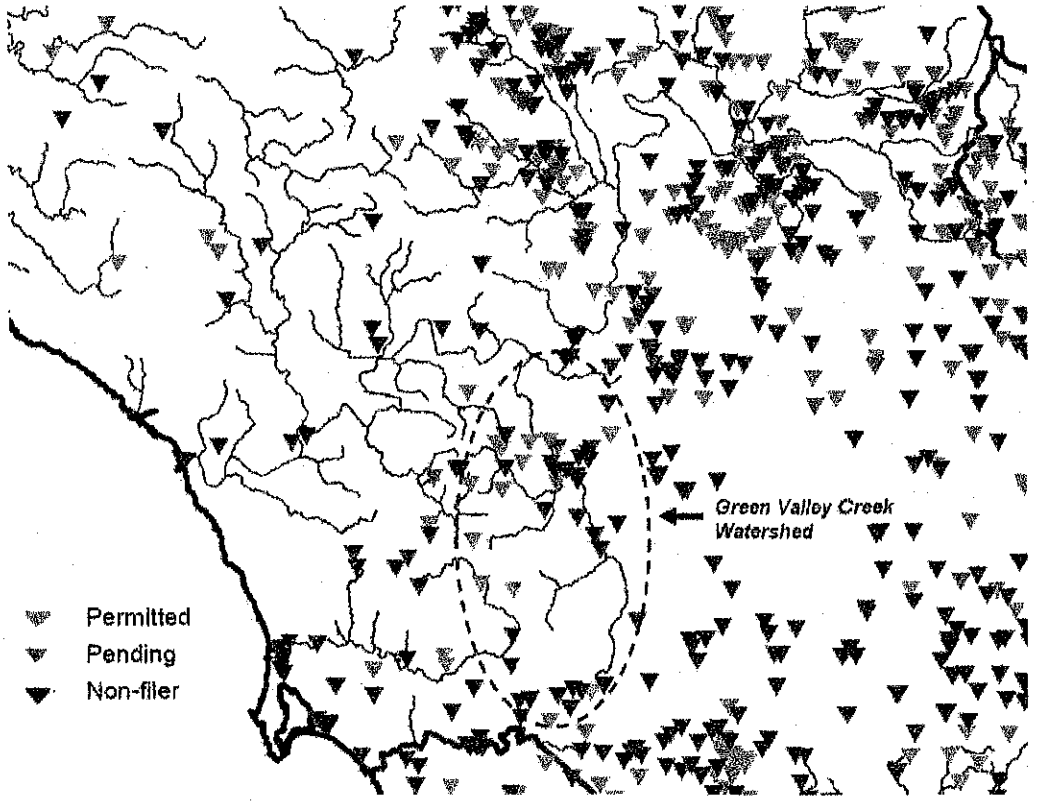



**Figure 11. Map shows impoundments by categories of permitted, unpermitted and pending and is modified from Stetson Engineers (2007). Note the large number of unpermitted diversions within the Green Valley Creek watershed.**

**Figure 12. This aerial view of the convergence of Green Valley Creek and its major tributary Atascadero Creek shows a number of impoundments for agricultural water storage highlighted by red arrows, indicating a widespread pattern of use in the watershed. Map from Google Earth.**

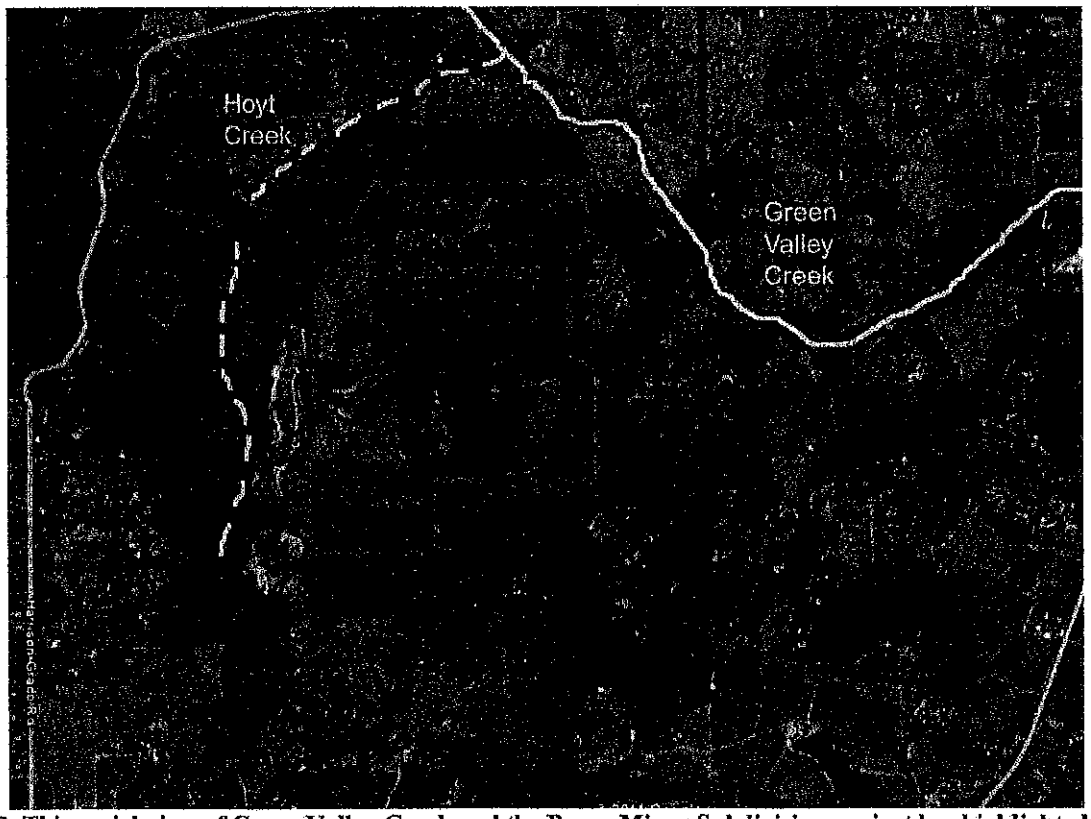



**Figure 13. This aerial view of Green Valley Creek and the Bones Minor Subdivision project has highlighted agricultural water storage impoundments with red arrows, including one within the project boundary and one on Hoyt Creek. Map from Google Earth.**

## *Watershed Runoff With and Without Roads*

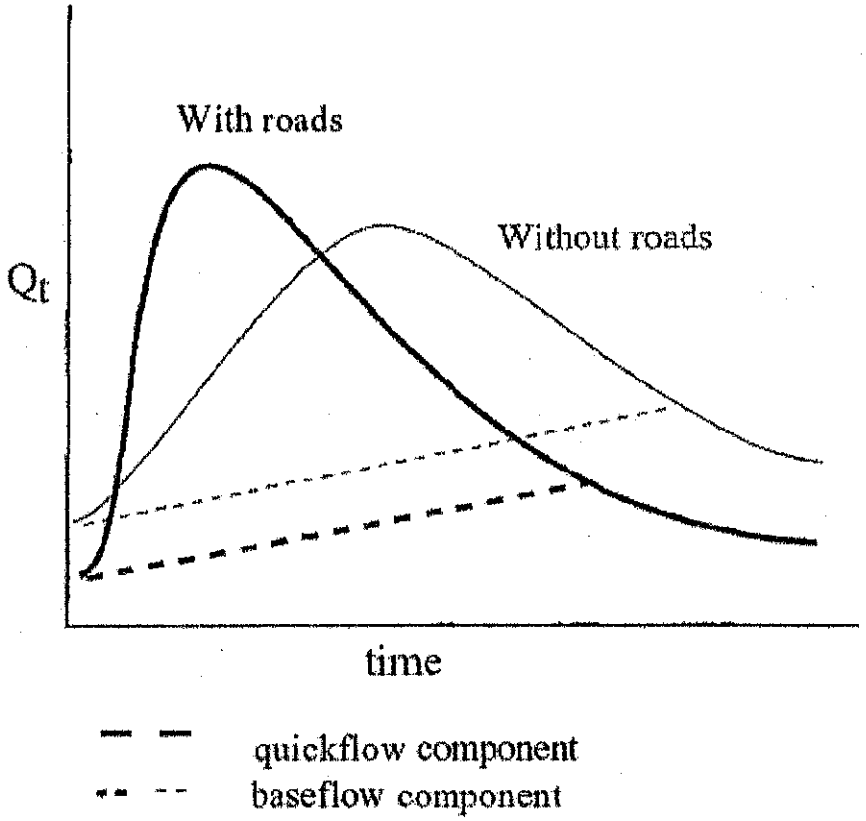



**Figure 14. Runoff (Qt) occurs faster in response to rainfall in a watershed with roads but the baseflows during subsequent seasonal dry periods are higher in an unroaded basin. Taken from Figure 1 in Wemple et al. (1996)**

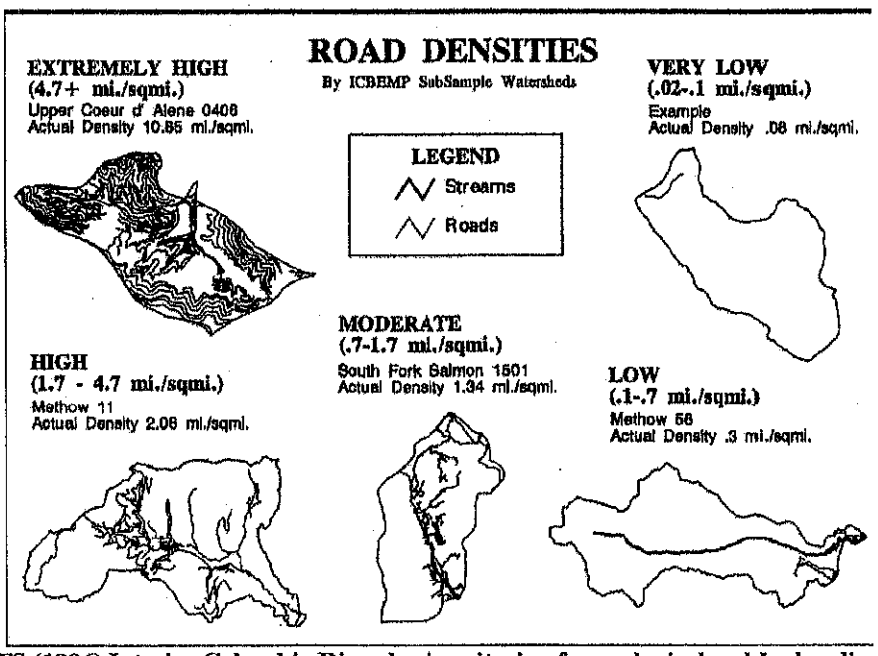



**Figure 15. The USFS (1996) Interior Columbia River basin criterion for ecological and hydraulic risk from road densities is displayed here. Green Valley Creek falls into the Extremely High (>4.7 mi/mi$^2$) category.**

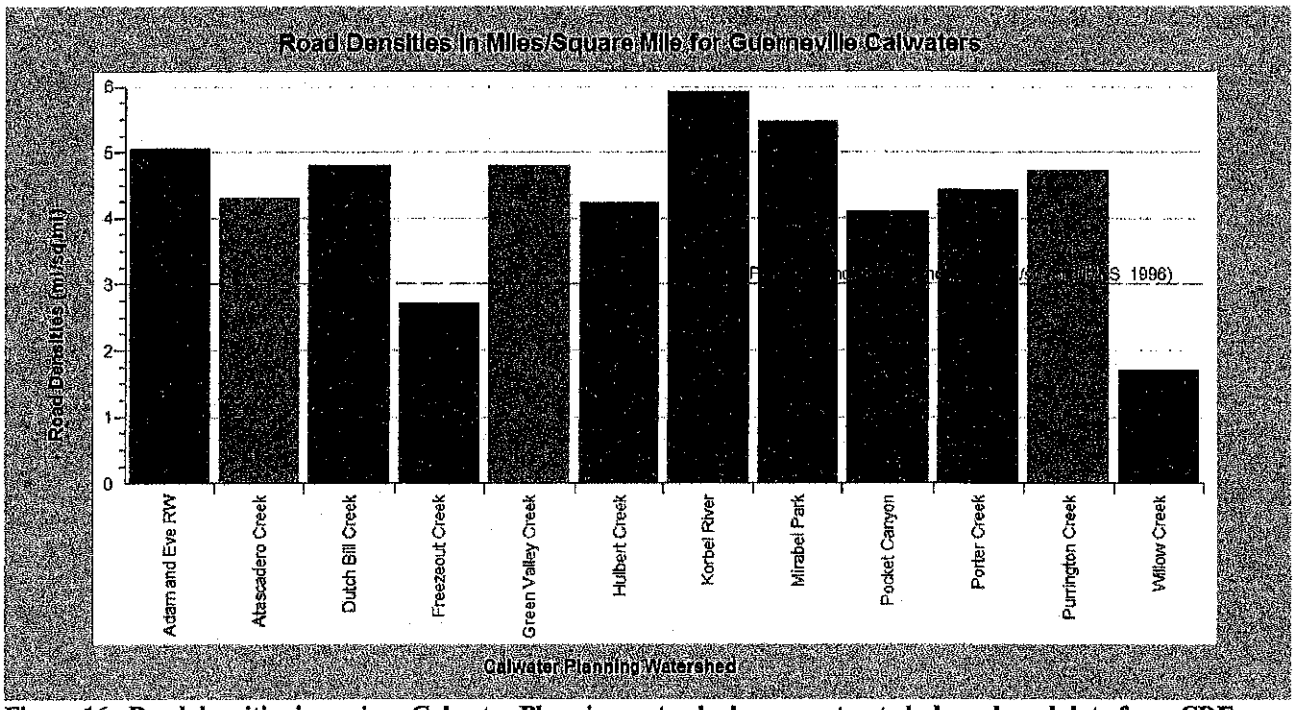



**Figure 16. Road densities in various Calwater Planning watersheds are contrasted above based data from CDF. Green Valley Creek and its tributary basins are highlighted in green and are all well over levels recommended for Properly Functioning watershed condition (2.5 mi/sq mi) for Pacific salmon (NMFS, 1996b). Data from KRIS Russian.**

Existing high road densities and stream-side roads are likely contributing substantially to channel damage in Green Valley Creek and its tributaries and a driver in causing low pool frequency and depth as well as depleted summer base flows. The Bones Minor Subdivision project will increase total impervious area by constructing driveways and converting naturally vegetated areas into parking lots and home sites and these aspects of development need to be considered in conjunction with high pre-existing impacts. Even if best management practices are used to decrease sediment yield and reduce the risk of road failures with all new road segments, downstream and offsite impacts will still occur when disturbance becomes too widespread (Dunne et al. 2001). Consequently, the Sonoma County PRMD needs to assess cumulative effects related to roads as part of a full EIR for the Bones Minor Subdivision project.

## Climate Cycles and Global Warming Considerations in Allowing More Water Diversion

Hare et al. (1999) described the climatic and oceanic variations known as the Pacific decadal oscillation (PDO) cycle that affects salmon populations of the northern California region. Positive ocean cycles coincide with wet on-land conditions for a period of about 25 years, and then alternate with ocean conditions prone to warm El Nino events and periods of lesser rainfall. Positive PDO conditions prevailed from 1950-1975 and negative ocean and dry on-land conditions extended from 1975-1995 (Collison et al. 2003). The positive PDO conditions since 1995 have resulted in higher precipitation and mostly favorable ocean conditions. Climate change is likely to induce higher variability in weather patterns (ISAB 2007). The switch of the PDO to dry on-land and poor ocean productivity in 1975 was followed by the 1976-77 drought and the record inter-annual drought from 1986-1992 also came during this cycle. This means that there will likely be an equal or more severe series of droughts after the predicted PDO switch sometime between 2015-2020 (Collison et al. 2003). The Sonoma County PRMD must take climate change into consideration as it allocates increasingly scarce water resources and in the full EIR for this project.

## Conclusion

The NMFS (2008b) specifically references Green Valley Creek and made the following recommendations for coho recovery (p 336):

- Work with SWRCB and landowners to improve over-summer survival of juveniles by re-establishing summer baseflows (from July 1 to October 1) in rearing reaches currently impacted by water use.

- Monitor, identify problems, and prioritize needs for changes to water diversion on current or potential coho streams that go dry in some years, in particular Green Valley and Dutch Bill Creeks.

- Identify and eliminate depletion of summer base flows from unauthorized diversions.

- Improve coordination between agencies and others to address season of diversion, off-stream storage reservoirs, by-pass flows protective of coho salmon and their habitats and avoidance of adverse impacts caused by water diversion (CDFG 2004).

Coho salmon still exist in Green Valley Creek (UCCE 2011) and the Sonoma County PRMD is not cooperating as recommended above. Instead the on-going permitting of land use that further depletes the water supply in Green Valley Creek by Sonoma County rises to a "take" of coho salmon under ESA and CESA. Expensive recovery efforts to restore Russian River coho salmon using captive broodstock from Green Valley Creek have failed and it is time to recognize that salmon and steelhead cannot be recovered without real changes to land and water use.

To meet CEQA requirements, the County of Sonoma PRND needs to require development of a full EIR for the proposed Bones Minor Subdivision project that covers topics above, including cumulative effects of groundwater pumping and use of illegal water storage impoundments and their relationship to continued survival and recovery of Pacific salmon species.

Sincerely,

Patrick Higgins

## References


Band, L.E. 2008. Review of the Scientific Basis for the Proposed "North Coast In-Stream Flow Policy." Prepared for the CA SWRCB WRD. University of North Carolina, Chapel Hill, NC. 12 p.

Barnhart, R. A. 1986. Species profiles: life histories and environmental requirements of coastal fishes and invertebrates (Pacific Southwest)--steelhead. U.S. Fish Wildl. Serv. Biol. Rep. 82(11.60). U.S. Army Corps of Engineers, TR EL-82-4. 26 pp.

Bradbury, W., W. Nehlsen, T.E. Nickelson, K. Moore, R.M. Hughes, D. Heller, J. Nicholas, D. L. Bottom, W.E. Weaver and R. L. Beschta. 1995. Handbook for Prioritizing Watershed Protection and Restoration to Aid Recovery of Pacific Salmon. Published by Pacific Rivers Council, Eugene, OR. 56 p.

Brown, L.R., P.B. Moyle, and R.M. Yoshiyama. 1994. Historical Decline and Current Status of Coho Salmon in California. North American Journal of Fisheries Management. 14(2):237-261.

California Department of Fish and Game (CDFG). 1976. Green Valley Creek Stream Survey. Memo of December 22, 1976. CDFG, Yountville, CA. http://www.krisweb.com/krisrussian/krisdb/html/krisweb/biblio/russian_cdfg_gillespie_1976_greenvalleyss.pdf

California Department of Fish and Game (CDFG). 1991. Green Valley Creek Stream Survey. Memo of October 17, 1991. CDFG, Yountville, CA. http://www.krisweb.com/krisrussian/krisdb/html/krisweb/biblio/russian_cdfg_cox_1991_greenvalleyelectrof.pdf

California Department of Fish and Game (CDFG). 1998. California Salmonid Stream Habitat Restoration Manual. Fourth Edition. Inland Fisheries Division. California Department of Fish and Game. Sacramento, CA.

California Department of Fish and Game (CDFG). 2002a. Draft Russian River Basin Fisheries Restoration Plan. Draft release July 2002. CDFG, Hopland, CA. 331 pp. http://www.krisweb.com/biblio/russian_cdfg_coey_2002_draftrestplan.pdf

California Department of Fish and Game (CDFG). 2002b. Status Review of California Coho Salmon North of San Francisco. Report to the California Fish and Game Commission. California Department of Fish and Game, Sacramento, CA. 336pp. http://www.krisweb.com/krisrussian/krisdb/html/krisweb/biblio/cal_cdfg_cdfg_2002_cohostatus.pdf

California Department of Fish and Game (CDFG). 2004. Recovery Strategy for California Coho Salmon. CDFG, Sacramento, CA.

California State Water Resources Control Board, Water Rights Division (SWRCB WRD). 2007. Draft Policy for Maintaining Instream Flows in Northern California Coastal Streams. SWRCB WRD, Sacramento, CA.

Collison, A., W. Emmingham, F. Everest, W. Hanneberg, R. Martston, D. Tarboton, R. Twiss. 2003. Phase II Report: Independent Scientific Review Panel on Sediment Impairment and Effects on Beneficial Uses of the Elk River and Stitz, Bear, Jordan and Freshwater Creeks. Independent Science Review Panel performed analysis on retainer to the North Coast Regional water Quality Control Board, Santa Rosa, CA.

Conrad, L., M. Obedzinski, D. Lewis, and P. Olin. 2005. Annual Report for the Russian River Coho Salmon Captive Broodstock Program: Hatchery Operations and Monitoring Activities July 2004 – June 2005. University of California Cooperative Extension and Sea Grant Program Santa Rosa, CA. 55 p.

Dunne, T., J. Agee, S. Beissinger, W. Dietrich, D. Gray, M. Power, V. Resh, and K. Rodrigues. 2001. A scientific basis for the prediction of cumulative watershed effects. The University of California Committee on Cumulative Watershed Effects. University of California Wildland Resource Center Report No. 46. June 2001. 107 pp. http://www.krisweb.com/biblio/gen_ucb_dunneetal_2001_cwe.pdf

Good, T. P., R. S. Waples & P. B. Adams. 2005. Updated status of federally listed ESUs of West Coast salmon and steelhead. U.S. Department of Commerce, NOAA Technical Memorandum, NMFS-NWFSC-66. 598 pp.

Hagans, D. K., W. E. Weaver, and M. A. Madej. 1986. Long term on-site and off-site effects of logging and erosion in the Redwood Creek basin, Northern California. In: Papers presented at the American Geophysical Union meeting on cumulative effects (1985 December); National Council on Air and Streams, Tech.Bull.No. 490, pp.38-66. 29 pp.

Hare, S. R.; Mantua, N. J.; Francis, R. C. 1999. Inverse production regimes: Alaska and the west coast Pacific salmon. Fisheries, Vol. 24 (1): 6-14.

Higgins, P.T., S. Dobush, and D. Fuller. 1992. Factors in Northern California Threatening Stocks with Extinction. Humboldt Chapter of American Fisheries Society. Arcata, CA. 25pp.

Higgins, P.T. 2008a. Comments on Draft Policy for Maintaining Instream Flows in Northern California Coastal Streams. April 2, 2008. Performed under contract to the Redwood Chapter Sierra Club. Patrick Higgins, Consulting Fisheries Biologist, Arcata, CA. 49 p.

Higgins, P.T. 2008b. Comments on Adequacy of Mendocino General Plan Update and Draft Environmental Impact Report (DEIR) with Regard to Pacific Salmon Recovery and Meeting CEQA Requirements. November 17, 2008. Performed under contract to the Redwood Chapter Sierra Club. Patrick Higgins, Consulting Fisheries Biologist, Arcata, CA. 22 p.

Higgins, P.T. 2008c. Comments on the Pelton House Winery Application #PLP05-0010 from Jess Jackson and Barbara Banke. December 29, 2008 memo to Sonoma County PRND. Performed under contract to the Friends of Maacama Creek. Patrick Higgins, Consulting Fisheries Biologist, Arcata, CA. 24 p.

Institute for Fisheries Resources. 2003. KRIS Russian, Navarro, East Marin-Sonoma Database and Map Projects. Funded by the Sonoma County Water Agency, Santa Rosa, CA. (www.krisweb.com).

ISAB (Independent Science Advisory Board). 2007. Climate Change Impacts on Columbia River Basin Fish and Wildlife. Northwest Power and Conservation Council, Columbia River Basin Indian Tribes, and National Marine Fisheries Service. Portland, OR.

Jones, J. A. and G. E. Grant, 1996. Cumulative Effects of Forest Harvest on Peak Streamflow in the Western Cascades of Oregon. Water Resources Research 32(4):959-974.

Kier Associates. 1991. Long Range Plan for the Klamath River Basin Conservation Area Fishery Restoration Program. Klamath River Basin Fisheries Task Force. Yreka, CA.

Knopp, C. 1993. Testing Indices of Cold Water Fish Habitat. Final Report for Development of Techniques for Measuring Beneficial Use Protection and Inclusion into the North Coast Region's Basin Plan by Amendment. September 18, 1990. North Coast Regional Water Quality Control Board in cooperation with California Department of Forestry. 57 pp. http://www.krisweb.com/biblio/ncc_ncrwqcb_knopp_1993_sediment.pdf

Mendocino County Resource Conservation District (MCRCD). 1992. Garcia River watershed enhancement plan. Prepared for the California State Coastal Conservancy. Prepared by MCRCD, written by Jack Monschke and D. Caldon, Kier Associates. MCRCD, Ukiah, CA. 207 p.

National Marine Fisheries Service. 1996a. Endangered and Threatened Species; Threatened Status for Central California Coast Coho Salmon Evolutionarily Significant Unit (ESU). 61 Fed. Reg. 56138 - 56149 (1996).

National Marine Fisheries Service. 1996b. Coastal Salmon Conservation: Working Guidance for Comprehensive Salmon Restoration Initiatives on the Pacific Coast. US Dept. Commerce, NOAA. 4p.

National Marine Fisheries Service. 1997. Endangered and Threatened Species; Listing of Several Evolutionarily Significant Units (ESUs) of West Coast Steelhead, 62 Fed. Reg. 43937-43954 (1997).

National Marine Fisheries Service (NMFS). 1998a. Endangered and Threatened Species: Proposed Endangered Status for Two Chinook Salmon ESUs and Proposed Threatened Status for Five Chinook Salmon ESUs; Proposed Redefinition, Threatened Status, and Revision of Critical Habitat for One Chinook Salmon ESU; Proposed Designation of Chinook Salmon Critical Habitat in California, Oregon, Washington, Idaho.

National Marine Fisheries Service. 1999. Threatened Status for Two Chinook Salmon Evolutionarily Significant Units (ESUs) in California. 64 FR 50394; September 16, 1999.

National Marine Fisheries Service. 2001. Status Review Update for Coho Salmon (Oncorhynchus kisutch) from the Central California Coast and the California portion of the Southern Oregon/Northern California Coasts Evolutionarily Significant Units. Southwest Fisheries Science Center, Santa Cruz, CA. 43 p.

National Marine Fisheries Service. 2005. Endangered and threatened species: final listing determinations for 16 ESUs of West Coast Salmon, and final 4(d) protective regulations for threatened salmonid ESUs. Federal Register, 70: 37160-37204.

National Marine Fisheries Service. 2008a. Biological Opinion for ESA Section 7 Consultation on Water Supply, Flood Control Operations, and Channel Maintenance conducted by the U.S. Army Corps of Engineers, the Sonoma County Water Agency, and the Mendocino County Russian River Flood Control and Water Conservation Improvement District in the Russian River watershed. NMFS, Santa Rosa, CA. 386 p.

National Marine Fisheries Service (NMFS). 2008b. Draft Recovery Plan for the ESU of Central California Coast Coho Salmon. Released September 9, 2008. NMFS, Santa Rosa, CA. 550 p.

Nehlsen, W., J.E. Williams, J.A. Lichatowich. 1991. Pacific Salmon at the Crossroads: Stocks at Risk from California, Oregon, Idaho, and Washington. Fisheries 16(2):4-21.

Pacific Watershed Associates. 1994. Action plan for the restoration of the South Fork Trinity River watershed and its fisheries. Prepared for U.S. Bureau of Reclamation and the Trinity River Task Force, Contract No. 2-CS-20-01100. Arcata, CA.

Poole, G.C., and C.H. Berman. 2000. Pathways of Human Influence on Water Temperature Dynamics in Stream Channels. U.S. Environmental Protection Agency, Region 10. Seattle, WA. 20 p.

Obedzinski, M., J. Pecharich, G. Vogeazopoulos, D. Lewis, and P. Olin. 2007. Monitoring the Russian River Coho Salmon Captive Broodstock Program: Annual Report July 2005 to June 2006. University of California Cooperative Extension and Sea Grant Program Santa Rosa, CA. 54 p.

Obedzinski, M., J. Pecharich, J. Davis, S. Nossaman, P. Olin, and D. Lewis 2008. Russian River Coho Salmon Captive Broodstock Program Monitoring Activities Annual Report: July 2006 to June 2007. University of California Cooperative Extension and Sea Grant Program
Santa Rosa, CA. 91 p.

Obedzinski, M., J. Pecharich, J. Davis, S. Nossaman, P. Olin, and D. Lewis 2009. Russian River Coho Salmon Captive Broodstock Program Monitoring Activities Annual Report: July 2007 to June 2008. University of California Cooperative Extension and Sea Grant Program
Santa Rosa, CA. 91 p.

Richard C. Slade (RCS) & Associates. 2009a. Hydrogeologic Assessment Water Well Feasibility and Siting Project, 12942 Bones Lane, Vicinity Occidental, Sonoma County. Prepared for Jackson Family Enterprises. Job No. 322-SNM02. February 2009. Richard C. Slade & Associates, Consulting Groundwater Geologists, Studio City, CA.

Richard C. Slade (RCS) & Associates. 2009b. Response to Jaffe Email Dated 06/12/09 re: Proposed Bones Subdivision. Prepared for Jackson Family Enterprises. Richard C. Slade & Associates, Consulting Groundwater Geologists, Studio City, CA. 4 p.

Shapovalov, L. 1944. Preliminary Report on the Fisheries of the Russian River System, California. Bureau of Fish Conservation, California Division of Fish and Game, Sacramento, CA. 7 p.
http://www.krisweb.com/krisrussian/krisdb/html/krisweb/biblio/russian_cdfg_shapovalov_1944.pdf

Sonoma County. 2009. Mitigated Negative Declaration for Bones Minor Subdivision (MNS06-0032, APN 074-030-043). Sonoma County Permit and Resource Management Department, Santa Rosa, CA.

Sonoma County. 2010. Sonoma County Planning Commission Staff Report to Board of Supervisors Recommending Denial of Paul Jaffe Appeal of Mitigated Negative Declaration for Bones Minor Subdivision (MNS06-0032, APN 074-030-043). Permit and Resource Management Department, Santa Rosa, CA.

Sonoma County. 2011. Sonoma County Planning Commission Staff Report to Board of Supervisors Recommending Denial of Ad Hoc Committee for Clean Water/Ann Maurice Appeal of Mitigated Negative Declaration for Bones Minor Subdivision (MNS06-0032, APN 074-030-043). Permit and Resource Management Department, Santa Rosa, CA.

Stetson Engineers Inc. 2007. Potential Indirect Environmental Impacts of Modification or Removal of Existing Unauthorized Dams. Appendix to Policy for Maintaining Instream Flows in Northern California Coastal Streams Performed under contract to SWRCB WRD, December 2007. 71 p.

University of California Cooperative Extension (UCCE). 2011. Adult coho returns to the Russian River during winter 2010-2011. Table provided on the Internet. 1 p.

U.S. Environmental Protection Agency. 2003. EPA Region 10 Guidance for Pacific Northwest State and Tribal Temperature Water Quality Standards. EPA 910-B-03-002. Region 10 Office of Water, Seattle, WA.

Wemple, B.C., J.A. Jones, and G.E. Grant. 1996. Channel Network Extension by Logging Roads in Two Basins, Western Cascades, Oregon. Water Resources Bulletin, American Water Resources Association. Vol. 36, No. 6. 1195-1207.

Jackson FAMILY ENTERPRISES

January 23, 2011

Ms. Sigrid Swedenborg
County of Sonoma, PRMD
2550 Ventura Avenue
Santa Rosa, California 95403

**RE: Appeal of Planning Commission Approval – November 4th Hearing**
**Minor Subdivision File MNS06-0032**
**12942 Bones Lane, Occidental**
**APN 074-030-043**

Dear Ms. Swedenborg:

Thank you for providing us with a copy of the appeal and supporting documentation made by Ms. Ann Maurice related to the Planning Commission's approval of the above mentioned project on November 4, 2010. As you are aware, the current application is limited to a request for a four-lot minor subdivision; all prior applications related to potential projects on the property have either expired or been withdrawn. This letter serves as a formal response to the comments contained in the letter attached to the appeal, dated November 12, 2010 from the appellant.

***Comment #1:*** *The Mitigated Negative Declaration is inadequate and leaves potential adverse environmental impacts unmitigated. An Environmental Impact Report should be prepared for the project.*

**Response:** **At the request of PRMD, numerous technical studies were prepared for the project to assess any potential project impacts. As a result, the project and more specifically the building envelopes were revised to reduce or mitigate any potential impacts. All potential impacts have been fully analyzed in the Initial Study and mitigation measures have been incorporated into the project Mitigated Negative Declaration to further reduce any potential impacts to less than significant levels. There is no evidence in the file that indicates the project will result in a significant impact to the environment; therefore, an Environmental Impact Report (EIR) is neither warranted nor necessary. The statement that an EIR should be prepared is arbitrary and not based on fact.**

***Comment #2:*** *There are licensed hydrologists that have conflicting analyses of the hydrology of the area and potential for adverse impacts.*

**Response:** **As required by the policies of the General Plan, a Hydrogeologic Assessment was prepared by Slade and Associates (RCS) to analyze**

421 AVIATION BOULEVARD SANTA ROSA CALIFORNIA 95403 U.S.A.
[707]544-4000 TEL [707]544-4013 FAX

**existing conditions and future demands on water supply related to approval of the minor subdivision. The report meets General Plan policy Rc3h reporting requirements set forth by Sonoma County for Water Scarce Areas, and has been reviewed and accepted by County staff as having met those requirements.**

**Numerous sources of "hard data" were used in preparation of the Hydrogeologic Assessment, including: publicly available geologic mapping of the area; a site visit to observe the onsite geologic conditions and the existing onsite wells; water level measurements collected from the existing wells; subsurface geologic data collected during well exploration work; and review of 280 driller's logs for geologic data from the California Department of Water Resources (DWR) for historically constructed wells in the area.**

**Based on the RCS review of the available data, the Hydrogeologic Assessment indicates adequate groundwater is available in the aquifers beneath the subject property (namely the isolated Merced/Wilson Grove Formation) to support the proposed project. In fact, the project at full build-out is estimated to utilize only 1% of the groundwater currently in storage beneath the property.**

**The appellant's assertion that there is conflicting analyses of the hydrology of the area refers to a letter from September, 1994 prepared by Robert Curry commenting on a prior application which was a subdivision proposal requesting substantially higher density (27 residential lots) than the current 4-lot minor subdivision. While the Robert Curry letter clearly does not correspond to the current project, Mr. Curry concludes his letter by stating water for the 27-lot project should be withdrawn from the water bearing Merced/Wilson Grove Formation – the same recommendation set forth in the current project's Hydrogeologic Assessment. Given that both licensed hydrogeologists reached the same conclusion, the basis of the appellant's assertion is unclear.**

***Comment #3:*** *Numerous potential impacts remain unmitigated and numerous deferred mitigations are in violation of CEQA including proof of adequate water and safe disposal of septic.*

**Response:** **The appellant asserts "numerous potential impacts remain unmitigated" but provides no specific information as to what those potential impacts might be. The numerous technical studies and the Initial Study completed for the project include a complete assessment of the existing conditions on the property as well as an analysis of potential cumulative impacts. All potential impacts have been fully analyzed and mitigation measures have been incorporated into the project Mitigated Negative Declaration to**

**reduce any potential impacts to less than significant levels. There is no evidence in the file that indicates the project will result in a significant impact to the environment.**

**To the satisfaction of PRMD staff, PRAC, and the Planning Commission, adequate documentation (including the Hydrogeologic Assessment discussed above and percolation tests for septic suitability) has been provided to substantiate the availability of water and septic disposal area to serve the project. Preliminary soils evaluation for on-site sewage disposal purposes (perc tests) were performed by Stephen Lash, Registered Environmental Health Specialist. Each of the parcels was tested to a level acceptable to County standard with the exception of the existing homestead parcel because that parcel already contains an existing septic system and leach field. The project conditions of approval and mitigation measures, and moreover the specific conditions cited by the appellant, only provide further assurance that the final subdivision map will not be allowed to record until the County's procedures and standard septic system design requirements are satisfied. The appellant's assertion that the project has numerous deferred mitigations in violation of CEQA is arbitrary and not based on fact.**

***Comment #4:*** *Potential harm to the surface flow and underflow of Green Valley Creek and its tributaries and consequent harm to threatened and/or endangered species, specifically salmon, steelhead, and freshwater shrimp.*

**Response:** **The Hydrogeologic Assessment prepared for the project indicates it is highly unlikely that any wells constructed at the subject property would impact Green Valley Creek because the drilled depths of existing and new onsite wells would terminate at an elevation much higher than the elevation of the creek. Additionally, the onsite wells (both existing and future) are or are proposed in the Merced/Wilson Grove Formation - earth materials that are both spatially and geologically isolated from Green Valley Creek - thus the onsite existing and future wells do not extract water from the creek. Furthermore, since the Merced/Wilson Grove Formation is recognized as a geologically isolated cap that stores water, it is highly unlikely that drawing from these wells will result in dewatering or reduction of surface flow or underflow of Green Valley Creek since the geologic formation of Green Valley Creek is different from the Merced Formation. For these reasons, the project will not negatively impact Green Valley Creek surface or underflow, its associated sensitive habitat, or threatened and/or endangered species.**

***Comment #5:*** *Potential harm to the health of residents of the County and country due to loss of coldwater fishery (salmonid) habitat and the related economic and health impacts.*

**Response:** **See response to Comment #4 above. There is no evidence to the appellant's comment that indicates the project will result in a significant impact to the environment or the related economic and health of residents of the County and country.**

***Comment #6:*** *Potential damage to neighboring wells.*

**Response:** **Figure 2 of the Hydrogeologic Assessment prepared for the project illustrates the unique geologic condition – namely the existence of the isolated water bearing Merced/Wilson Grove Formation beneath the subject property (which does not extend to the neighboring properties). The onsite wells to serve the project (both existing and future) are or are proposed in an isolated geologic cap of the Merced/Wilson Grove Formation located immediately under the project site. Since the neighboring wells are located in a separate geologic formation which is hydrogeologically unconnected to the Merced/Wilson Grove Formation (Sandstone and Serpentinite), it is highly unlikely that pumping from any well associated with the proposed project will have the potential to damage or cause down-drafting of neighboring wells.**

***Comment #7:*** *Potential draining of the potentially jurisdictional wetland on site.*

**Response:** **A Biological Report was prepared for the project by a qualified consultant. Additionally, the biologist reviewed the proposed building envelopes to confirm their locations would not impact any potential wetland or wetland indicator plant species. The biologist determined none of the proposed building envelopes fall within or on top of any of the previously identified biological resource areas (including any potential wetlands and riparian habitat areas). and that the locations of the building envelopes or any future development within those envelopes will pose no threat to any such areas, habitats, or sensitive features on the property.**

***Comment #8:*** *Lack of traffic and noise study and inadequate analysis of improvements needed due to increased traffic.*

**Response:** **As indicated by County staff at the Planning Commission hearing, neither a traffic study nor a noise study is customarily required for a minor subdivision splitting one parcel into four lots. Both noise and traffic impacts were evaluated in the project Initial Study and determined to meet County thresholds thus result in insignificant impacts. Furthermore, the County does not require traffic studies on private roads such as Bones Lane (the primary access to the property). Additionally, the project conditions of approval set forth minimum improvement standards for Bones Lane to ensure public safety is adequately maintained.**

*Comment #9: Unusually large size of one of the building envelopes and inadequate detail and clarity of the developer's maps.*

**Response:** **Since the application is for a 4-lot parcel map, no development is currently proposed on the property. As such, the building envelopes were sized to provide the greatest amount of flexibility for locating future home sites, and building envelopes were all located to avoid any potential sensitive resources. In response to concern over the size of the building envelopes expressed at the PRAC hearing, the building envelopes have been reduced in size (by approximately 11%), most notably on proposed Lot 4. Building envelopes were also reduced and adjusted to address concerns expressed by some of the adjacent neighbors. Additionally, the project conditions of approval require further review of future home sites by qualified environmental specialists to confirm avoidance of any potential sensitive resources prior to issuance of a building permit. Finally, tree removal is subject to the County Tree Protection and Replacement Ordinance and replacement/mitigation must be consistent with Ordinance requirements. Any tree removal must be shown on future grading and building plans prior to building permit issuance,**

**The proposed tentative map has been prepared utilizing the County standards and meets County submittal requirements; it is unclear as to the basis of the applicant's assertion that the map provides inadequate detail and clarity.**

*Comment #10: Lack of perc tests and required well test.*

**Response:** **See response to Comment #3 above.**

*Comment #11: Lack of cumulative impact analysis of future applications for vineyards and/or reservoirs on each subdivided parcel and their potential for adverse impacts on the watershed, wetland and wildlife.*

**Response:** **Since no development is currently proposed (including no new vineyard development and/or reservoirs) on the property it is both impossible and inappropriate to analyze potential impacts that may never occur. Any future development improvements will occur within the proposed building envelopes which have been carefully located and determined to be outside of any potentially sensitive resource areas on the property. Additionally, the project conditions of approval require further review by qualified specialists to further ensure future development avoids any potential sensitive resource areas prior to issuance of a building permit. Finally, the County has review authority over any future proposal that may be made for vineyard and/or reservoir development via the County VESCO/Grading Ordinances'.**

*Comment #11: Potential impact of the use of water for frost protection of grapes.*

**Response:** **The project does not propose any vineyard planting or other agricultural operations therefore it would not be appropriate to analyze potential impacts associated with the use of water for additional agricultural operations. Nevertheless, as indicated by Jackson Family representatives at the Planning Commission hearing and in the written response to the PRAC appeal, due to the topographic and climatic conditions of the site, the use of water for frost protection of the grapes does not occur and is not necessary.**

*Comment #12: Inadequate or faulty hydrological analysis by the developer's consultant regarding the relationship between the "perched aquifer" (Wilson Grove Formation) and tributaries of Green Valley Creek, and Green Valley Creek itself.*

**Response:** **See response to Comments 2, 4, 5 and 6 above. The basis for the appellant's assertion is unclear; Slade and Associates is a licensed groundwater geologist in California, widely-well respected and has extensive experience with "perched aquifer" conditions - particularly in Sonoma County and with projects located within the Merced/Wilson Grove Formation. As noted above, the onsite wells (both existing and future) are or are proposed in the isolated water bearing Merced/Wilson Grove Formation - earth materials that are both spatially and geologically isolated from Green Valley Creek - thus the future and onsite wells do not extract water from the creek. Furthermore, the Hydrogeologic Assessment meets the County's stringent standard for water scarce areas, has been accepted by PRMD and determined to be adequate by staff, PRAC, and the Planning Commission. The simple fact that the appellant does not agree with the conclusions of the Hydrogeologic Assessment does not render the hydrological analysis inadequate or faulty.**

*Comment #13: No drainage plan, no specific leachfield area or leachfield expansion area.*

**Response:** **Since no development is currently proposed (including new vineyard development and/or reservoirs) on the property it is both impossible and inappropriate to prepare a drainage plan or attempt to analyze potential drainage impacts that may never occur. Any future construction improvements will occur within the proposed building envelopes and prior to final subdivision map recordation and/or building permit issuance will be subject to rigorous County drainage code requirements to reduce erosion, site run-off, sediment to nearby streams/waterways, etc.**

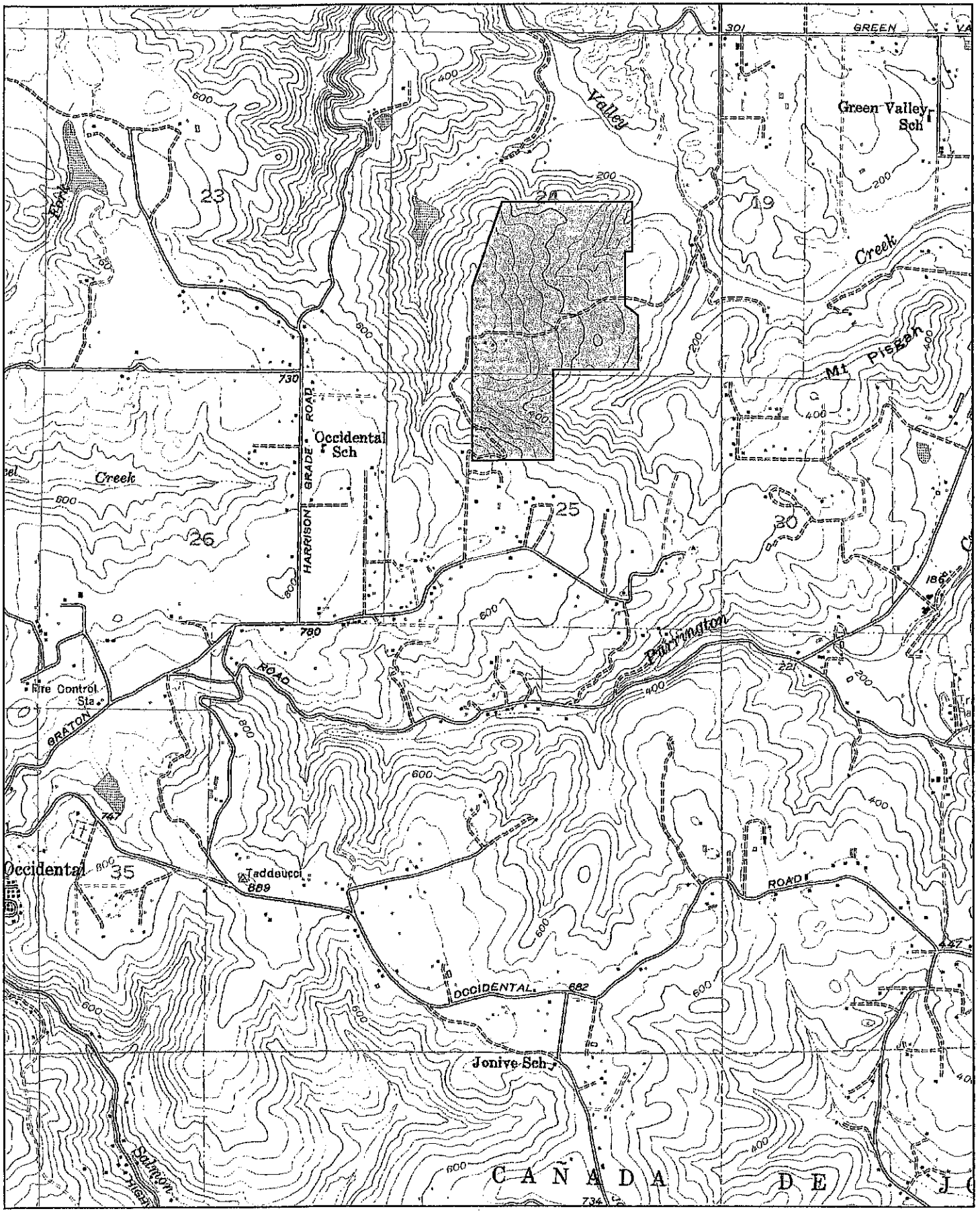
**Septic disposal areas have been identified on the tentative parcel map and preliminary soils evaluation for on-site sewage disposal (perc tests) was performed by Stephen Lash, Registered Environmental Health Specialist. Each of the parcels was tested to a level acceptable to County standard with the exception of the existing homestead parcel which contains an existing septic system and leach field. The project conditions of approval, and moreover the specific conditions cited by the appellant, provide further assurance that the final subdivision map will not be allowed to record until the County's procedures and standard design requirements for on-site septic disposal including adequate leach field area are satisfied.**

Thank you for the opportunity to respond to the appellant's assertions. Should you have any questions or wish to further discuss the content of this letter please do not hesitate to contact me at (707) 431-3260.

Sincerely,

Lee Anne Edwards
Vice President, Real Estate

cc: Ms. Karen Massey, JFE
Mr. Richard Slade, RCS
Mr. Anthony Hicke, RCS
Ms. Mary Jane Stimson, BRCE




Camp Meeker USGS Quadrangle
APN 074-030-043
12942 Bones Lane

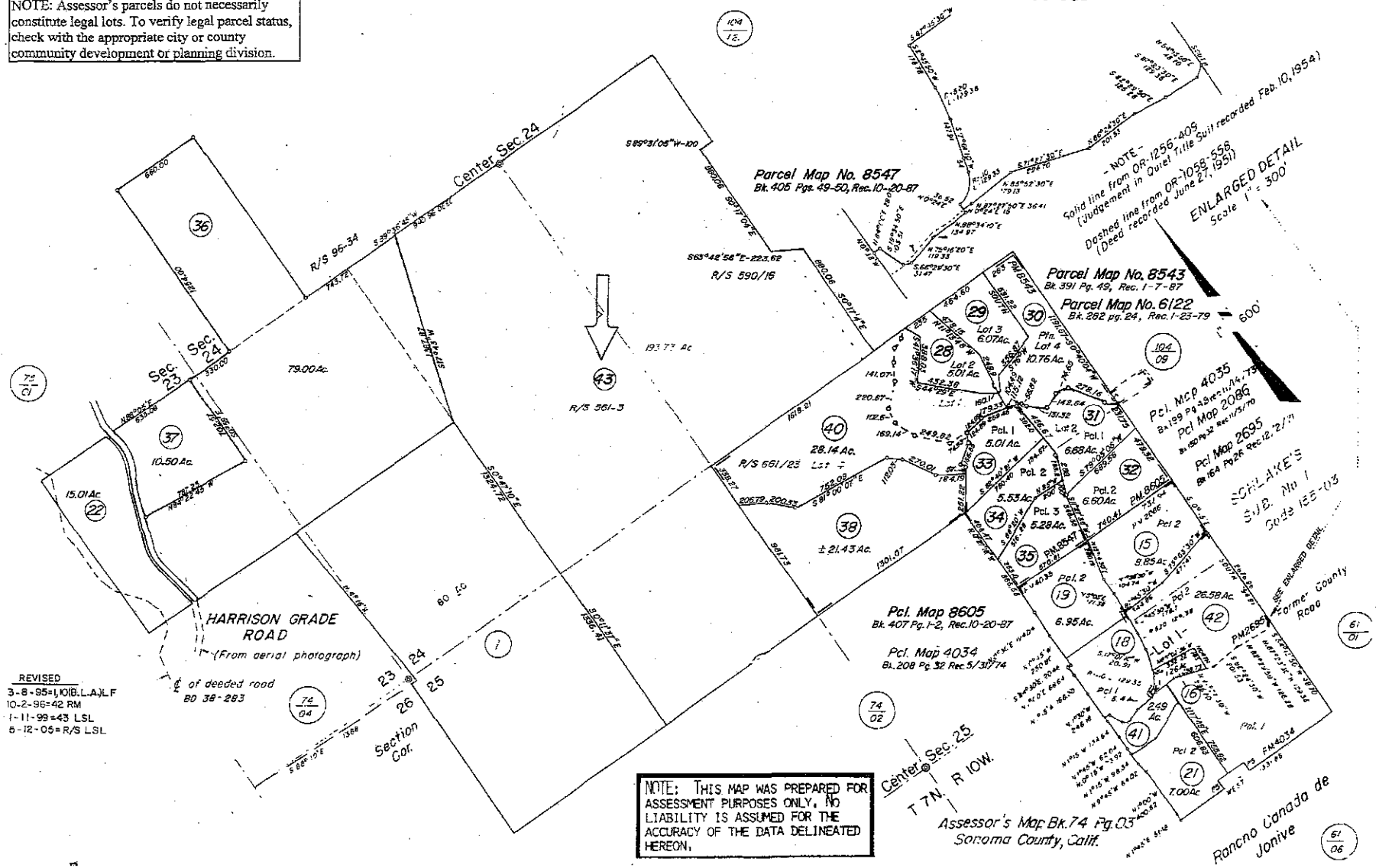
**Attachment C**

# COUNTY ASSESSOR'S PARCEL MAP

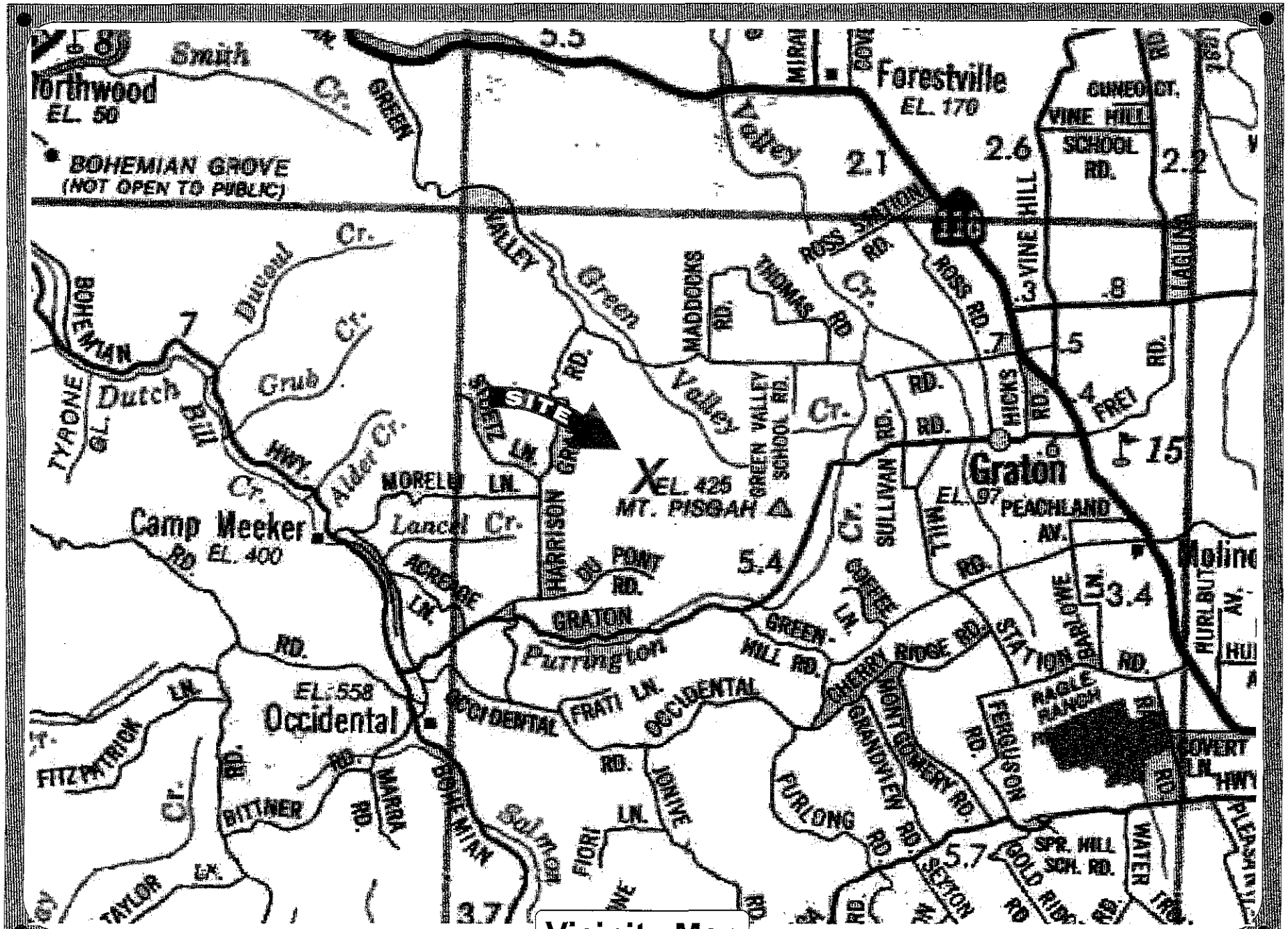
TAX RATE AREA
96-039

74-03

NOTE: Assessor's parcels do not necessarily constitute legal lots. To verify legal parcel status, check with the appropriate city or county community development or planning division.

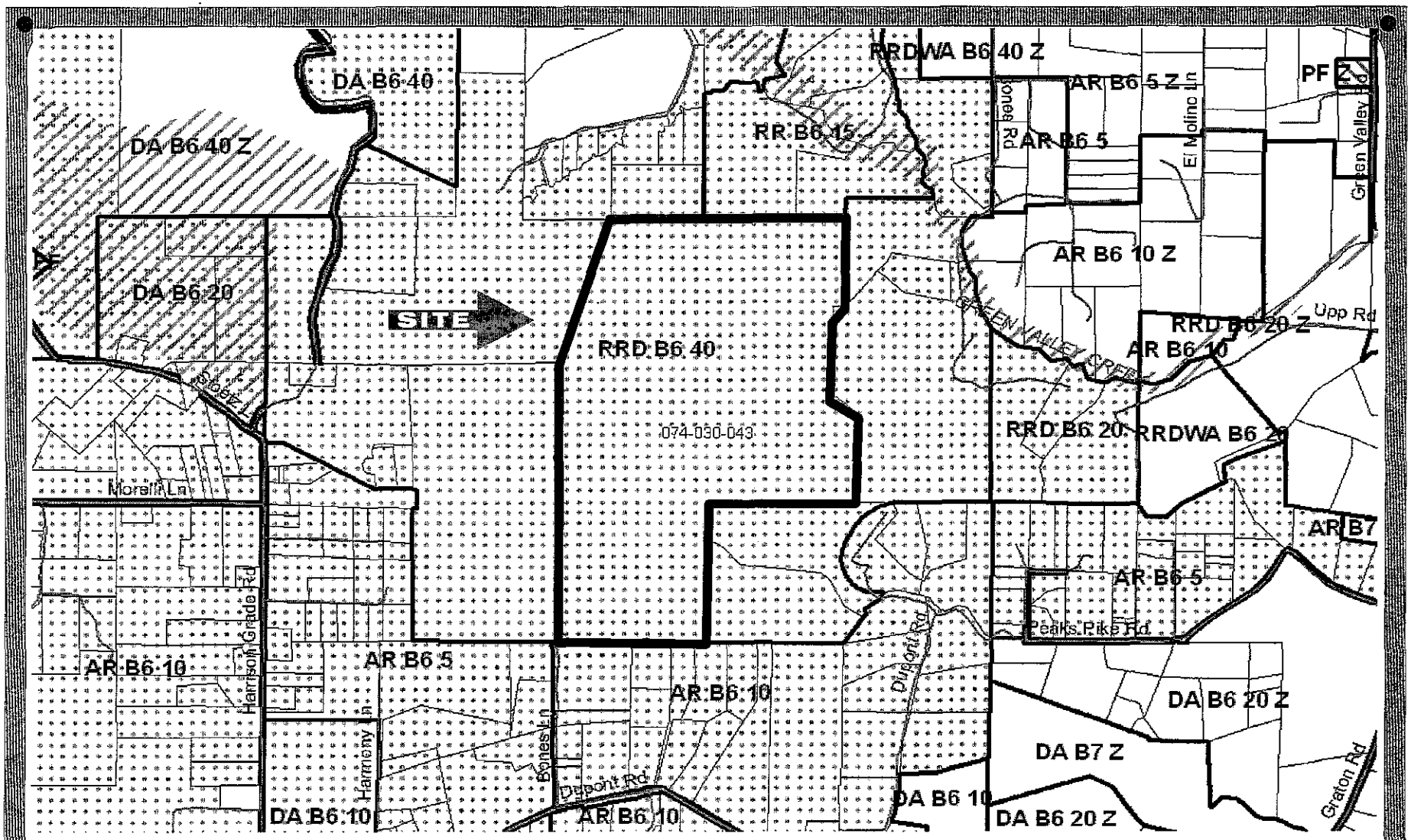



NOTE: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA DELINEATED HEREON.



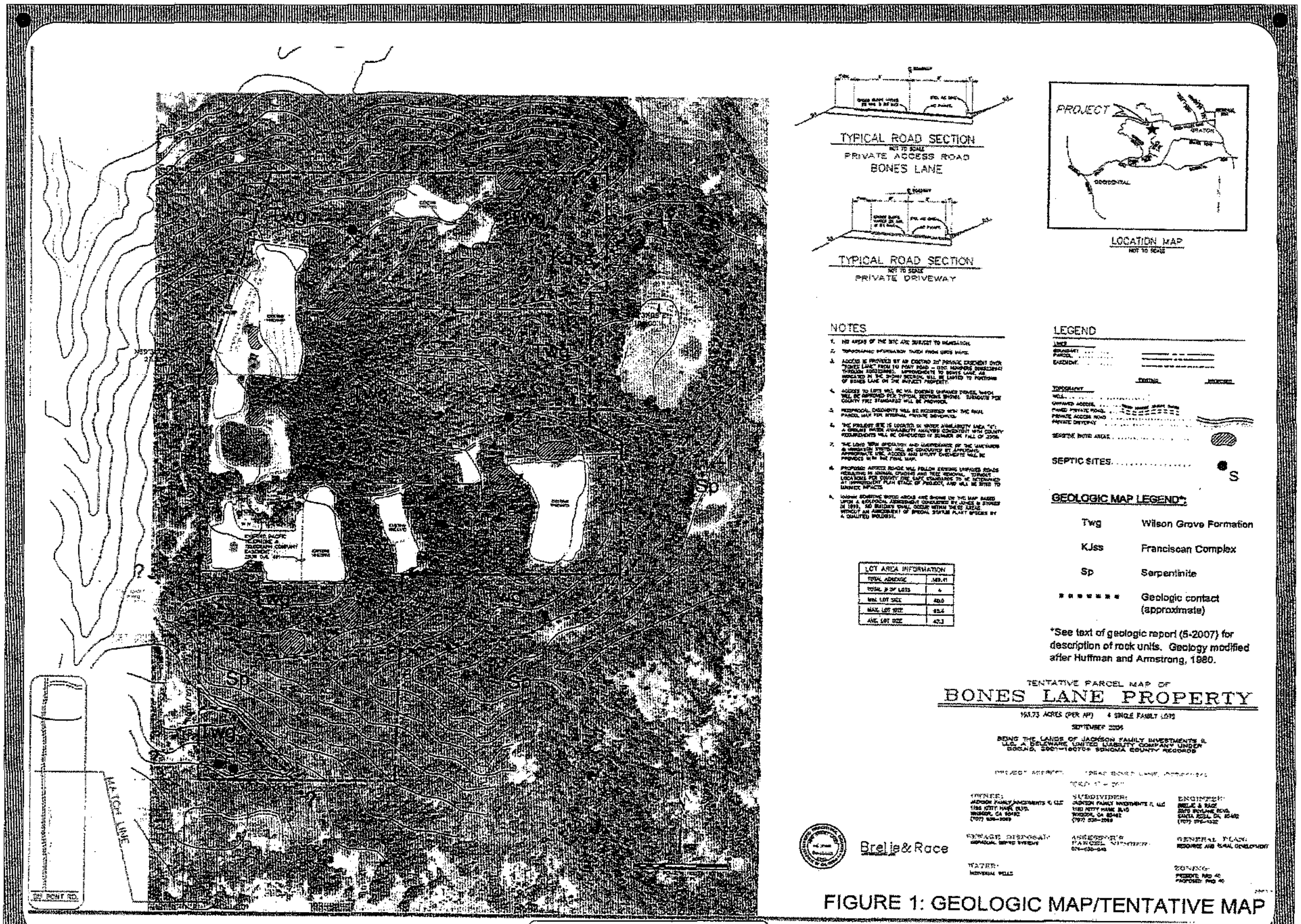

Vicinity Map

MNS06-0032




# Zoning Map

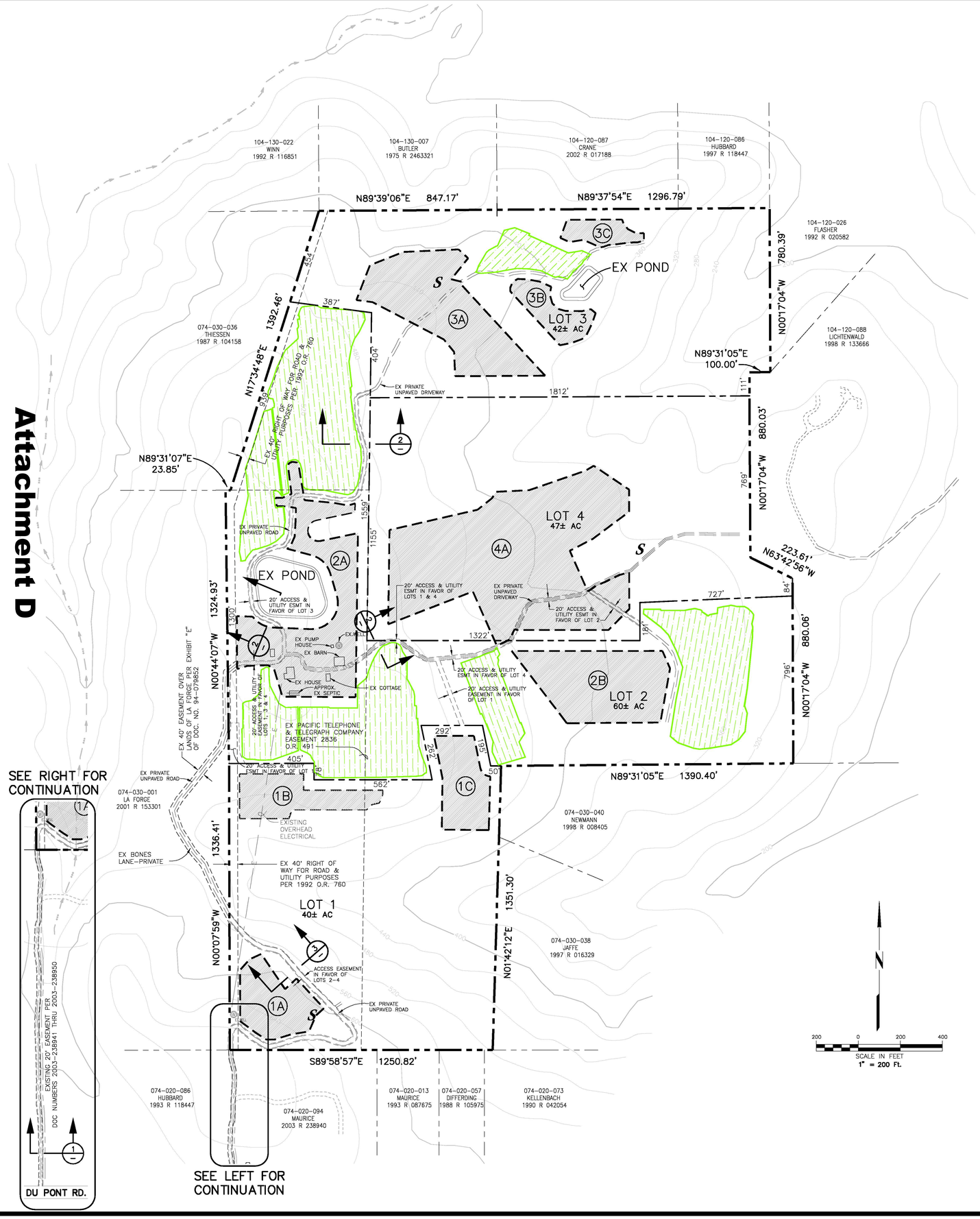
MNS06-0032

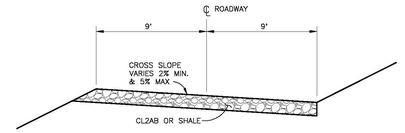



Geologic Map

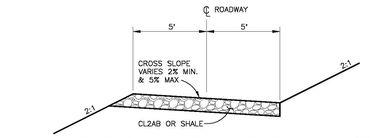
MNS06-0032

Attachment D

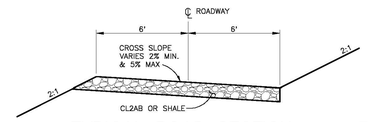


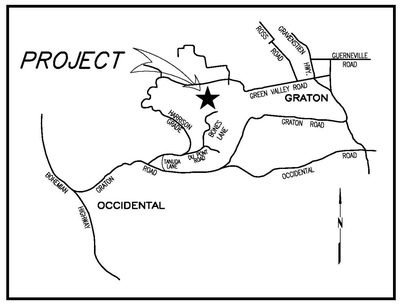

EX BONES LANE (OFF SITE) (1)
NOT TO SCALE
PRIVATE ACCESS ROAD




TYPICAL LOT ACCESS (2)
NOT TO SCALE
PRIVATE DRIVEWAY




TYPICAL ROAD SECTION (3)
NOT TO SCALE
PRIVATE ACCESS ROAD




LOCATION MAP
NOT TO SCALE

## LEGEND

- REDUCED BUILDING ENVELOPE AREAS PROPOSED – MAY 2013
- EXISTING VINEYARDS
- (3C) LOT NUMBER AND POTENTIAL HOME SITE

## NOTES

1. NO AREAS OF THE SITE ARE SUBJECT TO INUNDATION.
2. TOPOGRAPHIC INFORMATION TAKEN FROM USGS MAPS.
3. ACCESS IS PROVIDED BY AN EXISTING 20' PRIVATE EASEMENT OVER "BONES LANE" FROM DU PONT ROAD – DOC. NUMBERS 2003238941 THROUGH 2003238950.
4. ACCESS TO LOTS WILL BE VIA EXISTING UNPAVED DRIVES WHICH, IF NECESSARY, WILL BE IMPROVED PER TYPICAL SECTIONS SHOWN. TURNOUTS PER COUNTY FIRE STANDARDS WILL BE PROVIDED.
5. RECIPROCAL EASEMENTS WILL BE RECORDED WITH THE FINAL PARCEL MAP FOR INTERNAL PRIVATE DRIVEWAYS.
6. THE PROJECT SITE IS LOCATED IN WATER AVAILABILITY AREA "4"; A PHASE 1 HYDROGEOLOGIC ASSESSMENT CONSISTENT WITH COUNTY REQUIREMENTS WAS CONDUCTED BY RICHARD SLADE & ASSOCIATES IN FEBRUARY 2009.
7. THE LONG TERM OPERATION AND MAINTENANCE OF THE EXISTING VINEYARDS & IRRIGATION SYSTEM WILL BE CONDUCTED BY APPLICANT. APPROPRIATE USE, ACCESS AND UTILITY EASEMENTS WILL BE PROVIDED WITH THE FINAL MAP.

## LEGEND

**LINES**

- BOUNDARY
- PARCEL
- EASEMENT
- BUILDING ENVELOPE

**TOPOGRAPHY** — EXISTING

- WELL (W)
- UNPAVED ACCESS
- PAVED PRIVATE ROAD
- PROPOSED SEPTIC SYSTEM AND EXPANSION AREA (S)

| LOT AREA INFORMATION | |
|---|---|
| TOTAL ACREAGE | 189.4 |
| TOTAL # OF LOTS | 4 |
| MIN. LOT SIZE | 40.0 |
| MAX. LOT SIZE | 60.4 |
| AVE. LOT SIZE | 47.3 |

TENTATIVE PARCEL MAP OF

# BONES LANE PROPERTY

189.4 ACRES — 4 SINGLE FAMILY LOTS

MARCH 2009
REVISED JUNE 2010
REVISED MAY 2013

BEING THE LANDS OF JACKSON FAMILY INVESTMENTS II, LLC, A DELAWARE LIMITED LIABILITY COMPANY UNDER DOC.NO. 2001-180706 SONOMA COUNTY RECORDS

PROJECT ADDRESS: 12942 BONES LANE, OCCIDENTAL

SCALE: 1" = 200'

**OWNER:**
JACKSON FAMILY INVESTMENTS II, LLC
425 AVIATION BOULEVARD
SANTA ROSA, CA 95403
(707) 836-2069

**SUBDIVIDER:**
JACKSON FAMILY INVESTMENTS II, LLC
425 AVIATION BOULEVARD
SANTA ROSA, CA 95403
(707) 836-2069

**ENGINEER:**
BRELJE & RACE
5570 SKYLANE BLVD.
SANTA ROSA, CA. 95403
(707) 576-1322

**SEWAGE DISPOSAL:**
INDIVIDUAL SEPTIC SYSTEMS

**ASSESSOR'S PARCEL NUMBER:**
074-030-043

**GENERAL PLAN:**
RESOURCE AND RURAL DEVELOPMENT

**WATER:**
INDIVIDUAL WELLS

**ZONING:**
PRESENT: RRD 40
PROPOSED: RRD 40

REGISTERED PROFESSIONAL ENGINEER JOHN STONEY FORST No. 31909 Exp. 12-31-13 CIVIL STATE OF CALIFORNIA

Brelje & Race
CONSULTING CIVIL ENGINEERS
5570 Skylane Blvd. - Santa Rosa, CA 95403 - 707-576-1322 - www.brea.com

2597.02
SHEET 1 OF 1 SHEETS

05-01-13 henry \2597.02\dwg\2597.02-TENT.dwg IMAGE: IMAGE\D2113BW.JPG TAB: LAYOUT1 VIEW: PS1

# *Sonoma County Planning Commission*
# *S T A F F  R E P O R T*

**Sonoma County Permit and Resource Management Department**
2550 Ventura Avenue, Santa Rosa, CA 95403
(707) 527-1900 FAX (707) 527-1103

**FILE:** MNS06-0032
**DATE:** November 4, 2010
**TIME:** 1:05 p.m.
**STAFF:** Sigrid Swedenborg

## SUMMARY

| | |
|---|---|
| **Applicant/Owner:** | Jackson Family Investments II LLC |
| **Appellant:** | Paul Jaffee |
| **Location:** | 12942 Bones Lane, Occidental<br>APN 074-030-043 Supervisorial District No.5 |
| **Subject:** | Appeal of a Minor Subdivision |
| **PROPOSAL:** | Request for a Minor Subdivision of 189 acres creating four parcels, 40, 60, 42 and 47 acres in size. |
| **Environmental Determination:** | Mitigated Negative Declaration |
| **General Plan:** | Resource and Rural Development, 40 acres/dwelling unit |
| **Zoning:** | RRD (Resource and Rural Development), B6-40 acre density, SD (Scenic Design), BR (Biotic Resources) |
| **Application Complete for Processing:** | April 15, 2009 |
| **RECOMMENDATION:** | Recommend that the Planning Commission deny the appeal, adopt the Mitigated Negative Declaration and approve the request subject to the Conditions of Approval. |

## ANALYSIS

**Background:**

In 1994, the Board of Supervisors heard a request to amend the Sonoma County General Plan Land-Use designation on the site from the Resource and Rural Development, 40 acres per dwelling unit designation to the Resource and Rural Development, 20 acre per dwelling unit designation, a Zone Change from the RRD, B6-40 acre density district to the RRD, B6-20 acre density, and a Major Subdivision creating nine lots. That application was denied by the Board of Supervisors over concerns of adequate water availability and increasing the General Plan density.

On November 2, 1995, the Sonoma County Project Review and Advisory Committee (PRAC) approved a request to subdivide the parcel into four lots. An appeal of that decision was denied on February 1, 1996, by the Planning Commission thereby approving the request. The action of the Planning Commission was appealed to the Board of Supervisors and on March 19, 1996, the Board of Supervisors denied the appeal, approving the subdivision request. The Subdivision Map was never recorded and the project approval expired.
In 1996 the site was purchased by the current applicant, Jackson Family Investments LLC. In 1998, a two-acre Lot Line Adjustment was approved with the neighbor to the east. The applicant applied with the California Department of Forestry (formally CDF - now CalFire) for a Timber Conversion Plan to remove

**Attachment E**

trees in order to plant a vineyard. CDF required an Environmental Impact Report (EIR) for that project. The Draft EIR was prepared, but the applicant withdrew the request for the Timber Conversion before final action was taken. The site had orchards on it, and the applicant planted vineyards in areas already in agricultural use and developed two reservoirs.

In 2006, the applicant applied for a four lot subdivision. An incomplete letter was sent requiring that the applicant submit a Ground Water Study, a Soils and Geology Study, an Archaeological Study, a Biological Study and a revised Tentative Map. All of the requested studies were submitted: A Cultural Resources Evaluation prepared by Eileen Steen dated March 5, 2007; a Geologic Feasibility Study prepared by Michael Dwyer dated May 24, 2007; a Hydrogeologic Assessment prepared by Richard Slade & Associates dated February 2009; and a Biological Baseline Report prepared by Charles Patterson dated June 19, 2007. In addition, a revised Tentative Map was submitted in March of 2009.

On June 18, 2009, the Sonoma County Project Review and Advisory Committee (PRAC) approved a subdivision of the 189 acres creating four parcels, 40, 60, 42 and 47 acres in size with a 5-2 vote. Two of the PRAC members voted against the project because they felt the Building Envelopes were too large. On June 29, 2009, that decision was appealed to the Planning Commission by Paul Jaffee. The primary issue with the appeal relates to water availability.

**Project Description:**

Lot 1 of the proposed Minor Subdivision would be 40 acres in size and is located in the southerly portion of the site. This parcel would contain most of the serpentine formation on the site. This type of formation leads to rare and endangered plants due to a chemical imbalance in the soil that affects plant growth. Two Building Envelopes have been established on this site outside of the area affected by the serpentine. Lot 2 is proposed to be 60 acres in size and is developed with the existing house, second dwelling unit, and several outbuildings as well as a large pond used for the vineyard. Two Building Envelopes have been established on this site to give owners options of areas to construct. Density would allow for only one residence, so the existing residence would have to be converted to another use or demolished before additional units would be allowed to be constructed. Proposed Lot 3 is 42 acres in size and is located on the northerly portion of the site. There is a man-made pond related to the vineyard on this lot as well. Lot 4 is proposed to be 47 acres in size; about half of this site has been found to be outside of areas with rare and endangered plants or potential geologic issues and is included in the building envelope.

The site is vegetated with mixed woodland forests and 24 acres are planted with vineyards. The parcels would be served by a private road off of Bones Lane, off of Dupont Road. Each parcel would be served by a septic system. Preliminary percolation tests have been done, finding that each lot has the capability to support a septic system. The water supply would be by wells.

**Site Characteristics:**

The 189-acre lot is located between Sebastopol and Occidental. Access to the site is via Bones Lane, a private road off of Dupont Road. The site has varied topography. Vegetation includes numerous potentially sensitive species associated with serpentine habitat near the south end of the property, vineyards in the middle, and heavily wooded hillsides in the northeasterly area. There are about six properties served by the road. The existing access road to the site (Bones Lane) is primarily dirt and very narrow in some locations as it passes between large trees.

Green Valley Creek is approximately 773 feet from the northeast corner of the site and a small tributary to Green Valley Creek is approximately 621 feet from the western property line. There are no blue line creeks on the parcel.

**Surrounding Land Use and Zoning:**

North: Rural Residential, B6-15 acre density base zoning district on 10 to 27 acre parcels.

West and East: Resource and Rural Development, B6-40 acre density base zoning district on 4.5 to 80 acre parcels.

Southeast: Agriculture and Residential, B6-10 acre density base zoning on parcels ranging from 2 to 10 acres in size.

Southwest: Agriculture and Residential, B6-5 acre density base zoning on parcels ranging from 1.5 to 17 acres in size.

Most of the surrounding areas are developed in a rural residential land use pattern.

## DISCUSSION OF ISSUES

**Issue #1:** General Plan and Zoning Consistency

The Sonoma County General Plan's land use designation for the site is Resources and Rural Development with a 40-acre density that allows the maximum subdivision potential of four new lots on the 189 acre site. The proposed project is consistent with General Plan goals, policies and objectives. Necessary public services are available to support the proposed development. The project meets development standards of the General Plan and Zoning Ordinance. New infrastructure would consist of private on-site septic systems which would be limited to serving only the residences on the project site, and installation of water lines to provide domestic water service to each lot.

**Issue #2:** Water Availability

The project site is located in Groundwater Availability Zones 3 and 4, and a Groundwater Availability Report was required to analyze whether there are adequate existing and future groundwater supplies to accommodate the proposed development demands and to estimate the effects of draw down within the designated cumulative impact areas. A Hydrogeologic Assessment was done for the project by Richard Slade & Associates. A geologically independent Merced (Wilson Grove) formation lies within the center of the site, which is one of the principal water-yielding formations in Sonoma County. The study states that, at maximum build out of the proposed lots (primary unit, second unit and guest house), water demand for the four-lot subdivision is estimated to be 7.2 acre feet per year. The study determines that the water available for groundwater recharge is approximately 124 acre-feet/year. The estimated annual demand is less than 1% of the conservative estimate of groundwater in storage beneath the property. The study concludes that future development of the property will have negligible impact on groundwater in storage.

The assessment indicates that new wells would be drilled in earth materials that are spatially and geologically isolated from the alluvium of Green Valley Creek, and therefore, they would not extract water from the creek alluvium.

Properties to the west, north, and east of the subject site are underlain with primarily impermeable shale, except for a shallow layer of Alluvium along Green Valley Creek and its major tributaries in the area. Wells drilled in the shale areas have been dry, while wells in the Alluvium have been good to adequate in terms of groundwater availability.

The neighbor's perception that there is a problem with water availability relates to the geologic formation that the wells are drilled into. The site, being located in the Merced formation, has different water availability than neighboring properties.

**Issue #3:** Biotic Impacts

A Biological Baseline Report was prepared for the project. The site contains a strip of serpentine soil which contains a number of rare plant types (described in the Biotic Study) across its southern one-third. The proposed Subdivision Map and building envelopes have been laid out to avoid any impacts on the serpentine soil and rare plant areas. Two of the Building Envelopes are directly adjacent to existing man-made ponds, and riparian habitat may occur. Because plants can sometimes spread slightly beyond the most suitable soil type for them, a Mitigation Measure has been established to require that a qualified biologist address potential impacts of new construction on riparian habitat and rare and endangered plants

and establishing measures to protect any such species and/or habitat. Since there are no immediate plans to construct anything on the proposed parcels, the biologist must review the site for the proposed structures when construction is proposed in case species have migrated.

**Issue #4:** Cultural Resources

A Cultural Resources Survey was prepared for the project by professional archaeologists. On February 13, 2007, a mixed strategy field survey was done. Two previously recorded historical resources and a bifacial, obsidian isolate were found within the study area. One of the historic sites, the Applebrook Sawmill Site, is located outside of all Building Envelopes and the professional archaeologists state that there will be no effects by the project on the site. The other site, the Bones Homestead, is within the Building Envelope for Lot 2 which contains the existing residences. On August 10, 2010 the Sonoma County Landmarks Commission reviewed the significance of the historic structures. One of the Commissioners commented that he appreciated the thoroughness of the Historic Resource Evaluation. The Commission found that the structures are not a significant historic resource, and recommended that the applicant reuse materials from the barn if it is demolished. This has been added as a Condition of Approval.

**Issue #5:** Building Envelopes

Building Envelopes were established on each lot based on analysis and recommendations in the Biological, Cultural and Geological Studies. The Tentative Map delineates the proposed Building Envelopes based on review and recommendations included in the following analyses:

1) Assessment of Proposed Building Envelopes, Bones Lane Site prepared by Charles A. Patterson dated January 14, 2009 (Biotic Impacts)

2) Bones Lane Property Building Envelope Review prepared by Eileen Barrow dated December 16, 2008 (Cultural Impacts)

3) Bones Lane Project-Building Envelope Areas prepared by Michael Dwyer dated December 15, 2008 (Geological Impacts)

For each of the four proposed lots, Building Envelopes were located in areas where there were no environmental concerns. Lot 1 is constrained by serpentine soils and has three locations for Building Envelopes. Lot 4 is out of the areas constrained by potential geologic or biotic impacts and has an envelope over 20 acres in size.

A member of PRAC stated that she felt that some of the envelopes were too large. There was a discussion about the size of the proposed Building Envelopes, with the majority of PRAC members concluding that the proposed Building Envelopes address biological, cultural and geological constraints, and where appropriate larger Building Envelopes provide flexibility on the location of new homes. Future development is required to be reviewed by qualified specialists to confirm avoidance of any potential sensitive resources. Only one primary residence would be permitted on each lot.

**Issue #6:** Appeal

The PRAC public hearing on June 18, 2009, was fairly contentious with seven speakers, the majority opposed to the project. Some of the issues discussed at the hearing included complaints about dust from the private road, impacts to the watershed including the Coho in Green Valley Creek, water scarcity, and toxic runoff.

The appeal states that there are several reports and environmental documents previously prepared for the property that were not part of the record, specifically a hydrological assessment. The 1994 document, prepared by Robert Curry, a Registered Professional Geologist, is not a study, but comments on a Hydrogeologic Report that had been prepared by Eugene Boudreau for a project that was never completed. Our criterion regarding hydrogeologic studies has changed since 1994, and our standards are more stringent. The issues raised by Robert Curry have been addressed in the Hydrogeologic

Assessment prepared by Richard Slade & Associates dated February 2009. Paul Jaffee submitted a comment on the Slade report. Mr. Slade responded to Jaffee's comments (which included old statements by Curry and others).

The appeal brings up many issues that relate to concerns about the existing on-site vineyard which are not a part of the subdivision review process. The appeal also discusses pollution caused by the possible new development of homes. Due to our standard requirements for erosion control, BMPs (Best Management Practices), and coverage under the State Water Resources Control Board's General Construction Permit, it is extremely unlikely that the project will impact any water ways. The proposed project has been conditioned to prevent and/or minimize drainage impacts through the proper design and installation of a storm water drainage system. Storm water drainage systems may take many forms such as site grading, swales, ditches, small or single run drain pipes, a piping system or network, or a combination of all these. Drainage systems must also integrate storm water treatment and flow control storm water best management practices.

