



**City of St. Helena
Special Planning Commission
Special Meeting
Thursday, September 29, 2022 @ 6:00 PM
Vintage Hall Board Room - Second Floor
465 Main Street, St. Helena**

PLEASE NOTE: Any person who wishes to speak regarding an item on the agenda or make a comment under the "Oral Communication" portion of the agenda may do so, but please observe the time limit of four minutes.

Simultaneous Spanish interpretation services during meetings can be scheduled upon request. To ensure interpreters are available, requests must be made at least 72 hours in advance by calling the Office of the City Clerk at (707) 968-2640 or emailing cityclerk@cityofstheleena.org. The schedule of upcoming meetings and published meeting agendas can be found on the City of St. Helena website at <https://stheleena.civicweb.net/portal/>.

Servicios de interpretación en español durante la reunión pueden ser solicitados por el público. Para asegurar que los intérpretes estén disponibles, los servicios tienen que ser solicitados al menos 72 horas antes de la reunión llamando a la oficina de la Secretaria de la Ciudad al (707) 968-2640 o por correo electrónico a cityclerk@cityofstheleena.org.

El horario de las reuniones publicadas y próximas puede ser localizado en el sitio de web de la Ciudad en <https://stheleena.civicweb.net/portal/>.

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1. PLEDGE OF ALLEGIANCE
2. CALL TO ORDER AND ROLL CALL
Chair: John Ponte
Vice Chair: Autumn Anderson
Commissioners: Rosaura Segura, Marika Rothfeld and Christopher Warner

City staff present at the meeting will be noted in the minutes.
3. PUBLIC FORUM:
Under California law, public comments at special meetings are limited to subjects on the agenda only. Therefore public comment will take place during consideration of the item. Each person's comments shall be limited to 4 minutes.
4. CONSENT ITEMS
Members of the Commission or the public may ask that any items be considered individually for purposes of considering alternative action, for extended discussion, or for public comment. Unless that is done, one motion may be used to adopt all recommended actions. (Roll Call Vote)
 - 4.1. Approval of Minutes: September 6, 2022 5 - 8
[Planning Commission Minutes 09.06.22](#)
5. PUBLIC HEARINGS
 - 5.1. Request by LMR Destinations LLC for a Use Permit Amendment and Development Agreement Amendment approval in order to amend the 9 - 136

storm water drainage improvement requirements and provide additional funding for water conservation on the property located at 1000 Mills Lane in the Service Commercial (SC) and Twenty-acre Agriculture (A-20) districts.

CEQA Determination: The City has determined that none of the conditions specified in State CEQA Guidelines section 15162 requiring preparation of a subsequent or supplemental EIR or MND would occur.

Prepared By: Maya DeRosa, Community Development Director

Recommendation:

For the reasons described above, staff recommends that the Planning Commission:

1. Find that none of the conditions specified in State CEQA Guidelines section 15162 require the preparation of a subsequent or supplemental EIR or MND and no additional environmental review is required; and
2. Adopt the attached resolution recommending the City Council make specific findings and recommending that the City Council adopt an Ordinance approving a Development Agreement Amendment between the applicant and the City of St. Helena for the LMR Destinations LLC lodging project at 1000 Mills Lane; and
3. Adopt the attached resolution recommending the City Council make specific findings and recommending that the City Council approve a Use Permit Amendment for the LMR Destinations LLC Lodging project at 1000 Mills Lane.

[Staff Report - Farmstead Use Permit Amendment and Development Agreement Amendment](#)
[PPT Presentation](#)

6. NEW BUSINESS

7. SCHEDULED MATTERS

8. DEPARTMENT REPORTS

This is an opportunity for staff to report on or update the Commission on any relevant matters.

9. AGENDA FORCAST

Attached is a summary document of pending projects and up coming and items of priority and interest that will be placed on future agendas. This is also an opportunity for the Commission as a whole to request items be placed on future agendas for discussion. These items should be consistent with, and work to implement adopted Council Goals.

10. ADJOURNMENT

The next Regular Planning Commission meeting is scheduled for October 18, 2022 at 6:00 p.m. in the Vintage Hall Board Room located at 465 Main Street.

This agenda was posted at City Hall, 1480 Main Street, and at Vintage Hall, 465 Main Street, St. Helena, California on September 20, 2022.



Maya DeRosa, Planning & Building Director

Appeal. A person who is dissatisfied with a decision of the Planning Commission may appeal that decision to the City Council pursuant to Municipal Code Section 17.08.180, Appeal procedure. Actions of the Planning Commission will be listed on the City Council agenda the following Tuesday to give the City Council opportunity to review the Planning Commission's decision. Absent of an appeal by the City Council or by a citizen, the appeal period will terminate two weeks after the Planning Commission hearing.

Special Assistance for the Disabled. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call the City Clerk's Office (707) 967-2792. Notification 48 hours prior to the meeting will enable City to make reasonable arrangements to ensure accessibility to this meeting (28 CFR35.102-35.104 ADA Title II). However, City staff will attempt to assist at any time with accessibility. The City Clerk has equipment to assist those with a hearing impairment.

PUBLIC TESTIMONY PROCEDURES

Pursuant to the Government Code Section 54954.3, the public may address the Commission on each agenda item during the Commission's consideration of that item. Each speaker has the option to state his or her name for the record before testifying. Depending on the number of speakers or the interest of the item, the Planning Commission Chairman may also restrict, at his/her discretion, the speaker's time to three minutes. The

Chairman may also restrict public comments if they become irrelevant to the agenda item or repetitious of prior comments. All persons interested may appear and be heard or submit written statements prior to the Planning Commission meeting. Please note that if you challenge the City's decision on any of these matters in court, you may be limited to raising only those issues you or someone else raised at the meeting or in written correspondence delivered to the City at, or prior to, the meeting.

CHALLENGING DECISIONS OF CITY ENTITIES

The time limit within which to commence any lawsuit or legal challenge to any quasi-adjudicative decision made by the City of St. Helena is governed by Section 1094.6 of the Code of Civil Procedure, unless a shorter limitation period is specified by any other provision, including without limitation Government Code section 65009 applicable to many land use and zoning decisions, Government Code section 66499.37 applicable to the Subdivision Map Act, and Public Resources Code section 21167 applicable to the California Environmental Quality Act (CEQA). Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred. Government Code section 65009 and 66499.37, and Public Resources Code section 21167, impose shorter limitations periods and requirements, including timely service in addition to filing.

If a person wishes to challenge the above actions in court, they may be limited to raising only those issues they or someone else raised at the meeting described in this notice, or in written correspondence delivered to the City of St. Helena, at or prior to the meeting. In addition, judicial challenge may be limited or barred where the interested party has not sought and exhausted all available administrative remedies.

SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA

Any supplemental writings or documents distributed to a majority of the Planning Commission regarding any item on this Agenda, after the posting of the Agenda, will be available for public review in the Planning Department's Office located at 1480 Main Street, St. Helena, California, during normal business hours. In addition, such writings or documents will be made available on the City's web site at <http://cityofstheleena.org> and will be available for public review at the respective meeting.

MINUTES
City of St. Helena
Planning Commission Meeting
Tuesday, September 6, 2022 @ 6:00 PM
Vintage Hall Board Room - Second Floor
465 Main Street, St. Helena

A complete video recording of this meeting, except for closed session, can be found at <https://stheleena.civicweb.net/Portal/> or by calling the City Clerk at (707) 967-2792. The Planning Commission video is the official record of the Planning Commission meeting.

Present: Chair John Ponte, Vice Chair Autumn Anderson, Commissioner Rosaura Segura, Commissioner Marika Rothfeld, and Commissioner Christopher Warner

Absent: None

Staff Present: Maya DeRosa, Planning & Building Director, Aaron Hecock, Senior Planner, Chantal Power, Contract Planner and Xinia Gamero, Permit Technician III

1. PLEDGE OF ALLEGIANCE

2. CALL TO ORDER AND ROLL CALL

3. PUBLIC FORUM:

No public comment was received.