At the time of Improvement Plan submittal or grading or drainage permit application, the applicant will have to submit a final Drainage Report for the proposed project. A typical Drainage Report will include a project narrative, on- and off-site hydrology maps, hydrologic calculations, hydraulic calculations, pre- and post-development analysis for all existing and proposed drainage facilities. The Drainage Report shall abide by and contain all applicable items in the Drainage Report Required Contents (DRN-006) handout.

The appeal also states that an EIR is required because the project may have a significant effect on the environment. A Mitigated Negative Declaration was prepared for the project and based on substantial evidence in the record, all potential impacts have been mitigated to have a less than significant impact. The applicant has agreed to incorporate all Mitigation Measures into the project.

## STAFF RECOMMENDATION

Deny the appeal, adopt the Mitigated Negative Declaration and approve the requested four-lot Minor Subdivision.

## FINDINGS FOR RECOMMENDED ACTION

1. The project is consistent with densities established in the Resources and Rural Development General Plan land use designation, is consistent with the General Plan policies in that protection has been given to areas with potential slope instability, rare and endangered plants and archeological sites.

2. The Minor Subdivision complies with the Subdivision Map Act (Government Code Sections 66410 through 66499.58). Specifically, the Tentative Map complies with Section 66474 of the Subdivision Map Act in that the project is consistent with applicable General Plan, the site is physically suitable for the development, the subdivision will not cause substantial environmental damage, the subdivision is not likely to cause serious public health problems, and the design of the subdivision will not conflict with public easements.

3. The Minor Subdivision complies with Sonoma County Code Chapter 25 which regulates subdivisions.

4. Based upon the information contained in the Initial Study included in the project file, it has been determined that there will be no significant environmental effect resulting from this project, because Mitigation Measures are incorporated into the project as Conditions of Approval. The Mitigated Negative Declaration has been completed in compliance with CEQA State and County guidelines and the information contained therein has been reviewed and considered and reflects the independent judgement of the Planning Commission. Mitigation Measures have been incorporated as Conditions of Approval and include a Mitigation Monitoring Program.

5. Biotic impacts have been minimized by locating all Building Envelopes outside of the sensitive serpentine soil habitat area.
6. Estimated annual demand for water serving the subdivision at buildout is less than 1% of the conservative estimate of groundwater in storage beneath the property. Therefore, future

development of the property will have negligible impact on groundwater in storage. It has been demonstrated that adequate groundwater exists on site to serve the project.

**LIST OF ATTACHMENTS**

EXHIBIT A: Draft Conditions of Approval
EXHIBIT B: Appeal Form and Correspondence
EXHIBIT C: Vicinity Map
EXHIBIT D: Tentative Subdivision Map
EXHIBIT E: Applicants' Response to the Appeal dated July 27, 2009
EXHIBIT F: Draft Resolution

---

Separate Attachment for Commissioners: Mitigated Negative Declaration

# *Sonoma County Planning Commission*
# *Minutes*

**Sonoma County Permit and Resource Management Department**
2550 Ventura Avenue, Santa Rosa, CA 95403
(707) 565-1900 FAX (707) 565-1103

Date: **November 4, 2010**
Meeting No.: **10-022**

## ROLL CALL

**Commissioners**
Dick Fogg
Marcel Feibusch
Dennis Murphy
Pam Davis
Komron Shahhosseini, Chair

**Staff Members**
Sigrid Swedenborg
Yolanda Solano
Dave Hardy
Jennifer Barrett
David Hurst
Chelsea Holup

**1:00 PM** Call to order and Pledge of Allegiance

**Correspondence**

**Planning Agency Report**

## REGULAR CALENDAR

| | | | | |
|---|---|---|---|---|
| **Item No. 1** | **Time:** | **1:05 p.m.** | **File:** | **MNS06-0032** |
| | **Applicant/Owner:** | Jackson Family Investments II LLC | Staff: | Sigrid Swedenborg |
| | **Appellant:** | Paul Jaffee | | |
| | **Subject:** | Appeal of a Minor Subdivision | | |
| | Env. Doc.: | Mitigated Negative Declaration | | |
| | Proposal: | Request for a Minor Subdivision of 189 acres creating four parcels, 40, 60, 42 and 47 acres in size. | | |
| | Location: | 12942 Bones Lane, Graton, CA | | |
| | APN: | 074-030-043 | Supervisorial District: 5 | |
| | Zoning: | RRD (Resource and Rural Development), B6-40 acre density, SD (Scenic Design), BR (Biotic Resources) | | |

Sigrid Swedenborg summarized the written staff report which is incorporated herein by reference.

**Questions from Commissioners:** Commissioner requested stream be pointed out on the map. Staff Swedenborg stated it is 770 feet from the site to the creek.

**Public Hearing Opened:** 1:10 p.m.

**Speakers:** Appellant Paul Jaffee property has gone through a lot of subdivisions. Hydrology of proposed subdivision

**Attachment F**

does not support the project. Proposed well development will affect properties east and the creek. Traffic studies needed for proposed development.

Applicant: Jackson Family Wines farmed since 2000. Actively involved in creek issues. Current application has no additional vineyards. The building envelopes were large to be flexible but revised and reduced since the BZA hearing. Four lots is a family estate issue family would like to stay in county while working. The road issue, improved road 12 foot wide with turnouts. 1994 letter Dr. Crane suggested water drawn from the formation. Will continue to do the right thing and have done so the last 14 years. Well #2 has been in use with no issues.

Hydrologist Tony: Keep in mind the over-all projected use of project. Ground water storage 7.2 acre feet estimate total 747 acre feet very conservative estimate. Testing of wells could be conducted again for longer lengths of time. Springs have not been observed. We have addressed impacts on nearby properties. Analysis continues to be well depth, location zones, and geology nearby properties will not be affected by pumping water with a full build out.

Ann Leese: Advocated for clean water and resides at 12136 Dupont Rd. Building analysis was done years ago before Green Valley Creek was known to have problems. Property development do not have adequate water to develop no matter what the geologist say. Condition #6 dust problems along with traffic issues need an engineer to analyze. A 12 foot paved road could pose a hazard. Water research has anyone looked at Green Valley creek?

Ed Castellenie: Highlighted watershed locations. Development would double amount of use on Bones Lane. Presently 9 properties served on Bones Lane. Limits should be put on wine tasting facilities due to small road. Easement shall be widened and exceed the easement? Would like clarified due to redwoods within the easement.

Additional speaker inaudible.

Jon Tracy staff member at PRMD. Conflict between two geologist. In 1995 citizen advisory committee produced a two page document for ground water studies. In 2000 Klienfelder was hired to develop new procedures for ground water studies in 2003 Board of Supervisors advised use of the new procedure. Did review current study and does meet the current policy. Pump test time required laid out in the building code. Noise study typically not done in a residential subdivision. Ground water monitoring provision policy applicable to Use Permits we do not require this for residential use. Commissioner Fogg does the Jackson development meet the current policy of ground water development? Tracy responded yes it does. Pump test requirements guided by the building codes is it measured by water availability? Tracy responded the water availability dictates if a pump test is needed. Jennifer Barrett General Plan does we can require monitoring for maintenance of wells but not on impact.

Gary O'Connor County Surveyor conditions projects generally. Fire Marshall will look at road and whatever he deems necessary to improve is what will happen. Neighbors are responsible for improving the road the all have easement and all are responsible it is not the applicants responsibility to improve the road to the lot. A question on a traffic study is not done on a private road they are only done on public works projects. The entrance way from Dupont on to Bones may have a condition. Our road conditions will be on the parcel itself. As far as widening the road if fire decides there needs to be turnouts the applicant would need to talk to neighbors for easement use. Concern with traffic up and down the road it would be up to the neighbors to show the easement was overused. The Planning Commission can not remove existing rights to that road.

Appellant: Issues about the pump test that may or may not be required for the project we believe the testing has not been done and believe the neighbors would feel more comfortable if that were done before the approval process. Ground water study does meet the county policies but we disagree with the study itself. CCNR's create for subdivision and did not hear back from Jackson on the issue.

**Public Hearing Closed:** 3:00 p.m.

**Commission Discussion:** Commissioner Fogg what is the source of the water that goes into the onsite irrigation reservoirs? Richard stated there is nothing pumped into reservoir it is all rainfall. How can a half hour well test be valid? We do suggest further testing be done to the county standards and per building code. Jennifer Barrett condition #27 does require at least one gallon per minute for all lots. If there is not adequate water they do not record the map. Mr. Castelline suggest there is a blue line creek. Sigrid Swedenborg submitted map showing there is no blue line creek. No Williamson Act on this property? Correct. No change in density? Correct. The impact is the subdivision only. Correct. Commissioner Davis mentioned there was analysis done that accounted for nearby wells? Yes, research is done on the history of all wells, compile and evaluate. The Commission could ask the applicant to go ahead with a monitoring well. Could you address again the impact of the development on Green Valley Creek?

There is an elevation change the ground water being pumped from the wells does not go into Green Valley Creek nor does that creek flow where the wells are being proposed. Commissioner Davis do you have an aerial photograph? Swedenborg, yes that is correct plus a botanical analysis will be done. Wells are for domestic use only? Yes. Commissioner to applicant would you be willing to monitor well and share the data with the county for the amount pulled out of the ground. Applicant, yes we would be willing to do that. Concerned about private well monitoring but if it were a community use well with four or more it might be needed to monitored. Jon Tracy if you put a requirement on this project for well monitoring the county would need an easement to access plus additional equipment. Pump tests are public information. Traffic study not needed on private road and does not meet the threshold of 25 trips during the peak hour.

**Changes in draft conditions:**

**Action:** Commissioner Davis made motion to deny the appeal and approve as recommended by staff.

Appeal Deadline: 10 calendar days
Resolution No: 10-029

Fogg: Aye Feibusch: Absent Murphy: Aye Davis: Aye Shahhosseini, Chair: Aye
Ayes: 4 Noes: 0 Absent: 1 Abstain: 0

---

**Item No. 2 Time: 1:45 p.m. File: PLP09-0068**
**Applicant: Sonoma County Community Development Commission**
Staff: Yolanda Solano
Env. Doc.: Categorical Exemption, CEQA Guidelines, Section 15061(b)(3
Proposal: Adopt the Russian River Corridor Design Guidelines
Location: Russian River Redevelopment Project Area
APN: Various Supervisorial District: 5
Zoning: Various
**Board of Supervisors Hearing will be held at a later date and will be noticed at that time.**

Yolanda Solano summarized the written staff report which is incorporated herein by reference.

**Questions from Commissioners:** Commissioner Davis multifamily projects are lots with four units on it would not apply to duplexes? Correct. Yolanda Solano the committee did not want to extend design review process to more projects that we currently require. Guidelines in place now what is changing? Solano HWY 116 guidelines there is nothing in them that sets forth a design criteria. There is a description but does not require it conform to that character. Emphasis was on keeping trees. The attempt now is to consolidate and deal with the built environment. Jennifer Barrett clarified the HWY 116 design corridor would remain in place along with the Russian River guidelines they are not in conflict. The SD (Scenic Design) will be removed with the updated the zoning code. How does this compare to recent Penngrove Guidelines? Jennifer Barrett believes they are very similar. The guidelines are flexible and developers can propose alternative approaches for consideration. Bicycle traffic addressed? No it is not addressed; a Use Permit would go through the Design Review Committee now. Jennifer Barrett stated this would be a guideline only with recommendations and would be referenced in Article 90, it is not a regulatory document. Legality if a decision was appealed from the Design Review Committee to the Planning Commission what would be our role? We would evaluate each case and believe there is enough flexibility in guidelines to depart from the standards and show it meets the overall intent. Was CalTrans involved? Yolanda CalTrans had no comments other than standard ones. Suggest on page four within five years guidelines will be reviewed again by PRMD. The RROC will trigger that request for review.

**Public Hearing Opened:** 3:15 p.m.

**Speakers:** Kathy Young a member Russian River Redevelopment Oversight Committee. Feel the guidelines are overly restrictive. Disaster guidelines would be great. Would like to see more improvement on the document. Hard to see the changes that have been done since the committee handed over the document to PRMD. Disagree agree with the historic resources, not all information is completely accurate would like to see a letter from the Land Marks Committee to confirm the accuracy. Should not be separated into appendices should be combined into one. The bike

rack guidelines should be removed and is the least important thing in the document. Finally, more reference to and detail about invasive plants in this document is needed.

**Public Hearing Closed:** 3:30 p.m.

**Commission Discussion:** Commissioner Davis the five year review what is involved? Yolanda clarify guidelines that may have caused confusion. Commissioner Davis what if there isn't enough projects to review in five years? Jennifer Barrett the review of guidelines can be done by the RROC and then they could make suggestions to PRMD. PRMD does keep track of issues guidelines or problems with wording and do make technical updates. Yolanda appendices were consolidated and the reference to invasive species are referenced in the document with the Design Review Committee looking closer at landscape design. Jennifer Barrett noted there are a lot of challenges with elevation of structures. Commissioner Murphy supports the guidelines. Community buy is a plus. Shear wall language.

**Changes in draft conditions:**

**Action:** Commissioner Davis moved to recommend approval to the Board of Supervisors as recommended by staff and seconded by Commissioner Shahhosseini.
Appeal Deadline: N/A
Resolution No:

Fogg: Ay Feibusch: Absent Murphy: Aye Davis: Aye Shahhosseini, Chair: Aye
Ayes: 4 Noes: 0 Absent: 1 Abstain: 0

---

**Item No. 3 Time:** 2:15 p.m. **File:** **ADA10-0004**
**Applicant/Owner:** **Deborah Evgenikos** Staff: Dave Hardy
**Appellant:** **David Cole and Janet Smith**
Subject: Appeal of Administrative Approval of a Building Permit based on Bodega Harbor HOA Design Review approval.
Env. Doc.: Categorical Exemption, Section 15303
Proposal: Request for an appeal of an Administrative Decision by Bodega Harbour Homeowners Association granting Design Review approval to allow issuance of a building permit for a new single family residence on a 9,975 square foot parcel. Appeal based on consistency with County Design Guidelines.
Location: 937 Dowitcher Court, Bodega Bay, CA
APN: 100-410-027 Supervisorial District: 5
Zoning: PC (Planned Community, CC (Coastal Combining, G (Geologic Hazard Combining)

David Hardy summarized the written staff report which is incorporated herein by reference.

**Questions from Commissioners:** Commissioner Shahhosseini asked staff if the square footage of the home was comparable to the surrounding homes. Staff Hardy responded that the home is approximately 100+ square feet larger than the largest house in the development. Commissioner Shahhosseini asked if a foundation building permit had been issued and staff Hardy stated the building permit had been issued but it had been revoked because it was issued in error. When the applicant originally came in, the planner at the desk saw the letter from Bodega Harbor submitted with the application. Generally, PRMD's policy is if you see a letter from Bodega Harbor or Sea Ranch, you process the application to plan check. The planner at the desk did not look at the fine print of the Coastal Ordinance Administrative Manual which spells out the amount of roof coverage which can be above the 16 foot height limit. Staff Hardy reviewed the plans when the appellant subsequently called him on the phone. Staff Hardy informed the appellant that you could do this but you would need a Coastal Permit. Staff Hardy explained that to avoid the Coastal Permit, the applicant redesigned the structure and lowered the building, lowered the heights inside, changed the roof pitch so that they could keep it in the existing foundation. Commissioner Murphy asked if the foundation holes had been open prior to the recent rains; staff Hardy confirmed it had been since May.

**Public Hearing Opened:** 4:30 p.m.

**Speakers:** David Cole, appellant: Stated he was one of two appellants, the other appellant was Janet Smith. The two appellants, along with some of the neighbors who live along the eastern side of Dowitcher Court, believe that the proposed structure does not meet the design guidelines of Bodega Harbor. Mr. Cole requested that the Commission

appreciate the issue before them in terms of the investments and quality of life for those living in the vicinity. Mr. Cole stated that if Staff Hardy had not found the error, the structure would already be in place in violation of the Guidelines for Bodega Harbor. Mr. Cole said he believed there are still guidelines that need to be addressed. Mr. Cole reiterated that this appeal was not just on behalf of David Cole and Janet Smith, but rather on behalf of residents living on Dowitcher Court as well as concerned residents throughout Bodega Harbor development. Mr. Cole stated he hoped the Commission had been able to review all the e-mails and letters submitted by other residents of Bodega Harbor. Mr. Cole requested that the Commission look at the alternate findings in the staff report to uphold the appeal.

Mr. Cole said he knew construction would take place on the lot when he purchased his property in 2008 (located next to lot in question). Before he purchased his property, he went to the Homeowners Association office to look at the plans for the neighboring property, but he was told that the complete file was not available. In 2009 he stated the permit was extended after it had been in effect for a year. Bodega Harbor Guidelines require that before a permit is extended beyond a 12-month period of time, there has to be significant work on the project underway prior to that extension being granted; that was not the case in this instance. The appellant was under the impression that the permit had expired and there would not be any immediate construction on the lot. When he subsequently saw stakes appear on the lot, he contacted the Homeowners Association to obtain an explanation. The Association informed him that they'd extended the permit on the neighboring lot, giving the applicant an additional year to build, but that the process of notification of neighbors was not repeated for the extension of time. Mr. Cole then suggested that the applicant should be required to construct story poles so at least the neighborhood would know that a building was about to go up; however, he was informed that the additional expense for the applicant was not warranted. The applicant stated that he and the neighbors had performed due diligence in attempts to obtain information on the project. The appellant stated he was not opposed to construction on the lot, he and the neighbors welcomed meeting with the applicants, but the objection was to the massive nature of the structure that was not in keeping with the existing Dowitcher Court structures. The appellant stated they had made efforts to resolve the issue by going through the Bodega Harbor Design Review process and the Bodega Harbor appellant process without result. Mr. Cory and the neighbors felt "fresh eyes" were required for an equitable outcome.

The appellant submitted his PowerPoint presentation to the Commission summarizing opposition reasons to the project as proposed, recommendations in order to achieve compromise among neighbors, and final comments. The latter written presentation is incorporated herein by reference.

Deborah Janet Evgenikos, Applicant: Purchased property at Dowitcher Court in good faith in 2004; chose property for large lot size and expansive views. Applicants hired Mr. Bob Riken to design the house for them because he had been successfully doing design work in Bodega Harbor for many years. Applicant's stated parameters for the home had been: a home that would accommodate their large extensive family with two large master suites and four other bedrooms, each with its own bath. Mr. Riken told applicants that the allowable coverage would not accommodate two large master suites on the second floor so applicants settled for two modest sized bedrooms and a den (which could also be used as a bedroom).

**Public Hearing Closed:** 5:15 p.m.

**Commission Discussion:**

**Changes in draft conditions:**

| | |
|---|---|
| **Action:** | Commissioner Davis moved to deny the appeal and recommend approval as recommended by staff. Seconded by Commissioner Murphy and passed on a 4-0-1 vote. |
| Appeal Deadline: | 10 calendar days |
| Resolution No: | 10-031 |

Fogg: Aye Feibusch: Absent Murphy: Aye Davis: Aye Shahhosseini, Chair: Aye
Ayes: 4 Noes: 0 Absent: 1 Abstain: 0

---

**Adjourned: 5:45 p.m.**
Minutes approved 3/31/2011

Resolution Number 10-029

County of Sonoma
Santa Rosa, California

November 4, 2010
MNS06-0032 Sigrid Swedenborg

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF SONOMA, STATE OF CALIFORNIA, DENYING THE APPEAL AND ADOPTING THE MITIGATED NEGATIVE DECLARATION AND APPROVING THE TENTATIVE MAP AS REQUESTED BY JACKSON FAMILY INVESTMENTS LLC FOR PROPERTY LOCATED AT 12942 BONES LANE, OCCIDENTAL; APN 074-030-043.

WHEREAS, the applicant, Jackson Family Investments LLC, filed an application with the Sonoma County Permit and Resource Management Department for a Minor Subdivision of 189 creating four parcels, 40, 60, 42 and 47 acres in size located at 12942 Bones Lane, Occidental, APN 074-030-043, Zoned: RRD (Resources and Rural Development), B6-40 acre density, SD (Scenic Design Regulations), BR (Biotic Resource); Supervisorial District 5; and

WHEREAS, a Mitigated Negative Declaration was prepared and posted for the proposed project in accordance with the appropriate law and guidelines; and

WHEREAS, the Project Review and Advisory Committee (PRAC) held a public hearing on June 18, 2009, at which time all interested persons were given an opportunity to be heard, and PRAC approved the subdivision request; and

WHEREAS, on June 29, 2009, Paul Jaffee appealed the subdivision approval within the 10-day appeal period; and

WHEREAS, in accordance with the provisions of law, the Planning Commission held a public hearing on November 4, 2010, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, said Tentative Map is found to be in substantial conformance with the provisions of the State Subdivision Map Act and Chapter 25 of the Sonoma County Code.

NOW THEREFORE IT BE RESOLVED that the Planning Commission makes the following findings:

1. The project is consistent with densities established in the Resources and Rural Development General Plan land use designation, is consistent with the General Plan policies in that protection has been given to areas with potential slope instability, rare and endangered plants and archeological sites.

2. The Minor Subdivision complies with the Subdivision Map Act (Government Code Sections 66410 through 66499.58). Specifically, the Tentative Map complies with Section 66474 of the Subdivision Map Act in that the project is consistent with applicable General Plan, the site is physically suitable for the development, the subdivision will not cause substantial environmental damage, the subdivision is not likely to cause serious public health problems, and the design of the subdivision will not conflict with public easements.

3. The Minor Subdivision complies with Sonoma County Code Chapter 25 which regulates subdivisions.

4. Based upon the information contained in the Initial Study included in the project file, it has been determined that there will be no significant environmental effect resulting from this project, because Mitigation Measures are incorporated into the project as Conditions of Approval. The Mitigated Negative Declaration has been completed in compliance with CEQA State and County guidelines and the information contained therein has been reviewed and considered and reflects the independent judgement of the Planning Commission. Mitigation Measures have been incorporated as Conditions of Approval and include a Mitigation Monitoring Program.

5. Biotic impacts have been minimized by locating all Building Envelopes outside of the sensitive serpentine soil habitat area.

6. Estimated annual demand for water serving the subdivision at buildout is less than 1% of the conservative estimate of groundwater in storage beneath the property. Therefore, future development of the property will have negligible impact on groundwater in storage. It has been demonstrated that adequate groundwater exists on site to serve the project.

BE IT FURTHER RESOLVED that the Planning Commission adopts the Mitigated Negative Declaration and Mitigation Monitoring Program set forth in the Conditions of Approval. The Commission certifies that the Mitigated Negative Declaration has been completed, reviewed, and considered, together with comments received during the public review process, in compliance with CEQA State and County guidelines, and finds that the Mitigated Negative Declaration reflects the independent judgment of the Commission.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Permit and Resource Management Department, 2550 Ventura Avenue, Santa Rosa, California 95403.

BE IT FURTHER RESOLVED that the Planning Commission denies the appeal and approves the requested Tentative Map to subdivide 189 acres into four lots subject to the Conditions of Approval in Exhibit “A” attached hereto.

BE IT FURTHER RESOLVED that the Planning Commission’s action shall be final on the 11th (eleventh) day after the date of this Resolution unless an appeal is taken.

THE FOREGOING RESOLUTION was introduced by Commissioner Davis, who moved its adoption, seconded by Commissioner Fogg, and adopted on roll call by the following vote:

| | |
|---|---|
| Commissioner Fogg | Aye |
| Commissioner Feibusch | Absent |
| Commissioner Murphy | Aye |
| Commissioner Davis | Aye |
| Commissioner Shahhosseini | Aye |

Ayes: 4 Noes: 0 Absent: 1 Abstain: 0

WHEREUPON, the Chair declared the above and foregoing resolution duly adopted; and

SO ORDERED.

RICHARD C. SLADE & ASSOCIATES LLC
CONSULTING GROUNDWATER GEOLOGISTS

# HYDROGEOLOGIC ASSESSMENT
# WATER WELL FEASIBILITY AND SITING PROJECT

## 12942 BONES LANE
## VICINITY OCCIDENTAL
## SONOMA COUNTY

**PREPARED FOR:**
**JACKSON FAMILY ENTERPRISES**

**PREPARED BY:**

**RICHARD C. SLADE & ASSOCIATES LLC**
**CONSULTING GROUNDWATER GEOLOGISTS**
**STUDIO CITY, CALIFORNIA**

**JOB NO. 322-SNM02**

**FEBRUARY 2009**
REVISED SEPTEMBER 2010

12750 VENTURA BLVD., SUITE 202, STUDIO CITY, CALIFORNIA 91604
PHONE: (818) 506-0418 • FAX: (818) 506-1343; NAPA VALLEY - PHONE: (707) 963-3914

**Attachment H**

# HYDROGEOLOGIC ASSESSMENT
# WATER WELL FEASIBILITY AND SITING PROJECT
# 12942 BONES LANE
# VICINITY OCCIDENTAL
# SONOMA COUNTY

PREPARED FOR:
JACKSON FAMILY ENTERPRISES

**PREPARED BY:**
**RICHARD C. SLADE & ASSOCIATES LLC**
**CONSULTING GROUNDWATER GEOLOGISTS**
**STUDIO CITY, CALIFORNIA**

**JOB NO. 322-SNM02**
**FEBRUARY 2009**
**REVISED SEPTEMBER 2010**

**Anthony Hicke**
**Certified Hydrogeologist No. 858**

**Richard C. Slade**
**Professional Geologist No. 2998**

# TABLE OF CONTENTS


**Section Title** **Page No.**

INTRODUCTION ..... **1**
General Statement ..... 1
Proposed Subdivision ..... 1
Proposed Groundwater Demand ..... 2
Previous Work by Others ..... 3

FINDINGS ..... **3**
Local Geologic/Hydrogeologic Conditions ..... 3
Rainfall Data ..... 5
Field Reconnaissance ..... 6
Existing Onsite Wells ..... 7
Reported Onsite Wells and Test Holes ..... 8
Cumulative Impact Area ..... 9
DWR Research ..... 10
Geologic Cross Section ..... 12
Possible Impacts to Groundwater Supply ..... 12
Estimate of Groundwater Recharge ..... 13
Subject Property Recharge ..... 14
Entire CIA Region Recharge ..... 15
Estimate of Groundwater in Storage Beneath The Subject Property ..... 15
Groundwater in Storage Within The CIA ..... 17
Estimate of Offsite Groundwater Demand ..... 18
Summary of Key Groundwater Issues ..... 20
Possible Impacts to Green Valley Creek ..... 20

CONCLUSIONS AND RECOMMENDATIONS ..... **22**

CLOSURE ..... **25**

**TABLE 1 -** Summary of Key Groundwater Issues
**FIGURE 1 -** Location Map
**FIGURE 2 -** Geologic Map
**FIGURE 3A -** Historic Well Data, Topographic Map
**FIGURE 3B -** Historic Well
**FIGURE 4 -** Cumulative Impact Area
**FIGURE 5 -** Geologic Cross Section
**FIGURE 6 -** Recommended Well Location

# INTRODUCTION

## General Statement

Provided herein is an assessment of the hydrogeologic feasibility of constructing new domestic-supply water wells at 12942 Bones Lane, in the Occidental area of Sonoma County. This 186.6-acre property is proposed to be subdivided into four parcels, as shown on Figure 1, "Location Map." Currently, the site is occupied by 5 vineyard areas, an existing house and barn, and an existing guest cottage. Figure 1 shows the approximate existing property boundaries displayed on a topographic base map of the region. Also shown on Figure 1 are the locations of the existing on site wells, and the probable locations of possible off site wells owned by others.

According to the "Groundwater Availability Map" published by Sonoma County, the majority (about 90%) of the site lies within Sonoma County's designated "Class 4" water availability area; in a Class 4 area groundwater resources are categorized as "low or highly variable." The remainder of the site is "Class 3" where "water yield is marginal."

Because of the local groundwater availability designation, this RCS assessment has been prepared to meet Sonoma County's General Plan requirements found in Paragraph RC-3h of the Resource Conservation Element. To meet these requirements, RCS geologists performed the following additional tasks: submitted a data/well log research request to the California Department of Water Resources (DWR) for well completion reports (driller's logs) for possible wells that have been historically drilled in the area surrounding the subject site; reviewed the driller's logs obtained from the DWR search; assessed possible long-term impacts to the local groundwater supply that might be caused by new wells on the subject property; estimated possible groundwater recharge rates on the subject property; estimated the volume of groundwater in storage beneath the subject site; and considered the possible impacts, if any, that one or more new onsite well might have on runoff in the nearby Green Valley Creek.

## Proposed Subdivision

As reported by the property owner, a subdivision of the property is proposed. .As shown on tentative drawings provided to RCS by the property owner, the property is proposed to be divided from one existing lot into four new lots. No development or new vineyard areas are currently proposed on the subject property. Figure 1 shows the tentative new lot boundaries for

each of the four proposed parcels. Below is a summary of the existing site conditions relative to the proposed lots:

- Proposed Lot 1 – No development currently exists on proposed Lot 1. An existing water well (Well No. 1) is located in the southwest corner of proposed Lot 1. The well is covered by a PVC cap and a pump had not been installed at the time of our site visit.
- Proposed Lot 2 – Four vineyard areas, a pond, a single family residence, a barn, a guest cottage, and a functioning well (Well No. 2) currently exist on proposed Lot 2.
- Proposed Lot 3 – An existing vineyard and pond currently exist on proposed Lot 3.
- Proposed Lot 4 – No development currently exists on proposed Lot 4.

Note that no development or new vineyard areas are currently proposed for the subject property. Further, neither the existing onsite wells nor the proposed onsite wells are planned to be used for irrigation supply in the future. All existing and future wells are to be used for domestic-supply purposes only.

**Proposed Groundwater Demand**

Under current zoning, each of the proposed lots could include one new single-family residence, a secondary granny unit, and a guest house. Therefore, to provide a conservative assessment, RCS has assumed each of the four proposed lots on the subject property will contain a single-family dwelling, a secondary granny unit and a guest house in the future. Normal water use for a single family residence ranges from 0.5 to 1 acre feet per year (AF/yr), assuming a typical 4- to 5-person household and outside landscape irrigation. For secondary granny units, water use usually ranges from 0.3 to 0.5 AF/yr. A guest house, which is typically occupied only a few times out of the year, will likely use less groundwater than a granny unit. However, as a conservative estimate, we have assumed that a guest house uses 0.3 AF of water each year. Therefore, for the purposes of this study, and to present a conservative estimate of future water demand within the subject property, water demand estimates of 1AF/yr (single family dwelling), 0.5 AF/yr (secondary granny units), and 0.3 AF/yr (guest house) have been used to estimate the future water demand of the proposed lots. Hence, for the purposes of this report, the total estimated water demand for the subject property is 1.8 AF per year per each proposed new Lot, or 7.2 AF per year for the entire subject property. This demand is proposed to be met using groundwater pumped from existing and/or future onsite wells, because there are no municipal-supply water purveyors or private water companies in the region.

As currently proposed, each of the new lots will have a dedicated domestic supply water well. Hence, each of these wells (existing or future) will need to produce about 1.8 AF of groundwater per year. Assuming that the wells pump on a continuous basis, 24 hours per day, every day of the year, then each well would need to pump at a rate of approximately 1.1 gallons per minute (gpm). On a more realistic, 50% operational basis (i.e., pumping 12 hours per day, every day of the year), each of the onsite wells would need to pump at a rate of about 2.2 gpm in order to provide its required annual volume of 1.8 AF per year.

**Previous Work by Others**

RCS was provided with a few consulting reports and onsite well data by the property owner for work that was performed in the past by others at the subject property. Specifically, two reports prepared by Mr. Eugene Boudreau (one dated 1991, and the other is undated) were provided to RCS; copies of these reports are not provided herein. The Boudreau reports contain information regarding previous attempts at drilling wells at the subject property, and show the locations of those previous attempts that were reportedly drilled by others. The reference reports indicate five wells exist on the subject property (Well Nos. 1, 2, 3, 4, and 7); and three "test holes" were drilled. Importantly, these reports show the locations of each of the wells and test holes, and provide rough estimates of the pumping rates of the wells.

A third reference was provided to RCS, which is an appendix from an undated report prepared by Jones & Stokes. This appendix contains drillers' logs for the 5 onsite wells mentioned in the Boudreau reports.

## FINDINGS

**Local Geologic/Hydrogeologic Conditions**

The results of regional geologic field mapping published by the U.S. Geological Survey (Geologic Map and Map Database of Western Sonoma, Northernmost Marin, and Southernmost Mendocino Counties, California, by Blake, Gramer, et al, 2002), have been adapted onto Figure 2, "Geologic Map." The earth materials mapped at ground surface near the subject property, from geologically youngest to oldest, include:

- Alluvium (Figure 2 symbol: Qal) – These geologically young sediments of Holocene age are mainly unconsolidated flood-plain deposits, which are comprised by layers and lenses of sand, silt, gravel, and clay. These materials were derived from the erosion of the nearby hills, and were transported to their current locations by fluvial processes. None of these alluvial materials are shown to exist on the subject property on Figure 2.

- Wilson Grove Formation (Twg) –The Tertiary-aged Wilson Grove Formation (referred to in older references as the Merced Formation) consists of a massive, medium- to fine-grained quartz sandstone of marine origin. The majority of the subject property is underlain by this formation. Proposed Lots 2, 3, and 4 are almost completely underlain by the Wilson Grove Formation; only a small part of the northern portion of proposed Lot 1 is underlain by the Wilson Grove Formation.

  As reported in the California Department of Water Resources Bulletin 118-4 (Evaluation of Groundwater Resources in Sonoma County," 1975), the Merced Formation (now the Wilson Grove Formation) freely yields water to wells, and is a major aquifer in the area. Groundwater within the formation occurs in the pore spaces that exist between individual sand grains within the formation, and along possible bedding planes and fractures within the somewhat more-consolidated sandstone layers.

  However, within the subject property, the Wilson Grove Formation is essentially a "cap rock." That is, it exists as a relatively thin layer beneath ground surface and is directly underlain and surrounded by older rocks of the Franciscan Complex. Also, based on data collected by others during prior drilling exploration at the subject property, the vertical thickness of the Wilson Grove Formation beneath the subject property may only be perhaps 100 feet or so. Whereas, the Wilson Grove Formation represents a viable aquifer for wells in many places in the County, and because its lateral extent and vertical thickness are somewhat limited beneath the property, the approximate volume of groundwater available to new wells constructed into this formation at the property will depend on drilling conditions at each individual site.

- Franciscan Complex (TKfs, KJfs, sp, gs, fsr) – The group of geologic materials known as the Franciscan Complex is a mélange (fsr) of sheared shale, wacke (TKfs, KJfs) and sandstone that may contain serpentinite (sp) locally resistant masses of chert, "high-grade" metamorphic rock, variably shattered sandstone and greenstone (gs), and metagreenstone. Wherever large masses of serpentinite and/or greenstone are exposed, the units are mapped individually as "sp" and "gs," respectively (see Figure 2). Further, where identification of the specific rock type is unclear, the unit is mapped as "fsr." These Franciscan Complex rocks are exposed at ground surface in a portion of the subject property, and are known to underlie all of the Wilson Grove Formation.

  Because of their high degree of consolidation, only minor amounts of groundwater can be stored between the individual grains comprising these rocks; that is, primary porosity is virtually non-existent. However, due to the intense geologic forces (i.e., tectonic activity) to which the rocks have been subjected over geologic time, numerous fractures, joints and shear planes have developed in the rocks over time. Groundwater will occur only in these fractures and joints.

Therefore, the amount of water available to a well constructed within rocks of the Franciscan Complex is highly dependent on such factors as the size, number, frequency of occurrence, openness, lateral continuity and degree of interconnection of the joints and fractures encountered at a specific drill site. Fracture systems within the Franciscan Complex are highly sporadic in regard to location, depth and lateral continuity. Hence, it is virtually impossible to predict the location of such water-bearing fractures within these rocks in advance of drilling.

- Knoxville Formation (Jk) – This geologically old geologic unit is comprised of black shale and biotite-rich wacke, and Figure 2 reveals these rocks do not exist on the subject property.

As shown on the Figure 2 geologic map, faults are shown to exist within the older Franciscan Complex rocks exposed within and surrounding the subject property. These faults separate the different units that comprise the Franciscan Complex. Further, these faults are shown to be concealed by the Wilson Grove Formation (i.e., the Wilson Grove Formation is not faulted, see Figure 2). Therefore, these faults are geologically very old and are not considered to be active. Because of the geologic history and formation of the Franciscan Complex, geologic contacts within the geologic unit are often shown as fault contacts.

**Rainfall Data**

Rainfall records for rain gages in the Sonoma County area can be accessed through the website of the Western Regional Climate Center (WRCC; http://www.wrcc.dri.edu). Using that site, a rain gage was located approximately 1.7 miles east of the subject property, in the Graton area (Graton Gage No. 043578). Rainfall records for this gage date from 1926 through December 2007. Based on those data, the long-term average annual rainfall reported for the area has been approximately 40.9 inches per year.

As a comparison, RCS geologists also reviewed an isohyetal map of Sonoma County, prepared by the Sonoma County Water Agency. The reference isohyetal contours are not provided herein but were originally presented on Plate B-3, “Sonoma County Mean Seasonal Precipitation,” published in the Flood Control Design Criteria Manual, prepared by the Sonoma County Water Agency, March 29, 1999. The isohyetal map is listed therein as “Revised June 1983.”

That map provides contours of equal precipitation (known as isohyets) which show the long-term, average annual rainfall (in inches) for all of Sonoma County. As shown on that map, the

isohyetal data reveal that the long-term average annual rainfall at the subject property is roughly 44 inches.

For the purposes of this project, and to provide a conservative estimate of rainfall onto the subject property, RCS has utilized a value of 40.9 inches (3.4 ft) as the long-term average annual rainfall onto the subject property.

According to the California Department of Water Resources (DWR), representative drought years for the State of California are 1976-1977 and 1987-1992 (http://watersupplyconditions.water.ca.gov/background.cfm). Using the data from the Graton rain gage, the total average annual rainfall recorded during these drought years ranged between 13.5 inches and 37.5 inches. These values represent 33 percent and 92 percent, respectively, of the average rainfall for the entire period of rainfall recorded at the Graton gage. Note that RCS did not include the rainfall total for the year 1992 due to the fact that the rainfall that year was actually higher than the long-term annual average for the gage.

Averaging the drought year percentages for the years listed above reveals the average drought rainfall value is 66 percent of the long-term average annual rainfall at this gage. Therefore, for the purposes of this study, we will assume that during average drought conditions only 66 percent of the long-term average precipitation for the area will fall on the subject site. This amounts to an average drought year rainfall of about 27 inches.

**Field Reconnaissance**

On September 6, 2006, an RCS geologist visited the subject property to conduct a field reconnaissance with Mr. Dan Roberts of Korman Development. The purpose of the field reconnaissance was to: observe the existing onsite wells; corroborate the geologic field mapping by others; observe the feasibility of conducting drilling at the property including drill rig access to possible well sites; and observe the possible locations of nearby offsite wells owned by others.

In advance of the site visit, the geologists prepared a map of the subject property showing the location of the five wells that were reported to exist at the subject property, as described in the reference materials completed by prior consultants. A search of the subject property by the RCS geologist and Mr. Roberts located two of the five wells reported by Boudreau. Mr. Roberts

stated that he had also reconnoitered the property prior to the RCS visit, but was unable to find the three other wells. No records have been provided to RCS that indicate the wells have been destroyed and no evidence of abandoned wells was observed on the subject property. Hence, it is unknown if these wells could not be located due to steep slopes and dense vegetation, poor location information in reference material, or historic abandonment.

As part of this initial visit, the geologist also performed a "windshield survey" to identify nearby offsite wells. This survey entailed the geologist driving along nearby public roads, and estimating the location of offsite wells owned by others. Probable offsite well locations were determined by one or more of the following: direct observation of a wellhead; observation of pressure tanks or larger water storage tanks that could be filled by a well; observation of a "power-drop" (power lines that terminate at a small shed) that usually indicate a well location; or the existence of a remote house that is very likely served by a domestic well. Probable offsite well locations are mapped on Figure 1. These well locations are not intended to comprise a complete inventory of offsite wells owned by others near the subject property, but provide approximate locations to help quantify the magnitude of possible offsite wells in the area.

**Existing Onsite Wells**

During the site visit, the geologist was able to photograph the wellheads and collect static water level measurements for the two existing onsite wells located on proposed Lots 1 and 2. These two observed wells include:

- Well No. 1 – This well is located on proposed Lot 1 and consists of approximately 5.5-inch diameter PVC casing. The top of this casing extends 1.59 ft above the ground surface and is covered with a PVC slip cap. A pump was not installed in this well at the time of our field reconnaissance. After removing the PVC cap, the geologist was able to measure a static water level in the well at a depth of 39.34 ft below the well head reference point (ft brp) on September 6, 2006.

  According to the driller's log provided to RCS by the property owner, the well is cased to a depth of 139 ft below ground surface (ft bgs) and consists of CL200 PVC casing, and was drilled using air rotary drilling methods. Perforations in the well exist between the depths of 99 ft and 139 ft bgs. A 3/8-inch gradation pea gravel was used as a gravel pack in the annular space. A cement sanitary seal extends from ground surface to 51 ft bgs. As reported on the driller's log for the well, the well was reportedly bailed at a rate of 50 gallons per minute (gpm) for half an hour at the time of construction. In our experience, bailing rates are not useful for assessing the possible pumping rate of a well.

At the time of construction in September 1990, an initial static water level of 50 ft bgs was reported by the driller.

Based on the location of the well (shown on Figure 2) and on the driller's description of the drill cuttings, the borehole for the well was drilled solely within rocks of the Franciscan Complex.

- Well No. 2 – Located in a pump house near the existing barn within proposed Lot 2, this well is used for domestic supply purposes for the existing house, guest cottage and barn. The casing consists of 5.5-inch diameter PVC casing that extends approximately 0.5 ft above ground surface. A pump was observed in the well at the time of our site visit, although the well was not pumping while the geologist was onsite. A 2-inch diameter PVC discharge line exited the wellhead. Using an existing access port in the wellhead, the geologist measured a static water level depth in the well of 24.2 ft brp on September 6, 2006.

  As reported on the available driller's log, the well was drilled using air rotary drilling methods, and was cased to a depth of 118 ft bgs; perforated casing was placed between the depths of 38 ft bgs and 118 ft bgs. A cement sanitary seal to a depth of 24 ft bgs exists in the well. The well was reportedly "tested" at a rate of 15 gpm for 1.5 hours, but the "testing" method (i.e., airlift, pump, or bailer), was not noted. At the time of well construction in September of 1990, the static water level in the well was reported to be at 36 ft bgs.

  Based on the driller's description of the drill cuttings listed on the log, the well appears to have encountered the Wilson Grove Formation to a depth of 112 ft bgs, and then the Franciscan Complex rocks from 112 ft to 118 ft bgs to the bottom of the drilled borehole.

**Reported Onsite Wells and Test Holes**

The Boudreau reports indicate "dry" test holes were drilled on the subject property. The location of the three dry holes and the three unlocated wells are shown on Figure 3A, "Historic Well Data, Topographic Map," and Figure 3B, "Historic Well Data, Geologic Map." Information for these dry holes and unlocated wells was provided on the available driller's logs and indicated the following:

- Test Hole 1A – This pilot borehole was drilled using air rotary methods to a depth of 324 ft bgs, but the borehole was not converted into a water well. Based on the driller's description of the drill cuttings, Test Hole 1A is interpreted to have penetrated through the Wilson Grove Formation at a depth of 109 ft, and then into the Franciscan Complex between the depths of 109 ft and 324 ft bgs.
- Test Hole 5 – This borehole was drilled via air rotary methods to a depth of 160 ft. The Wilson Grove Formation is interpreted to extend from ground surface to a depth of 101 ft bgs, based on the drill cuttings descriptions. From 101 ft bgs to the 160-foot depth of the drilled borehole are rocks of the Franciscan Complex.

- Test Hole 6 – Drilled using air rotary methods to a depth of 94 ft bgs, the borehole penetrated the bottom (base) of the Wilson Grove Formation at an interpreted depth of approximately 81 ft bgs, below which is the Franciscan Complex.
- Well No. 3 – According to the available driller's log, Well No. 3 was constructed of 5.5-inch PVC casing to a depth of 138 ft bgs, and was drilled using air rotary methods. Perforated casing was placed between the depths of 58 to 138 ft bgs. A cement sanitary seal was emplaced to a depth of 58 ft bgs. After its construction in September 1990, a static water level depth of 60 ft bgs was measured. Reportedly, the well was tested using an unknown method at a rate of 7.7 gpm for 30 minutes. Based on the description of the drill cuttings, the well penetrated through the Wilson Grove Formation at a depth of about 127 ft bgs and into the bedrock of the Franciscan Complex. This well could not be located on the subject property; however, no evidence of proper destruction has been encountered by RCS geologists to date.
- Well No. 4 – Drilled using air rotary methods to a depth of 64 ft bgs in September of 1990, the well was reportedly constructed of 5.5-inch PVC casing to a depth of only 64 ft bgs, with perforations between the depths of 24 ft and 64 ft bgs. A cement sanitary seal extends from ground surface to a depth of 20 ft bgs. A discharge rate during an unknown type of testing was reported to be 3 gpm after half an hour with a static water level of 17 ft bgs. The Wilson Grove Formation sediments are interpreted to extend to a depth of perhaps 42 ft bgs in this borehole. Below this depth are rocks of the Franciscan Complex. This well could not be located on the subject property; however, no evidence of proper destruction has been encountered by RCS geologists to date.
- Well No. 7 – This well was also drilled using air rotary methods, to a depth of 99 ft bgs in September of 1990. The well consists of PVC casing to a depth of 99 ft bgs, with perforations extending between the depths of 79 and 99 ft bgs, and a sanitary seal to a depth of 20 ft bgs. Reportedly, the static water level at the time of construction was 31 ft bgs, and the well was "tested" by an unknown method at a rate of 1.8 gpm for 30 minutes. Based on the description of the drill cuttings shown on the driller's log for this well, it is interpreted that the borehole penetrated the Wilson Grove Formation to a depth of 71 ft bgs; the remaining 28 ft of this borehole were in bedrock. This well could not be located during the field reconnaissance of the subject property; however, no evidence of proper well destruction has been discovered by RCS geologists to date.

**Cumulative Impact Area**

Groundwater availability evaluations for the proposed project are included herein in accordance with County General Plan Policy RC-3h, which requests that an area surrounding a subject property be defined for cumulative assessment, based on the experience of the geologists who are conducting the evaluation. This specific defined area is known as the cumulative impact area (CIA). For this project, RCS defined the CIA as all properties surrounding and contiguous to the subject property. The resulting CIA, the approximate location of the DWR research wells within the CIA, the location of nearby offsite wells either observed during our field visits or

described in reports prepared by others, and the location of the two existing onsite wells are shown on Figure 4, "Cumulative Impact Area." The entire CIA, as defined herein, including the 186.6-acre subject property encompasses approximately 578.2 acres.

**DWR Research**

RCS geologists prepared a "Well Completion Report Release Agreement – Agency Study" form, and provided this form to Mr. Tracy of the Sonoma County PRMD on November 14, 2006. Attached to the form, RCS attached a map showing the subject property. To ensure the DWR research area met County standards, RCS included all parcels immediately adjacent to the subject property in the research area: Township 7 North, Range 10 West, Sections 23, 24, 25, and 26. The DWR research area was larger than the CIA, but was deemed necessary to include all known wells that might surround the subject property. Mr. Tracy approved the search area and signed the necessary research form. The form was then forwarded to DWR offices on November 20, 2006.

On November 22, 2006, the results of the DWR research were received by RCS geologists. A total of 280 well completion reports (driller's logs) were received. RCS geologists then plotted the location of each of the wells on a topographic base map and a geologic map of the region, as shown on Figures 3A and 3B. Due to the confidential nature of the information, only the location of the wells for which driller's logs were received are shown on Figures 3A and 3B.

Locating each of the DWR research wells proved to be difficult and time consuming, and is considered to be successful to varying degrees, and, locally, perhaps somewhat inaccurate. As mentioned above, only sparse and occasionally conflicting location data were reported on the driller's log for each DWR research well. Well locations were plotted using one or more of the three pieces of location information that might have been listed on each of the logs: the State well number (which provides section, township and range location information); the street address of the property on which the well is located; or the Assessor's Parcel Number (APN) for the property on which the well is located. Again, the RCS-plotted well locations are approximate, likely due to the poor location information provided on the logs.

Of the approximately 280 drillers' logs reviewed by RCS, only six appear to correspond to wells that have historically existed within the CIA (as shown on Figure 4).

- Drilling Method – Of the 6 wells within the CIA, 5 were drilled using the rotary bucket method; one is listed on the driller's log as being "dug".
- Drilling Depths – The pilot boreholes for the 6 wells within the CIA were reportedly drilled (or "dug") to depths ranging from 19 to 75 ft bgs.
- Well Casing – Of the 6 wells within the CIA for which DWR logs were made available, casing was installed into four of them. Casing types for 2 of the 4 completed wells were constructed of concrete pipe, with diameters ranging from 36 to 48 inches. Based on the concrete-lined construction, these "wells" probably function more like cisterns, collecting only shallow groundwater. The other 2 completed wells were cased with 8-inch diameter steel casing.
- Sanitary Seal Depths – Only one of the 4 cased wells included a sanitary seal that meets the minimum seal depth standard of 20 ft for domestic use; the seal for this well extended to a depth of 24 ft. One of the wells reported a seal depth of 17 ft. Another reported that a seal existed, but did not list the depth to which the seal was emplaced. No seal was installed on the final well.
- Perforation Intervals – Only the two steel-cased wells contained perforations. Both of these wells were provided with continuous lengths of perforated casing; perforated casing was placed in the depth intervals from 25 to 35 ft bgs to the bottom of the drilled borehole. Neither of the wells was provided with perforated intervals that were interspersed with sections of blank (unperforated) casing.
- "Test" Methods and Resulting Flow Rates – Based on available data from the drillers' logs, the constructed wells were "tested," but only 1 log listed the actual testing method (by a bailer). Each log with data also revealed that "no pump [sic] test" was conducted following well construction. Therefore, each of the wells was "tested" solely by bailing the groundwater from the casing. Further, only one duration is listed for the "tests" and this sole entry listed a "test" length of 2 hours; no other wells list "test" durations. Estimated flow rates reported on the logs in which the wells are located within the Franciscan Complex rocks range from 3 gpm to 11 gpm. One well, located in the northeast portion of the CIA, reported a pumping rate of 35 gpm. This well is located in the alluvium of Green Valley Creek (see Figure 2); therefore, it is possible that the well pumps at such a rate.

  Note that using any testing methods other than long-term pumping tests to estimate the operational pumping rate of water wells is unreliable. As a general rule of thumb, based on our experience, RCS estimates that the operational pumping rate for a new well is on the order of only one-half of the "test" rate reported on a driller's log. For bailer tests, the actual pumping rate would very likely be less than half of the reported bailer rate.
- Well Status – The current status (active/non-active) and use of these four, cased, offsite wells/cisterns are not known. Based on the existing zoning of properties within the CIA, these wells/cisterns may be used for domestic supply purposes.

- Dry Holes – Of the 6 DWR research wells within the CIA, 2 of the wells are reported to be backfilled and are therefore considered to be "dry holes".

**Geologic Cross Section**

In order to help characterize the subsurface geology of the subject property, a geologic cross section has been prepared for this project. Data from the existing onsite wells, unlocated onsite wells, and onsite test holes were used to construct this cross section. Subsurface conditions were also estimated by the RCS geologist using the known surface exposures of the various geologic materials on the hills and in stream valleys near the subject property (see Figure 2). Figure 5, "Geologic Cross Section," shows the RCS interpretation of the subsurface conditions along the alignment of the section. The location of the cross section relative to the subject property is shown on Figure 2.

As shown on Figure 5, the Wilson Grove Formation sediments form an isolated area of material (known as a "cap rock") surrounded by Franciscan Complex rocks. Wells constructed in these materials as shown on the cross section were completed to depths that extended just deeper than the contact between the base of the Wilson Grove Formation and the top of the underlying Franciscan Complex rocks. Also important to note on Figure 5 is the elevation difference between the bottom of the existing onsite wells and the channel of Green Valley Creek located in the northeastern portion of the cross section. All of the onsite wells (existing and "unlocated") were completed to a bottom elevation that is a minimum of 200 ft higher than Green Valley Creek.

**Possible Impacts to Groundwater Supply**

Much of the groundwater that is or might be produced from existing and possible future wells constructed on proposed Lots 2, 3, and 4, will likely be derived from the sediments of the Wilson Grove Formation (see Figure 2). As shown on the Figure 2 geologic map, and on the Figure 5 geologic cross section, this "cap" of Wilson Grove Formation is essentially geologically isolated. Although the Wilson Grove Formation extends offsite onto neighboring parcels, research performed for this project has revealed there are no other wells constructed into the Wilson Grove Formation on the neighboring properties. Further, the nearest offsite well to any existing or possible future well constructed on proposed Lots 2, 3, and 4 is located a distance of 1,200 ft

or more away. Hence, existing Well No. 2 or new future wells constructed on proposed Lots 2, 3, and 4 would have a negligible impact on offsite groundwater supply within the CIA.

As shown on Figure 2, existing Well No. 1 located within proposed Lot 1 is constructed into rocks of the Franciscan Complex. The nearest offsite well to Well No. 1 lies approximately 200 ft to the west. Although constructed into a fractured rock aquifer system, due to their relatively close proximity, these wells may be hydraulically connected.

To further assess any possible long-term impacts to groundwater supply that could be caused by pumping a future well on the subject property, a comparison can be made between the approximate water demand for the possible future development of the subject property and the estimated amount of groundwater recharge and the amount of groundwater that may be in storage solely beneath the subject property.

**Estimate of Groundwater Recharge**

Groundwater recharge to the subject property is derived wholly from deep percolation of direct rainfall and from infiltration of any surface water runoff. For the purposes of this study, we estimated recharge rates for the subject property based on the existing geologic conditions. Two types of rock exist at the subject property: the sediments of the Wilson Grove Formation and the rocks of the Franciscan Complex.

Deep percolation into sedimentary aquifers (Wilson Grove Formation) and into fractured rock aquifer systems (Franciscan Complex) varies greatly depending on the degree of consolidation and fracturing of the sedimentary units, and on the nature of fracturing in the low-grade metamorphic and well-consolidated rocks of the Franciscan Complex. Hence, any estimate of the specific amount of deep percolation of rainfall for a particular property is considered approximate only. Therefore, the rock types underlying the site must be considered so that a reasonable estimate of deep percolation of rainfall can be made.

One particular hydrogeologic text reviewed for this project ("Introduction to Hydrogeology," by Johannes Nonner, 2003, pgs. 149-153) provided an estimate of recharge rates that might occur for metamorphic and/or intrusive rock in temperate climates (such as the Franciscan Complex rocks); these values were as low as 5% of the average annual rainfall. That same text further estimates the deep percolation of groundwater in consolidated sedimentary rocks (similar to the

Wilson Grove Formation) to be on the order of 15% to 40% of the average annual rainfall. Therefore, to present a conservative analysis of the recharge rates at the subject property, RCS assumed a possible range for the long-term average annual amount of deep percolation of rainfall to be between 5% and 10% of the annual average rainfall. Note that this estimate of rainfall recharge is conservative, due to the fact that approximately 75% of the subject property is underlain by the Wilson Grove Formation, and these earth materials very likely permit a much higher percentage of rainfall to deep percolate, when compared to the underlying, geologically older, and well-consolidated Franciscan Complex rocks.

In order to present a more conservative estimate of aquifer recharge, recharge to the aquifer system that might occur from existing and/or future leach fields at the subject property has not been included in this recharge estimate.

**Subject Property Recharge**

The subject property comprises approximately 187 acres of land. Assuming conservatively, that only 5% to 10% of the rainfall that occurs strictly within the 187 acre subject property may become available for deep percolation, then the amount of potential groundwater recharge to the property, on a long-term average annual basis, is estimated as follows:

a. property area = 187 ac
b. Average annual rainfall = 40.9 inches (3.4 ft), from the County rainfall isohyetal map and nearby Graton rain gage data.
c. average annual rainfall onto property = (a)(b) = 635 AF
d. Estimated percentage of rainfall and surface water runoff that might be available for deep percolation to the subsurface = 5% of the average annual rainfall onto the property = (0.05)(635 AF/yr) = 31.5 AF/yr.
e. As previously discussed, during a drought year, approximately 66 percent of the long-term average yearly rainfall may occur on the subject property. Therefore, during such a drought year, it is estimated that 20.8 AF of water (0.66 x 31.5 AF/yr) may be available for deep percolation to the aquifer system(s) beneath the subject property. As calculated previously, the total combined water demand for all four proposed Lots, in comparison, is only 7.2 AF. This represents only about 35% of the rainfall that may be available for deep percolation during a drought year.

NOTE: Solely for the purposes of this hydrogeologic assessment, it has been conservatively estimated that the entire remaining 90% to 95% of the long-term average annual rainfall that

falls directly onto the subject property either runs off or is evapotranspirated by sunlight and the onsite vegetation.

**Entire CIA Region Recharge**

The same assumptions used to estimate recharge for the subject property were utilized to estimate the magnitude of potential recharge within the entire CIA. Assuming rainfall occurs within only the boundaries of the entire CIA, the amount of potential groundwater recharge to the entire CIA is as follows:

a. CIA area = 578 ac (including the 187-acre subject property).
b. Average annual rainfall = 40.9 inches (3.4 ft), from the County rainfall isohyetal map and nearby Graton raingage data.
c. Average annual rainfall onto the entire CIA = (a)(b) = 1,965 AF
d. Estimated percentage of rainfall and surface water runoff that might be available for deep percolation to the subsurface = 5% of the long-term average annual rainfall onto the entire CIA = (0.05)(1,965 AF/yr) = 98.3 AF/yr.
e. As discussed above, during a drought year, approximately 66 percent of the long-term average yearly rainfall may occur on the CIA. Therefore, during such a drought year, it is estimated that 64.9 AF/yr (0.66 x 98.3 AF/yr) of rainfall may be available for deep percolation to the aquifer system(s) beneath the entire CIA.
f. As discussed above, recharge to the aquifer system that might occur from existing and/or future leach fields within the CIA have not been included in this recharge estimate, in order to present a more conservative analysis.

**Estimate of Groundwater in Storage Beneath The Subject Property**

As shown on the Figure 5 geologic cross section, the geology of the site includes two distinct geologic units; the Wilson Grove Formation and the rocks of the Franciscan Complex. To conservatively calculate groundwater in storage solely beneath the subject property, we have assumed the following:

- As measured using our GIS system, approximately 140 acres of the subject property is underlain by the Wilson Grove Formation. The remaining 47 acres of the subject property are interpreted to be underlain by the Franciscan Complex rocks.
- Our conservative assumption for the purposes of this report is that there is no groundwater in storage within the Franciscan Complex rocks in the northern portion of the property underlying the 140 acres of the Wilson Grove Formation exposed within the property boundaries. This conservative assumption is made to simplify groundwater in storage calculations. In reality, wells constructed within the Franciscan

Complex can sometimes produce groundwater at a sustained rate on the order of a few gpm, sufficient for domestic supply for a single family dwelling. Further, future wells at the subject property may have a few feet of perforated casing within the Franciscan Complex rocks to take advantage of groundwater that might be available along the geologic contact in the subsurface.

- Well No. 1 is perforated solely within the Franciscan Complex rocks, and is constructed to a depth of 140 ft bgs. At the time of our site visit, the static water level in the well was measured to be about 40 ft bgs. This suggests a saturated thickness of Franciscan Complex rocks of 100 ft. Hence, for the purposes of this reports, we will assume that the 47 acres of exposed Franciscan Complex rocks within the subject property boundaries have a saturated thickness of 100 ft.
- For the purposes of this calculation, we will also make a conservative estimate that the specific yield of the Wilson Grove Formation is 10%. In other areas of the County, DWR has estimated the specific yield of the Wilson Grove Formation to range from 10% to 20%. Specific yield for Franciscan Complex rocks is difficult to estimate, and can range greatly due to the inconsistent and highly variable nature of the fractured rock aquifer systems. However, as a conservative estimate for this project, we will assume the specific yield of the Franciscan Complex rocks at 1%.
- During our site visit in September 2006, the static water level in Well No. 2 was measured to be about 25 ft bgs. As interpreted from the available driller's logs, Well No. 2 penetrates roughly 115 ft of the Wilson Grove Formation, for a total saturated thickness of Wilson Grove Formation sediments of 90 ft. Further, as shown on the cross section, the thickness of the Wilson Grove Formation across the property varies from a little more than 100 ft to approximately 50 ft near the edges of the property. For the purposes of this study, we will conservatively estimate that there is a saturated thickness of 50 ft of the Wilson Grove Formation underlying the northern portion of the subject property.

Based on the information presented above, the following provides our calculation of groundwater in storage solely beneath the subject property:

<u>Wilson Grove Formation</u>

a) Area of Wilson Grove Formation exposed solely within the boundaries of the subject property = 140 acres

b) Volume of saturated Wilson Grove Formation sediments = (140 acres)(50 ft) = 7,000 AF

c) Groundwater in storage = (specific yield of 10%)(7,000 AF) = 700 AF

<u>Franciscan Complex</u>

a) Area of Franciscan Complex rocks exposed solely within the boundaries of the subject property = 47 acres

b) Volume of saturated Franciscan Complex rocks = (47 acres)(100 ft) = 4,700 AF

c) Groundwater in storage = (specific yield of 1%)(4,700 AF) = 47 AF

Therefore, a very conservative estimate of the groundwater in storage directly beneath the subject property is 747 AF. In comparison to this volume of groundwater in storage, the total groundwater demand for the four proposed Lots at maximum build out in the future is 7.2 AF/yr or less than 1% of the total groundwater in storage beneath the subject property.

**Groundwater in Storage Within The CIA**

As shown on the Figure 2 geologic map, the CIA is almost entirely underlain by rocks of the Franciscan Complex. A few areas (including the subject property) are underlain by the Wilson Grove Formation, or, as exists in the northern portion of the CIA in the Green Valley Creek area, alluvium is exposed. To provide a very conservative estimate of the groundwater in storage within the entire CIA, we assumed that only rocks of the Franciscan Complex were available to provide groundwater to wells constructed within the CIA outside of the subject property. Note that this estimate is again conservative because it does not include the alluvium in the northern portion of the CIA. It is very likely that the 4 wells in the northern portion of the CIA derive groundwater solely from the alluvium of the Green Valley area. We make the following conservative assumptions regarding groundwater in storage within the CIA:

- An area for the CIA (<u>not including</u> the subject property) of 391 acres.
- A saturated thickness of earth materials of 100 ft, as estimated above using data from Well No. 1. Of the wells constructed into rocks of the Franciscan Complex for which RCS reviewed data, Well No. 1 is the deepest. Further, RCS has relatively recent water level data for Well No. 1 when compared to data collected from the researched drillers' logs.
- A specific yield of 1% for the Franciscan Complex rocks, as estimated above.

Based on the information presented above, the following provides our calculations of groundwater in storage beneath the CIA:

a) Area of the CIA (<u>not including</u> the subject property) = 391 acres
b) Volume of saturated Franciscan Complex rocks = (391 acres)(100 ft) = 39,100 AF
c) Groundwater in storage = (specific yield of 1%)(39,100 AF) = 391 AF

Based on the above calculations, the total amount of groundwater in storage (based on RCS collected water levels) within the entire CIA <u>including</u> the subject property is 1,138 AF (747 AF +

391 AF). Noteworthy, the total domestic groundwater demand for the four proposed Lots at maximum build out is 7.2 AF/yr. This domestic demand represents only 0.00632 (0.6%) of groundwater in storage within the entire CIA.

**Estimate of Offsite Groundwater Demand**

Within the CIA defined on Figure 4, there are the following water wells:

- Four DWR research wells, not including 2 wells which are reported as dry holes (and are therefore not existing well locations), and recorded in reference material reviewed for this project. It is unknown if these four wells are currently active and/or still exist, but for the purposes of this report, it has been assumed they are active wells.
- Seven possible wells for which the locations were obtained from reference material provided by the property owner and/or were observed by RCS geologists. It is entirely possible that these wells include the same wells for which DWR research drillers' logs were received, but these wells have been counted as individual wells to present a more conservative estimate for the purposes of this report. It is also assumed that these observed wells are active wells.
- Two onsite wells that currently exist on the subject property, one of which was not equipped with a pump at the time of our site visit.

Through a review of aerial photos of the subject property and surrounding areas available from the Sonoma County Website and from Google Earth, it appears that within the CIA (as defined herein), the subject property comprises a majority of the current agricultural development in the area. A few small vineyard areas and older, now-defunct orchard areas may exist in the surrounding area, based on the aerial photos. Currently, onsite vineyard irrigation is provided by surface water pond collection, and not by pumping groundwater. Ponds also exist on adjacent parcels near agricultural areas. Given the limited agricultural development in the CIA as well as the surface water available from existing ponds, it is logical to assume that the limited potential agricultural water demand in the CIA is met using surface water and not by pumping groundwater. Therefore, we have assumed the wells within the CIA are used for domestic-supply purposes.

Based on the above analysis, we estimate 12 wells (4 DWR research wells + 7 possible wells + 1 onsite well with a pump) within the CIA are used for domestic-supply purposes. To present a conservative analysis, RCS estimated that each well provides the domestic water demand for a single-family residence, a secondary "granny" unit, and a guest house. Therefore, each well has been assumed to produce 1.8 AF of groundwater per year.

As identified in this study, the CIA comprises approximately 578 acres and includes all of the subject property and 16 adjoining parcels whose boundaries are contiguous with those of the subject property. Representatives of the owner provided RCS with an analysis of the existing and possible future development of the parcels within the CIA. Currently, no more than 3 structures are estimated to exist on each of the parcels (including the subject property) within the CIA. Often there are only 1 or 2 structures on each of the existing parcels, for an approximate total of 32 existing structures, including the subject property within the CIA. This number is much greater than the 13 wells estimated to exist within the CIA. Hence, this may imply that a large portion of those structures are barns and other structures that do not typically have domestic-water demand.

As reported by the owner's representatives, based on lot size and zoning density, it appears that 3 of the adjoining parcels are of sufficient size to be split in conformance with their respective zoning designations. If RCS assumes that all 3 of these parcels were to be subdivided under existing zoning and were able to achieve their maximum density, then the total development of these 3 parcels at build-out could result in 6 parcels. Further, because the subject property is proposed to be split into 4 new parcels, the total potential future number of parcels within the CIA could be 23 parcels. If each of these 23 parcels were to be developed with a single-family residence, a secondary "granny" unit, and a guest house, a total of 69 dwellings (23 single-family residences, 23 secondary "granny" units, and 23 guest houses) could potentially be built within the CIA. Given the rural nature of the area, this estimate is likely to be higher than would actually be developed in the future. In contrast, there are reportedly an estimated 32 structures that currently exist within the CIA.

As estimated above under "Potential Groundwater Demand," each parcel within the CIA that could be developed with a single-family residence, a secondary "granny" unit, and a guest house is estimated to require 1.8 AF/yr of water, assuming the maximum build out for each of the CIA parcels is realized.

Hence, the total maximum future groundwater demand for the CIA based on the current zoning is as follows:

a. Total CIA wells = 12 (4 DWR research wells + 7 possible wells + 1 onsite well with pump)

b. Total existing groundwater produced within the CIA = (12 wells)(1.8 AF/yr/well) = 21.6 AF/yr
c. Future production of the two new proposed onsite wells and the existing Well No. 1 (once proposed Lots 1, 3 and 4 are developed) = (3 wells)(1.8 AF/yr) = 5.4 AF/yr
d. Total future potential CIA demand (including the subject property) based on zoning (including existing demand) = (23 single-family residences)(1 AF/y) + (23 secondary "granny" units)(0.5 AF/yr) + (23 guest houses)(0.3 AF/yr) = 41.4 AF/yr.

**Summary of Key Groundwater Issues**

Using the parameters estimated above, comparisons can be made between groundwater recharge, groundwater storage, and estimated groundwater demand for the proposed project. Table 1, "Summary of Key Groundwater Issues," shown below, summarizes the estimates of the proposed groundwater demand for the subject property and the annual volumes of groundwater recharge and groundwater storage estimated herein for both the 186.6-acre subject property and the 578.2-acre CIA (including the subject property).

To present a conservative analysis, as derived from available rain gage data and isohyetal maps, 40.9 inches (3.4 ft) of rainfall is shown on the table as the estimate of the long-term average annual precipitation for the entire CIA. Further, for drought year analysis, 66 percent (or 27.0 inches, 2.25 ft) of the 40.9 inches of long-term average annual rainfall was used in the calculations shown on Table 1.

As illustrated below, the total groundwater demand in the future for both the subject property at maximum buildout and the potential future buildout within the entire CIA (based on current zoning) represent approximately 1% of the conservatively estimated groundwater in storage calculated for the CIA and subject property. Further, the potential future groundwater demand within the entire CIA represents approximately 64% (41.4 AF ÷ 64.9 AF) of the average drought-year recharge estimates for the entire CIA (including the subject property).

**Possible Impacts to Green Valley Creek**

The shortest distance between the northwestern corner of the subject property and a tributary creek to Green Valley Creek is approximately 550 ft. It is highly unlikely that any wells constructed at the subject property would impact the existing creek, because the drilled depths of existing wells and new wells constructed on the property would terminate at an elevation

much higher than the elevation of this creek (See Figure 5). Further, onsite wells (existing and future) are geologically isolated from the Green Valley Creek, and will not extract groundwater from the alluvium along the creek itself.

**TABLE 1 – SUMMARY OF KEY GROUNDWATER ISSUES**

| Estimated Groundwater Parameter | Subject Property | Total Cumulative Impact Area [including subject property] |
|---|---|---|
| Groundwater Demand | 1.5 AF pumped from existing Well No. 2 (estimate) | 1.5 AF (existing onsite) + 20.1 AF (CIA) = 21.6 AF |
| | 5.7 AF additional proposed for the 4 proposed new Lots at maximum buildout | 7.2 AF (current + proposed new Lots)<br>+<br>20.1 AF (current CIA)<br>+<br>14.1 AF (estimated future increase) |
| | Total = 7.2 AF | Total = ± 41.4AF |
| Total Annual Average Precipitation Volume | 3.4 ft x 187 acres = 636 AF | 3.4 ft x 578 acres= 1,965 AF |
| Total Annual Drought Year Precipitation Volume | 2.25 ft x 187 acres = 420 AF | 2.25 ft x 578 acres= 1,300 AF |
| Groundwater in Storage | 747 AF | 1,138 AF |
| Average Annual Recharge | 31.5 AF | 98.3 AF |
| Drought Year Annual Recharge | 20.8 AF | 64.9 AF |

# CONCLUSIONS AND RECOMMENDATIONS

1. Feasibility of Onsite Groundwater Development

   Development of groundwater in useable quantities and of acceptable quality for the subject property may be hydrogeologically feasible and will necessitate further subsurface investigation in certain portions of the site as described below. The potential aquifer system for new wells on Proposed Lots 3 and 4 is the Wilson Grove Formation. The amounts of groundwater available to a new well on these lots will depend on the total thickness of the Wilson Grove Formation and the thickness of its saturated zone at any particular drill site; a small amount of groundwater may also be available in the upper and more weathered portion of the Franciscan Complex which directly underlies the Wilson Grove sediments beneath these lots. Thus, the development of groundwater in certain parts of the subject site may entail the drilling of one or more "dry holes" before a successful well can be constructed, but it appears that useable quantities of groundwater exist.

2. Existing Onsite Wells

   Based on the available existing data, the actual long-term operational pumping rates for the existing onsite wells (Well No. 1 and Well No. 2) at the subject property are unknown. Therefore, we recommend a 3-point step drawdown test and a long term (24-hour) constant rate pumping test be performed for both existing Well No. 1 and Well No. 2. This testing should include sampling and laboratory testing of groundwater pumped from both wells.

3. Impacts of Pumping Onsite Wells

   Due to the low pumping rates required of each onsite well (approximately 2.2 gpm 12 hrs/day, every day), the large distance to the nearest offsite well (approximately 1,200 ft), and the relative geologic isolation of proposed Lots 2, 3 and 4 from offsite wells, it is unlikely pumping of existing or future onsite wells at full buildout will induce any water level drawdown in offsite wells.

   Well No. 1, located on proposed Lot 1, is relatively close (approximately 200 ft) to an existing offsite well to the west owned by others, and is constructed into the same geologic material as this offsite well. While water level drawdown interference caused by Well No. 1 on the offsite well is unlikely due to the low pumping rate required, future pumping tests should be reviewed by a qualified geologist for water level drawdown, if any, following the testing.

4. Impact on Groundwater in Storage

   At maximum buildout of the proposed Lots, water demand for the project is estimated to be 7.2 AF/yr. This estimated annual demand represents less than 1% of the conservative estimate of groundwater in storage solely beneath the subject property. It is therefore our professional opinion that the future development of the property will have a negligible impact on groundwater in storage.

   Further, the future water demand of the entire CIA (41.4 AF, including the maximum potential future buildout of the proposed project), based on current zoning, is estimated to

be approximately 3.6% of the conservative estimate of groundwater in storage within the entire CIA (1,138 AF), and roughly 64% of the drought-year recharge estimated to occur within the entire CIA (64.9 AF).

5. Well Site Selection

   A. Recommended Well Locations - Figure 6, "Recommended Well Location," shows RCS recommended well locations. These well locations are in areas of the subject property where RCS geologists estimate the Wilson Grove Formation may be relatively thick, based on the available subsurface data. These three well locations are roughly 1,500 ft from any known existing offsite wells. By keeping the proposed new wells at a relatively large distance from other nearby wells, the potential for water level drawdown interference is minimized.

      Figure 6 also shows the locations of existing and/or proposed leachfields within the proposed Lot boundaries. The recommended well locations are at least 100 feet from each of the existing and/or proposed leachfield envelopes, in accordance with Sonoma County standards (Sonoma County Code, Chapter 25B, Article II, Section 25B-4).

   B. Pilot Hole Drilling - Drilling of a pilot hole should initially be attempted using the air-rotary drilling method. This drilling method enables the driller to detect the depth at which groundwater is initially encountered, to estimate the rate at which water may be entering the pilot hole as drilling proceeds, and to provide estimates of the changes in the rates at which groundwater is entering the open borehole as drilling proceeds. If the borehole shows signs of caving while drilling using the air-rotary method, it may be necessary to convert the drilling operations to the mud-rotary method.

6. Pilot Hole Depths and Preliminary Opinion of Water Well Parameters

   A. Based on the depth of offsite wells for which RCS was able to obtain data, the estimated depth for any new wells constructed on the subject property is approximately 200 ft.

   B. After the pilot hole is drilled, a downhole geophysical electric survey (e-log) should be conducted in the completed pilot hole, and should include 16- and 64-inch normal resistivity, spontaneous potential (SP), and natural gamma logs, and a caliper survey.

   C. Based on review of the pilot hole data for any new well (geologic log of cuttings, drilling penetration rates, pilot hole electric log), a decision can be made whether or not to ream out and complete the borehole into a new well.

   D. Six-inch diameter casing, set in a 12-inch diameter borehole, should be adequate for the amount of groundwater required from the new well.

   E. Each well should be provided with an adequate cement sanitary seal (at least 50 ft in depth) to meet the sealing standards for a domestic-supply well, in accordance with Sonoma County standards.

F. Based on County standards, the new well site must maintain the following minimum setbacks (separation): property lines, 5 ft; septic tanks/sewage disposal systems, 100 ft; subsurface disposal fields, 100 ft; and any animal and/or fowl enclosure, 100 ft.

G. A National Pollution Discharge Elimination System (NPDES) permit may be required to discharge drilling development and testing fluids, unless all fluids generated during the drilling and testing can be discharged and contained entirely onsite. If necessary, a temporary onsite containment system should be constructed prior to drilling to retain all drilling, development and testing fluids on the subject property.

H. It is IMPERATIVE that any fluids generated during the drilling, well development, and well testing operations do not flow offsite, or into any nearby creeks.

7. Water Quality Testing

No water quality data are available for the subject property. However, based on our experience, wells constructed into the Wilson Grove Formation can occasionally display elevated concentrations of iron, manganese, and arsenic. Because the new well will be used for domestic-supply purposes, full Title 22 testing, as required by the State, will be required on any new well drilled on the property. We also recommend that water quality samples be collected from existing onsite Well Nos. 1 and 2 during the recommended pumping tests.

8. Long-Term Viability

The key to maximizing the long-term viability of the new and/or existing well at the property include:

A. Using proper drilling techniques.

B. Verifying the well is thoroughly developed so that the gravel pack is properly set, and removing debris from the fractures within the water-bearing rocks penetrated during drilling.

C. Installing the permanent pump adjacent to blank (unperforated) casing and not adjacent to perforated casing.

D. Operating the pump on less than a 100% (continuous) basis, but also without using frequent, short-term on-off pumping cycles each day.

E. Performing well rehabilitation and pump maintenance on a regular basis in the future, depending on results of ongoing monitoring of water levels and pumping rates as discussed below.

9. Future Data Monitoring

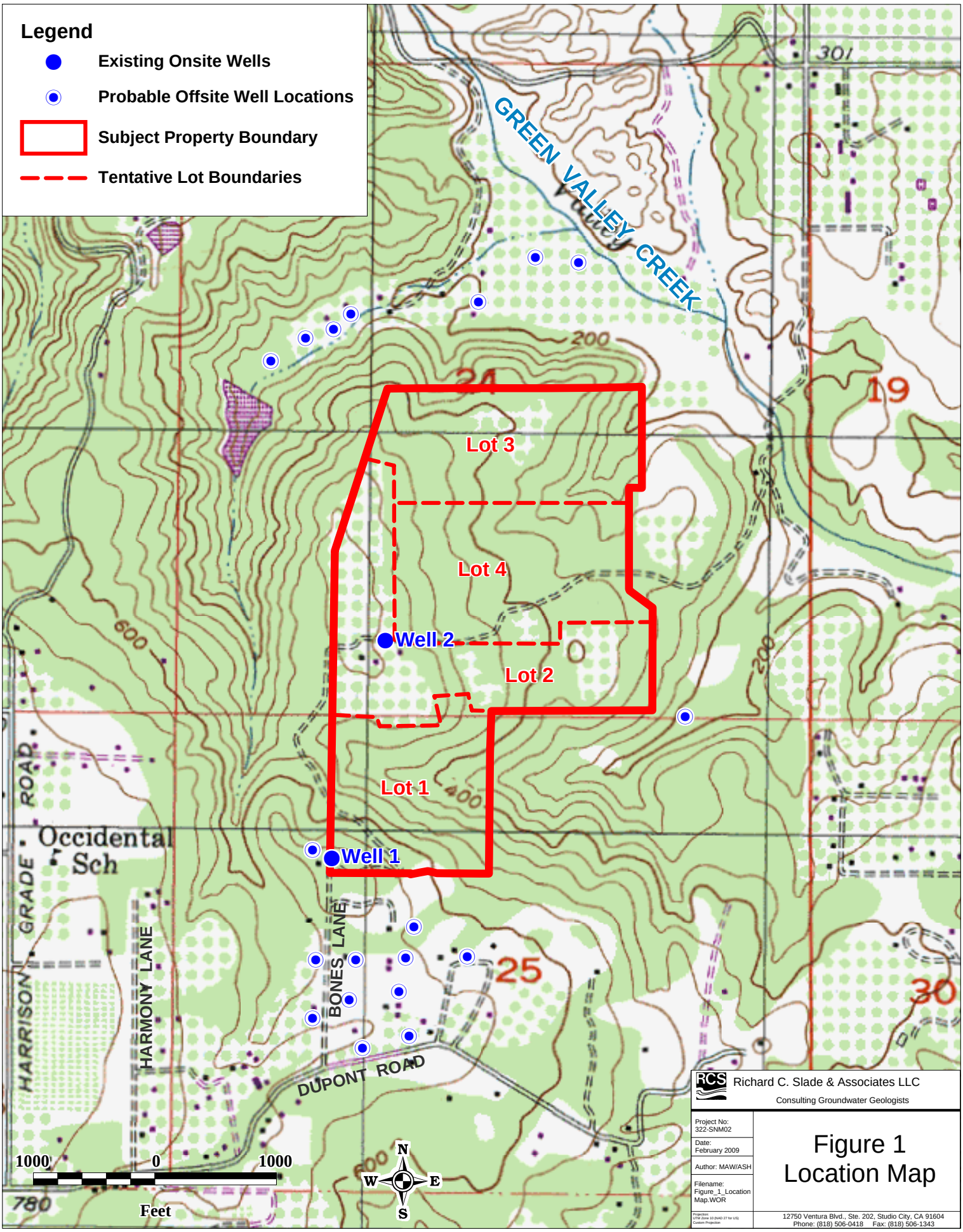
Routine monitoring of water levels (both non-pumping and pumping levels), through either manual measurements or using electronic pressure transducers, is important. Pumping rates should also be monitored by installing and then recording data on a regular basis from a flow meter attached to the discharge pipe near the wellhead; this meter should be

capable of monitoring both instantaneous flow rates and total production. Monitoring and recording of water levels and pumping data should be carried out on a regular basis (at least once per month) by the property owner. If pumping rates or pumping levels decline more than approximately 15 to 20 percent from their original values (just after well construction), then the need for well rehabilitation is strongly indicated. Appropriate rehabilitation operations could be determined and implemented at that time.

Each well should be provided with a 1-inch inner diameter PVC sounding tube that is placed alongside the pump column when the permanent pump is installed in the new well. Installation of a sounding tube will greatly facilitate future monitoring of water levels, and will also permit the installation of a pressure transducer to automatically record static and pumping levels, if desired.

## CLOSURE

This letter-report has been prepared solely for the exclusive use of Ms. Karen Massey and Jackson Family Enterprises, and strictly for the Bones Lane Property, which is located to the northeast of the town of Occidental, Sonoma County, California. This letter-report was prepared solely with specific application to the feasibility and siting of new wells for domestic-supply purposes on the property. This letter-report has been written in accordance with the care and skill generally exercised by reputable professionals currently working under similar circumstances in this or similar localities. No other warranty, either express or implied, is made as to the professional advice or opinions presented herein. Any use, interpretation, or emphasis other than that contained herein, is done at the reader's sole risk.