4. CONSENT ITEMS

4.1 Approval of Minutes: August 16, 2022

Commissioner Christopher Warner moved to approve the minutes of August 16 with the following amendment to public hearing item 5.1: "Commissioner Warner questioned the staff report's interpretation of the width requirement in the report and asked for clarification. Staff clarified that the staff report would not be a precedent for how the width requirement is interpreted in the future." The motion was seconded by Commissioner Autumn Anderson and on roll call carried by the following vote:

AYES: Autumn Anderson, Rosaura Segura, and Christopher Warner

NOES: None

ABSENT: None

ABSTAIN: John Ponte and Marika Rothfeld

RECUSE: None

5. PUBLIC HEARINGS

5.1 Request by Jay M. Behmke on behalf of 929 Main Street, LLC for approval of a resolution granting a use permit amendment in order to permanently establish

an eating and drinking establishment with retail sales including bottles of wine and accessory non-amplified music in the existing commercial building located at 929 Main Street in the Service Commercial (SC) district.

Prepared By: Aaron Hecock, Senior Planner

No ex parte communication was disclosed between the Commissioners.

Senior Planner Aaron Hecock reported on the item.

Applicant, Jay Behmke addressed the Planning Commission.

No public comment was received.

Commissioner Christopher Warner moved to approve staff recommendation and determine that the project is exempt from the requirements of CEQA pursuant to Section 15301; and accept the required findings and approve the attached resolution granting a use permit amendment in order to permanently establish an eating and drinking establishment with retail sales including bottles of wine and non-amplified indoor music in the existing commercial building located at 929 Main Street in the Service Commercial (SC) district. The motion was seconded by Commissioner Rosaura Segura and on roll call carried by the following vote:

AYES: Autumn Anderson, Rosaura Segura, John Ponte, Marika Rothfeld, and Christopher Warner

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

- 5.2 Request by Garrett Carson to grant approval of a demolition permit and design review for the expansion and remodel of an existing single-family home located at 1512 Stockton Street in the Medium Density Residential (MR) zoning district.
Prepared By: Chantal Power

No ex parte communication was disclosed between the Commissioners.

Planning and Building Director Maya DeRosa disclosed public comment received prior to the meeting by Ken Sharple, 1511 Stockton St., in support of the project.

Contract Planner Chantal Power reported on the item.

No public comment was received.

Commissioner Christopher Warner moved to approve staff recommendation with the following amendments: To remove condition number 15 requiring composition roofing material, and addition of the following condition: "ADU floor

plan must show cooking facilities consistent with SHMC Section 17.116.030 (C- Definitions, 4- Cooking Facility); and Determine that the project is exempt from the requirements of CEQA pursuant to Section 15301; and accept the required findings and approve the attached resolution granting approval of a demolition permit and design review for the proposed construction on the property located at 1512 Stockton Street. The motion was seconded by Commissioner Autumn Anderson and on roll call carried by the following vote:

AYES: Autumn Anderson, Rosaura Segura, John Ponte, Marika Rothfeld, and Christopher Warner

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

6. SCHEDULED MATTERS

- 6.1 Request by Neil Colwell from Well Design Premium Signage for Sign Permit approval to replace existing signage and add a new monument sign on the Central Valley property located at 1100 Vintage Avenue in the Service Commercial (SC) zoning district.

Prepared By: Xinia Gamero, Permit Technician III

Permit Technician Xinia Gamero reported on the item.

Applicant, Neil Colwell addressed the Planning Commission.

No public comment was received.

Commissioner Christopher Warner moved to approve staff recommendation as amended with the following conditions: The sign shall be turned off no later than 10:00pm daily; and the four (4) gooseneck lights shall be constructed/ modified so that the illumination is directed to the sign and not straight downward to the ground as Exhibit 1 of the approved plans show; and determine that the project is exempt from the requirements of CEQA pursuant to Section 15311 of the CEQA Guidelines; and Approve the application for a Planning Commission Sign Permit at 1100 Vintage Avenue permitting the signage described in this report in the compliance with the attached resolution. The motion was seconded by Commissioner Autumn Anderson and on roll call carried by the following vote:

AYES: Autumn Anderson, Rosaura Segura, John Ponte, Marika Rothfeld, and Christopher Warner

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

7. DEPARTMENT REPORTS

8. AGENDA FORCAST

Planning and Building Director Maya DeRosa reported on the following:

- First Joint City Council and Planning Commission meeting to receive public comment on the Draft Zoning Code to be held in October.
- Safety Element released Friday for public review. Special Joint City Council and Planning Commission meeting to be held September 27, 2022 @ 4:00pm.

9. ADJOURNMENT

Chair Ponte adjourned the meeting at **6:59 p.m.**

The September 6, 2022 minutes were approved at the _____ Planning Commission meeting.

APPROVED:

ATTEST:

John Ponte, Chair Planning Commission

Maya DeRosa, AICP
Planning and Building Director



PLANNING COMMISSION REPORT

Planning Commission Meeting of September 29, 2022

FILE NUMBER: PL22-046 DA 2022-001

SUBJECT: Request by LMR Destinations LLC for a Use Permit Amendment and Development Agreement Amendment approval in order to amend the storm water drainage improvement requirements and provide additional funding for water conservation on the property located at 1000 Mills Lane in the Service Commercial (SC) and Twenty-acre Agriculture (A-20) districts.

PREPARED BY: Maya DeRosa, Planning & Building Director

REVIEWED BY: Maya DeRosa, Planning & Building Director

APPROVED BY: Maya DeRosa, Planning & Building Director

APPLICATION FILED:

LOCATION OF PROPERTY: 1000 Mills Lane

APN: 009-070-057

GENERAL PLAN/ZONING: Service Commercial/Agriculture

APPLICANT: LMR Destinations LLC

PHONE: (707) 963-4555

BACKGROUND

On October 13, 2020, the St. Helena City Council approved Resolution No.2020-100 approving a Use Permit and Design Review for a 65-room hotel. Additionally on October 13, 2020, the City Council introduced Ordinance No. 2020-9, approving a Development Agreement (attached) for the subject lodging project and authorized its execution, and adopted that Ordinance on October 27, 2020. The ordinance became effective on November 26, 2020.

Subsequent to these approvals and with the passage of time and conversations about how to address storm water infrastructure, the City found a superior alternative way to

address storm drainage from the project. Please refer to the Project Description below for the details of the change.

PROJECT DESCRIPTION

Amendment to the Development Agreement and Use Permit for the Long Meadow Ranch Lodging Project – 1000 Mills Lane

The City and developer desire to amend certain provisions of the Development Agreement with respect to certain outstanding obligations of Developer under the Development Agreement. The current Development Agreement provides that the Developer would construct Storm Drain Improvements that would extend along Mills Lane and would ultimately discharge into the Napa River. These Storm Drain Improvements were contemplated in the Highway 29 Specific Plan as a means to provide storm water drainage for future development in the Specific Plan area, and were included in the Development Agreement as an additional commitment that the developer agreed to assume in exchange for the vested development rights provided for in the Development Agreement. However, these Storm Drain Improvements are not needed at this time and are not required for this project. The project is designed so that storm water from up to a ten year storm event (i.e., the most severe storm that is likely to occur in a ten year period) would be collected on the project site and infiltrated through underground infiltration chambers maintained as part of the project. If the Storm Drain Improvements are not built, storm water from rains in excess of a ten year storm event can flow into an infiltration system that will be included within the Mills Lane right of way as part of the realignment of Mills Lane. The infiltration system will essentially be a trench that runs adjacent to Mills Lane, and will be designed at a size that will allow it to detain any excess storm water from the project site up to a twenty-five year storm event. Any storm water that would be detained in this infiltration system would then infiltrate into the ground. This is consistent with the storm drainage plan for the project as originally planned, in that the project currently contemplates that storm water inlets from the site into the storm drain would be designed for 25 year storm water flows, and storm water from more severe storm events would flow over land. This change simplifies the storm water infrastructure for this project significantly, and allows for infiltration of storm water runoff from the project. Any savings that the developer receives due to the removal of the requirement to contribute to the cost of the Storm Drain Improvements will instead be put toward the City's cost of developing its recycled water system, or other water conservation measures as deemed appropriate by the City.