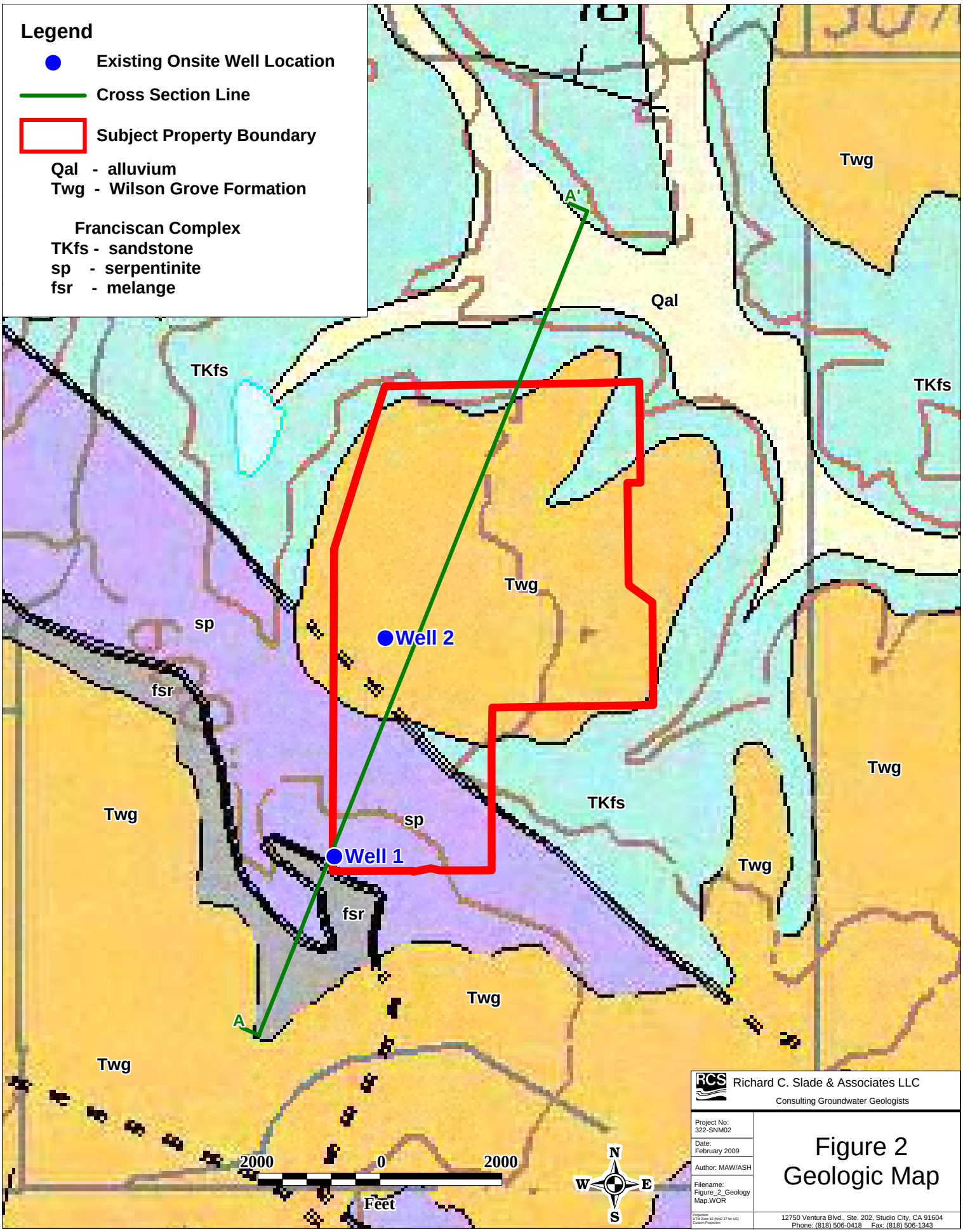



Richard C. Slade & Associates LLC
Consulting Groundwater Geologists

Project No: 322-SNM02
Date: February 2009
Author: MAW/ASH
Filename: Figure_1_Location Map.WOR
Projection: UTM Zone 10 (NAD 27 for US) Custom Projection

# Figure 1
# Location Map

12750 Ventura Blvd., Ste. 202, Studio City, CA 91604
Phone: (818) 506-0418 Fax: (818) 506-1343

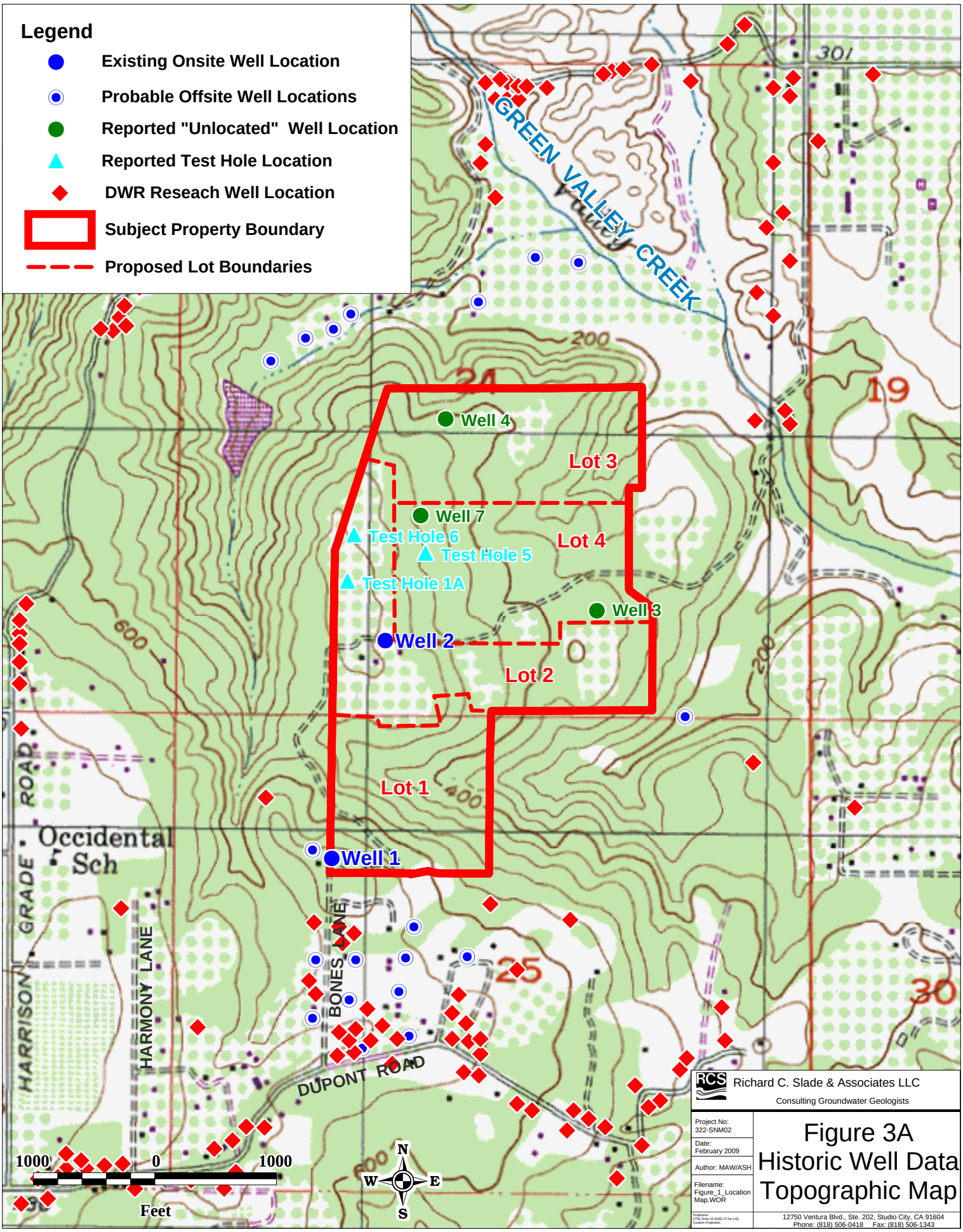


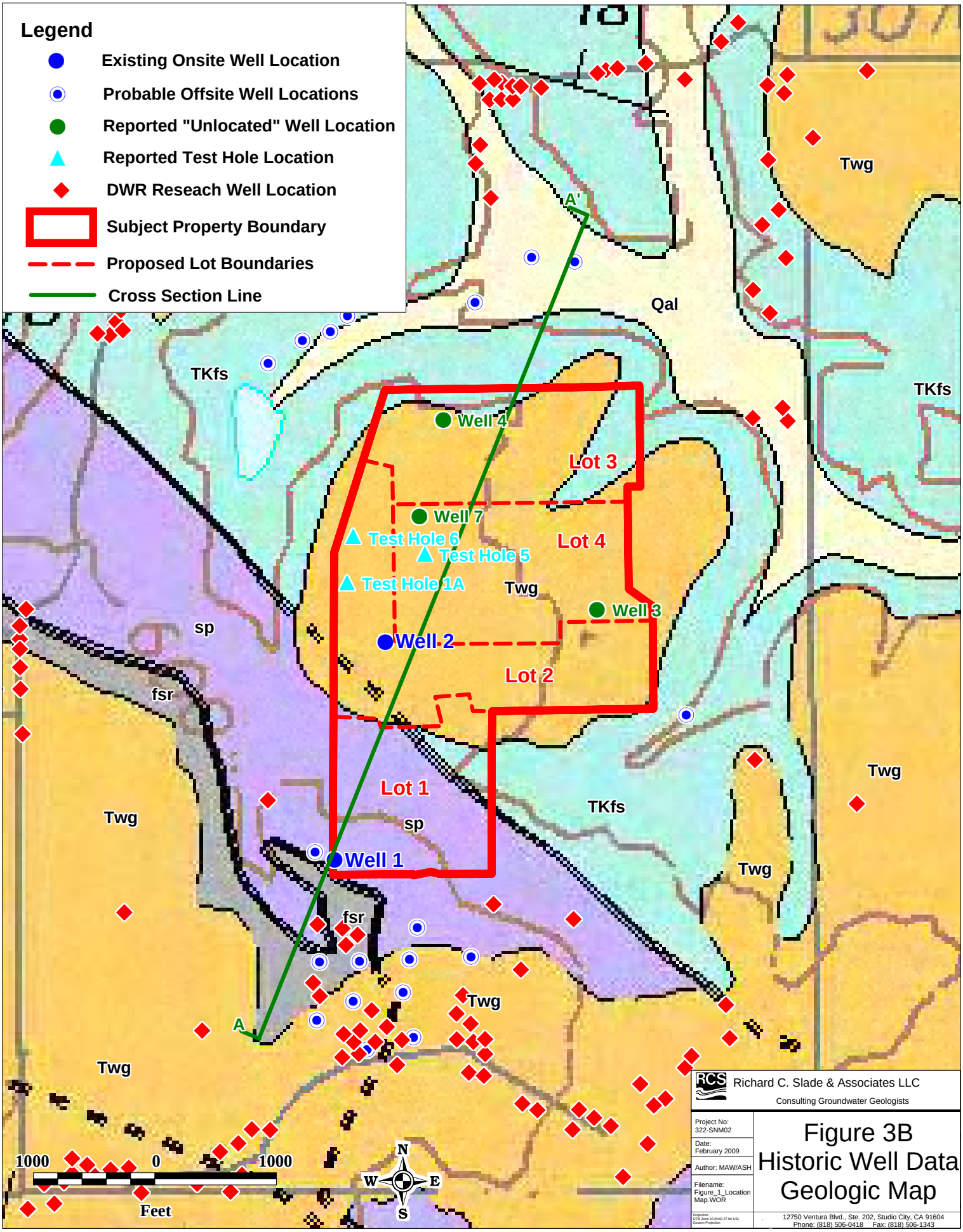

Richard C. Slade & Associates LLC
Consulting Groundwater Geologists

Project No: 322-SNM02
Date: February 2009
Author: MAW/ASH
Filename: Figure_2_Geology Map.WOR
Projection: UTM Zone 10 (NAD 27 for US) Custom Projection

# Figure 2
# Geologic Map

12750 Ventura Blvd., Ste. 202, Studio City, CA 91604
Phone: (818) 506-0418 Fax: (818) 506-1343


Legend
Existing Onsite Well Location
Probable Offsite Well Locations
Reported "Unlocated" Well Location
Reported Test Hole Location
DWR Reseach Well Location
Subject Property Boundary
Proposed Lot Boundaries
GREEN VALLEY CREEK
Well 4
Lot 3
Well 7
Test Hole 6
Test Hole 5
Lot 4
Test Hole 1A
Well 3
Well 2
Lot 2
Lot 1
Well 1
Occidental Sch
HARRISON GRADE ROAD
HARMONY LANE
BONES LANE
DUPONT ROAD
1000 0 1000
Feet
N
W
E
S
Richard C. Slade & Associates LLC
Consulting Groundwater Geologists
Project No: 322-SNM02
Date: February 2009
Author: MAW/ASH
Filename: Figure_1_Location Map.WOR
Figure 3A
Historic Well Data
Topographic Map
12750 Ventura Blvd., Ste. 202, Studio City, CA 91604
Phone: (818) 506-0418 Fax: (818) 506-1343

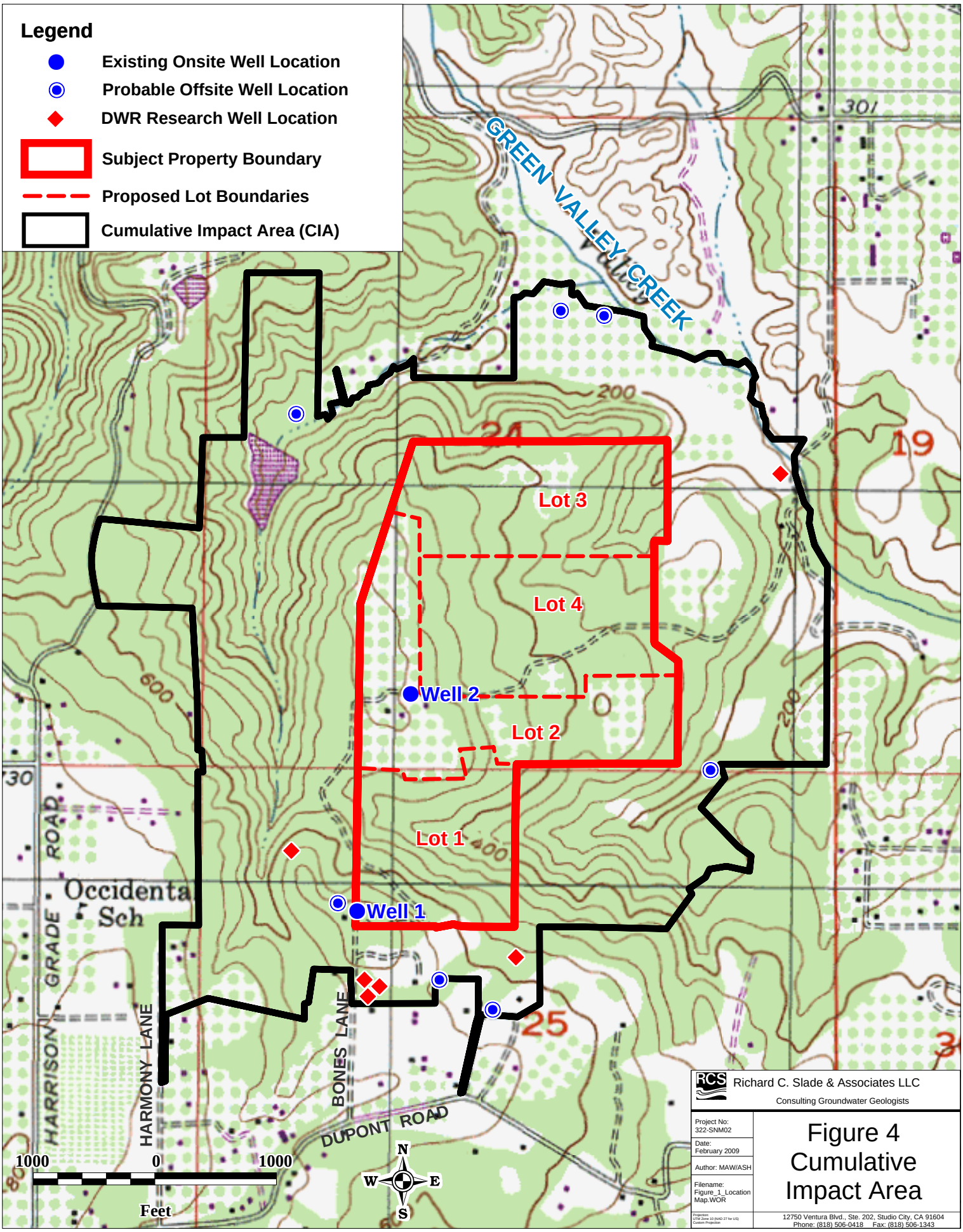



Richard C. Slade & Associates LLC
Consulting Groundwater Geologists

Project No: 322-SNM02
Date: February 2009
Author: MAW/ASH
Filename: Figure_1_Location Map.WOR
Projection: UTM Zone 10 (NAD 27 for US) Custom Projection

# Figure 3B
# Historic Well Data Geologic Map

12750 Ventura Blvd., Ste. 202, Studio City, CA 91604
Phone: (818) 506-0418 Fax: (818) 506-1343

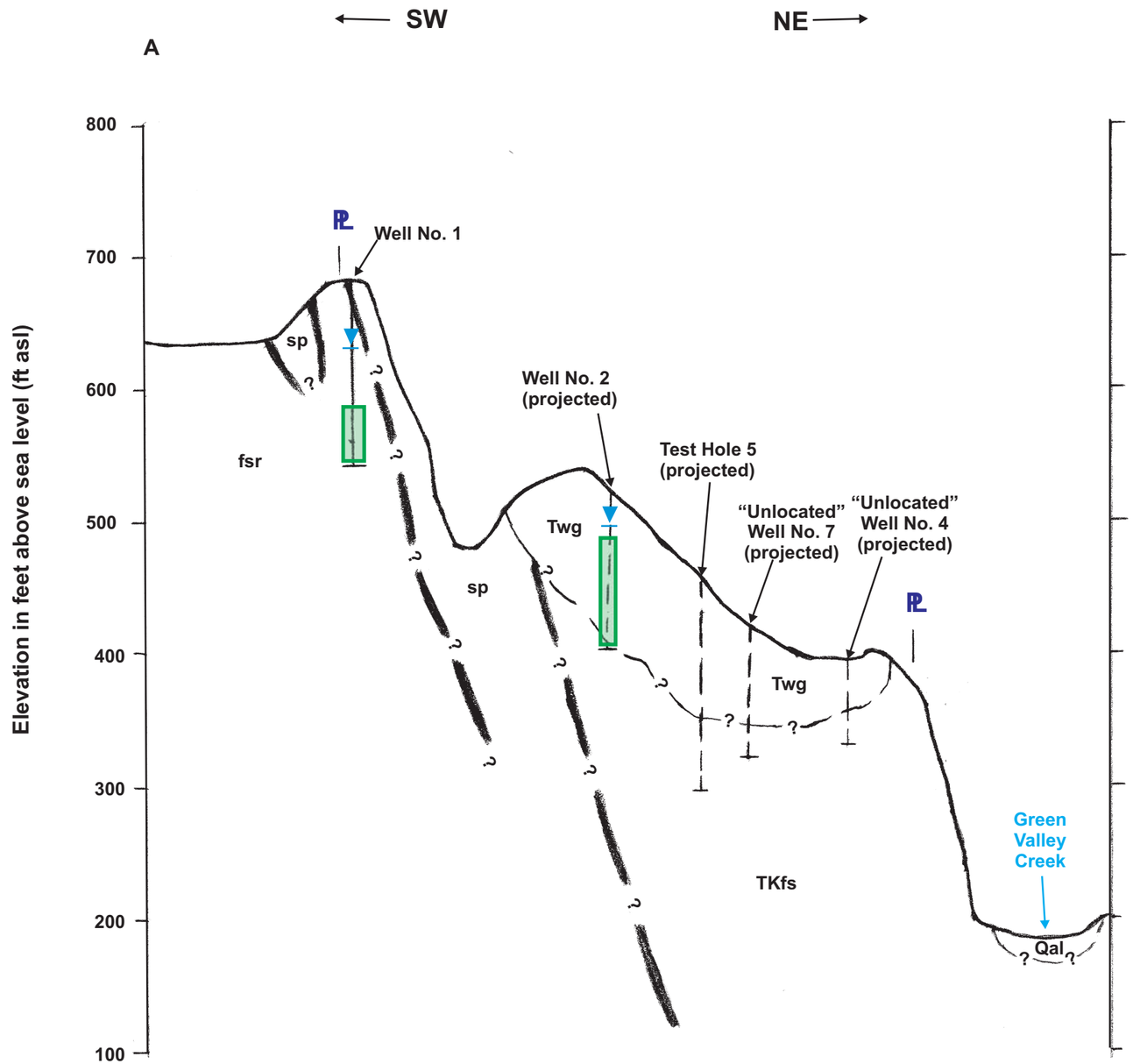



Richard C. Slade & Associates LLC
Consulting Groundwater Geologists

Project No: 322-SNM02
Date: February 2009
Author: MAW/ASH
Filename: Figure_1_Location Map.WOR

# Figure 4 Cumulative Impact Area

12750 Ventura Blvd., Ste. 202, Studio City, CA 91604
Phone: (818) 506-0418 Fax: (818) 506-1343




## Legend

Well Location, Dashed Where Projected

Perforation Interval

Property Line

Approximate Geologic Contact Queried Where Uncertain

Approximate Fault Contact Queried Where Uncertain

Qa - alluvium
Twg - Wilson Grove Formation

**Franciscan Complex**
fsr - melange
sp - serpentinite
TKfs - sandstone

Static Water Level September 2006

SCALE

100 ft

1000 ft

Vertical Exaggeration = 10X

RICHARD C. SLADE & ASSOCIATES LLC
CONSULTING GROUNDWATER GEOLOGISTS
12750 Ventura Blvd. Suite 202
Studio City, CA 91604
Phone (818) 506-0418
Fax (818) 506-1343

Figure 5
Geologic Cross Section

Job No. 322-SNM02

February 2009

**RICHARD C. SLADE & ASSOCIATES LLC**
**CONSULTING GROUNDWATER GEOLOGISTS**

# MEMORANDUM

October 7, 2014

**To:** Mr. Geoff Scott
Jackson Family Investments
1000 Alexander Mountain Rd
Geyserville, CA 95441

**FROM:** Anthony Hicke and Richard Slade
Richard C. Slade & Associates, LLC (RCS)

RCS Job No. 213-SNM03

**RE:** Response to Comment Letter from Mr. Robert Curry dated February 3, 2011
Bones Lane Property
Sonoma County, California

Per your request, the following provides our responses to a comment letter you received regarding your Proposed Bones Lane Subdivision. The comment letter was prepared by Mr. Robert Curry, and is dated February 3, 2011. Our responses herein are based on our review of his letter and on our previous work for you in our report titled "Hydrogeologic Assessment, Water Well Feasibility and Siting Project," dated February 2009, Revised September 2010.

It is important to note that throughout our September 2010 report, and as correctly referenced in Mr. Curry's response letter, RCS provided a conservative estimate of groundwater demand for the proposed project at full build-out of 7.2 acre feet per year (AF/yr) for domestic supply purposes. This estimate did not take into account the fact that the onsite residences will use onsite sewage disposal. Essentially, a portion of the groundwater used for domestic purposes will be returned to the ground and allowed to deep percolate to the groundwater. Further, outside landscape irrigation could also return some water back to the aquifer system beneath the project, whenever excess irrigation water percolates below the plant root zone. The annual volume of such return flows to the aquifer system is difficult to estimate, but could range from 30% to 50% of the estimated annual groundwater demand for the project at full build-out (this would equate to 2.1 AF/yr to 3.6 AF/yr of possible return flow, respectively). Therefore, it is important to remember that the 7.2 AF/yr groundwater demand estimate is a conservative estimate, and the net groundwater consumption for the proposed project at full build-out should be considerably less because of this return flow. More importantly, this annual groundwater demand of 7.2 AF represents only a fraction of the average annual volume of groundwater recharge estimated to occur at the subject property, and even a smaller fraction of the groundwater in storage in the aquifer system beneath the property.

12750 VENTURA BLVD., SUITE 202, STUDIO City, CALIFORNIA 91604
PHONE: (818) 506-0418 • FAX: (818) 506-1343; NAPA VALLEY - PHONE: (707) 963-3914

**Attachment I**

Mr. Curry addresses four main topics in his Feb 3, 2011 letter; our responses below follow the same format used in his letter. Each of the underlined headers below is the same as those used by Mr. Curry.

**Impacts on Streamflow**

From Mr. Curry's letter pages 2 and 3:

> *The porous Wilson Grove Formation that underlies some of the proposed parcels does indeed hold recharge water in storage as pointed out by proponents' consultants. The volumetric calculations included in the RCS (Slade) report are conservative and follow professional standards. That report (p. 14, subparagraph d.) estimates potential average annual recharge of 31.5 acre-feet based on an average of 40.9 inches of rainfall onto 187 acres. But only the area actually underlain by the Wilson Grove Formation has a capacity to absorb and store that water. That area is 140 acres. The Slade report calculates that a 50-foot thick caprock of Wilson Grove sandstone could yield about 700 acre-feet of water with a 10% specific yield. This is the amount of water that can be stored and removed by pumping from the sandstone beneath the subject property when the groundwater reservoir is full.*
>
> *But you cannot fill that reservoir. It leaks continuously, and feeds the side streams and main-stem of Green Valley Creek. The springs that emerge along the Green Valley Creek streambanks and hillsides are a manifestation of the continuous drainage from the unconfined porous sandstone. When the perched aquifer is reasonably full after a wet winter, the springs and seeps flow directly into the alluvium and watercourse of Green Valley Creek. As the perched sandstone aquifer drains laterally in the summer and fall, the rate of flow into Green Valley Creek and its tributaries decreases. One must appreciate that there would be no water in the creek in the summer and fall if the adjacent aquifers did not leak. Further, in drought times, there may be no net recharge to the Wilson Grove cap rock system. Without annual recharge, the water table drops and the rate of flow laterally to the creeks diminish. Just because the base of the aquifer is topographically above Green Valley Creek watercourse does not mean that they are not interconnected and that the Creek is not dependent on seasonal storage in the groundwater reservoirs that are topographically higher than the streambed. Water seeks the lowest point in the watershed.*

RCS Response:

Mr. Curry incorrectly states that "The Slade report calculates that a 50-foot thick caprock of Wilson Grove sandstone could yield about 700 acre-feet of water with a 10% specific yield…but you cannot fill that reservoir." Our report estimates the thickness of Wilson Grove Formation beneath the subject property ranges from ±115 ft at its thickest point, to perhaps ±50 ft at the edges of the formation. Importantly, a static water level depth of 25 ft below ground surface (bgs) was measured in September 2006 in the onsite well (Well No. 2). Based on that water level depth, a saturated thickness of Wilson Grove Formation of 90 ft was calculated to exist. To present a conservative estimate, and to simplify our calculations, we then estimated that only 50 ft of the Wilson Grove Formation was saturated. Based on the static water level measured in 2006, the "reservoir" (as it was referred to by Mr. Curry in his letter) was indeed "full". It is also noteworthy to mention that in September 2011 (5 years after our initial static water level measurement), at the time of our pumping test of Well No. 2, a static water level depth of 25 ft bgs was again measured in Well No. 2. This Wilson Grove Formation aquifer (or "reservoir" according to Mr. Curry) does indeed have the ability to be recharged and become "full".

To our knowledge, Mr. Curry has not shown on a map, or provided a verbal description, or otherwise, the locations of any springs that could potentially flow into Green Valley Creek. Further, Mr. Curry states on pages 2 and 3 of his letter that "the springs and seeps flow directly into the alluvium and watercourse of Green Valley Creek." As shown on Figure 3B-Geologic Map in our September 2010 report, the alluvium of Green Valley Creek is not in direct contact with the isolated Wilson Grove Formation at any location. The assertion that spring flow possibly emanating from the isolated Wilson Grove Formation that underlies the subject property continues to flow downslope into Green Valley Creek, particularly during the summer months of the year, is spurious.

Finally Mr. Curry states that "…in drought times, there may be no net recharge to the Wilson Grove caprock system." This is not consistent with our analysis; our conservative estimates show that recharge will exceed groundwater demand even in drought years (see discussion below). Even Mr. Curry's own estimates of "worst case" drought year recharge <u>exceed</u> the estimated groundwater demand of 7.2 AF/yr for the proposed project at full build-out.[1]

## <u>Drought Impacts</u>

From Mr. Curry's letter pages 3 and 4:

> *Because 90% of this proposed development area is entirely within a Sonoma County Class 4 Water Availability area (and the remainder in Class 3 "Marginal Water Availability Area"), Slade has evaluated impacts of drought. However, the values chosen to represent drought conditions are not at all realistic. We are told that drought year conditions will be characterized by 66 percent of average year rainfall. This is very unrealistic. First, that value is very high. Rather than average conditions when there were droughts elsewhere in California, we should look at*

[1] On Page 4 of his February 3, 2011 letter, Mr. Curry estimated 10 AF/yr of "worst-case" drought year recharge, which is higher than the conservatively estimated project demand of 7.2 AF/yr, assuming full project build out. The text from Mr. Curry's letter is also re-printed on Page 4 of this Memorandum.

*the local Sonoma County drought record. Using the Graton station chosen in the Slade report, the recorded 13.51 inches of annual rainfall recorded in 1976 represents the lowest calendar-year value in that short 1949 - to – 2006 record. The actual 1976-77 water-year total (October through September) was even less (12.71 inches). But aquifers hold more than a single years' infiltration, so the standard analysis tool is a 3-year cumulative water-year departure curve.*

*One could argue that the 1976-77 value for rainfall is an extreme value and that some more frequent drought recurrence interval would be more realistic. The Slade report references a general document on drought conditions in California to suggest that 1987-1992 as well as 1976-77 should be averaged for drought rainfall evaluation. Of course Sonoma County is very different than Orange County and you cannot average local rain with that from the southern part of the state. Thus, the chosen value of 37.5 inches average annual rainfall based on the record at Graton averaged for years of drought elsewhere is invalid. Slade averaged the 33 percent of normal that is represented by the 13.5 inches of rainfall at Graton in 1976 with 92 percent of normal for the 1987-1992 period to give a combined average of 66 percent of normal as constituting limiting Sonoma County drought.*

*We have reviewed the longer records available for Santa Rosa with 100+ years of data (http://www.krisweb.com/krisrussian/krisdb/webbuilder/selecttopicsantarosa.htm. In fact, Graton's 1976-77 water year value of 12.71 inches is not an extreme value. At Santa Rosa the 1977 water year value of 11.62 inches compares closely with that for the 1920 water year (12.83 inches) and 1924 value (13.94 inches). Thus, in the last hundred years, we may expect that rainfall at Graton may similarly have been within a few percent of its recorded 1977 water year value of 12.71 inches several times. This 1977 value then is a reasonable number to use for drought period modeling at the Bones Lane site (Figure 1 displays the Santa Rosa data).*

*The bottom line is that the drought condition rainfall at the proposed subdivision site is not sufficient to recharge the 7.2 acre-feet of annual demand modeled by Slade for the three parcels that will demand new wells. Instead of the 20.82 ac-feet per year recharge that Slade estimates as potentially available (66% of 31.5 ac-ft average), we have only a little over 10 ac-ft total potential annual recharge (33% of 31.5 ac-ft) to sustain the aquifer, maintain streamflow and supply the 4 parcels. Such a marginal amount of recharge over 187 acres of heterogeneous sloping terrain would not be expected to support proposed development without severe dewatering of the aquifer. The value would be further reduced because only 140 acres support recharge to the aquifer. This theoretical 10 acre-feet of recharge is substantially less than the 124 acre-feet per year that Ms.Swedenborg quoted. Drought conditions can be expected to affect all groundwater users in the Cumulative Impact Area and reduce underflow to Green Valley Creek to the point of habitat loss.*

RCS Response:

Mr. Curry appears to have misunderstood the precipitation data used for our analysis. As clearly stated in our text, we used data from the Western Regional Climate Center (WRCC, www.wrcc.dir.edu) for the Graton Gage, Gage No. 043578. Importantly, at the time of the writing of our report, the available rainfall data for this gage ranged in date from 1926 through December 2007, and not 1949 through 2006 as he reports in his letter. Further, the total rainfall for the 1976-77 water year (October 1976 through September 1977) at the Graton Gage No. 043578 was 14.71 inches, not 12.71 inches as reported in his letter. For this Memorandum, we have revisited the WRCC and downloaded the updated data record. Data are now available beginning in January 1946 through August 2014 (only September 2014 data are missing for the 2013-14 water year). Total rainfall at the Graton Gage during the current statewide drought were low, but were still much higher than the 1976-77 drought water year. Rainfall totals at this Graton Gage for the 2011-12, 2012-13, and 2013-14 water years were 28.9 in, 36.5 in, and 21.7 in, respectively. These totals are roughly 50% to 90% of the average annual rainfall at the Graton Gage, higher than the 33% of average rainfall that Mr. Curry asserts as being a representative drought year consideration.

We choose to use the Graton Gage data from WRCC because its database was relatively current, because the rain gage is question is located near the project site (only 1.7 miles east of the subject property), and because the WRCC flags data for months in which the raingage may not have been working correctly; other data sources do not consistently show such missing data periods. However, for this current Memorandum, we downloaded an additional data set for the Graton area, as discussed below.

These additional rainfall data are available from the California Department of Water Resources (DWR) for Station No. F90 3577 00, also located in Graton. Those data range in date from 1897 through 1999. For that entire 102-year period, 14.47 inches of rainfall is the lowest rainfall on record (it occurred in water year 1976-77). No other rainfall year comes close to that low total. In fact, the 1976-77 water year is the only year in that entire 102-year record in which the total annual rainfall was below 19 inches. Further, only 4 years in that data record (including the 1976-77 water year) show a rainfall total less than 22 inches.

Our previous analysis included a discussion of a representative drought period as recognized by the DWR. Then using those date ranges reported by DWR, we calculated an “average drought”. At no point in our report were data from Orange County, California used as part of our analysis.

To help assess possible trends in annual rainfall over time, RCS created Figure 1, “Cumulative Rainfall Departure Curves” for this Memorandum, using the most currently-available rainfall data from the WRCC Graton Gage data set. Again, as of the date of this Memorandum, rainfall data are available for the Graton Gage from January 1926 through August 2014. Two curves are presented thereon: one cumulative departure curve created using a standard method typically used by RCS, using annual rainfall totals (January through December); and a second cumulative departure curve created using the method discussed in the footnote at the bottom of page 4 of Mr. Curry’s letter (although that footnote description was not entirely clear), using weighted average water year data. By the standard manner in which the data points for these curves have been calculated and plotted, rainfall trends over time are discernible as follows:

a. Whenever the curve ascends to the right, a wet period has occurred; examples of wet periods are 1979-1984 and 1994-2002. In such a wet period, the annual rainfall during each year in the period has generally been at or above the average annual rainfall total for this gage.

b. Whenever the curve descends to the right (e.g., from 1974-1977, and 1987-1992), a dry period or drought has occurred. That is, annual rainfall totals in each year of this period tended to be at or below the long-term average annual rainfall for the gage.

Important to note on Figure 1 are: both curves are quite similar, even though they were generated using slightly different methods; and both curves are descending to the right in 1974-1977 and in 1987-1992. Therefore, the representative average drought years used in our original analysis in our 2010 report are still reasonable representations of drought periods in the vicinity of the proposed project.

Mr. Curry then, using his assumption that only 33% of the average annual rainfall is an appropriate estimate of rainfall recharge during a "maximum" drought year, estimates that "A little over 10 AF total potential annual recharge" would occur. It is important to note that Mr. Curry's own "worst case scenario" estimate of 10 AF of annual recharge still would be <u>greater</u> than the estimated groundwater demand for the project at full build-out of (7.2 AF/yr)[2]. Hence, during such a "worst-case" drought year scenario, the rainfall recharge to the aquifer system would still <u>exceed</u> the estimated annual groundwater demand. As a result, no "severe dewatering of the aquifer" as described by Mr. Curry in page 4 of his letter would occur due to the proposed project.

Further, as stated on pages 13 and 14 of our September 2010 report, wherein we presented our very conservative analysis, our deep percolation estimates assumed that only 5% of the annual rainfall that falls on the property would be available to deep percolate and recharge the local aquifer system. In actuality, some references estimate 15% to as much as 40% of the annual rainfall that falls on sediments similar to those of the Wilson Grove Formation may be available to deep percolate; recall that a majority of the property is underlain by the sandy Wilson Grove Formation. Hence, the "maximum" drought year recharge could actually be on the order of 20 AF to 30 AF per year, not 10 AF as suggested by Mr. Curry. Regardless, these drought-year recharge estimates exceed the conservative annual groundwater demand for the project of 7.2 AF at full build-out.

To expand on our discussion of "maximum" drought year, we can compare the estimated groundwater demand within the cumulative impact area (CIA) to the estimated groundwater recharge that may occur during a "maximum" drought year. As shown on Table 1 (on page 21), of our September 2010 report (a copy of that p. 21 is appended to this Memorandum), our conservative estimate of groundwater recharge within the CIA is 98.3 AF/yr. The estimate of the "current" annual CIA demand shown on Table 1 is 20.1 AF, plus the 7.2 AF estimated for the proposed project, for a total CIA demand of 27.3 AF/yr. Assuming a "maximum" drought year occurs, and groundwater percolation is only 33% of the annual average rainfall in the "maximum" drought year, then the "maximum drought year recharge within the CIA could be 32.4 AF (this is equal to 33% of the 98.3 AF average annual CIA recharge shown on Table 1).

[2] On Page 4 of his February 3, 2011 letter, Mr. Curry estimated 10 AF/yr of "worst-case" drought year recharge, which is higher than the conservatively estimated project demand of 7.2 AF/yr, assuming full project build out.

Hence, in a "maximum" drought year, the recharge within the CIA would exceed the sum of the "current" CIA groundwater demand and the conservatively estimated groundwater demand for this project at full build-out (recall that the 7.2 AF demand estimate for the project assumes full build-out, which may not occur, and also assumes that there are no return flows to the aquifer system from the onsite septic system as discussed on page 1 of this document).

Also shown in our September 2010 report is an estimate of the future possible increase in groundwater demand within the CIA based on the future allowable zoning of the CIA parcels. As discussed in that 2010 report, assuming that every parcel within the CIA is subdivided to the maximum allowable extent under current zoning, and each of those parcels is developed with a single-family residence, a secondary residence and a guest house, the total possible future demand of the CIA could be as great as 41.1 AF/yr (see Table 1 from our 2010 report, attached). It should be noted that neither RCS nor our client is aware of any proposed offsite development projects within the CIA, and therefore, our analysis of the potential future groundwater demand within the CIA is completely speculative; additional development of the offsite CIA parcels may never occur. This potential future groundwater demand for the entire CIA (41.1 AF/yr, if maximum development were ever to occur) would exceed the "maximum" drought year recharge within the CIA of 32.4 AF/yr (discussed above) by 8.7 AF/yr. However, as shown on Table 1, a conservative estimate of groundwater in storage in the entire CIA is shown to be 1,138 AF. Hence, there is more than sufficient groundwater in storage within the CIA over the long term to accommodate the 8.7 AF/yr recharge "deficiency", over a few years, should full development of the CIA ever occur. Remember, the 41.1 AF/yr demand estimate is highly speculative, as it assumes subdivision and complete development of every parcel within the CIA that is allowable under current County zoning in the area.

Mr. Curry ends this section of his letter with the comment that "drought conditions can be expected to affect all groundwater users in the Cumulative Impact Area and reduce underflow to Green Valley Creek to the point of habitat loss". This statement is not applicable to this discussion of the proposed development. No significant or measurable "underflow" exists between the isolated Wilson Grove Formation beneath the subject property and Green Valley Creek, due to geologic isolation of the Wilson Grove Formation and differences in elevation between the outcrop area of the formation and the creek, as discussed on pages 20 and 21 of our 2010 report. Extraction of groundwater at the rates and volumes proposed for the project, even at full buildout, from the isolated aquifer beneath the subject property will not affect Green Valley Creek in times of drought or otherwise.

**<u>Infiltration and Septic Suitability</u>**

From Mr. Curry's letter pages 4 and 5:

> *I have been provided with the Sonoma County PRMD percolation testing file for the parcel and it raises substantial issues that affect water availability for the Class 4 water constraint area. Although the percolation testing submitted for the Bones Lane subdivision is incomplete and poorly documented, there is enough information to establish that there are severe constraints on septic disposal. The existing residence is noted in the PRMD files to have had a failing septic system in 2002 and that was again permitted for repair in 2007. The percolation test*

*results for 1997 (pre-perc) and 2007 both indicate severe constraints on infiltration into the soils developed on the Wilson Grove Formation aquifer. The percolation test results of 30-100 minutes per inch are interpreted to require linear filled soil or mound septic systems. As the PRMD staff note, this kind of a septic system has to be located on gently-sloping ground (<12.5°) and have control of tree-roots in a currently-forested environment. For an earth-fill surface septic, there must be a 10-foot setback from trees and for a mound system all trees must be prevented from growing where roots may reduce percolation from the drain field.*

*The 2007 Michael Dwyer Geologic Feasibility Study accurately describes the mapped soil associations and site constraints. As with much of the Wilson Grove Formation in southern Sonoma County on gently-sloping land, we are dealing with soils mapped as Gold ridge fine sandy loam and Josephine loams over most of the potential development sites. These have moderate to high erosion potentials and severe leach field constraints. This explains the extremely slow percolation rates of > 100 minutes per inch and the > 65% silt and clay content reported for the samples submitted from the percolation testing sites.*

*With such constraints on percolation, we can expect that the same values characterize rainfall infiltration and thus groundwater recharge. Richard Slade's hydrologist has used a value of 5% for rainfall that can ultimately percolate into deep groundwater. In fact that value, which would be conservative over most of California, may be realistic at the Bones Lane site. Measured percolation rates at 24-36" depth averaged about 57 minutes per inch and sometimes exceeded 120 minutes per inch, which is about the limit of time one can stand around watching water in a hole in the ground. High-intensity rainfall events evidently generate surface runoff based on gully erosion reported on side slopes and headwater rills. That runoff represents water that could not infiltrate to the groundwater. Past agricultural uses of the site for vineyards has necessitated construction of extensive surface water storage reservoirs. This suggests limited available water for the existing well and vineyards and also represents reservoir area where infiltration cannot occur. The limited percolation rates measured for septic suitability studies and the record of septic system failure at the existing residence suggest need for monitored pump testing to establish adequacy of available water.*

RCS Response:

Mr. Curry correctly states that our estimate that 5% of rainfall falling on the subject property will deep percolate is a conservative estimate.

Also, as stated on page 2 of our 2010 report, and as reported by the property owner, the existing onsite wells are not planned to be used for vineyard irrigation in the future.

In regard to the final sentence in Mr. Curry's text shown above (from page 5 of his letter), a pumping test in Well No. 2 was performed in September 2011 that conformed to the Sonoma

County "Dry Weather Testing" requirements. Details for the test were described in our November 8, 2013 Memo titled "Summary of Aquifer Testing, Onsite Water Well No. 2, Bones Lane Property, Sonoma County, California". For that test, Well No. 2 was pumped at a constant rate of 9.3 gpm for 72 continuous hours. Test data revealed a relatively stable water level in the well at the end of the pumping period. Water levels in the well recovered to a level equal to 98% of the drawdown observed during the pumping period. Based on the results of the pumping test, it was and is our opinion that Well No. 2 could be operated under normal conditions at a rate of 9 gpm.

The water use volume for the project was previously estimated to be approximately 7.2 acre-feet per year (AF/yr) at full build-out. This volume would be equivalent to 8.8 gpm for one well on a pumping operational basis of 12 hours per day, every day (50% operational pumping basis). For the subject pumping test, Well No. 2 was pumped at a constant rate of 9.3 gpm for 72 continuous hours. Based on the pumping test data, Well No. 2 can pump at a rate sufficient to meet the entire demand of the proposed project at full build out.

**Reservoir Impacts**

From Mr. Curry's letter pages 5 and 6:

> *There are two or more on-site reservoirs that I see on aerial photos. The largest, along the western margin of Parcel 2, appears to encompass about 60,000 square feet and is constructed at a highpoint on the parcel. It is enclosed by a full berm and appears to be fed by a pipeline and pump from the east side of the reservoir. Depending upon the depth of water in the reservoir, it may hold from about 4 acre-feet (if 3 feet deep) to as much as 19 acre-feet if completely full. I am unable to establish what the source of water is to fill this reservoir, but it does not receive surface sheet-flow unless that is captured elsewhere on the parcels and pumped into the reservoir.*
>
> *The significance of the reservoir(s) is that they represent impermeable developments that impair recharge and they also require some source of water in addition to rainfall to fill them. Both of these add demand to the water use on the site in addition to the 7.2 acre-feet modeled by Slade. If maintained at three feet depth by pumping from groundwater or capture of runoff elsewhere and pumping up to the site, then the demand becomes 11 + acre-feet per year for the subdivision.*

RCS Response:

The onsite ponds represent an existing condition and are not a part of this project. Any effect that the ponds might have on groundwater percolation at the subject property has essentially been accounted for by the conservative estimate of rainfall recharge used in our analysis. As stated above, deep percolation estimates throughout our report very conservatively assumed that only 5% of the annual rainfall that falls on the property is available to deep percolate and recharge the aquifer system beneath the site. However, some references estimate 15% to as much as 40% of the annual rainfall that falls on sediments similar to those of the Wilson Grove

Formation will be available to deep percolate. Hence, the estimate of rainfall recharge used in our report is 3 times to 8 times smaller than may actually occur on a majority of the subject property. Therefore, by using such a conservative estimate of rainfall recharge for the subject property, any small effect that the ponds may have on deep percolation of groundwater at the subject property has, in essence, been included in our analysis.

Mr. Curry asserts the onsite ponds "require some source of water in addition to rain to fill them". As reported by the property owner, no groundwater pumped from onsite wells is used to fill the onsite ponds.

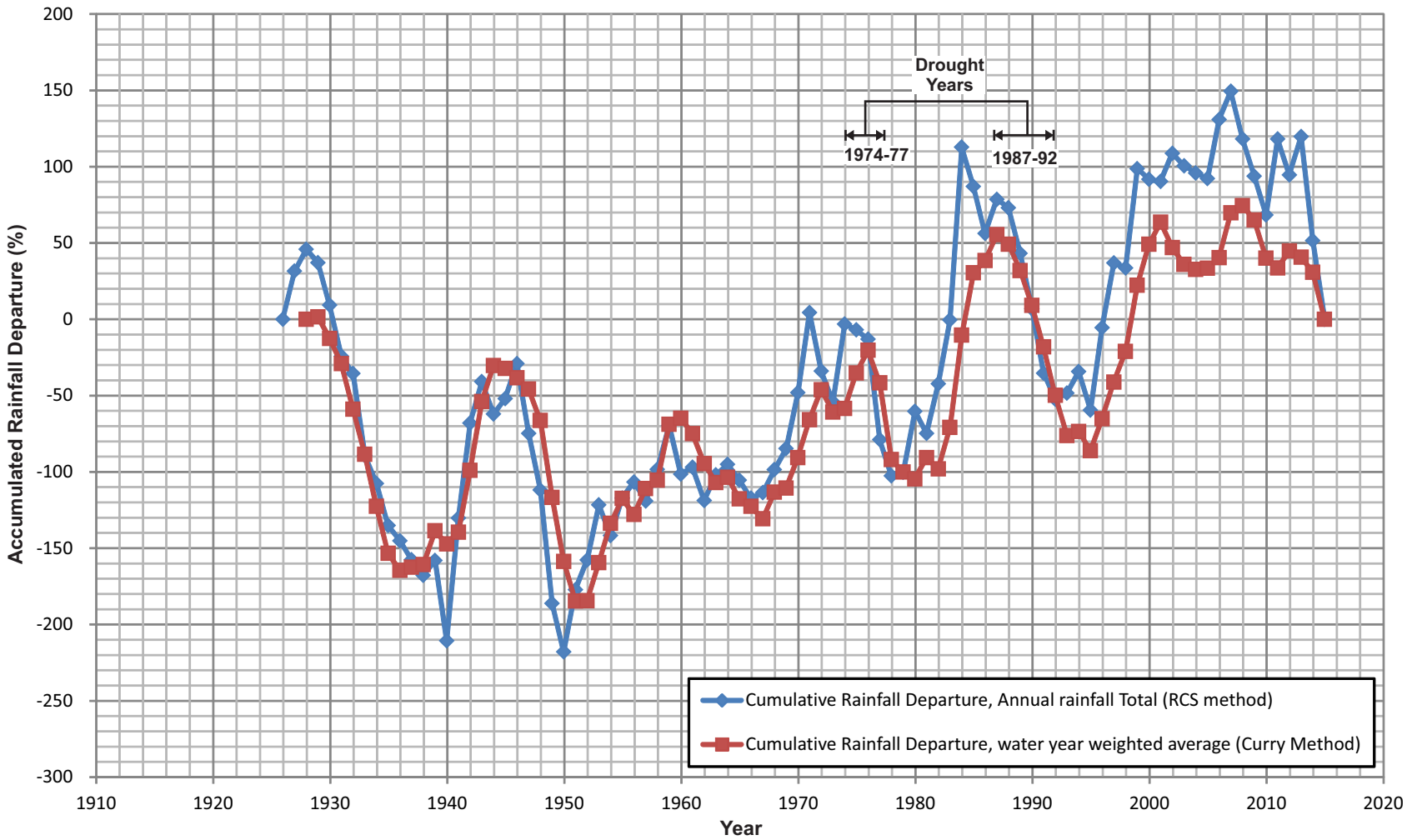
Further, as stated above, the conservative estimate of groundwater demand for the proposed project at full build out is estimated to be 7.2 AF/yr for domestic supply purposes, and not "11+ acre-feet per year" as asserted by Mr. Curry on page 6 of his letter (reprinted above).

## Conclusions

Our September 2010 report presented a very conservative analysis of the groundwater availability beneath the subject property. Below is a summary of the key conservative elements of our analysis:

1. The estimated project groundwater demand (7.2 AF/yr) assumes full build-out of the project; the goal of this project is to subdivide the subject property. It is entirely possible that development of each of the four parcels at the subject property will not include a second dwelling unit and a guesthouse. Therefore, the future groundwater demand of the four subdivided parcels could be much less than 7.2 AF /yr.
2. The groundwater demand estimate does not include return flows to the aquifer system from onsite septic systems. Hence the project demand will likely be much less than the 7.2 AF/yr used in our analyses. Such return flows could offset the groundwater demand at the subject property by as much as 30% to 50%, resulting in an actual groundwater demand at the subject property of 5.1 AF/yr to 3.6 AF/yr, respectively.
3. Estimates of groundwater recharge from deep percolation of rainfall used in our analysis assume 5% of the annual rainfall that falls on the property is available to deep percolate and recharge the aquifer system, but some references estimate 15% to as much as 40% of the annual rainfall that falls on the property may deep percolate into the main portion of the property that is underlain by the Wilson Grove Formation.
4. A 72-hour constant rate pumping test was performed in Well No. 2 at a rate of 9.3 gpm in September 2011. The results of the pumping test show that Well No. 2 is capable of supplying the groundwater demands for the entire project at full buildout.

Even when applying the conservative assumptions listed above to our analyses, the 7.2 AF/yr of groundwater required for the project at full build-out is less than: the average annual recharge at the property; the average drought year recharge at the property; and the "maximum" drought year recharge at the property. This proposed subdivision therefore has no potential for significant impact to local water supplies, and further evaluation of possible impacts is not necessary.





RICHARD C. SLADE & ASSOCIATES LLC
CONSULTING GROUNDWATER GEOLOGISTS
12750 Ventura Blvd., Suite 202
Studio City, CA 91604
Studio City Phone (818) 506-0418
Napa Phone (707) 963-3914
Fax (818) 506-1343


**Figure 1**
**Cumulative Rainfall Departure Curves**
**WRCC Graton Gage**

**Job No. 213-SNM03** **October 2014**

This page is an excerpt from our September 2010 report

much higher than the elevation of this creek (See Figure 5). Further, onsite wells (existing and future) are geologically isolated from the Green Valley Creek, and will not extract groundwater from the alluvium along the creek itself.

**TABLE 1 – SUMMARY OF KEY GROUNDWATER ISSUES**

| Estimated Groundwater Parameter | Subject Property | Total Cumulative Impact Area [including subject property] |
|---|---|---|
| Groundwater Demand | 1.5 AF pumped from existing Well No. 2 (estimate) | 1.5 AF (existing onsite) + 20.1 AF (CIA) = 21.6 AF |
| | 5.7 AF additional proposed for the 4 proposed new Lots at maximum buildout | 7.2 AF (current + proposed new Lots)<br>+<br>20.1 AF (current CIA)<br>+<br>14.1 AF (estimated future increase) |
| | Total = 7.2 AF | Total = ± 41.4AF |
| Total Annual Average Precipitation Volume | 3.4 ft x 187 acres = 636 AF | 3.4 ft x 578 acres= 1,965 AF |
| Total Annual Drought Year Precipitation Volume | 2.25 ft x 187 acres = 420 AF | 2.25 ft x 578 acres= 1,300 AF |
| Groundwater in Storage | 747 AF | 1,138 AF |
| Average Annual Recharge | 31.5 AF | 98.3 AF |
| Drought Year Annual Recharge | 20.8 AF | 64.9 AF |

July 13, 2016

## MEMORANDUM

**To:** Sandi Potter, Sonoma County PRMD

**From:** Chad N Taylor, PG, CHG, Senior Hydrogeologist and Iris Priestaf, PhD, President

**Re:** Preliminary Peer Review of Previously Completed Groundwater Availability Assessments for Proposed 12942 Bones Lane Project, Sonoma County

The Sonoma County Planning Commission and Permit and Resource Management Department (PRMD) are in the process of reviewing a proposed Minor Subdivision of 189 acres at 12942 Bones Lane in Occidental. The proposed Minor Subdivision would create four parcels of 40, 60, 42, and 47 acres in size. The subdivision was approved by the Sonoma County Project Review and Advisory Committee in June of 2009, but this decision was later appealed to the Planning Commission. The appeal was filed primarily on the basis of disagreements relating to water availability for the subdivision.

A hydrogeologic assessment finding adequate groundwater supply availability was completed for the proposed subdivision by Richard Slade & Associates. However, opponents to the project raised questions relating to the hydrogeologic assessment, prompting the appeal later in June 2009. Since the time of the appeal, the project proponent has submitted additional hydrogeologic reports prepared by RCS and by Stillwater Sciences, and the opponents to the project have submitted a contradicting report prepared by Robert Curry, PhD, Professional Geologist.

### WATER SUPPLY SUFFICIENTLY AND POTENTIAL IMPACT QUESTIONS

Most of the property in question is within a Sonoma County designated Class 4 water availability area. In Class 4 areas, groundwater resources are categorized as low or highly variable. Given these conditions, there are important questions to be addressed when assessing the sufficiency and potential impacts related to supplying groundwater to the proposed subdivision:

- Can the groundwater source satisfy the annual and peak demands associated with the proposed project?
- Is the supply source consistent and available throughout the dry summer months and in drought years?
- What are the direct impacts from additional groundwater production on other existing wells and nearby surface water bodies? Direct impacts in this case would be

measureable reductions in groundwater elevations in wells or flow in surface water bodies.

- What are the indirect impacts from additional groundwater production on the groundwater system as a whole? Indirect impacts may include reductions of groundwater elevations and movement patterns that would reduce flow from recharge areas to discharge areas.

## PEER REVIEW DISCUSSION

Todd Groundwater has performed a peer review of the previously prepared hydrogeologic reports by RCS, Stillwater Sciences, and Robert Curry on behalf of PRMD. The documents that were submitted to Todd Groundwater for review are:

- Richard C. Slade & Associates, LLC, February 2009, *Hydrogeologic Assessment, Water Well Feasibility and Siting Project, 12942 Bones, Vicinity Occidental, Sonoma County, California, Prepared for Jackson Family Enterprises.*
- Richard C. Slade & Associates, LLC, June 15, 2009, Revised October 2009, *Response to Jaffe Email dated 6/12/09, Proposed Bones Lane Subdivision, Vicinity Occidental, Sonoma County, California.*
- Richard C. Slade & Associates, LLC, October 13, 2009 *Revision to RCS-Prepared Report: "Hydrogeologic Assessment, Water Well Feasibility and Siting Project, 12942 Bones Lane, Vicinity Occidental, Sonoma County, California", Dated February 2009.*
- Richard C. Slade & Associates, LLC, February 2010, *Revision to RCS-Prepared Report: "Hydrogeologic Assessment, Water Well Feasibility and Siting Project, 12942 Bones Lane, Vicinity Occidental, Sonoma County, California", Dated February 2009.*
- Sonoma County Planning Commission PRMD, November 4, 2010, *Staff Report, Request for Minor Subdivision of 189 acres creating four parcels, 40, 60, 42, and 47 acres in size, 12942 Bones Lane, Occidental.*
- Robert Curry, PhD, PG, February 3, 2011, *Proposed Subdivision 12942 Bones Lane, Sebastopol, APN 074-030-043.*
- Richard C. Slade & Associates, LLC, November 8, 2013, *Summary of Aquifer Testing, Onsite Water Well No. 2, Bones Lane Property, Sonoma County, California.*
- Stillwater Sciences, December 29, 2013, *Bones Lane Fisheries Assessment.*
- Richard C. Slade & Associates, LLC, October 7, 2014, *Response to Comment Letter from Mr. Robert Curry dated February 3, 2011, Bones Lane Property, Sonoma County, California.*

Todd Groundwater reviewed the documents listed above in light of the questions identified above. These documents provide reasonable estimates of demands associated with the proposed subdivision and discussion of groundwater conditions. However, they do not completely evaluate or address the specific questions listed above. Accordingly, we identified additional items for discussion:

1. Seasonal and monthly distribution of water demand associated with the proposed subdivision.

2. Seasonal and long term trends in groundwater elevations at the property in question and nearby.
3. Potential impacts to existing wells on neighboring properties as a result of increased groundwater pumping from the property in question.
4. Evaluation of the effects of increased groundwater pumping on the water balance for the local groundwater system, including groundwater recharge, discharge, and changes in storage in comparison to no project conditions.
5. Potential seasonal impacts to nearby surface water (i.e., Green Valley Creek) as a result of increased groundwater pumping for the proposed subdivision.

PRMD organized teleconferences with the project proponent team to review the items listed above. These teleconferences focused on thorough evaluation of available information and methods that the project proponent team could employ to address the listed items. The outcomes of these teleconferences are summarized below; the numbers in the following list correspond to the list presented above. Recommendations are summarized in the next section.

1. Monthly water demands for the proposed project are reported to have been prepared by Brelje & Race Consulting Engineers (BRCE). These demand estimates are reported to be lower than those presented by RCS, as BRCE used lower unit demand estimates. While the project proponent may not choose to use these lower total demand estimates, the monthly distribution could be used to estimate monthly demands from the higher RCS estimates. The BRCE demands for each month of the year could be divided by the annual total to calculate monthly percentages, which could then be applied to the RCS annual total.
2. We understand that only limited and sporadic records of groundwater elevations are available for wells on the proposed project property and there are no known records from wells on nearby properties. A groundwater elevation data collection program was initiated for the wells on the proposed project property in 2015, and these recent data are reported to show typical seasonal fluctuations of five to ten feet.
3. A pumping test was completed in 2014 to assess the sufficiency and effects of pumping Well 2 on the project property. During this test RCS monitored groundwater elevations in Well 1, also on the project property. No drawdown from pumping of Well 2 was observed in Well 1 during this test. However, some limited cyclical drawdown was observed in Well 1 that appeared to be from short-duration operation of a different nearby well. RCS believes that this indicates that Wells 1 and 2 are not well connected hydraulically. In addition, the test of Well 2 indicated that all of the project water demands could be met from this well alone. As a result, RCS and the project proponent have indicated that they could supply water to the project from Well 2 alone. However, the project proponent may install new wells on the property to meet demand.
4. A simple water balance that assesses all sources and sinks of water to the area around the proposed project could be described. Such a water balance would discuss assumptions regarding the movement of groundwater between formations

in the vicinity of the proposed project, including the relationship between groundwater and surface water and potential seasonal lags between groundwater pumping and potential effects on the creek. The water balance could address return flows associated with wastewater disposal and irrigation returns as was discussed with the project proponent team. If so, a water balance of this type would show the net water demand instead of the gross water demand, which would illustrate the limited consumptive demand associated with the proposed project.

5. Stillwater Sciences presented an assessment of the potential for increased pumping associated with the project to affect flow in Green Valley Creek. This assessment indicated the presence of listed species in the Green Valley Creek and impaired conditions, with existing low summer period flows. The low summer flows are reportedly the result of altered land uses in the watershed. The assessment compared annual total project water demands to annual total creek discharge as modeled by the Gold Ridge Resource Conservation District. This showed the project demands to be small in comparison to annual discharge. However, no comparison of seasonal or monthly creek discharge to project water demands was presented. We understand that seasonal discharge measurements from Green Valley Creek are not available. However, the original Stillwater assessment used model simulated flows and the Gold Ridge Resource Conservation District model appears to include monthly flow estimates. This assessment presented recommendations for low impact design alternatives and creek restoration associated with the proposed project.

## RECOMMENDATIONS

We recommend that the project proponent team incorporate the information relating to the items discussed above into a revised memoranda addressing water demands, hydrogeologic conditions, and fisheries. These revised documents should present the available information with a focus on the items listed above in the context of California Environmental Quality Assessment (CEQA) impact analyses and mitigations.

Assessment of the project would benefit from a summary memorandum presenting the estimated demands, proposed water supply plans, and hydrogeology relating to the proposed project. This comprehensive hydrogeologic assessment and water supply sufficiency memorandum/report could include the information discussed in items one through four above; monthly water demand estimates, present and assess the available groundwater elevation records, present the results of the pumping test onsite, describe a simple yet comprehensive water balance assessment, and include the information from the previously completed hydrogeologic assessment report. This document should be prepared to consider the effects of increased pumping on existing wells on properties neighboring the proposed project.

The project assessment would also benefit from a revised fisheries study that includes evaluation of potential seasonal effects on Green Valley Creek of increased groundwater pumping, as discussed in item five above. The evaluation of these potential effects should

consider CEQA standards for evaluating the significance of impacts to the creek or the listed species therein, and any mitigation proposed should consider the significance after mitigation occurs.

New wells for the project should be sited to minimize potential impacts and tested to assess potential inter-well interference. Setback distances for new wells from interconnected surface water bodies and existing neighboring wells can be established as conditions for project approval. Each new well should be tested, the potential for inter-well impacts should be assessed, and project wells should be designed and operated to avoid significant impacts to existing neighboring wells.

RICHARD C. SLADE & ASSOCIATES LLC
CONSULTING GROUNDWATER GEOLOGISTS

# MEMORANDUM

August 5, 2016

**TO:** Mr. Geoff Scott
Jackson Family Investments
1000 Alexander Mountain Rd
Geyserville, CA 95441

**CC:** Sandi Potter
Sonoma County PRMD

**FROM:** Anthony Hicke and Richard Slade
Richard C. Slade & Associates, LLC (RCS)

RCS Job No. 213-SNM03

**RE:** Response to Peer Review Letter
Bones Lane Property
Sonoma County, California

**REF:** **"**Preliminary Peer Review of Previously Completed Groundwater Availability Assessments for Proposed 12942 Bones Lane Project, Sonoma County"
Prepared by Todd Groundwater (Todd), Dated July 13, 2016

We have reviewed the above-referenced Peer Review Letter from Todd, and are providing the following responses to the information requested therein.

## Summary of Previously Published Documents

In the referenced letter, a list of the peer-reviewed documents is provided on page 2. That list of documents contains a number of older, revised drafts that were created as part of the Bones Lane Subdivision approval process. The various revisions were created to correct typos and add additional information as requested by Sonoma County PRMD staff, etc. As recommended by Todd, "Assessment of the project would benefit from a summary memorandum presenting the estimated demands, proposed water supply plans, and hydrogeology relating to the proposed project." In response to that recommendation, we are providing, below, a summary of the conclusions from each of the three most-current versions of the three documents produced by RCS for the Bones Lane project.

- ***(RCS 2010)*** *Richard C. Slade & Associates, LLC, February 2009 (revised September 2010), Revision to RCS-Prepared Report: "Hydrogeologic Assessment, Water Well Feasibility and Siting Project, 12942 Bones Lane, Vicinity Occidental, Sonoma County, California"*

As stated in its introduction, the propose of the RCS 2010 report was primarily to assess the hydrogeologic feasibility of locating and constructing new domestic-supply water wells at the Bones Lane property. In addition, the report was structured to address the Sonoma County's General Plan requirements for projects that fall within "Class 4" water availability areas. At the time this project began, these requirements were found in Paragraph RC-3h of the Resource Conservation Element and are currently located in Paragraph WR-2e in the Water Resources Element of the Sonoma County General Plan 2020. To meet those requirements, RCS geologists performed the following tasks: submitted a data/well log research request to the California Department of Water Resources (DWR) for well completion reports (driller's logs) for possible wells that have been historically drilled in the area surrounding the subject site; reviewed the driller's logs obtained from the DWR search; assessed possible long-term impacts to the local groundwater supply that might be caused by new wells on the subject property; estimated possible groundwater recharge rates on the subject property; estimated the volume of groundwater in storage beneath the subject site; and considered the possible impacts, if any, that one or more new onsite water wells might have on runoff in the nearby Green Valley Creek.

Below is a summary of the results of the RCS 2010 work:

A. A majority of the subject property is underlain by the Wilson Grove Formation. The Wilson Grove Formation is a known water-bearing formation within Sonoma County, and wells constructed into the Wilson Grove Formation are typically successful. At the subject property, the Wilson Grove Formation is essentially a "cap rock." That is, it occurs as a relatively thin layer across most of the property, and is directly underlain and surrounded by older rocks of the Franciscan Complex. The remaining small portion of the subject property is also directly underlain by the rocks of the Franciscan Complex. Groundwater availability in the Franciscan Complex is variable, but generally considered poor for water wells.

B. RCS determined that it was feasible to develop groundwater in useable quantities and of acceptable quality from beneath the majority of the subject property (the portion directly underlain by the Wilson Grove Formation). The amounts of groundwater available to a new well drilled into the portions of the property underlain by the Wilson Grove Formation will depend on the total thickness of those geologic materials encountered and the maximum thickness of its saturated zone at any particular drill site.

C. It was also determined to be unlikely that the pumping of existing or future onsite wells constructed into the Wilson Grove Formation would induce any water level drawdown in offsite wells in the future. This opinion was based on: the relative geologic isolation of the Wilson Grove Formation beneath proposed Lots 2, 3 and 4 from offsite wells, and the relatively low rates at which future onsite wells would have to pump to meet the estimated demand of the subject property at full build-out (approximately 2.2 gpm 12 hrs/day, every day).

D. Existing Well No. 1, located on proposed Lot 1, is relatively close (approximately 200 ft) to an existing offsite well to the west owned by others, and is constructed into the same geologic material as this offsite well. While water level drawdown interference

caused by the pumping of Well No. 1 on the offsite well is unlikely due to the low pumping rate required to meet its water demands, future pumping tests should be conducted and the resulting data should be reviewed by a qualified geologist to evaluate possible water level drawdown interference, if any, on that onsite well.

E. At maximum build-out of the proposed Lots, water demand for the project was estimated at the time of the RCS 2010 report to be 7.2 AF/yr. That estimated annual demand was determined at that time to represent less than 1% of the volume of groundwater in storage conservatively estimated to exist beneath the subject property. It was therefore our professional opinion that the future development of the property will have a negligible impact on groundwater in storage.

F. As part of a cumulative impact analysis, a cumulative impact area (CIA) was delineated for the subject property to identify all properties surrounding and contiguous to the subject property. Based on zoning and allowable development on those CIA parcels at the time of our 2010 report (which, to our knowledge, has not changed since issuance of the report), future water demand in the entire CIA (41.4 AF, including the maximum potential future build-out of the proposed project) was estimated to be: approximately 3.6% of the conservatively estimated groundwater in storage within the entire CIA (1,138 AF); and roughly 64% of the drought-year recharge estimated to occur within the entire CIA (64.9 AF).

   Note that the groundwater storage estimates provided in the RCS 2010 report relied on specific yield estimates for the Wilson Grove Formation and Franciscan Complex rocks of 10% and 1%, respectively. In the OEI 2016 report for the Green Valley\Atascadero and Dutch Bill Creek Watersheds, Table 7 therein showed estimates of specific yield of 15% for the Wilson Grove Formation and 2% for the Franciscan Complex rocks; these values are higher than those used by RCS. Hence, the RCS estimates for groundwater in storage are indeed conservative.

- ***(RCS 2013)*** *Richard C. Slade & Associates, LLC, November 8, 2013, "Summary of Aquifer Testing, Onsite Water Well No. 2, Bones Lane Property, Sonoma County, California".*

  In September 2011, a step drawdown test and a 72-hour constant rate pumping test were conducted in onsite Well No. 2. This constant rate testing was performed such that it was consistent with the Sonoma County "Dry Weather Testing:" requirements ("dry weather tests" must be performed between July 15 and October 1 of each year). Below is a summary of the results of that testing:

  A. Well No. 2 was pumped at a constant rate of 9.3 gpm for 72 continuous hours; test data reveal a specific capacity for the well of 0.21 gpm/ft ddn; relatively stable water levels were noted at the end of the pumping period. Further, water levels in the tested well recovered to a level equal to 98% of the drawdown observed during the pumping period. Based on the results of the pumping test, it was the opinion of RCS that Well No. 2 could be operated under normal conditions at a rate of 9 gpm.

  B. The water use volume for the project was originally estimated to be approximately 7.2 acre-feet per year (AF/yr) at full build-out. This calculation included water use

estimates for a main house, a secondary house, and a guest house on each of the four proposed lots. This volume would be equivalent to the pumping of one well at 8.8 gpm on a pumping operational basis of 12 hours per day, every day (50% operational pumping basis), for each year. For the constant rate pumping test, Well No. 2 was pumped at a rate of 9.3 gpm for 72 continuous hours, as noted below. Therefore, the results of that pumping test suggest that Well No. 2 can pump at a rate sufficient to meet the combined water demands of all four of the proposed lots alone, without any other wells being constructed. Note that Well 2 is not proposed to meet the demands of each proposed lot, because each Lot is proposed to have its own dedicated well for water supply purposes.

C. The 72-hour constant rate pumping test was performed at Well No. 2 from September 13 to 16, 2011. Sonoma County Code requires that a 72-hour pumping test be performed at some point between July 15 and October 1 (referred to as the "dry weather pump test period") of each year. Further, the County was notified of the test, and the appropriate forms were submitted to the County by the client and the required fees were paid. Hence, the pumping test conducted at Well No. 2 for the Bones Lane property met the County's dry weather testing requirements.

D. After pumping Well No. 2 at a rate of 9.3 gpm for a continuous period of 72 hours, no definitive water level drawdown attributable to the pumping of Well No. 2 was observed in the water level data collected from existing onsite Well No. 1; this other well was used as an additional water level observation well during the subject pumping test of Well No. 2. Based on these results, it is the opinion of RCS that Well 2 and Well 1 are not in direct hydraulic communication. This also helps to substantiate the assertion that the Wilson Grove Formation is hydraulically isolated from the surrounding Franciscan Complex rocks.

E. Water level fluctuations recorded in Well 1 (the observation well) during the water level monitoring period for the aquifer test were attributed to the pumping of an offsite but nearby neighbor's well. No water level drawdown interference caused by pumping of Well 2 was observed in Well 1 during the constant rate pumping test.

- ***(RCS 2014)*** *Richard C. Slade & Associates, LLC, October 7, 2014, "Response to Comment Letter from Mr. Robert Curry dated February 3, 2011, Bones Lane Property, Sonoma County, California."*

  In this document, RCS responded to specific comments received during the public review period for the project. A majority of the responses in this RCS letter reference the original RCS 2010 report.

**Areas of Discussion from Teleconferences**

In the referenced Todd review letter, specific areas for additional or clarifying information were discussed via teleconferences between Todd, Sonoma County PRMD representatives, RCS, and the property owner. Below, RCS provides a response to each of the categories of discussion; the numbering system is preserved from the second set of bulleted items on page 3 of the Todd letter:

1. Monthly distribution of water demand estimates

   RCS did not present an evaluation of the seasonal/monthly distribution of water demand associated with the subdivision in the RCS 2010 report. As stated on page 2 of the RCS 2010 Update Report, assuming each subdivided lot is fully built-out in accordance with current zoning, each subdivided lot could include "one new single-family residence, a secondary granny unit, and a guest house." Such domestic water use is not expected to vary significantly throughout the year.

   The property owner retained a local consulting engineering company, Brelje & Race Consulting Engineers (BRCE), to develop a schedule of seasonal water demands for the four proposed parcels, assuming full build-out at each parcel. A table to provide that estimate of seasonal variability by BRCE is appended to this document. As shown thereon, estimates of the water demands for the proposed Lots were estimated based on an assumption of full-build-out. That is, the assumption is made that each of the four proposed Lots would be developed with a primary residence, a secondary dwelling unit, a guest house, and attendant landscaping.

   As shown in the table, BRCE estimated the domestic demand (i.e., "indoor demand") for each of the four proposed Lots to be 141,475 gallons per year (gpy). Irrigation demands for each Lot were estimated to be 180,148 gpy. Hence, the total estimated average annual demand for the each new Lot would be 321,623 gpy (just less than 1AF/yr) per new Lot. In total, BRCE estimated an average, combined annual demand for all four of the proposed parcels to be of 3.95 AF/yr (assuming full build-out of each Lot). In the RCS 2010 report, the average annual water demands were estimated to be 7.2 AF/yr, nearly twice the BRCE estimate. Therefore, water demand estimates used in the RCS 2010 report were very conservative. Henceforth, the water demand estimates prepared by BRCE for the project will be considered for the project.

   As shown on the BRCE table, water demands will be higher in the summer months than in the winter months. The minimum monthly demand is estimated to be 0.14 AF in the months of December and January, whereas the maximum monthly demand is shown to be 0.49 AF, and is estimated to occur in the month of July. To meet this estimated maximum monthly demand in the month of July, each onsite well (one well on each new Lot), would need to pump at a rate of about 1.8 gpm; this assumes pumping on a 50% operational basis (12 hours per day, every day for the 31 days in the month of July).

   Recall that for the pumping test of Well No. 2 performed in September 2011, the existing well was pumped at a constant rate of 9.3 gpm for the entire 72 hours of the test; the test was also compliant with Sonoma County's "Dry Weather" well testing requirements (RCS 2013). Following that test, water levels in the well recovered to a level equal to 98% of the drawdown observed during the pumping period (RCS 2013). Hence, it is feasible that wells constructed

into the Wilson Grove Formation at the subject property are capable of pumping at the maximum pumping rate required for each new lot.

2. Groundwater Elevation Records

Water level data have been collected sporadically at the subject property since the construction of the onsite wells in August 1990. Water level data from 1990 were derived from the driller's logs for Well Nos. 1 and 2. Water level data were also collected in these two wells by RCS geologists during a site visit to the property in September 2006. Water level data were also collected in late-2011, when the pumping test of Well No. 2 was performed (this pumping test is described in the referenced RCS November 8, 2013, report titled "Summary of Aquifer Testing, Onsite Water Well No. 2, Bones Lane Property, Sonoma County, California."). In addition, at RCS's recommendation, a water level monitoring program was implemented by the property owner in onsite Well Nos. 1 and 2, beginning in late-September 2014. Figure 1, "Water Level Data, Bones Lane Property," shows a hydrograph of the water level data that has been collected over time in the two existing the onsite wells. As shown on Figure 1, no long-term or continuous decline of water levels over time is evident in either of the Bones Lane property wells.

Water level data from July 2015 show that water levels were actually higher than the earliest available post-well construction water levels collected in August 1990 (as originally reported on the driller's logs for Well Nos. 1 and 2). More recent water level data through June 2016 illustrate the typical cyclical nature of water levels in winter and summer months in the aquifers into which the two onsite wells are perforated. Also recall that Well No. 1 has never been equipped with a pump, and therefore water level data from that well reflect natural changes in the local aquifer(s).

No long-term water level data are available for any wells in the immediate vicinity of the subject property. The nearest well with any-publicly available water level data is available from the Department of Water Resources (DWR's) CASGEM website (http://www.water.ca.gov/groundwater/casgem/). Figure 2, "CASGEM Well Information Summary," provides the water level data for this offsite CASGEM well, as adapted directly from the CASGEM website. This CASGEM well site is located north of Green Valley Creek, and approximately one mile northwest of the northeastern corner of the Bones Lane property. Figure 3, "Geologic Map", also shows the location of this CASGEM well. Based on the reported location of that well, it is constructed into Franciscan Complex rocks; those Franciscan Complex rocks are not in direct hydraulic connection with either Well No. 1 or Well No. 2 at the subject property. Also shown on Figure 3 are the groundwater basin boundaries for the area as defined by DWR. The CASGEM well in question is shown to exist just outside the boundaries of the "Wilson Grove Formation Highlands" groundwater basin. However, the CASGEM data summary presented on Figure 2 suggests that the well is located within that groundwater basin. Notably, the subject property is not located within that groundwater basin.

Water level data graphed on Figure 2 for that well, CASGEM Well ID 384387N1229005W001, are relatively short term, beginning in late-2011 and extending through spring 2016. (Note that these CASGEM data became available after the publication of our 2010 report). The slight decline seen in the static water level in this well is represented on the hydrograph, and very likely this water level decline is in response to the below-average rainfall that the region

has experienced in the last few years; recall that this CASGEM well is constructed into the geologically-old rocks of the Franciscan Complex.

3. Pumping Test Results

   Results of constant rate pumping test performed for the project are summarized under the description of the RCS 2013 pumping test report

4. Hydrogeologic conceptual model and preparation of a water balance

   In general, the groundwater within a majority of the subject property occurs within the pore spaces between the sand grains in the Wilson Grove Formation. Recharge occurs via deep percolation of direct rainfall on and runoff across the property. As discussed in the RCS 2010 report, the Wilson Grove Formation is essentially a "caprock" at the subject property, and is essentially geologically isolated from the underlying Franciscan Formation bedrock. Groundwater in the Franciscan Complex rocks occurs strictly in the fractures and joints created in the rocks over time by geologic processes. The amount of groundwater available to a well in these rocks depends on numerous factors, including the number, size, continuity and degree of interconnection of the joints and fractures encountered at a specific drill site. Fracture systems within the Franciscan Complex are highly sporadic in regard to location, depth and lateral continuity. Hence, it is virtually impossible to predict the location of such water-bearing fractures within these rocks in the subsurface. Hence, groundwater that recharges into the Wilson Grove Formation likely has only a limited opportunity to move into the underlying rocks of the Franciscan Complex. Such movement within and into the Franciscan Complex rocks would only occur if there was direct contact between a fracture system with saturated sediments in the Wilson Grove Formation. Note that the hydraulic conductivity of the Franciscan Complex is quite low, and therefore, groundwater would be expected to move very slowly through the formation (much slower in relative comparison to the Wilson Grove Formation). As an example, OEI 2016 used a hydraulic conductivity of $2.5 \times 10^{-5}$ feet per day (ft/day) for the Franciscan Complex, much lower than the $2.5 \times 10^{-1}$ ft/day assigned to the Wilson Grove Formation (page 54, OEI 2016).

   Each year, as rain falls on the property, recharge to groundwater will occur at the subject property. As described in the RCS 2010 report, Well 2 supplies groundwater to the existing onsite residence and guest house. As shown on Figure 1, water levels at the subject property have been relatively stable over time. In addition, the annual recharge estimated to occur on average at the subject property far exceeds the existing onsite uses at the property (currently, only Well 2 is pumped, and Well 2 only provides water to the existing onsite residence). Hence, the aquifers within the Wilson Grove Formation are likely storing as much water as is possible (when considering average rainfall). The "surplus" groundwater recharge, once the aquifer system is "full," can potentially leave the Wilson Grove Formation in a few ways, as follows:

   i. Evaporation from the vadose zone during the summer months whenever and wherever the water surface is near the ground surface (at the edges of the Wilson Grove Formation, as an example)

ii. Transpiration by trees and other plants within or near the boundaries of the Wilson Grove Formation

iii. Discharge from seeps/springs that could potentially exist at the geologic contact between the Wilson Grove Formation and the underlying Franciscan Complex. Note that the location or existence of any such seeps or springs has not been reported or confirmed on any of the properties surrounding the subject property

iv. Subsurface outflow from the Wilson Grove Formation into the Franciscan Complex, if sufficient fracturing exists into the Franciscan Complex rocks.

Of the mechanisms for water leaving the Wilson Grove Formation at the subject property described above, it is theoretically conceivable that water could reach Green Valley Creek via the mechanism described in (iii) and/or (iv) above. However, for this to occur, water that discharges from the relatively isolated Wilson Grove Formation aquifers would need to: travel distances greater than at least 550 ft to Green Valley Creek; not be captured in one of the offsite, on-stream reservoirs in the vicinity of the subject property on neighboring properties; and not be taken up by any vegetation between the subject property and Green Valley Creek.

To carry this concept further, even if groundwater pumped for the project [assuming the mechanisms under points (iii) and (iv)] did indeed prevent a diminution of water flowing to Green Valley Creek, the effects of onsite pumping on the Creek would not be instantaneous. In fact, the effect would be quite delayed. As an example, if water moved from a seep or spring [as described in mechanism (iii), above], and pumping caused a reduction in flow at the seep/spring, that reduction to Green Valley Creek would be delayed because of the travel time from the spring to the Creek, and because of the amount of time it would take to propagate the cone of depression from the pumping well to the theoretical seep/spring. In the example of mechanism (iv), the travel time of groundwater through the Franciscan rocks must be considered. Using the hydraulic conductivity reported by OEI 2016 of $2.5 \times 10^{-5}$ ft/day, then it would take more than 50,000 years for groundwater to move from the subject property to Green Valley Creek (located 550 ft away) in the subsurface, then the Franciscan Complex rocks. Hence, any diminishment of subsurface flow would not be realized for a significant period of time.

The discussion of the theoretical mechanisms in which flow in Green Valley Creek could be diminished must also consider the actual water use of the project. As stated above, RCS used very conservative estimates of groundwater demand in the RCS 2010 report and in the RCS 2013 memorandum. Further, as discussed in the RCS 2014 response letter, the original RCS conservatively estimated groundwater demand did not include return flows to the aquifer system from onsite septic systems. To address these issues, as discussed in the letter from Todd Groundwater, a simple water balance for the subject property would be as follows:

- Groundwater Inflow

  i. Rainfall Recharge – Rainfall recharge within the boundaries of the subject property is estimated to be 31.5 AF/yr, as described in the RCS 2010 report. This recharge volume is based on the assumption that 5% of the rainfall that occurs at the subject property becomes available for groundwater recharge, and is based on the geology of the underlying aquifers. The remaining 95% of the rainfall volume either runs off the

property, or is subject to evaporation and even transpiration by onsite vegetation. A discussion of those assumptions is provided in the RCS 2010 report. It is noteworthy that OEI 2016 provided a discussion of rainfall recharge that supports rainfall recharge percentages of 14% to as high as 25% into the Wilson Grove Formation (page 29, OEI 2016).

ii. Septic System Return Flow – As shown on the water-use estimates from BRCE (attached as an Appendix to this Memo), the estimated annual demand for all four Lots (assuming full buildout) is 3.95 AF/yr. All domestic demand water at the onsite residences will be directed into onsite wastewater systems. Hence, nearly 100% of the "indoor use" water (domestic demand water) would be made available for deep percolation. However, the actual percentage of wastewater that will recharge the groundwater is difficult to determine. A discussion of the issue of septic system return flows in aquifers in New Mexico was presented in McQuillan (2009). These estimates are variable based on "the volume of effluent discharged, depth and configuration of the [septic] system, hydraulic conductivity of the soil and other intervening geologic material above the water table, depth to ground water, climate and evapotranspiration (ET) rates" (McQuillan 2009). Specific values of the percentage of recharge ranging from roughly 42% to 85% were discussed therein. For this water balance, a rule-of-thumb estimate of 50% of the wastewater discharged will become available for groundwater recharge beneath the subject property. From the BRCE estimate of 141,747 gpy of domestic demand for each of the four future Lots, the total onsite septic discharge would be 566,988 gpy (141,747 gpy per Lot, times four Lots), or approximately 1.74 AF/yr. Assuming 50% of this volume deep percolates, then 0.87 AF/yr is assumed to deep percolate back into the aquifers within the Wilson Grove Formation directly beneath the subject property.

iii. Groundwater Underflow – As discussed above, the ability of groundwater to move through the fractures of the Franciscan Complex is limited to the existence and interconnectedness of the fracture systems. No definitive method of determining groundwater outflow in the subsurface from the subject property can be determined without significantly more data. It is assumed that groundwater inflow into the boundaries of the subject property is minimal.

- Groundwater Outflow

i. Groundwater Pumping – Estimates of average annual groundwater use by BRCE are included in the Appendix. Assuming full build-out of the four Lots at the subject property, BRCE estimated an average annual combined groundwater extraction of 3.95 AF/yr for the four Lots.

ii. Assuming that the remainder of the average annual recharge to the property is defined above, then the groundwater discharge from the property is 28.4 AF/yr (31.5 + 0.87 – 3.95 = 28.4). This discharge could be via one of the mechanisms described above (such as seeps or springs, or groundwater underflow).

Table 1, below, summarizes the information presented above.