The applicant is requesting approval of a Development Agreement Amendment (attached) in order to reflect the revised approach to addressing storm drainage from the project site and the additional monetary contribution toward the City's future recycled water project or other water conservation measures. The Development Agreement Amendment also makes changes to the timing of completion of the recycled water improvements and adds clarifying language regarding reimbursement of certain developer costs in developing public improvements for the benefit of the City, as further described below. Lastly, a Use Permit Amendment is also requested in order to update the previously approved conditions of approval that relate to the storm drain.

No changes to the hotel or onsite amenities is proposed by this request.

ANALYSIS

CEQA

In accordance with the California Environmental Quality Act (CEQA), an Initial Study and Mitigated Negative Declaration (IS/MND) (SCH No. 2020050553) was prepared for the project. The document contains a description of the proposed project, an analysis of potential environmental impacts resulting from the proposed project, as well as mitigation measures intended to reduce potentially significant impacts to less-than-significant levels.

In particular, the IS/MND found that although the proposed project would generate potentially significant impacts related to air quality, biological resources, cultural/tribal resources, hydrology, noise, public services, traffic/transportation, and utilities/service systems, but through the implementation of mitigation measures, all potentially significant impacts would be reduced to less than significant levels. On October 13, 2020, City Council adopted the IS/MND and the Mitigation Monitoring and Reporting Program (MMRP), and approved the project.

On the basis of the whole record, including the IS/MND and MMRP, the City has determined that the minor modifications made to the infrastructure conditions of approval and development agreement terms for the Farmstead property are consistent with the MND and MMRP previously prepared and adopted for the Project on October 13, 2020 and would not result in new impacts or any substantial changes to any significant effects previously identified. Specifically, substantial changes are not proposed in the Project that would require major revisions of the Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects have not occurred; new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Mitigated Negative Declaration was adopted, as applicable, showing any of the following, has not come to light: (i) that the Project would have one or more significant effects not discussed in the earlier environmental documentation; (ii) that significant effects previously examined would be substantially more severe than shown in the earlier environmental documentation; (iii) that mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects, but the applicant declined to adopt such measures; or (iv) that mitigation measures or alternatives considerably different from those previously analyzed would substantially reduce one or more significant effects on the environment, but which the applicant declined to adopt. Thus, based on these findings and all evidence in the record, the City has determined that none of the conditions specified in State CEQA Guidelines section 15162 requiring preparation of a subsequent or supplemental EIR or MND would occur and no additional environmental review is required.

GENERAL PLAN

The nature of this project amendment does not result in any changes to the prior determination that the project is consistent with the adopted 2019 General Plan.

Staff Response: The General Plan requires developer to provide adequate drainage improvements and detention to mitigate storm runoff from the site to the nearest major water way, and require that post-project runoff be limited to pre-project peak flow rates for five year and ten year storms. Developer will still satisfy these standards through the on-site detention included in the design of the project and inclusion of the infiltration system.

HIGHWAY 29 SPECIFIC PLAN

In February 2005, the City adopted the Highway 29 Specific Plan, which outlines circulation changes, roadways extensions, traffic signal installations, and streetscape improvements along the State Route 29 corridor west of the Sulphur Creek Bridge. This project is located within the Highway 29 Specific Plan.

Staff Response: The project, including the proposed amendments to the Development Agreement and Use Permit, remains consistent with the objectives of the Highway 29 Specific Plan. The only substantive change to the project for the developer to provide for the infiltration system rather than the Storm Drain Improvements. The Specific Plan specifically allows for temporary use of storm water detention or retention facilities to address storm water runoff at the discretion of the City Engineer. City staff believes that the infiltration system is an appropriate means of storm water management for this project.

ZONING

The lodging project parcel has zoning designations of Service Commercial (SC) and Twenty-Acre Agriculture (A-20).