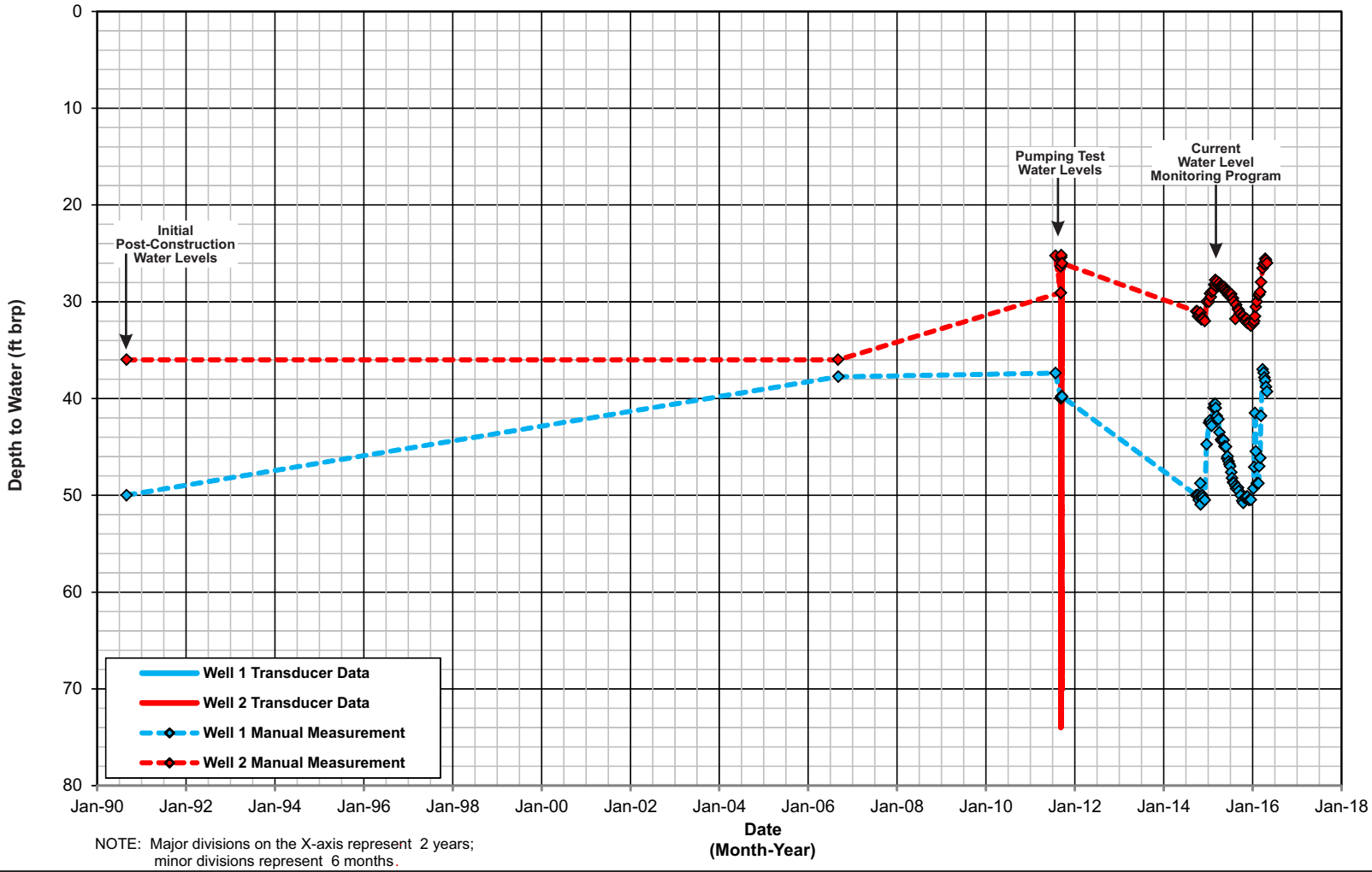
**TABLE 1 – Simple Water Balance for Bones Lane Property Assuming Full Buildout of Proposed Lots**

| | **Estimated Groundwater Parameter** | **Estimated Volume (Af)** |
|---|---|---|
| Groundwater Inflow | Average Annual Recharge | 31.5 |
| | Septic System Return Flow | 0.87 |
| Groundwater Outflow | Groundwater Pumping | 3.95 |
| | Groundwater Discharge from Property | (31.5 + 0.87 – 3.95) = 28.4 |

Based on the information provided above, the net groundwater use for the project for all four Lots (assuming full build-out of each lot) is 3.08 AF/yr (3.95 AF/yr estimated demand less the estimated 0.87 AF/yr of septic system return flows). It must also be considered that, as described in RCS 2010, the site is currently occupied by an existing house and barn and an existing guest cottage. While data are not available for the existing onsite use, we can assume that the existing onsite use is equal to the use for one Lot at full build-out for the proposed project. Therefore, the total increase in the future groundwater use from existing conditions is only 75% of 3.08 AF/yr, or 2.31 AF/yr. Based on the information presented herein, and the conservative methods by which estimates of groundwater recharge were determined, extraction of groundwater for the proposed four Lots, assuming full build-out, will likely have an immeasurable effect on the surface water flows in Green Valley Creek.

## References


- **(DWR 2003)** California Department of Water Resources (DWR). 2003. "California's Groundwater. DWR Bulletin 118, Update 2003."
- **(CASGEM)** California Statewide Groundwater Elevation Monitoring (CASGEM) of the California Department of Water Resources (DWR), 2015. http://http://www.water.ca.gov/groundwater/casgem/
- **(McQuillan 2009)** McQuillan, D and E. Bassett. April 2009. 18th Annual NOWRA Technical Conference and Expo. "Return Flow to Ground Water From Onsite Wastewater Systems."
- **(OEI 2016)** O'Connor Environmental, Inc., March 15, 2016. "Integrated Surface and Groundwater Modeling and Flow Availability Analysis for Restoration Prioritization Planning: Green Valley\Atascadero and Dutch Bill Creek Watersheds"
- **(RCS 2010)** Richard C. Slade & Associates, LLC, February 2009 (revised September 2010), Revision to RCS-Prepared Report: "Hydrogeologic Assessment, Water Well Feasibility and Siting Project, 12942 Bones Lane, Vicinity Occidental, Sonoma County, California"
- **(RCS 2013)** Richard C. Slade & Associates, LLC, November 8, 2013, "Summary of Aquifer Testing, Onsite Water Well No. 2, Bones Lane Property, Sonoma County, California".
- **(RCS 2014)** Richard C. Slade & Associates, LLC, October 7, 2014, "Response to Comment Letter from Mr. Robert Curry dated February 3, 2011, Bones Lane Property, Sonoma County, California."




NOTE: Major divisions on the X-axis represent 2 years; minor divisions represent 6 months.


RCS

**RICHARD C. SLADE & ASSOCIATES LLC**
**CONSULTING GROUNDWATER GEOLOGISTS**
14051 Burbank Blvd., Suite 300
Sherman Oaks, CA 91401
Southern California (818) 506-0418
Northern California (707) 963-3914
Fax (818) 506-1343


**Figure 1**
**Historic Water Levels**
**Bones Lane**

**Job No. 213-SNM03**

**August 2016**

# CASGEM Well Information Summary

CASGEM ID: 384387N1229005W001

**Local Well Number: WGFH-05**

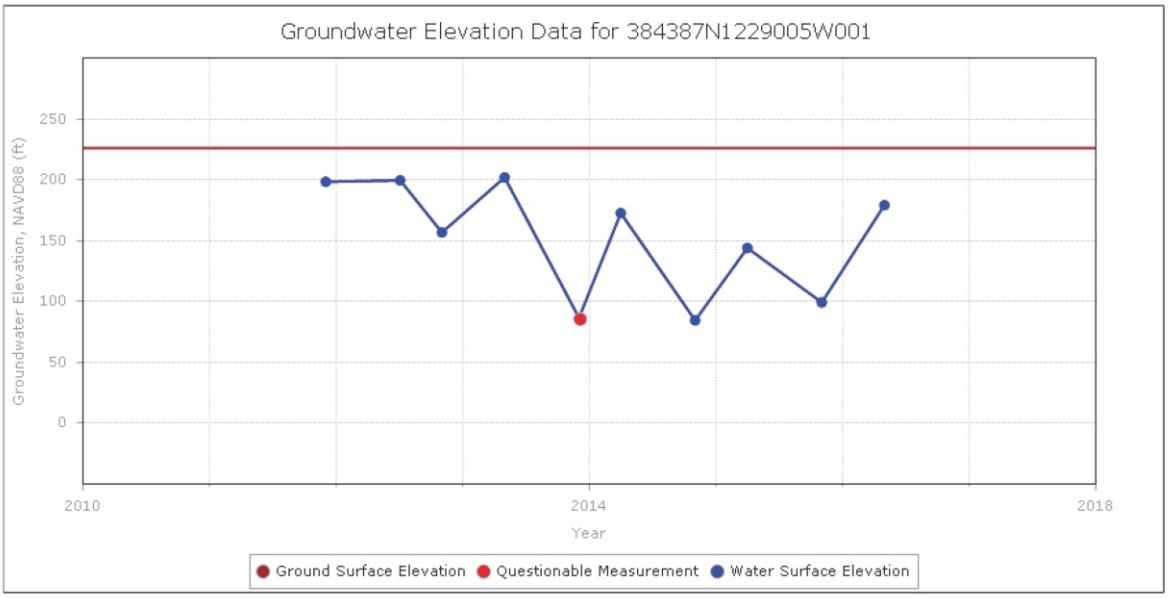
State Well Number:

Latitude: 38.4387 (NAD 83)

Longitude: -122.9005 (NAD 83)

| Name | Value |
|---|---|
| Monitoring Entity | Department of Water Resources |
| Groundwater Basin Name & Number | Wilson Grove Formation Highlands - 1-59 |
| Cooperating Agency | |
| County | Sonoma |
| Hydrologic Region | North Coast |
| DWR Region Office | North Central |
| Well Status | Unknown |
| Well Use | Unknown |
| Total Depth | 150 |
| Well Completion Report Number | Not Available |

# Groundwater Level Hydrograph

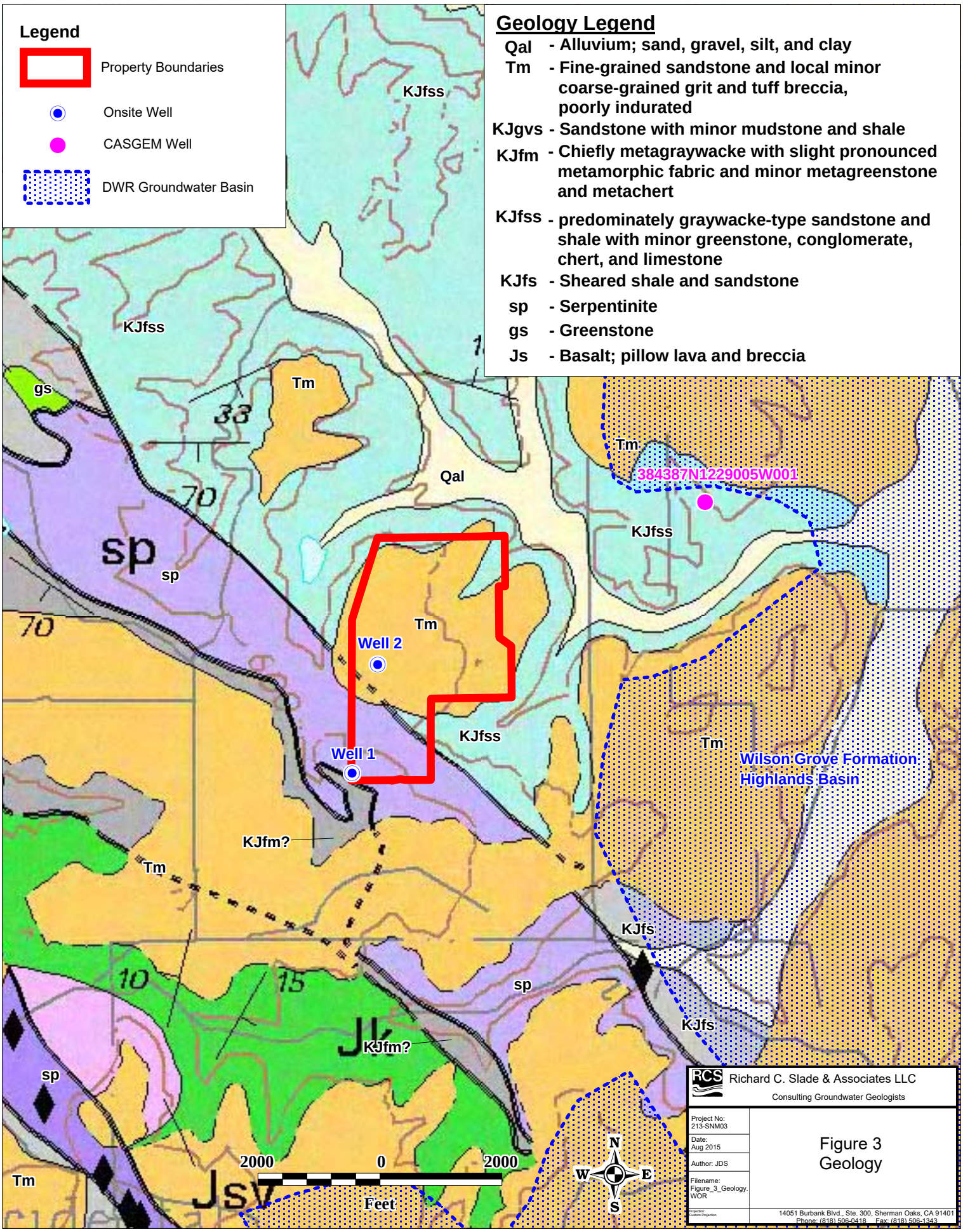




**RICHARD C. SLADE & ASSOCIATES LLC**
**CONSULTING GROUNDWATER GEOLOGISTS**
14051 Burbank Blvd., Suite 300
Sherman Oaks, CA 91401
Phone (818) 506-0418
Fax (818) 506-1343


**FIGURE 2**
**HYDROGRAPH OF CASGEM**
**WELL NO. 384387N1229005W001**

**Job No. 213-SNM03** **August 2015**


Legend
Property Boundaries
Onsite Well
CASGEM Well
DWR Groundwater Basin
Geology Legend
Qal - Alluvium; sand, gravel, silt, and clay
Tm - Fine-grained sandstone and local minor coarse-grained grit and tuff breccia, poorly indurated
KJgvs - Sandstone with minor mudstone and shale
KJfm - Chiefly metagraywacke with slight pronounced metamorphic fabric and minor metagreenstone and metachert
KJfss - predominately graywacke-type sandstone and shale with minor greenstone, conglomerate, chert, and limestone
KJfs - Sheared shale and sandstone
sp - Serpentinite
gs - Greenstone
Js - Basalt; pillow lava and breccia
KJfss
gs
Tm
33
70
Qal
384387N1229005W001
sp
Well 2
Well 1
KJfm?
10
15
JK
Js
Wilson Grove Formation
Highlands Basin
KJfs
2000
0
2000
Feet
N
W
E
S
RCS
Richard C. Slade & Associates LLC
Consulting Groundwater Geologists
Project No: 213-SNM03
Date: Aug 2015
Author: JDS
Filename: Figure_3_Geology.WOR
Figure 3
Geology
14051 Burbank Blvd., Ste. 300, Sherman Oaks, CA 91401
Phone: (818) 506-0418 Fax: (818) 506-1343

# APPENDIX

Water Demand Estimate Table by Brelje & Race Consulting Engineers (BRCE)

2597.02 Bones Lane Subdivision
Jackson Family Investments
Water Demand Inventory
September 9, 2015

| **Future Demand Summary** | **Per Lot** | | | | **All Lots** | |
|---|---|---|---|---|---|---|
| | Domestic Demand[1] (gal) | Irrigation Demand[1] (gal) | Total Demand (gal) | Total Demand (ac-ft) | Total Demand (gal) | Total Demand (ac-ft) |
| January | 11,790 | 0 | 11,790 | 0.04 | 47,158 | 0.14 |
| February | 11,790 | 1,734 | 13,523 | 0.04 | 54,093 | 0.17 |
| March | 11,790 | 9,700 | 21,490 | 0.07 | 85,958 | 0.26 |
| April | 11,790 | 20,282 | 32,071 | 0.10 | 128,286 | 0.39 |
| May | 11,790 | 25,945 | 37,734 | 0.12 | 150,938 | 0.46 |
| June | 11,790 | 26,812 | 38,601 | 0.12 | 154,405 | 0.47 |
| July | 11,790 | 28,507 | 40,297 | 0.12 | 161,187 | 0.49 |
| August | 11,790 | 27,399 | 39,189 | 0.12 | 156,755 | 0.48 |
| September | 11,790 | 23,004 | 34,793 | 0.11 | 139,173 | 0.43 |
| October | 11,790 | 14,842 | 26,632 | 0.08 | 106,526 | 0.33 |
| November | 11,790 | 1,924 | 13,713 | 0.04 | 54,852 | 0.17 |
| December | 11,790 | 0 | 11,790 | 0.04 | 47,158 | 0.14 |
| Future Annual Demand | 141,474 | 180,148 | 321,622 | 0.99 | 1,286,490 | 3.95 |

| **Net Groundwater Summary** | **Per Lot** (Lots 1, 3, 4) | | **Per Lot** (Lot 2) | | **All Lots** | |
|---|---|---|---|---|---|---|
| | gallons | acre-ft | gallons | acre-ft | gallons | acre-ft |
| Future Annual Demand | 321,622 | 0.99 | 321,622 | 0.99 | 1,286,490 | 3.95 |
| Existing Domestic Demand | 0 | 0 | 97,674 | 0.30 | 97,674 | 0.30 |
| **Net Annual Demand Increase** | **321,622** | **0.99** | **223,948** | **0.69** | **1,188,816** | **3.65** |

1. For basis of estimate, see page 2.

**Demand per Lot**

| | |
|---|---|
| Developed area per lot | 0.5 acres |
| | 21,780 sq ft |
| Building & Hardscape | 40% of lot |
| | 8,712 sq ft |
| Landscape | 60% of lot |
| | 13,068 sq ft |

**Domestic Demand Estimate**

Primary Residential Unit

| | |
|---|---|
| People per home | 4 |
| Demand per person | 60 gpd |
| Annual Demand | 87,600 gallons |

Secondary Dwelling Unit

| | |
|---|---|
| People per unit | 2 |
| Demand per person | 60 gpd |
| Annual Demand | 43,800 gallons |

Guest House

| | |
|---|---|
| Capacity | 2 guests |
| Demand per person | 60 gpd |
| Occupancy Rate | 23% |
| Annual Demand | 10,074 gallons |

| | |
|---|---|
| Annual Demand | **141,474 gallons** |

**Irrigation Demand Estimate**

| | |
|---|---|
| Irrigated Area/Lot (sq ft) | 13,068 |
| ET Adjustment Factor | 0.60 |
| Adjusted Landscape Area (sq ft) | 7,841 |

| | ETo[1] (in) | Rainfall[2] (in) | Eff. Rainfall (in) | Net ET (in) | MAWA (gal) |
|---|---|---|---|---|---|
| January | 1.53 | 7.95 | 1.99 | -0.46 | **0** |
| February | 2.43 | 8.30 | 2.08 | 0.35 | **1,734** |
| March | 3.44 | 5.82 | 1.46 | 1.98 | **9,700** |
| April | 4.82 | 2.68 | 0.67 | 4.15 | **20,282** |
| May | 5.74 | 1.73 | 0.43 | 5.31 | **25,945** |
| June | 5.79 | 1.22 | 0.30 | 5.49 | **26,812** |
| July | 5.92 | 0.35 | 0.09 | 5.83 | **28,507** |
| August | 5.7 | 0.38 | 0.09 | 5.61 | **27,399** |
| September | 4.78 | 0.29 | 0.07 | 4.71 | **23,004** |
| October | 3.58 | 2.17 | 0.54 | 3.04 | **14,842** |
| November | 1.56 | 4.67 | 1.17 | 0.39 | **1,924** |
| December | 1.74 | 9.45 | 2.36 | -0.62 | **0** |
| ANNUAL | 47.03 | 45.00 | 11.25 | 35.78 | **180,148** |

Formulas from Sonoma County's Maximum Applied Water Allowance (MAWA) Worksheet

[1]Values from Cal Poly Irrigation Training and Research Center's ETo table for region 4 in a typical year

[2]Annual rainfall from Sonoma County Water Agency's typical annual rainfall map. Monthly values generated using the average monthly distribution in Santa Rosa, as measured at the CIMIS station.

Stillwater Sciences

850 G Street, Suite K, Arcata, CA 95521
phone 707.822.9607 fax 707.822.9608

# TECHNICAL MEMORANDUM

DATE: 30 August 2016

TO: Geoff Scott, Jackson Family Investments

FROM: Dennis Halligan, Senior Fisheries Biologist

SUBJECT: Updated Bones Lane Fisheries Assessment

## 1 INTRODUCTION

I am a fisheries biologist with over 25 years of experience conducting watershed analyses, fish habitat assessments, fish species composition and distribution studies, water temperature monitoring, and riparian condition surveys. I also have many years of experience in assessing impacts on fisheries resources from a variety of projects ranging from small fish rescue operations to watershed analyses and large dam relicensing projects. I am currently working on a number of projects relating to instream flows and have a working knowledge of issues surrounding diversion-related impacts on small and large stream fisheries resources. I have contributed to or been the lead fisheries analyst for many California Environmental Quality Act, National Environmental Policy Act, and Endangered Species Act environmental documents. My resume is attached for your review.

Jackson Family Investments is proposing to subdivide a 187-acre parcel of land into four separate lots ranging in size from 40 to 60 acres. The property is currently occupied by a single family residence, guest cottage, barn, five small vineyard blocks, two irrigation ponds that are filled from rainfall and sheet flow, and multiple wells of which only one (Well #2) is currently being utilized. Well #2 is currently being used to supply the water needs for the existing residence, cottage and barn (located proposed Parcel 2). Well #2 was also tested and proved to produce sufficient water for development on all of four of the planned parcels. Additional wells may be utilized or needed in the future to service the individual parcels; however, total water demand on the 187 acre project area would not change.

The proposed subdivision is located in the 38-square mile Green Valley Creek watershed (Figure 1). The Green Valley Creek portion of the watershed encompasses approximately 17 square miles and is tributary to the Russian River, Sonoma County. The watershed contains coho salmon (*Oncorhynchus kisutch*), steelhead (*Oncorhynchus mykiss*), and California freshwater shrimp (*Syncaris pacifica*), which are listed under the State and/or Federal Endangered Species Acts. The proposed subdivision is located in the 10.25 square mile (6,560 acres) Upper Green Valley Creek subwatershed. The subdivision's property line comes to within 650–700 feet (ft) from Upper Green Valley Creek at its closest point. More detailed information regarding the watershed setting is contained in the Upper Green Valley Creek Watershed Plan (GRRCD 010).

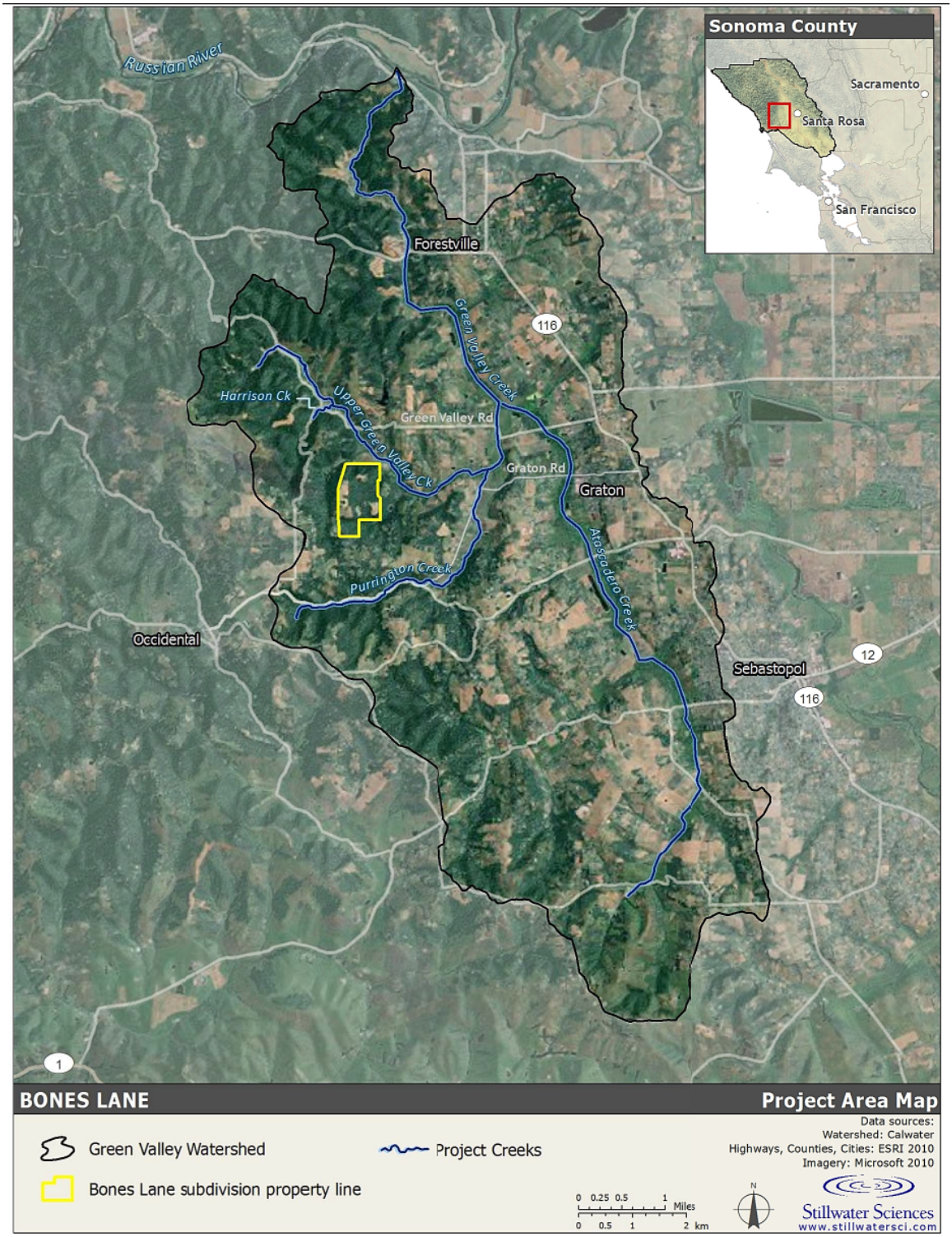



**Figure 1.** Project area map

Land use within the Green Valley Creek watershed consists primarily of agriculture and rural residential development (GRRCD 2010). According to the GRRCD (2010), historical and current land use practices have contributed to significant cumulative changes in the form and functionality of Green Valley Creek, which have resulted in degradation of the quantity and

quality of instream aquatic habitat and reduction in salmon and steelhead populations. Land use in the watershed has purportedly contributed to low stream flow, especially during the summer period, which is when increased agricultural and residential use coincides with increased environmental demand (GRRCD 2010).

Jackson Family Investments asked me to review the proposed Bones Lane subdivision project, and specifically, the potential for its water use to affect fisheries resources in Green Valley Creek. This technical memorandum is an update of an earlier report because new information regarding water use has become available. This updated technical memorandum contains my professional opinion on this issue, which was based on review of:

- aerial photographs;
- documents produced by California Department of Fish and Game (CDFG) and the Gold Ridge Resource Conservation District (GRRCD);
- field observations of instream habitat conditions in Upper Green Valley Creek;
- public comment letters (Higgins 2011, Curry 2011);
- hydrologic assessment from RCS (2009, 2010);
- response to peer review (RCS 2016);
- water demand analysis (BRCE 2015); and
- surface and groundwater modeling (OEI 2016).

# 2 INSTREAM HABITAT CONDITIONS

The CDFG (now California Department of Fish and Wildlife) conducted stream surveys in Green Valley Creek in 1969, 1976, 1991, and 1995. The 1995 survey was conducted between June and September 1995, but updated in later years prior to development of the report (CDFG 2006). Streamflow on 20 August 1995 was measured to be 0.3 cubic feet per second (cfs) and wetted width during the 1995 survey ranged from 6 to 10 ft. The CDFG (2006) found that pools made up 34 percent of the stream length and were generally shallow with only 30 percent of the pools being greater than 3 ft deep. The CDFG pool target for a stream this size would have at least 50 percent of the pools be equal to or greater than 3 ft deep. A lack of large woody debris (LWD) was noted, which contributed to the shallowness of the pools and the low amount of instream cover habitat. The CDFG (2006) report also reported subsurface flow conditions along 26 percent of the survey reach. Subsurface flow conditions were also reported along some reaches of Green Valley Creek in 1954, 1966, 1969, and 1991 (CDFG 2006). The best spawning and rearing habitat was reported to be in the reach that extended from the confluence of Upper Green Valley Creek and Purrington Creek upstream to the mouth of Harrison Creek (Figure 1). The CDFG (2006) also reported that this reach would benefit from instream enhancement structures that would increase pool frequency, volume, and shelter.

A limited field review of Upper Green Valley Creek was conducted on 14 February 2013 to assist with the development of this assessment. Difficulty in obtaining landowner access permission limited the field observations to those locations in the immediate vicinity of bridge crossings. However, the limited observations made during the field review were consistent with those reported in CDFG (2006). The creek channel appeared to be aggraded with sediment as evidenced by the number of drowned trees with buried and submerged boles (Figure 2). Bank erosion was also observed, which results in a widening of the channel cross-section, corresponding reduction in stream power, and reduced ability to transport sediment. The narrow band of hardwood tree species that constitute the riparian zone is unable to provide a steady

source of LWD. The LWD that is delivered to the channel is primarily composed of alders that typically rot within a few years. The lack of persistent LWD appears to have resulted in few pools of a shallow nature and a reduction in low and high flow habitat for anadromous salmonids.

**Figure 2.** Aggraded channel and submerged alders in Green Valley Creek.

# 3 WATER DEMAND ANALYSES

A hydrologic assessment was developed by RCS (2009) to assess potential water use by the proposed Project and help inform its impact on groundwater resources. In 2010, RCS developed an update of their 2009 report, which provided an assessment of water use and groundwater recharge that was based on conservative assumptions and values. A public comment letter was written by Robert Curry, PhD., P.G. on 3 February 2011, which contained comments relating to the RCS (2009) report. The Curry (2011) letter used even more conservative assumptions and groundwater recharge values than RCS (2009, 2010). The results of the report and comment letter are briefly summarized below. A monthly water demand analysis was subsequently developed by BRCE (2015) based on the assumption that each of the four parcels would consist of a primary residence, secondary dwelling unit, and guest house.

Rainfall deep percolation rates range from 5 to 40 percent of the average annual rainfall for rock types similar to those found on the Project property (RCS (2010). OEI (2016) reported recharge rates to the Wilson Grove formation as being between 14 and 25 percent of mean annual precipitation. Using a very conservative 5% rainfall deep percolation rate, RCS (2010) estimated that annual groundwater recharge from rainfall amounted to between 31.5 and 20.8 acre feet (AF)

during average and drought water years, respectively (Table 1). RCS (2016) also estimated that groundwater recharge from the proposed septic systems would be about 0.87 AF annually. Therefore, total recharge (rainfall and septic) is estimated to be between 32.4 and 21.7 AF during average and dry years, respectively.

Dr. Robert Curry provided comments on RCS' (2009) report. Dr. Curry acknowledged that the groundwater in the Wilson Grove formation beneath the proposed subdivision was adequate for domestic supply. However, Dr. Curry did not agree with RCS' (2009) drought year recharge, and provided his own more conservative estimate of 10 AF per year. Dr. Curry accepted the 7.2 AF residential water use estimate and average water year recharge estimate of 31.5 AF per year developed by RCS (2009). Therefore, 7.2 AF of residential use would amount to between 66 percent of Dr. Curry's drought year recharge and 23% of average water year recharge (Table 1). Averaging both RCS (2010) and Curry (2011) recharge rates, maximum residential use (presuming that all parcels develop with a main house, secondary unit and guest unit) would range from 22.5 to 49.5 percent of recharge for dry to average water years, respectively (Table 1).

**Table 1.** Summary of water use for all four lots as compared to groundwater recharge and storage utilizing RCS (2009, 2010) and Curry (2011) value.

| Report | Potential residential water use (AF) | Recharge[1] (AF dry/average WY*) | Use as a percentage of recharge (dry/average WY) | Use as a percentage of storage under property |
|---|---|---|---|---|
| RCS (2009) | 7.2 | 21.7/32.4 | 33/22 | <1.0 |
| Curry (2011) | 7.2 | 10.9/32.4 | 66/23 | <1.0 |
| **Average** | **7.2** | **16.3/32.4** | **49.5/22.5** | **<1.0** |

[1]Includes a 0.87 AF recharge to the aquifer from septic sources (RCS 2016).

*WY = Water Year

RCS (2010) conservatively estimated that there was approximately 747 AF of groundwater in storage beneath the 187 acre property that was contained within both the Wilson Grove Formation (700 AF) and Franciscan Complex (47 AF). This estimate was based on the Wilson Grove Formation and Franciscan Complex rocks having a 10 percent and 2 percent specific yield estimates, respectively. The OEI (2016) showed estimates of specific yield of 15% for the Wilson Grove Formation and 2% for the Franciscan Complex rocks; these values are higher than those used by RCS (2010). Hence, the RCS (2010) estimates for groundwater in storage are indeed conservative.

The BRCE (2015) water demand analysis estimated that each of the four lots lot in the proposed subdivision would use approximately 0.99 AF of water per year, or a total of 3.95 AF per year (Table 2). This water could be supplied by the existing on-site well or by future wells serving each parcel; in any event, the total demand would remain the same. Therefore, annual use would amount to about 0.5 percent of the groundwater in storage and between 12–27 percent of average and drought water year recharge, respectively. Assuming there is no recharge for an entire year and groundwater storage drops from 747 to 373 AF due to continued water use and drainage toward Upper Green Valley Creek, residential demand would still amount to between 1 percent of the remaining storage beneath the property. RCS (2009, 2010) also estimated that groundwater recharge from rainfall within the 578 acre cumulative impact area (CIA) was between 98 and 65 AF per year during average and drought water years, respectively. The proposed subdivision's water use would be about 4.0 to 6.1 percent of the CIA's average and drought water year recharge, respectively.

**Table 2.** Summary of water use for all four lots as compared to groundwater recharge and storage utilizing BRCE's (2015) value.

| Report | Potential residential water use (AF) (BRCE 2015) | Recharge[1] (AF dry/average WY*) | Use as a percentage of recharge (dry/average WY) | Annual use as a percentage of storage under property |
|---|---|---|---|---|
| RCS (2009, 2010) | 3.95 | 21.7/32.4 | 18/12 | 0.5 |
| Curry (2011) | 3.95 | 10.9/32.4 | 36/12 | 0.5 |
| **Average** | **3.95** | **16.3/32.4** | **27/12** | **0.5** |

[1]Includes a 0.87 AF annual recharge to the aquifer from septic sources (RCS 2016).

*WY = Water Year

Dr. Curry also estimated that the single top of hill irrigation pond could require groundwater pumping of between 4 and 19 AF each year. There are actually two existing ponds on the property, which are currently permitted and not a part of the proposed Project. These ponds are filled entirely through direct rainfall and sheet flow recapture that occurs during storm runoff periods, not groundwater pumping.

The main concern of Dr. Curry, however, is the potential impact of the proposed Project's water use on fisheries resources in Green Valley Creek.

# 4 POTENTIAL IMPACT ON FISHERIES RESOURCES

Given the fact that there are three professional estimates of residential water demand and groundwater recharge (Table 1), I used the 7.2 AF from RCS (2009, 2010) and Curry (2011) along with the 3.95 AF (BRCE (2015) to assess impacts on fisheries resources. An average subdivision groundwater demand of 7.2 AF per year would utilize approximately 23–50 percent of recharge that could occur during average and drought water years, respectively (Table 1). That still results in a net positive recharge of 21.9 AF during an average water year and 8.1 AF during a drought year. The 3.95 AF water demand (BRCE 2015) would result in a net positive recharge of 11.9 to 28.5 AF during a dry to average water year, respectively. Therefore, groundwater storage below the property is not expected to suffer eventual depletion due to increased residential demand associated with the Project. Given that there would be no depletion of the aquifer below the proposed Project, it is unlikely that there would be a significant effect on downstream aquatic resources.

Annual discharge from the Upper Green Valley Creek sub-watershed was estimated to range from 2,930 to 20,060 AF during very dry to wet water years, respectively (GRRCD 2010). Assuming that there is an extremely conservative 1:1 correspondence between residential water demand from underground storage and above ground surface flow, then loss of surface flow from the 187-acre property within the overall 6,560-acre Upper Green Valley Creek sub-watershed, would amount to 0.13–0.02 percent and 0.25–0.04 percent of the annual discharge during very dry and wet years for the 3.95 AF and 7.2 AF use volumes, respectively. These potential reductions in discharge would be well within any measurement error or estimate of uncertainty, and extremely difficult to detect with existing measuring devices. Similarly, the amount of impact the proposed subdivision's total water demand could have on fisheries habitat in Upper Green Valley Creek would also fall well within any measurement error and be insignificant.

Arguably, the greatest impact on fisheries resources due to reductions in delivery of water from the Project area to Green Valley Creek would occur during the summer and early fall months. BRCE (2015) apportioned their estimate of annual water demand by the four parcels (3.95 AF) into monthly use volumes (Table 3). A further consolidation of the demand was conducted to determine the seasonal (winter, spring, summer, and fall) use. Table 3 shows the estimated summer season water demand to be about 1.4 AF. The estimated discharge of Green Valley Creek during the summer for dry to wet years is 301–1,806 AF, respectively (OEI 2016). Therefore, using an extremely conservative 1:1 correspondence between Project area water use and surface flow in Green Valley Creek, summer water use would account for between 0.50–0.08 percent of summer discharge during dry to wet years, respectively. Put another way, the 1.4 AF summer water usage could very conservatively result in a reduction in Green Valley Creek flow of 0.007 cubic feet per second, which is well within any measurement error range. However, this estimated reduction does not take the hydraulic connectivity of the underlying geology into consideration, which significantly reduces any effect.

Table 3. Monthly water demand estimates for the Project area.

| Month | Domestic Demand (gal) | Irrigation Demand (gal) | Total demand (gal) | Total demand (AF) | Total Demand (gal) | Total demand (AF) | Seasonal AF |
|---|---|---|---|---|---|---|---|
| January | 11,790 | 0 | 11,790 | 0.04 | 47,158 | 0.14 | |
| February | 11,790 | 1,734 | 13,523 | 0.04 | 54,093 | 0.17 | |
| March | 11,790 | 9,700 | 21,490 | 0.07 | 85,958 | 0.26 | 0.57 |
| April | 11,790 | 20,282 | 32,071 | 0.1 | 128,286 | 0.39 | |
| May | 11,790 | 25,945 | 37,734 | 0.12 | 150,938 | 0.46 | |
| June | 11,790 | 26,812 | 38,601 | 0.12 | 154,405 | 0.47 | 1.32 |
| July | 11,790 | 28,507 | 40,297 | 0.12 | 161,187 | 0.49 | |
| August | 11,790 | 27,399 | 39,189 | 0.12 | 156,755 | 0.48 | |
| September | 11,790 | 23,004 | 34,793 | 0.11 | 139,173 | 0.43 | 1.4 |
| October | 11,790 | 14,842 | 26,632 | 0.08 | 106,526 | 0.33 | |
| November | 11,790 | 1,924 | 13,713 | 0.04 | 54,852 | 0.17 | |
| December | 11,790 | 0 | 11,790 | 0.04 | 47,158 | 0.14 | 0.64 |
| **Total** | **141,474** | **180,148** | **321,622** | **0.99** | **1,286,490** | **3.95** | **3.93** |

The amount of water "leaking" from the Wilson Grove Formation and through the Franciscan Complex prior to entering adjacent watercourses is dependent on storage volume and hydraulic conductivity (a measure of the ability to transmit water) of the underlying geology. As reported above, there is sufficient water storage volume in the Wilson Grove Formation to supply the proposed parcels through drought and wet years while still maintaining an annual positive net recharge. Therefore, a reduction in the total amount of water available to supply Green Valley Creek does not appear to be an issue of concern. However, would the proposed water use interrupt the flow of water through the aquifer toward the creek to the point where it would affect instream fisheries resources?

It is possible that new wells will be drilled to supply the individual parcels, however, the overall residential demand would not change. In any event, it is likely that Well #2, will be used to supply one or more residences. Well #2 is located at least 750 ft (horizontal) away from the western edge of the Wilson Grove Formation and 1,000 ft from the nearest tributary to Upper

Green Valley Creek. OEI (2016) estimated that hydraulic conductivity of the Wilson Grove formation was about 0.25 ft per day and 0.00005 ft per day for the Franciscan Complex. It would take an estimated 3,000 days for any potential effect (if any) of pumping residential use volumes to reach the edge of the Wilson Grove Formation. The potential effect on subsurface flow would then need to be transmitted through about 250 feet of Franciscan Complex geology to reach a watercourse. Therefore, it is highly unlikely that any groundwater withdrawal for the proposed parcels would be detected in Green Valley Creek, especially considering that proposed use would only amount to 0.5–1 percent of the aquifer storage (estimated at 747 AF). The potential effect, if any, would be insignificant.

As stated above, there are two permitted ponds on the property. These ponds are filled entirely through sheet flow that occurs during storm runoff periods, not groundwater pumping. Filling of these ponds occurs during elevated runoff periods and as such would have an insignificant effect on wet season creek flows. In addition, since filling occurs during the winter and/or spring there would be no effect on dry season surface flow in Green Valley Creek.

Even though potential Project-related effects on instream habitat are insignificant, the proposed Project may have an immeasurable level of cumulative impact on summertime surface flow and instream habitat. Therefore, it is recommended that Jackson Family Investments implement the following conservation measures, which are measurable, would mitigate for any potential cumulative impact, and also improve instream habitat conditions for fisheries resources in Upper Green Valley Creek.

# 5 CONSERVATION MEASURES

- The CDFG (2006), GRRCD (2010), and GRRCD (2013) reported that the amount of instream large woody debris within Green Valley Creek was very low. Complex LWD structure contributes to pool formation, creates turbulent flow patterns that assists with sediment transport, as well as provides juvenile coho salmon with refuge habitat during high winter flows. It is recommended that Jackson Family Investments participate in the GRRCD (2013) instream restoration program in Green Valley Creek. Installation of LWD structures are expected to result in a measurable increase in the quantity and quality of pool habitat for juvenile anadromous salmonids and likely improve low flow and high flow season survival.

- As reported in RCS (2009, 2010) and Curry (2011), up to 95 percent of the rainfall that drops on the 187-acre property runs off and does not contribute to groundwater recharge. It is recommended that any purchase agreement for the lots include a requirement to install a rainwater catchment system that can collect rainfall from roofs, sidewalks, and other hard surfaces and direct it to water storage facilities (e.g. tanks or off-channel reservoirs). The landowners could use the stored water for non-potable uses (landscaping, gardens, fire control, car washing, livestock watering, etc.) during dry periods. This will reduce the amount of groundwater pumping during the dry period and further reduce the residential water demand.

- It is recommended that runoff from impermeable surfaces that is not captured by the rainfall catchment system be directed into vegetated swales or shallow basins for percolation to groundwater. Such swales or basins should be deep ripped during the initial construction phases to improve percolation rates.

# 6 CONCLUSION

Based on my review of the documents referenced above and a field review of the Project site and watercourses, it is my professional opinion that any impact water demand from the proposed subdivision may have on surface flow and fish habitat in Green Valley Creek would be immeasurable and insignificant. Furthermore, implementation of the conservation measures listed above would insure that the proposed Project has a less than significant cumulative effect on fisheries resources in the Green Valley Creek watershed.

# 7 REFERENCES

BRCE (Brelje & Race Consulting Engineers). 2015. Water demand inventory for Bones Lane subdivision. Prepared for Jackson Family Investments, Santa Rosa, California.

CDFG (California Department of Fish and Game). 2006. Green Valley Creek stream inventory report. Santa Rosa, California.

Curry, R. 2011. Public comment letter on the proposed subdivision 12942 Bones Lane, Sebastopol APN 074-030-043. Soquel, California.

GRRCD (Gold Ridge Resource Conservation District). 2010. Draft Upper Green Valley Creek watershed plan Phase I. Prepared for the State Coastal Conservancy—Contract No. 07-079. Sebastopol, California.

GRRCD. 2013. Draft Green Valley Creek Watershed Management Plan Phase II. Prepared for the California Department of Fish and Wildlife. Contract No. P0930400.

Higgins, P. 2011. Comment letter to Sonoma County Permit and Resource Management Department regarding Jackson Family Enterprises Development Minor Subdivision at 12942 Bones Lane (Green Valley Creek Watershed), Sonoma County (File No. MNS06-0032, APN 074-030-043). Arcata, California.

OEI (O'Connor Environmental Inc.). 2016. Integrated surface and groundwater modeling and flow availability analysis for restoration prioritization planning: Green Valley\Atascadero and Dutch Bill Creek watersheds. Prepared for the Gold Ridge Resource Conservation District. Healdsburg, California.

RCS (Richard C. Slade and Associates). 2009. Hydrogeologic assessment water well feasibility and siting project. Prepared for Jackson Family Investments. Sherman Oaks, California.

RCS. 2010. Revision to RCS-Prepared Report (RCS 2009): Hydrogeologic assessment, water well feasibility and siting project, 12942 Bones Lane, Vicinity Occidental, Sonoma County, California.

RCS. 2016. DRAFT Response to peer review letter Bones Lane property, Sonoma County, California. Prepared for Jackson Family Investments. Sherman Oaks, California.

FRANK DONO
*Environmental Health Specialist*
R.E.H.S. #3912

December 12, 2013

JACKSON FAMILY WINES
DEBORAH HUNT
1190 KITTYHAWK BLVD.
SANTA ROSA, CA 95403
INVESTIGATION

RE: 12942 BONES LN
AP# 074-030-043
SEPTIC SYSTEM

Dear Debby,

On 8 NOV 13, I performed a septic investigations at the above referenced property to determine system function and location, and reserve system viability for the 2 residences on-site. The proposal is to demonstrate a working septic system and viable reserve for the 2 houses, for LLA reconfiguration.

MAIN RESIDENCE:
The existing repair system was installed in 2002 by Precision Backhoe and signed off by the County rep. In 2002. The approved plans show a STANDARD system of 300 l.f. of line, 24" wide and 36" deep with 12" rock below the pipe, utilizing the existing 1200 gal septic tank.

This inspection revealed that the tank was pumped out, and functioning properly, and the concrete baffles were replaced with sanitary 't's, at the inlet and at the outlet. Infiltration was observed at the attachment of the fiberglass risers, and a new sealant was installed.

The 3 'd' boxes were uncovered at the time of my inspection, and I observed that the 1st line was accepting waste water, and the second and third line were being used somewhat. The rock was probed, and 12" was observed, and the ends of the lines were uncovered, and were properly functioning.
The reserve area is un-encumbered, and viable for expansion, as needed. I recommend that the existing septic tank is acceptable, and to County standards.

2nd RESIDENCE:
The existing repair system was installed in 2007 by Precision Backhoe and signed off by the County rep. In 2007. The approved plans show a STANDARD system of 200 l.f. of line, 24" wide and 36" deep infiltrators, utilizing the existing 800 gal septic tank.

This inspection revealed that the tank was pumped out, and functioning properly, with baffles in place, and an Orence filter at the outlet. The Infiltration observed at the attachment of the fiberglass risers was repaired with new sealant.

The 2 'd' boxes were uncovered at the time of my inspection, and I observed that the 1st line was accepting waste water, and the second line was being used somewhat. A T was installed to the 3rd line, and the ends of the lines were uncovered, and were properly functioning.
The reserve area is un-encumbered, and viable for expansion, as needed. I recommend that the existing septic tanks are acceptable to County standards.
It appears that at the time of this inspection, the septic systems will function properly, and that the systems meets Sonoma County requirements for a Class 3 system, as proposed. There is more than adequate room for the required reserve on the property, as indicated on the septic plans.

**Attachment M**

Sewage Disposal Design • On-Site Testing • Consultation
Postal Box 604 • Graton, CA 95444 • Tel/Fax 707-829-7508

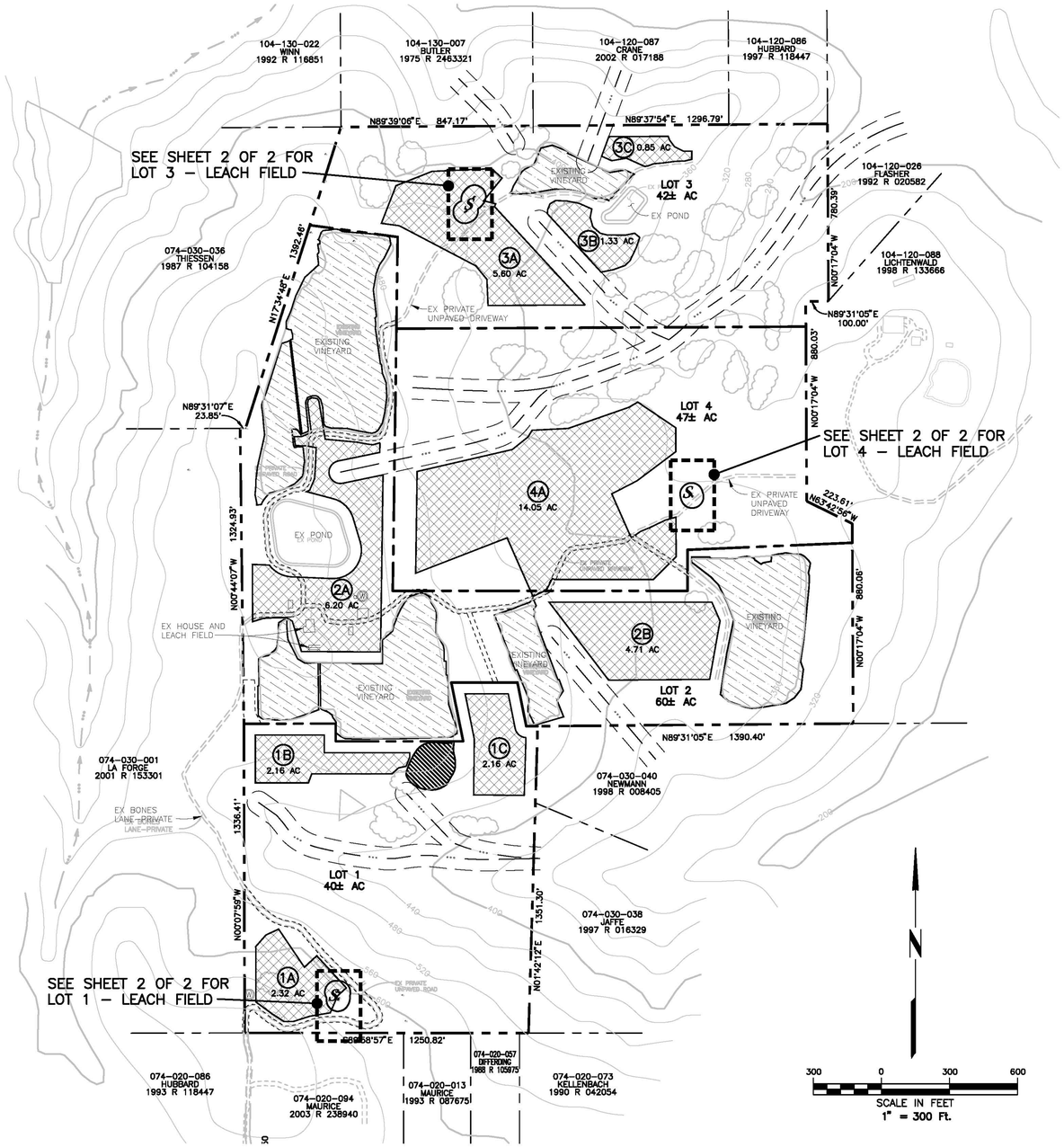
I recommend that the existing leach fields meet Class 3 requirements, and there is more than adequate reserve to meet a 200% expansion requirement,

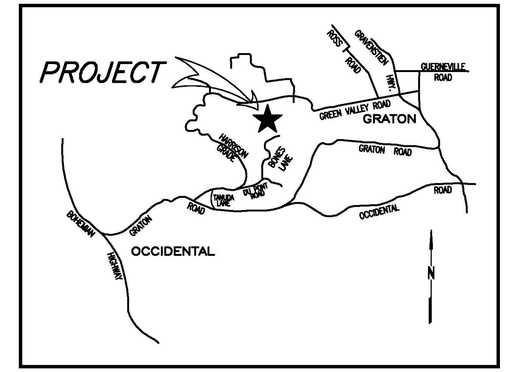
Please contact me if you have any questions, and I look forward to your review and comments.

Sincerely,

Frank Dono, REHS

**Attachment N**




## LOCATION MAP

NOT TO SCALE

## LEGEND

BUILDING ENVELOPE AREAS. . . . . .

EXISTING VINEYARDS . . . . . .

LOT NUMBER/POTENTIAL BUILDING ENVELOPE . . . . . (4A)

**LINES**

BOUNDARY. . . . . .

PARCEL. . . . . .

FLOWLINE . . . . . .

CREEK SETBACK LINE . . . . . .

**TOPOGRAPHY** — EXISTING

WELL. . . . . .

UNPAVED ACCESS. . . . . .

PAVED PRIVATE ROAD . . . . . .

PROPOSED SEPTIC SYSTEM AND EXPANSION AREA LIMITS . . . . . (S)

# BONES LANE PROPERTY

## SITE PLAN/LEACH FIELD KEY MAP

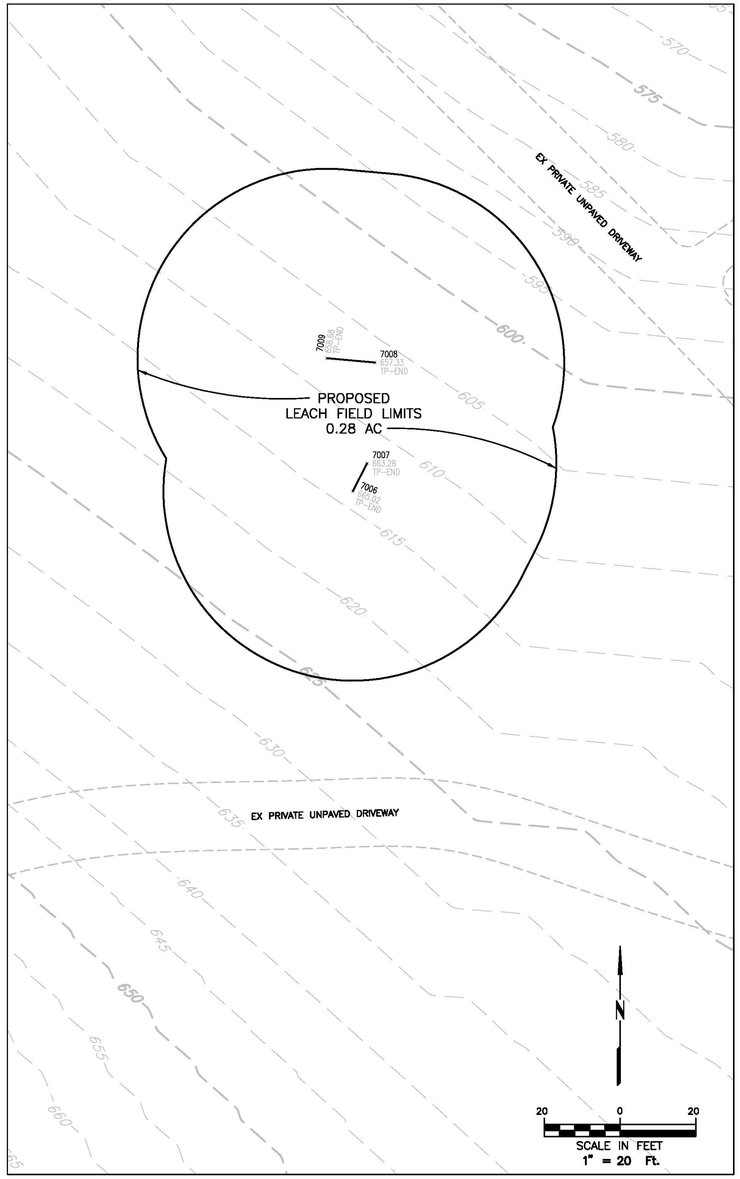
OCTOBER 2016


Brelje & Race
CONSULTING ENGINEERS
475 Aviation Blvd. • Suite 120 • Santa Rosa, CA 95403 • 707-576-1322
www.brce.com

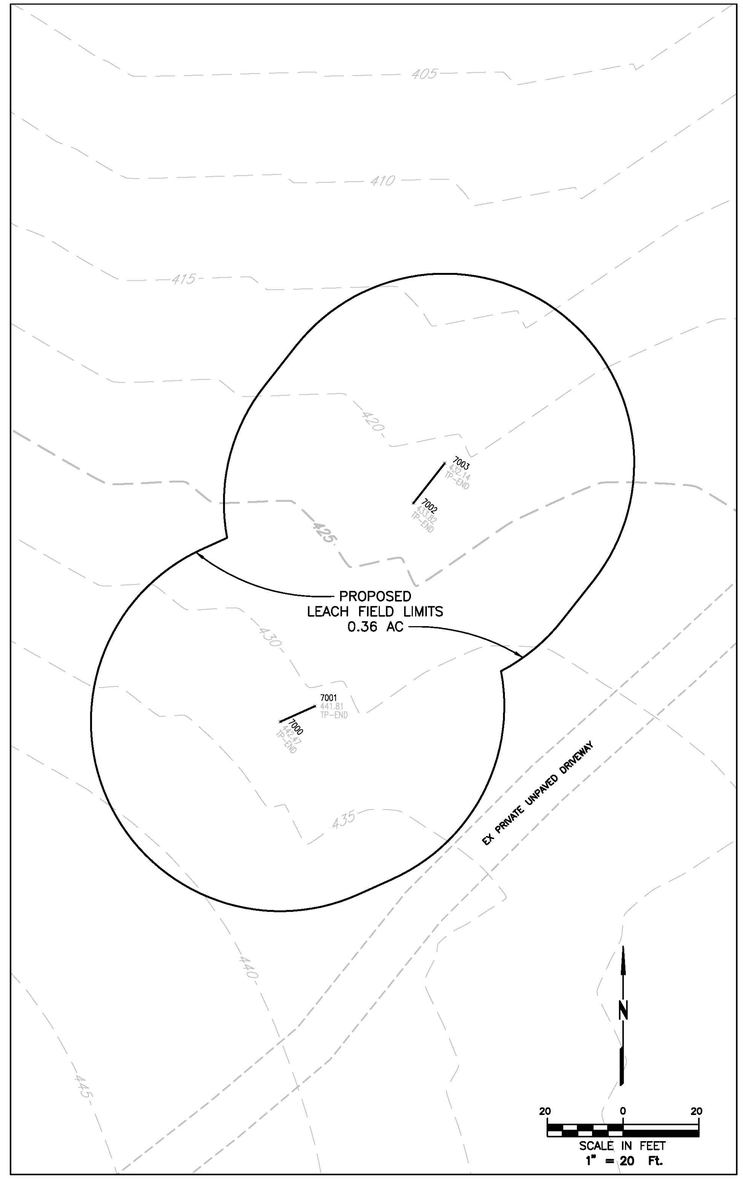




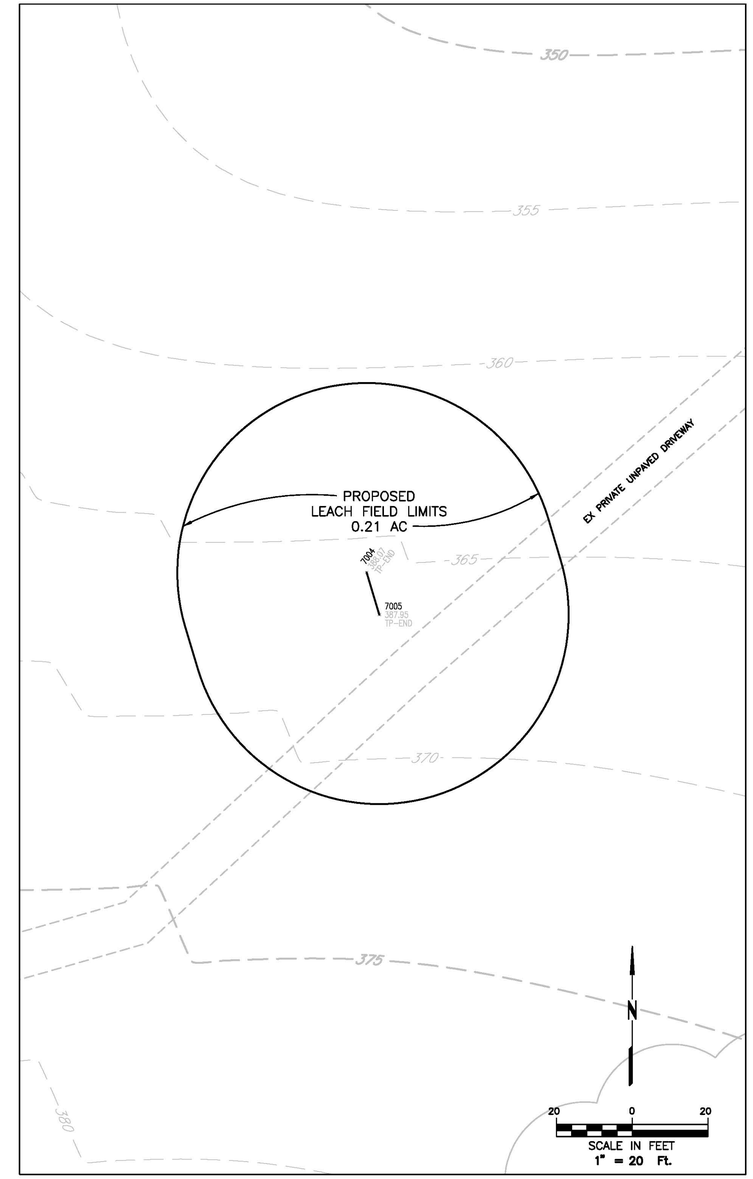
10-24-16 kfitzghi \2597.02\dwg\2597.02-EXHIBIT-Site Plan.dwg TAB: SITE PLAN




LOT 1 – LEACH FIELD LIMITS




LOT 3 – LEACH FIELD LIMITS




LOT 4 – LEACH FIELD LIMITS

## NOTE

SOILS EVALUATION REPORT DATED 12/27/07 FOR THE SUBJECT PROPERTY UTILIZED SEVERAL TEST PITS. THE END LOCATION OF EACH TEST PIT WAS LOCATED BY FIELD SURVEY. THE ABOVE LEACH FILED LIMITS WERE CREATED BY USING A 50' OFFSET IN ALL DIRECTIONS FROM EACH TEST PIT.

# BONES LANE PROPERTY

## PROPOSED LEACH FIELD LIMITS

OCTOBER 2016

Brelje & Race
CONSULTING ENGINEERS
475 Aviation Blvd. • Suite 120 • Santa Rosa, CA 95403 • 707-576-3322
www.brae.com



10-24-16 kiflizghi \2597.02\dwg\2597.02-EXHIBIT-Site Plan.dwg TAB: LEACHFIELD

June 18, 2013

Mr. Geoff Scott
Jackson Family Holdings
421 Aviation Boulevard
Santa Rosa, CA 95403

Whitlock & Weinberger Transportation, Inc.

490 Mendocino Avenue
Suite 201
Santa Rosa, CA 95401

voice 707.542.9500
fax 707.542.9590
web www.w-trans.com

## Focused Traffic Study for the Bones Lane Subdivision Project

Dear Mr. Scott;

Whitlock & Weinberger Transportation, Inc. (W-Trans) has completed this focused traffic impact analysis that addresses the potential traffic impacts relative to a four-lot subdivision to be located at 12942 Bones Lane in the County of Sonoma.

### Existing Conditions

Bones Lane is a private gravel road with a width of about 14 feet that has a winding alignment and upward grade traveling away from its southern terminus at Dupont Road. It serves about eight existing homes based on a count of the number of driveways.

A review of collision records for the past five years indicates that there have been no reported crashes on Bones Lane, and thus no safety concerns were identified for the roadway. Only one collision was reported during the same five-year period on Dupont Road; it was at the intersection with Harrison Grade Road and involved a single driver under the influence hitting a fixed object.

Traffic Volumes

Because of the limited number of units on Bones Lane, volumes were estimated based on the eight existing dwellings, and applying standard rates published by the Institute of Transportation Engineers (ITE) in the *Trip Generation Manual*, it is anticipated that there are fewer than 100 trips per day on Bones Lane.

Safety

The collision history for the study area was reviewed and evaluated to determine if there are any existing critical safety issues. Collision records were examined for a five year period, during which time there were no reported collisions on Bones Lane or on Dupont Road. This indicates that though Bones Lane has sub-optimal width and curves, there are no reported existing safety issues.

Based on a physical review of the roadway, it was noted that because of the gravel surface, most drivers would travel at speeds of about 15 mph. For speeds this low the stopping sight distance needed is only 80 feet, and sight lines were generally in excess of 150 feet and there is space to pull aside in driveways, so drivers had adequate time to react and maneuver around each other.

### Project Conditions

The proposed project would allow subdivision of one existing parcel to create four parcels, each of which would be allowed to develop with one single family detached dwelling unit and one secondary dwelling unit. The anticipated trip generations for the existing eight dwellings that take access from Bones Lane as well as the proposed project were estimated using standard rates for single family dwellings (Land Use #210) published by the Institute of Transportation Engineers (ITE) in *Trip Generation*

*Manual*, 9th Edition, 2012. The secondary dwelling units were assumed to generate trips in a manner similar to an apartment (Land Use #220); secondary dwelling units were included for all four parcels created by the subdivision. As shown in Table 1, the proposed subdivision would be expected to add an average of four new trips during the morning peak hour and five during the evening peak hour, and an average of 56 trip ends (or 28 round trips) on a daily basis. Added to the trips assumed for the existing eight homes, the daily volume would remain below 150 vehicles per day, with ten trips during the a.m. peak hour and 13 during the p.m. peak hour.

**Table 1**
**Trip Generation Summary**

| Land Use | Units | Daily | | AM Peak Hour | | | | PM Peak Hour | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Rate | Trips | Rate | Trips | In | Out | Rate | Trips | In | Out |
| **Existing** | | | | | | | | | | | |
| Single Family Housing | 8 du | 9.57 | 76 | 0.75 | 6 | 2 | 4 | 1.00 | 8 | 5 | 3 |
| **Proposed** | | | | | | | | | | | |
| Single Family Housing | 3 du | 9.57 | 29 | 0.75 | 2 | 1 | 1 | 1.00 | 3 | 2 | 1 |
| Apartment (Secondary Units) | 4 du | 6.65 | 27 | 0.31 | 2 | 0 | 2 | 0.62 | 2 | 2 | 0 |
| ***Total New Trips*** | | | ***56*** | | ***4*** | ***1*** | ***3*** | | ***5*** | ***4*** | ***1*** |
| **Total Trips on Bones Lane** | | | **132** | | **10** | **3** | **7** | | **13** | **9** | **4** |

Note: du = dwelling unit

## Roadway Capacity

In *Guidelines for Geometric Design of Very Low-Volume Local Roads,* the American Association of State Highway and Transportation Officials (AASHTO) defines a 'very low volume road' as a local road that has an average daily volume of 400 vehicles per day or less. The document indicates that changes to roadway or roadside geometrics are generally recommended only where there is a documentable site-specific safety problem that can be corrected by a roadway or roadside improvement. As noted above, there have been no crashes reported on Bones Lane, so there does not appear to be any demonstrated safety problem or an associated need for improvements to the roadway, despite its narrow width.

The proposed subdivision will add a minimal amount of traffic to a roadway that has very low traffic volumes. Based on the review performed, it is anticipated that Bones Lane can safely accommodate the additional trips associated with the proposed subdivision.

Thank you for giving us the opportunity to provide these services. Please let me know if you have any questions.

Sincerely,

Dalene J. Whitlock, PE, PTOE
Principal

REGISTERED PROFESSIONAL ENGINEER
DALENE J. WHITLOCK
TR001552
Exp. 9/30/14
TRAFFIC
STATE OF CALIFORNIA

DJW/djw/SOX467.L1

# *Revised Mitigated Negative Declaration*

**Sonoma County Permit and Resource Management Department**
2550 Ventura Avenue, Santa Rosa, CA 95403
(707) 565-1900 FAX (707) 565-1103

| | |
|---|---|
| Publication Date: | May 28, 2009 |
| Adoption Date: | June 18, 2009 |
| State Clearinghouse: | 2016112029 |
| Appeal Date: | June 29, 2009 |
| Re-Circulation Publication Date: | |

Pursuant to Section 15071 of the State CEQA Guidelines, this summary of findings and the attached Revised and Recirculated Initial Study and mitigations constitute the Revised Mitigated Negative Declaration as proposed for or adopted by the County of Sonoma for the project described below:

**Project Title:** Bones Lane Minor Subdivision

**File Number:** MNS06-0032 **APN:** 074-030-043

**Project Location Address:** 12942 Bones Lane, Occidental

**Lead Agency:** Sonoma County Permit and Resource Management Department

**Decision Making Body:** Board of Supervisors

**Project Applicant:** Jackson Family Investments

**General Plan Designation:** Resource and Rural Development, 40 acre density

**Zoning:** RRD (Resource and Rural Development) and B6 40 (acres/dwelling unit)

**Supervisorial District:** No. 5

**Project Description:** Request for a Minor Subdivision of 189 acre parcel, creating four parcels, 40, 42, 47 and 60 acres in size.

**Environmental Finding:**

Based on the attached Initial Study, the project described above would not have a substantial adverse impact on the environment, provided that the mitigation measures identified in the Recirculated Initial Study are included in the project.

**Initial Study:** See attached. For more information call Mary Nicholl at 565-1367.

**Mitigation Measures:** Included in attached Revised Initial Study/Mitigated Negative Declaration. The project applicant has agreed to implement all mitigation measures.

**Attachment P**

## Introduction:

This report is a Revised Initial Study/Mitigated Negative Declaration (IS/MND) required by the California Environmental Quality Act (CEQA). This report was prepared by Mary Nicholl, Environmental Specialist with Permit Sonoma, Environmental Review Division. Information on the project proposal was provided by the applicant. Additional information and technical studies were provided by the applicant's consultants and peer reviewers. Technical studies referred to in this document are available for review at Permit Sonoma.

Jackson Family Investments proposes to develop a minor subdivision of 189 acres, creating four parcels, 40, 42, 47, and 60 acres in size near Occidental, Sonoma County. A referral letter was sent to the appropriate local, state and federal agencies and interest groups who may wish to comment on the project.

On May 28, 2009 Sonoma County Permit and Resource Management Department (now Permit Sonoma) prepared an IS/MND for this project and circulated it for public review and comment. The IS/MND was adopted and the project was approved by the Project Review and Advisory Committee (PRAC) on June 18, 2009.

On June 28, 2009, neighboring residents and concerned parties appealed the PRAC approval and requested additional studies of the groundwater resources. On November 4, 2010, the Planning Commission with a 4-0-1 vote, denied the appeal and approved the project. On November 11, 2010 the Planning Commission approval was appealed to the Board of Supervisors by the Ad Hoc Committee for Clean Water c/o Ann Maurice. The project was lowered in priority during the recession from 2010 until 2015. In response to issues raised in the appeal, the applicant has revised aspects of the project and Permit Sonoma revised portions of the IS/MND to clarify the extent of the project, its potential environmental effects, and mitigation measures. The following document is the revised IS/MND.

As revised, this IS/MND incorporates the following changes over the 2009 IS/MND:

- Reduced building envelope footprints for the four parcels (change to project);
- Clarification of groundwater resources and aquifer testing;
- Expanded discussions of biological resources and mitigation measures to avoid significant effects;
- Expanded discussion of the less than significant impact on nearby wells;
- Expanded analysis of traffic and noise;
- Analysis of potential visual impacts;

CEQA Guidelines Section 15073.5 advises that a Mitigated Negative Declaration must be re-circulated for review and comment when the document has been "substantially revised." While the revisions to this IS/MND are primarily clarifications of the information, analyses, and conclusions contained in the May 2009 IS/MND, Permit Sonoma is re-circulating this revised MND in order to offer the public an opportunity to fully review the changes. Permit Sonoma is releasing this revised IS/MND for a review period of 20 days.

At the end of the review period, the Board of Supervisors would consider the appeal of the Bones Lane Minor Subdivision approval and this revised IS/MND at a noticed public hearing.

Please contact: Mary Nicholl, Environmental Specialist at (707) 565-1367, for more information.

## SITE CHARACTERISTICS

The 189-acre project site is located between Sebastopol and Occidental. Access to the site is via Bones Lane, a private road off Dupont Road. The site currently consists of rolling hillsides with valleys, flats, and benches with an average ground slope of approximately 13 percent. Vegetation includes numerous potentially sensitive species associated with serpentine habitat near the south end of the property, vineyards in the central part of the site, and heavily wooded hillsides in the northeasterly area. The site is currently used for agricultural production (23.5 acres of vineyards) and the remainder of the site is generally vacant land. Existing improvements include single family residence, guest house, barn, two water wells, a septic system, vineyards, and two agricultural reservoirs. The existing water wells would serve proposed Lot 1 and proposed Lot 2 and are currently used for domestic water supply for the existing residence on Lot 2.

Access to the project site exists via an easement over Bones Lane, which is 20 feet wide easement over Bones Lane from Dupont Road to the southern project boundary and an easement which is 40 feet wide over Bones Lane (and across the adjacent property west) from the proposed Lot 1 to proposed Lot 2. Access to the proposed lots would be via the existing private road Bones Lane. There are about eight properties served by Bones Lane, which is predominantly a dirt road and narrows in some locations as it passes between large trees.

Green Valley Creek is approximately 773 feet from the northeast corner of the property line, and 1,200 feet away from the nearest building envelope. A small tributary to Green Valley Creek is approximately 621 feet from the western property line. There are no blue line creeks on the parcel. See Attachment 1 Project Location.

## PROJECT DESCRIPTION

The proposed project consists of subdividing a 189 acre parcel to create a total of four lots. Lot 1 would be 40 acres, lot 2 would be 60 acres, Lot 3 would be 42 acres and lot 4 would be 47 acres in size. The existing residence and related structures, well, and septic system are all located on proposed Lot 2. (See Table 1 for a summary of the proposed subdivision).

Lot 1 of the proposed Minor Subdivision would be 40 acres in size and is located in the southerly portion of the site. This lot slopes to east and drains the northern lots into a small ephemeral channel which sheet flows offsite. This parcel would contain most of the serpentine formation on the site. Serpentine minerals are high in metals and support rare plants. Three alternative building envelopes ranging from 2.32 to 2.16 acres in size have been identified on this site outside of the area underlain by serpentine.

Lot 2 is proposed to be 60 acres in size and is developed with the existing house, guest house, and several outbuildings as well as a man-made (about 40 acre feet) pond which is filled by rain water and sheet flow used for vineyard irrigation. The site has 23.5 acres of vineyards. Two alternative building envelopes are proposed on this site to give owners options of areas to construct. One envelope includes the existing residence and is 6.20 acres in size and the other is 4.71 acres. Density would allow for only one residence, so the existing residence would have to be demolished before an additional unit would be allowed to be constructed.

Proposed Lot 3 is 42 acres in size and is located on the northerly portion of the site. There is a man-made pond (about 20 acre feet) irrigation pond which is filled entirely by rain and sheet flow related to the vineyard (1.5 acres) on this lot as well. The three proposed building envelopes are 5.60, 1.33, and 0.85 acres in size.

Lot 4 is proposed to be 47 acres in size; about half of this site has been found to be outside of the areas with rare plants or potential geologic issues. The proposed building envelope is 14.05 acres in size. For all lots, see Attachment 2 Parcel Map and Building Envelope Illustration.

Table 1 below summarizes the lot size, proposed building envelope, existing built features, and natural features.

**Table1. Summary of key features found on the proposed subdivided lots**

| Lot Number | Lot Size | Proposed Building Envelope Total | Building Envelopes (Acres) Per Lot | | Built Features | Natural Features |
|---|---|---|---|---|---|---|
| LOT 1 | 40 Acres | 6.64 Acres | A<br>B<br>C | 2.32<br>2.16<br>2.16 | Water well installed for domestic water use. | Southerly portion of the site and contains most of the serpentine rare plants and redwood trees. |
| LOT 2 | 60 Acres | 10.95 Acres | A<br>B | 6.20<br>4.71 | Existing house, second dwelling unit, and outbuildings. Approximately 23.5 acres of existing vineyards and a man-made pond for vineyard irrigation. Water well for domestic water use. | Endangered plant species habitat and mixed redwood and conifer forest in the eastern portion of the lot. |
| LOT 3 | 42 Acres | 7.78 Acres | A<br>B<br>C | 5.60<br>1.33<br>0.85 | Most northern property and has approximately 1.5 acres of vineyards with a man-made irrigation pond. | Redwoods and ephemeral drainages. |
| LOT 4 | 47 Acres | 14.05 Acres | 14.05 Acres | | No existing built structures. | Redwoods and mixed conifer forest dominate the landscape along with ephemeral drainages. |

**SETTING**

The proposed project is situated in moderately hilly terrain near Graton and Forestville. Land uses in the project vicinity are primarily rural residential, agricultural, and undeveloped. The project site consists of generally northeast facing slopes and gentle east-west ridgetops. Soils onsite are mapped as Goldridge fine sandy loam and Josephine loam across the middle and majority of the project area. The extreme southern portion of the site is mapped as Henneke gravelly loam, a soil derived from serpentine bedrock. This soil is characterized as being very rocky, even excessively well drained. With the typical heavy calcium imbalance that affects plant growth (Patterson 2007). These soils support a mix of redwood evergreen forest as well as chaparral grasslands.

Hydrology on the site is relatively simple, consisting of precipitation related sheet flow across the site, collecting into one of two main small headwater drainages (one draining to the northeast corner of the site, the other due east across the southern quarter of the site). There are no blue line streams on the property. The two main drainages (as well as other runoff routes) support a great prominence of typical upland forest cover (*i.e*., mixed evergreen forest). The site's drainage channels are so heavily shaded by the canopy as to support almost no riparian or wetland vegetation (Patterson 2007). There is only scattered representation by true riparian species (*e.g*., willows and maples), and there are only a couple of small clearings where rushes (*juncus*), sedges (*carex*), and/or other hydrophytic (*i.e*."wetland") vegetation occurs. There are no significant flat or level areas to create self-sustaining wetlands. There are a few very small pockets of wetlands scattered along the southern drainage channel.

The site is well drained and hydrologically 'dry', and there no significant seeps, springs, or blue line streams evident. Most direct rainfall over the site seems to infiltrate the rocky soils and either continues downward, or laterally into the site's small ephemeral drainages.

The site is located within the Upper Green Valley Creek watershed, a sub-basin of the Atascadero-Green Valley watershed, a tributary of the Russian River. It has a Mediterranean climate, with hot dry summers and cool wet winters (GRRCD 2015). Water quality has been monitored by the Gold Ridge Resource Conservation District (GRRCD) for eighteen months in 2015. Summer conditions in Green Valley Creek include drying of shallow stream reaches, high water temperatures, and low dissolved oxygen levels. During severe winter rain events, turbidity higher than the physiological threshold for salmonids has been recorded. Green Valley Creek supports a diverse assemblage of biological resources including several native vegetation communities and numerous wildlife species. Habitats of particular importance in the watershed are the instream and riparian habitat which support several special status species including coho salmon, steelhead trout, and California Red-legged frogs.

**ISSUES RAISED BY THE PUBLIC AND AGENCIES**

*Background*
On May 28, 2009 Permit Sonoma prepared an IS/MND for this project and circulated it for public review and comment.

On June 18, 2009, the Sonoma County Project Review and Advisory Committee (PRAC) approved the request for a subdivision of a 189 acre parcel into four lots, with a 5-2 vote.

On June 28, 2009 neighboring residents and concerned parties appealed the PRAC approval, requesting additional studies of the groundwater resources.

On November 4, 2010, the Planning Commission with a 4-0-1 vote, denied the appeal and approved the project. On November 11, 2010 that approval was appealed to the Board of Supervisors by the Ad hoc Committee for Clean Water c/o Ann Maurice.

To respond to issues raised in the appeal and before the Planning Commission, the applicant revised the project to reduce the size of the identified building envelopes and submitted a Hydrogeologic Assessment prepared by Richard Slade & Associates (August 2016) and a Fisheries Assessment prepared by Stillwater Sciences (August 2016). Permit Sonoma revised portions of the IS/MND to clarify the extent of the project, its potential environmental effects, and mitigation measures, as well as to incorporate the information provided by applicant's consultants. No new impacts were identified. This document is the revised IS/MND.

*Issues Raised:*

1.) Water Availability: The site is primarily located in Groundwater Availability Zone 4, with a portion of the site in Zone 3. The site is within the Green Valley Creek watershed of the Lower Russian River basin. This area has been designated critical habitat for Central California Coast (CCC)

coho salmon and CCC steelhead. The Green Valley Creek watershed was identified by the State Water Resources Control Board (SWRCB) and Department of Fish and Wildlife as a priority area for protection of FE/SE Coho salmon and steelhead in an Emergency Order dated June 17, 2015. Neighbors raised concerns about impacts to their wells and off-site impacts to base flow and salmonid habitat in Green Valley Creek.

2.) Septic Systems: Concerns were raised about the site geology, hydrology, and adequacy of proposed septic systems.

3.) Traffic: Access to the site is via Bones Lane, a private road off of Dupont Road. Concerns about traffic safety were raised with the proposed increase in the rural residential density.

4.) Vineyard Impacts: Concerns raised related to the potential for on-site vineyard development included water use, the watershed, wetland and wildlife. Vineyard development and impacts are not part of the subdivision process; separate permits would be needed to plant more vines. This issue is not discussed further.

5.) Tree Loss: The 189 acres contain a variety of habitat types, and concerns were raised about potential impacts due to loss of trees.

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” or “Less than Significant with Mitigation” as indicated by the checklist on the following pages.

**Table 2. CEQA topics identified as having “Potentially Significant Impact” or “Less than Significant with Mitigation”**

| CEQA Topic | Yes | No |
|---|---|---|
| Aesthetics | | No |
| Agricultural & Forest Resources | | No |
| Air Quality | | No |
| Biological Resources | Yes | |
| Cultural Resources | Yes | |
| Geology and Soils | Yes | |
| Greenhouse Gas Emission | | No |
| Hazards and Hazardous Materials | | No |
| Hydrology and Water Quality | Yes | |
| Land Use and Planning | | No |
| Mineral Resources | | No |
| Noise | | No |
| Population and Housing | | No |
| Public Services | | No |
| Recreation | | No |
| Transportation and Traffic | | No |
| Utility and Service Systems | | No |
| Mandatory Findings of Significance | | No |

**Incorporated Source Documents**

In preparation of the Initial Study checklist, the following documents were prepared or referenced, and are hereby incorporated as part of the Initial Study. All documents are available in the project file or for reference at Permit Sonoma.

**Table 3. Incorporated Source Documents**

| Source Document | Yes | No |
|---|---|---|
| Project Application and Description | Yes | |
| Initial Data Sheet | Yes | |
| County Planning Department's Source and Criteria Manual | Yes | |
| Sonoma County General Plan and Associated EIR | Yes | |
| Specific Plan or Area Plan | Yes | |
| Sonoma County Zoning Code | Yes | |
| Sonoma County Rare Plant Site Identifications Study | Yes | |
| Project Referrals from Responsible Agencies | | |
| State and Local Environmental Quality Acts (CEQA) | Yes | |
| Full Record of previous hearings on project in File | Yes | |
| Correspondence received on project | Yes | |
| Other technical reports (refer to reference section at the end of this initial study | Yes | |

## 1. AESTHETICS:

***Would the project:***

**a) Have a substantial adverse effect on a scenic vista?**

Comment:
The project is not in an area designated as visually sensitive by the Sonoma County General Plan. It is not located on a scenic hillside, nor would it involve tree removal, construction or grading that would affect a scenic vista. The proposed buildings would be screened from view from public roads and parks by existing vegetation. The project would have less than significant impacts on scenic vistas in Sonoma County. Please refer to Attachment 3 for the Visual Study.

Significance Level:
Less than Significant Impact

**b) Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?**

Comment:
The site is not located in the proximity of a state scenic highway. The project does not include removal of historic trees or redwoods and would not involve removal of unique rock outcropping and therefore is not expected to result in any significant impacts to scenic resources. The project site is

not located in a Historic District (HD) overlay zone. The project would have a less than significant visual impact.

Significance Level:
Less than significant

**c) Substantially degrade the existing visual character or quality of the site and its surroundings?**

Comment:
The project could result in three additional primary residences being constructed where there is only one on the site currently. However, this project would subdivide 189 acres, creating four parcels of 40, 42, 47, and 60 acres in size, each with appropriately sized building envelopes. The project is located in an existing Resource and Rural Development (RRD) zoning district with very low density rural residential uses. The proposed subdivision would be consistent with existing visual character and would not degrade the quality of the site or its surrounds. Development will be similar in nature to that of the immediate and surrounding vicinity. No significant impacts would result.

Significance Level:
No Significant Impact

**d) Create a new source of substantial light or glare which would adversely affect day or nighttime view in the area?**

Comment:
The light from the potential new residences would be typical of rural residential structures and would not create a substantial adverse impact.

Significance Level:
Less than Significant Impact

As a condition for approval to ensure proper design, an exterior lighting plan would be required to be submitted to the Design Review Committee for review and approval prior to issuance of building permit. Exterior lighting is required to be fully shielded, and directed downward to prevent "wash out" onto adjacent properties. Generally fixtures should accept sodium vapor lamps and not be located at the periphery of the property. Flood lights are not allowed. The lighting must be installed in accordance with the approved lighting plan during the construction phase.

## 2. AGRICULTURE AND FOREST RESOURCES:

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection (CALFIRE) regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

***Would the project:***

**a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?**

Comment:
The project site currently contains approximately 25 acres of vineyards. According to the Sonoma County Important Farmlands Map, a majority of the project site is designated as "other" farmland. The northeast corner of Lot #3 has been designated as unique farmland; however this patch is outside of the proposed building envelope. The proposed building envelopes for the four lots total approximately 37.42 acres of "other" farmlands (0.50 acres already have existing structures), which would not be considered a significant loss of land devoted to agricultural production. The project would add additional hardscape in the form of building footprints, but such changes are not considered significant especially on parcels forty acres and larger which can still be utilized for agricultural purposes. The project involves the subdivision of land and is consistent with the General Plan. No change in the land use or zoning is proposed. Foreseeable development includes those uses permitted by the RRD zoning district, which is not expected to convert a significant amount of important farmland to non-agricultural use. Therefore potential impacts are less than significant.

Significance Level:
Less than Significant Impact

**b) Conflict with existing zoning for agricultural use, or Williamson Act Contract?**

Comment:
The project site is not subject to a Williamson Act contract. It is not located in an agricultural zoning district. The subdivision is consistent with its existing zoning.

Significance Level:
No Impact

**c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 4526) or timberland zoned Timberland Production (as defined by Government Code Section 51104(g)?**

Comment:
The project site is zoned Resource and Rural Development (RRD), which is not a zoning district intended for forest land protection or timberland production. The project would not cause the rezoning of this or any other property currently in forestland or timberland production zoning. It is possible after subdivision, the lots would be developed with single family residential units and associated outbuildings. Multiple building envelopes for each lot have been drawn ranging from 6 to 14 acres to minimize impacts to forest resources. (See Attachment 2: Tentative Parcel Map.) Within these building envelopes the typical development footprint (for a residence, second dwelling, landscaping and driveway) would be 2 acres. Only one building envelope per lot would be developed, the anticipated combined 7.0 acres (2.0 acres of development for the proposed 3 lots, plus 1.0 acre of new disturbance to demolish the existing residence, outbuildings, and build new roads, residence, and guest house on the fourth lot) of timber would be cut in order to build out the four parcels. Any timber harvest or timber conversion would be regulated by the County and in accordance with the California Forest Practice Rules. The landowner would be prohibited from selling the timber. This is not a substantial loss compared with the remaining trees, as reflected in Table 5. The project would not conflict with existing zoning, or cause rezoning of forest land.

Significance Level:
No Impact

**d) Result in the loss of forest land or conversion of forest land to non-forest use?**

Comment:
The proposed project is approving a subdivision map and this action would not convert existing forestland to a non-forest use. However, after the subdivision map has been approved, each new Lot could be developed and impact up to 2 acres of forest land (roads, buildings, and landscape). Future timber harvest or timber conversion on each Lot would be regulated by the County and California Forest Practice Rules and would be subject to CEQA review prior to project approval and issuance of building permits. Future commercial vineyard construction would be regulated by the County's Grading, Drainage, and Vineyard and Orchard Site Development Ordinance known as VESCO, and best management practices. Table 5 provides the amount of forested land that may be impacted by the development after the parcel has been subdivided.

**Table 5. Existing and Proposed Non-Forested Land Uses in Acres**

| Non-Forest Land Cover | Acres | Forest Land Cover | Acres |
|---|---|---|---|
| *Existing* | | | |
| Built Structures | 2 | | |
| Vineyards and Ponds | 25 | Forest | 162 |
| *Proposed* | | | |
| Built Structures | 7 | | |
| *Totals* | | | |
| Total Non-Forest | 34 | Total Forest | 155 |
| Total Parcel | 189 | Total Parcel | 189 |
| Percent Non-Forest Land Cover | 18% | Percent Forest Cover | 82% |

Sonoma County General Plan 2020 has analyzed policies for forestland conversions in the County. Policy OSRC-12a, b, and e, relates to the conversion of timberland in the RRD and specific zoning regulations and conversion criteria for protection of timberland. These policies reduce the amount of timberland that would be permanently converted to non-timber uses in RRD zones. The County reviews timberland conversion permits and the total amount of timberlands converted would increase to 1,220 acres if all pending applications were approved. This amount represents approximately one half of one percent of Sonoma County's 230,000 acres of timberland, which does not represent a significant portion of Sonoma County timberlands. Therefore, the potential conversion of 7 acres (for all four Lots) would be a less than significant impact and 155 acres would remain forested on the whole parcel. Section 4 Biological Resources Mitigation Measure BIO-3 would be noted on project plan sheets to protect and replace trees.

Significance Level:
Less than Significant Impact

**e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland, to non-agricultural use or conversion of forest land to non-forest use?**

Comment:
The project does not involve other changes in the environment that could result in conversion of farmland to non-agricultural use or forest land to non-forest use. See response to question 2(d), above.

Significance Level:
Less than significant impact

## 3. AIR QUALITY:

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

***Would the project:***

**a) Conflict with or obstruct implementation of the applicable air quality plan?**

Comment:
The project is within the jurisdiction of the Northern Sonoma County Air Pollution Control District (NSCAPCD). The NSCAPCD does not have an adopted air quality plan because they are in attainment for all federal and state criteria pollutants. (Please refer to source documents 1,5)

Significance Level:
No Impact

**b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?**

Comment:
State and Federal standards have been established for the "criteria pollutants": ozone precursors, carbon monoxide, nitrogen dioxide, sulfur dioxide and particulate matter ($PM_{10}$ and $PM_{2.5}$).
The pollutants NOx (nitrogen oxides) and reactive organics form ozone in the atmosphere in the presence of sunlight. The principal source of ozone precursors is vehicle emissions, although stationary internal combustion engines must also be considered a source. Detailed NOx and hydrocarbon air quality analysis is generally not recommended for projects generating less than 2,000 vehicle average daily trips (ADT). Given the low traffic generation of the project (40 ADT) relative to the screening criteria, ozone precursor emissions would be less than significant.

Detailed air quality analysis for carbon monoxide is generally not recommended unless a project would generate 10,000 or more vehicle trips a day, or contribute more than 100 vehicles per hour to intersections operating at LOS D, E or F with project traffic. Given the low traffic generation of the project (40 ADT) relative to the screening criteria, carbon monoxide emissions would be less than significant.

Wood smoke from fireplaces and wood stoves are sources of fine particulate matter. Wood smoke is a major contributor to reduced visibility and reduced air quality on winter evenings in both urban and rural areas. Sonoma County building regulations restrict fireplaces to natural gas fireplaces, pellet stoves and EPA-Certified wood burning fireplaces or stoves. With the restriction on fireplace design,

fine particulate emissions form this project be a less than significant impact.

There is a likelihood that after the site has been divided that each lot would be developed. Dust and aerosols may originate from each lot during development. This impact would be reduced to a less than significant level by including the dust control measures below.

Significance Level:
Less than Significant Impact

The impact could be reduced to less than significant by including dust control measures as described in the following mitigation measure:

**Mitigation Measure AIR-1:**
The following dust control measures would be included in the project:

a. Water or alternative dust control method shall be sprayed to control dust on construction areas, soil stockpiles, and staging areas during construction as directed by the County.

b. Trucks hauling soil, sand and other loose materials over public roads would cover the loads, or would keep the loads at least two feet below the level of the sides of the container, or would wet the load sufficiently to prevent dust emissions.

c. Paved roads would be swept as needed to remove soil that has been carried onto them from the project site.

Mitigation Monitoring

**Mitigation Monitoring AIR-1:**
Permit Sonoma Staff shall ensure that the measures are listed on all site alteration, grading, building or improvement plans, and prior to issuance of grading or building permits.

**c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable Federal or State ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?**

Comment:
The project is located in the NSCAPCD jurisdiction, a region that is in attainment for criteria pollutants under applicable state and federal ambient air quality standards. The project would add three new single family residences, and associated minor air emissions, and impacts would not be cumulatively considerable (5, 2).

Significance Level:
Less than Significant

**d) Expose sensitive receptors to substantial pollutant concentrations?**

Comment:
Sensitive receptors include hospitals, schools, convalescent facilities, and residential areas. No such receptors are located near the proposed building envelopes for the project, and the project would not expose sensitive receptors to significant concentrations of pollutants.

There would be no long term increase in emissions, but during construction there could be significant dust emissions that would affect nearby residents. Dust emissions can be reduced to less than significant by the mitigation measure described in item 3c above. (Please refer to source documents 5,2)

Significance Level:
Less than Significant Impact

**e) Create objectionable odors affecting a substantial number of people?**

Comment:
The project subdivision would result in residential development on undeveloped land, in a sparsely populated rural area. Construction equipment may generate odors during construction. The impact would be less than significant because there are few people in the area, and any odors would be a short-term and ceases upon completion of the construction. (Please refer to source documents 5,2)

Significance Level:
Less than Significant Impact

## 4. BIOLOGICAL RESOURCES:

**Environmental Setting and Habitat Types**

The project site supports diverse habitats including natural woodland and forest, ranging from relatively dense canopy of second growth redwood and mixed evergreen forest, to a more open serpentine-influenced woodland of California bay with oaks and Douglas-fir. Most of the site has a north or northeast facing aspect, and as such is relatively damp, shaded and protected (Patterson 2007). The somewhat coastal regional climate with significant fog drip and protective cloud cover also helps foster a dense, relatively diverse and productive forest. The dominant trees include coast redwood (*sequoia sempervirens*), Douglas- fir (*Pseudotsuga menziesii),* Coast live oak (*Quercus agrifolia*), California black oak (*Quercus kelloggii*), tanbark oak (*Lithocarpus densiflorus*), and madrone (*Arbutus menziesii*), with scattered understory of saplings of the same species, plus occasional individuals of such shade tolerant species as California filbert (*Corylus cornuta*). On the more exposed slopes, the local forest shifts in species composition to a type more heavily dominated by oaks and tanbark, while on the serpentine area in the south, the cover becomes a more open woodland of bay, Douglas-fir, and brush (Patterson 2007).

In addition to the woodland/forest cover, the site contains a few areas dominated by brush or chaparral (with only scattered trees), most of which is locally associated with serpentine substrate in the southern part of the site. The poor nutrient balance of this rock/soil type precludes a number of the common woodland/ forest species from growing here, and the dominant cover is an endemic shrubs and a few serpentine-tolerant trees such as California bay (Patterson 2007). Dominant shrubs on serpentine include Baker's Manzanita (*Arctostaphylos bakeri*), toyon (*Hetromeles arbutifolia*), Jepson's ceanothus (*Ceanothus jepsonii*), and lesser amounts of coffeeberry (*Rhamnus californicus*), chaparral pea (*Pickeringia montana*), chamise (*Adensotoma fasciculatum*), mountain mahogany (*Cercocarpus*), spice bush (*Calycanthus*), and poison oak. Most of the serpentine chaparral areas also have scattered emerging bay trees and occasional Douglas-firs (Patterson 2007).

Open grassland is scarce in the project area, consisting primarily of just a few small scattered clearings and meadows in the forest/woodland expanse, as well as small openings and general groundcover in serpentine chaparral (Patterson 2007). The majority of the forest cover is fairly dense and results in a relatively shaded and small understory and ground cover beneath, although there are ample breaks and variations in the canopy, resulting in understory growth of shrubs and herbs. Occasionally found on the more deeply shaded forest floor and typically associated with redwoods are species such as calypso

orchid (*Calypso bulbosa*), trillium (*trillium ovatum*), and star-flower (*Trientalis*) (Patterson 2007).

Numerous area of chaparral or stands of manzanita show advanced stages of successional domination of forest trees, to the near complete decline of brush (tall, spindly, mostly dead tissue) (Patterson 2007). Groundcover is especially sparse, including only a few shade tolerant herbs (*Sanicula, Osmorhiza, Athyrium*) and shrubs (*Rubus, Rosa*), and the ubiquitous poison oak (*Toxicodendron*) (Patterson 2007). It does not appear that any part of the site has burned anytime recently, and because of this, there are numerous areas where the brush cover is being overtopped by emerging forest canopy.

The project located within the Green Valley Creek Watershed, Green Valley Creek is 775 feet from the most southern end of the parcel and a major tributary in the Lower Russian River watershed. It is a third order stream containing critical habitat for steelhead trout, remnant populations of coho salmon, and in its very lower reaches Chinook salmon (Gold Ridge RCD (GRRCD) 2015). There are 18.7 miles of blue line stream including its tributary Purrington Creek, which contributes important summer flow to the stream system. There is a diverse assemblage of biological resources including coniferous forests, oak woodlands, and annual grasslands. Of importance to this IS/MND is the instream and riparian habitats, which support listed salmonids.

Salmonid production within the Green Valley Creek watershed appears to be limited due to the physical structure of the instream habitat, below optimal water quality conditions, and insufficient stream flows. A lack of adequate surface flows in the summer support juvenile rearing is evident in many reaches. Reduced flow also likely contributes to low levels of dissolved oxygen which has been shown to limit juvenile rearing, and may reduce smolt survival. The wildlife habitats of the rural residential and urbanized parts of the watershed are generally lower quality than those of the surrounding natural habitats (GRRCD 2015). Roads, turf, and routine landscape maintenance limit the protective cover and opportunities for movement and foraging. Wildlife in these developed areas are more acclimated to human activity, and include common nuisance species such as rats, raccoons, and scrub jays. The higher quality habitats are located within the riparian corridor of Green Valley Creek and support listed salmonids, California Freshwater Shrimp (*syncaris pacifica*), northwestern pond turtle (*Actinemys marmot*), northern spotted owl (*Strix occidentalis caurina*), and foothill yellow-legged frog (*Rana boylii*) (See Attachment 4, Appendix 1 Table of Special Status Species Occurring within Camp Meeker Quadrangle ).

**Biological Resource Studies**

Permit Sonoma , Charles A. Patterson Consulting Plant Ecologist, and Stillwater Sciences conducted or authorized two biological resource studies relating to the proposed project: a Biological Baseline Report and a Fisheries Assessment (See Attachments 4 and 5, respectively.) These reports included the following:

- Archival Research to identify potential plants, wetlands and wildlife species that could be present within the project area, particularly special status species and/or habitat.
- Field surveys to identify the presence of plant and/or animal species, plant communities, wildlife habitats and wetlands.
- Assessment of potential impact to biological resources that could result from the implementation of the project.
- Mitigation measures and project recommendations that could minimize the significance of potential environmental impacts associated with biological resources.

The following discussion integrates the findings and conclusions of the reports.

**Special-Status Species**
Special status species are afforded special recognition and protection under state and federal regulations. Special Status species are defined as those plants and animals that are listed by federal, state, or local

resource conservation agencies and organizations, such as U.S. Fish and Wildlife Service (USFWS), NOAA's National Marine Fisheries Service (NMFS), California Department of Fish and Wildlife (CDFW), or the California Native Plant Society (CNPS). At the Federal level, species are officially listed as Threatened (FT) or Federally Endangered (FE), or are considered candidates for listing by the USFWS or NMFS. At the State level, species are officially listed as Rare (CR), Threatened (CT), Endangered (CE), or Species of Special Concern (CSC) by the CDFW. Also included are species recognized by CNPS as rare, endangered or threatened in California and elsewhere (1B); rare, threatened or endangered in California but more common elsewhere (2); plant species for which additional information is required to make a determination (3); or plants of limited distribution that are considered vulnerable and potential candidates for special status (4). (CNPS 2016).

Queries of the California Natural Diversity Database (July 27, 2016) and the CNPS On-line Inventory (July 27, 2016) were conducted for sensitive biological resources that are known to occur within the Camp Meeker 7.5 minute U.S.G.S quadrangle map, where the project site is located. (See Attachment 4 Appendix 1.)

***Would the project:***

**a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?**

Comment:

**Special Status Plants**
Historic records have identified a number of potentially sensitive plant species (see attached Patterson Biological Baseline Report) at this location due to the presence of the serpentine habitat. The serpentine on the project site provides suitable habitat conditions for plant species which are typically associated with this uncommon rock/ soil type (Patterson 2007). In particular, baker's manzanita (*Arctostaphylos bakeri*) is known to occur in the project area on serpentine as well as a number of limited other locations. This uncommon and habitat restricted endemic shrub is listed by CDFW as "rare". Other sensitive plants previously reported at this site include serpentine reedgrass (*Calamagrotis ophitidis*) and serpentine bird's-beak (*Cordylanthus tenuis* ssp. *brunneus*), both in the serpentine habitat located on the southernmost lot (Lot 1), and thin-leaved horkelia (*Horkelia tenuioba*) in a clearing/meadow next to the southern drainage course (near to, but not directly on serpentine) (Patterson 2007).

Charles A. Patterson performed three separate (staggered) site surveys prior to the recent drought that began in water year 2012-2013. His surveys were in spring on March 5, May 15, and June 18, 2007 and failed to find any serpentine bird's-beak at the historically mapped locations. An outcropping was observed in the main serpentine area downslope from the entry road (Patterson 2007).

Baker's Manzanita colonies had previously been reported to occur at in nine locations on the property, although several of these are a few straggly individuals in the understory of developing forest canopy and are vulnerable to forest encroachment (Patterson 2007). As the forest encroaches on these small (less than ten plants) populations, localized decline would occur. However, the population located on the 19 acres of general serpentine habitat has a strong (up to 1,000 individuals) population. This population occurs alongside serpentine tolerant shrubs (*i.e.*, *Heteromeles, Calycanthus, Adenostoma, Ceanothus, Pickeringia*) and scattered trees (*Pseudotsuga, Umbgellularia*) (Patterson 2007).

No other officially rare or endangered plant species have been found on this property, but there are

several other rare or sensitive plant species that could also occur here (see Patterson attachment), essentially all of which would be expected on serpentine. Also observed on serpentine to date are serpentine reedgrass, Jepson's ceanothus, a semi-rare (but not listed) tarplant, and a number of native grasses (none of which are listed) (Patterson 2007). Based on these site surveys and investigations, Mr. Patterson reviewed the proposed 2009 revisions to the building envelopes and concluded that none of the proposed sites for possible building or homesite development fall directly within or on top of any of the previously identified biological resource areas or sites, and would pose no threat to any such areas, habitats, or features on the property. The primary serpentine area, unique vegetation species, small wetland areas, ephemeral channels, and scattered sites of extant rare plants on the southernmost lot (Lot #1) have been avoided completely.

**Special Status Salmonids**
Green Valley Creek is a major tributary in the lower Russian River basin, and contains critical habitat for FE/SE Central California Coast (CCC) coho salmon (*Oncorhynchus kisutch*) and FT CCC steelhead (*O. Mykiss*). Coho salmon and steelhead are anadromous fish; they spawn and rear in freshwater streams, such as Green Valley Creek, and mature in the ocean (GRRCD 2010).

The Green Valley Creek watershed was identified by the State Water Resources Control Board (SWRCB) and Department of Fish and Wildlife as a priority area for protection of FE/SE Coho salmon and steelhead in an Emergency Order dated June 17, 2015. The Emergency Order imposed additional limits on residential water use during low flow and/or dry years for new construction developments. CCC coho salmon have a three year life cycle, and the extended drought conditions have affected all three year-classes. CCC steelhead have more flexibility with reproduction, having the ability to reside in freshwater or at sea depending on inland fluvial conditions (GRRCD 2010). Steelhead also have the ability to spawn two or three times in their lifespan. Coho salmon and steelhead depend on pools with suitable temperatures and dissolved oxygen concentrations to grow during the summer months and then migrate to the ocean in the late fall through spring. Minimal water is needed to maintain acceptable conditions for these species to survive.

Project area is approximately 773 feet from the north east corner of the site and a small tributary to Green Valley Creek is approximately 621 feet from the western property line. The project area does not have any blue line creeks on the parcel that drain or are tributaries to Green Valley Creek.

The project would utilize groundwater resources from the Wilson Grove formation which is adjacent to the Green Valley Creek. Richard Slade and Associates (2016), Brelje and Race (2015) and Stillwater Sciences (2016) analyzed the domestic groundwater demand resulting from the subdivision of the parcels and subsequent construction. (See documents attached to this IS/MND.) During the summer months, water use and water demand would be high at the project site, surrounding properties, and by juvenile salmonids in Green Valley Creek. All three professional estimates agreed on a conservative estimate of 1.4 acre-feet (AF) for the proposed subdivision's summer water demand. The estimated discharge of Green Valley Creek during the summer for dry years is 301 AF and may go up to 1,806 AF during wet years (O'Connor Environmental Inc. 2016). Using an extremely conservative and direct approach, the 1.4 AF summer water usage could result in a reduction of 0.007 cubic feet per second (cfs) (Stillwater 2016). This amount is considered within the measurement of statistical error, also there has not been a definitive direct hydrologic connection between the Wilson Grove Formation and Green Valley Creek. It is unlikely that this project would have direct impacts to surface water in Green Valley Creek. Potential impacts related to groundwater use are discussed in Section 9 Hydrology and Water Quality.

**Tree Removal**
The project is a subdivision that could result in tree removal, grading, and construction of four building pads and roads totaling two acres of disturbance. Table 2 in Section 2 Agricultural and Forest Use describes the proposed and current non-forest use of the parcel. Although the removal of the trees on up to two acres of the 187 parcel may result in the temporary disturbance or volitional movement of bird species, tree dwelling mammals, and bat species out of the project site, mitigation measures

are incorporated to ensure these disturbance related impacts would be less than significant.

A mitigation measure has been established to require that a qualified biologist survey the site for nesting birds as well as endangered or rare species, and submit the survey findings to Permit Sonoma Staff for review.

**Conclusion**
The proposed map and building envelopes have been laid out to avoid any impacts on the serpentine soil and rare plant areas, as well as Green Valley Creek and special status salmonids. There would be impacts to 7 acres of mixed redwood, evergreen, and conifer forest from the potential construction of the site.

Since there are no immediate plans to construct anything on the proposed parcels and plants can sometimes spread slightly beyond the most suitable soil type and shift distribution from season to season, a qualified biologist must review the site for the proposed structures when construction is proposed, in case species have migrated.

Significance Level:
Less than Significant with Mitigation Incorporated

Mitigation

**Mitigation Measure: BIO-1**

A qualified biologist must inspect the site and review construction plans to ensure areas with rare plants, trees with nesting birds, and riparian vegetation are not disturbed. The subdivision map shall include a note:

> Prior to issuance of a building permit, a current Biological Baseline Report must be submitted from a qualified biologist addressing potential impacts of the new construction on riparian habitat and rare and endangered plants and establishing measures to protect any such species and/or habitat. Impacts to migratory birds are typically avoided by removing vegetation during non-nesting season, by having a qualified biologist verify absence immediately prior to vegetation removal, and, in the case of bridges, by employing exclusionary bird netting during the nesting season. Refer to the Sonoma County Breeding Bird Atlas for specific bird species.
>
> Oaks and riparian vegetation may be removed outside of the migratory bird nesting season February 15 through September 1 (bird species of concern include owls, woodpeckers, nuthatches, titmice, swallows, etc.).
>
> Eucalyptus, redwood, and Douglas fir and other relatively tall trees may be removed outside of nesting season for red-shouldered hawks, red-tailed hawks, owls: February 15 through August 15.

**Mitigation Measure: BIO-2**
No related ornamental species of manzanita (*Arctostaphylos*) should be used in private landscaping, as such plantings could possible cross-breed with and potentially genetically compromise the unique local form. Use of the actual native manzanitas

Mitigation Monitoring
The map cannot be recorded unless the above note has been placed on it. When the application is made for building permits, the Project Planner reviews the map and would enforce the requirement, requiring that the study be submitted and any protection methods be established prior to construction.

**b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?**

Comment:
Drainage zones are generally associated with at least some form of riparian vegetation and are important to watershed water quality, In the project area the two main drainages are strictly ephemeral and have a such a dense (closed canopy) that neither supports any significant riparian vegetation (Patterson 2007). A few scattered willows occur along these drainages, mostly toward the lower reaches, but for the most part, these channel corridors support predominantly common woodland and forest species, with little or no differentiation from the surrounding forest communities. The project site's drainages are still important with regard to water quality and general wildlife habitat, but do not support any significant actual 'riparian' vegetation. These 'riparian' areas do not represent significantly sensitive features or habitats from the perspective of vegetation present (Patterson 2007). These two drainages are flashy and ephemeral as to not truly provide any significant 'riparian' wildlife values either (no amphibian breeding, no summer water, or no minimal riparian growth) (Patterson 2007). The proposed subdivision would not have any significant impact on these two drainages, because building envelopes for Lot 1 and Lot 2 have been drawn to avoid these drainages and vegetation communities.

In general, all of the proposed lots are dominated by relatively common dense mixed evergreen forest, which includes some scattered second growth redwoods. While this vegetation type is noted for its inherent value as watershed land and for wildlife habitat, it is not especially unique or sensitive as native vegetation, and its botanical values are similarly minor (Patterson 2007). Lot 1 contains a significant occurrence of rocky serpentine soil and a host of associated native plants which are restricted to serpentine, and one Baker's manzanita, is listed as rare and sensitive by the California Department of Fish and Wildlife (CDFW) (Patterson 2007). All of the serpentine is regarded as at least somewhat rare and the sensitive, and the manzanita in particular is a significant potential constraint. This lot also contains the thin-leaved horkelia, which CDFW has not listed formally. The proposed subdivision would not have any significant impact on these rare and sensitive plants, because the building envelopes for Lot 1 have been drawn to avoid the patch of serpentine. Mitigation Measure BIO-2 would prevent any genetic intrusion as a result of ornamental manzanita landscaping.

The assessment does recommend that site specific surveys may be warranted at the building sites to conclusively ascertain and map any wetland or channel features. Two of the building envelopes are directly adjacent to man-made ponds, and riparian habitat may occur. The mitigation measures established in BIO-1, BIO-2, and BIO-3 would ensure that no unmitigatable impacts to riparian habitat occur.

Significance Level:
Less than Significant with Mitigation Incorporated

Mitigation:

**Mitigation Measure BIO-3**

Only the minimum amount of vegetation would be pruned or removed as necessary for construction. Where possible, vegetation would be tied back in lieu of cutting. Native vegetation that must be removed would be cut at or above grade to facilitate re-growth. Any pruning that is done, including for utility line clearance, would conform to the American National Standard for Tree Care Operation Tree, Shrub, and Other Woody Plant Maintenance Standard Practices, Pruning (ANSI A300 Part 1)-2008 Pruning), and the

companion publication Best Management Practices: Tree pruning (ISA 2008). Roots would only be unearthed when necessary.

The standard construction contract language requires the contractor to comply with all laws and regulations (Caltrans Standard Specifications, section 7-1.01). The contractor shall be made aware that, if there is removal of any trees on private property in conjunction with this project, said removal must comply with the following: 1) the County Tree Protection and Replacement Ordinance; 2) the Sonoma County Valley Oak Stewardship Guidelines for valley oak trees removed within the Valley Oak Habitat combining district; and 3) the Heritage or Landmark Tree Ordinance. Enforcement of this measure would be through a combination of Department of Transportation and Public Works and Permit Sonoma Staff.

Mitigation Monitoring
The subdivision map shall not be recorded unless the note has been placed on it. When the application is made for building permits, the Project Planner reviews the map and would enforce the requirement, requiring that the rare plant study be submitted and any protection methods be established prior to any vegetation removal.

**c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

Comment:
The project would not have a substantial adverse effect on wetlands. No direct alterations to the site's wetlands are proposed by this project. The building envelopes have been placed outside of the small patch of wetlands found on Lot #1, and wetlands would not be adversely effected by any potential development after subdivision.

There is the potential that the project may generate surplus soils for disposal off-site, and improper disposal of this material could affect off-site wetlands or other sensitive habitats. The impact can be reduced to less than significant by controlling the disposal of surplus soils, as required in the following mitigation measure.

Significance Level:
Less than Significant Impact

**Mitigation Measure BIO-3**

All surplus soils that cannot be used on the project site would be disposed of at a legally permitted disposal site. If any areas outside the project site are used for disposal or stockpiling of soil or other materials, the contractor would be required to demonstrate that the site has all the required permits, including, if applicable, a grading permit. The contractor would notify the California Department of Fish and Wildlife of the intent to use the site, and contact Permit Sonoma to determine if a grading permit is required. The contractor would be required to provide evidence to the County that the site does not affect wetlands under the jurisdiction of the Army Corps of Engineers, or that the site has the appropriate permit from the Army Corps of Engineers.

Surplus concrete rubble or pavement would either be disposed of at a legally permitted disposal site or taken to a permitted concrete and/or asphalt recycling facility.

**d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?**

Comment:
The subdivision would likely result in residential and appurtenant development on the four new lots. Construction would involve confined site disturbance and would not impede any migratory fish or wildlife species.

Significance Level:
Less than Significant Impact

**e) Conflict with any local policies or ordinances protecting biological resources, such as tree preservation policy or ordinance?**

Comment:
Some tree removal may occur in developing the driveways and building envelopes and is discussed in question 4a above and the Agricultural and Forest Use question 2d. The extent of tree removal is expected to be limited (2 acres out of 189 acres), and would not affect the overall rural resource quality of the project site or surrounding lands. The county also regulates tree removals (Tree Protection and Replacement Ordinance, Sonoma County Code Section 26C-88-010(m)); proposed tree removals must be shown on grading and building plans, and replaced consistent with Ordinance requirements. There are no known Heritage or Landmark Trees on the project site that would be impacted by development within the proposed building envelopes.

Significance Level:
No Impact

**f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state Habitat Conservation Plan?**

Comment:
Habitat conservation plans and natural community conservation plans are site-specific plans to address effects on sensitive species of plants and animals. The project site is located in the Upper Green Valley Creek Watershed Plan area, which is not a regulatory document. The document was produced by the Gold Ridge Resource Conservation District as an adaptive management plan to facilitate the restoration of CCC coho salmon and preservation of sustainable agriculture. The document recommendations are voluntary for landowners and rely on the Best Management Practices (BMPs) established by federal, state, and local permitting agencies to direct landowner stewardship actions. The mitigation measures BIO-1, BIO-3 and Hyd-1 included in this section and the Hydrology section have incorporated the recommendations of the Upper Green Valley Creek Watershed Plan.

Significance Level:
Less than Significant with Mitigation Incorporated

Mitigation:
Refer to Mitigation Measures BIO-1 and BIO-3 above and in Section 9 Hydrology and Water Quality.

## 5. CULTURAL RESOURCES:

***Would the project:***

**a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?**

Comments:
A Cultural Resources Survey was prepared for the project by a professional archaeologist. On February 13, 2007, a field survey was conducted to inventory the resources within the study area and assess their potential cultural significance and possible disturbance by construction that would be anticipated to occur as a result of the project. Two previously recorded historical resources and a bifacial, obsidian isolate were found within the study area. One of the historic sites, the Applebrook Sawmill Site, is located outside of all building envelopes and the professional archaeologists state that there would be no effects by the project on the site. The other site, the Bones Homestead, is within the building envelopes for Lot 2 and contains the existing residences on the site. On August 10, 2010 the Sonoma County Landmarks Commission reviewed the historical evaluation of the buildings, which was prepared by Vicki Beard of Tom Origer & Associates. The Commission found that the structures are not a significant historic resource. None of the buildings appear eligible for inclusion on the California Register as individual resources or as complex.

Significance Level:
Less than Significant Impact

**b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?**

Comment:
Although no artifacts were discovered, it is possible that archaeological resources could be discovered with disturbance of the soil. The standard condition CUL-1 would be placed on the project plan sheets.

Significance Level:
Less than Significant with Mitigation Incorporated

Mitigation

**Mitigation Measure CUL-1**
A Tribal and/or Archaeological Monitor is required to be present onsite during all grading and ground disturbance work. Prior to submittal of the application for Grading Permit or any other ground disturbing activity, please contact the Lytton Rancheria Tribe to make arrangements. The Tribe can currently be reached through "Brenda L. Tomaras Tomaras & Ogas, LLP btomaras@mtowlaw.com or (858) 554-0550.

All building and/or grading permits shall have the following note printed on plan sheets:

NOTE ON MAP:
A Tribal and/or Archaeological Monitor is required to be present during all grading or other ground-disturbing work. The Tribal Monitor must be present on site before the start of any ground-disturbing work, including scraping. In the event that cultural resources are discovered at any time during grading, scraping or excavation within the property, all work should be halted in the vicinity of the find. Artifacts associated with prehistoric sites may include humanly modified stone, shell, bone or other cultural materials such as charcoal, ash and burned rock indicative of food procurement or processing activities. Prehistoric domestic resources include hearths, firepits, or house floor depressions whereas typical mortuary resources are represented by human skeletal remains. The Tribal Monitor, Archaeological Monitor, and Permit Sonoma - Project Review Staff shall be notified. Permit Sonoma Staff should consult with the appropriate tribal representative(s) from the tribes known to Permit Sonoma to have interests in the area to determine if the resources qualify as Tribal Cultural Resources (as defined in

Public Resource Code § 21074). If determined to be a Tribal Cultural Resource, Permit Sonoma would further consult with the appropriate tribal representative(s) and project proponents in order to develop and coordinate proper protection/mitigation measures required for the discovery. Permit Sonoma may refer the mitigation/protection plan to designated tribal representatives for review and comment. No work shall commence until a protection/mitigation plan is reviewed and approved by Permit Sonoma - Project Review Staff. Mitigations may include avoidance, removal, preservation and/or recordation in accordance with California law. Evaluation and mitigation shall be at the applicant's sole expense.

''If human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and Permit Sonoma Staff and County Coroner must be notified immediately pursuant to State law so that an evaluation can be performed. If the remains are deemed to be Native American, the Native American Heritage Commission must be contacted by the Coroner so that a ''Most Likely Descendant'' can be designated and the appropriate provisions of the California Government Code and California Public Resources Code would be followed.''

Mitigation Monitoring
**Mitigation Measure Cul-1**
Building/grading permits shall not be approved for issuance by Permit Sonoma - Project Review Staff until the above notes are printed on the building, grading and improvement plans.

**c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?**

Comment:
A Cultural Resources Survey was prepared for the project by professional archaeologists on February 13, 2007. A mixed strategy field survey was done. Two previously recorded historical resources and bifacial, obsidian isolate were found within the study area. The resources that were found were not determined to be unique paleontological resources. The project site is not considered to be a unique or cultural significant place, however a Lytton Rancheria Tribal Monitor would be present during all ground disturbance per the tribe's request during consultation.

There is a unique geologic feature in the 19 acres of serpentine along the southernmost lot however the building envelopes have been designed to avoid this area entirely. Therefore, the project would not directly or indirectly destroy a unique paleontological resource or site and avoids a unique geologic feature.

Significance Level:
Less than Significant Impact

**Disturb any human remains, including those interred outside of formal cemeteries?**

Comment:
No burial sites are known in the vicinity of the project, and most of the project site has already been disturbed by past construction. In the event that human remains are unearthed during construction, state law requires that the County Coroner be notified to investigate the nature and circumstances of the discovery. At the time of discovery, work in the immediate vicinity would cease until the Coroner permitted work to proceed. If the remains were determined to be prehistoric, the find would be treated as an archaeological site and the mitigation measure described in item 5(b) above would apply. If the remains are deemed to be Native American and prehistoric, the Native American Heritage Commission must be contacted by the Coroner so that a "Most Likely Descendant" can be designated. (1, 6)

Significance Level:
No Impact

Mitigation
Mitigation measure described in item 5(b) above would apply. (1, 6)

Mitigation Monitoring
The subdivision map cannot be recorded unless the note has been placed on it. When the application is made for building permits, the Project Planner reviews the map and would enforce the requirement.

## 6. GEOLOGY AND SOILS:

***Would the project:***

**a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:**

**i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.**

Comment:
The project site is not within a fault hazard zone as defined by the Alquist-Priolo fault maps. The geologic report states that there no known active faults passing through the site, and there would be no impacts from fault rupture.

Significance Level:
No Impact

**ii. Strong seismic ground shaking?**

Comment:
All of Sonoma County is subject to seismic shaking that would result from earthquakes along the San Andreas, Healdsburg-Rodgers Creek, and other faults. The project site is mapped as having potentially very strong ground shaking in the Earthquake Ground Shaking Hazard Areas of the Sonoma County General Plan. Predicting seismic events is not possible, nor is providing mitigation that can entirely reduce the potential for injury and damage that can occur during a seismic event. However, using accepted geotechnical evaluation techniques and appropriate engineering practices, potential injury and damage can be diminished, thereby exposing fewer people and less property to the effects of a major damaging earthquake. The design and construction of future dwellings on new parcels would be subject to load and strength standards of the California Building Code (CBC), which take seismic shaking into account. Project conditions of approval require that building permits be obtained for all construction and that the project meet all standard seismic and soil test/compaction requirements. The project would therefore not expose people to substantial risk of injury from seismic shaking. The following mitigation measures would ensure that potential impacts are reduced to less than significant levels.

The design of all earthwork, cuts and fills, drainage, pavements, utilities, foundations and structural components shall conform with the specifications and criteria contained in the project geotechnical report (consultant name and date of report). The geotechnical engineer shall submit an approval letter for the engineered grading plans prior to issuance of the grading permit. Prior to final of the grading permit the geotechnical engineer shall also inspect the construction work and shall certify to Permit

Sonoma, prior to the acceptance of the improvements or issuance of a certificate of occupancy that the improvements have been constructed in accordance with the geotechnical specifications. Permit Sonoma Plan Check Staff would ensure plans are in compliance with geotechnical requirements. Permit Sonoma inspectors would ensure construction is in compliance with geotechnical requirements.

Significance Level:
Less than Significant Impact

**iii. Seismic-related ground failure, including liquefaction?**

Comment:
Strong ground shaking during an earthquake can result in ground failure and/or settlement such as that associated with soil liquefaction, and can also cause deformation of slopes, particularly fill slopes. Therefore the property has the potential to experience liquefaction and settlement during a seismic event. All structures would be required to meet building permit requirements, including seismic safety standards and soil test/compaction requirements. Based on standard permitting requirements, the project would have no significant risk of loss, injury or death from seismic ground failure or liquefaction. Also see mitigation measures included in 6.a.ii above.

Significance Level:
Less than Significant Impact

**iv. Landslides?**

Comment:
According to the county-wide landslide mapping of the Safety Element of the General Plan (Map Unit Psd-1) shows the relative likelihood of deep land-sliding based on regional estimates of rock strength and steepness of slopes. The mapping shows the project area as slightly sloped with moderate rock strength.

Additionally, the mapping of Huffman and Armstrong does not show the presence of large, potentially damaging landslides within the project property (Dwyer 2007). This mapping is more detailed and notes a relatively large, older landslide along the deep canyon west of Lot 1 and Lot 2. This landslide does not pose a hazard to the proposed building envelopes of either of these lots, which are located well upslope and on more gentle terrain (Dwyer 2007). The geologist reviewed the revisions to these building envelopes and states that the project is considered feasible from a geologic standpoint. The report and additional review establish certain areas of the site that have the lowest risk for building and leach field development. The geologist states, in a letter dated December 15, 2008 that the building envelopes boundaries are not precise and field confirmation is recommended once a specific envelope is selected for development. To ensure buildings are constructed on geologically stable ground Measure GEO-1 is required.

Significance Level:
Less than Significant with Mitigation Incorporated

Mitigation

**Mitigation Measure GEO-1**
Building envelopes shall be depicted on the Parcel Map, as shown on the Tentative Map, and located by survey. The following notes shall be placed on the map: “Prior to construction, an engineering geologist must review the building site to ensure that the site is stable” and “building envelopes were established

due to geologic, archeological, and biotic concerns. In order to construct outside of the envelope, a Certificate of Modification must be applied for, and studies addressing the above issues must be submitted."

Mitigation Monitoring
Permit Sonoma Project Review Staff would review the map and would not approve it for recordation unless the building envelopes and the notes have been placed on it.

**b) Result in substantial soil erosion or the loss of topsoil?**

Comment:
The subdivision of land does not include any construction, but the resulting parcels could have residences constructed on them which could require grading, cuts and fills for access driveway improvements and future home site development. An Erosion and Sediment Control Plan prepared by a registered professional engineer is required as an integral part of the grading plan for a grading permit review. The Erosion and Sediment Control Plan is subject to review and approval of Permit Sonoma prior to the issuance of a grading permit. The plan must include temporary erosion control measures to be used during construction of cut and fill slopes, excavation for foundations, and other grading operations at the site to prevent discharge of sediment and contaminants into the drainage system.

Significance Level:
Less than Significant Impact

Mitigation

**Mitigation Measure GEO-2**

The project site shall be inspected following the first heavy rain, during the middle of the rainy season and at the end of the rainy season following construction. During each visit, areas of significant erosion or erosion control device failure shall be noted and appropriate remedial actions taken.

Mitigation Monitoring

**Mitigation Monitoring GEO-2**

The project site shall be inspected by County Staff after storm events that produce 1 inch of rain or greater within 24 hour period in the Santa Rosa area. During every inspection, areas of significant erosion or erosion control device failure shall be noted and appropriate remedial actions would be taken as soon as practical. If erosion control measures appear to be effective for three consecutive site inspections following 1-inch storm events, then site inspections would only be required following storm events that result in 2 inches of rain, or greater, within a 24-hour period in the Santa Rosa area.

At the end of the rainy season, County Staff would re-inspect the site and evaluate the effectiveness of the erosion control measures that were used. If there were problem areas at the site, recommendations would be made to improve methods used in subsequent projects.

Mitigation

**Mitigation Measure GEO-3**

An Erosion and Sediment Control Plan prepared by a registered professional engineer shall be submitted as an integral part of the grading plan. The Erosion and Sediment Control Plan shall be subject to review and approval of Permit Sonoma prior to the issuance of a grading permit. The Plan shall include

temporary erosion control measures to be used during construction of cut and fill slopes, excavation for foundations, and other grading operations at the site to prevent discharge of sediment and contaminants into the drainage system. The Erosion and Sediment Control Plan shall include the following measures as applicable:

i. Throughout the construction process, ground disturbance shall be minimized and existing vegetation shall be retained to the extent possible to reduce soil erosion. All construction and grading activities, including short-term needs (equipment staging areas, storage areas and field office locations) shall minimize the amount of land area disturbed. Whenever possible, existing disturbed areas shall be used for such purposes.

ii. All drainage ways, wetland areas and creek channels shall be protected from silt and sediment in storm runoff through the use of silt fences, diversion berms and check dams. Fill slopes shall be compacted to stabilize. All exposed surface areas shall be mulched and reseeded and all cut and fill slopes shall be protected with hay mulch and /or erosion control blankets as appropriate.

iii. All erosion control measures shall be installed according to the approved plans prior to the onset of the rainy season but no later than October 15th. Erosion control measures shall remain in place until the end of the rainy season, but may not be removed before April 15th.

Mitigation Monitoring

**Mitigation Monitoring GEO-3**

Building/grading permits for ground disturbing activities shall not be approved for issuance by Project Review Staff until the above notes are printed on applicable building, grading and improvement plans. The permit applicant shall be responsible for notifying construction contractors about erosion control requirement.

**c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?**

Comment:

The geological report conducted for the proposed subdivision recommended suitable locations for the building envelopes on the site. Construction of future single family homes and related structures would result in minor loads and would be low density and would not cause slopes or geologic unit to become unstable. The project site is subject to seismic shaking as described in item 6.a.ii above.

Significance Level:
No Impact

**d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?**

Comment:

For the proposed project, soils at the site have not been tested for their expansive characteristics. Soils on the site are mapped as Josephine and Gold Ridge these soils have medium to low shrink/swell potential. Soils testing would be required for building or grading permits. No substantial

building and grading risks to life or property would occur due to expansive soil because of the permitting requirements.

Significance Level:
Less than Significant Impact

**e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?**

Comment:
The project site is not in an area served by public sewer. Preliminary documentation provided by the applicant and reviewed by the Permit Sonoma Project Review Health Specialist indicates that the soils on site would support a septic system and the required expansion area. Standard conditions of project approval would apply to ensure soils are capable of supporting use of a septic system.

Significance Level:
Less than Significant Impact

## 7. GREENHOUSE GAS EMISSIONS:

***Would the project:***

**a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?**

Comment:
Greenhouse Gas Emissions (GHG) - Greenhouse gases trap heat in the atmosphere. Increases in greenhouse gases due to human activity are associated with Global Climate Change (aka "Global Warming"), that is, the change in the average weather on earth, as measured by wind patterns, storms, precipitation and temperature. The primary greenhouse gases are CO2, methane (CH4), nitrous oxide (N20), sulfur hexafluoride (SF6), perfluorocarbons (PFCs), hydrofluorocarbons (HFCs), and water vapor (H20). Considered the most important greenhouse gas, CO2 is the reference gas for climate change and emissions of greenhouse gases in general are often reported as CO2 equivalents (CO2e).

For purposes of the Mitigated Negative Declaration, the project would be considered to have a significant impact on greenhouse gases if it would conflict with the state goal of reducing greenhouse gas emissions in California to 1990 levels by 2020, as set forth by the California Global Warming Solutions Act of 2006. There is currently no indication that the project would conflict with the Act's timeline. In addition, the County's Climate Protection Campaign has yet to establish emissions targets to reduce GHG in Sonoma County. However, the Climate Protection Campaign has provided a list of projects that are effective and under local control that would reduce Greenhouse Gases if they are implemented. The Plan’s solutions involve four major categories: 1. Improve efficiency in energy and water use; 2. Shift transportation from fossil fuel vehicles to transit, walking, bicycling, etc.; 3. Invest in local renewable energy sources; 4. Protect forests and farmlands, sequester carbon, and convert waste into energy. The inclusion of these types of activities in this project would ensure that there is not a cumulative contribution to Greenhouse Gas emissions as a result of this project.

On November 4, 2008 the Sonoma County Board of Supervisors adopted a resolution selecting the Build it Green (BIG) New Home Construction, Home Remodeling and Multifamily Green Building Guidelines for Residential Construction, and Leadership in Energy and Environmental Design

(LEED®) Commercial Green Building System for Commercial Construction guidelines, along with their respective Green Points Checklists, set compliance thresholds, and directed Staff to develop a green building ordinance based on these guidelines.

On November 2, 2010, the Board of Supervisors approved all state mandated model codes including the new California Green Building Standards Code (CalGreen). Sonoma County's existing green building ordinance and energy efficiency ordinance were modified to accommodate the new CalGreen code, and to replace the existing green point rated systems, Build-It-Green and LEED for both new residential and non-residential construction respectively. The ordinances became effective January 1, 2011. Compliance with this ordinance meets the aforementioned state regulations. The following mitigation measures would be applied as conditions of Approval to further prevent any greenhouse gas impact and reflect the provisions of this ordinance.

Significance Level:
Less than Significant Impact

Mitigation

The following voluntary requirements include exceeding California Title 24 energy efficiency requirements by 15 percent and several additional measures, which include:

- Designated parking for fuel efficient vehicles for a minimum of 10 percent of parking capacity;
- Cool roofs that meet thermal emittance and solar reflectance standards;
- A 30 percent reduction in indoor potable water use;
- Outdoor potable water use not to exceed 60 percent of acceptable rates;
- Recycled content of 10 percent of materials used;
- Construction waste reduction of 65 percent; and
- Thermal insulation that meets low emitting materials standards.

Future residential buildings would meet these CALGreen Tier 1 standards using technologies that include, but are not limited to: passive solar design, natural lighting and ventilation, hydrozone irrigation techniques, low flush toilets, treated wastewater and reclaimed water for irrigation, and permeable hardscapes.

With these mitigation measures, the future subdivisions' construction and operational GHG emissions would be reduced below the unmitigated levels shown in Tables 1 and 2.

Mitigation Monitoring
Building/grading permits shall not be approved for issuance by Project Review Staff until the above notes are printed on applicable building, grading and improvement plans.

**b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?**

Comment:
The County does not have an adopted Climate Action Plan but has established GHG reduction goals, the project, by implementing current county codes would be consistent with local or state plans, policies, or regulations adopted for the purpose of reducing emissions of greenhouse gases.

Significance Level:
No Impact

## 8. HAZARDS AND HAZARDOUS MATERIALS:

***Would the project:***

**a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?**

Comment:
The project is purposing to subdivide land for a four lot subdivision. The proposed project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. Any subsequent construction would require a building permit that would require mitigation measures to alleviate the risk of hazardous materials during construction.

Significance Level:
No Impact

**b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?**

Comment:
The project is for subdividing a parcel into four parcel lots. This would not create a significant hazard to the public or the environment through any accidental upset or spills of hazardous materials.

Significance Level:
No Impact

**c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?**

Comment:
There are no existing or proposed schools within 0.25 miles of the project site. (Source 1)

Significance Level:
No Impact

**d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?**

Comment
The project site was not identified on, or in the vicinity of, any parcels on lists compiled by the California Environmental Protection Agency, Regional Water Quality Control Board, California Department of Toxic Substances Control, and the California Integrated Waste Management Board. (Source 8)

Significance Level:
No Impact

**e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?**

Comment:
The site is not within an airport land use plan as designated by Sonoma County.

Significance Level:
No Impact

**f) For a project located within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?**

Comment:
There are no known private airstrips within the vicinity of the proposed project.

Significance Level:
No Impact

**g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

Comment:
The project would not impair implementation of, or physically interfere with the County's adopted emergency operations plan. There is no separate emergency evacuation plan for the County. In any case, the project would not change existing circulation patterns significantly, and would have no effect on emergency response routes. Refer to section 16.e Transportation and Traffic for discussion of emergency access. (Sources 1, 3)

Significance Level:
No Impact

**h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas of where residences are intermixed with wildlands?**

Comment:
According to the Wildland Fire Hazard Areas mapping (Figure Ps-1g) of the Sonoma County General Plan 2020, the project is located in a moderate to high fire hazard zone. The project is located in a hillside area, most of which has dense vegetative cover, and would therefore be subject to wildland fire risk. Construction on site would be required to conform to Fire Safe Standards related to fire sprinklers, emergency vehicle access and water supply making the impact from risk of wildland fire less than significant. (Sources 1, 3)

Significance Level:
No Impact

## 9. HYDROLOGY AND WATER QUALITY:

***Would the project:***

**a) Violate any water quality standards or waste discharge requirements?**

Comment:

The project is a four lot subdivision that could result in grading of roads and up to four building pads that would disturb an estimated 7 acres of soil (refer to Section 2 Agriculture and Forest Resources Table 5). The project site is located in the Upper Green Valley Creek subwatershed of the Green Valley Creek watershed, in the Lower Russian River basin. The Russian River is listed by SWRCB and North Coast Regional Water Quality Control Board under the Clean Water Act as impaired for sediment, nutrients, pathogens and temperature. (Source 25)

Green Valley Creek is approximately 773 feet from the northeast corner of the site and a small tributary to Green Valley Creek is approximately 621 feet from the western property line. However, the nearest identified potential building envelope is over 1,200 feet away from the creek and no blue line streams are located on the property. There are small scattered wetlands on the southernmost portion of the property where no proposed development would occur because the identified building envelopes are located away from the wetland areas. No impacts to wetlands or riparian areas would occur.

Following subdivision approval and at the time of proposed construction, grading permits from Permit Sonoma would be required, and all applicable standards and provisions of the Sonoma County Code and all other relevant laws and regulations apply, requiring the permit applicant to show how the project would deploy construction site controls to prevent on- or off-site erosion or siltation to ensure compliance with water quality standards/waste discharge requirements. In the event construction on any one lot is over 1 acre a Construction General Permit would be required. Please see discussion in Questions 9(c) through 9(e) below.

Significance Level:
Less than Significant with Mitigation Incorporated

**Mitigation HYD-1**

Grading permits are required and all applicable standards and provisions of the Sonoma County Code and all other relevant laws and regulations apply, if applicable. A copy of the Notice of Intent (NOI) filed with the SWRCB, as well as the Waste Discharge Identification Number (WDID) issued by that agency must be submitted to the Drainage Review Section of Permit Sonoma prior to submitting a grading permit application.

Mitigation Monitoring:

**Mitigation Monitoring HYD-1**
Permit Sonoma shall not issue the Grading Permit until the NOI and the WDID have been received.

**b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?**

Comment:
The project site is located primarily in Groundwater Availability Zone 4 (highly variable groundwater yield), which includes all of proposed Lots 2, 3, and 4, and a portion of proposed Lot 1. A smaller portion of the site, which is contained in a portion of proposed Lot 1, is in Zone 3 (marginal groundwater). A Hydrogeologic Assessment was completed and updated in 2016 for the proposed subdivision by Richard Slade & Associates in accordance with General Plan Policy WR-2e. (See Attachment 7). The assessment determined that it is feasible to develop groundwater in adequate quantities and quality from the project site, in those areas underlain by the Wilson Grove Formation. The assessment also determined that the pumping of existing or future onsite wells in the Wilson Grove Formation would not induce water level drawdown in offsite wells in the future, based on the projected relatively low rates at which future wells would be pumped to meet estimated demand at full-build out (approximately 2.2 gallons per minute, 12 hours per day, every day), and based also on the relative geologic isolation of the Wilson Grove Formation beneath proposed Lots 2, 3, and 4 from offsite wells. Permit Sonoma retained an independent third-party consultant hydrogeologist to peer review and thoroughly investigate the water demands of the project and information contained in the Slade hydrogeologic assessment. Permit Sonoma Staff and the peer reviewer requested Slade submit a summary memorandum presenting the estimated demands, proposed water supply plans, and hydrogeology relating to the proposed project. (See Attachment 11 for Groundwater Peer Review Memorandum). On August 5, 2016 Slade provided clarifying information in response to comments noted in the peer review. (See Attachment 12.)

The site is not mapped as a groundwater recharge area in the General Plan Open Space Maps. Currently there are five wells at the project site. A well identified as Well 1 is located on proposed Lot 1, is underlain by the Franciscan Complex, and has not been used as a residential water supply. A well identified as Well 2 is located on proposed Lot 2, is underlain by the Wilson Grove Formation, and is currently used by the existing residence on Lot 2. Slade performed a pumping test on Well 2, and used Well 1 as an additional water level observation well during the pumping test of Well 2. The remaining three wells are “reported unlocated” wells, because a precise location (latitude or longitude coordinates) is not available. These wells were identified in the DWR search by Slade, but could not be located during field surveys to determine if each well had been capped or deconstructed appropriately. The proposed subdivision may result in existing wells being capped and installation of additional wells to serve individual lots.

Slade estimated that the net groundwater use for the project for all four proposed Lots at buildout would be 3.08 acre-feet per year (AF/yr). This figure is based on an estimate of annual groundwater demand at buildout of 3.95 AF/yr, minus the estimated return flow (or recharge) via septic systems of .87 AF/yr. Slade noted that because the project site already contains an existing residence, barn, and guest house, and it was reasonable to assume that the existing onsite use is equivalent to the use for Lot 2 at buildout, the total increase in future groundwater use above existing conditions would be roughly 75% of the estimated 3.08 AF/yr net groundwater demand, or 2.31 AF/yr.

Rainfall recharge on the 189 project site is estimated to be 31.5 AF/yr, based on the assumption that 5% of annual rainfall becomes available for groundwater recharge. The remaining 95% of rainfall volume either runs off the property or is subject to evaporation or transpiration by vegetation (Attachment 12).

Slade prepared a cumulative impacts analysis for the project in accordance with County requirements, defining the cumulative impact area (CIA) as all properties surrounding and contiguous to the project site, encompassing approximately 578.2 acres. The DWR research area was greater than the CWA to include all known wells that might surround the subject property. A total of 280 well completion reports were received, but only six of those wells appear to correspond to wells that have historically existed within the CIA. Based on the results of the pump test, Slade determined that pumping of existing or future onsite wells constructed into the Wilson Grove Formation would not result in water level drawdown in offsite wells in the future. This determination was based on the relative geologic isolation of the Wilson Grove Formation beneath Lots 2, 3, and 4 from offsite wells,

and the relatively low rates at which future onsite wells would have to pump to meet the estimated demand at full buildout (2.2 gallons/minute, 12 hours/day, every day).

Based on zoning and allowable development on the CIA parcels, Slade calculated that the future water demand in the entire CIA (41.4 AF/yr) is an estimated 3.6% of the conservatively estimated groundwater in storage within the entire CIA (1,138 AF) and that the projects contribution to overall cumulative water demand is not significant. Permit Sonoma would condition the approval of permits for any new wells on the subdivided parcels (1) to be located minimum of 1,500 feet away from known existing off-site wells and Green Valley Creek, (2) must draw from the Wilson Grove Formation, and (3) additional pump tests for future well locations be conducted and submitted to Permit Sonoma. (See mitigation measure HYD-2)

Slade determined that no alluvial materials exist on the project site, and that the alluvium of Green Valley Creek is not in direct contact with the isolated Wilson Grove Formation at any location. For this reason, existing and future wells, which would be drilled in the Wilson Grove Formation, would not extract groundwater from the alluvium of the creek. Slade further determined that the projected water use based on the pump test, would not result in measurable effects on flow in Green Valley Creek additional reason that the drilled depths of existing and new wells would terminate at an elevation much higher than the elevation of the creek.

Therefore, for the reasons discussed above, the project would not result in a net deficit in aquifer volume or a lowering of the local groundwater table. The project would have a less than significant impact on groundwater resources.

Significance Level:
Less than Significant Impact with Mitigation Incorporated

**Mitigation HYD-2**
Permit Sonoma will require a note on the map stating that: Any new proposed well permits for subdivided Lots 1, 2, 3, and 4 shall submit to Permit Sonoma Staff Project Review Staff the following (1) Mapping demonstrating a distance of approximately 1,500 feet from any known off-site well and Green Valley Creek, (2) geologic map and cross section demonstrating the proposed well would draw from the Wilson Grove formation, and (3) a well pump test would be conducted by a professional Geologist in accordance with general Plan Policy WR-2e,(and Sonoma County Code Sections 7-12, 205-17, 25-56 and 26-88-060H).

Mitigation Monitoring:

**Mitigation Monitoring HYD-2**
Well and Septic permits shall not be approved for issuance by Project Review Staff until the above notes are printed on the subdivision map.

**c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?**

Comment:
There are no blue line streams on the site. There are two swales that convey sheet flow into two on-site ponds or off the site. Green Valley Creek is approximately 773 feet from the northeast corner of the site and a small tributary to Green Valley Creek is approximately 621 feet from the western property line.

The project would subdivide a 189 acre property into four parcels. Any grading, cuts, and fills require the issuance of a grading permit. Unregulated grading during construction has the potential to increase soil erosion from a site which could have adverse downstream flooding and further erosional impacts, and which could adversely impact downstream water quality.

The project would be required to implement the Sonoma County Low Impact Development (LID) best management practices (BMPs) and minimize impervious surfaces where ever possible. As of January 6, 2016, Sonoma County is required to enforce new storm water requirements that were adopted by the North Coast Regional Water Quality Control Board on October 8, 2015. LID is a site design strategy that seeks to mimic the pre-development site hydrology through features that promote infiltration, interception, reuse, and evapotranspiration. LID techniques include the use of small scale landscape-based BMPs such as vegetated natural filters and bioretention areas (e.g. vegetated swales and raingardens) to treat and filter storm water runoff. LID also requires preservation and protection of environmentally sensitive site features such as riparian buffers, wetlands, steep slopes, valuable trees, flood plains, woodlands, native vegetation and permeable soils. (Source 26)

In regard to potential soil erosion, County grading ordinance and adopted BMPs require installation of adequate erosion prevention and sediment control features. Required inspection by County inspectors insures that BMPs are specifically designed to maintain potential project water quality impacts at a less than significant level during and post construction.

Future construction would be conditioned to prevent or minimize the discharge of pollutants or waste from the project site. Numerous storm water BMPs could be used to accomplish this goal. These include measures such as silt fencing, straw wattles, and construction entrances to control soils discharges. Storm water BMPs also include primary and secondary containment for petroleum products, paints, lime and other materials of concern.

The location of the storm water BMPs are site specific and would be defined at the time of site development. The type and approximate size of the selected storm water BMPs shall be in accordance with the adopted Sonoma County Best Management Practice Guide. The preliminary report and conceptual plan has been reviewed and approved by the Grading & Storm Water Section of the Permit Sonoma.

Prior to grading or building permit issuance, construction details for all storm water BMPs shall be submitted for review and approval by the Grading & Storm Water Section of the Permit Sonoma. The construction plans shall be in substantial conformance with the conceptual plan reviewed at the planning permit stage.

Storm water BMPs must be installed per approved plans and specifications, and working properly prior to each rainy season (October 15 each year) and remain functional throughout the rainy season. The Permit Sonoma would verify storm water best management practice installation and functionality, through inspections, throughout the life of the construction permit(s). Mitigation Measure HYD-1 would be applied prior to issuance of construction permits. Refer to section 18 C.

Significance Level:
Less than Significant Impact

**d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?**

Comment:
There are no blue line streams on the project site and the parcel is not in the 100-year flood zone or

Special Flood hazard Area (SFHA) (*i.e.* the area that will be inundated by the flood event having a 1-percent chance of being equaled or exceeded in any given year). These areas are depicted on the zoning maps with the F1- Flood Zone and F2 – Flood Plain Combining Zones (General Plan 2020 PS-1e).

Prior to grading or building permit issuance, construction details for all post-construction storm water BMPs shall be submitted for review and approval by the Grading & Storm Water Section of Permit Sonoma. The construction plans shall be in substantial conformance with the conceptual plan reviewed at the planning permit stage.

Post-construction storm water BMPs must be installed per approved plans and specifications, and working properly prior to finalizing the grading or building permits. Post-construction storm water BMPs shall be designed and installed pursuant to the adopted Sonoma County Best Management Practice Guide. The BMPs would prevent the alteration of site drainage, or increase in surface runoff and avoid flooding. Project LID would include limiting impervious surfaces, dispersing development over larger areas, and creation of storm water detainment areas. Post construction storm water BMPs include filtering, settling, or removing pollutants.

Permit Sonoma would verify post-construction storm water BMPs installation and functionality, through inspections, prior to finalizing the permit(s). The owner/operator shall maintain the required post-construction BMPs for the life of the development. The owner/operator shall conduct annual inspections of the post-construction BMPs to ensure proper maintenance and functionality. The annual inspections shall typically be conducted between September 15 and October 15 of each year. Refer to section 18 c.

Significance Level:
Less than Significant Impact

**e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?**

Comment:
The proposed project shall address water quality through storm water treatment BMPs and shall also address water quantity through storm water flow control best management practices. Storm water treatment BMPs shall be designed to treat storm events and associated runoff to the 85 percentile storm event in accordance with County Standards. Storm water treatment BMPs shall be designed to treat storm events and associated runoff to the channel forming discharge storm event which is commonly referred to at the two year 24 hour storm event.

The location of the storm water BMPs are site specific and depend on details of future development. The type and approximate size of the selected storm water BMPs are in accordance with the adopted Sonoma County Best Management Practice Guide. The preliminary report and conceptual plan has been reviewed and approved by the Grading & Storm Water Section of Permit Sonoma, with conditions added as needed.

The construction plans and final drainage report shall be prepared by a civil engineer, registered in the State of California, be submitted with the grading or building permit application or improvement plans, as applicable, and be subject to review and approval by the Grading & Storm Water Section of the Permit Sonoma prior to the issuance of any grading or building permits.

At the time of submitting of a grading, drainage, or building permit application, a final drainage report for each parcel must be submitted for review. A typical drainage report would include a project narrative, on- and off-site hydrology maps, hydrologic calculations, hydraulic calculations, pre- and

post-development analysis for all existing and proposed drainage facilities. The drainage report shall abide by and contain all applicable items in the Drainage Report Required Contents (DRN-006) handout.

Significance Level:
Less than Significant Impact

**f) Otherwise substantially degrade water quality?**

Comment:
The project would subdivide a 189 acre property into four parcels. Any future grading, cuts, and fills would require the issuance of a grading permit. Unregulated grading during construction has the potential to increase soil erosion which leads to turbidity and degraded water quality.

Prior to grading or building permit issuance, construction details for all water quality BMPs shall be submitted for review and approval by the Grading & Storm Water Section of Permit Sonoma. The construction plans shall be in substantial conformance with the conceptual plan reviewed at the planning permit stage.

Sonoma County is required to enforce LID techniques during grading permit review and would include the use of small scale landscape-based BMPs such as vegetated natural filters and bioretention areas (e.g. vegetated swales and raingardens) to treat and filter storm water runoff and decrease turbidity. LID also requires preservation and protection of environmentally sensitive site features such as riparian buffers, wetlands, steep slopes, valuable trees, flood plains, woodlands, native vegetation and permeable soils.

In regard to potential soil erosion, County grading ordinance and adopted BMPs require installation of adequate erosion prevention and sediment control features. Required inspection by County inspectors insures that BMPs are specifically designed to maintain potential project water quality impacts at a less than significant level during and post construction.

Any construction would be conditioned to prevent or minimize the discharge of pollutants or waste from the project site. Numerous storm water BMPs could be used to accomplish this goal. These include measures such as silt fencing, straw wattles, and construction entrances to control soils discharges. Storm water BMPs also include primary and secondary containment for petroleum products, paints, lime and other materials of concern.

Significance Level:
Less than Significant Impact

**g) Place housing within a 100-year hazard area as mapped on a federal Flood hazard Boundary of Flood Insurance Rate Map or other flood hazard delineation map?**

Comment:
The Sonoma County General Plan 2020 mapped flood hazard areas to guide the placement of housing outside of natural hazard areas. According to Figure PS-1e of the General Plan, the proposed subdivision is outside of the 100-year Flood Hazard area. The project site is also 678.1 feet above sea level and there are no blue line streams on the property. There is no potential for flooding at the site. No housing would be placed within a 100-year floodplain. (Source 7)

Significance Level:
No Impact

**h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?**

Comment:
See the comments for 9 (g) above. The site is outside the of the mapped 100-year flood hazard area. There is no 100-year flood hazard area on the site.

Significance Level:
No Impact

**i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?**

Comment:
The project site is not located in an area subject to flooding as a result of dam failure.

Significance Level:
No Impact

**j) Inundation by seiche, tsunami, or mudflow?**

Comment:
The project is not subject to seiche or tsunami. The project site is not located in an area subject to seiche or tsunami. Seiche is a wave in a lake triggered by an earthquake. Mudflow can be triggered by heavy rainfall, earthquakes or volcanic eruption. See discussion of landslide in 6.a.iv. above for areas with high potential for mudflow.

Significance Level:
No Impact

## 10. LAND USE AND PLANNING:

***Would the project:***

**a) Physically divide an established community?**

Comment:
The project would not divide a community.

Significance Level:
No Impact

**b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?**

Comment:
The project site is designated Resource and Rural Development (RRD) 40 (40 acres/dwelling unit) in the Sonoma County General Plan, and is zoned B6 40 (40 acre density). Subdivision of the parcel

into four lots between 40 and 60 acres in size is consistent with the density provisions of the General Plan and the applicable zoning. The project would not conflict with any applicable land use plan adopted for the purpose of avoiding or mitigating an environmental effect, including in the Sonoma County General Plan and zoning ordinance. As mitigated and conditioned, the project is consistent with General Plan policies in that protection has been given to areas with rare and endangered plants and to archaeological sites.

The project is consistent with General Plan Policy WR-2e. Impacts to groundwater supply and recharge from the proposed project were evaluated by Richard C. Slade and Associates (Slade) in a groundwater study, *Hydrogeologic Assessment, Water Well Feasibility and Siting Project, 12942 Bones Lane, Vicinity Occidental, Sonoma County, California* (2010), in accordance with County General Plan Policy WR-2e. The assessment concluded that it is feasible to develop groundwater in useable quantities and of acceptable quality from beneath the majority of the project site, which is underlain by the Wilson Grove Formation. The assessment also determined that it is unlikely that the pumping of existing or future onsite wells constructed into the Wilson Grove Formation would induce any water level drawdown in offsite wells in the future. The County retained an independent third-party consultant, Todd Groundwater, to peer review the Slade assessment. Slade responded adequately to all comments noted in the peer review. For further discussion, please refer to the discussion in Section 9 (Hydrology and Water Quality), above.

Significance Level:
No Impact

**c) Conflict with any applicable habitat conservation plan or natural community conservation plan?**

Comment:
See question 4.f. above. The project site is not located in an area subject to a habitat conservation plan or natural community conservation plan. Habitat conservation plans and natural community conservation plans are site-specific plans to address effects on sensitive species of plants and animals. The project site is located in the Upper Green Valley Creek Watershed Plan area, which is not a regulatory document; it was produced by the Gold Ridge Resource Conservation District, as an adaptive management plan for landowners in the Upper Green Valley Creek Watershed.

Significance Level:
No Impact

## 11. MINERAL RESOURCES:

***Would the project:***

**a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?**

Comment:
There is no known mineral resource on the project site. (Source 19)

Significance Level:
No Impact

**b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?**

Comment:
The project site is not a mineral resource recovery site. (Source 19)

Significance Level:
No Impact

## 12. NOISE:

***Would the project:***

**a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?**

Comment:
The Noise Element of the Sonoma County General Plan establishes goals, objectives and policies including performance standards to regulate noise affecting residential and other sensitive receptors. The general plan sets separate standards for transportation noise and for noise from non-transportation land uses.

A noise study was conducted in August 2013 by James A. Reyff, he found that the property is located in a low density rural area with low noise levels of Sonoma County away from major sources of noise. The project site is not exposed to a noise level exceeding 60 dBA $L_{dn}$ and therefore would not be considered "noise impacted". Residential development at the site would be compatible with on-site noise environment.

Maximum instantaneous noise levels would typically range from 52 to 62 dBA $L_{max}$ at the nearest receptors (residences located approximately 50 feet from the center of Du Pont Road which acts as an easement for the site) during individual automobile pass-by events. At a distance of about 65 feet, automobile generated noise levels would be reduced to about 60 dBA, and noise levels would continue to lower as the automobile proceeds along the easement. Please refer to attachment 8 for the Noise Study.

The following mitigation measure would be applied as a condition of approval to ensure that the completed project would not result in excessive noise generation or expose persons to noise levels in excess of County standards.

Significance Level:
Less than Significant Impact

**Mitigation:**

Noise shall be controlled in accordance with Table NE-2 (or an adjusted Table NE-2 with respect to ambient noise as described in General Plan 2020, Policy NE-1c,) as measured at the exterior property line of any affected residential or sensitive land use:

| Hourly Noise Metric[1], dBA | Daytime (7 a.m. to 10 p.m.) | Nighttime (10 p.m. to 7 a.m.) |
|---|---|---|
| $L_{50}$ (30 minutes in any hour) | 50 | 45 |
| $L_{25}$ (15 minutes in any hour) | 55 | 50 |
| $L_{08}$ (5 minutes in any hour) | 60 | 55 |
| $L_{02}$ (1 minute in any hour) | 65 | 60 |
| | | |

[1] The sound level exceeded n% of the time in any hour. For example, the $L_{50}$ is the value exceeded 50% of the time or 30 minutes in any hour; this is the median noise level. The $L_{02}$ is the sound level exceeded 1 minute in any hour.

**Mitigation Monitoring**:

Any noise complaints would be investigated by Permit Sonoma Staff. If such investigation indicates that the appropriate noise standards have been or may have been exceeded, the permit holders shall be required to install, at their expense, additional professionally designed noise control measures. Failure to install the additional noise control measure(s) would be considered a violation of the use permit conditions. If noise complaints continue, Permit Sonoma shall investigate complaints. If violations are found, Permit Sonoma shall seek voluntary compliance from the permit holder and thereafter may initiate an enforcement action and/or revocation or modification proceedings, as appropriate. (Ongoing)

**Mitigation Niose-1:**

Construction activities for this project shall be conditioned and restricted as follows:

i. All internal combustion engines used during construction of this project would be operated with mufflers that meet the requirements of the State Resources Code, and, where applicable, the Vehicle Code. Equipment shall be properly maintained and turned off when not in use.

ii. Except for actions taken to prevent an emergency, or to deal with an existing emergency, all construction activities shall be restricted to the hours of 7:00 a.m. and 7:00 p.m. on weekdays and no construction would be performed on weekends. If work outside the times specified above becomes necessary, the permit applicant shall notify the Permit Sonoma Project Review Division as soon as practical.

iii. There would be no start up of machines nor equipment prior to 7:00 a.m, Monday through Friday or 9:00 am on weekends and holidays; no delivery of materials or equipment prior to 7:00 a.m. nor past 6:00 p.m, Monday through Friday or prior to 9:00 a.m. nor past 7:00 p.m. on weekends and holidays and no servicing of equipment past 6:00 p.m., Monday through Friday, or weekends and holidays. A sign(s) shall be posted on the site regarding the allowable hours of construction, and including the developer=s phone number for public contact.

iv. Construction maintenance, storage and staging areas for construction equipment shall avoid proximity to residential areas to the maximum extent practicable. Stationary construction equipment, such as compressors, mixers, etc., shall be placed away from residential areas and/or provided with acoustical shielding. Quiet construction equipment shall be used when possible.

v. The developer shall designate a Project Manager with authority to implement the mitigation prior to issuance of a building/grading permit. The Project Manager=s phone number shall be conspicuously posted at the construction site. The Project Manager shall determine the cause of noise complaints (e.g. starting too early, faulty muffler, etc.) and shall take prompt action to correct the problem.

**Mitigation Monitoring:**

Permit Sonoma Staff shall ensure that the noise condition of approval measures are listed on all site alteration, grading, building or improvement plans, prior to issuance of grading or building permits. Any noise complaints would be investigated by Permit Sonoma Staff. If violations are found, Permit Sonoma shall seek voluntary compliance from the permit holder and thereafter may initiate an enforcement action and/or revocation or modification proceedings, as appropriate. (Ongoing)

**b) Exposure of persona to or generation of excessive ground borne vibration or ground borne noise levels?**

Comment:
The project includes construction activities that may generate ground borne vibration and noise. The project is proposing pile driving. These levels would not be significant because they would be short-term and temporary, in a very rural area of the county, and would be limited to daytime hours. There are no other activities or uses associated with the project that would expose persons to or generate excessive ground borne vibration or ground borne noise levels. Refer to response to item 12.a, above.

Significance Level:
Less than Significant Impact

**c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?**

Comment:
The project would not create or result in a substantial permanent increase in ambient noise levels. The project site is in a rural area with low ambient noise levels. Refer to response to item 12.a.

Significance Level:
No Impact

**d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?**

Comment:
There would be potentially significant noise impacts from the construction activities. This impact would cease when construction is finished. The project would not create or result in a substantial permanent increase in ambient noise levels. The following mitigation measure would reduce the noise impact from construction activities and hauling to less than significant. (Source 1.) Refer to response to item 12.a.

Significance Level:
No Impact

Mitigation Measure Noise-1 Will be applied to this project to further minimize any noise related impacts.

**Mitigation Monitoring:**
Permit Sonoma Staff shall ensure that the measures are listed on all site alteration, grading, building or improvement plans, prior to issuance of grading or building permits. Any noise complaints would be investigated by Permit Sonoma Staff. If violations are found, Permit Sonoma shall seek voluntary compliance from the permit holder and thereafter may initiate an enforcement action and/or revocation or modification proceedings, as appropriate. (Ongoing)

**e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?**

Comment:
The site is not within an airport land use plan as designated by Sonoma County.

Significance Level:
No Impact

**f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?**

Comment:
There are no known private airstrips within the project area (1)

Significance Level:
No Impact

## 13. POPULATION AND HOUSING:

***Would the project:***

**a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?**

Comment:
The project would not include construction of a substantial amount of homes, businesses or infrastructure and therefore would not induce substantial population growth. Primary new infrastructure would consist of private on-site wells and septic systems, which would be limited to serving residential development on the project site. Project area densities would remain at 40 acres/residential unit.

Significance Level:
No Impact

**b) Displace substantial numbers of existing housing necessitating the construction of replacement housing elsewhere?**

Comment:
No housing would be displaced by the project.

Significance Level:
No Impact

**c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?**

Comment:
No people would be displaced by the project.

Significance Level:
No Impact

## 14. PUBLIC SERVICES:

***Would the project:***

**a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service rations, response times or other performance objectives for any of the public services:**

Comment:
Construction of the project would not involve substantial adverse physical impacts associated with provision of government facilities and there would be no Impact

Significance Level:
No Impact

**i. Fire protection?**

Comment:
The County Fire Marshal reviewed the project description and required that the subdivision would comply with Fire Safe Standards, including fire protection methods such as sprinklers in buildings, alarm systems, extinguishers, vegetation management, hazardous materials management and management of flammable or combustible liquids and gases.

Significance Level:
Less Than Significant Impact

**ii. Police?**

Comment:
The Sonoma County Sheriff and California Highway Patrol would continue to serve this area. There would be no increased need for police protection at the project site.

Significance Level:
Less than Significant Impact

**iii. Schools, parks, or other public facilities?**

Comment:
Development fees to offset potential impacts to public services include school and park mitigation fees.

Significance Level:
Less than Significant Impact

**iv. Parks?**

Comment:
Development fees collected by Sonoma County are used to offset potential impacts to public services include park mitigation fees. The project would not result in a substantial increased demand for public park facilities.

Significance Level:
Less than Significant Impact

**v. Other public facilities?**

Comment:
Development fees collected by the Sonoma County are used to offset potential impacts to public services include school and park mitigation fees.

Significance Level:
No Impact

## 15. RECREATION:

***Would the project:***

**a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?**

Comment:
The proposed project would not involve activities that would cause or accelerate substantial physical deterioration of parks or recreational facilities.

Significance Level:
No Impact

**b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?**

Comment:
The proposed project does not involve construction of recreational facilities.
See item 15.a. above.

Significance Level:
No Impact

## 16. TRANSPORTATION / TRAFFIC:

***Would the project:***

**a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?**

Comment:
Using the screening criteria established by the County of Sonoma Guidelines for traffic studies, which states that Permit Sonoma and the Sonoma County Department of Transportation are both responsible for the review and condition of private development projects. Traffic related conditions must be based on an analysis of the potential traffic impacts that establish a reasonable nexus between the impacts of the project and the required improvements or conditions. The applicant submitted a traffic study (Attachment 13) that met these guidelines and provided the necessary information to inform the determination that the project would not cause a significant traffic impact to the street system.

Significance Level:
Less than Significant Impact

**b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?**

Comment:
The project would not exceed the level of service (LOS) standard established by the County Congestion Management Agency for any designated road or highway. Sonoma County General Plan Circulation and Transit Objective CT-2.1 is to maintain a LOS C or better on arterial and collector roadways.

Permit Sonoma requested a traffic study be performed by the applicant during the appeal process. The results of the study showed that the anticipated trip generation for the proposed subdivision would add an additional four trips during the morning peak hour and five during the evening peak hour (Whitlock 2014).

Significance Level:
Less than Significant Impact

**c) Result in change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?**

Comment:
The project would not impact air traffic patterns.

Significance Level:
No Impact

**d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?**

Comment:
Development on the site would use an existing private road (Bones Lane) off of Dupont Road for access. To allow for the smooth and safe movement of passenger vehicles entering and exiting the public road (Dupont Road) that provides access to the property, the Sonoma County Department of Transportation and Public Works is requiring that entry to the public road conform to AASHTO standards. More specifically, the Developer shall construct a road way with a throat width of 18 feet and entrance curves having a radius of at least 25 feet. The road shall enter the public road as close to perpendicular as possible, but in no case shall the road enter the public road at more than 20 degrees from perpendicular. The minimum sight distance for vehicles entering and exiting the driveway shall be in accordance with AASHTO requirements for the speed traveled on the public road servicing the property. The Developer shall surface the entry with asphalt concrete a minimum distance of 25 feet from the edge of pavement. The improvements shall be in place prior to occupancy of any new dwelling. With these requirements in place, there would be a less than significant impact relative to potential roadway hazards.

Significance Level:
Less than Significant Impact

**Mitigation Measure TRAFFIC-1:**

Traffic safety guidelines compatible with Section 12 of the Caltrans Standard Specifications, “Construction Area Traffic Control Devices” shall be followed during construction. Project plans and specifications shall also require that adequate signing and other precautions for public safety be provided during project construction and be included as a condition of approval.

Mitigation Monitoring:
Permit Sonoma Staff would not approve a subdivision map until this condition is confirmed and in the field.

**e) Result in inadequate emergency access?**

Comment:
Development on the site must comply with all emergency access requirements of the Sonoma County Fire and Life Safety Code, including emergency vehicle access requirements. Project development plans are routinely reviewed by a Department of Emergency services Fire Inspector during the building permit process to ensure compliance with emergency access issues.

Significance Level:
No Impact

**Mitigation Measure TRAFFIC- 2:**

i Local emergency services shall be notified prior to construction to inform them that traffic delays may occur, and also of the proposed construction schedule.

ii The County would require the contractor to provide for passage of emergency vehicles through the project site at all times.

iii The County would require the contractor to maintain access to all parcels during project construction.

Mitigation Monitoring:
Project development plans are routinely reviewed by a Department of Emergency services Fire Inspector during the building permit process to ensure compliance with emergency access issues.

**f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?**

Comment:
The project would not create conflicts with County bicycle standards or plans for use alternative transportation, including bus turnouts.

Significance Level:
No Impact

**g) Result in inadequate parking capacity?**

Comment:
The proposed parcels are of ample size to provide parking, so the project would not result in inadequate parking capacity.

Significance Level:
No Impact

## 17. UTILITIES AND SERVICE SYSTEMS:

***Would the project:***

**a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?**

Comment:
Domestic wastewater disposal would be by septic systems, and therefore would have no impact upon a wastewater treatment system, or require action by the Regional Water Quality Control Board.

Significance Level:
No Impact

**b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause**

**significant environmental effects?**

Comment:
The project would not contribute to the need for construction of new water or wastewater treatment facilities,

the existing septic system was functioning properly with sufficient reserve (see Attachment 9 and 10 for the Environmental Health Memo and the Tentative Parcel Septic System Map).

Permit Sonoma Environmental Health has imposed standard conditions on the project requiring evidence that each lot can support a septic system prior to recordation of the Final Parcel Map. Permit Sonoma Environmental Health is also imposing standard conditions of approval regarding use and testing of the well to service any residences. No significant impacts would occur with the construction of well and septic systems.

Significance Level:
Less than Significant Impact

**c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**

Comment:
Grading of the site for roads, septic systems and residential development may alter the natural topography and may alter the drainage pattern and increase storm water runoff. Development would only be permitted after Permit Sonoma reviews storm water drainage development plans designed by a storm water engineer to ensure adequate management of storm-water drainage facilities on the site.

Significance Level:
Less than Significant Impact

**d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?**

Comment:
An assessment of water supply impacts was provided under item 8.b, above and in the attached technical study (Attachments 7, 11, 12, and 14). Sufficient water would be supplied by on-site wells.

Significance Level:
Less than Significant Impact

**e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?**

Comment:
A new septic system would be constructed for any residential development. There would be no sewage treatment by an off-site provider.

Significance Level:

No Impact

**f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?**

Comment:
Sonoma County has a solid waste management program in place that provides solid waste collection and disposal services for the entire County. The program can accommodate the permitted collection and disposal of the waste that would result from the proposed project. (1)

Significance Level:
No Impact

**g) Comply with federal, state, and local statutes and regulations related to solid waste?**

Comment:
Sonoma County has access to adequate permitted landfill capacity to serve the proposed project.

Significance Level:
No Impact

## 18. MANDATORY FINDINGS OF SIGNIFICANCE

**a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?**

Comment

The project does not have the potential to degrade the quality of the environment, substantially reduce the habitat of fish or wildlife species, cause a fish or wildlife population drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number of restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory. With regards to cultural resources, an evaluation of the project site was conducted by Vicki Beard, Tom Origer & Associates. On August 10, 2010 the Sonoma County Landmarks Commission reviewed the historical evaluation of the buildings. The Commission found that the structures are not a significant historic resource. None of the buildings appear eligible for inclusion on the California Register as individual resources or as complex. According to the study, no prehistoric or historic artifacts, features or cultural soils were encountered during the surface inspection and the project is not foreseen to have a negative impact on local cultural resources. The Lytton Rancheria Tribe was consulted with and approved of the mitigation measure to have a Tribal Monitor present during ground disturbing activities. Mitigation Measure CUL-1 would be incorporated into the plans to ensure there would not be a negative effect on cultural resources.

Significance Level
Less than Significant with Mitigation Incorporation

**b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?**

Comment
The individual project request is for the creation of four residential lots on 189 acres. If subdivided, the four residential lots may be developed and have new wells drilled on each parcel. This IS/MND has analyzed the potential effect of having four new residences and outbuildings on this parcel and potential cumulative impacts on the neighboring parcels and have found it is consistent with policies for development in Rural Residential zoning. In the General Plan, Land Use Policy 6b states "site specific environmental factors shall be considered in making decisions on development permits" the project is consistent with this policy by arranging the building envelopes around the serpentine resource which contains rare and sensitive plants. Additionally, an environmental baseline report from a qualified biologist would be required for issuance of a development permit.

The project site is located in Groundwater Availability Zone 3 and 4 and draws water from the Wilson Grove Formation. The Sonoma County General Plan 2020 Policy WR-2e requires applicants with discretionary projects in zone 4 to submit a groundwater report. In February 2009, Richard C. Slade & Associates provided a sufficient Hydrogeologic Assessment, Water Well Feasibility and Siting Report for the Bones Lane Property. Staff reviewed the Slade conclusions and Todd Groundwater, the County's independent Peer Reviewer conclude, the existing wells and future wells an equal or greater distance from the stream, drawing from the Wilson Grove Formation at the subject property are capable of pumping at the maximum pumping rate required to provide the proposed subdivision and would not have a measurable impact on Green Valley Creek or the adjacent wells. There have been no significant impacts identified for this project. Mitigation measures and conditions of approval would be noted on mapping to ensure that building plans, grading, and construction would not have significant impacts. The requested project does not have impacts that are cumulatively considerable.

Significance Level
Less than Significant with Mitigation Incorporation

**c) Does the project have environmental effects which would cause substantial adverse effects on human beings, either directly or indirectly?**

Comment
The project does not environmental effect which would cause substantial adverse effects on human beings, either directly or indirectly.