The SC designation provides for service and retail uses, restaurants, service stations, motels, public and quasi-public uses, and similar and compatible uses. The designation is intended primarily for service and retail uses that are automobile-oriented or whose operational characteristics and space needs are not considered appropriate for the Central Business District. The A-20 designation provides for agricultural and residential uses. With the exception of those hillside areas designated woodlands and watershed, and wineries designated winery, all lands outside the urban limit line are designated A-20 regardless of their size or use. The purpose of the A-20 district is to promote and implement the policies of the general plan to preserve agricultural land uses and provide for future orderly development as the urban limit line is adjusted to accommodate urban growth.

Staff Response: Pursuant to SHMC Section 17.52.030, a use permit was approved by the City Council in October 2020 to allow a new hotel in the SC district. No changes are

proposed to the building site plan and therefore no changes to consistency with development standards.

USE PERMIT / USE PERMIT AMENDMENT

As noted above, SHMC Section 17.52.030 requires use permit approval for the establishment of a new hotel in the SC district. The purpose of a use permit is to allow the proper integration of essential or desirable uses which may be suitable only in certain locations or zoning districts in the City, or to ensure that such uses are designed or arranged on the site in a particular manner. The Resolution No. 2020-100 for the Use Permit included conditions of approval for the storm drain which need to be amended to be consistent with the amended development agreement. There is no change proposed to the hotel and how it will operate. The attached resolution notes in redline revised condition numbers 32, 40, 44, and 67.

In its review of applications for use permits, the Planning Commission shall evaluate each proposed use in order to consider its impact on the City. Pursuant to Municipal Code Section 17.168.050, no use permit shall be granted unless the following findings can be made:

1. That the proposed use would not generate odors, fumes, dust, light, glare, radiation or refuse that would be injurious to surrounding uses or to the community.
2. That the proposed use would not generate levels of noise that adversely affect the health, safety, or welfare of neighboring properties or uses.
3. That the proposed use would not generate traffic noise in excess of the "normally acceptable" range identified in the General Plan.
4. That the proposed use would not make excessive demands on the provision of public services including water supply, sewer capacity, energy supply, communication facilities, police protection, and fire protection.
5. That the proposed use would provide adequate ingress and egress to and from the proposed location.
6. That allowing the proposed use would not conflict with the City's goal of maintaining the economic viability of a local serving economy.
7. That the proposed use would be compatible with surrounding land uses and would not conflict with the purpose established for the district within which it would be located.
8. That the proposed use would not be in conflict with the City's General Plan.
9. That the proposed use would not be injurious to public health, safety, or welfare.
10. That granting the use permit would not set a precedent for the approval of similar uses whose incremental effect would be detrimental to the City or would be in conflict with the General Plan.
11. That, as demonstrated on a detailed plan submitted by the applicant, adequate off-street parking to accommodate the long term parking needs of employees and business owners and customers is available.
12. That the capacity of surrounding streets is adequate to serve the automobile and delivery truck traffic generated by the proposed use.

Staff Response:

Staff finds that the amended conditions of approval meets and/or complies with the required findings to approve a use permit amendment for the lodging project. The findings included in the attached resolution identify this compliance.

DEVELOPMENT AGREEMENT

A development agreement is a land use tool that is authorized and governed by Government Code Section 65864 et seq. and SHMC Chapter 17.156. Development agreements are voluntary, negotiated agreements entered into between an applicant and the City, pursuant to which the Developer may secure vested rights to develop their property under the rules in place at the time of their approval. In exchange for granting these additional vested rights, the City can negotiate to require the Developer to provide additional community benefits to the City in excess of what the City could require through the normal entitlement process. SHMC Chapter 17.156 requires that the Planning Commission hold a public hearing to consider the Development Agreement and amendments to the Development Agreement and following the public hearing make a recommendation to the City Council on whether to approve the Development Agreement or the Amendment, including making a determination whether the development agreement proposed:

- A. Is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan;
- B. Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;
- C. Is in conformity with public convenience, general welfare and good land use practice;
- D. Will be detrimental to the health, safety and general welfare;
- E. Will adversely affect the orderly development of property or the preservation of property values. The recommendation shall include the reasons for the recommendation; and
- F. Will have a sufficient water supply for subdivisions pursuant to the requirements of Government Code Section 66473.7 [*Note: This last finding applies to residential subdivisions of 500 or more lots and therefore is not applicable to this Project*].