Significance Level
Less than Significant Impact

**Sources**

1. Permit Sonoma Staff evaluation based on review of the project site and project description.

2. Permit Sonoma Staff evaluation of impact based on past experience with construction projects.

3. Sonoma County Important Farmland Map 1996. California Department of Conservation, Division of Land Resource Protection, Farmland Mapping and Monitoring Program.

4. Assessor's Parcel Maps

5. BAAQMD CEQA Guidelines; Bay Area Air Quality Management District; April 1999; California Air Resources Board (CARB). No guidelines from Northern Sonoma County Air Pollution Control District (NSCAPCD) are available.

6. California Natural Diversity Database, California Department of Fish & Wildlife, queried July 27, 2016 (Attached to Attachment 4 as Appendix 1) produced by Permit Sonoma Staff Mary Nicholl.

7. Sonoma County General Plan 2020 (as amended), Sonoma County Board of Supervisors, September 23, 2008.

8. California Environmental Protection Agency - http://www.calepa.ca.gov/SiteCleanup/corteseList/default.htm; California Regional Water Quality Control Board - http://geotracker.swrcb.ca.gov/; California Department of Toxic Substances Control http://www.dtsc.ca.gov/database/calsites/cortese_list.cfm, and Integrated Waste Management Board - http://www.ciwmb.ca.gov/SWIS/Search.asp

9. Sonoma County Grading, Drainage, and Vineyard and Orchard Site Development Ordinance. (Ord. No. 5988, § I, 5-15-2012)

10. Alquist-Priolo Special Studies Zones; State of California; 1983.

11. Flood Insurance Rate Maps, Federal Emergency Management Agency.

12. Special Report 120, California Division of Mines and Geology; 1980.

13. General Plan Consistency Determination, (65402 Review), Sonoma County Permit & Resource Management Department.

14. Standard Specifications, State of California Department of Transportation, available online: http://www.dot.ca.gov/hq/esc/oe/specs_html

15. American National Standard for Tree Care Operations – Tree, Shrub, and Other Woody Plant Maintenance – Standard Practices, Pruning (ANSI A300 (Part 1)-2008 Pruning), American National Standard Institute (ANSI) and National Arborist Association (NAA), 2008;

16. Best Management Practices: Tree Pruning, International Society of Arboriculture (ISA), 2008.

17. Tree Protection and Replacement Ordinance (Ordinance No. 4014); Sonoma County.

18. Valley Oak Protection Ordinance (Ordinance No. 4991); Sonoma County, December 1996.

19. Heritage or Landmark Tree Ordinance (Ordinance No. 3651); Sonoma County.

20. Manual of Standards for Erosion and Sediment Control Measures, Association of Bay Area

Governments; May, 1995.

21. Soil Survey of Sonoma County, California, Sonoma County, U.S. Department of Agriculture; 1972.

22. Evaluation of Groundwater Resources, California Department of Water Resources; 1975.

23. Sonoma County Congestion Management Program, Sonoma County Transportation Authority; December 18, 1995.

24. Sonoma County Aggregate Resources Management Plan and Program EIR, 1994.

25. Upper Green Valley Creek Watershed Plan June 2010, Gold Ridge Resource Conservation District, June 30, 2010.

26. *For the North Coast Region* storm water and grading permit projects. LID is required and the manual is available at: http://ci.santa-rosa.ca.us/doclib/Documents/LID_ManualFinalUpdateOct12.pdf

**Technical Documents Provided by the Applicant**

i. X California Natural Diversity Database, Biogeographic Data Branch, CA Dept. Fish & Wildlife July 27, 2016
ii. X California Native Plant Society Online Inventory Database Queried July 27, 2016
iii. X Soil Survey of Sonoma County, National Resource Conservation Service, May 1972
iv. X Guidelines for Traffic Studies, County of Sonoma dated October, 2006
v. X Geology for Planning in Sonoma County, Special Report 120, Huffman, M. E., and Armstrong, C. F., California Division of Mines and Geology, 1980
vi. X Visual Assessment Guidelines, Sonoma County Permit and Resource Management Department
vii. X A Cultural Resources evaluation prepared by Eileen Steen dated March 5, 2007
viii. X Historical Evaluation of Buildings on the Bones Homestead Site prepared by Vicki Beard dated June 7, 2010
ix. X
x. X Hydrogeologic Assessment prepared by Richard Slade & Associates dated August 2016,
xi. X Bones Lane Fisheries Assessment Prepared by Stillwater Sciences, dated August 2016;
xii. X Geologic Feasibility Study prepared by Michael Dwyer dated May 24, 2007
xiii. X Biological Baseline Report prepared by Charles Patterson dated June 19, 2007
xiv. X Assessment of Proposed Building Envelopes, Bones Lane Site prepared by Charles A. Patterson dated January 14, 2009
xv. X Bones Lane Property Building Envelope Review prepared by Eileen Barrow dated December 16, 2008
xvi. X Bones Lane Project-Building Envelope Areas prepared by Michael Dwyer dated December 15, 2008

**Attachments**

1. Location Map
2. Tentative Parcel Map
3. Visual Survey
4. Biological Baseline Report
5. Fisheries Assessment
6. Geologic Report
7. Groundwater Availability Memorandum
8. Noise Study
9. Environmental Health Report
10. Tentative Parcel Septic System Map

11. Groundwater Peer Review
12. Groundwater Response to Peer Review and Summary Memorandum
13. Traffic Study
14. Slade Response to Appellants Hydrology Consultant

# County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

**Agenda Item Number: 77**
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 13, 2016

**Vote Requirement:** Majority & 4/5

**Department or Agency Name(s):** County Administrator's Office, Permit and Resource Management Department, Department of Agriculture/Weights and Measures, Department of Health Services

**Staff Name and Phone Number:**

Rebecca Wachsberg 565-3782
Tennis Wick 565-1900
Tony Linegar 565-2371
Karen Milman 565-4700

**Supervisorial District(s):**

**Title:** Medical Cannabis Program Ordinances and Policies

**Recommended Actions:**

Board to continue deliberations from December 6, 2016, public hearing, to consider whether to:

A. Adopt the Negative Declaration and approve the Medical Cannabis Land Use Ordinance amending the zoning code to permit and regulate medical cannabis businesses; (Majority)
B. Adopt a resolution amending the Uniform Rules for Agricultural Preservation and Farmland Security Zones to list medical cannabis cultivation as a compatible use within Agricultural Preserves; (Majority)

Consider whether to:

C. Adopt an ordinance amending Chapter 14 of the Sonoma County Code to regulate medical cannabis dispensaries and edible cannabis product manufacturing sites; (Majority) (Second Reading – Ready for Adoption); and
D. Adopt the Cannabis Business Tax Ordinance establishing a general business tax on cannabis operators, which will become effective it is approved by a majority of the voters voting on the tax measure at the March 7, 2017 election; (4/5 Vote) (Second Reading – Ready for Adoption)
E. Approve use of Contingency funds in an amount up to $400,000 to place the proposed measure on the ballot. (Majority)

**Executive Summary:**

On December 6, 2016, the Board conducted a public hearing and considered a comprehensive regulatory framework for the local medical cannabis industry and personal cultivation. Following staff presentation and public comment, the Board closed the public hearing and took the following actions:

1) Adopted a resolution introducing, reading the title, and waiving further reading of a proposed ordinance amending Chapter 14 of the Sonoma County Code to regulate medical cannabis dispensaries and edible cannabis product manufacturing sites;
2) Adopted the Cannabis Business Tax Ordinance establishing a general business tax on cannabis operators and placing the Cannabis Business Tax Ordinance on the ballot for a March 7, 2017 election, which will become effective if it is approved by a majority of the voters voting on the measure; and Adopted a Resolution introducing, reading the title of, and waiving further reading of the proposed Cannabis Business Tax Ordinance; and
3) Adopted a Resolution declaring an emergency and calling a special election to submit to the voters of Sonoma County the proposed Cannabis Business Tax Ordinance, and ordering that the election be consolidated with the special election to be conducted on March 7, 2017.

The Board then continued the item to December 13, 2016, to act on the Negative Declaration, the Medical Cannabis Land Use Ordinance and amendments to the Uniform Rules for Agricultural Preservation and Farmland Security Zones. Staff also recommends that the Board take final action and adopt the Medical Cannabis Health Ordinance and the Cannabis Business Tax Ordinance.

The language of the December 6 staff report on the recommended policies is included in the discussion below.

**Discussion:**

*December 6 staff report (reflecting adjustments to taxation rates as presented at the Board meeting):*

This item sets forth a proposed comprehensive regulatory framework for the local medical cannabis industry and personal cultivation consistent with the Medical Cannabis Regulation and Safety Act (MCRSA) (2015) and Proposition 64 (the California Control, Regulate and Tax Adult Use of Marijuana Initiative, 2016) to permit and regulate medical cannabis cultivators, nurseries, manufacturers, transporters, distributors, testing laboratories and dispensaries. Commercial permits enabled by the proposed ordinances are limited to medical cannabis operations. Expanding permitting of cannabis operations for adult use may be considered in the next phase of policy development.

The proposed ordinances herein include:
1) A Medical Cannabis Land Use Ordinance setting forth permit requirements and where and how each cannabis business type may operate;
2) A Medical Cannabis Health Ordinance establishing regulations and permitting for medical cannabis dispensaries and manufacturing to address product safety, labeling and advertising; and
3) A Cannabis Business Tax Ordinance imposing a tax on both medical and nonmedical commercial cannabis businesses to ensure the General Fund can continue to fund general governmental purposes, such as the implementation of a robust local cannabis program that includes protection of the public health and safety.

The cannabis industry already has a significant presence in Sonoma County, and regulating the industry has been a designated work priority of the Board of Supervisors for a number of years. In 2015, an Ad Hoc Committee, comprised of Supervisors Susan Gorin and David Rabbitt, worked with a North Coast County Collaborative to advocate for comprehensive cannabis legislation that supported the efforts of

local governments, contributing to the passage of a statewide framework for medical cannabis in late 2015. As a result, the Board created the Medical Cannabis Ad Hoc Committee (Ad Hoc Committee) of Supervisors Efren Carrillo and Susan Gorin, and directed staff to explore and propose regulations for all cannabis operators. To ensure the recommended regulations were comprehensive and reflected the expertise of over a dozen County departments, staff created the Marijuana Technical Advisory Committee (MTAC). Based on direction from the Ad Hoc and consultation from the MTAC, staff have developed the following proposed regulations and policies as the first phase in regulating the local cannabis industry. It is anticipated that future phases of policy development would include regulation of nonmedical cannabis businesses, as well as more streamlined regulations as staff gather data and learn from the implementation of the initial phase.

**State Law**

Proposition 215 (1996), entitled the Compassionate Use Act, allowed for the use of cannabis for medical purposes by qualified patients and for caregivers to provide medical cannabis and receive reimbursement for their costs. In 2004, SB 420 established a County Health ID card program, collective and cooperative cultivation, and "safe harbor" amounts for cultivation and possession.

MCRSA was enacted in October 2015 and constructed a comprehensive framework for the regulation of medical cannabis businesses. MCRSA eliminates the cooperative/collective model and replaces it with a commercial licensing scheme under which operators are required to obtain both local and state approval. The State is currently developing regulations and will begin issuing licenses on January 1, 2018.

On November 8, 2016, Proposition 64, the "California Control, Regulate and Tax Adult Use of Marijuana Initiative," also known as the "Adult Use of Marijuana Act" (AUMA), passed with 57% voter approval statewide and with 59% voter approval in Sonoma County. The initiative legalized the nonmedical use, possession, and cultivation of cannabis by adults 21 years and older. As with medical cannabis businesses, local jurisdictions may choose whether or not to permit nonmedical cannabis businesses. The initiative also establishes a tax on cultivation and retail sales, and reduces criminal penalties.

**Sonoma County Laws**

In 2006, the County adopted guidelines under Resolution No. 06-0846, providing a defense to prosecution for possession and cultivation in limited circumstances. The guidelines allowed for a defense to be available to those qualified patients cultivating up to 30 plants in up to 100 sq. ft. per patient with no limit to the number of patients. The County first began permitting medical cannabis dispensaries in 2007 and currently permits dispensaries pursuant to Sonoma County Code Section 26-88-126. The Board amended this code section in 2012 to establish a cap to limit dispensaries in the unincorporated County to nine. There are currently five permitted dispensaries and two in the application process. No other cannabis related businesses are currently permitted in unincorporated Sonoma County.

**Community Engagement**

The Ad Hoc Committee and staff have conducted extensive community outreach including establishing a website, mail list, and project-dedicated email; conducting an online survey; and holding community

town hall meetings in each district of the County, as well as smaller meetings with various stakeholder interest groups. Staff also participated in and attended a number of industry related conferences and events to engage industry stakeholders. The town hall meetings drew an estimated 750 attendees, and over 1,100 people responded to the online survey. Staff have used social media to engage more non-industry residents and to ensure a full range of comments and feedback. Community meetings were also held prior to the first Planning Commission meeting and prior to this Board of Supervisors meeting to present the proposals to the community and answer questions.

**MEDICAL CANNABIS LAND USE ORDINANCE**

The Medical Cannabis Land Use Ordinance (Attachment A) proposes a permitting scheme for medical cannabis operators including cultivators, nurseries, transporters, distributors, testing laboratories, manufacturers, deliveries, and dispensaries. The proposed regulations incorporate siting criteria, operating standards and best management practices for commercial medical cannabis operations, as well as regulations and standards for personal cultivation of both medical and nonmedical cannabis. A Land Use Table summarizing the permit requirements and allowed cannabis uses is provided in Attachment B.

*Environmental Review*

Environmental impacts and mitigation have been a major driver of the proposed Land Use Ordinance and associated policy options provided to the Planning Commission. Under the California Environmental Quality Act, the County must ensure there is sufficient mitigation of potential environmental impacts through its regulatory requirements and permit standards. Given the newness of the industry and currently unpermitted nature of the proposed uses, these initial recommendations have more restrictive standards, leaving potential for a more permissive approach once data is collected and additional mitigation measures and best practices are developed. An Initial Study and Negative Declaration was prepared and circulated for a 30 day public comment period from October 1st through the 31st. The proposed Land Use Ordinance includes siting criteria, operational standards, and best management practices to fully mitigate any potential impacts.

**Planning Commission**

The Planning Commission considered a diverse array of policy options relating the size, scale, and standards for cannabis operations within specific land use categories. The Planning Commission accepted staff's recommendation in all cases except for a few aspects of three policy issues.

***Amended Recommendations***

The following issues were the primary focus of the Planning Commission's deliberations, and resulted in amended recommendations:

1) Personal Cultivation
2) Commercial Cultivation in Rural Residential Zones
3) Mixed Light Cultivation in Industrial Zones

*Personal Cultivation*

The Commission recommended allowing a maximum of 100 square feet of cultivation area per residence for medical and nonmedical cultivation, with the number of plants permitted for nonmedical cultivation capped at 6. Staff had recommended a maximum of 6 plants (medical only) indoors and 3 plants

outdoors because plant count would be easier to enforce, while prohibiting personal cultivation within the R2 (Medium Density Residential) and R3 (High Density Residential) zones due to the potential impact on neighbors. The Commission expanded this to 100 square feet for personal medical cultivation with no plant limit to allow diversity of medical cannabis for patients, and because of the passage of Prop 64 expressed a six plant maximum for nonmedical and allowed medical and nonmedical personal cultivation in all zones, though outdoor personal cultivation would restricted in the R2 and R3. There is a potential that restricting outdoor personal cultivation could impact State funding, an issue that staff was unaware of at the time of the Planning Commission's recommendation. Personal cultivation would be allowed by right and would not require a permit.

The proposed Ordinance would supersede the 2006 Resolution 06-0846 providing cultivation guidelines as a defense to prosecution. Many local residents have been guided by the limits expressed in the 2006 Resolution and are currently cultivating using a "collective" model. The proposed Ordinance includes a transition period for cultivation collectives and cooperatives that were in operation prior to January 1, 2016. These collectives and cooperatives would need to come into compliance by January 1, 2018.

*Commercial Cultivation in Rural Residential Zones*
Staff recommended allowing cottage size commercial cultivation in rural residential zones, which includes a maximum of 25 plants outdoor, 500 square feet indoors, or 2,500 square feet of mixed light (greenhouse). This small scale, similar to currently allowed commercial agriculture permitted in these zones, coupled with the minimum lot sizes, setbacks, and other required standards, could be considered compatible with residential uses. Additionally, the use permit process would ensure neighbors were notified and that mitigation of impacts could be addressed on a case by case. After much discussion, the Commission voted 4-1 in favor of the staff recommendation while adding a minimum lot size requirement of two acres for indoor cultivation to decrease the density of operations in rural residential zones. The standards were revised to require the operator to live onsite and to only allow one permit per property.

The Commission also included a recommendation that as part of Phase II staff consider allowing cottage sized cultivation with a zoning permit and a 5 acre minimum lot size (in order to phase out smaller parcels over time) within Rural Residential zones.

*Mixed Light Cultivation in Industrial Zones*
Staff recommended allowing indoor cultivation in industrial zones, with a prohibition on outdoor and mixed light due to security and compatibility issues. Ultimately the Commission recommended including an allowance for mixed light cultivation within industrial zones with a conditional use permit after finding that the use permit process could adequately address security and compatibility concerns. This would allow greenhouse cultivation up to 22,000 square feet within the M1 (Limited Urban Industrial), M2 (Limited Urban Industrial), and M3 (Heavy Industrial) zones. The Commission also revised the required setbacks to better accommodate these uses without a 100 foot setback to property lines or a 300 foot setback to occupied business on surrounding properties. All other setback and minimum lot size requirements apply.

***Other Recommendations***

The Planning Commission adopted staff recommendations in the areas discussed below. A full range of policy options was considered by the Planning Commission; those options and further discussion can be found in the discussion papers on the cannabis website: http://sonomacounty.ca.gov/CAO/Cannabis/Proposed-Cannabis-Ordinance/. The Land Use Table (Attachment B) summarizes recommendations for each land use and zoning district.

*Outdoor Commercial Cultivation*

The proposed ordinance would allow outdoor cultivation with a ministerial zoning permit in agricultural zones up to 10,000 square feet of cultivation area subject to minimum lot size requirements, Cultivation Standards, and the Agricultural Commissioner's Best Management Practices. Larger outdoor cultivation operations, up to 43,560 square feet of cultivation area, would be allowed, subject to a use permit, in agricultural and resource zones. Up to 25 plants of outdoor cultivation would be allowed on rural residential lands with a minor use permit. Zoning permits for outdoor cultivation would be issued by the Department of Agriculture/Weights and Measures and all other permits would be issued by the Permit and Resource Management Department (PRMD).

*Indoor Commercial Cultivation*

Indoor cultivation would be allowed in agricultural and industrial zones with a zoning permit up to 500 square feet. "Specialty indoor" operations from 501-5,000 square feet on agricultural land would be restricted to existing structures to avoid conversion of land. Larger indoor operations would be allowed with a use permit or minor use permit within industrial zones. Small cottage sized indoor operations of 500 square feet would be allowed in rural residential zones with a minor use permit.

*Mixed-light Cultivation*

In addition to the industrial zones discussed above, mixed light operations would be allowed in agricultural areas up to 2,500 square feet with a zoning permit, and in the resource and rural residential zones with a minor use permit, subject to standards. Larger operations would be allowed with a use permit in agricultural and resource zones.

*Multiple Cultivation Permits and Subleasing*

The proposed ordinance would allow a single entity to obtain multiple cultivation permits, but the total cultivation area could not exceed one acre within Sonoma County. The Ordinance would also allow a single property owner to lease to multiple small-scale operators with ministerial zoning permits provided that the minimum lot size is met and the total area does not exceed the maximum allowed.

*Nurseries*

Cannabis nurseries produce clones and immature plants and supply those to commercial cultivators or dispensaries for retail sale. The proposed Ordinance would allow wholesale cannabis nurseries with a conditional use permit in agricultural, resource, and industrial zones. Indoor/greenhouse nurseries within the Land Intensive Agriculture (LIA) zoning district would be limited to existing legally established structures to avoid conversion of land. Zoning districts recommended for cannabis nurseries are similar to where non-cannabis nurseries are allowed, except that they are not recommended in rural residential zones but are recommended in industrial zones due to their predominantly indoor nature.

*Testing Labs*
Third party cannabis laboratories are required to test all cannabis products for cannabinoid concentration, pesticide residuals, mold, fungus, and other contaminants. The proposed Ordinance would limit cannabis laboratories to industrial zones with a conditional use permit, which is consistent with where non-cannabis laboratories are allowed.

*Manufacturing*
Cannabis manufacturing includes the production or packaging of cannabis products, including oils, tinctures, and edible cannabis products. The proposed ordinance would only allow manufacturing with nonvolatile solvents within industrial areas, consistent with where other manufacturing is allowed, subject to a use permit and would prohibit manufacturing with volatile solvents, which will be further defined and limited by the State once regulations are developed.

*Distribution and Transportation*
Distributors and transporters are responsible for transporting cannabis from cultivators, sending cannabis to quality assurance and batch testing, distributing to and from manufacturing operations, and then distributing cannabis products to a licensed dispensary. The proposed Ordinance would allow distribution and transportation facilities within industrial areas subject to a use permit, which is consistent with where other similar uses are allowed.

*Dispensaries*
The Ordinance proposes several changes to the medical cannabis dispensary regulations.

| Existing County Code | Proposed Ordinance |
|---|---|
| Permitted in commercial zoning districts (C1, C2 and LC). | No change. |
| Distinction between Level 1 and Level 2 dispensaries with patient limits. | Distinction and patient limit eliminated. |
| 1,000 ft. separation criteria from another dispensary or smoke shop. | No change. |
| 1,000 ft. separation criteria from school, park or businesses that cater to children. | 600 ft. separation criteria from school, park, child care center, and drug rehabilitation center (removing “businesses that cater to children”). |
| Number of dispensaries capped at 9. | No change. |
| Deliveries not allowed. | Deliveries allowed pursuant to use permit. |
| Sale of consumption devices not allowed. | Vaporizers allowed pursuant to health permit. |
| Sale of edibles not allowed. | Sale of edibles allowed pursuant to health permit. |
| Onsite consumption not permitted. | No change. |

*Enforcement*
The proposed Ordinance establishes an enforcement program that is progressive, incentivizes compliance, and is applicable to diverse land uses. The Ordinance also includes heightened monetary penalties in order to be commensurate with the high-valued nature of cannabis industry products and businesses.

Administrative Citations

The County is in the process of developing a countywide administrative citation program. This program is scheduled to go to the Board of Supervisors for consideration and adoption in early 2017. The proposed Ordinance includes the use of administrative citations, allowing the County to issue citations for violations at the time of discovery. Administrative citation amounts would be based on the following factors; 1) whether the cultivation area exceeds the allowed permitted area; 2) if there is noncompliance with a standard or condition of the permit; and/or 3) there are unpermitted cannabis uses (other than cultivation). The citation penalty amounts would also increase depending on the number of past violations within a two year period.

Civil Penalties

The existing County code enforcement process includes applying civil penalties to violations. The proposed Ordinance includes higher civil penalties than applied to typical code enforcement violations. These penalties would apply after an operator receives a notice of violation, as described in Chapter 1-7.3. The proposed Ordinance includes the following penalty options, depending on the number of violations within a two year period:

1. A set range of penalties (ranging from $10,000 to $50,000);
2. A daily violation amount of $1,000 - $5,000 a day for each violation; and/or
3. A square footage violation of $20-$50 per square foot of cannabis cultivation or use area.

The proposed Ordinance also includes a three strikes provision that would revoke the permit upon the issuance of a third administrative citation within a two year period.

*Estimated Fees*

Based on the requirements of the proposed Land Use Ordinance and similar services within the current fee schedule, it is estimated that zoning permits issued by either the Department of Agriculture or PRMD will range from $1,800 to $2,500, $2,000 to $6,000 for minor use permits, and $6,000 to $12,000 for conditional use permits. The cost ranges are dependent on the level of noticing and CEQA review required, and the staff time required to process the permit.

***Agricultural Preserve Uniform Rules***

The Sonoma County Uniform Rules for Agricultural Preserves ("Uniform Rules") set forth the rules and regulations governing the administration of the County's agricultural preserve program under the California Land Conservation Act, also known as the Williamson Act ("Act"). In exchange for a long-term commitment to devote the use of his or her land to agricultural or open space use, and uses compatible with those agricultural and open space uses, a land owner receives beneficial property tax treatment.

The Uniform Rules list allowable uses for contracted land and are currently silent on cannabis or cannabis related uses. Under the proposed amendments to the Uniform Rules, cannabis cultivation would be allowed as a compatible use on agricultural contracted lands, which can take up no more than 15% of the property size. The cultivation area could not count toward the 50% minimum amount of area needed to qualify for the contract, and the landowner would not be subject to reduced property tax liability on the area dedicated to cannabis cultivation. Cannabis cultivation would not be permitted on lands under an open space contract, though the Board may consider an allowance in order to incentivize open space contracts.

**MEDICAL CANNABIS HEALTH ORDINANCE**

Commercialization of cannabis cultivation, manufacturing, and sale will increase the amount of cannabis in the community with resultant increased access to cannabis products and decreased perception of product risk. Commercialization in other communities has resulted in clear health impacts. Other communities have seen increased number of poisonings, due to intentional and accidental consumption; increased injuries, particularly due to motor vehicle collisions and driving under the influence; and increased mental health and substance use disorders. In addition, although current law prohibits youth use, data from other communities demonstrate an increased rate of youth cannabis use concurrent with commercialization. Cannabis use has a negative impact on the developing brain and cognitive abilities and has been connected with lower academic achievement and graduation rates. While the health consequence of cannabis commercialization are complex and need a multi-pronged approach to address them, some can be mitigated by policy and regulations. The purpose of the proposed health permit is to ensure product safety, prevent accidental ingestion or overdose, and prevent access and use by youth.

The proposed Cannabis Health Ordinance establishes regulations and health permits for medical cannabis dispensaries and edible medical cannabis product manufacturing sites. Currently, dispensaries are only required to obtain a land use permit from PRMD. With this ordinance dispensaries, as well as certain manufacturers, will be required to obtain permits from the Health Department and be subject to inspections. While some elements of the proposed ordinance will be addressed by State regulations currently under development, including those on manufacturing, labeling and advertising, it is imperative that the County establish its own regulations in the interim to ensure the safe production and sale of cannabis products. The program established would also be available to cities within Sonoma County and the Department of Health Services has already begun working with the City of Santa Rosa to potentially implement the program within that jurisdiction in conjunction with its permitting of manufacturers and dispensaries.

*Edible Cannabis Product Safety*

While edible medical cannabis products are defined as “not a food” in Health and Safety code, staff proposes that all edible medical cannabis products sold and manufactured within the County comply with food safety requirements, which establish a system of prevention and overlapping safeguards designed to minimize foodborne illness, ensure employee health, demonstrate industry manager knowledge, ensure safe food preparation practices, and delineate acceptable levels of sanitation.

*Labeling and Advertising*

The proposed ordinance also regulates the packaging, labeling and advertising of edible medical cannabis products. These regulations include identifying product source, cannabinoid concentration, allergen warning labels, and particularly address protecting young children and youth from accidental ingestion.

*Estimated Fees*

The Department of Health Services will be proposing fees for services that will be provided directly to the payer and that do not exceed the reasonable costs to provide service. Fees will include reasonable regulatory costs including enforcement inspections, investigations, and audits. The proposed fee structure will include plan review and construction inspections as well as permits for both dispensaries

and edible cannabis product manufacturing. There will be different levels of permits to allow for low and high complexity operations.

Fees will be calculated based on time/task information from other similarly structured programs and are preliminarily estimated to range from $2,000 -$3,000 annually for Medical Cannabis Dispensaries and from $3,500 - $5,000 annually for Edible Cannabis Manufacturing Sites. In addition, new facilities will be required to submit plans for review and have on-site inspections prior to opening for business. These fees will be calculated based on the hours necessary to complete the services. One time plan check and site review fees are estimated to range from $600 - $2,000 dependent on the service time required.

**CANNABIS BUSINESS TAX ORDINANCE**

***Declaration of Emergency***

While fees can recover costs associated with issuing permits, inspections, compliance monitoring, etc., they cannot be used to fund other costs not attributable to a permittee, including those related to code enforcement, law enforcement, policy development, health impacts and education, and environmental cleanup. Without an additional funding source, the County will not be able to address the risk and adverse impacts of legalized cannabis in Sonoma County while also maintaining the existing general governmental services that the County funds through its General Fund. Because of this threat to the public health, safety, and welfare, an emergency exists in the County, as the term “emergency” is used in Article XIIIC, section 2(b) of the California Constitution.

Accordingly, staff recommends that the Board unanimously find and declare the existence of a fiscal emergency within the County. This finding will allow the County to bring a proposed Cannabis Business Tax Ordinance to the voters at the March 7, 2017 election. Without such a unanimous declaration of emergency, the County must wait until the next County General Election in November 2018 to submit the Cannabis Business Tax Ordinance to the voters – foregoing the ability to raise approximately $10 million in tax revenue.

***State Taxes***

Proposition 64 (2016) imposed the first and currently only statewide cannabis businesses taxes. A 15% excise tax is imposed on dispensary (medical) and retail (nonmedical) sales, though medical sales are exempted from the standard sales and use tax (7.5% - 10%). The initiative also imposes a cultivation tax on all cannabis at a rate of $9.25 per ounce for flowers and $2.75 per ounce for leaves. The cumulative tax rate on the supply chain is already fairly substantial. Tax rates should be set with the understanding that tax rates that are too high can keep or drive operators underground. Based on experience in Washington and Colorado, it is recommended that the cumulative tax rate (including state and local taxes throughout the supply chain) be less than 30%.

***Proposed Tax Ordinance***

The proposed Cannabis Business Tax Ordinance includes authority to tax cultivation and all other support businesses including nurseries, transporters, distributors, testing labs, manufacturers and dispensaries. The key components of the proposed tax structure for cultivation and all other cannabis businesses are outlined below. The Board will have the authority at any time to adopt an ordinance adjusting the tax rate for any cannabis operator type up to the maximum amount authorized under this

ordinance. All taxes will be due quarterly, and nonpayment may be a basis for permit revocation or nonrenewal.

*Cultivation Tax*

- Per square foot tax. The tax due would be based on the maximum cultivation area allowed under the operator's permit. This method is the easiest to assess and administer. Prior to a robust track and trace program at the State or local level, it would be difficult to obtain data on and verify how much product was being sold from cultivation sites. At this stage of the industry, a large amount of product is being diverted to the black market and this method of taxation ensures taxes on that product are not avoided.
    - Exceptions for proof of smaller cultivation area or crop loss. License types based on plant count (outdoor cottage and specialty) will be assessed based on an assumed 25 square feet per plant allowed under the permit.
- Adjusted for cultivation type. Different square footage rates for outdoor, indoor, and mixed-light cultivation are proposed to tax an equivalent percentage of estimated revenue. Annual yields vary substantially between outdoor and indoor cultivation; different rates provide tax equity between the operator types.
- Progressive tax rate. Starting rates tax smaller operators at a lower square footage rate than larger operators within each cultivation type. This provides support to the many small scale cultivators already operating in Sonoma County and adds equity given the economies of scale gained by larger cultivators.
- Amount. The proposed maximum square footage rates were calculated to be roughly equivalent to a percentage tax rate of 10% of gross revenue for each cultivation type:
    - Outdoor cultivation: $10 per square foot
    - Indoor cultivation: $38 per square foot
    - Mixed-light cultivation: $22 per square foot
- Initial Rates. The proposed starting rates are substantially lower to incentivize compliance and offset the startup costs cannabis businesses will incur in coming into compliance with local and State permitting and operating requirements. Starting rates range depending on the size of operation and as a percentage of projected revenues are intended to roughly equate to 0.5% for cottage, 2% for specialty, 3% for small and 5% for medium-sized operations. Proposed initial rates are as follows:
    - Outdoor cultivation: $0.50 to $3.50 per square foot
    - Indoor cultivation: $1.88 to $18.75 per square foot
    - Mixed-light cultivation: $1.08 to $10.80 per square foot
- Authority to tax on gross receipts basis. The ordinance also authorizes the Board to change the method of taxation on cultivation from a square foot basis to a gross receipts basis, with a maximum authorized tax rate of 10% of gross receipts.

*Support Businesses Tax*

- Gross receipts basis. Operators will report gross receipts and be taxed a percentage of that reported revenue.
- Amount. The maximum authorized tax rate would be set at 10%. Initial taxes for all operators would be set at 0%, except for manufacturing, which would be taxed at 5%. Lower tax rates will

incentivize compliance and taxation at different points in the supply chain increases administrative difficulty and costly.

***Estimated Revenue***

Based on a survey by the California Department of Food and Agriculture on permit interest in Sonoma County and estimated compliance (25% for cottage and specialty cultivators and 10% for small and medium cultivators), staff estimates that revenue in FY 2017-18 at the proposed starting rates will total approximately $4.6 million annually from the cultivation tax. The manufacturing tax is estimated to bring in another $1.2 million, for a combined annual revenue of approximately $5.8 million. Revenues are difficult to estimate due to the many unknowns about the industry and how it will transition, as well as the substantial effort required to bring the industry onboard and normalize paying taxes.

***Estimated Costs and Staffing***

The cannabis industry has and will continue to have numerous direct and indirect fiscal impacts on the County and the overall implementation of a comprehensive regulatory scheme requires investment in diverse areas. The following is a non-exhaustive list of costs that staff has identified as necessary to begin to ensure a successful and robust program: code enforcement, health and human services, public safety, administration, policy development, environmental cleanup, and tax collection and administration. If the tax is enacted, or other funding is identified by the Board so the land use ordinance becomes effective, staff will return with a specific proposal to fund these County services. More information on positions estimated to fulfill this work is included in the staffing impacts narrative section below.

**ECONOMIC IMPACT TASK FORCE RECOMMENDATION**

To better understand the impact of the industry and inform local policy, the Economic Development Board (EDB) convened a Task Force comprised of 16 business representatives from key industry clusters. Over a period of five weeks, the Task Force members met with cannabis industry leaders to learn about the industry and then worked together to identify potential economic opportunities and threats, and formulate a series of policy recommendations. The key recommendations of the Task Force are outlined below and the full report is available online: http://sonomaedb.org/Data-Center/Special-Reports/.

- Ease transition: a) Establish a minimum of a one-year transition period to achieve compliance with local and state regulations; and b) Convene a cannabis stakeholder advisory group for 2017.
- Promote cannabis market: a) Ensure permits are available for all license types outlined in MCRSA; b) Promote workshops and job fairs that include both cannabis and traditional businesses; and c) Provide access to existing workforce development programs.
- Protect real estate assets: a) Fast track permitting processes to increase the supply of workforce housing and commercial building inventory; b) Encourage a cooperative farming model by allowing multiple permits on one parcel, and allowing cottage growers to cultivate collectively in a legally-designated area; and c) Limit the cultivation area to one acre per permit.

**COMMUNITY CANNABIS ADVISORY GROUP**

Staff recommends that the Board direct staff to convene an advisory group of stakeholders and subject matter experts to evaluate the implementation of the new cannabis ordinance, including data on trends and impacts, and provide recommendations for the next phases of implementation. The task force would consist of representatives from each operator category (i.e. nursery, cultivator, distributor, etc.),

other industries in Sonoma County, city government representatives, education, health care, non-industry residents, and other stakeholders. If directed, staff would develop a proposal and present it to the Ad Hoc Committee.

**Prior Board Actions:**

12/13/2016: Adoption of a resolution introducing, reading the title, and waiving further reading of the Medical Cannabis Health Ordinance; adoption of the Cannabis Business Tax Ordinance and a resolution introducing, reading the title of, and waiving further reading of the Cannabis Business Tax Ordinance; and, adoption of a resolution declaring an emergency and calling a special election for the Cannabis Business Tax on March 7, 2017.
9/20/2016: Receipt of a status report from the Medical Cannabis Ad Hoc Committee and staff.
5/24/2016: Approval of the Medical Cannabis Ad Hoc Committee Charter.
2/2/2016: Adoption of the Resolution of Intention to develop a comprehensive regulatory framework for the cannabis industry.
1/5/2016: Creation of the Medical Cannabis Ad Hoc Committee.

**Strategic Plan Alignment** Goal 1: Safe, Healthy, and Caring Community

The proposed cannabis ordinances and policies are necessary to protecting the health and safety of our communities, preserving our environmental resources and ensuring the industry contributes positively to the economic vitality of our County.

**Fiscal Summary**

| **Expenditures** | **FY 16-17 Adopted** | **FY 17-18 Projected** | **FY 18-19 Projected** |
|---|---|---|---|
| Budgeted Expenses | | | |
| Additional Appropriation Requested | $400,000 | | |
| **Total Expenditures** | | | |
| **Funding Sources** | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | $400,000 | | |
| **Total Sources** | $400,000 | | |

**Narrative Explanation of Fiscal Impacts:**

Cost for placing the measure on the ballot is estimated at approximately $400,000, however a number of factors such as increased voter registration could alter this amount. If successful, the proceeds of the tax will cover the election costs associated with this measure.

Anticipated revenue under the proposed Cannabis Business Tax is estimated at $5.8 million annually, though revenues are difficult to estimate due to the many unknowns about the industry.

It is estimated that staffing needed to implement the proposed cannabis regulations would cost $2,180,000 - $3,010,000 in fee-based staffing and $1,670,000 - $2,640,000 in non-fee-based staffing as well as additional non-fee-based funding needed for programmatic and operational needs. Additionally, increased staffing of this scale will lead to other necessary and related costs such as office space. Staff will return to the Board with a specific funding plan for staffing and other expenses in the third quarter of this fiscal year.

**Staffing Impacts**

| **Position Title** (Payroll Classification) | **Monthly Salary Range** (A – I Step) | **Additions** (Number) | **Deletions** (Number) |
|---|---|---|---|
| | | | |
| | | | |

**Narrative Explanation of Staffing Impacts (If Required):**

Implementing and enforcing the ordinances and policies laid out above will require substantial additional capacity within the departments. Once the ordinances are adopted and a funding source is secured, staff will return with a specific request to add position allocations. Staff will work with Human Resources to evaluate the appropriate job classifications to perform the additional/new required duties and will develop new classifications if needed. Positions related to permitting, monitoring, and inspections will be covered by applicant fees, whereas those related to enforcement, tax collection, public safety, and health and human services would be funded primarily by tax revenue or another funding source.

**<u>Permitting, Monitoring, Inspection Staff</u>**
**Funding Source: fees**
**Total Estimated Cost = $2,180,000 - $3,010,000**
**Total Estimated Staff = 13 - 21 Full Time Equivalents (FTE)**
*Department of Agriculture/Weights & Measures*
Estimated cost = $700,000 - $1,000,000 annually, plus initial one-time costs.
Estimated staffing need: 3 to 6 Biologists and Environmental Specialists and 1 support staff.
*Permit and Resource Management Department*
Estimated cost = $750,000 - $950,000 annually, plus initial one-time costs.
Estimated staffing need: 4 to 6 FTE Planners, Permit Technician and Environmental Health Specialist and 1 to 2 support staff.
*Department of Health Services*
Estimated cost = $410,000 - $575,000 annually, plus initial one-time costs.
Estimated staffing need: 2 to 3 FTE Environmental Health Specialists and Program Manager.
*Fire and Emergency Services Department*
Estimated cost = $300,000 - $400,000 annually, plus initial one-time costs.
Estimated staffing need: 1.5 to 2 FTE Fire Inspectors and 1 support staff.

*County Counsel's Office*
Estimated cost = $300,000 - $400,000 annually, plus initial one-time costs.
Estimated staffing need: 1.5 to 2 FTE Deputy County Counsel.

**Code Enforcement**
**Funding Source: Cannabis Business Tax, fines, penalties or other**
**Total Estimated Cost = $1,220,000 - $2,040,000**
**Total Estimated Staff = 8 - 14 FTE**
*Permit and Resource Management Department*
Estimated cost = $700,000 - $1,200,000 annually, plus initial one-time costs.
Estimated staffing need: 4 to 8 FTE Code Enforcement Officers, Supervisor and/or Manager and 1 FTE support staff.
*County Counsel's Office*
Estimated cost = $520,000 - $840,000 annually, plus initial one-time costs.
Estimated staffing need: 2 to 3 FTE Deputy County Counsel and 1 to 2 FTE support staff.

**Tax Collection and Auditing**
**Funding Source: Cannabis Business Tax and fees**
*Auditor Control Treasurer Tax Collector*
Estimated cost = $450,000 - $600,000 annually, plus initial one-time costs.
Estimated staffing need: 3 to 4 FTE tax collection and audit services

**Other Services**
**Funding Source: Cannabis Business Tax or other**
Once the tax is enacted or another funding source is secured, staff will return with a specific proposal to address impacts related to public safety, health and human services, administration and environmental cleanup.

**Attachments:**

Medical Cannabis Land Use Ordinance and Rules
Attachment A: Medical Cannabis Land Use Ordinance
- Exhibit A-1 Definitions
- Exhibit A-2 Standards
- Exhibit A-3 Dispensary
- Exhibit A-4 Personal Standards
- Exhibit A-5 Exclusion Zone
- Exhibit A-6 Inclusion Zone

Attachment B: Land Use Ordinance Summary Table
Attachment C: Agricultural Commissioner's Cultivation Best Management Practices
Attachment D: Resolution Amending the Uniform Rules for Agricultural Preserves
Attachment E: Amended Uniform Rules for Agricultural Preserves (Redline)
Medical Cannabis Health Ordinance
Attachment F: Medical Cannabis Health Ordinance (clean)
Attachment G: Medical Cannabis Health Ordinance (redline)
Cannabis Business Tax Ordinance

| Attachment H: Proposed Cannabis Business Tax Ordinance |
| --- |
| **Related Items "On File" with the Clerk of the Board:** |
| |

**ORDINANCE NO. _____**

**An Ordinance Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Adopting a Negative Declaration and Amending Text Of Chapter 26 (Zoning Ordinance) Of The Sonoma County Code To Allow Personal Cultivation of Cannabis and Permit Cultivation of Commercial Medical Cannabis and Support Land Uses in Various Zoning Districts, Adopting New Definitions and Establishing Special Use Regulations.**

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

**SECTION I. Findings.** The Board finds and declares the following:

A. The adoption of this Ordinance is necessary and desirable to protect the public health, safety and environmental resources, ensure safe access to medical cannabis for patients, provide a regulatory path to permit an existing underground industry, foster a healthy, diverse and economically viable medical cannabis industry that contributes to the local economy, provide opportunity to help stabilize farm incomes, enhance enforcement methods for unpermitted and trespass cannabis cultivation, and ensure that environmental, public health, safety and nuisance factors related to the cannabis industry are adequately addressed.

B. The Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies cannabis as a Schedule I Drug; as such, it is unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana. There is no federal exemption for the cultivation, manufacture, distribution, dispensation, or possession of cannabis for medical purposes.

C. In 1996, the voters of the State of California approved Proposition 215, "The Compassionate Use Act" (codified as Health and Safety Code Section 11362.5), which was intended to decriminalize cultivation and possession of medical marijuana by a seriously ill patient, or the patient's primary caregiver, for the patient's personal use, and to create a limited defense to the crimes of possessing or cultivating cannabis. The Compassionate Use Act further provided that nothing in it shall be construed to supersede legislation prohibiting persons

from engaging in conduct that endangers others, or to condone the diversion of cannabis for non-medical purposes.

D. The State enacted SB 420 in 2004 (known as the "Medical Marijuana Program Act", codified as Health and Safety Code Section 11362.7 et seq.) to expand and clarify the scope of The Compassionate Use Act of 1996 by creating the Medical Marijuana Identification Card program, creating reasonable regulations for cultivating, processing, transporting and administering medical cannabis, as well as limiting the amount of medical cannabis a qualified individual may possess.

E. The Medical Marijuana Program Act defines a "primary caregiver" as an individual who is designated by a qualified patient or by a person with an identification card, and who has consistently assumed responsibility for the housing, health, or safety of that patient or person and is further defined in the California Supreme Court decision *People v. Mentch* (2008) 45 Cal.4th 274.

F. The Sonoma County Board of Supervisors adopted Medical Marijuana Possession and Cultivation Guidelines on September 26, 2006 by Resolution 06-0846. The Guidelines provide a limited defense to prosecution or other sanction by the County of Sonoma which is only available to someone who possesses or cultivates marijuana for personal medical use. These Guidelines are not zoning code regulations, and they do not allow and do not regulate any manner of cultivation, growing, or delivery of marijuana.

G. The State enacted the Medical Marijuana Regulation and Safety Act (MMRSA) on September 11, 2015 (SB 643, AB 266, and AB 243), instituting a comprehensive state-level licensure and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis through numerous changes and additions to the Business & Professions Code and the Health and Safety Code. MMRSA legalizes and regulates for-profit commercial activity related to medical marijuana in California. MMRSA provides that cities and counties retain local regulatory authority over medical cannabis.

H. On June 27, 2016 the Governor signed SB 837, changing the term "marijuana" to "cannabis" and renaming the Medical Cannabis Regulation and Safety Act (Cannabis Act).

I. The State's adoption of a comprehensive statewide licensing and enforcement

scheme for medical cannabis operations will facilitate local jurisdictions to regulate medical cannabis at the local level, and permit fees will help pay for additional enforcement staff.

J. Although Sonoma County's zoning ordinance does not permit cannabis cultivation or other medical cannabis activities besides dispensaries within the unincorporated area of the County, there are an estimated several thousand unregulated cannabis cultivation sites within the County that are unlawful under the permissive zoning of the County Code. The County has long had insufficient resources to bring code enforcement or nuisance actions against the vast majority of these cultivation sites.

K. On February 2, 2016, the Board of Supervisors, at an open public meeting, directed staff to bring forward a zoning ordinance allowing but regulating cannabis cultivation and related commercial support uses within the jurisdictional boundaries of Sonoma County.

L. On November 8, 2016 the voters of California adopted Proposition 64 which legalized the use of cannabis for adult use and established a maximum cultivation allowance of 6 plants for personal use. The Proposition allows for local control of adult use cannabis land uses, and reasonable regulation of personal cultivation of up to 6 plants per residence.

M. Children (minors under the age of 18) are particularly vulnerable to the effects of cannabis use, and the presence of cannabis plants or products is an attractive nuisance for children, creating an unreasonable hazard in areas frequented by children (including schools, parks, and other similar locations).

N. The unregulated cultivation of cannabis in the unincorporated area of Sonoma County can adversely affect the health, safety, and well-being of the County, its residents and environment. Comprehensive civil regulation of premises used for cannabis cultivation, including zoning regulation, is proper and necessary to reduce the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated cannabis cultivation.

O. Comprehensive regulation of premises used for cannabis cultivation or commercial activities related to cannabis is proper and necessary to address the risks and adverse impacts as stated herein.

P. Outdoor cannabis cultivation, especially within the remote hillside areas, is creating devastating impacts to California's surface and groundwater resources. The State Water Resources Control Board, the North Coast Regional Water Quality Control Board, the Central Valley Regional Water Quality Control Board and the Department of Fish and Wildlife have seen a dramatic increase in the number of cannabis cultivation operations, and corresponding increases in impacts to water supply and water quality, including the discharges into water of sediments, pesticides, fertilizers, petroleum hydrocarbons, trash and human waste. These impacts result from unpermitted and unregulated timber clearing, road development, stream diversion for irrigation, land grading, erosion of disturbed surfaces and stream banks, and temporary human occupancy without proper sanitary facilities.

Q. The defense to prosecution provided to qualified patients and their primary caregivers under the Compassionate Use Act and the Board's prior Resolution to cultivate cannabis plants for medical purposes does not confer the right to establish a land use not expressly allowed in zoning or to create or maintain a public nuisance. By adopting the regulations contained in this Ordinance in coordination with the Cannabis Act, the County intends to minimize the risks and complaints regarding fire, odor, crime and pollution caused or threatened by the unregulated cultivation of cannabis in the unincorporated area of Sonoma County.

R. Nothing in this Ordinance shall be construed to allow the use of cannabis or allow any activity relating to the cultivation or consumption of cannabis that is otherwise not expressly allowed in the Sonoma County Code or is illegal under State law.

S. This ordinance is intended to be Phase I of this policy effort to provide an initial opportunity to legalize existing unpermitted medical cannabis operations, where appropriate and steer the industry to appropriate locations. The Board may consider expanded opportunities for additional commercial cannabis operations in Phase II.

T. This ordinance is consistent with the overall goals, objectives, policies and programs of the General Plan to promote a healthy and competitive agricultural, stabilize farm incomes and provide opportunities for diversification of agricultural products; protect Important Farmlands; preserve biotic resources; promote energy conservation and use of renewable energy; minimize discharge of sediment, waste and other pollutants into the drainage systems; protect groundwater resources; encourage graywater systems and use of recycled water.

U. An Initial Study and Negative Declaration were prepared and circulated to the public for a 30-day period from September 30 to October 31, 2016. The Negative Declaration has been reviewed and considered, together with comments received during the public review process, in accordance with the California Environmental Quality Act (CEQA) and County CEQA Guidelines. The Board finds on the basis of the whole record before it that the Negative Declaration reflects the independent judgment and analysis of the Board and that there is no substantial evidence that the project will have a significant effect on the environment. The Director of Permit and Resource Management Department is directed to file a Notice of Determination in accordance with CEQA.

**SECTION II.** Chapter 26 of the Sonoma County Code is amended as follows:

**A. Amendments to Definitions.** Section 26-02-140 (Definitions) of Chapter 26 of the Sonoma County Code (Zoning Ordinance) is amended to replace and add the following definitions as shown in Exhibit A-1 attached hereto.

**B. Amendments to Zoning Districts for Commercial Medical Cannabis Uses**. The following Subsections of Chapter 26 of the Sonoma County Code are added for Permitted Uses:

Section 26-04-010 (o) – LIA Land Intensive Agriculture District
Section 26-06-010 (s) – LEA Land Extensive Agriculture District
Section 26-08-010 (r) – DA Diverse Agriculture District
Section 26-10-010 (ll) – RRD Rural and Resource Development District
Section 26-44-020 (u) – MP Industrial Park
Section 26-46-020 (t) – M1 Limited Urban Industrial
Section 26-48-020 (y) – M2 Heavy Industrial

Section 26-50-020 (r) – M3 Limited Rural Industrial

to read as follows:

**"Commercial cannabis medical uses in compliance with Section 26-88-250 through 256"**

**C.** The following Subsections of Chapter 26 of the Sonoma County Code are added for Uses Permitted with a Use Permit:

Section 26-04-020 (r) – LIA Land Intensive Agriculture
Section 26-06-020 (t) – LEA Land Extensive Agriculture
Section 26-08-020 (t) – DA Diverse Agriculture
Section 26-10-020 (tt) – RRD Rural and Resource Development
Section 26-16-020 (z) – AR Agriculture and Residential
Section 26-18-020 (y) – RR Rural Residential
Section 26-44-020 (q) – MP Industrial Park
Section 26-46-020 (aa) – M1 Limited Urban Industrial
Section 26-48-020 (z) – M2 Heavy Industrial
Section 26-50-020 (aa) – M3 Limited Rural Industrial
Section 26-34-020 (ll)- C3 General Commercial District
Section 26-36-020 (qq) – LC Limited Commercial

to read as follows:

"**Commercial cannabis medical uses in compliance with Section 26-88-250 through -256"**

**D.** **Standards for Commercial Cannabis Medical Uses.** Article 88 of Chapter 26 of the County Code is hereby amended to add Subsection 26-88-250 – 256 (Cannabis Cultivation and Related Land Uses) as shown in Exhibit B attached hereto.

**E.** **Medical Cannabis Dispensaries.** The following Subsections of Chapter 26 of the Sonoma County Code are amended

Section 26-30-020 (z) – C1 Neighborhood Commercial

Section 26-32-020 (ee) – C2 Retail Business and Service
Section 26-36-020 (oo) – LC Limited Commercial

to read as follows:

"**Medical Cannabis Dispensary, in compliance with Section 26-88-250 and 256"**

The following Subsections are deleted in their entirety

Section 26-32-020 (ff) – C2 Retail Business and Service
Section 26-36-020 (pp) – LC Limited Commercial

**F.** **Medical Cannabis Dispensary.** Article 88 of Chapter 26 of the County Code is hereby amended to delete Subsection 26-88-126 Medical Cannabis Dispensary in its entirety and replaced to add Subsection 26-88-256 Medical Cannabis Dispensary to read as shown in Exhibit A-3 attached hereto.

**G.** **Amendments to Zoning Districts for Personal Cannabis Use**. The following Subsections of Chapter 26 of the Sonoma County Code are added for Permitted Uses:

Section 26-04-010 (n) – LIA Land Intensive Agriculture District
Section 26-06-010 (r) – LEA Land Extensive Agriculture District
Section 26-08-010 (q) – DA Diverse Agriculture District
Section 26-10-010 (kk) – RRD Rural and Resource Development District
Section 26-16-010 (ff) – AR Agriculture and Residential District
Section 26-18-010 (bb) – RR Rural Residential
Section 26-20-010 (z) – R1 Low Density Residential District
Section 26-22-010 (u) – R2 Medium Density Residential District
Section 26-24-010 (z) – R3 High Density Residential District
Section 26-26-010 (t) (8) – PC Planned Community

to read as follows:

**"Cannabis cultivation for personal use in compliance with Section 26-88-258"**

**H.** **Standards for Personal Cannabis Use.** Article 88 of Chapter 26 of the County Code is hereby amended to add Subsection 26-88-258 (Cannabis Cultivation and Related Land Uses) as shown in Exhibit A-4 attached hereto.

**I.** **Amendments to Zoning Districts for Internal Consistency**. The following Subsections of Chapter 26 of the Sonoma County Code are amended for Permitted Uses:

Section 26-04-010 (d) – LIA Land Intensive Agriculture District
Section 26-06-010 (d) – LEA Land Extensive Agriculture District
Section 26-08-010 (d) – DA Diverse Agriculture District
Section 26-10-010 (d) – RRD Rural and Resource Development District
Section 26-16-010 (h) – AR Agriculture and Residential District
Section 26-18-010 (e) – RR Rural Residential

to read as follows:

**"Outdoor crop production including wholesale nurseries, for growing and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops other than cannabis, conducted and maintained in compliance with Article 65, RC Riparian Corridor Combining Zone;"**

**J.** The following Subsections of Chapter 26 of the Sonoma County Code are amended for Permitted Uses:

Section 26-04-010 (o) – LIA Land Intensive Agriculture District
Section 26-06-010 (s) – LEA Land Extensive Agriculture District
Section 26-08-010 (r) – DA Diverse Agriculture District

to read as follows:

**"Indoor crop production including wholesale nurseries for growing and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops other than cannabis, in greenhouses or similar structures less than twenty five hundred (2,500) square feet, conducted and maintained in compliance with Article 65, RC Riparian Corridor Combining Zone";**

**K.** The following Subsections of Chapter 26 of the Sonoma County Code are amended for Permitted Uses:

Section 26-10-010 (e) – RRD Rural and Resource Development District
Section 26-16-010 (i) – AR Agriculture and Residential District
Section 26-18-010 (g) – RR Rural Residential

to read as follows:

**"Indoor growing and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops other than cannabis, in greenhouse or similar structures less than eight hundred (800) square feet, conducted and maintained in compliance with Article 65, RC Riparian Corridor Combining Zone;"**

**L.** The following Subsections of Chapter 26 of the Sonoma County Code are amended for Uses Permitted with a Use Permit:

Section 26-10-020 (h) – RRD Rural and Resource Development District
Section 26-16-020 (d) – AR Agriculture and Residential District

to read as follows:

**"Indoor growing and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops other than cannabis, in greenhouses or similar structures of eight hundred (800) square feet or more, conducted and maintained in compliance with Article 65, RC Riparian Corridor Combining Zone;"**

**SECTION III. Transition Period.** This ordinance hereby supersedes Resolution 06-0846. Existing cannabis cultivation cooperatives or collectives that demonstrate to the review authority that they were in operation before January 1, 2016 shall have until January 1, 2018 to come into compliance with this ordinance, provided that there has been no increase in the size of the cultivation area and the operations are in compliance with the best management practices and the operating standards.

**SECTION IV. Adult Use of Marijuana Act**. Chapter 26 of the County Code (Zoning Ordinance) is a permissive ordinance and the amendments adopted herein do not confer any rights or permits related to non-medical commercial cannabis uses, unless expressly stated as an allowed use in the zoning ordinance.

**SECTION V. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion(s) of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**SECTION VI. Effective Date.** This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. This Ordinance shall be published once before the expiration of fifteen (15) days after adoption, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California. Pursuant to Government Code Section 25124, complete copies of Exhibits "A", "B", "C" and "D" to this ordinance are on file with the Clerk of the Board of Supervisors and are available for public inspection and copying during regular business hours in the office of the Clerk of the Board of Supervisors, 575 Administration Drive, Room 100A, Santa Rosa, California. Complete copies of the Exhibits are also available for public review on the County's website at:
http://sonomacounty.ca.gov/CAO/Cannabis/Proposed-Cannabis-Ordinance/

Applications for Commercial Cannabis Uses, other than Commercial Medical Cannabis Dispensaries in compliance with Section 26-88-250 and 256 shall not be accepted until a proposed Commercial Cannabis Tax is approved by the voters of Sonoma County, or a funding source has been established to provide the public service and code enforcement capacity to implement this ordinance.

**SECTION VII. Custodian of Documents.** The Clerk of the Board of Supervisors shall be the custodian of the documents and other materials which constitute the record of the proceedings upon which the Board's decision is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

**IN REGULAR SESSION** of the Board of Supervisors of the County of Sonoma, introduced, passed, and adopted this ___ day of _____, 2016, on regular roll call of the members of said Board by the following vote:

**Supervisors:**

Gorin: Rabbit: Zane: Gore: Carrillo:

Ayes: Noes: Absent: Abstain: 0

**So Ordered.**

**WHEREUPON,** the Chair declared the above foregoing Ordinance duly adopted and

**SO ORDERED.**

_____
Chair, Board of Supervisors
County of Sonoma

**ATTEST:**

_____
Sheryl Bratton
Clerk of the Board of Supervisors

**ATTACHMENTS**

Exhibit A-1 – Definitions Section 26-02-140
Exhibit A-2– Commercial Cannabis Medical Uses Section 26-88-250 through 254
Exhibit A-3 – Medical Cannabis Dispensary Section 26-88-256
Exhibit A-4 – Personal Cannabis Use Section 26-88-258
Exhibit A-5 – Exclusion Zone
Exhibit A-6 – Inclusion Zone

## Amendments to Definitions in Section 26-02-140

Section 26-02-140 Definitions of the Sonoma County Code is amended to delete or replace certain definitions and add definitions in alphabetical order to read as shown below:

### SECTION 1: The following definitions shall be replaced to read as follows:

**Agricultural crop:** Any cultivated crop grown and harvested for commercial purposes, except for cannabis and other controlled substances, which are defined and classified separately.

**Agricultural cultivation:** The act of preparing the soil for the raising of agricultural crops, as defined herein.

**Cannabis Dispensary:** a facility operated in accordance with state law, where medical cannabis, medical cannabis products or devices for the use of medical cannabis are offered, either individually or in any combination, for retail sale, including an establishment that delivers medical cannabis or medical cannabis products as part of a retail sale.

### SECTION 2: The following definitions are added in their alphabetical order to read as follows:

**Agency Having Jurisdiction:** The agency having delegated authority to adopt, determine, mandate or enforce ordinances and regulatory requirements established by the County of Sonoma and other jurisdictional governing bodies.

**Cannabis:** All parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, or any other strain or varietal of the genus Cannabis that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code. Cannabis is classified as an agricultural product separately from other agricultural crops.

**Cannabis Cultivation:** Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for medical use, including nurseries, that is intended to be transported, processed, distributed, dispensed, delivered, or sold in accordance with the Medical Cannabis Regulation and Safety Act (MCRSA) for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

**Cannabis Cultivation Area:** The total aggregate area(s) of cannabis cultivation on a single premise as measured around the outermost perimeter of each separate and discrete area of cannabis cultivation at the dripline of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, the exterior dimensions of garden beds, garden plots, hoop houses, green houses, and each room or area where cannabis plants are grown, as determined by the review authority.

**Cannabis Cultivation – Indoor:** Cultivation of cannabis using exclusively artificial lighting.

**Cannabis Cultivation - Mixed-Light:** Cultivation of cannabis using any combination of natural and supplemental artificial lighting. Greenhouses, hoop houses, hot houses and similar structures or light deprivation systems are included in this category.

**Cannabis Cultivation – Outdoor:** Cultivation of cannabis using no artificial lighting conducted in the ground or in containers outdoors with no covering. Outdoor cultivation does not include greenhouses, hoop houses, hot houses or similar structures.

**Cannabis Cultivation Site:** The premise(s), leased area(s), property, location or facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed or that does all or any combination of those activities.

**Cannabis Cultivation Type**: The type of cultivation is classified as outdoor, indoor or mixed-light as defined herein, consistent with the state licensing scheme.

**Cannabis Distribution Facility:** The location or a facility where a person conducts the business of procuring medical cannabis from licensed cultivators or manufacturers for sale to licensed dispensaries, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging and other processes prior to transport to licensed dispensaries. This Facility requires a Type 11 license pursuant to the Medical Cannabis Regulation and Safety Act (MCRSA).

**Cannabis Licensee:** A person issued a state license under the Medical Cannabis Regulation and Safety Act to engage in commercial cannabis activity.

**Cannabis Manufacturer:** A person that produces, prepares, propagates, or compounds manufactured medical cannabis, or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container, that holds a valid state license and that holds a valid local license or permit.

Manufactured cannabis means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

**Cannabis Manufacturing:** A location that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

**Cannabis – Medical:** Any product containing cannabis, including but not limited to flowers, buds, oils, tinctures, concentrates, extractions, and edibles intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, medical cannabis does not include industrial hemp as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

**Cannabis Operator:** The natural person or designated officer responsible for the operation of any commercial cannabis use.

**Cannabis product, medical cannabis, or medical cannabis product:** Any product containing cannabis, including but not limited to flowers, buds, oils, tinctures, concentrates, extractions, and edibles intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, medical cannabis does not include industrial hemp as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

**Crop production:** The commercial growing and harvesting of agricultural crops including horticultural or ornamental shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops or agricultural commodities, except for cannabis or other controlled substances, which shall be defined and classified separately.

**Person:** An individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, tribe, or any other group or combination acting as a unit and includes the plural as well as the singular number.

**Premise(s):** A legal parcel, or a leasehold interest in land, or a leased or owned space in a building.

**Cannabis license:** A state license issued pursuant to the Medical Cannabis Regulation and Safety Act (MCRSA).

**Greenhouse**: A temporary or permanent structure, including hothouses, hoop houses and similar structures for the covered propagation and growing of plants, constructed with a translucent roof and/or walls.

**Marijuana**: *See* Cannabis

**Medical Marijuana**: *See* Cannabis – Medical

**Nursery – Wholesale Greenhouse:** An establishment engaged in the commercial production of trees, plants, seeds, stock, and other vegetation grown within a commercial greenhouse for wholesale distribution to other businesses. Wholesale greenhouse nursery does not include cannabis nurseries which are classified separately.

**Nursery – Wholesale:** An establishment engaged in the commercial production of trees, plants, seeds, stock, and other vegetation grown on site outdoors either in the ground or in containers for wholesale distribution to other businesses. Wholesale nursery does not include cannabis nurseries which are classified separately. Wholesale nursery may include greenhouses up to 2,500 square feet in size.

**Nursery – Retail**: An establishment engaged in the propagation of trees, shrubs and horticultural and ornamental plants grown under cover or outdoors for sale to the public. Includes commercial scale greenhouses and establishments for the sale of plant materials, lawn and garden supplies, and related items. Retail nursery does not include cannabis nurseries which are classified separately.

**Nursery – Cannabis**: An establishment that produces only clones, immature plants, and seeds for wholesale distribution to permitted cultivators or dispensaries, used specifically for the planting, propagation, and cultivation of medical cannabis.

**Review Authority.** The individual or official County body (the Director, Commission, or Board) and others as identified in the County Code as having the responsibility and authority to review and approve or deny land use permit applications.

**Volatile solvent:** Volatile solvents may include but is not limited to: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, 02 or H2; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene as determined by the Fire Marshall.

## Section 26-88-250 Commercial Cannabis Uses - Medical

(a) **Purpose**. This section provides the development and operating standards for personal and commercial medical cannabis uses to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine and provide opportunities for economic development.

(b) **Applicability.** Medical cannabis uses shall be permitted only in compliance with the requirements of Sections 26-88-250 through 256 and all other applicable requirements for the specific type of use and those of the underlying base zone.

(c) **Limitations on Use**. Medical cannabis uses shall only be allowed in compliance with the following sections and all applicable codes set forth in the County Code, including but not limited to, grading, building, plumbing, septic, electrical, fire, hazardous materials, and public health and safety. The operator shall comply with all laws and regulations applicable to the type of use and shall comply with all permit, license, approval, inspection, reporting and operational requirements of other local, state or other agencies having jurisdiction over the type of operation. The operator shall provide copies of other agency and department permits, licenses, or certificates to the review authority to serve as verification for such compliance. Permits for medical cannabis uses shall only be issued where written permission from the property owner or landlord is provided. Tasting, promotional activities and events related to cannabis uses are prohibited. Commercial cannabis uses for non-medical cannabis for adult use is prohibited.

(d) **Permit Requirements.** Medical cannabis uses shall be subject to the land use permit requirements as shown in Table 1A-D Allowed Medical Cannabis Uses and Permit Requirements. No other type of cannabis uses are permitted except as specified in Table 1A-D. The county may refuse to issue any discretionary or ministerial permit, license, variance or other entitlement, which is sought pursuant to this chapter, including zoning clearance for a building permit, where the property upon which the use or structure is proposed is in violation of the County Code. Medical cannabis uses shall also be subject to permit requirements and regulations established by the Sonoma County Department of Health Services.

(e) **Term of Permit.** Permits for medical cannabis uses shall be issued to the operator for a period not to exceed one year from the date of permit approval and shall be subject to annual permit renewals. The operator must apply for permit renewal prior to the expiration of the limited term permit. No property interest, vested right, or entitlement to receive a future permit to operate a medical cannabis use shall ever inure to the benefit of such permit holder as such permits are revocable.

(f) **Health and Safety**. Medical cannabis uses shall not create a public nuisance or adversely affect the health or safety of the nearby residents or businesses by creating

dust, light, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, unsafe conditions or other impacts, or be hazardous due to the use or storage of materials, processes, products, runoff or wastes.

(g) **Taxes.** Medical cannabis uses shall comply with any additional taxes that may be enacted by the voters or any additional regulations that may be promulgated.

(h) **Operator Qualifications**. Commercial medical cannabis operators must meet the following qualifications:

1. Commercial medical cannabis operators and all employees must be 21 years of age.

2. Commercial medical cannabis operators shall be subject to background search by the California Department of Justice. Permits for commercial medical cannabis operations shall not be permitted for operators with felony convictions, as specified in subdivision (c) of Section 667.5 of the Penal Code and subdivision (c) of Section 1192.7 of the Penal Code.

3. Applicants providing false or misleading information in the permitting process will result in rejection of the application and/or nullification or revocation of any issued permit.

4. Priority processing of permits for medical cannabis operations shall be given to:

   a. Applications that demonstrate that the person operating the cannabis use or owner(s) of the cannabis use has been an existing cannabis operator in Sonoma County prior to January 1, 2016.
   b. Applications that demonstrate that the person operating the cannabis use or owner(s) of the cannabis use have been a resident of Sonoma County prior to January 1, 2016.
   c. Applications that provide a local preference hiring plan.

(i) **Weights and Measures**. All scales used for commercial transactions shall be registered for commercial use and sealed by the Department of Agriculture/Weights and Measures.

(j) **Tracking**. Commercial medical cannabis operators shall comply with any track and trace program established by the County and state agencies. Commercial medical cannabis operators must maintain records tracking all medical cannabis production and products and shall make all records related to commercial medical cannabis activity available to the County upon request.

(k) **Inspections.** Commercial medical cannabis operations shall be subject to inspections by appropriate local and state agencies, including but not limited to the Departments of

Health Services, Agriculture/Weights & Measures, and Permit and Resource Management. Medical cannabis operations shall be inspected at random times for conformance with the County Code and permit requirements. The inspection shall be conducted during regular business hours, with at least 24-hours' notice. If interference in the performance of the duty of the agency having jurisdiction occurs, the agency may temporarily suspend the permit and order the medical cannabis operation to immediately cease operations.

(l) **Monitoring.** Monitoring shall be required for each medical cannabis operation to be granted a permit. An annual fee may be adopted by the board of supervisors and collected by the agency having jurisdiction or the county tax collector to pay for monitoring and enforcement.

Table 1A: Allowed Cannabis Uses and Permit Requirements for Agricultural and Resource Zones

| LAND USE | MAXIMUM CULTIVATION AREA (square feet or plants) | MINIMUM PARCEL SIZE | STATE LICENSE TYPE | Land Intensive Agriculture | Land Extensive Agriculture | Diverse Agriculture | Resources and Rural Development | Timber Preserve | Special Use Regulations |
|---|---|---|---|---|---|---|---|---|---|
| | | | | LIA[1] | LEA[1] | DA[1] | RRD[1] | TP | |
| **MEDICAL AND ADULT USE CANNABIS** | | | | | | | | | |
| Personal Cultivation | 100 sq ft including up to 6 plants for adult use, per residence | None | Exempt | P | P | P | P | P | |
| **MEDICAL CANNABIS USES** | | | | | | | | | |
| **Nursery** | | | | | | | | | 26-88-250 - 254 |
| Wholesale (outdoor) | 43,560 | | 4 | CUP | CUP | CUP | CUP | — | |
| Wholesale (indoor/greenhouse) | 22,000 | | 4 | CUP[2] | CUP | CUP | CUP | — | |
| **Outdoor Cultivation** | | | | | | | | | |
| Cottage | 25 plants | 2 ac | 1C | ZP | ZP | ZP | MUP | — | |
| Specialty Outdoor | 5,000 sq. ft. or 50 plants | 3 ac | 1 | CUP | ZP | ZP | CUP | — | |
| Small Outdoor | 5,001 - 10,000 | 5 ac | 2 | CUP | ZP | ZP | CUP | — | |
| Medium Outdoor | 10,001 - 43,560 | 10 ac | 3 | CUP | CUP | CUP | CUP | — | |
| **Indoor Cultivation** | | | | | | | | | |
| Cottage | 500 | None[3] | 1C | ZP[2] | ZP | ZP/2ac | MUP | — | |
| Specialty Indoor | 501 - 5,000 | None[3] | 1A | CUP[2] | CUP[2] | CUP/2ac[2] | CUP[2] | — | |
| Small Indoor | 5,001 - 10,000 | None | 2A | — | — | — | — | — | |
| Medium Indoor | 10,001 - 22,000 | None | 3A | — | — | — | — | — | |
| **Mixed Light Cultivation** | | | | | | | | | |
| Cottage | 2,500 | 2 ac | 1C | ZP[2] | ZP | ZP | MUP | — | |
| Specialty Mixed Light | 2,501 - 5,000 | 3 ac | 1B | CUP[2] | CUP | CUP | CUP | — | |
| Small Mixed Light | 5,001 - 10,000 | 5 ac | 2B | CUP[2] | CUP | CUP | CUP | — | |
| Medium Mixed Light | 10,001 - 22,000 | 10 ac | 3B | — | — | — | — | — | |

| TYPE OF PERMIT REQUIRED | |
|---|---|
| **P** | Permitted Use |
| **ZP** | Permitted Use; Zoning Permit Required |
| **MUP** | Conditionally Permitted Use; Minor Use Permit required |
| **CUP** | Conditionally Permitted Use; Use Permit required |
| **—** | Use not allowed |

**Notes:**

1. Commercial Medical Cannabis Uses on properties with a Land Conservation (Williamson Act) Act Contract are subject to Uniform Rules for Agricultural Preserves.
2. Within existing previously developed areas or legally established structures built (finaled) prior to January 1, 2016
3. 2 acre minimum lot size in the DA, AR, or RR zones

## Table 1B: Allowed Cannabis Uses and Permit Requirements for Residential Zones

| LAND USE | MAXIMUM CULTIVATION AREA (square feet or plants) | MINIMUM PARCEL SIZE | STATE LICENSE TYPE | Agriculture and Residential | Rural Residential | Low Density Residential | Medium Density Residential | High Density Residential | Planned Community | Special Use Regulations |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | AR | RR | R1 | R2 | R3 | PC | |
| **MEDICAL AND ADULT USE CANNABIS** | | | | | | | | | | |
| Personal Cultivation[1] | 100 sq ft including up to 6 plants for adult use, per residence | None | Exempt | P | P | P | P | P | P | |
| **MEDICAL CANNABIS USES** | | | | | | | | | | |
| **Nursery** | | | | | | | | | | 26-88-250 - 254 |
| Wholesale (outdoor) | 43,560 | None | 4 | — | — | — | — | — | — | |
| Wholesale (indoor/greenhouse) | 22,000 | None | 4 | — | — | — | — | — | — | |
| **Outdoor Cultivation** | | | | | | | | | | |
| Cottage | 25 plants | 2 ac | 1C | MUP | MUP | — | — | — | — | |
| Specialty Outdoor | 5,000 sq. ft. or 50 plants | 3 ac | 1 | — | — | — | — | — | — | |
| Small Outdoor | 5,001 - 10,000 | 5 ac | 2 | — | — | — | — | — | — | |
| Medium Outdoor | 10,001 - 43,560 | 10 ac | 3 | — | — | — | — | — | — | |
| **Indoor Cultivation** | | | | | | | | | | |
| Cottage | 500 | 2 ac | 1C | MUP | MUP | — | — | — | — | |
| Specialty Indoor | 501 - 5,000 | None | 1A | — | — | — | — | — | — | |
| Small Indoor | 5,001 - 10,000 | None | 2A | — | — | — | — | — | — | |
| Medium Indoor | 10,001 - 22,000 | None | 3A | — | — | — | — | — | — | |
| **Mixed Light Cultivation** | | | | | | | | | | |
| Cottage | 2,500 | 2 ac | 1C | MUP | MUP | — | — | — | — | |
| Specialty Mixed Light | 2,501 - 5,000 | 3 ac | 1B | — | — | — | — | — | — | |
| Small Mixed Light | 5,001 - 10,000 | 5 ac | 2B | — | — | — | — | — | — | |
| Medium Mixed Light | 10,001 - 22,000 | 10 ac | 3B | — | — | — | — | — | — | |

| TYPE OF PERMIT REQUIRED | |
|---|---|
| **P** | Permitted Use |
| **ZP** | Permitted Use; Zoning Permit Required |
| **MUP** | Conditionally Permitted Use; Minor Use Permit required |
| **CUP** | Conditionally Permitted Use; Use Permit required |
| **—** | Use not allowed |

Notes 1 Personal Outdoor Cultivation is prohibited in multifamily units and in the R2 and R3 zones

## Table 1C: Allowed Cannabis Uses and Permit Requirements for Commercial Zones

| LAND USE | MAXIMUM CULTIVATION AREA (square feet or plants) | STATE LICENSE TYPE | Administrative and Professional Office | Neighborhood Commercial | Retail Business and Service | General Commercial | Limited Commercial | Commercial Rural | Agricultural Services | Recreation and Visitor Serving Commercial | Special Use Regulations |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | CO | C1 | C2 | C3 | LC | CR | AS | K | |
| **MEDICAL AND ADULT USE CANNABIS** | | | | | | | | | | | |
| Personal Cultivation[1] | 100 sq ft including up to 6 plants for adult use, per residence | None | Exempt | P | P | P | P | P | P | P | |
| **MEDICAL CANNABIS USES** | | | | | | | | | | | |
| **Testing/Laboratories** | per use permit | 8 | — | — | — | CUP | CUP | — | — | — | 26-88-250, 252, and 256 |
| **Dispensary/Retail Sales** | | | | | | | | | | | |
| Storefront and Delivery | per use permit | 10 | — | CUP | CUP | — | CUP | — | — | — | |
| Dispensary, no more than 3 retail sites | per use permit | 10A | — | CUP | CUP | — | CUP | — | — | — | |

| | |
|---|---|
| **TYPE OF PERMIT REQUIRED** | |
| **P** | Permitted Use |
| **ZP** | Permitted Use; Zoning Permit Required |
| **MUP** | Conditionally Permitted Use; Minor Use Permit required |
| **CUP** | Conditionally Permitted Use; Use Permit required |
| **—** | Use not allowed |

Notes 1 Personal Outdoor Cultivation is prohibited in multifamily units and in the R2 and R3 zones

Table 1D: Allowed Cannabis Uses and Permit Requirements for Industrial Zones

| LAND USE | MAXIMUM CULTIVATION AREA (square feet or plants) | MINIMUM PARCEL SIZE | STATE LICENSE TYPE | Industrial Park | Limited Urban Industrial | Heavy Industrial | Limited Rural Industrial | Public Facilities | Special Use Regulations |
|---|---|---|---|---|---|---|---|---|---|
| | | | | MP | M1 | M2 | M3 | PF | |
| **MEDICAL AND ADULT USE CANNABIS** | | | | | | | | | |
| Personal Cultivation[1] | 100 sq ft including up to 6 plants for adult use, per residence | None | Exempt | P | P | P | P | P | |
| **MEDICAL CANNABIS USES** | | | | | | | | | |
| **Nursery** | | | | | | | | | |
| Wholesale (outdoor) | 43,560 | | 4 | — | — | — | — | — | 26-88-250 -252 |
| Wholesale (indoor/greenhouse) | 22,000 | | 4 | CUP | CUP | CUP | CUP | — | |
| **Indoor Cultivation** | | | | | | | | | |
| Cottage | 500 | | 1C | ZP | ZP | ZP | ZP | — | |
| Specialty Indoor | 501 - 5,000 | | 1A | MUP | MUP | MUP | MUP | — | |
| Small Indoor | 5,001 - 10,000 | | 2A | CUP | CUP | CUP | CUP | — | |
| Medium Indoor | 10,001 - 22,000 | | 3A | CUP | CUP | CUP | CUP | — | |
| **Mixed Light Cultivation** | | | | | | | | | |
| Cottage | 2,500 | 2 ac | 1C | — | CUP | CUP | CUP | — | |
| Specialty Mixed Light | 2,501 - 5,000 | 3 ac | 1B | — | CUP | CUP | CUP | — | |
| Small Mixed Light | 5,001 - 10,000 | 5 ac | 2B | — | CUP | CUP | CUP | — | |
| Medium Mixed Light | 10,001 - 22,000 | 10 ac | 3B | — | CUP | CUP | CUP | — | |
| **Testing/Laboratories** | per use permit | | 8 | — | — | — | CUP | — | |
| **Manufacturing** | | | | | | | | | |
| Level 1-nonvolatile solvents | per use permit | | 6 | CUP | CUP | CUP | CUP | — | |
| Level 2- volatile solvents | | | 7 | — | — | — | — | — | |
| **Distributor** | per use permit | | 11 | CUP | CUP | CUP | — | — | |
| **Transporter** | per use permit | | 12 | CUP | CUP | CUP | — | — | |

| TYPE OF PERMIT REQUIRED | |
|---|---|
| **P** | Permitted Use |
| **ZP** | Permitted Use; Zoning Permit Required |
| **MUP** | Conditionally Permitted Use; Minor Use Permit required |
| **CUP** | Conditionally Permitted Use; Use Permit required |
| **—** | Use not allowed |

Notes 1 Personal Outdoor Cultivation is prohibited in multifamily units and in the R2 and R3 zones

## Section 26-88-252 Enforcement.

### (a) Violations.

1. Any activity performed contrary to the provisions of Sections 26-88-250 through 258 is hereby declared to be a violation of this Chapter and a public nuisance.

2. Any violation of a term, condition, or the approved plans and specifications of any permit issued pursuant to Sections 26-88-250 through 258 shall constitute a violation of this Chapter.

3. Each and every day during any portion of which any violation of Sections 26-88-250 through 258 or any permit issued pursuant to this Chapter is committed, continued, or allowed to continue shall be a separate offense.

(b) **Enforcement.** Complaints regarding cannabis operations will be addressed by the agency having jurisdiction which may conduct an investigation to determine whether there was a violation of the County Code, a zoning standard, or a use permit condition. Sheriff reports, online searches, citations, aerial photos or neighbor documentation may constitute proof of a violation.

If the agency having jurisdiction verifies that a medical cannabis use is operating in violation of the County Code, is otherwise unpermitted, or that a violation of any permit condition has occurred, a notice of violation pursuant to Section 1-7.3 of the County Code or an administrative citation pursuant to this Section may be issued. At the discretion of the agency having jurisdiction or upon appeal, the zoning permit or use permit may be scheduled for a revocation or appeal hearing with the board of zoning adjustments pursuant to Chapter 26 or a revocation or appeal hearing pursuant to Chapter 11. If the permit is revoked, a zoning or use permit for a cannabis operation may not be reapplied for or issued for a period of at least two (2) years.

Additionally, where the agency having jurisdiction has evidence that a violation of Sections 26-88-250 through 258 poses a significant health or safety hazard to the owners or occupants of adjoining properties or to the surrounding community, or for other good cause shown, the agency having jurisdiction may, in its discretion, commence a judicial action to enjoin such violation without the necessity of first going through the administrative procedures set forth in Section 1-7.3 of the County Code.

(c) **Investigative and Prosecutorial Discretion**. The agency having jurisdiction shall have discretion to investigate or prosecute any potential violation.

(d) **Suspension, Revocation or Modification**. Any permit, license or approval issued pursuant to this chapter may be suspended, revoked, or modified by the agency having jurisdiction, if the agency determines any of the following:

1. Circumstances under which the permit was granted have changed and the public health, safety, and welfare require the suspension, revocation, or modification;

2. The permit was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the permit application; or

3. One (1) or more of the conditions of the original permit have not been substantially fulfilled or have been violated.

(e) **Appeals**. Permits issued by the Department of Agriculture/Weights & Measures shall be subject to review and appeal procedures pursuant to Chapter 11. Permits issued by PRMD shall be subject to review and appeal procedures pursuant to Chapter 26 or Chapter 1 as determined by director. The revocation of any permit issued pursuant to this Chapter shall have the effect of terminating the permit and denying the privileges granted by the permit.

(f) **Administrative Remedies**. This Section is not intended to, and does not, establish any criminal liability. This Section provides administrative remedies for any violation of this Section related to all cannabis uses. A violation of this Section shall be subject to all civil enforcement and abatement methods, including the administrative procedure set forth in Section 1-7.3 of the County Code. The remedies provided for in this Section shall be cumulative and not exclusive.

1. Administrative Citations. In addition to all other legal remedies, criminal or civil, which may be pursued by the county to address any violation of the County Code, this subsection provides for administrative citations, in the following amounts, adopted pursuant to the authority conferred by the Government Code, including Section 53069.4. Violations of any provision of the County Code, permit, license or approvals are subject to administrative citation. Each act, omission, or condition may be cited as a separate violation and each violation that continues, exists, or occurs on more than one day may constitute a separate violation on each day, at the discretion of the agency having jurisdiction.

## Cannabis Administrative Citation Schedule

| Violation | First Offense | Second Offense | Third Offense |
|---|---|---|---|
| Exceedance of Allowed or Permitted Cultivation Area | $20 per square foot | $30 per square foot | $50 per square foot |
| Non-compliance with a Standard or Condition | $1,000 | $5,000 | $10,000 |
| Unpermitted Cannabis Use other than cultivation area | $10,000 | $25,000 | $50,000 |

2. Civil Penalties. In addition to any and all other costs, fees, penalties and expenses which may be assessed or imposed as a result of violation of this Chapter, any person who violates any provision of this Chapter shall be liable and responsible for, and shall pay to the County the following penalties, as determined by the agency having jurisdiction.

   i. For each unpermitted cannabis use, no more than ten thousand dollars ($10,000) for the first violation; no more than twenty-five thousand dollars ($25,000) for the second violation within two (2) years; and no more than fifty thousand dollars ($50,000) for the third violation within three (3) years.

   ii. No more than one thousand dollars ($1,000.00) per day for the first violation; no more than two thousand dollars ($2,000.00) per day for a second violation within two (2) years; and no more than five thousand dollars ($5,000.00) per day for each additional violation within two (2) years for each day that the violation exists after the date of mailing or hand delivery of a notice of violation or a notice and order through to its abatement by whatever means; or

   iii. No more than twenty dollars ($20) per square foot of cultivation or cannabis use area for the first offense; no more than thirty dollars ($30) per square foot of the cultivation or cannabis use area for the second offense; and no more than fifty dollars ($50) per square foot of the cultivation or cannabis use area for the third offense.

   iv. In the event that the use or structure in violation may be permitted with an appropriate permit up to a maximum of fifty (50) times the amount of the standard fee for every required approval, review and permit.

   v. The penalty shall be imposed via the administrative process set forth in this Section, as provided in Government Code section 53069.4, or may be imposed by the court, if the violation requires court enforcement without an

administrative process. Acts, omissions, or conditions in violation of this Section that continue, exist, or occur on more than one day constitute separate violations on each day.

3. Three Strikes Penalty. Upon receipt of any combination of three (3) administrative citations, verified violations, or hearing officer determinations of violation of any of the permit requirements or standards issued to the owner or operator at any property or combination of properties of the same owner or operator within a two-year period, the permit for a cannabis operation is hereby automatically nullified, voided or revoked, subject to prior notice and to appeal. Appeals shall be filed within ten (10) days of the notice of revocation. Upon revocation, an application to reestablish a cannabis operation at the subject property shall not be accepted for a minimum period of two (2) years.

4. Liens. Whenever the amount of any civil penalty imposed pursuant to this Section has not been satisfied in full within ninety days and has not been timely appealed to the Superior Court in accordance with Government Code section 53069.4, subdivision (b), or if appealed, such appeal has been dismissed or denied, this obligation may be enforced as a lien against the real property on which the violation occurred.

   i. The lien provided herein shall have no force and effect until recorded with the County Recorder. Once recorded, the administrative order shall have the force and effect and priority of a judgment lien governed by the provisions of Code of Civil Procedure section 697.340, and may be extended as provided in Code of Civil Procedure sections 683.110 to 683.220, inclusive.

   ii. Interest shall accrue on the principal amount of the lien remaining unsatisfied pursuant to the law applicable to civil money judgments.

   iii. Prior to recording any such lien, the agency having jurisdiction shall prepare and file with the clerk of the board of supervisors a report stating the amounts due and owing.

   iv. The clerk of the board of supervisors will fix a time, date, and place for the board of supervisors to consider the report and any protests or objections to it. The clerk of the board of supervisors shall serve the owner of the property with a hearing notice not less than ten days before the hearing date. The notice must set forth the amount of the delinquent administrative penalty that is due. Notice must be delivered by first class mail, postage prepaid, addressed to the owner at the address shown on the last equalized assessment roll or as

otherwise known. Service by mail is effective on the date of mailing and failure of owner to actually receive notice does not affect its validity.

v. Any person whose real property is subject to a lien pursuant to this Section may file a written protest with the clerk of the board of supervisors and/or may protest orally at the board of supervisors meeting. Each written protest or objection must contain a description of the property in which the protesting party is interested and the grounds of such protest or objection.

vi. At the conclusion of the hearing, the board of supervisors will adopt a resolution confirming, discharging, or modifying the lien amount.

vii. Within thirty days following the board of supervisors' adoption of a resolution imposing a lien, the agency having jurisdiction will file same as a judgment lien in the Sonoma County Recorder's Office.

viii. Once the county receives full payment for outstanding principal, penalties, and costs, the clerk of the board of supervisors will either record a notice of satisfaction or provide the owner with a notice of satisfaction for recordation at the Sonoma County Recorder's Office. This notice of satisfaction will cancel the county's lien under this section.

ix. The lien may be foreclosed and the real property sold, by the filing of a complaint for foreclosure in a court of competent jurisdiction, and the issuance of a judgment to foreclose. There shall be no right to trial by jury. The county shall be entitled to its attorney’s fees and costs.

5. Removal of Violation. The penalties imposed by this Section may not apply if the agency having jurisdiction establishes that within five (5) days after the date of mailing or hand delivery of notice of the existence of the violation, the person removed from the property the cannabis, the cannabis equipment, the use, or structure which constituted that violation.

6. Liability for Costs and Fees. In any enforcement action brought pursuant to this Section, whether by administrative or judicial proceedings, each person who causes, permits, suffers, or maintains the unlawful cannabis use shall be liable for all costs incurred by the County, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible person to undertake, any abatement action in compliance with the requirements of this Section. In any action by the agency having jurisdiction to abate unlawful cannabis uses

under this Section, whether by administrative or judicial proceedings, the prevailing party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the County elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the County in the action or proceeding.

## 26-88-254 Cannabis Cultivation – Commercial Medical

(a) **Purpose.** This section establishes development criteria and operating standards for commercial medical cannabis cultivation activities as allowed by the base zone in compliance with Section 26-88-250 Commercial Medical Cannabis Uses.

(b) **Applicability**. This section shall apply to all commercial medical cannabis cultivation activities, including but not limited to, outdoor, indoor and mixed light or greenhouse environments and associated drying, curing, grading, and trimming facilities. Medical cannabis cultivation does not include operations that manufacture cannabis products such as oils, tinctures, or edibles which are classified separately. Commercial medical cannabis cultivation operations shall comply with the following development criteria and operating standards in addition to the requirements of Section 26-88-250 Commercial Medical Cannabis Uses.

(c) **Permit Requirements**. Commercial medical cannabis cultivation shall be subject to the land use permit requirements as shown in Table 1A-D Allowed Cannabis Uses and Permit Requirements. Zoning permits for outdoor cultivation areas shall be issued by the Agricultural Commissioner. Zoning permits and use permits for all other cultivation activities shall be issued by PRMD. New structures, roads, and fences or conversion of existing structures or containers to cannabis cultivation shall be subject to design review.

(d) **Limitations on Use**. All cultivation shall be conducted and maintained in compliance with this Section and the Best Management Practices for Cannabis Cultivation issued by the Agricultural Commissioner. The Agricultural Commissioner shall determine the applicable best management practices and shall enforce the provisions of this section for outdoor cultivation areas and management of pesticides and fertilizers for all cultivation types. All structures used in cultivation shall be subject to permits issued by the Permit and Resource Management Department and other agencies having jurisdiction and shall be conducted and maintained in compliance with this Chapter.

(e) **Multiple Permits**. Multiple cultivation permits may be issued to a single person or entity as defined herein, provided that the total combined cultivation area within the County does not exceed one acre. Any natural person who owns or controls any interest, directly or indirectly, in a firm, partnership, joint venture, association, cooperative, collective, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, shall be collectively considered a single person for the purposes of this standard.

(f) **Development Criteria**.

**(1)** **Number of Facilities.** No more than one cottage cultivation type may be permitted in residential zones. No more than one cultivation use/operator may be

approved per contiguous parcel ownership, except in the agricultural, and industrial zones. In the agricultural and industrial zones, multiple zoning permits may be issued for multi-tenant operations on a single parcel provided that the minimum parcel size is met for the total combined cultivation area and the total combined cultivation area does not exceed the maximum area allowed for the type of cultivation in compliance with Table 1A-D *Allowed Cannabis Uses and Permit Requirements* (i.e. Outdoor maximum is 43,560 sf; Indoor/Mixed Light maximum is 22,000 sf).

**(2)** **Square Footage Limitations.** The total combined square footage of the cultivation area shall not exceed the maximum size thresholds as defined in Table 1A-D *Allowable Cannabis Uses and Permit Requirements*. Structures and areas where cannabis is processed, dried, aged, stored, trimmed, packaged or weighed and areas were equipment is stored and washed shall be limited to the on-site cultivation use only. No cannabis nurseries shall exceed one acre in size.

**(3)** **Property Setbacks- Outdoor.** Outdoor cultivation areas and all associated structures shall not be located in the front yard setback area and shall be screened from public view. Outdoor cultivation areas shall not be visible from a public right of way. Outdoor cultivation areas shall be setback a minimum of 100 feet from property lines and a minimum of 300 feet from occupied residences and businesses on surrounding properties. Outdoor cultivation sites and greenhouses/ mixed light structures shall be setback a minimum of 600 feet from a school providing education to K-12 grades, a public park, childcare center, or an alcohol or drug treatment facility. The distance shall be measured in a straight line from the property line of the protected site to the closest property line of the parcel with the cannabis cultivation use.

**(4)** **Property Setbacks- Indoor.** All structures used for indoor cultivation and all structures used for drying, curing, grading or trimming and all indoor cultivation structures shall comply with the setbacks for the base zone and any applicable combining zone. Structures associated with the cultivation shall not be located in the front yard setback area and shall be screened from public view. There shall be no exterior evidence of cultivation either within or outside the structure.

**(5)** **Property Setbacks- Mixed Light/Greenhouse.** Mixed light structures shall be setback a minimum of 100 feet from property lines and a minimum of 300 feet from occupied residences and businesses on surrounding properties in agricultural, resource and residential zones. Mixed Light/greenhouses in industrial zones shall be setback 300 feet from occupied residences on surrounding properties. Greenhouses/mixed light structures in all zones shall be setback a minimum of 600 feet from a school providing education to K-12 grades, a public park, childcare center, or an alcohol or drug treatment facility. The

distance shall be measured in a straight line from the property line of the protected site to the closest property line of the parcel with the cannabis cultivation use.

**(6)** Airport Compatibility. All cannabis operations shall comply with the Comprehensive Airport Land Use Plan.

**(7)** **Building Requirements.** All structures used in commercial cultivation, including greenhouses require a building permit and shall comply with all applicable sections of the County Code. Cultivation uses that provide access to the public including, but not limited to, employees, vendors, contractors, business partners, members, customers or patients shall meet County Code requirements for accessibility including accessible parking, accessible path of travel, restrooms, and washing facilities.

**(8)** **Biotic Resources.** Proposed cultivation operations, including all associated structures, shall require a biotic assessment at the time of application that demonstrates that the project is not located within, and will not impact sensitive or special status species habitat, unless a use permit is obtained. Any proposed cultivation operation, including all associated structures, located within adopted federal critical habitat areas must have either all appropriate permits from the applicable state and federal agencies with jurisdiction over the listed species, or an expert biological study concluding that the project will not result in “take” of a protected wildlife species within the meaning of either the federal or California Endangered Species Acts.

There shall be no tree removal or timber conversions to accommodate cultivation sites, unless a use permit is obtained. Outdoor in-ground cultivation areas and all indoor or mixed light cultivation and related processing facilities shall be located outside the Riparian Corridor Stream Conservation Areas (RC combining zone) and outside any designated Biotic Habitat area (BH combining zone). Outdoor above ground cultivation areas shall conform to the agricultural Riparian Corridor setback set forth in Section 26-64-050.

Proposed cultivation operations shall comply with the wetland setbacks set forth in Section 11.16.150, unless a use permit is obtained.

**(9)** **Cultural and Historic Resources.** Cultivation sites shall avoid impacts to significant cultural and historic resources by complying with the following standards. Sites located within a Historic District shall be subject to review by the Landmarks Commission, unless otherwise exempt, consistent with Section 26-68-020. Cultivation operations involving ground disturbing activities, including but not limited to, new structures, roads, water storage, trenching for utilities,

water, wastewater, or drainage systems shall be subject to design review and referral to the Northwest Information Center and local tribes for consultation. A cultural resource survey and on-site monitor during ground disturbing activities may be required to demonstrate cultural and historic resources are protected.

The following minimum standards shall apply to cultivation permits involving ground disturbance. All grading and building permits shall include the following notes on the plans:

If paleontological resources or prehistoric, historic-period or tribal cultural resources are encountered during ground-disturbing work at the project location, all work in the immediate vicinity shall be halted and the operator must immediately notify the agency having jurisdiction of the find. The operator shall be responsible for the cost to have a qualified paleontologist, archaeologist and tribal cultural resource specialist under contract to evaluate the find and make recommendations in a report to the agency having jurisdiction.

Paleontological resources include fossils of animals, plants or other organisms. Historic-period resources include backfilled privies, wells, and refuse pits; concrete, stone, or wood structural elements or foundations; and concentrations of metal, glass, and ceramic refuse. Prehistoric and tribal cultural resources include obsidian and chert flaked-stone tools (e.g., projectile points, knives, choppers), midden (culturally darkened soil containing heat-affected rock, artifacts, animal bone, or shellfish remains), stone milling equipment, such as mortars and pestles, and certain sites features, places, cultural landscapes, sacred places and objects with cultural value to a California Native American tribe.

If human remains are encountered, work in the immediate vicinity will stop and the operator shall notify the agency having jurisdiction and the Sonoma County Coroner immediately. At the same time, the operator shall be responsible for the cost to have a qualified archaeologist under contract to evaluate the discovery. If the human remains are determined to be of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification.

**(10)** **Farmland Protection.** Where a commercial cultivation site is located within an Agricultural Zone (LIA, LEA, DA), the primary use of the parcel shall remain in agricultural use pursuant to General Plan Policy AR-4a. Indoor and mixed light cultivation facilities shall not remove agricultural production within Important Farmlands, including Prime, Unique and Farmlands of Statewide Importance as designated by the state Farmland Mapping and Monitoring Program, but may offset by relocating agricultural production on a 1:1 ratio.

If the facility is located on a site under a Land Conservation Act (Williamson Act) contract, the use must be listed as a compatible use in the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones, and allowed by the type of contract and approved Land Conservation Plan. An application for modification of the contract and Land Conservation Plan may be required.

**(11)** **Fire Code Requirements.** The operator shall prepare and implement a Fire Prevention Plan for construction and ongoing operations and obtain an Operational Permit from the Fire and Emergency Services Department. The Fire Prevention Plan shall include, but not be limited to: emergency vehicle access and turn-around at the facility site(s), vegetation management and fire break maintenance around all structures.

**(12)** **Grading and Access.** Cultivation sites shall be prohibited on natural slopes steeper than 15 percent, as defined by County Code Chapter 11 section 16-020, unless a use permit is obtained. Grading shall be subject to a grading permit in compliance with Chapter 11 of the County Code.

**(13)** **Hazardous Materials Sites.** No cannabis operation shall be sited on a parcel listed as a hazardous materials site compiled pursuant to Government Code Section 65962.5, unless a use permit is required.

**(14)** **Lighting**. All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night sky. All indoor and mixed light operations shall be fully contained so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.

**(15)** **Runoff and Stormwater Control.** Runoff containing sediment or other waste or by-products shall not be allowed to drain to the storm drain system, waterways, or adjacent lands. Prior to beginning grading or construction, the operator shall prepare and implement a storm water management plan and an erosion and sediment control plan, approved by the agency having jurisdiction. The plan must include best management practices for erosion control during and after construction and permanent drainage and erosion control measures pursuant to Chapter 11 of the County Code. . All cultivation operators shall comply with the Best Management Practices for Cannabis Cultivation issued by the Agricultural Commissioner for management of wastes, water, erosion control and management of fertilizers and pesticides.

**(16)** **Security and Fencing.** A Site Security Plan shall be required subject to review and approval by the Permit and Resource Management Department. All Site Security Plans shall be held in a confidential file, exempt from disclosure as a public record pursuant to Government Code Section 6255(a). Security cameras shall be motion-sensor and be installed with capability to record activity beneath the canopy but shall not be visible from surrounding parcels and shall not be pointed at or recording activity on surrounding parcels. Surveillance video shall be kept for a minimum of 30 days. Video must use standard industry format to support criminal investigations. Motion-sensor lighting and alarms shall be installed to insure the safety of persons and to protect the premises from theft. All outdoor and mixed light cultivation sites shall be screened by native, fire resistant vegetation and fenced with locking gates consistent with height limitations of Section 26-88-030. Fencing shall be consistent with the surrounding area and shall not diminish the visual quality of the site or surrounding area. Razor wire and similar fencing is discouraged and shall not be permitted in residential zones. Weapons and firearms at the cultivation site are prohibited. Security measures shall be designed to ensure emergency access in compliance with fire safe standards. All structures used for cultivation shall have locking doors to prevent free access.

(g) **Operating Standards**.

**(1)** **Compliance Inspections.** All cultivation sites shall be subject to on-site compliance inspections by agencies having jurisdiction. The inspection shall be conducted during regular business hours, with at least 24-hours' notice.

**(2)** **Residency Requirement.** Within residential zoning districts the operator shall reside full-time on the premises where the cultivation is occurring.

**(3)** **Air Quality and Odor.** All indoor, greenhouse and mixed light cultivation operations and any drying, aging, trimming and packing facilities shall be equipped with odor control filtration and ventilation system(s) to control odors humidity, and mold. All cultivation sites shall utilize dust control measures on access roads and all ground disturbing activities.

**(4)** **Energy Use.** Electrical power for indoor cultivation and mixed light operations including but not limited to illumination, heating, cooling, and ventilation, shall be provided by any combination of the following: (i) on-grid power with 100% renewable source; (ii) on-site zero net energy renewable source; or (iii) purchase of carbon offsets of any portion of power not from renewable sources. The use of generators for indoor and mixed light cultivation is prohibited, except for portable temporary use in emergencies only.

**(5)** **Hazardous Materials.** All cultivation operations that utilize hazardous materials shall comply with applicable hazardous waste generator, underground storage tank, above ground storage tanks and AB 185 (hazardous materials handling) requirements and maintain any applicable permits for these programs from the Fire Prevention Division, Certified Unified Program Agency (CUPA) of Sonoma County Fire and Emergency Services Department or Agricultural Commissioner.

**(6)** **Hours or Operation.** Outdoor harvesting activities and indoor or mixed light cultivation activities may be conducted seven days a week, 24-hours per day as needed. Deliveries and shipping, and outdoor processing activities including drying and trimming, shall be limited to the hours from 8 am to 5 pm, unless a use permit is obtained.

**(7)** **Noise Limits.** Cultivation operations shall not exceed the General Plan Noise Standards Table NE-2, measured in accordance with the Sonoma County Noise Guidelines.

**(8)** **Occupational Safety**. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA and the California Agricultural Labor Relations Act.

**(9)** **Waste Management.** A Waste Management Plan addressing the storing, handling and disposing of all waste by-products of the cultivation and processing activities in compliance with the Best Management Practices issued by the Agricultural Commissioner shall be submitted for review and approval by the agency having jurisdiction. This plan shall characterize the volumes and types of waste generated, and the operational measures that are proposed to manage and dispose, or reuse the wastes in compliance with Best Management Practices and County standards.

All garbage and refuse on this site shall be accumulated or stored in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. All garbage and refuse on this site shall not be accumulated or stored for more than seven calendar days, and shall be properly disposed of before the end of the seventh day in a manner prescribed by the Solid Waste Local Enforcement Agency. All waste, including but not limited to refuse, garbage, green waste and recyclables, must be disposed of in accordance with local and state codes, laws and regulations. All waste generated from cannabis operations must be properly stored and secured to prevent access from the public.

**(10)** **Waste Water Discharge.** A waste water management plan shall be submitted identifying the amount of waste water, excess irrigation and domestic wastewater anticipated, as well as disposal. All cultivation operations shall comply with the Best Management Practices issued by the Agricultural Commissioner and shall submit verification of compliance with the Waste Discharge Requirements of the applicable Regional Water Quality Control Board, or waiver thereof. Excess irrigation water or effluent from cultivation activities shall be directed to a sanitary sewer, septic, irrigation, greywater or bio-retention treatment systems. If discharging to a septic system, a system capacity evaluation by a qualified sanitary engineer shall be included in the management plan. All domestic waste for employees shall be disposed of in a permanent sanitary sewer or on-site septic system demonstrated to have adequate capacity.

**(11)** **Water Supply.** An on-site water supply source adequate to meet all on site uses on a sustainable basis shall be provided. Trucked water shall not be allowed, except as noted below and for emergencies requiring immediate action as determined by the director. The onsite water supply shall be considered adequate with documentation of any one of the following sources:

a. Municipal Water: The public water supplier providing water service to the site has adequate supplies to serve the proposed use.

b. Recycled Water: The use of recycled process wastewater from an onsite use or connection to a municipal recycled water supply for the cultivation use, provided that an adequate on-site water supply is available for employees and other uses.

c. Surface Water: An existing legal water right and, if applicable, a Streambed Alteration Agreement issued by California Fish and Wildlife.

d. Well Water:

1. The site is located in Groundwater Availability Zone 1, 2 or 3 and not within an area for which a Groundwater Management Plan has been adopted or within a high or medium priority basin as defined by the State Department of Water Resources; or

2. Within Groundwater Availability Zone 4 or area for which a Groundwater Management Plan has been adopted or designated high or medium priority basin, the proposed use would:

a. The proposed use would not result in a net increase in water use on site through implementation of water conservation measures,

rainwater catchment or recycled water reuse system, water recharge project, or participation in a local groundwater management project; or

b. Trucked recycled water may be considered for the cultivation area with a use permit, provided that adequate on-site water supplies are available for employees and other uses: or

c. A qualified professional prepares a hydro-geologic report acceptable to the review authority providing supporting data and analysis and certifying that the onsite groundwater supply is adequate to meet the proposed uses and cumulative projected land uses in the area on a sustained basis, and that the operation will not:

i. result in or exacerbate an overdraft condition in basin or aquifer;
ii. result in reduction of critical flow in nearby streams; or
iii. result in well interference at offsite wells.

**(12)** **Groundwater Monitoring:** Water wells used for cultivation shall be equipped with a meter and sounding tube or other water level sounding device and marked with a measuring reference point. Water meters shall be calibrated at least once every five years. Static water level and total quantity of water pumped shall be recorded quarterly and reported annually. Static water level is the depth from ground level to the well water level when the pump is not operating after being turned off. Static water level shall be measured by turning the pump off at the end of the working day and recording the water level at the beginning of the following day before turning the pump back on. Groundwater monitoring reports shall be submitted annually to the Permit and Resource Management Department, Project Review Division by January 31 of each year. The annual report shall show a cumulative hydrograph of static water levels and the total quarterly quantities of water pumped from well(s) used in processing.

**(13)** **Groundwater Monitoring Easement:** Prior to the issuance of any permit an Easement is required to be recorded for this project to provide Sonoma County personnel access to any on-site water well serving this project and any required monitoring well to collect water meter readings and groundwater level measurements. Access shall be granted Monday through Friday from 8:00 a.m. to 5:00 p.m. All Easement language is subject to review and approval by PRMD Project Review staff and County Counsel prior to recordation.

## Sec. 26-88-256. - Medical cannabis dispensary uses.

(a) **Purpose**. This section provides the location and operational standards for any medical cannabis dispensary within the unincorporated county in order to promote the health, safety, and general welfare of its residents and businesses.

(b) **Applicability**. Medical cannabis dispensaries shall be permitted only in compliance with the requirements of this section, and all other applicable requirements of the underlying zoning district.

(c) **Permit Requirements**. A use permit issued in compliance with Sections 26-92-070 and 26-92-080 shall be required for any medical cannabis dispensary. Medical cannabis dispensaries shall also be subject to permit requirements and regulations established by the Sonoma County Department of Health Services. Additionally, medical cannabis dispensaries must comply with all other applicable building codes and requirements, including accessibility requirements.

(d) **Limit on Number of Dispensaries**. No more than nine (9) medical cannabis dispensaries shall be permitted within the unincorporated county at any one time.

(e) **Compliance with Operating Plan and Conditions Required**. A medical cannabis dispensary shall submit, as a part of the use permit application, an operating plan that specifies the manner in which operations will be handled and security provided, and which details the number of employees, number of patients, hours and days of operation allowed and approved. The operating plan shall provide that the dispensary shall require, at a minimum, a doctor's written recommendation in compliance with state law, as well as a photo identification for any person entering the site. Any medical cannabis dispensary approved under this section shall be operated in conformance with the approved operating plan and shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval to ensure that the operation of the dispensary is consistent with protection of the health, safety and welfare of the community, qualified patients, and primary caregivers, and will not adversely affect surrounding uses.

(f) **Limited Term**. Use permits for medical cannabis dispensaries shall be limited-term, and shall be issued for a maximum period of one year.

(g) **Exercise and Renewal of Permit.** Use permits for medical cannabis dispensaries shall be exercised only by the applicant and shall expire upon termination of the business for which it was issued, or upon sale or transfer of ownership of the medical cannabis dispensary. All use permits issued for a medical cannabis dispensary shall include the following provision: "This use permit shall expire upon change of tenancy or sale or transfer of the business or property." Any use permit that is abandoned for a period of six (6) months shall automatically expire, and shall become null and void with no further

action required on the part of the county. A use permit renewal may be administratively approved by the planning director only if all of the following findings are made:

(1) The use has been conducted in accordance with this section, with the dispensary's approved operating plan, and with all applicable use permit conditions of approval;
(2) The business for which the use permit was approved has not been transferred to another owner or operator;
(3) There are no outstanding violations of health, safety, or land use.

(h) **Revocation or Modification**. A use permit approved under this section may be revoked or modified at any time following public hearing in accordance with Section 26-92-120.

(i) **Signed Affidavit.** The property owner and applicant, if other than the property owner, shall sign the application for the use permit, and shall include affidavits agreeing to abide by and conform to the conditions of the use permit and all provisions of the Sonoma County Code pertaining to the establishment and operation of the medical cannabis dispensary use, including, but not limited to, the provisions of this section. The affidavit(s) shall acknowledge that the approval of the medical cannabis dispensary use permit shall in no way permit any activity contrary to the Sonoma County Code, or any activity which is in violation of any applicable laws.

**(j) Location Requirements.**

(1) A medical cannabis dispensary shall not be established on any parcel containing a dwelling unit used as a residence, nor within one hundred feet (100′) of a residential zoning district.
(2) A medical cannabis dispensary shall not be established within six hundred feet (600′) of any other medical cannabis dispensary, nor within five hundred feet (500′) from a smoke shop or similar facility selling drug paraphernalia.
(3) A medical cannabis dispensary shall not be established within six hundred feet (600′) from any public or private school, park, drug or alcohol treatment facility.
(4) Notwithstanding, the subsections (j)(1)—(2) may be waived by the decision-maker when the applicant can show that an actual physical separation exists between land uses or parcels such that no off-site impacts could occur.

(k) **Operating Standards.** The following are the minimum development criteria and operational standards applicable to any medical cannabis dispensary use:

(1) The building in which the dispensary is located shall comply with all applicable local, state and federal rules, regulations, and laws including, but not limited to, building codes and accessibility requirements;
(2) The dispensary shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft. The applicant shall submit a security plan for review and approval by PRMD. The Security Plan shall remain confidential.
(3) The site plan, circulation, parking, lighting, facility exterior, and any signage shall be subject to design review committee review and approval. The planning director may waive this requirement where the applicant can demonstrate that

existing facilities, including parking, lighting and landscaping, already meet the requirements of this section;

(4) No exterior signage or symbols shall be displayed which advertises the availability of cannabis, nor shall any such signage or symbols be displayed on the interior of the facility in such a way as to be visible from the exterior;

(5) No person shall be allowed onto the premises unless they are an employee, vendor or contractor of the dispensary, a primary caregiver, and/or a qualified patient or an employee of an agency having jurisdiction monitoring or investigating the terms of regulatory compliance. If the dispensary denies entry for monitoring and inspection to any employee of an agency having jurisdiction, the dispensary may be closed. In strict accordance with California Health and Safety Code Section 11362.5 et seq. no person under the age of eighteen (18) shall be allowed on the dispensary site. All persons entering the site shall present a photo identification and shall establish proof of doctor's recommendation except as representing a regulatory agency. The operating plan submitted as a part of the use permit application shall specify how this provision will be complied with and enforced;

(6) No dispensary shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises;

(7) An exhaust and ventilation system shall be utilized to prevent off-site odors;

(8) No dispensary shall conduct or engage in the commercial sale of any product, good or service unless otherwise approved by the use permit. A dispensary may sell live starter plants, clones and seeds from qualified nurseries, but shall not cultivate or clone cannabis. A dispensary may sell manufactured cannabis, including edible products, and vaporizing devices if allowed by a permit issued by the Department of Health Services. Not more than ten percent (10%) of the floor area, up to a maximum of fifty (50) square feet may be devoted to the sale of incidental goods for personal cultivation but shall not include clothing, posters or other promotional items.

(9) No cannabis shall be smoked, ingested or otherwise consumed on the premises. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings.

(10) No dispensary may increase in size without amending the use permit. The size limitation shall be included in the operational plan required by 26-88-126(e), of this section;

(11) Parking must meet the requirements of Section 26-86-010.

(12) Operating days and hours shall be limited to Monday through Saturday from 7:00 a.m. to 7:00 p.m., including deliveries, or as otherwise allowed by the use permit. Operating hours may be further restricted through the use permit process where needed to provide land use compatibility.

(Ord. No. 5967, § I, 1-31-2012; Ord. No. 5748 § 2, 2007; Ord. No. 5715 § 2, 2007.)

## Section 26-88-258 Cannabis Cultivation – Personal

(a) **Purpose.** This section establishes development criteria and operating standards for personal cannabis cultivation for medical or adult use. Cultivation of cannabis for personal use shall be subject to the following standards and limitations as allowed in the base zone in compliance with Section 26-88-250. These standards shall apply to any cannabis growing environment including, but not limited to, outdoor, mixed light/greenhouse or indoor environments.

1) **Residency Requirement**. Cultivation of cannabis for personal use is limited to parcels with a residence and a full-time resident on the premises where the cultivation is occurring.

2) **Maximum Personal Cultivation**. Cultivation of cannabis for personal use is limited to no more than 100 square feet per residence, of which up to 6 plants can be cultivated for adult use purposes.

3) **Prohibition of Volatile Solvents.** The use of volatile solvents as defined herein to manufacture cannabis products is prohibited.

4) **Outdoor Personal Cultivation.** Cannabis plants shall not be located in front and side yard setback areas and shall not be visible from a public right of way. Outdoor cannabis cultivation is prohibited on parcels with multi-family units or in the medium and high density residential zones (R2 and R3).

5) **Indoor and Mixed-Light Personal Cultivation**.

   i. Indoor and mixed light personal cultivation must be contained within an enclosed accessory structure, greenhouse or garage. Cultivation within a structure approved for residential use as set forth in Chapter 7 of the County Code is prohibited, unless there is no other feasible alternative location.

   ii. All structures (including greenhouses) used for cultivation must be legally constructed with all applicable permits such as grading, building, electrical, mechanical and plumbing.

   iii. All structures associated with the cultivation shall not be located in the front yard setback area and shall adhere to the setbacks stated within the base zone. There shall be no exterior evidence of cannabis cultivation. Greenhouses shall be screened from the public right of way.

   iv. All structures used for cultivation shall have locking doors or gates to prevent free access. All cultivation structures shall be equipped with odor control

filtration and ventilation systems adequate to prevent an odor, humidity, or mold.

v. Light systems shall be fully shielded, including adequate coverings on windows, so as to confine light and glare to the interior of the structure.

vi. The use of generators is prohibited, except as emergency back-up systems.

vii. All cultivation operators shall comply with the Best Management Practices for Cannabis Cultivation issued by the Agricultural Commissioner for management of wastes, water, erosion control and management of fertilizers and pesticides.

## Cannabis Exclusion Zone

Chapter 26 of the Sonoma County Code is amended to add a new Article 73, as follows:

### Article 73. – Q Cannabis Exclusion Combining District.

### Sec. 26-73-005. - Purpose.

The purpose of this district is to provide for the exclusion of cannabis related uses in the following areas:

(a) Areas where there is inadequate road access or other conflicts;

(b) Areas where the prevalence of cannabis is detrimental to the residential character of area;

(c) Areas where the commercial or industrial uses are to be protected from conversion to cannabis uses;

(d) Areas where, because of topography, access, water availability or vegetation, there is a significant fire hazard.

(e) Areas where residential character is to be preserved; and

(f) Other areas where the Board of Supervisors determines that it is in the public interest to prohibit cannabis uses.

### Sec. 26-73-010. - Permitted uses.

All uses permitted in the base zone with which the Q combining district is applied shall be permitted in the Q combining zone, except for the establishment, operation, placement or construction of cannabis cultivation or related land uses otherwise authorized by 26-88-250 through 256.

## Cannabis Inclusion Zone

Chapter 26 of the Sonoma County Code is amended to add a new Article 74, as follows:

### Article 74. – Cannabis Inclusion Combining District.

### Sec. 26-74-005. - Purpose.

The purpose of this district is to provide for the allowance of commercial cannabis cultivation in appropriate areas.

### Sec. 26-74-010 Applicability.

This combining zone may be applied to zoning districts where determined it is appropriate to allow commercial cannabis cultivation.

### Sec. 26-74-010. - Permitted uses.

In addition to the uses permitted in the base zoning, commercial cannabis cultivation may be permitted in the Y combining zone subject to approval of a conditional use permit and subject to the special use regulations in Sections 26-88-250 through 256, as applicable.

(a) When combined with a Rural Residential (RR) Zone and Agriculture and Residential (AR) Zone, the following cannabis cultivation uses are allowed as listed in the following table.

(b) When combined with the Land Intensive Agriculture (LIA), Land Extensive Agriculture (LEA), and Diverse Agriculture (DA) Zones, the following cannabis cultivation uses are allowed as listed in the following table.

Table 1: Allowed Cannabis Uses and Permit Requirements

| LAND USE | MAXIMUM CULTIVATION AREA (square feet or plant) | MINIMUM PARCEL SIZE | STATE LICENSE TYPE | TBD | TBD | TBD | Special Use Regulations |
|---|---|---|---|---|---|---|---|
| | | | | | | | |
| **MEDICAL CANNABIS USES** | | | | | | | |
| **Outdoor Cultivation** | | | | | | | 26-88-250-254 |
| Cottage | 25 plants | 2 ac | 1C | | | | |
| Specialty Outdoor | 5,000 sq. ft. or 50 plants | 3 ac | 1 | | | | |
| Small Outdoor | 5,001 - 10,000 | 5 ac | 2 | | | | |
| Medium Outdoor | 10,001 - 43,560 | 10 ac | 3 | | | | |
| **Indoor Cultivation** | | | | | | | |
| Cottage | 500 | None | 1C | | | | |
| Specialty Indoor | 501 - 5,000 | None | 1A | | | | |
| Small Indoor | 5,001 - 10,000 | None | 2A | | | | |
| Medium Indoor | 10,001 - 22,000 | None | 3A | | | | |
| **Mixed Light Cultivation** | | | | | | | |
| Cottage | 2,500 | None | 1C | | | | |
| Specialty Mixed Light | 2,501 - 5,000 | None | 1B | | | | |
| Small Mixed Light | 5,001 - 10,000 | None | 2B | | | | |
| Medium Mixed Light | 10,001 - 22,000 | None | 3B | | | | |

| TYPE OF PERMIT REQUIRED | |
|---|---|
| **ZP** | Permitted Use; Zoning Permit Required |
| **MUP** | Conditionally Permitted Use; Minor Use Permit required |
| **CUP** | Conditionally Permitted Use; Use Permit required |
| **—** | Use not allowed |

# PLANNING COMMISSION RECCOMENDED DRAFT
## SUMMARY OF ALLOWED LAND USES AND PERMIT REQUIREMENTS FOR CANNABIS USES

| | | | | ZONING DISTRICT | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | Agricultural | | | Resources | | Rural Residential | | Urban Residential | | | | Commercial | | | | | | Special | | Industrial | | | | Public | Cannabis | |
| LAND USE | MAXIMUM CULTIVATION AREA (square feet or plant) | MINIMUM PARCEL SIZE | STATE LICENSE TYPE | Land Intensive Agriculture | Land Extensive Agriculture | Diverse Agriculture | Resources and Rural Development | Timber Preserve | Agriculture and Residential | Rural Residential | Low Density Residential | Medium Density Residential | High Density Residential | Planned Community | Commercial Office | Neighborhood Commercial | Retail Business and Services | General Commercial | Limited Commercial | Commercial Rural | Agricultural Services | Recreation and Visitor Serving | Industrial Park | Limited Urban Industrial | Heavy Industrial | Limited Rural Industrial | Public Facilities | Cannabis Inclusion | Cannabis Exclusion |
| | | | | LIA[1] | LEA[1] | DA[1] | RRD[1] | TP | AR[1] | RR | R1 | R2 | R3 | PC | CO | C1 | C2 | C3 | LC | CR | AS | K | MP | M1 | M2 | M3 | PF | Y | Q |
| **MEDICAL AND ADULT USE CANNABIS** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Personal Cultivation[4] | 100 sq ft including up to 6 plants for adult use, per residence | None | exempt | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | — | — |
| **MEDICAL CANNABIS USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Nursery** | per use permit | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wholesale (outdoor) | 43,560 | | 4 | CUP | CUP | CUP | CUP | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — |
| Wholesale (indoor/greenhouse) | 22,000 | | 4 | CUP[2] | CUP | CUP | CUP | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | CUP | CUP | CUP | CUP | — | — | — |
| **Outdoor Cultivation** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cottage | 25 plants | 2 ac | 1C | ZP | ZP | ZP | MUP | — | MUP | MUP | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — |
| Specialty Outdoor | 5,000 sq. ft. or 50 plants | 3 ac | 1 | CUP | ZP | ZP | CUP | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — |
| Small Outdoor | 5,001 - 10,000 | 5 ac | 2 | CUP | ZP | ZP | CUP | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — |
| Medium Outdoor | 10,001 - 43,560 | 10 ac | 3 | CUP | CUP | CUP | CUP | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — |
| **Indoor Cultivation** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cottage | 500 | None[3] | 1C | ZP[2] | ZP | ZP/2 ac | MUP | — | MUP/2 ac | MUP/2 ac | — | — | — | — | — | — | — | — | — | — | — | — | ZP | ZP | ZP | ZP | — | — | — |
| Specialty Indoor | 501 - 5,000 | None | 1A | CUP[2] | CUP[2] | CUP/2 ac[2] | CUP[2] | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | MUP | MUP | MUP | MUP | — | — | — |
| Small Indoor | 5,001 - 10,000 | None | 2A | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | CUP | CUP | CUP | CUP | — | — | — |
| Medium Indoor | 10,001 - 22,000 | None | 3A | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | CUP | CUP | CUP | CUP | — | — | — |
| **Mixed Light Cultivation** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cottage | 2,500 | 2 ac | 1C | ZP[2] | ZP | ZP | MUP | — | MUP | MUP | — | — | — | — | — | — | — | — | — | — | — | — | — | CUP | CUP | CUP | — | — | — |
| Specialty Mixed Light | 2,501 - 5,000 | 3 ac | 1B | CUP[2] | CUP | CUP | CUP | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | CUP | CUP | CUP | — | — | — |
| Small Mixed Light | 5,001 - 10,000 | 5 ac | 2B | CUP[2] | CUP | CUP | CUP | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | CUP | CUP | CUP | — | — | — |
| Medium Mixed Light | 10,001 - 22,000 | 10 ac | 3B | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | CUP | CUP | CUP | — | — | — |
| **Testing/Laboratories** | | | 8 | — | — | — | — | — | — | — | — | — | — | — | — | — | — | CUP | CUP | — | — | — | CUP | CUP | CUP | CUP | — | — | — |
| **Manufacturing** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Level 1 - nonvolatile solvents | per use permit | | 6 | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | CUP | CUP | CUP | CUP | — | — | — |
| Level 2 - volatile solvents | | | 7 | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — |
| **Dispensaries** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Storefront and Delivery | per use permit | | 10 | — | — | — | — | — | — | — | — | — | — | — | — | CUP | CUP | — | CUP | — | — | — | — | — | — | — | — | — | — |
| Dispensary, max 3 retail sites | per use permit | | 10A | — | — | — | — | — | — | — | — | — | — | — | — | CUP | CUP | — | CUP | — | — | — | — | — | — | — | — | — | — |
| **Distributor** | per use permit | | 11 | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | CUP | CUP | CUP | — | — | — | — |
| **Transporter** | per use permit | | 12 | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | — | CUP | CUP | CUP | — | — | — | — |

| TYPE OF PERMIT REQUIRED | |
|---|---|
| **P** | Permitted Use - CEQA exempt; Building Permit only (with clearances and subject to standards) |
| **ZP** | Permitted Use if standards met- CEQA exempt; Zoning Permit and Building Permit only |
| **MUP** | Minor Use Permit or Hearing Waiver; CEQA applies unless Cat Exempt; can add conditions |
| **CUP** | Use Permit - noticed hearing before Planning Commission; CEQA; can add conditions |
| **—** | Use not allowed |

**Notes:**
1 Commercial Medical Cannabis Uses on properties with a Land Conservation (Williamson Act) Act Contract are subject to Uniform Rules for Agricultural Preserves.
2 Within existing previously developed areas or legally established structures built (finaled) prior to January 1, 2016
3 2 acre minimum lot size in the DA, AR, or RR zones
4 Personal Outdoor Cultivation is prohibited in multifamily units and in the R2 and R3 zones

# Cannabis Cultivation Best Management Practices

The following Best Management Practices (BMPs) are designed for in ground cultivation, but shall be applied to container grown Cannabis as applicable. The BMPs for water quality shall apply to all cultivators not required to enroll in the North Coast Regional Water Quality Control Board Waste Discharge program for cannabis.

## Outdoor Cultivation BMPs

### Pesticide and Fertilizer Use and Storage

#### *Pesticide Use Requirements*

Pesticides must be registered by both the US Environmental Protection Agency (US EPA) and the California Department of Pesticide Regulation (DPR) before they can be sold and used in California.

There are no pesticides registered specifically for use directly on marijuana and the use of pesticides on marijuana plants has not been reviewed for safety or human health effects.

Under California law, the only pesticide products not illegal to use on marijuana are those that contain an active ingredient that is exempt from residue-tolerance requirements and registered and labeled for a use that is broad enough to include use on marijuana (e.g. unspecified green plants) or exempt from registration requirements as a minimum risk pesticide under FIFRA section 25(b) and 3 CCR § 6147. (FAC §§ 12973, 12995; 3 CCR § 6490.)

Before using any pesticide, ALWAYS read and follow the pesticide label. The label is the law.

If you apply registered pesticides to your crop, you must obtain an operator identification number from the County Agricultural Commissioner and submit monthly pesticide use reports to that office. (FAC § 11408; 3 CCR § 6622; 3 CCR § 6627.)

US EPA designates certain pesticide products as federally “Restricted Use” products when they determine those products may cause unreasonable adverse effects even when used as directed on the product labeling. Restricted Use pesticides are limited to use by certified applicators, or to those under the supervision of a certified applicator.

DPR designates certain pesticide active ingredients as California “Restricted Materials” when they determine those pesticides are especially hazardous to human health or the environment.

Restricted Materials require a permit issued by the County Agricultural Commissioner. Permits will not be issued for marijuana cultivation sites. (FAC § 14001, et seq.; 3 CCR § 6400.)

Employers must protect their workers from exposure to pesticides. State law requires that employers follow the pesticide label and provide required personal protective equipment, provide required training and access to pesticide labels and safety information, and properly store, handle, and dispose of pesticides.

See Compliance Assistance Booklet; 3 CCR § 6670, et seq.; 3 CCR § 6700, et seq.; http://www.cdpr.ca.gov/docs/enforce/cmpliast/bkltmenu.htm.

### *Rodenticide Use Requirements*

Rodenticides that require a California Restricted Materials permit cannot be used; and those that are designated as federally Restricted Use products can only be used by a certified applicator. See above.

There are some rodenticides labeled for below ground applications that are not designated as California Restricted Materials or federally Restricted Use pesticides that can be used if consistent with the label.

The following rodent repellants may be used in and around marijuana cultivation sites consistent with the label: Capiscum Oleoresin, Putrescent Whole Egg Solids, and Garlic.

Refer to DPR document, "Legal Pest Management Practices for Marijuana Growers in California" (attached) for more detailed information.

Inspect planting stock for pests and disease prior to planting. Avoid planting stock with pests and disease.

Evaluate irrigation water, soils, growth media, and plant tissue to optimize plant growth and avoid over fertilization.

Do not store any fertilizers, pesticides, or soil amendments in the riparian setback or in any manner which may result in the discharge of a pollutant. Storage of all pesticides must comply with state regulations.

Nitrate-based and other oxidizing fertilizers must be stored away from solvents, fuels and pesticides.

## Riparian Protection

Observe riparian corridor setbacks for agricultural cultivation as applicable. These shall be maintained as "no touch" areas.

No equipment and/or vehicles shall be stored in the riparian setback.

Composting areas shall not be located in the riparian setback area.

## Water Use and Storage

Irrigation must be conducted in a manner that does not result in runoff from the cultivated area.

Any water tanks or storage facilities must obtain all necessary permits from the Sonoma County Permit and Resource Management Department.

If using an irrigation system, inspect for and repair leaks prior to planting each year and periodically during the season.

### Waste Management

Recycle or properly dispose of all plastic bags, containers, or irrigation materials.

Properly dispose of green waste in a manner that does not discharge pollutants to a watercourse. This may be accomplished by composting, chipping, and/or shredding. Method of green waste disposal must be documented.

Used growth medium (soil and other organic medium) shall be handled to minimize or prevent discharge of soil and residual nutrients and chemicals to watercourses. Proper disposal could include incorporating into garden beds, spreading on a stable surface and re-vegetating, storage in watertight dumpsters, or covering with tarps or plastic sheeting prior to proper disposal. Method of disposal must be documented.

Compost piles are to be located outside of riparian setbacks and in a manner that will not discharge pollutants to a watercourse. If necessary, construct berm or install fiber roll around compost area to prevent runoff or use straw wattles around perimeter.

### Erosion Control/Grading and Drainage

Leave a vegetative barrier along the property boundary and interior watercourses to act as a pollutant filter.

Avoid soil disturbance between November 1st and April 15th.

All exposed and disturbed soil to be covered with a minimum of 2 inches of mulch, such as straw, bark, wood chips, etc., by November 15th. Alternatively, establish a thick cover crop over disturbed areas.

Erosion control materials shall be available on site at all times in the form of straw or appropriate mulch adequate to cover area of disturbed soil. In the event of a forecast storm event likely to produce runoff, apply mulch prior to rain event.

Any grading or drainage conducted as part of site preparation shall have the appropriate permits from the Sonoma County Permit and Resource Management Department (PRMD), or the Sonoma County Department of Agriculture/Weights & Measures as applicable.

## Indoor Cultivation BMPs

#### *Pesticide Use Requirements*

Pesticides must be registered by both the US Environmental Protection Agency (US EPA) and the California Department of Pesticide Regulation (DPR) before they can be sold and used in California.

There are no pesticides registered specifically for use directly on marijuana and the use of pesticides on marijuana plants has not been reviewed for safety or human health effects.

Under California law, the only pesticide products not illegal to use on marijuana are those that contain an active ingredient that is exempt from residue-tolerance requirements and registered and labeled for a use that is broad enough to include use on marijuana (e.g. unspecified green plants) or exempt from

registration requirements as a minimum risk pesticide under FIFRA section 25(b) and 3 CCR § 6147. (FAC §§ 12973, 12995; 3 CCR § 6490.)

Before using any pesticide, ALWAYS read and follow the pesticide label. The label is the law.

If you apply registered pesticides to your crop, you must obtain an operator identification number from the County Agricultural Commissioner and submit monthly pesticide use reports to that office. (FAC § 11408; 3 CCR § 6622; 3 CCR § 6627.)

US EPA designates certain pesticide products as federally "Restricted Use" products when they determine those products may cause unreasonable adverse effects even when used as directed on the product labeling. Restricted Use pesticides are limited to use by certified applicators, or to those under the supervision of a certified applicator.

DPR designates certain pesticide active ingredients as California "Restricted Materials" when they determine those pesticides are especially hazardous to human health or the environment.

Restricted Materials require a permit issued by the County Agricultural Commissioner. Permits will not be issued for marijuana cultivation sites. (FAC § 14001, et seq.; 3 CCR § 6400.)

Employers must protect their workers from exposure to pesticides. State law requires that employers follow the pesticide label and provide required personal protective equipment, provide required training and access to pesticide labels and safety information, and properly store, handle, and dispose of pesticides.

See Compliance Assistance Booklet; 3 CCR § 6670, et seq.; 3 CCR § 6700, et seq.; http://www.cdpr.ca.gov/docs/enforce/cmpliast/bkltmenu.htm.

### *Rodenticide Use Requirements*

Rodenticides that require a California Restricted Materials permit cannot be used; and those that are designated as federally Restricted Use products can only be used by a certified applicator. See above.

There are some rodenticides labeled for below ground applications that are not designated as California Restricted Materials or federally Restricted Use pesticides that can be used if consistent with the label.

The following rodent repellants may be used in and around marijuana cultivation sites consistent with the label: Capiscum Oleoresin, Putrescent Whole Egg Solids, and Garlic.

Refer to DPR document, "Legal Pest Management Practices for Marijuana Growers in California" (attached) for more detailed information.

Inspect planting stock for pests and disease prior to planting. Avoid planting stock with pests and disease.

Evaluate irrigation water, soils, growth media, and plant tissue to optimize plant growth and avoid over fertilization.

Nitrate-based and other oxidizing fertilizers must be stored away from solvents, fuels and pesticides.

## Waste Management

Recycle or properly dispose of all plastic bags, containers, or irrigation materials.

Properly dispose of green waste in a manner that does not discharge pollutants to a watercourse. This may be accomplished by composting, chipping, and/or shredding. Method of green waste disposal must be documented.

Used growth medium (soil and other organic medium) shall be handled to minimize or prevent discharge of soil and residual nutrients and chemicals to watercourses. Proper disposal could include incorporating into garden beds, spreading on a stable surface and re-vegetating, storage in watertight dumpsters, or covering with tarps or plastic sheeting prior to proper disposal.

Excess irrigation water or effluent from indoor cultivation shall be discharged to an irrigation or bio-retention treatment system, sewer, or a septic system that has been properly evaluated and sized.

## Water Use

If using an irrigation system, inspect for and repair leaks prior to planting each year and periodically during the season.

# County of Sonoma
State of California

Item Number: _____

Date: December 13, 2016 Resolution Number: _____

☐ 4/5 Vote Required

**Resolution of the Board of Supervisors of the County Of Sonoma, State Of California, Approving an Amendment to Uniform Rules 2.0, 4.0, 7.0, and 8.0 of the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones**

**Whereas,** the preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources, and is necessary not only for the maintenance of the agricultural economy of the state, but also for the assurance of adequate, healthful and nutritious food for residents of the state and the nation;

**Whereas,** the California Legislature enacted the California Land Conservation Act of 1965, also known as the Williamson Act, (Government Code §51200 et seq.), which authorizes counties to establish agricultural preserves and to enter into voluntary contracts with owners of qualifying land within the preserves to restrict the use of land to agricultural use, open space use, and uses compatible with agricultural or open space uses, in exchange for property tax savings;

**Whereas,** pursuant to the California Land Conservation Act, Government Code §51231, the Board of Supervisors shall adopt uniform rules to govern the administration of the County's agricultural preserve program;

**Whereas**, the Board of Supervisors, after making certain findings under Government Code Section 51238.1, may list in its uniform rules certain uses of contracted land as uses that are compatible with the agricultural use of contracted lands;

**Whereas,** consistent with Government Code Section 51220.5, in determining the type of uses to be deemed "compatible uses," the Board of Supervisors recognizes that the Legislature has found that agricultural operations are often hindered or impaired by uses which increase the density of the permanent or temporary human population of the agricultural area;

**Whereas,** on December 13, 2011, by Resolution Number 11-0678, the Sonoma County Board of Supervisors adopted updated Uniform Rules for Agricultural Preserves and

Farmland Security Zones ("Uniform Rules") to govern local administration of the County's agricultural preserve program;

**Whereas,** since December 2011, the Board of Supervisors amended the Uniform Rules twice: first on July 31, 2012, by Resolution Number 12-0379; and again on May 7, 2013, by Resolution Number 13-0186;

**Whereas,** the Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies cannabis as a Schedule I Drug; as such, it is unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana. There is no federal exemption for the cultivation, manufacture, distribution, dispensation, or possession of cannabis for medical purposes;

**Whereas**, in 1996, the voters of the State of California approved Proposition 215, "The Compassionate Use Act," codified as Health and Safety Code Section 11362.5, which was intended to decriminalize cultivation and possession of medical marijuana under certain circumstances;

**Whereas,** the State enacted SB 420 in 2004 (known as the "Medical Marijuana Program Act", codified as Health and Safety Code Section 11362.7 et seq.) to expand and clarify the scope of The Compassionate Use Act of 1996;

**Whereas**, on November 8, 2016 the voters of California adopted Proposition 64 which legalized the use of cannabis for adult use and established maximum cultivation allowance of 6 plants for personal use. The Proposition allows for local control of adult use cannabis land uses, and reasonable regulation of personal cultivation of up to 6 plants within a residence;

**Whereas**, the Board of Supervisors presently desires to amend the Uniform Rules to exclude the cultivation of cannabis as an allowed or qualifying "agricultural use" of land restricted by a Land Conservation contract;

**Whereas**, the Board of Supervisors presently desires to amend the Uniform Rules to include the cultivation of cannabis as an allowed "compatible use" on land restricted by a Land Conservation Act contract;

**Now, Therefore, Be It Resolved** that the Board of Supervisors finds that the foregoing recitals are true and correct; and

**Be It Further Resolved** that Board of Supervisors finds that excluding cannabis cultivation from the Uniform Rules' definition of "agricultural use," is desirable and will appropriately tailor Sonoma County's agricultural preserve program to meet local, regional, state, and national needs for assuring adequate, healthful and nutritious food for future residences; and

**Be It Further Resolved** that the Board of Supervisors makes the following findings concerning the use of contracted land for cannabis cultivation, where the land qualifies for a Land Conservation Contract based on qualifying agricultural use of the land:

1. The use will not significantly compromise the long-term productive agricultural capability of contracted lands in agricultural preserves in Sonoma County because the current requirement that contracted land must be devoted to agricultural use will remain unchanged, and because the area that all compatible uses may collectively occupy for any parcel of agricultural contracted land is limited to 5 acres or 15% of the land, whichever is less, unless an exception is granted by the Board of Supervisors after making certain findings to ensure compatibility; and
2. The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on contracted lands in agricultural preserves because the Uniform Rules limit the area that all compatible uses may collectively occupy for any parcel of contracted land is limited to 5 acres or 15% of the land, whichever is less, unless an exception is granted by the Board of Supervisors after making certain findings to ensure compatibility; and
3. The use will not result in the significant removal of adjacent contracted lands from agricultural or open space uses because cannabis cultivation as a compatible use will be limited due to the Uniform Rules' limitation on the area that all compatible uses may collectively occupy for any parcel of contracted land, which is 5 acres or 15% of the land under contract, whichever is less, unless an exception is granted by the Board of Supervisors after making certain findings to ensure compatibility; and
4. The use will not result in an increase in the density of the permanent or temporary human population of the agricultural area because the use is not a residential use, because the use is not expected to result in the extension of urban services or infrastructure to agricultural areas, and because the use is limited to cultivation of cannabis, and expressly excludes manufacturing, retail sales, distributing, dispensing, and marketing of cannabis or cannabis products, which uses could result in an increase in the density of the temporary human population of the area;

**Be It Further Resolved** that cannabis related uses are not deemed to be compatible uses on any contracted land that includes qualifying open space; and

**Be It Further Resolved** that the Board of Supervisors amends Uniform Rules 2.0, 4.0, 7.0, and 8.0 of the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones to read as attached in Exhibit C-1.

**Be It Further Resolved** that the Board of Supervisors hereby directs the Permit and Resource Management Department (PRMD) to submit this amendment to the Department of Conservation; and

**Be It Further Resolved** that the Board of Supervisors designates the Clerk of the

Board as the custodian of the documents and other materials which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403; and

**Be It Further Resolved** that staff shall take all steps necessary to effectuate this action of the Board of Supervisors.

**IN REGULAR SESSION** of the Board of Supervisors of the County of Sonoma, introduced, passed, and adopted this 13th day of December, 2016, on regular roll call of the members of said Board by the following vote:

**Supervisors:**

| | | | | |
|---|---|---|---|---|
| Gorin: | Rabbitt: | Zane: | Gore: | Carrillo: |

| | | | |
|---|---|---|---|
| Ayes: | Noes: | Absent: | Abstain: |

**So Ordered.**

AFFECTS ONLY:
UNIFORM RULES 2.0, 4.0, 7.0, AND 8.0

# Sonoma County
# UNIFORM RULES
# for
# Agricultural Preserves and Farmland Security Zones

Adopted: December 13, 2011 (Resolution No. 11-0678)
Amended: July 31, 2012 (Resolution No. 12-0379)
Amended: May 7, 2013 (Resolution No. 13-0186)
Amended: December __, 2016 (Resolution No. 16-  )

# Uniform Rule 2.0 - Definitions.

## 2.1 List of Terms and Phrases.

As used in these uniform rules, the following terms and phrases shall have the meanings ascribed to them in this section, unless the context in which they are used clearly requires otherwise. Some of the terms and phrases defined in this section are taken directly from the Land Conservation Act. The definitions in the Land Conservation Act may be amended from time to time by state legislation. Any changes to the Land Conservation Act's definitions shall supercede the definitions included in this section. The definition of a term or phrase applies to any of that term's or phrase's variants.

**"Agricultural Commodity"** means any and all plant and animal products produced within the county for commercial purposes, including plant products used for producing biofuels, but excluding cannabis.

**"Agricultural Contracted Land"** means any agricultural land restricted by a land conservation contract.

**"Agricultural Land"** means prime and non-prime agricultural land.

**"Agricultural Preserve"** means an area devoted to agricultural or open space uses and which is established in accordance with the provisions of the Land Conservation Act and these uniform rules.

**"Agricultural Use"** means use of land, including greenhouses, for the purpose of producing an agricultural commodity for commercial purposes. Notwithstanding any provisions of these Uniform Rules to the contrary, "agricultural use," does not include or mean the use of land for the purpose of cultivating or producing cannabis or cannabis related products.

**"Annual Renewal Date"** means January 1st of each year.

**"Board of Supervisors"** means the Board of Supervisors of Sonoma County, California.

**"Cannabis"** means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, or any other strain or varietal of the genus Cannabis that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the Health and

Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this Uniform Rules, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

**"Clerk of the Board"** means the Clerk of the Board of Supervisors.

**"Compatible Use"** means any use determined by the County pursuant to the Land Conservation Act and these uniform rules to be compatible with the primary agricultural or open space use of land within the preserve and subject to contract. Compatible use includes agricultural use, recreational use, or open space use unless the Board of Supervisors finds after notice and hearing that the use is not compatible with the

agricultural or open space use to which the land is restricted by contract pursuant to the Land Conservation Act and these uniform rules.

**"Contiguous"** means sharing a common boundary or boundaries. Land shall be considered contiguous even if it is separated by roads, streets, utility fees or easements, or railroad rights-of-way.

**"Contracted Land"** means any agricultural or open space land restricted by a land conservation contract.

**"County"** means the county of Sonoma, in the state of California.

**"Devoted to Agricultural or Open Space Uses"** means when agricultural or open space land is used or maintained in compliance with the requirements of Section 4.2.B of these uniform rules.

**"Director"** means the Director of the Permit and Resource Management Department or his or her authorized representative.

**"Dwelling"** means single-family dwelling.

**"Farmland Security Zone Contract"** means a farmland security zone contract entered into pursuant to the Land Conservation Act and these uniform rules.

**"Farm Stay"** means transient lodging accommodations containing five or fewer guestrooms in a single-family dwelling or guest quarters provided as part of a farming operation, with an on-site farmer in residence, that includes all meals provided in the price of the lodging, and that meets all of the standards in the Zoning Code.

**"General Plan"** means the Sonoma County General Plan and the Sonoma County Local Coastal Plan.

**"Guest Quarters"** means an accessory building that consists of a detached living area of a permanent type of construction with no provisions for appliances or fixtures for the storage or preparation of food, including refrigerators, dishwashers, and cooking facilities. The building shall not be leased, subleased, rented, or sub-rented separately from the primary dwelling. The floor area of a guest quarters shall be a maximum of 640 square feet. Floor area shall be calculated by measuring the exterior perimeter of the guest quarters and the length of any common walls. In the case of straw bale or similar construction, floor area may be calculated using interior dimensions. For the purposes of calculating the maximum size of a guest quarters, any storage area attached to the guest quarters, excluding garage, shall be included. A guest quarters shall be located not more than 100 feet from the primary dwelling on the subject parcel.

**"Immediate Family Member"** means a spouse, natural or adopted child, parent, or sibling.

**"Land Conservation Act"** means the California Land Conservation Act of 1965, Government Code section 51200 et seq.

**"Land Conservation Contract" or "Contract"** means a land conservation contract entered into pursuant to the Land Conservation Act and these uniform rules.

**"Land Conservation Plan"** means a plan detailing the agricultural or open space uses of the land restricted by a land conservation contract or farmland security zone contract, including the types of uses and land areas involved.

**"Managed Wetland Area"** means an area, which may be an area diked off from the ocean or any bay, river, or stream to which water is occasionally admitted, and which, for at least three consecutive years immediately prior to being placed within an agricultural preserve was used and maintained as a waterfowl hunting preserve or game refuge or for agricultural purposes.

**"Non-prime Agricultural Land"** means land in agricultural use that is not prime agricultural land. Non-prime agricultural land includes land used for grazing, hay production, rotational crops such as seasonal or year round row crops, ornamental trees or flowers, and dry farming.

**“Open Space Contracted Land”** means any open space land restricted by a land conservation contract.

**“Open Space Land”** means land in open space use.

**“Open Space Use”** means the use or maintenance of land in a manner that preserves its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide habitat for wildlife, or for the solar evaporation of seawater in the course of salt production for commercial purposes, if the land is within any of the following:

1. A scenic highway corridor.

2. A wildlife habitat area.

3. A saltpond.

4. A managed wetland area.

5. A submerged area.

6. An area enrolled in the United States Department of Agriculture Conservation Reserve Program or Conservation Reserve Enhancement Program.

**“Parcel”** means legal parcel.

**“Permit and Resource Management Department”** means the Sonoma County Permit and Resource Management Department.

**“Primary dwelling”** means a single-family dwelling that meets the requirements of Sections 8.3.A.1 or 8.5.A.1 of these uniform rules.

**“Prime Agricultural Land”** means any of the following:

1. Land that qualifies for rating as class I or class II in the National Resource Conservation Service land use capability classifications.

2. Land that qualifies for rating 80 through 100 in the Storie Index Rating.

3. Land that is planted with fruit- or nut-bearing trees, vines, bushes, or crops which have a nonbearing period of less than five years and meet the minimum income requirements in Table 4-2 of these uniform rules.

4. Land that has returned from the production of unprocessed agricultural plant products an annual gross value which meets the minimum income requirements in Table 4-2 of these uniform rules.

**"Private Family Burial Plots"** means up to five graves for the landowner and immediate family members of the landowner.

**"Recreational Use"** means the use of land in its agricultural or natural state by the public, with or without charge, for any of the following: walking, hiking, picnicking, swimming, boating, fishing, hunting, or other outdoor games or sports for which facilities are provided for public participation. Any fee charged for the recreational use of land shall be in a reasonable amount and shall not have the effect of unduly limiting its use by the public. Specific recreational uses and accessory structures necessary for a recreational use are allowed on contracted land only if they are listed as a compatible use under these uniform rules.

**"Saltpond"** means an area which, for at least three consecutive years immediately prior to being placed within an agricultural preserve, has been used for the solar evaporation of seawater in the course of salt production for commercial purposes.

**"Scenic Highway Corridor"** means an area adjacent to, and within view of, the right-of-way of:

1. An existing or proposed state scenic highway in the state scenic highway system established by the Legislature pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code and which has been officially designated by the California Department of Transportation as an official state scenic highway; or

2. A county scenic highway established pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, if each of the following conditions have been met:

    a. The scenic highway is included in the General Plan;

    b. The scenic highway corridor is included in an adopted specific plan of the County; and

    c. Specific proposals for implementing the plan, including regulation of land use, have been approved by the Advisory Committee on a Master Plan for Scenic Highways, and the county highway has been

officially designated by the California Department of Transportation as an official county scenic highway.

**"Single-Family Dwelling"** means a building designed and/or occupied exclusively by one family.

**"Special Event"** means a festival, concert, theatrical presentation, wedding, wedding reception, party, race, rally, rodeo, or other activity that attracts a large gathering of people, either as participants or spectators.

**"State Designated Farmland of Local Importance"** means land designated as predominantly farmland of local importance on the Important Farmland Series map for Sonoma County compiled by the California Department of Conservation's Farmland Mapping and Monitoring Program pursuant to Government Code section 65570.

**"State Designated Farmland of Statewide Importance"** means land designated as predominantly farmland of statewide importance on the Important Farmland Series map for Sonoma County compiled by the California Department of Conservation's Farmland Mapping and Monitoring Program pursuant to Government Code section 65570.

**"State Designated Important Farmland"** means state designated prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance.

**"State Designated Prime Farmland"** means land designated as predominantly prime farmland on the Important Farmland Series map for Sonoma County compiled by the California Department of Conservation's Farmland Mapping and Monitoring Program pursuant to Government Code section 65570.

**"State Designated Unique Farmland"** means land designated as predominantly unique farmland on the Important Farmland Series map for Sonoma County compiled by the California Department of Conservation's Farmland Mapping and Monitoring Program pursuant to Government Code section 65570.

**"Submerged Area"** means any land determined by the Board of Supervisors to be submerged or subject to tidal action and found by the Board to be of great value to the state as open space.

**"Timber/Forestry Land"**means land in timber or forestry use.

**"Wildlife Habitat Area"** means a land or water area designated by the Board of Supervisors, after consulting with and considering the recommendation of the

California Department of Fish and Game, as an area of importance for the protection or enhancement of the wildlife resources of the state. Wildlife habitat area shall include any land area designated in the General Plan as a biotic habitat area or riparian corridor.

**"Zoning Code"** means the Sonoma County Zoning Code and the Sonoma County Coastal Zoning Code.

# Uniform Rule 4.0 - Eligibility of Land for Contract.

## 4.1 Introduction.

Before land may qualify for a land conservation contract, it must meet the eligibility requirements specified in Section 4.2 of these uniform rules. Once land is under contract, it must continue to meet those eligibility requirements for the duration of the contract.

## 4.2 Eligibility Requirements.

No application for a new or replacement land conservation contract shall be approved by the Board of Supervisors unless all of the following requirements are met:

A. The land proposed to be restricted by the contract must be located within an existing agricultural preserve. The Board of Supervisors may approve an application for the establishment or alteration of an agricultural preserve concurrently with its approval of an application for a contract or contracts within the preserve.

B. The land proposed to be restricted by the contract must be agricultural or open space land devoted to agricultural or open space uses. Mere intent to devote agricultural or open space land to agricultural or open space uses shall be insufficient to qualify the land for a contract. For the purposes of these uniform rules, agricultural or open space land shall be deemed to be devoted to agricultural or open space uses when:

1. Except as otherwise specified in Subsections 2 and 3 below, a minimum of 50 percent of the land is continuously used or maintained for agricultural uses, open space uses, or a combination of agricultural and open space uses, unless the Board of Supervisors finds that:

    a. More than 50 percent of the land is not suitable for agricultural or open space uses due to soil, slope, geologic, or other significant constraints;

b. The remainder of the land is continuously used or maintained for agricultural uses, open space uses, or a combination of agricultural and open space uses; and

c. Placing the land under contract is consistent with the purpose and intent of the Land Conservation Act and these uniform rules.

2. For less than 40 acres of prime agricultural land devoted to a combination of agricultural and open space uses, a minimum of 10 acres is planted in a permanent crop.

3. For less than 12 acres of prime agricultural land devoted to agricultural uses, a minimum of six acres is planted in a permanent crop.

C. The land proposed to be restricted by the contract must be comprised of a single parcel that meets the minimum parcel size requirements in Table 4-1.

**Table 4-1 - Minimum Parcel Size Requirements**

| Land Type | Minimum Parcel Size |
|---|---|
| Prime Agricultural Land | 10 Acres |
| Non-Prime Agricultural Land, Open Space Land, Timber/Forestry Land | 40 Acres |

D. The land proposed to be restricted by the contract must meet the annual income requirements in Table 4-2. Except as otherwise specified in Table 4-2, annual income shall be computed on the basis of annual gross revenue per planted acre per year. For the purposes of these uniform rules, annual income may be calculated using actual income data, or if actual data is not available, using projected income figures for existing permanent planted crops, and may be calculated as an average of three of the previous five years' annual income. Only income data from agricultural use of the land shall be used to determine whether the annual income requirement is met.

## Table 4-2 - Annual Income Requirements

| Land Type/Crop Type | Annual Income |
|---|---|
| Prime Agricultural Land - Vines and Bushes (i.e., Grapes, Berries, Hops) | Not less than $1,000.00 per Planted Acre |
| Prime Agricultural Land - Fruit or Nut Trees (i.e., Apples, Olives, Pears, Walnuts) | Not less than $300.00 per Planted Acre |
| Prime Agricultural Land - Other Unprocessed Agricultural Plant Products | Not less than $200.00 per Planted Acre |
| Non-Prime Agricultural Land - Grazing, Hay Production, Non-Permanent Row Crops, Livestock Production, Horse Breeding, or Other Unprocessed Agricultural Plant or Animal Products | Not less than $2,000.00 Gross Total Income per Farm Operation and $2.50 Gross Income per Acre of Production |
| Open Space | Not Applicable |
| Timber/Forestry | Not Applicable |

E. Any use of the land proposed to be restricted by the contract, other than permitted agricultural or open space uses, must be a compatible use allowed under Uniform Rule 8.0 of these uniform rules.

# Uniform Rule 7.0 - Agricultural and Open Space Uses.

## 7.1 Introduction.

Land restricted by a land conservation contract must be devoted to agricultural or open space uses.

## 7.2 Agricultural Uses.

A. Qualifying agricultural uses. To be a qualifying agricultural use a use must meet the definition of "agricultural use," under Uniform Rule 2.0, and be one or more of the following:

1. General farming and the raising, growing, and harvesting of vegetables, field, orchard, bush and berry crops, vineyards, and trees.

2. Commercial growing of flowers.

3. Stock nurseries, greenhouses, floriculture, and horticulture.

4. Commercial growing of irrigated pasture crops.

5. Commercial growing of ornamental trees.

6. Commercial raising of livestock, swine, goats, llamas, poultry, rabbits, birds, fish, frogs, and similar animals produced for food or fiber.

7. Commercial growing of mushrooms.

8. Commercial vermiculture.

9. Beekeeping.

10. Commercial raising of fur-bearing animals.

11. Commercial horse breeding, when the annual breeding operation consists of at least 15 brood mares.

12. Forestry, when at least 50 percent of the parcel is classified as timberland and is subject to an approved timber management plan.

B. Accessory Agricultural Uses and Structures. The following uses and structures, provided that they are incidental, related, and subordinate to a qualifying agricultural use:

1. Preparation for market of agricultural commodities in their natural state, which are grown or raised on-site or in the local area, including the following activities: sorting, grading, sizing, polishing, cleaning, packing, cooling, and shipping. Preparation under this subsection shall not include processing of an agricultural commodity beyond the natural state.

2. Facilities and structures utilized in conjunction with the preparation of an agricultural commodity described in Subsection 1 above.

3. Storage of agricultural commodities in their natural state, and facilities for such storage, including barns, silos, and other structures for the storage of agricultural commodities in their natural state.

4. Non-commercial composting.

5. Agricultural wells.

6. Wastewater treatment ponds where the recycled water is used for irrigation purposes.

7. Wind machines, reservoirs, and other structures used for frost protection.

8. Irrigation infrastructure, including reservoirs, pumps, windmill powered pumps, tanks, and wells.

9. Structures used to store equipment, vehicles, and other items or goods used exclusively for the production of an agricultural commodity or commodities on the contracted land.

10. Fencing, corrals, paddocks, and other similar structures used in the commercial raising of plants or animals for food or fiber.

11. Renewable energy power generation facilities providing power primarily for on-site use.

12. Private internal and access roads for farm equipment and farm operations.

7.3 Open Space Uses.

Qualifying open space uses shall be limited to those uses that meet the definition of “open space use” under these uniform rules.

# Uniform Rule 8.0 - Compatible and Incompatible Uses.

## 8.1 Introduction.

Land under a land conservation contract must be devoted to agricultural or open space uses. However, the County recognizes that it may be appropriate to allow other uses of contracted land that are compatible with the agricultural or open space uses on the land. This uniform rule enumerates certain uses that the County considers compatible on contracted land if they are limited in area. This uniform rule also enumerates certain uses that the County considers incompatible on contracted land. The limitation on area of compatible uses, as provided herein, may only be exceeded if the requirements of Section 8.2.B of these uniform rules are met, to ensure that use of the contracted land is consistent with the purposes and intent of the Land Conservation Act and these uniform rules.

## 8.2 Area limitation and exceptions.

A. The compatible uses enumerated under this uniform rule may be allowed on contracted land if they collectively occupy no more than 15% of the contracted land as a whole, or 5 acres, whichever is less, excluding public roads, private access roads, and driveways.

B. The area limitation imposed by Subsection A above may be exceeded for a proposed compatible use only where the Board of Supervisors finds that:

1. The use is enumerated as a compatible use by these uniform rules;

2. The contracted land will continue to be devoted to agricultural or open space uses;

3. The use complies with the requirements of Government Code sections 51238.1 through 51238.3;

4. The use will not result in a significant increase in the density of the temporary or permanent human population that could hinder or impair agricultural operations on the contracted land;

5. The use will not require and will not encourage the extension of urban services such as public sewer or water, or the upgrade of

public roads to urban standards that could encourage premature conversion of agricultural land to non-agricultural uses;

6. The use will not include a residential subdivision on the subject parcel;

7. The use is consistent with the General Plan and Zoning Code; and

8. The use will not significantly change the character, appearance, or operation of the agricultural or open space uses of the contracted land.

## 8.3 Compatible Uses - Agricultural Contracted Land.

The following uses are considered compatible with agricultural uses on any agricultural contracted land, if allowed by the underlying zoning.

A. Residential Uses.

1. Primary dwelling. A single-family dwelling occupied by the landowner or farm operator.

2. Farm family dwelling. An additional single-family dwelling, provided that:

   a. The dwelling is incidental to the primary dwelling in terms of size, location, and architecture;

   b. The dwelling is not leased, subleased, rented, or sub-rented separately from the primary residence, nor divided by sale; and

   c. The dwelling is occupied by the farm operator or an immediate family member of the landowner or farm operator.

3. Agricultural employee dwellings. Additional single-family dwellings, provided that each dwelling is occupied by a full-time agricultural employee or employees.

4. Farmworker housing. Housing for seasonal and year-round farmworkers.

5. Accessory uses and structures. The following uses and structures, provided that they are incidental, related, and subordinate to a compatible residential use:
   a. Private garage.

   b. Workshop.

   c. Patios, decks, gazebos, and similar structures.

   d. Domestic wells and septic systems.

   e. Fences.

   f. Sport courts (i.e. tennis, bocce ball, or basketball).

   g. Swimming pool with or without a pool house.

   h. Guest quarters.

   i. Home occupation.

   j. Small family day care home providing day care to 8 or fewer children, including children under the age of 12 who reside at the home.

B. Agricultural Support Uses.

1. Processing of agricultural commodities beyond the natural state, including processing by pressing, pasteurizing, slaughtering, cooking, freezing, dehydrating, and fermenting. This use includes facilities for processing and storage of agricultural commodities beyond the natural state such as wineries, dairies, slaughterhouses, and mills.

2. Sale and marketing of agricultural commodities in their natural state or beyond, including winery tasting rooms, promotional activities, marketing accommodations, farmer's markets, stands for the sampling and sale of agricultural products, livestock auction or sale yards, and related signage.

3. Facilities for and the conduct of services supporting the production of an agricultural commodity for commercial purposes within the

county, including veterinary services and farm equipment repair services.

4. Wells, septic systems, and wastewater treatment ponds necessary for agricultural support uses.

C. Recreational Uses.

1. Fishing or hunting of wildlife, including fishing and hunting clubs.

2. Unpaved trails, when used for hiking, horseback riding, or non-motorized cycling.

3. Picnicking, swimming, or non-motorized boating.

4. Passive recreational activities, including frisbee or paintball, when there is no alteration to terrain.

5. Accessory structures incidental, related, and subordinate to allowed recreational uses.

D. Raising, Breeding, and Boarding of Animals.

1. Raising, breeding, and boarding of domestic animals.

2. Raising, breeding, and boarding of horses, including training and rentals, riding or equestrian clubs, riding academies, riding arenas, and individual or group riding lessons.

3. Raising, breeding, and boarding of farm animals, including livestock, goats, llamas, poultry, rabbits, pigs, birds, fish, frogs and similar animals.

E. Resource Extraction and Energy Production Facilities.

1. Water, oil, gas, and steam wells.

2. Renewable energy power generation facilities providing power primarily for off-site use, when the facilities are located on non-prime agricultural land that is not state designated prime farmland, farmland of statewide importance, or unique farmland.

3. Mining or mineral extraction, quarrying, and screening, but not including crushing or other refining, preparing, or processing of raw materials. While the mining or mineral extraction, quarrying, or screening activity continues, raw materials mined on the contracted land may be stored or stockpiled on the contracted land for a reasonable time, but not more than 90 days, prior to being transported off-site for such crushing, refining, preparing, or processing.

4. Forestry and logging, but no processing of raw materials, logging mills (other than portable mills for temporary use), or mill ponds.

F. Communication and Utility Transmission Facilities.

1. Communication transmission facilities, including antennas, towers, transmitters, cables, and wires.

2. Gas, electric, or water transmission facilities.

G. Cannabis. The cultivation of cannabis, including the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis in its natural state. This compatible use category expressly excludes manufacturing, retail sales, distributing, dispensing, and marketing of cannabis or cannabis products.

~~G~~H. Miscellaneous.

1. Special events, when directly related to agricultural education or the promotion or sale of agricultural commodities and products produced on the contracted land, provided that:

a. The events last no longer than two consecutive days and do not provide overnight accommodations: and

b. No permanent structure dedicated to the events is constructed or maintained on the contracted land.

2. Farm Stays, provided that:

a. Guest occupancy is limited to a maximum of 10 guests; and

b. Agricultural commodities produced on the contracted land are marketed to the guests.

3. Public roads, private access roads, and driveways.

4. Mitigation sites for preservation of habitat for rare, threatened, or endangered species.

5. Carbon sequestration areas acknowledged by a federal, state, or local governmental agency as offsetting greenhouse gas impacts and contributing to the attainment of established greenhouse gas reduction goals.

6. Private family burial plots.

7. Any other use determined by the Board of Supervisors pursuant to Government Code section 51238.1 to be compatible with the agricultural or open space use of land within an agricultural preserve and subject to contract.

## 8.4 Incompatible Uses - Agricultural Contracted Land.

The following uses are considered incompatible with agricultural uses on any agricultural contracted land:

A. Golf courses.

B. Public, commercial, or private club use of motorized boats, motorcycles, vehicles, aircraft, or similar motorized uses for recreation.

C. Public, commercial, or private club use of land for field sports, including baseball, softball, polo, soccer, lacrosse, and football, or similar activities.

D. Public, commercial, or private club use of land for camping. Tent platforms, structures, and other facilities to support camping are not permitted.

## 8.5 Compatible Uses - Open Space Contracted Land.

The following uses are considered compatible with open space uses on any open space contracted land if allowed by the underlying zoning.

A. Residential Uses.

1. Primary dwelling. A single-family dwelling occupied by the landowner or caretaker of the contracted land. If the contract does not identify the location of the dwelling, it may be located anywhere on the contracted land where it is otherwise legally permitted and does not interfere with or impair the open space use of the contracted land.

2. Accessory uses and structures. The following uses and structures, provided that they are incidental, related, and subordinate to a compatible residential use:

   a. Private garage.

   b. Workshop.

   c. Patios, decks, gazebos, and similar structures.

   d. Domestic wells and septic systems.

   e. Fences.

   f. Swimming pool with or without a pool house.

   g. Guest quarters.

   h. Home occupation.

   i. Small family day care home providing day care to 8 or fewer children, including children under the age of 12 who reside at the home.

B. Passive Recreational Uses. Recreational uses that are limited, non-intensive, non-motorized, incidental, and passive, provided that such recreational uses, and limits and conditions on such uses, are expressly stated in the contract, which may preclude recreational uses completely. Passive recreational uses expressly stated in the contract may include hiking, horseback riding, non-motorized cycling, hunting, fishing, scenic viewing, and similar recreational activities.

C. Scientific and Educational Uses.

Scientific research and educational study, provided that it does not result in the removal or disturbance of significant vegetation, geologic or biological features, or land forms. Facilities exclusively for educational and scientific use may be constructed and maintained, but shall be limited to 2500 cumulative square feet for the contracted land.

D. Agricultural Uses. Limited agricultural uses, provided that such uses are expressly permitted in the contract and do not impair the open space use of the contracted land.

E. Miscellaneous.

1. Special events, when directly related to open space education, provided that:

   a. The events last no longer than two consecutive days and do not provide overnight accommodations; and

   b. No permanent structure dedicated to the events is constructed or maintained on the contracted land.

2. Mitigation sites for preservation of habitat for rare, threatened, or endangered species.

3. Carbon sequestration areas acknowledged by a federal, state, or local governmental agency as offsetting greenhouse gas impacts and contributing to the attainment of established greenhouse gas reduction goals.

4. Private family burial plots.

5. Any other use determined by the Board of Supervisors pursuant to Government Code section 51238.1 to be compatible with the agricultural or open space use of land within an agricultural preserve and subject to contract.

## 8.6 Incompatible Uses - Open Space Contracted Land.

A. Permanent structures are considered incompatible with open space uses on any open space contracted land, except as provided in Sections 8.5.A and 8.5.C of these uniform rules.

B. The following uses are considered to be uses incompatible with open space uses on any contracted land: (1) the cultivation of cannabis, including the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis; and (2) manufacturing, retail sales, distributing, dispensing, and marketing of cannabis or cannabis products.

**ORDINANCE NO. _____**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING CHAPTER 14 OF THE SONOMA COUNTY CODE TO REGULATE MEDICAL CANNABIS DISPENSARIES AND EDIBLE CANNABIS PRODUCT MANUFACTURING SITES**

**The Board of Supervisors of the County of Sonoma, State of California, does ordain as follows:**

**Section I. Chapter 14 of the Sonoma County Code is hereby amended as follows:**

**(A) Article I, Administration and Enforcement, is amended to read:**

**Article I. Administration and Enforcement.**

**Sec. 14-1-010. In General.**

The health officer, as referred to in this Chapter, or his/her designee shall administer and enforce the provisions of this Chapter, applicable state law, and the rules and regulations promulgated by the State Department of Public Health.

This Chapter and the articles contained herein apply to the entire county and all incorporated cities and towns of the county.

**Sec. 14-1-020. Definitions.**

a) "Department" means the county of Sonoma, Department of Health Services, Environmental Health and Safety Section.

b) "Enforcement agency" means the county of Sonoma, Department of Health Services, Environmental Health and Safety Section.

c) "Enforcement officer" means the agent, registered environmental health specialist or environmental health specialist trainee authorized by the Director of Health Services, Health Officer or Director of Environmental Health.

d) "Health officer" as referred to in this Chapter, means the Sonoma County Health Officer/Deputy Health Officer or his/her authorized representatives.

e) "Health permit" as referred to in this Chapter, means a permit or registration issued by the department for milk dairy, retail food, public swimming pool, body art, medical cannabis dispensary, or edible cannabis product manufacturing site as those terms are defined throughout this Chapter and in the California Food and Agricultural Code, and the California Health and Safety Code.

f) "Hearing officer" as referred to in this Chapter, means the Director of Environmental Health or his/her authorized representative.

g) "Person" as referred to in this Chapter, includes any individual, firm, association, organization, partnership, joint venture, estate, trust, business trust, limited liability company, receiver, syndicate, corporation, company, tribe or any other group or combination acting as a unit and includes the plural as well as the singular number.

**Sec. 14-1-030. Requirement of Permit.**

It is unlawful for any person without a health permit to control, lease, act as agent for, conduct, operate, or manage any milk dairy, retail food facility, public swimming pool, body art facility, medical cannabis dispensary, or edible cannabis product manufacturing site as those terms are defined throughout this Chapter.

Health permits shall be prominently posted in public view at the location or upon the equipment for which it was issued. Health permits shall not be transferable upon change of ownership of the location or equipment for which it was issued.

The holder of the health permit shall make payment to the department, on or before the anniversary date as established at the time of permit issuance, an annual fee as established by the Board of Supervisors' resolution, and as more fully set forth below.

**Sec. 14-1-040. Suspensions and Revocations.**

Health permits shall be valid until revoked, suspended or as conditioned by the enforcement officer.

Any health permit issued pursuant to this Chapter may be suspended or revoked for good cause by the enforcement officer. “Good cause” for the purpose of this Section, means a violation of state law, a violation of any of the provisions of this Chapter, a violation of the administrative rules or regulations adopted thereunder, a violation of any condition of such health permit, or failure to make payment of the required health permit fee to the department.

The following practices will be utilized during a permit revocation or suspension:

a) Whenever an enforcement officer finds that a person is not operating in compliance with their health permit, a written notice to comply shall be issued to the person. If the person fails to comply within fifteen (15) days of the notice, the enforcement officer shall issue a second written notice to comply describing the acts or omissions with which the person is charged and informing them of their right to request a hearing.

b) At any time within a fifteen-day period after service of such notice, the person may request a hearing before the hearing officer and department to show cause why the health permit should not be suspended or revoked.

c) A failure to request a hearing within fifteen (15) days shall be deemed a waiver of a right to such a hearing.

d) Any hearing provided for in this Section shall be conducted in accordance with Section 14-1-060.

e) A health permit may be reinstated or a new health permit issued if the enforcement agency determines that the conditions that prompted the permit suspension or revocation no longer exist.

**Sec. 14-1-050. Immediate Health Permit Suspension or Revocation.**

Notwithstanding the provisions of this Chapter, and except as otherwise specifically provided by state law, the enforcement officer may immediately suspend or revoke a health

permit if the enforcement officer determines that there is an immediate threat to public health, safety, or welfare.

The enforcement officer shall serve the permit holder, within forty-eight (48) hours of the suspension or revocation, written notice of the grounds for the immediate suspension or revocation of the health permit. A person may appeal the suspension or revocation by filing a written notice to request a hearing before the hearing officer.

If a hearing is requested, it shall be conducted in accordance with Section 14-1-060.

**Sec. 14-1-060. Hearing Procedure.**

Whenever this Chapter provides for a hearing, the hearing shall be conducted in accordance with this Section.

a) Upon receipt of a written request for a hearing, the hearing officer shall set a hearing date at the earliest practicable time. The hearing shall be held no later than fifteen (15) calendar days after receipt of the request for a hearing. Upon written request of the registrant or permit holder, the hearing officer may postpone a hearing date, if circumstances warrant the action. The hearing officer shall give notice of the hearing to the parties at least ten (10) calendar days before the date of the hearing.

b) When circumstances warrant, the hearing officer may order a hearing at any reasonable time within this fifteen-day period to expedite the permit suspension or revocation process.

c) Neither the provisions of the Administrative Procedure Act (Government Code Section 11500 *et seq*.) nor the formal rules of evidence in civil or criminal judicial hearings shall apply to such hearing. At the hearing, the hearing officer may admit any evidence, including witness testimony, relevant to the determination of the matter, except as otherwise provided in this Chapter. A record of the hearing shall be made by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.

d) The hearing officer shall issue a written notice of decision to the person within five (5) working days following the hearing. Notice of the written decision, including findings of facts, conclusions of law, and notification of the time period in which judicial review may be sought pursuant to Code of Civil Procedure Section 1094.6 shall be served on all parties. The notice of decision shall also specify the acts or omissions with which the person is charged, and shall state the terms of the suspension or that the health permit has been revoked. Any decision rendered by the hearing officer shall be a final administrative decision.

e) Judicial Review. Hearing officer decisions shall be final, subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6. California Code of Civil Procedure Section 1094.6 governs limitation of time for filing petitions under Section 1094.5, as set forth in Sonoma County Code Section 1-7.5.

**(B) Article VI, Medical Cannabis Dispensary and Edible Cannabis Product Manufacturing Site, is hereby added to Chapter 14 of the Sonoma County Code as follows:**

**Article VI. – Medical Cannabis Dispensary and Edible Cannabis Product Manufacturing Site**

**Sec. 14-6-010. Purpose.**

This Article provides for the enforcement of California laws and regulations pertaining to medical cannabis dispensaries and edible cannabis product manufacturing sites, and to establish local requirements as authorized in Health and Safety Code Section 11362.77 and the 2016 Medical Cannabis Regulation and Safety Act.

All definitions, authority, scope, responsibilities, requirements, standards, conditions, exemptions, procedures and penalties described within state law are adopted and incorporated.

**Sec. 14-6-020. In General.**

Although edible cannabis products are not defined as a food in Health and Safety Code, Sonoma County requires that all edible cannabis products sold at medical cannabis dispensaries or manufactured at edible cannabis product manufacturing sites comply with the requirements of Health and Safety Code Section 13700 *et seq*. and other applicable food safety codes, which provide a system of prevention and overlapping safeguards designed to minimize foodborne illness, ensure employee health, demonstrate industry manager knowledge, ensure safe food preparation practices and delineate acceptable levels of sanitation for preparation of edible products.

**Sec. 14-6-030. Definitions.**

For the purposes of this Article:

a) "Agency Having Jurisdiction" means the agency having delegated authority to adopt, determine, mandate or enforce ordinances and regulatory requirements established by the County of Sonoma and other jurisdictional governing bodies.

b) "Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, or any other strain or varietal of the genus Cannabis that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code. Cannabis is classified as an agricultural product separately from other agricultural crops.

c) "County" means the entire county and all incorporated cities and towns of the County, which have delegated cannabis health permit authority to the Director.

d) "County Department" means any department or agency operated by the County of Sonoma.

e) “Delivery” means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. “Delivery” also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this Chapter that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

f) “Director” means the Director of the Sonoma County Department of Health Services or the Health Officer or any individual designated by the Director to act on his or her behalf, including the Director of Environmental Health and Environmental Health Specialists.

g) “Dispensary” or “Medical cannabis dispensary” means a facility operated in accordance with state law, where medical cannabis, medical cannabis products or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, medical cannabis and medical cannabis products as part of retail sale.

h) “Edible Cannabis Product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including but not limited to chewing gum. An edible cannabis product is not considered food as defined by Section 109935 of Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.

i) “Edible Cannabis Manufacturing Site” refers to a “Manufacturer” that produces, prepares, or propagates “Edible Cannabis Products.”

j) “Imminent Health Hazard” means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance or event creates a situation that can cause infection, intoxication, disease transmission, vermin infestation, or hazardous condition that requires immediate correction or cessation of operation to prevent injury, illness, or death.

k) “Manufacturer” means a person that conducts the production, preparation, propagation or compounding of “manufactured cannabis” or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container.

l) “Manufactured Cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

m) “Manufacturing site” means a location that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by

a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

n) “Medical cannabis,” “medical cannabis product” or “cannabis product” means any product containing cannabis, including but not limited to flowers, buds, oils, tinctures, concentrates, extractions, and edibles intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this Chapter, medical cannabis does not include industrial hemp as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

o) “Medical Cannabis Identification Card” or “Identification Card” means a document issued by the State Department of Health Services pursuant to California Health and Safety Code Sections 11362.7 *et seq*. that identifies a person authorized to engage in the medical use of cannabis and the person's designated primary caregiver, if any, or identifies a person as a primary caregiver for a medical cannabis patient.

p) “Nonsale Distribution” means to give a medical cannabis product or coupon at no cost or at a nominal cost of less than 25 percent of the full retail value of the item exclusive of taxes and fees to a person who is not a dispensary.

q) “Permittee” means the “Person” acting as the owner, proprietor, manager, or operator of a medical cannabis dispensary who obtains a permit pursuant to this Article.

r) “Primary caregiver” shall have the same definition as California Health and Safety Code Section 11362.7 *et seq*., and as may be amended, and which defines “primary caregiver” as an individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include a licensed clinic, a licensed health care facility, a residential care facility, a hospice, or a home health agency as allowed by California Health and Safety Code Section 11362.7(d)(1-3). A primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Sections 6922, 7002, 7050, or 7120 of the Family Code.

s) “Qualified patient” shall have the same definition as California Health and Safety Code Section 11362.7 *et seq*., and as may be amended, and which states that a “qualified patient” means a person who is entitled to the protections of California Health and Safety Code Section 11362.5, but who does not have a valid medical cannabis identification card. For the purposes of this Article, a “qualified patient who has a valid identification card” shall mean a person who fulfills all of the requirements to be a “qualified patient” under California Health and Safety Code Section 11362.7 *et seq*. and also has a valid medical cannabis identification card.

**Sec. 14-6-040. Medical Cannabis Dispensary and Edible Cannabis Product Manufacturing Site Permits.**

a) No person shall operate in the county, any medical cannabis dispensary or any edible cannabis product manufacturing site or any other enterprise or establishment in which edible cannabis product is manufactured or offered for sale or sold, without a valid permit issued in accordance with this Article and a valid permit as required in Sonoma County Code Section 26-88-126(c). Such permits shall be displayed prominently in or upon the place of business for which it is issued.

b) All applications for medical cannabis dispensary or edible cannabis product manufacturing site permits shall be on a form supplied by the department and shall be accompanied by the applicable fee(s), as described in Section 14-6-050 and Section 14-6-060. The applicant for medical cannabis dispensary permit or edible cannabis product manufacturing site permit shall set forth, under penalty of perjury, the following on the permit application:

    1. The proposed location of the medical cannabis dispensary or the edible cannabis product manufacturing site.
    2. Approved use permit number as issued by the appropriate planning agency.
    3. The name and residence address of each person applying for the permit and any other person who will be engaged in the management of the medical cannabis dispensary or edible cannabis product manufacturing site.
    4. A unique identifying number from at least one government issued form of identification such as a social security card, a state driver's license or identification card, or a passport for each person applying for the permit and any other person who will be engaged in the management of medical cannabis dispensary or edible cannabis product manufacturing site.
    5. Written evidence that each person applying for the permit, and any other person who will be engaged in the management of medical cannabis dispensary or edible cannabis product manufacturing site is at least 21 years of age.
    6. The Director is hereby authorized to require in the permit application any other information including but not limited to any information necessary to discover the truth of the matters set forth in the application.

c) A permit to operate shall not be issued by the department until its inspection has determined that the proposed medical cannabis dispensary or edible cannabis product manufacturing site and its method of operation meet the specifications and conform to the provisions of Sonoma County Code Chapters 14 and 26, and California Health and Safety Code Section 11362.5 *et seq*.

d) All permits for medical cannabis dispensaries and edible cannabis product manufacturing sites shall expire on the annual renewal date. Permits are valid only for the person, location, and type of sales or activity approved. Permits shall not be transferable upon change of ownership of the dispensary or manufacturing site.

e) In recommending the granting or denying of a permit and in granting or denying the same, the Director shall give particular consideration to the capacity, capitalization, complaint history of the applicant and any other factors that in their discretion he or she deems necessary to the peace and order and welfare of the public.

f) No medical cannabis dispensary permit or edible cannabis product manufacturing site permit shall be issued under this Article if the Director finds:

1. That the applicant has provided materially false documents or testimony; or
2. That the applicant has not complied fully with the provisions of this Article or any county and state codes, laws and regulations; or
3. That the applicant has not obtained a permit from Sonoma County Planning Resource Management Department and all other approvals as required by the Agency Having Jurisdiction; or
4. That the operation as proposed by the applicant, if permitted, does not comply with all applicable laws, including, but not limited to, the Building, Planning, Housing, Police, Fire, and Health Codes of the County, including the provisions of this Article and regulations issued by the Director pursuant to this Article; or
5. That a permit for the operation of a medical cannabis dispensary or medical cannabis manufacturing site permit or a County use permit, which permit(s) had been issued to the applicant or to any other person who will be engaged in the management of the medical cannabis dispensary or medical cannabis manufacturing site permit has been revoked, unless more than two years have passed from the date of the revocation to the date of the application; or
6. That the County has revoked a permit for the operation of a business in the County which permit had been issued to the applicant or to any other person who will be engaged in the management of the medical cannabis dispensary or medical cannabis manufacturing site permit unless more than two years have passed from the date of the application to the date of the revocation.

g) The Director shall notify the Sheriff's Department, Permit and Resource Management Department, Fire and Emergency Services, Agricultural Commissioner's Office and other appropriate agencies of all approved permit applications.

h) The final permit shall contain the following language: "Issuance of this permit by the County of Sonoma is not intended to and does not authorize the violation of state or federal law."

**Sec. 14-6-050. Fees.**

a) Prior to submitting the medical cannabis dispensary permit or edible cannabis product manufacturing site permit application, each applicant shall submit an operating and facility plan to the Department, along with a plan check fee as established by the current Board of Supervisors' fee resolution.

b) At the time of approval of the facility plan, the applicant shall submit to the Department, the medical cannabis dispensary or edible product manufacturing site application and annual permit fee(s) as established by the current Board of Supervisors' fee resolution. The fee shall be calculated so as to recover the reasonable regulatory cost of administration and enforcement of this Article, including, for example, issuing a medical cannabis dispensary or edible cannabis product manufacturing site permit, administering the permit program, dispensary or manufacturing site inspection and compliance checks, documentation of violations, late fees for delinquent permits, and enforcement proceedings, but shall not exceed the cost of the regulatory program authorized by this Article and by California law. All fees and interest upon proceeds of fees shall be used exclusively to fund administration and enforcement of this Article. Fees are nonrefundable, except as may be required by law.

c) Each separate location of business shall be deemed a separate enterprise or medical cannabis dispensary or edible product manufacturing site for purposes of this Article.

d) Any permit that has not been reinstated by the annual renewal date will not be valid, due to failure to submit permit fees, and shall be deemed delinquent. Permits that continue to remain delinquent will be subject to late fees at intervals of thirty (30) days and sixty (60) days past the anniversary date. The amount assessed shall be included in the fee schedule approved by resolution of the Board of Supervisors.

e) Conditions requiring additional inspections due to noncompliance with applicable statutes/regulations will incur additional re-inspection service fees as provided in the fee schedule in effect at the time of noncompliance.

**Sec.14-6-060. Operational Requirements for Medical Cannabis Dispensaries.**

a) Medical cannabis dispensaries shall meet all the operating criteria for the dispensing of medical cannabis as is required pursuant to California Health and Safety Code Section 11362.7 *et seq*., by this Article, by the Director's Rules and regulations for the permitting and operation of medical cannabis dispensaries and by all other County Department guidelines.

b) Medical cannabis dispensaries must operate in a permanently constructed structure and may not operate from a vehicle or non-permanent structure.

c) Medical cannabis dispensaries shall sell or distribute only cannabis manufactured and processed in the State of California that has not left the state before arriving at the medical cannabis dispensary with the additional requirement that medical cannabis dispensaries shall sell or distribute only edible cannabis products that have been manufactured and processed in a facility permitted by a local jurisdiction and in compliance with state licensing requirements.

d) It is unlawful for any person or association operating a medical cannabis dispensary under the provisions of this Article to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct, or otherwise, or to permit such dispensary to remain open, or patrons to

remain upon the premises, between the hours of 7 p.m. and 7 a.m. the next day, unless otherwise allowed by the use permit.

e) No medical cannabis product shall be smoked, ingested or otherwise consumed on the premises or in the public right-of-way within twenty-five feet of a medical cannabis dispensary. Medical cannabis dispensaries shall post a sign near their entrances and exits providing notice of this policy.

f) All sales and dispensing of medical cannabis shall be conducted in person on the premises of the medical cannabis dispensary. Deliveries, as defined in this Article and in Health and Safety Code, can only be made by a dispensary in Sonoma County provided the medical cannabis dispensary that delivers medical cannabis or medical cannabis products shall comply with the following:

    1. All employees of a dispensary delivering medical cannabis or medical cannabis products shall carry a copy of the dispensary's current permit authorizing those services with them during deliveries and shall present that permit upon request to county department, state and local law enforcement, employees of regulatory authorities, and other state and local agencies.

    2. During delivery, the permittee shall maintain a physical copy of the delivery request and shall make it available upon request of the department and law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.

    3. The qualified patient or primary caregiver requesting the delivery shall maintain a copy of the delivery request and shall make it available, upon request, to the department and law enforcement officers.

    4. The employee of the dispensary who is delivering medical cannabis or medical cannabis products shall verify and document that the individual taking possession of the product is a qualified patient or primary caregiver.

g) The medical cannabis dispensary shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. Nor shall alcoholic beverages be consumed on the premises or on in the public right-of-way within fifty feet of a medical cannabis dispensary. Dispensaries shall prohibit patrons from entering or remaining on the premises if they are in possession of or are consuming alcoholic beverages or are under the influence of alcohol.

h) The medical cannabis dispensary shall not hold or maintain a permit as a food facility from the County of Sonoma. Food products shall not be sold or consumed on the premises.

i) The medical cannabis dispensary shall not hold or maintain a tobacco retail license to sell tobacco products or tobacco paraphernalia from the County of Sonoma. Tobacco products or tobacco paraphernalia shall not be sold or consumed on the premises.

j) No manufactured edible cannabis products shall be dispensed that contain other addictive substances such as nicotine or caffeine. Minimal amounts of alcohol, in as much as are residual from manufacturing or required solvents for the cannabis containing product, are allowed provided that the alcohol content is 10 percent or less, the amount of alcohol in an individual serving would not create alcohol intoxication with ingestion of a single dose, and the product is clearly labeled with both the alcohol content and a statement that "Warning: this product contains alcohol."

k) The medical cannabis dispensary shall not engage in the Nonsale Distribution of any medical cannabis product. Discounting practices, including the honoring or redeeming coupons to allow a consumer to purchase a medical cannabis product for less than full retail price, sale of product through multiple-package discount for less than full retail price, and provision of a free or discounted item in consideration of purchase of a medical cannabis product are prohibited.

l) Medical cannabis dispensaries may sell or distribute cannabis only to qualified patients with a medical cannabis identification card or a verifiable, written recommendation from a physician for medical cannabis. The medical cannabis dispensary shall maintain records of all qualified patients with a valid identification card and primary caregivers with a valid identification card using only the identification card number issued by the state or County pursuant to California Health and Safety Code Section 11362.7 *et seq*. For qualified patients who present a physician recommendation in lieu of a valid identification card, the medical cannabis dispensary shall maintain a record of qualified patient identifying information in a manner consistent with patient privacy laws.

m) All advertisements must include language stating "Only individuals with legally recognized Medical Cannabis Identification Cards or a verifiable, written recommendation from a physician for medical cannabis may obtain cannabis from medical cannabis dispensaries" written in size 11 font or larger, and must be read in oral advertisements. Advertisements many not cater to youth or children, i.e. no cartoon characters and no depictions of youth utilizing cannabis. Advertisements may not be placed in locations that cater to youth or children.

n) The medical cannabis dispensary shall provide the Director and Agencies Having Jurisdiction the name and phone number of an on-site staff person to whom one can direct notices of complaints or violations.

o) The medical cannabis dispensary shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval by the Director in order to insure that the operation of the medical cannabis dispensary is consistent with the protection of the health, safety and welfare of the community, qualified patients and primary caregivers, and will not adversely affect surrounding uses.

**Sec. 14-6-070. Operational Requirements for Edible Cannabis Product Manufacturing Sites.**

a) Edible cannabis product manufacturing sites shall meet all the operating criteria for the manufacturing of medical cannabis containing edible products as is required pursuant to California Health and Safety Code Section 11362.7 *et seq*., by this Article, by the

Director's Rules and Regulations for the permitting and operation of edible cannabis product manufacturing sites and by all other County Department agency guidelines.

b) No manufactured edible cannabis products shall be produced that contain other addictive substances such as nicotine or caffeine. Minimal amounts of alcohol, in as much as are residual from manufacturing or required solvents for the cannabis containing product, are allowed provided that the alcohol content is 10 percent or less, the amount of alcohol in an individual serving would not create alcohol intoxication with ingestion of a single dose, and the product is clearly labeled with both the alcohol content and a statement that "Warning: this product contains alcohol."

c) Manufactured edible cannabis products shall be:

1. Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain cannabis.
2. Delineated or scored into standardized serving sizes if the cannabis product contains more than one serving and is an edible cannabis product in solid form.
3. Homogenized to ensure disbursement of cannabinoids throughout the product.

d) Manufactured edible cannabis products shall be labeled and in an opaque, resealable, child-resistant and tamper-evident package. Labels and packages of medical cannabis products shall meet the following requirements in addition to any state requirements:

1. Medical cannabis packages and labels shall not be made to be attractive to youth and children.
2. All medical cannabis product labels shall include the following information, prominently displayed and in a clear and legible font:

   i) Manufacture date and source.

   ii) The following statements in bold print: Product contains medical cannabis; Keep out of reach of children and animals; for medical use only; the intoxicating effects of this product may be delayed by up to two hours; and this product may impair the ability to drive or operate machinery. Please use extreme caution.

   iii) A warning if nuts or other known potential allergens are used.

   iv) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total.

   v) Identification of the source and date of cultivation and manufacture.

e) Edible Manufacturing Operations shall not be permitted or operate as a wholesale food manufacturer, retail food facility or cottage food producer.

f) The edible cannabis product manufacturing site shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval by the

Director in order to insure that the operation of the medical cannabis dispensary is consistent with the protection of the health, safety and welfare of the community, qualified patients and primary caregivers, and will not adversely affect surrounding uses.

**Sec. 14-6-080. Permit Program Implementation**

a) The Director shall adopt policies and create operational procedures, operational standards and marking guides for medical cannabis dispensaries and edible cannabis manufacturing sites related to this Article. These shall include, but are not limited to:

   1. A requirement that the operator require employees to wash hands and use sanitary utensils when handling cannabis;
   2. Regulations to reduce the risk to public health of edible cannabis products including requirements parallel to state and local laws regarding preparation, distribution and sale of food and restrictions on manufacturing and sale of edible products that require time-temperature control to keep them safe for human consumption;
   3. Regulations prohibiting the manufacturing, packaging and/or sale of cannabis products that are designed to be especially appealing to children or youth;
   4. Requirements on tracking and reporting of products sold; and
   5. Regulations related to management and disposal of waste products.

b) The Director shall issue rules and regulations regarding the imposition of administrative penalties on medical cannabis dispensaries or edible cannabis product manufacturing sites.

**Sec. 14-6-090. Inspections and Penalties.**

a) The Director shall inspect each medical cannabis dispensary and edible cannabis product manufacturing site no fewer than two times annually, for the purpose of determining compliance with the provisions of this Article, and/or the rules and regulations adopted pursuant to this Article, or in response to a complaint. If informal attempts by the Director to obtain compliance with the provisions of this Article fail, the Director may take the steps outlined in Article I of this Chapter.

b) Every person to whom a permit shall have been granted pursuant to this Article shall post a sign in a conspicuous place in the medical cannabis dispensary or edible cannabis product manufacturing site. The sign shall state that it is unlawful to refuse to permit an inspection by the Department of Health Services, or any city peace, fire, planning, or building official or inspector, conducted during the hours the establishment is open to the public and at all other reasonable times, of the areas of the establishment to which patrons and employees have access.

c) Administrative Citations. In addition to all other legal remedies, criminal or civil, which may be pursued by the county to address any violation of the County Code, this subsection provides for administrative citations, pursuant to the authority conferred by the Government Code, including Section 53069.4. Violations of any provision of the County Code or health permit conditions are subject to administrative citation. Each act,

omission, or condition may be cited as a separate violation and each violation that continues, exists, or occurs on more than one day may constitute a separate violation on each day, at the discretion of the agency having jurisdiction.

1. The Director may issue an administrative citation requiring the owner or operator of a medical cannabis dispensary or edible cannabis manufacturing site to take corrective action as necessary to abate a nuisance, or to protect human health and safety or the environment.
2. An administrative citation shall not be issued for any minor violation, as defined by the Director, which is corrected immediately in the presence of the inspector. Immediate compliance in that manner shall be noted in the inspection report.
3. Any dispensary, dispensary operator, dispensary manager or manufacturer who violates any provision of this Article or any rule or regulation adopted pursuant to this Article may, after being provided notice and an opportunity to be heard, be subject to an administrative citation penalty not to exceed $1,000 for the first violation of a provision or regulation in a two year period, $5,000 for the second violation of the same provision or regulation in a two year period, and $10,000 for the third and subsequent violations of the same provision or regulation in a two year period.
4. Any dispensary, dispensary operator, dispensary manager or manufacture who operates without a health permit shall be subject to an administrative citation penalty of $10,000 for the first offense within two years, $25,000 for the second offense within two years, and $50,000 for the third offense within two years.

d) If a permit is revoked, no application for a medical cannabis dispensary or edible cannabis product manufacturing site may be submitted by the same person for two years.

**Sec. 14-6-100. Immediate Closure**

a) Notwithstanding the provisions of this Chapter, and except as otherwise specifically provided by state law, the enforcement officer may immediately suspend or revoke a health permit if the enforcement officer determines that there is an immediate threat to public health, safety, or welfare and order the medical cannabis dispensary or edible cannabis product manufacturer immediately closed.

b) If interference in the performance of the duty of the enforcement officer occurs, the enforcement officer may temporarily suspend the permit and order the medical cannabis dispensary or edible cannabis product manufacturer immediately closed.

c) The enforcement officer shall serve the permit holder, within forty-eight (48) hours of the suspension or revocation, written notice of the grounds for the immediate suspension or revocation of the health permit. A person may appeal the suspension or revocation by filing a written notice to request a hearing before the hearing officer.

d) If a hearing is requested, it shall be conducted in accordance with Section 14-1-060.

**Sec. 14-6-110. Reporting**

a) At least biennially, commencing in January 2019, the Director shall make a report to the Board of Supervisors that includes the following:

    1. Number and location of medical cannabis dispensaries and medical cannabis manufacturing sites currently permitted and operating in the County;
    2. An estimate of the number of medical cannabis patients currently active in the County;
    3. A summary of the past year's violations of this Article and penalties assessed;
    4. Current health, human and safety data; and
    5. Recommendations to the Board of Supervisors.

b) Upon receipt of this Report, the Board of Supervisors shall consider whether any changes to County Code are warranted.

**Sec. 14-6-120. Severability**

If any section, subsection, sentence, clause or phrase of this Article 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 the Chapter.

**Section II.**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**Section III.**

Adoption and implementation of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that this ordinance may have a significant effect on the environment. Adoption and implementation of the standards, permit requirements, and other measures contained in the ordinance will not result in any direct physical change to the environment on their own. In the alternative, the adoption and implementation of this ordinance is exempt from CEQA pursuant to Section 15308 of the State CEQA Guidelines as an action taken to assure the maintenance, restoration, enhancement, and protection of the environment where the regulatory process involves procedures for protection of the environment. The basis for this determination is that this Ordinance does not in itself approve any construction activities, but instead establishes standards, permit requirements, and other measures that regulate health and safety at medical cannabis dispensaries and edible cannabis product manufacturing sites. These standards, permit requirements, and other measures will assure the protection of human health, which is an aspect of the environment

under Public Resources Code Section 21083(b)(3), by establishing standards and enforcement measures for regulating medical cannabis dispensaries and edible cannabis product manufacturing sites. The Director of the Department of Health Services is directed to file a notice of exemption in accordance with CEQA and the State CEQA Guidelines.

**Section IV.**

This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. A summary of the Ordinance shall be published once before the expiration of fifteen (15) days after passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat,* a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma introduced on the 6th day of December, 2016 and finally passed and adopted this 13th day of December, 2016, on regular roll call of the members of said Board by the following vote:

**Supervisors:**

| Gorin: | Rabbitt: | Zane: | Gore: | Carrillo: |
|---|---|---|---|---|
| Ayes: | Noes: | Absent: | Abstain: | |

**WHEREUPON,** the Chair declared the above and foregoing Ordinance duly adopted and

**SO ORDERED.**

_____

Chair, Board of Supervisors
County of Sonoma

ATTEST:

_____

Sheryl Bratton,
Clerk of the Board of Supervisors

**ORDINANCE NO. _____**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING CHAPTER 14 OF THE SONOMA COUNTY CODE TO REGULATE MEDICAL CANNABIS DISPENSARIES AND EDIBLE CANNABIS PRODUCT MANUFACTURING SITES**

**The Board of Supervisors of the County of Sonoma, State of California, does ordain as follows:**

**Section I. Chapter 14 of the Sonoma County Code is hereby amended as follows:**

**(A) Article I, Administration and Enforcement, is amended to read:**

**Article I. Administration and Enforcement.**

**Sec. 14-1-010. In General.**

The health officer, as referred to in this Chapter, or his/her designee shall administer and enforce the provisions of this Chapter, applicable state law, and the rules and regulations promulgated by the State Department of Public Health.

This Chapter and the articles contained herein apply to the entire county and all incorporated cities and towns of the county.

**Sec. 14-1-020. Definitions.**

a) "Department" means the county of Sonoma, Department of Health Services, Environmental Health and Safety Section.

b) "Enforcement agency" means the county of Sonoma, Department of Health Services, Environmental Health and Safety Section.

c) "Enforcement officer" means the agent, registered environmental health specialist or environmental health specialist trainee authorized by the Director of Health Services, Health Officer or Director of Environmental Health.

d) "Health officer" as referred to in this Chapter, means the Sonoma County Health Officer/Deputy Health Officer or his/her authorized representatives.

e) "Health permit" as referred to in this Chapter, means a permit or registration issued by the department for milk dairy, retail food, public swimming pool, ~~or~~ body art, medical cannabis dispensary, or edible cannabis product manufacturing site as those terms are defined throughout this Chapter and in the California Food and Agricultural Code, and the California Health and Safety Code.

f) "Hearing officer" as referred to in this Chapter, means the Director of Environmental Health or his/her authorized representative.

g) "Person" as referred to in this Chapter, includes any individual, firm, association, organization, partnership, joint venture, estate, trust, business trust, limited liability company, receiver, syndicate, corporation, ~~or~~ company, tribe or any other group or combination acting as a unit and includes the plural as well as the singular number.

**Sec. 14-1-030. Requirement of Permit.**

It is unlawful for any person without a health permit to control, lease, act as agent for, conduct, operate, or manage any milk dairy, retail food facility, public swimming pool, ~~or~~ body art facility, medical cannabis dispensary, or edible cannabis product manufacturing site as those terms are defined throughout this Chapter.

Health permits shall be prominently posted in public view at the location or upon the equipment for which it was issued. Health permits shall not be transferable upon change of ownership of the location or equipment for which it was issued.

The holder of the health permit shall make payment to the department, on or before the anniversary date as established at the time of permit issuance, an annual fee as established by the Board of Supervisors' resolution, and as more fully set forth below.

**Sec. 14-1-040. Suspensions and Revocations.**

Health permits shall be valid until revoked, suspended or as conditioned by the enforcement officer.

Any health permit issued pursuant to this Chapter may be suspended or revoked for good cause by the enforcement officer. “Good cause” for the purpose of this Section, means a violation of state law, a violation of any of the provisions of this Chapter, a violation of the administrative rules or regulations adopted thereunder, a violation of any condition of such health permit, or failure to make payment of the required health permit fee to the department.

The following practices will be utilized during a permit revocation or suspension:

a) Whenever an enforcement officer finds that a person is not operating in compliance with their health permit, a written notice to comply shall be issued to the person. If the person fails to comply within fifteen (15) days of the notice, the enforcement officer shall issue a second written notice to comply describing the acts or omissions with which the person is charged and informing them of their right to request a hearing.

b) At any time within a fifteen ~~(15)~~ -day period after service of such notice, the person may request a hearing before the hearing officer and department to show cause why the health permit should not be suspended or revoked.

c) A failure to request a hearing within fifteen (15) days shall be deemed a waiver of a right to such a hearing.

d) Any hearing provided for in this Section shall be conducted in accordance with Section 14-1-060.

e) A health permit may be reinstated or a new health permit issued if the enforcement agency determines that the conditions that prompted the permit suspension or revocation no longer exist.

**Sec. 14-1-050. Immediate Health Permit Suspension or Revocation.**

Notwithstanding the provisions of this Chapter, and except as otherwise specifically provided by state law, the enforcement officer may immediately suspend or revoke a health

permit if the enforcement officer determines that there is an immediate threat to public health, safety, or welfare.

The enforcement officer shall serve the permit holder, within forty-eight (48) hours of the suspension or revocation, written notice of the grounds for the immediate suspension or revocation of the health permit. A person may appeal the suspension or revocation by filing a written notice to request a hearing before the hearing officer.

If a hearing is requested, it shall be conducted in accordance with Section 14-1-060.

**Sec. 14-1-060. Hearing Procedure.**

Whenever this Chapter provides for a hearing, the hearing shall be conducted in accordance with this Section.

a) Upon receipt of a written request for a hearing, the hearing officer shall set a hearing date at the earliest practicable time. The hearing shall be held no later than fifteen (15) calendar days after receipt of the request for a hearing. Upon written request of the registrant or permit holder, the hearing officer may postpone a hearing date, if circumstances warrant the action. The hearing officer shall give notice of the hearing to the parties at least ten (10) calendar days before the date of the hearing.

b) When circumstances warrant, the hearing officer may order a hearing at any reasonable time within this fifteen ~~(15)~~ day period to expedite the permit suspension or revocation process.

c) Neither the provisions of the Administrative Procedure Act (Government Code Section 11500 *et seq*.) nor the formal rules of evidence in civil or criminal judicial hearings shall apply to such hearing. At the hearing, the hearing officer may admit any evidence, including witness testimony, relevant to the determination of the matter, except as otherwise provided in this Chapter. A record of the hearing shall be made by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.

d) The hearing officer shall issue a written notice of decision to the person within five (5) working days following the hearing. Notice of the written decision, including findings of facts, conclusions of law, and notification of the time period in which judicial review may be sought pursuant to Code of Civil Procedure Section 1094.6 shall be served on all parties. The notice of decision shall also specify the acts or omissions with which the person is charged, and shall state the terms of the suspension or that the health permit has been revoked. Any decision rendered by the hearing officer shall be a final administrative decision.

e) Judicial Review. Hearing officer decisions shall be final, subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6. California Code of Civil Procedure Section 1094.6 governs limitation of time for filing petitions under Section 1094.5, as set forth in Sonoma County Code Section 1-7.5.

**(B) Article VI, Medical Cannabis Dispensary and Edible Cannabis Product Manufacturing Site, is hereby added to Chapter 14 of the Sonoma County Code as follows:**

**Article VI. – Medical Cannabis Dispensary and Edible Cannabis Product Manufacturing Site**

**Sec. 14-6-010. Purpose.**

This Article provides for the enforcement of California laws and regulations pertaining to medical cannabis dispensaries and edible cannabis product manufacturing sites, and to establish local requirements as authorized in Health and Safety Code Section 11362.77 and the 2016 Medical Cannabis Regulation and Safety Act.

All definitions, authority, scope, responsibilities, requirements, standards, conditions, exemptions, procedures and penalties described within state law are adopted and incorporated.

**Sec. 14-6-020. In General.**

Although edible cannabis products are not defined as a food in Health and Safety Code, Sonoma County requires that all edible cannabis products sold at medical cannabis dispensaries or manufactured at edible cannabis product manufacturing sites comply with the requirements of Health and Safety Code Section 13700 *et seq*. and other applicable food safety codes, which provide a system of prevention and overlapping safeguards designed to minimize foodborne illness, ensure employee health, demonstrate industry manager knowledge, ensure safe food preparation practices and delineate acceptable levels of sanitation for preparation of edible products.

**Sec. 14-6-030. Definitions.**

For the purposes of this Article:

a) "Agency Having Jurisdiction" means the agency having delegated authority to adopt, determine, mandate or enforce ordinances and regulatory requirements established by the County of Sonoma and other jurisdictional governing bodies.

b) "Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, or any other strain or varietal of the genus Cannabis that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code. Cannabis is classified as an agricultural product separately from other agricultural crops.

c) "County" means the entire county and all incorporated cities and towns of the County, which have delegated cannabis health permit authority to the Director.

d) "County Department" means any department or agency operated by the County of Sonoma.

e) “Delivery” means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. “Delivery” also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this Chapter that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

f) “Director” means the Director of the Sonoma County Department of Health Services or the Health Officer or any individual designated by the Director to act on his or her behalf, including the Director of Environmental Health and Environmental Health Specialists.

g) “Dispensary” or “Medical cannabis dispensary” means a facility operated in accordance with state law, where medical cannabis, medical cannabis products or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, medical cannabis and medical cannabis products as part of retail sale.

h) “Edible Cannabis Product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including but not limited to chewing gum. An edible cannabis product is not considered food as defined by Section 109935 of Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.

i) “Edible Cannabis Manufacturing Site” refers to a “Manufacturer” that produces, prepares, or propagates “Edible Cannabis Products.”

j) “Imminent Health Hazard” means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance or event creates a situation that can cause infection, intoxication, disease transmission, vermin infestation, or hazardous condition that requires immediate correction or cessation of operation to prevent injury, illness, or death.

k) “Manufacturer” means a person that conducts the production, preparation, propagation or compounding of “manufactured cannabis” or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container.

l) “Manufactured Cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

m) “Manufacturing site” means a location that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by

a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

n) “Medical cannabis,” “medical cannabis product” or “cannabis product” means any product containing cannabis, including but not limited to flowers, buds, oils, tinctures, concentrates, extractions, and edibles intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this Chapter, medical cannabis does not include industrial hemp as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

o) “Medical Cannabis Identification Card” or “Identification Card” means a document issued by the State Department of Health Services pursuant to California Health and Safety Code Sections 11362.7 *et seq*. that identifies a person authorized to engage in the medical use of cannabis and the person's designated primary caregiver, if any, or identifies a person as a primary caregiver for a medical cannabis patient.

p) “Nonsale Distribution” means to give a medical cannabis product or coupon at no cost or at a nominal cost of less than 25 percent of the full retail value of the item exclusive of taxes and fees to a person who is not a dispensary.

q) “Permittee” means the “Person” acting as the owner, proprietor, manager, or operator of a medical cannabis dispensary who obtains a permit pursuant to this Article.

r) “Primary caregiver” shall have the same definition as California Health and Safety Code Section 11362.7 *et seq*., and as may be amended, and which defines “primary caregiver” as an individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include a licensed clinic, a licensed health care facility, a residential care facility, a hospice, or a home health agency as allowed by California Health and Safety Code Section 11362.7(d)(1-3). A primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Sections 6922, 7002, 7050, or 7120 of the Family Code.

s) “Qualified patient” shall have the same definition as California Health and Safety Code Section 11362.7 *et seq*., and as may be amended, and which states that a “qualified patient” means a person who is entitled to the protections of California Health and Safety Code Section 11362.5, but who does not have a valid medical cannabis identification card. For the purposes of this Article, a “qualified patient who has a valid identification card” shall mean a person who fulfills all of the requirements to be a “qualified patient” under California Health and Safety Code Section 11362.7 *et seq*. and also has a valid medical cannabis identification card.

**Sec. 14-6-040. Medical Cannabis Dispensary and Edible Cannabis Product Manufacturing Site Permits.**

a) No person shall operate in the county, any medical cannabis dispensary or any edible cannabis product manufacturing site or any other enterprise or establishment in which edible cannabis product is manufactured or offered for sale or sold, without a valid permit issued in accordance with this Article and a valid permit as required in Sonoma County Code Section 26-88-126(c). Such permits shall be displayed prominently in or upon the place of business for which it is issued.

b) All applications for medical cannabis dispensary or edible cannabis product manufacturing site permits shall be on a form supplied by the department and shall be accompanied by the applicable fee(s), as described in Section 14-6-050 and Section 14-6-060. The applicant for medical cannabis dispensary permit or edible cannabis product manufacturing site permit shall set forth, under penalty of perjury, the following on the permit application:

    1. The proposed location of the medical cannabis dispensary or the edible cannabis product manufacturing site.
    2. Approved use permit number as issued by the appropriate planning agency.
    3. The name and residence address of each person applying for the permit and any other person who will be engaged in the management of the medical cannabis dispensary or edible cannabis product manufacturing site.
    4. A unique identifying number from at least one government issued form of identification such as a social security card, a state driver's license or identification card, or a passport for each person applying for the permit and any other person who will be engaged in the management of medical cannabis dispensary or edible cannabis product manufacturing site.
    5. Written evidence that each person applying for the permit, and any other person who will be engaged in the management of medical cannabis dispensary or edible cannabis product manufacturing site is at least 21 years of age.
    6. The Director is hereby authorized to require in the permit application any other information including but not limited to any information necessary to discover the truth of the matters set forth in the application.

c) A permit to operate shall not be issued by the department until its inspection has determined that the proposed medical cannabis dispensary or edible cannabis product manufacturing site and its method of operation meet the specifications and conform to the provisions of Sonoma County Code Chapters 14 and 26, and California Health and Safety Code Section 11362.5 *et seq*.

d) All permits for medical cannabis dispensaries and edible cannabis product manufacturing sites shall expire on the annual renewal date. Permits are valid only for the person, location, and type of sales or activity approved. Permits shall not be transferable upon change of ownership of the dispensary or manufacturing site.

e) In recommending the granting or denying of a permit and in granting or denying the same, the Director shall give particular consideration to the capacity, capitalization, complaint history of the applicant and any other factors that in their discretion he or she deems necessary to the peace and order and welfare of the public.

f) No medical cannabis dispensary permit or edible cannabis product manufacturing site permit shall be issued under this Article if the Director finds:

1. That the applicant has provided materially false documents or testimony; or
2. That the applicant has not complied fully with the provisions of this Article or any county and state codes, laws and regulations; or
3. That the applicant has not obtained a permit from Sonoma County Planning Resource Management Department and all other approvals as required by the Agency Having Jurisdiction; or
4. That the operation as proposed by the applicant, if permitted, does not comply with all applicable laws, including, but not limited to, the Building, Planning, Housing, Police, Fire, and Health Codes of the County, including the provisions of this Article and regulations issued by the Director pursuant to this Article; or
5. That a permit for the operation of a medical cannabis dispensary or medical cannabis manufacturing site permit or a County use permit, which permit(s) had been issued to the applicant or to any other person who will be engaged in the management of the medical cannabis dispensary or medical cannabis manufacturing site permit has been revoked, unless more than two years have passed from the date of the revocation to the date of the application; or
6. That the County has revoked a permit for the operation of a business in the County which permit had been issued to the applicant or to any other person who will be engaged in the management of the medical cannabis dispensary or medical cannabis manufacturing site permit unless more than two years have passed from the date of the application to the date of the revocation.

g) The Director shall notify the Sheriff's Department, Permit and Resource Management Department, Fire and Emergency Services, Agricultural Commissioner's Office and other appropriate agencies of all approved permit applications.

h) The final permit shall contain the following language: "Issuance of this permit by the County of Sonoma is not intended to and does not authorize the violation of state or federal law."

**Sec. 14-6-050. Fees.**

a) Prior to submitting the medical cannabis dispensary permit or edible cannabis product manufacturing site permit application, each applicant shall submit an operating and facility plan to the Department, along with a plan check fee as established by the current Board of Supervisors' fee resolution.

b) At the time of approval of the facility plan, the applicant shall submit to the Department, the medical cannabis dispensary or edible product manufacturing site application and annual permit fee(s) as established by the current Board of Supervisors' fee resolution. The fee shall be calculated so as to recover the reasonable regulatory cost of administration and enforcement of this Article, including, for example, issuing a medical cannabis dispensary or edible cannabis product manufacturing site permit, administering the permit program, dispensary or manufacturing site inspection and compliance checks, documentation of violations, late fees for delinquent permits, and enforcement proceedings, but shall not exceed the cost of the regulatory program authorized by this Article and by California law. All fees and interest upon proceeds of fees shall be used exclusively to fund administration and enforcement of this Article. Fees are nonrefundable, except as may be required by law.

c) Each separate location of business shall be deemed a separate enterprise or medical cannabis dispensary or edible product manufacturing site for purposes of this Article.

d) Any permit that has not been reinstated by the annual renewal date will not be valid, due to failure to submit permit fees, and shall be deemed delinquent. Permits that continue to remain delinquent will be subject to late fees at intervals of thirty (30) days and sixty (60) days past the anniversary date. The amount assessed shall be included in the fee schedule approved by resolution of the Board of Supervisors.

e) Conditions requiring additional inspections due to noncompliance with applicable statutes/regulations will incur additional re-inspection service fees as provided in the fee schedule in effect at the time of noncompliance.

**Sec.14-6-060. Operational Requirements for Medical Cannabis Dispensaries.**

a) Medical cannabis dispensaries shall meet all the operating criteria for the dispensing of medical cannabis as is required pursuant to California Health and Safety Code Section 11362.7 *et seq*., by this Article, by the Director's Rules and regulations for the permitting and operation of medical cannabis dispensaries and by all other County Department guidelines.

b) Medical cannabis dispensaries must operate in a permanently constructed structure and may not operate from a vehicle or non-permanent structure.

c) Medical cannabis dispensaries shall sell or distribute only cannabis manufactured and processed in the State of California that has not left the state before arriving at the medical cannabis dispensary with the additional requirement that medical cannabis dispensaries shall sell or distribute only edible cannabis products that have been manufactured and processed in a facility permitted by a local jurisdiction and in compliance with state licensing requirements.

d) It is unlawful for any person or association operating a medical cannabis dispensary under the provisions of this Article to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct, or otherwise, or to permit such dispensary to remain open, or patrons to

remain upon the premises, between the hours of 7 p.m. and 7 a.m. the next day, unless otherwise allowed by the use permit.

e) No medical cannabis product shall be smoked, ingested or otherwise consumed on the premises or in the public right-of-way within twenty-five feet of a medical cannabis dispensary. Medical cannabis dispensaries shall post a sign near their entrances and exits providing notice of this policy.

f) All sales and dispensing of medical cannabis shall be conducted in person on the premises of the medical cannabis dispensary. Deliveries, as defined in this Article and in Health and Safety Code, can only be made by a dispensary in Sonoma County provided the medical cannabis dispensary that delivers medical cannabis or medical cannabis products shall comply with the following:

    1. All employees of a dispensary delivering medical cannabis or medical cannabis products shall carry a copy of the dispensary's current permit authorizing those services with them during deliveries and shall present that permit upon request to county department, state and local law enforcement, employees of regulatory authorities, and other state and local agencies.

    2. During delivery, the permittee shall maintain a physical copy of the delivery request and shall make it available upon request of the department and law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.

    3. The qualified patient or primary caregiver requesting the delivery shall maintain a copy of the delivery request and shall make it available, upon request, to the department and law enforcement officers.

    4. The employee of the dispensary who is delivering medical cannabis or medical cannabis products shall verify and document that the individual taking possession of the product is a qualified patient or primary caregiver.

g) The medical cannabis dispensary shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. Nor shall alcoholic beverages be consumed on the premises or on in the public right-of-way within fifty feet of a medical cannabis dispensary. Dispensaries shall prohibit patrons from entering or remaining on the premises if they are in possession of or are consuming alcoholic beverages or are under the influence of alcohol.

h) The medical cannabis dispensary shall not hold or maintain a permit as a food facility from the County of Sonoma. Food products shall not be sold or consumed on the premises.

i) The medical cannabis dispensary shall not hold or maintain a tobacco retail license to sell tobacco products or tobacco paraphernalia from the County of Sonoma. Tobacco products or tobacco paraphernalia shall not be sold or consumed on the premises.

j) No manufactured edible cannabis products shall be dispensed that contain other addictive substances such as nicotine or caffeine. Minimal amounts of alcohol, in as much as are residual from manufacturing or required solvents for the cannabis containing product, are allowed provided that the alcohol content is 10 percent or less, the amount of alcohol in an individual serving would not create alcohol intoxication with ingestion of a single dose, and the product is clearly labeled with both the alcohol content and a statement that "Warning: this product contains alcohol."

k) The medical cannabis dispensary shall not engage in the Nonsale Distribution of any medical cannabis product. Discounting practices, including the honoring or redeeming coupons to allow a consumer to purchase a medical cannabis product for less than full retail price, sale of product through multiple-package discount for less than full retail price, and provision of a free or discounted item in consideration of purchase of a medical cannabis product are prohibited.

l) Medical cannabis dispensaries may sell or distribute cannabis only to qualified patients with a medical cannabis identification card or a verifiable, written recommendation from a physician for medical cannabis. The medical cannabis dispensary shall maintain records of all qualified patients with a valid identification card and primary caregivers with a valid identification card using only the identification card number issued by the state or County pursuant to California Health and Safety Code Section 11362.7 *et seq*. For qualified patients who present a physician recommendation in lieu of a valid identification card, the medical cannabis dispensary shall maintain a record of qualified patient identifying information in a manner consistent with patient privacy laws.

m) All advertisements must include language stating "Only individuals with legally recognized Medical Cannabis Identification Cards or a verifiable, written recommendation from a physician for medical cannabis may obtain cannabis from medical cannabis dispensaries" written in size 11 font or larger, and must be read in oral advertisements. Advertisements many not cater to youth or children, i.e. no cartoon characters and no depictions of youth utilizing cannabis. Advertisements may not be placed in locations that cater to youth or children.

n) The medical cannabis dispensary shall provide the Director and Agencies Having Jurisdiction the name and phone number of an on-site staff person to whom one can direct notices of complaints or violations.

o) The medical cannabis dispensary shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval by the Director in order to insure that the operation of the medical cannabis dispensary is consistent with the protection of the health, safety and welfare of the community, qualified patients and primary caregivers, and will not adversely affect surrounding uses.

**Sec. 14-6-070. Operational Requirements for Edible Cannabis Product Manufacturing Sites.**

a) Edible cannabis product manufacturing sites shall meet all the operating criteria for the manufacturing of medical cannabis containing edible products as is required pursuant to California Health and Safety Code Section 11362.7 *et seq*., by this Article, by the

Director's Rules and Regulations for the permitting and operation of edible cannabis product manufacturing sites and by all other County Department agency guidelines.

b) No manufactured edible cannabis products shall be produced that contain other addictive substances such as nicotine or caffeine. Minimal amounts of alcohol, in as much as are residual from manufacturing or required solvents for the cannabis containing product, are allowed provided that the alcohol content is 10 percent or less, the amount of alcohol in an individual serving would not create alcohol intoxication with ingestion of a single dose, and the product is clearly labeled with both the alcohol content and a statement that "Warning: this product contains alcohol."

c) Manufactured edible cannabis products shall be:

1. Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain cannabis.
2. Delineated or scored into standardized serving sizes if the cannabis product contains more than one serving and is an edible cannabis product in solid form.
3. Homogenized to ensure disbursement of cannabinoids throughout the product.

d) Manufactured edible cannabis products shall be labeled and in an opaque, resealable, child-resistant and tamper-evident package. Labels and packages of medical cannabis products shall meet the following requirements in addition to any state requirements:

1. Medical cannabis packages and labels shall not be made to be attractive to youth and children.
2. All medical cannabis product labels shall include the following information, prominently displayed and in a clear and legible font:

   i) Manufacture date and source.

   ii) The following statements in bold print: Product contains medical cannabis; Keep out of reach of children and animals; for medical use only; the intoxicating effects of this product may be delayed by up to two hours; and this product may impair the ability to drive or operate machinery. Please use extreme caution.

   iii) A warning if nuts or other known potential allergens are used.

   iv) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total.

   v) Identification of the source and date of cultivation and manufacture.

e) Edible Manufacturing Operations shall not be permitted or operate as a wholesale food manufacturer, retail food facility or cottage food producer.

f) The edible cannabis product manufacturing site shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval by the

Director in order to insure that the operation of the medical cannabis dispensary is consistent with the protection of the health, safety and welfare of the community, qualified patients and primary caregivers, and will not adversely affect surrounding uses.

**Sec. 14-6-080. Permit Program Implementation**

a) The Director shall adopt policies and create operational procedures, operational standards and marking guides for medical cannabis dispensaries and edible cannabis manufacturing sites related to this Article. These shall include, but are not limited to:

   1. A requirement that the operator require employees to wash hands and use sanitary utensils when handling cannabis;
   2. Regulations to reduce the risk to public health of edible cannabis products including requirements parallel to state and local laws regarding preparation, distribution and sale of food and restrictions on manufacturing and sale of edible products that require time-temperature control to keep them safe for human consumption;
   3. Regulations prohibiting the manufacturing, packaging and/or sale of cannabis products that are designed to be especially appealing to children or youth;
   4. Requirements on tracking and reporting of products sold; and
   5. Regulations related to management and disposal of waste products.

b) The Director shall issue rules and regulations regarding the imposition of administrative penalties on medical cannabis dispensaries or edible cannabis product manufacturing sites.

**Sec. 14-6-090. Inspections and Penalties.**

a) The Director shall inspect each medical cannabis dispensary and edible cannabis product manufacturing site no fewer than two times annually, for the purpose of determining compliance with the provisions of this Article, and/or the rules and regulations adopted pursuant to this Article, or in response to a complaint. If informal attempts by the Director to obtain compliance with the provisions of this Article fail, the Director may take the steps outlined in Article I of this Chapter.

b) Every person to whom a permit shall have been granted pursuant to this Article shall post a sign in a conspicuous place in the medical cannabis dispensary or edible cannabis product manufacturing site. The sign shall state that it is unlawful to refuse to permit an inspection by the Department of Health Services, or any city peace, fire, planning, or building official or inspector, conducted during the hours the establishment is open to the public and at all other reasonable times, of the areas of the establishment to which patrons and employees have access.

c) Administrative Citations. In addition to all other legal remedies, criminal or civil, which may be pursued by the county to address any violation of the County Code, this subsection provides for administrative citations, pursuant to the authority conferred by the Government Code, including Section 53069.4. Violations of any provision of the County Code or health permit conditions are subject to administrative citation. Each act,

omission, or condition may be cited as a separate violation and each violation that continues, exists, or occurs on more than one day may constitute a separate violation on each day, at the discretion of the agency having jurisdiction.

1. The Director may issue an administrative citation requiring the owner or operator of a medical cannabis dispensary or edible cannabis manufacturing site to take corrective action as necessary to abate a nuisance, or to protect human health and safety or the environment.
2. An administrative citation shall not be issued for any minor violation, as defined by the Director, which is corrected immediately in the presence of the inspector. Immediate compliance in that manner shall be noted in the inspection report.
3. Any dispensary, dispensary operator, dispensary manager or manufacturer who violates any provision of this Article or any rule or regulation adopted pursuant to this Article may, after being provided notice and an opportunity to be heard, be subject to an administrative citation penalty not to exceed $1,000 for the first violation of a provision or regulation in a two year period, $5,000 for the second violation of the same provision or regulation in a two year period, and $10,000 for the third and subsequent violations of the same provision or regulation in a two year period.
4. Any dispensary, dispensary operator, dispensary manager or manufacture who operates without a health permit shall be subject to an administrative citation penalty of $10,000 for the first offense within two years, $25,000 for the second offense within two years, and $50,000 for the third offense within two years.

d) If a permit is revoked, no application for a medical cannabis dispensary or edible cannabis product manufacturing site may be submitted by the same person for two years.

**Sec. 14-6-100. Immediate Closure**

a) Notwithstanding the provisions of this Chapter, and except as otherwise specifically provided by state law, the enforcement officer may immediately suspend or revoke a health permit if the enforcement officer determines that there is an immediate threat to public health, safety, or welfare and order the medical cannabis dispensary or edible cannabis product manufacturer immediately closed.

b) If interference in the performance of the duty of the enforcement officer occurs, the enforcement officer may temporarily suspend the permit and order the medical cannabis dispensary or edible cannabis product manufacturer immediately closed.

c) The enforcement officer shall serve the permit holder, within forty-eight (48) hours of the suspension or revocation, written notice of the grounds for the immediate suspension or revocation of the health permit. A person may appeal the suspension or revocation by filing a written notice to request a hearing before the hearing officer.

d) If a hearing is requested, it shall be conducted in accordance with Section 14-1-060.

**Sec. 14-6-110. Reporting**

a) At least biennially, commencing in January 2019, the Director shall make a report to the Board of Supervisors that includes the following:

    1. Number and location of medical cannabis dispensaries and medical cannabis manufacturing sites currently permitted and operating in the County;
    2. An estimate of the number of medical cannabis patients currently active in the County;
    3. A summary of the past year's violations of this Article and penalties assessed;
    4. Current health, human and safety data; and
    5. Recommendations to the Board of Supervisors.

b) Upon receipt of this Report, the Board of Supervisors shall consider whether any changes to County Code are warranted.

**Sec. 14-6-120. Severability**

If any section, subsection, sentence, clause or phrase of this Article 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 the Chapter.

**Section II.**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**Section III.**

Adoption and implementation of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that this ordinance may have a significant effect on the environment. Adoption and implementation of the standards, permit requirements, and other measures contained in the ordinance will not result in any direct physical change to the environment on their own. In the alternative, the adoption and implementation of this ordinance is exempt from CEQA pursuant to Section 15308 of the State CEQA Guidelines as an action taken to assure the maintenance, restoration, enhancement, and protection of the environment where the regulatory process involves procedures for protection of the environment. The basis for this determination is that this Ordinance does not in itself approve any construction activities, but instead establishes standards, permit requirements, and other measures that regulate health and safety at medical cannabis dispensaries and edible cannabis product manufacturing sites. These standards, permit requirements, and other measures will assure the protection of human health, which is an aspect of the environment

under Public Resources Code Section 21083(b)(3), by establishing standards and enforcement measures for regulating medical cannabis dispensaries and edible cannabis product manufacturing sites. The Director of the Department of Health Services is directed to file a notice of exemption in accordance with CEQA and the State CEQA Guidelines.

**Section IV.**

This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. A summary of the Ordinance shall be published once before the expiration of fifteen (15) days after passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat,* a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma introduced on the 6th day of December, 2016 and finally passed and adopted this 13th day of December, 2016, on regular roll call of the members of said Board by the following vote:

**Supervisors:**

| Gorin: | Rabbitt: | Zane: | Gore: | Carrillo: |
|---|---|---|---|---|
| Ayes: | Noes: | Absent: | Abstain: | |

**WHEREUPON,** the Chair declared the above and foregoing Ordinance duly adopted and

**SO ORDERED.**

_____

Chair, Board of Supervisors
County of Sonoma

ATTEST:

_____

Sheryl Bratton,
Clerk of the Board of Supervisors

# ORDINANCE NO. (  )

## AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, IMPOSING A CANNABIS BUSINESS TAX ON COMMERCIAL CANNABIS BUSINESS

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

Section 1. Title. This ordinance shall be known as the Cannabis Business Tax Ordinance. This ordinance shall be applicable in the unincorporated territory of the County of Sonoma, which shall be referred to herein as "County."

Section 2. General Tax. The Cannabis Business Tax is enacted solely for general governmental purposes for the County and not for specific purposes. All of the proceeds from the tax imposed by this Chapter shall be placed in the County's general fund and used for general governmental purposes.

Section 3. Purpose of the Ordinance. This ordinance is adopted to achieve the following purposes, among others, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing medical cannabis or medical cannabis products by commercial cannabis businesses in the unincorporated area of the County, pursuant to the state Medical Cannabis Regulation and Safety Act, specifically California Business and Professions Code section 19348, or other enabling legislation;

B. To impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing nonmedical marijuana and marijuana products and accessories by commercial cannabis businesses in the unincorporated area of the County pursuant to the "California Control, Regulate and Tax Adult Use of Marijuana Initiative" approved by the voters in the November 2016 election, or other enabling legislation, notwithstanding if state law uses the term "marijuana" or "cannabis";

C. To impose a tax on lawful commercial cannabis business in accordance with the authority granted by California Revenue and Taxation Code section 7284 to impose a business license tax;

D. To specify the type of tax and rate of tax to be levied and the method of collection; and

E. To comply with all requirements for imposition of a general tax, such tax to become operative only if submitted to the electorate and approved by a majority vote of the voters voting in an election on the issue.

Section 4. Definitions. Terms that are not defined in this Chapter shall have the meanings ascribed to them in Section 26-02-140 (Definitions) of Chapter 26 of the Sonoma County Code. The following words and phrases shall have the meanings set forth below when used in this Chapter:

A. "Business" shall include all activities engaged in or caused to be engaged in within the unincorporated area of the County, 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. "Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, or any other strain or varietal of the genus Cannabis that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code. Cannabis is classified as an agricultural product separately from other agricultural crops.

C. "Cannabis cultivation area" means the total aggregate area(s) of cannabis cultivation on a single premise as measured around the outermost perimeter of each separate and discrete area of cannabis cultivation at the dripline of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, the exterior dimensions of garden beds, garden plots, hoop houses, green houses, and each room or area where cannabis plants are grown, as determined by the review authority.

D. "Cannabis nursery" means a location that produces cannabis clones, immature plants, and seeds for wholesale distribution, used specifically for the planting, propagation, and cultivation of cannabis.

E. "Cannabis product" means any product containing cannabis, including, but not limited to, flowers, buds, oils, tinctures, concentrates, extractions, and edibles intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, medical cannabis does not include industrial hemp as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

F. “Commercial cannabis business” means any commercial business activity relating to cannabis, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, and selling (wholesale and/or retail sales) of cannabis and any ancillary products and accessories in the unincorporated area of the County, whether or not carried on for gain or profit.

G. “Commercial cannabis business tax,” “business tax,” or “commercial cannabis tax” means the tax due pursuant to this Chapter for engaging in commercial cannabis business in the unincorporated area of the County.

H. “Commercial cannabis cultivation” means cultivation conducted by, for, or as part of a commercial cannabis business.

I. “County permit” means a permit issued by the County to a person to authorize that person to operate or engage in a commercial cannabis business.

J. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. For purposes of this Chapter, “cultivation” does not include a cannabis nursery.

K. “Delivery” means the commercial transfer of cannabis or cannabis products from a dispensary.

L. “Dispensary” means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including a person that delivers cannabis and cannabis products as part of a retail sale. Where a dispensary performs its functions through a technology platform of any type or character, the technology platform shall also be deemed a dispensary for purposes of this Chapter, and shall have the same duties and liabilities as the principal. Compliance with the provisions of this Chapter by either the principal or the technology platform shall, however, be considered compliance by both.

M. “Distributor” or “distribution” or “distribution facility” means a person involved in the procurement, sale, and/or transport of cannabis and cannabis products between two or more cannabis businesses.

N. “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, barter or any other form of compensation.

O. “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 unincorporated area of the County or coming into the unincorporated area of the County from an outside location to engage in such activities. A person shall be deemed engaged in business within the County if:

1. Such person or person's employee maintains a fixed place of business within unincorporated area of the County for the benefit or partial benefit of such person;

2. Such person or person's employee owns or leases real property within the unincorporated area of County for business purposes;

3. Such person or person's employee regularly maintains a stock of tangible personal property in the unincorporated area of County for sale in the ordinary course of business;

4. Such person or person's employee regularly conducts solicitation of business within the unincorporated area of County;

5. Such person or person's employee performs work or renders services in the unincorporated area of County; and

6. Such person or person's employee utilizes the streets within the unincorporated area of County 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."

P. "Evidence of doing business" means evidence such as, without limitation, use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a cannabis business in the unincorporated area of County.

Q. "Fiscal year" means July 1 through June 30 of the following calendar year.

R. "Gross Receipts," except as otherwise specifically provided, means the total amount actually received or receivable from all sales; 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, 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 there from 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 where 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. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;

9. Transactions between a partnership and its partners;

10. Receipts from services or sales in transactions between affiliated corporations. An affiliated corporation is a corporation:

a. The voting and non-voting 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 non-voting stock of such other corporation; or

c. At least eighty percent of the voting and non-voting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had.

11. 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 (9) above;

12. 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;

13. 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.

S. “Indoor” means indoor cultivation of cannabis using exclusively artificial lighting.

T. “Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of manufactured cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

U. “Mixed-Light” means cultivation of cannabis using any combination of natural and supplemental artificial lighting. Greenhouses, hoop houses, hot houses and similar structures or light deprivation systems are included in this category.

V. “Outdoor” means cultivation of cannabis using no artificial lighting conducted in the ground or in containers outdoors with no covering. Outdoor cultivation does not include greenhouses, hoop houses, hot houses or similar structures.

W. “Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, tribe or any other group or combination acting as a unit and includes the plural as well as the singular number.

X. "Personal cannabis cultivation" means cultivation within the residency, plant number, and/or square footage limitations provided in Chapter 26-88-258 exclusively for noncommercial.

Y. "Sale" means and includes any sale, exchange, or barter.

Z. "Square foot" or "square footage" means the maximum amount of cannabis cultivation area for commercial cannabis cultivation authorized by a County permit issued to a person engaging in commercial cannabis business, or by a state license in the absence of a County permit or license, not deducting for unutilized square footage, and shall be the basis for the tax base for cultivation.

AA. "State" means the State of California.

BB. "State license," "license," or "registration" means a state license issued pursuant to California Business & Professions Code Sections 19300, et seq. or other applicable state law.

CC. "Testing laboratory" means a facility, entity, or site in the state that offers or performs testing of cannabis or cannabis products.

DD. "Transporter" means a person engaged in the transfer of cannabis or cannabis products from the business location of one commercial cannabis business to the business location of another commercial cannabis business, for the purposes of conducting commercial cannabis activity.

EE. "Treasurer-Tax Collector" means the Treasurer-Tax Collector of the County of Sonoma, his or her deputies or any other County officer charged with the administration of the provisions of this Chapter.

Section 5. Tax Imposed. There is established and imposed a cannabis business tax at the rates set forth in this Chapter. Every person who is engaged in commercial cannabis business in the unincorporated area of the County shall pay an annual cannabis business tax.

A. Tax on Commercial Cannabis Cultivation

1. Every person who is engaged in commercial cannabis cultivation in the unincorporated area of the County shall pay an annual commercial cannabis business tax either: (1) at a rate of up to $10.00 per square foot of outdoor cultivation area, $38.00 per square foot of indoor cultivation area, and $22.00 per square foot of mixed-light cultivation area, or (2) at a rate of up to ten percent of gross receipts per fiscal year. When the rate is determined on a square footage basis, on July 1 of each fiscal year succeeding the year of imposition of a square footage based tax on commercial cannabis cultivation, the amount of the tax shall

be increased by the most recent change in the annual average of the Consumer Price Index ("CPI") for all urban consumers in the San-Francisco-Oakland-San Jose areas as published by the United States Government Bureau of Labor Statistics. However, no CPI adjustment resulting in a decrease of any tax imposed by this subsection shall be made. The tax under this subsection shall not be imposed unless and until the Board of Supervisors, by ordinance, takes action to: (1) specify whether the tax on commercial cannabis cultivation will be imposed on a square footage or gross receipts basis, and (2) set a tax rate not to exceed the maximum rates established herein.

2. For cultivation license types based on plant count, the square footage based tax will be calculated using up to 100 square feet per plant allowed under the permit.

3. Notwithstanding the maximum tax rate established in Subsection (A)(1), the Board of Supervisors may, in its discretion, at any time by ordinance, implement a lower tax rate for all persons engaged in commercial cannabis cultivation in the unincorporated area of the County or establish differing tax rates for different categories of commercial cannabis cultivation, including commercial cannabis cultivation for medical or adult use, subject to the maximum rate established in Subsection (A)(1). The Board of Supervisors may, by ordinance, also increase any such tax rate from time to time, not to exceed the maximum tax rate established in Subsection (A)(1). Notwithstanding the maximum square foot per plant established in Subsection (A)(2) for cultivation license types based on plant count, the Board of Supervisors may, in its discretion, at any time by ordinance, implement a lower square footage per plant, and may, by ordinance, also increase such square footage from time to time, not to exceed the maximum square footage established in Subsection (A)(2).

4. Pursuant to Subsection (A), the commercial cannabis business tax on commercial cannabis cultivation is to be imposed on a square footage basis, and is set at the following rates, with permit types as defined in Chapter 26 of the Sonoma County Code:

| **Permit Type** | **Rate Per Square Foot** |
|---|---|
| **Outdoor** | |
| 1C: Cottage | $0.50 |
| 1: Specialty | $1.40 |
| 2: Small | $2.10 |
| 3: Medium | $3.50 |
| **Indoor** | |
| 1C: Cottage | $1.88 |
| 1A: Specialty | $7.50 |
| 2A: Small | $11.25 |
| 3A: Medium | $18.75 |
| **Mixed Light** | |

| | |
|---|---|
| 1C: Cottage | $1.08 |
| 1B: Specialty | $4.32 |
| 2B: Small | $6.48 |
| 3B: Medium | $10.80 |

5. Pursuant to Subsection (A), the square footage based tax for cultivation license types based on plant count will be calculated using 25 square feet per plant allowed under the permit.

B. Tax on All Other Commercial Cannabis Business

1. Every person who is engaged in commercial cannabis business, including but not limited to as a distributor, distribution facility, testing laboratory, transporter, manufacturer, nursery, dispensary, or engaging in delivery of cannabis in the unincorporated area of the County shall pay an annual commercial cannabis business tax at a rate of up to ten percent of gross receipts per fiscal year. The tax under this chapter shall not be imposed unless and until the Board of Supervisors, by ordinance, takes action to set a tax rate not to exceed the maximum rates established herein.

2. Notwithstanding the maximum tax rate established in Subsection (B)(1), the Board of Supervisors may, in its discretion, at any time by ordinance, implement a lower tax rate for all persons engaged in commercial cannabis business in the unincorporated area of the County or establish differing tax rates for different categories of commercial cannabis business, including commercial cannabis business for medical or adult use, subject to the maximum rate established in Subsection (B)(1). The Board of Supervisors may, by ordinance, also increase any such tax rate from time to time, not to exceed the maximum tax rate established in Subsection (B)(1).

3. Pursuant to Subsection (A), the cannabis business tax on every person who is engaged in commercial cannabis business, including but not limited to as a distributor, distribution facility, testing laboratory, transporter, manufacturer, cannabis nursery, dispensary, or engaging in delivery of cannabis in the unincorporated area of the County is set at the following rates:

| **Operator** | **Percentage of Gross Receipts** |
|---|---|
| Manufacturer | 5% |
| Transporter | 0% |
| Distributor | 0% |
| Cannabis Nursery | 0% |
| Dispensary | 0% |
| Testing Laboratory | 0% |

Section 6. Reporting and Remittance of Tax. The commercial cannabis business tax imposed by this Chapter shall be imposed on a fiscal year basis and shall be due and payable in quarterly installments as follows:

A. Each person owing a commercial cannabis business tax, and each person on whom a 0% tax rate is imposed, shall, on or before the last day of the month following the close of each fiscal year quarter, prepare and submit a tax statement on the form prescribed by the Treasurer-Tax Collector and remit to the Treasurer-Tax Collector the tax due. The tax due shall be no less than the quarterly installment due, but the taxpayer may at any time pay the tax due for the entire fiscal year. Each business shall pay on or before the last day of the month following the close of each calendar quarter.

B. If the commercial cannabis business tax is owed on commercial cannabis cultivation, and the Board has specified that the square footage basis shall apply, the square footage tax due shall be paid based on the square footage of cultivation authorized by the County permit. The tax statement may include a request for adjustment of the tax due to square footage authorized but not utilized for cultivation, and/or crop loss, along with evidence substantiating the square footage utilized and/or crop loss. The decision to prorate or adjust the tax will be made at the sole discretion of the County. A fee may be adopted by the Board of Supervisors and collected by the agency having jurisdiction or the Treasurer-Tax Collector to pay for the cost of investigating, verifying, and opining on such request for adjustment of the tax.

C. All tax statements shall be completed on forms prescribed by the Treasurer-Tax Collector.

D. Tax statements and payments for all outstanding taxes owed the County are immediately due to the Treasurer-Tax Collector upon cessation of business for any reason.

E. The Treasurer-Tax Collector may, at his or her discretion, establish shorter or longer report and payment periods for any taxpayer as the Treasurer-Tax Collector deems necessary to insure collection of the tax.

F. The Treasurer-Tax Collection may, as part of administering the tax and in his or her discretion, modify the form of payment and take such other administrative actions as needed to facilitate collection of the tax.

Section 7. Registration. In order that the County will have an accurate record of parties collecting the cannabis business tax, prior to commencing business each person engaged in commercial cannabis cultivation and commercial cannabis business shall register such cannabis business with the Treasurer-Tax Collector, submitting any information deemed necessary by the Treasurer-Tax Collector.

Section 8. Payments and Communications – Timely Remittance. Whenever any payment, statement, report, request or other communication is due, it must be received by the Treasurer-Tax Collector on or before the final due date. A postmark will not be accepted as timely remittance. If the due date falls on Saturday, Sunday or a holiday, the due date shall be the next regular business day on which the County is open to the public.

Section 9. 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 received by the Treasurer-Tax Collector on or before the due date as specified in Sections 6 and 8.

Section 10. Notice Not Required By County. The Treasurer-Tax Collector is not required to send a delinquency or other notice or bill to any person subject to the provisions of this Chapter. Failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this Chapter.

Section 11. Penalties and Interest.

A. Any person who fails or refuses to pay any commercial cannabis 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 (25%) 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 at the rate of one and one-half percent (1.5%) per month; and

2. If the tax remains unpaid for a period exceeding one calendar month beyond the due date, an additional penalty equal to twenty-five percent (25%) of the amount of the tax , plus interest at the rate of one and one-half percent (1.5%) per month on the unpaid tax.

3. Interest shall be applied at the rate of one and one-half percent (1.5%) per month on the first day of the month for the full month, and will continue to accrue monthly on the tax until the balance is paid in full.

B. Whenever a check or electronic payment is submitted in payment of a commercial cannabis business tax and the payment is subsequently returned unpaid by the bank for any reason, 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 other 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 unincorporated area of the County, together with applicable penalties and interest calculated in accordance with Subsection (A) above.

D. Any person whose cannabis business tax is delinquent by at least sixty calendar days may be subject to revocation of the County permit associated with the subject cannabis business.

E. The Treasurer-Tax Collector is authorized to make an assessment in the manner provided for in Sections 25 and 26 of the anticipated tax liability for up to the following four quarters if any person has failed to file one or more returns or payments, or who has filed one or more delinquent returns or payments, in any twelve (12) month period, without curing the failure or delinquency within 60 days of the original due date after written notice from the Treasurer-Tax Collector of the failure or delinquency. Failure to remit the anticipated tax within 60 days of the notice of assessment shall be grounds for revocation of the County permit associated with the subject cannabis business.

Section 12. Waiver of Penalties. The Treasurer-Tax Collector may waive the first and second penalties of twenty-five percent each imposed upon any person if:

A. The person provides evidence satisfactory to the Treasurer-Tax Collector 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 county prior to applying to the Treasurer-Tax Collector 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.

Section 13. Refunds and Credits.

A. No refund shall be made of any tax collected pursuant to this Chapter, except as provided in Section 14.

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.

Section 14. Refunds and Procedures.

A. Whenever the amount of any commercial cannabis business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously collected or received by the County 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 Treasurer-Tax Collector within one (1) year of the date the tax was originally due and payable.

B. The Treasurer-Tax Collector, his or her deputies or any other County officer charged with the administration of this Chapter 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 Treasurer-Tax Collector to do so. The Treasurer-Tax Collector may collect a fee adopted by the Board of Supervisors to pay for the cost of examination and audit should the books and records be provided in a form insufficient to allow the Treasurer-Tax Collector to make a determination on the claim for refund.

C. In the event that the commercial cannabis business tax was erroneously paid and the error is attributable to the County, the County shall refund the amount of tax erroneously paid up to one (1) year from when the error was identified.

Section 15. Exemptions from the Tax.

A. The provisions of this Chapter shall not apply to personal cannabis cultivation.

B. The provisions of this Chapter shall not apply to personal use of cannabis that is specifically exempted from state licensing requirements, that meets the definition of personal use or equivalent terminology under state law, and for which the individual receives no compensation whatsoever related to that personal use.

Section 16. Administration of the Tax.

A. It shall be the duty of the Treasurer-Tax Collector to collect the taxes, penalties, fees, and perform the duties required by this Chapter.

B. For purposes of administration and enforcement of this Chapter generally, the Treasurer-Tax Collector may from time to time promulgate such administrative rules and procedures consistent with the purpose, intent, and express terms of this Chapter as he or she deems necessary to implement or clarify such provisions or aid in enforcement.

C. The Treasurer-Tax Collector may take such administrative actions as needed to administer the tax, including but not limited to:

1. Provide to all commercial cannabis business taxpayers forms for the reporting of the tax;

2. Increase tax rates in accordance with this Chapter;

3. Provide information to any taxpayer concerning the provisions of this Chapter;

4. Receive and record all taxes remitted to the County as provided in this Chapter;

5. Maintain records of taxpayer reports and taxes collected pursuant to this Chapter;

6. Assess penalties and interest to taxpayers pursuant to this Chapter;

7. Determine amounts owed and enforce collection pursuant to this Chapter.

Section 17. Enforcement – Action to Collect.

A. Any taxes, penalties and/or fees required to be paid under the provisions of this Chapter shall be deemed a debt owed to the County. Any person owing money to the County under the provisions of this Chapter shall be liable in an action brought in the name of the County for the recovery of such debt. The provisions of this Section shall not be deemed a limitation upon the right of the County to bring any other action including criminal, civil and equitable actions, based upon the failure to pay the tax, penalties and/or fees imposed by this Chapter or the failure to comply with any of the provisions of this Chapter.

B. In addition to any other remedies available under federal, state, or local law, if any amount required to be paid to the County under this Chapter is not paid when due, the Treasurer-Tax Collector may, within three (3) years after the amount is due record a certificate of lien specifying the amount of taxes, fees and penalties due, and the name and address of the person as it appears on the records of Treasurer-Tax Collector. The lien shall also specify that the Treasurer-Tax Collector has complied with all provisions of this Chapter in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid, together with penalties thereon, constitutes a lien upon all real property in the County owned by the person, or subsequently acquired by the person before the lien expires. The lien has the force, effect, and priority of a judgment lien and shall continue for ten (10) years from the filing of the certificate unless sooner released or otherwise discharged. A fee may be adopted by the Board of Supervisors and collected by the Treasurer-Tax Collector to pay for the cost of recording and administering the lien.

C. At any time within three (3) years after any person is delinquent in the payment of any amount herein required to be paid or within three (3) years after the last recording of a certificate of lien under Subsection B of this Section, the Treasurer-Tax Collector may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the County under this Chapter. The warrant shall be directed to the Sheriff 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 and sale pursuant to a writ of execution. The Treasurer-Tax Collector may pay or advance to the Sheriff, the same fees, commissions and expenses for service provided by law for similar services pursuant to a writ of execution. The Treasurer-Tax Collector may approve the fees for publication in the newspaper.

D. At any time within three (3) years after recording a lien against any person, if the lien is not discharged and released in full, the Treasurer-Tax Collector may forthwith seize any asset or property, real or personal (including bank account), of the person and sell at public auction the asset or property, or a sufficient part of it to pay the amount due together with any penalties and interest imposed for the delinquency and any cost incurred on account of the seizure and sale. Assets or property of the person subject to seizure and sale subject to this Chapter shall not include any assets or property which is exempt from execution under the provisions of Code of Civil Procedure.

Section 18. Apportionment. If a person subject to the tax is operating both within and outside the unincorporated County, it is the intent of the County to apply the commercial cannabis business tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in the County. For purposes of apportionment as may be required by law, the Treasurer-Tax Collector may promulgate administrative procedures for apportionment in accordance with state law.

Section 19. Constitutionality and Legality. This tax is intended to be applied in a manner consistent with the United States and California Constitutions and state law. None of the tax provided for by this Chapter shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection and due process clauses of the Constitutions of the United States or the State of California or a violation of any other provision of the California Constitution or state law.

Section 20. Audit and Examination of Records and Equipment.

A. The Treasurer-Tax Collector shall have the power to audit and examine all books and records of persons engaged in cannabis businesses, including both state and federal income tax returns, California sales tax returns, bank statements, or other evidence documenting the gross receipts of persons engaged in cannabis businesses, and, where necessary, all equipment, of any person engaged in cannabis businesses in the County, for the purpose of ascertaining the amount of commercial cannabis 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 this Chapter. If such person, after written demand by the Treasurer-Tax Collector, refuses to make available for audit, examination or verification such books, records or equipment as the administrator requests, the Treasurer-Tax Collector 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 25 and 26 of any taxes estimated to be due. The Treasurer-Tax Collector may collect a fee adopted by the Board of Supervisors to pay for the cost of examination and audit should the books and records be provided in a form insufficient to allow the Treasurer-Tax Collector to make a determination of tax due.

B. It shall be the duty of every person liable for the collection and payment to the County of any tax imposed by this Chapter to keep and preserve, for a period of at

least three (3) 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 County, which records the Treasurer-Tax Collector or his/her designee shall have the right to inspect at all reasonable times.

Section 21. 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 permit or license 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 County, 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 County. Any references made or contained in any other title or chapter of this code to any licenses, license taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other titles or chapters of this code.

Section 22. Change of Ownership.

A. In the event that there is a change in ownership of any cannabis business, the new owner is required to submit an updated registration form to the Treasurer-Tax Collector.

B. Unless otherwise provided by law, upon the sale of any cannabis business:

(i) It is the joint and several liability of both the seller and buyer to remit any tax due up until the date of sale; and

(ii) A Certificate of Delinquent Cannabis Business Tax Lien may be filed against both the seller and/or buyer in an amount determined by the Treasurer-Tax Collector.

C. Following any change of ownership, the new owner is subject to an audit by the Treasurer-Tax Collector or his or her designee.

D. Any owner of a cannabis business required to collect or pay the cannabis business tax may apply for and receive, within 90 days of application, a Tax Clearance Certificate, provided that the taxes and any penalties are paid in full for the time period specified.

Section 23. Payment of Tax Does Not Authorize Unlawful Business.

A. The payment of a commercial cannabis business tax required by this Chapter, and its acceptance by the County, 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 state laws.

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 local or state law.

Section 24. Deficiency Determinations. If the Treasurer-Tax Collector 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 (3) 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 (3) 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 25 and 26.

Section 25. Failure to Report – Nonpayment, Fraud.

A. Under any of the following circumstances, the Treasurer-Tax Collector may make and give notice of an assessment of the amount of tax owed by a person under this Chapter at anytime:

1. If the person has not filed a complete statement required under the provisions of this Chapter;

2. If the person has not paid the tax due under the provisions of this Chapter;

3. If the person has not, after demand by the Treasurer-Tax Collector, filed a corrected statement, or furnished to the Treasurer-Tax Collector 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 Treasurer-Tax Collector determines that the nonpayment of any business tax due under this Chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this Chapter and any other penalties allowed by law.

B. The notice of assessment shall separately set forth the amount of any tax known by the Treasurer-Tax Collector to be due or estimated by the Treasurer-Tax Collector, after consideration of all information within the Treasurer-Tax Collector'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.

Section 26. Tax Assessment – Notice Requirements. The notice of assessment shall be served upon the person either by personal delivery, 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 Treasurer-Tax Collector for the purpose of receiving notices provided under this Chapter; or, should the person have no address registered with the Treasurer-Tax Collector 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.

Section 27. Tax Assessment – Hearing, Application, and Determination. Within ten (10) calendar days after the date of service the person may apply in writing to the Treasurer-Tax Collector for a hearing on the assessment. If application for a hearing before the County is not made within the time herein prescribed, the tax assessed by the Treasurer-Tax Collector shall become final and conclusive. Within thirty (30) business days of the receipt of any such application for hearing, the Treasurer-Tax Collector shall cause the matter to be set for hearing before him or her not later than thirty-five (35) business days after the receipt of the application, unless a later date is agreed to by the Treasurer-Tax Collector and the person requesting the hearing. Notice of such hearing shall be given by the Treasurer-Tax Collector to the person requesting such hearing not later than five (5) business days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the Treasurer-Tax Collector should not be confirmed and fixed as the tax due. After such hearing the Treasurer-Tax Collector shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 26 for giving notice of assessment. The amount determined to be due shall be payable after thirty (30) calendar days of written notice unless it is appealed to the Board of Supervisors.

Section 28. Appeal Procedure. Any taxpayer aggrieved by any decision of the Treasurer-Tax Collector with respect to the amount of tax, interest, penalties and fees, if any, due under this Chapter may appeal to the Board of Supervisors by filing a notice of appeal with the Clerk of the Board of Supervisors within ten (10) calendar days of the serving or mailing by the Treasurer-Tax Collector of the determination of tax due. The Clerk shall fix a time and place for hearing such appeal, and the Clerk shall give notice in writing to such operator at the last known place of address. The Treasurer-Tax Collector shall present the matter to the Board of Supervisors and include evidence submitted by the taxpayer. The Treasurer-Tax Collector shall also include proposed findings and a resolution of the appeal. At the hearing, both the Treasurer-Tax Collector and the taxpayer shall have an opportunity to explain their case and introduce other statements or evidence. The Board of Supervisors may impose reasonable time limits on each party’s presentation. The finding of the Board of Supervisors shall be final and conclusive and shall be served upon the appellant in the manner prescribed by this chapter for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

Section 29. 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.

Section 30. Violation Deemed Misdemeanor. Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and shall be punishable therefore as provided by Chapter 1, Section 7 of the Sonoma County Code.

Section 31. Severability. If any provision of this Chapter, or its application to any person or circumstance, is 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. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 32. Remedies Cumulative. All remedies and penalties prescribed by this Chapter or which are available under Chapter 1 of the Sonoma County Code and any other provision of law or equity are cumulative. The use of one or more remedies by the County shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter.

Section 33. Amendment or Repeal. This Chapter may be repealed or amended by the Board of Supervisors without a vote of the people to the extent allowed by law. However, as required by Article XIII C of the California Constitution, voter approval is required for any amendment that would increase the rate of any tax levied pursuant to this Chapter above the maximum rates established by this Chapter. The people of the County of Sonoma 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 that set by this Chapter, if the Board of Supervisors has acted to reduce the rate of the tax;

B. An action that interprets or clarifies the methodology of 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; or

C. The collection of the tax imposed by this Chapter, even if the County had, for some period of time, failed to collect the tax; or

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 Board of Supervisors' adoption of an ordinance, as authorized by Section 5, to raise the tax rate provided that the rate is not raised to a rate higher than the maximums established herein.

Section 34. 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 County would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

Section 35. Effective and Operative Dates. This ordinance shall take effect immediately upon its adoption by a majority of voters at the March 7, 2017 election. The operative date of Section 5 shall be April 6, 2017.

In regular session of the Board of Supervisors of the County of Sonoma introduced on the 6th day of December, 2016, and finally passed and adopted this 13th day of December, 2016, on regular roll call of the members of said Board by the following vote:

**SUPERVISORS:**

Gorin: ___ Rabbitt: ____ Zane: ____ Gore: ____ Carrillo:___

Ayes: _____ Noes: _____ Absent: _____ Abstain: ____

**WHEREUPON,** the Chair declared the above and foregoing Ordinance duly adopted and

**SO ORDERED.**

_____
Chair, Board of Supervisors
County of Sonoma

ATTEST:

_____
Sheryl Bratton,
Clerk of the Board of Supervisors