Section 17.156.090 (Decision by City Council), sets the following requirements for the City Council's consideration of the development agreement:

- G. After the City Council completes its public hearing, it may accept, modify or disapprove the recommendation of the planning commission. It may, but need not, refer matters not previously considered by the Planning Commission during its hearing back to the Planning Commission for report and recommendation. The Planning Commission may, but need not, hold a public hearing on matters referred back to it by the city council.
- H. The City Council may not approve the development agreement unless it finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan.

- I. If the City Council approves the development agreement, it shall do so by the adoption of an ordinance. After the ordinance approving the development agreement takes effect, the City may enter into the agreement.

Staff Response: As noted in the Background section of this report, the Farmstead Lodging project Development Agreement became effective on November 26, 2020. As the amendment to the Development Agreement involves a change in the monetary contributions by the Developer related to the infrastructure, it meets the definition of a “Major Amendments to Agreement” noted in Article 8.2 of the approved Development Agreement. A Major Amendment requires a public hearing before the Planning Commission and City Council and thus is one of the requested action items discussed in this report. There are two primary areas of revision to the approved Development Agreement (DA):

STORM DRAIN AMENDMENTS

Key components of the changes to the DA include:

- *Requirement to construct and contribute to the cost of the Storm Drain is deleted.*
- *In place of constructing the storm drain, stormwater from the hotel project in excess of 10 year flows would drain into an infiltration system that would be constructed in the City right of way adjacent to Mills Lane.*
- *The Developer is fully responsible for the design and construction of the stormwater infiltration system improvements.*
- *Exhibit G has been replaced and renamed “Alignment of Infiltration System Improvements”*

RECYCLED WATER IMPROVEMENT AMENDMENTS

Key components of the changes to the DA include:

- *The timing of the deadline to construct the recycled water pipe has been extended to November 1, 2024 (previously November 1, 2022).*
- *A new section of the DA (7.3.5) describes an additional contribution by the developer to the cost of the recycled water improvements or other water conservation measures. The developer is required to pay the City an amount equal to the difference between the developer's share of the cost of the Storm Drain improvements, and the cost of construction of the infiltration system improvements. The funds paid to the City will be used for the Recycled Water Project or if the Recycled Water Project does not move forward, for other water conservation measures.*

The Amendment also clarifies certain provisions related to the reimbursement of costs incurred by the developer for public improvements to be constructed in

connection with the project. The Development Agreement requires the developer to pay for the construction certain improvements (including the realignment of Mills Lane and the installation of recycled water pipe in the Mills Lane right of way), even though developer is only partially responsible for the cost of these improvements. The proposed amendment includes certain edits to make clear that the cost of construction includes planning, design and management of the construction of those public improvements, and that developer will be eligible for reimbursement of those related costs in excess of developer's proportionate share, and to provide for review and approval by the City Engineer of any contracts for such costs to ensure that the expenses incurred by developer are appropriate.

The Development Agreement amendment is consistent with SHMC Chapter 17.156 in that the infrastructure changes are consistent and do not preclude full implementation of the adopted General Plan and Highway 29 Specific Plan, does not make any change to compatible uses in the zoning districts, is in conformance with public convenience, general welfare and good land use practice, will not be detrimental to the health, safety and general welfare, and will not adversely affect the orderly development of property or the preservation of property values.

ISSUES

No issues have been identified.

STAFF RECOMMENDATION

For the reasons described above, staff recommends that the Planning Commission:

1. Find that none of the conditions specified in State CEQA Guidelines section 15162 require the preparation of a subsequent or supplemental EIR or MND and no additional environmental review is required; and
2. Adopt the attached resolution recommending the City Council make specific findings and recommending that the City Council adopt an Ordinance approving a Development Agreement Amendment between the applicant and the City of St. Helena for the LMR Destinations LLC lodging project at 1000 Mills Lane; and
3. Adopt the attached resolution recommending the City Council make specific findings and recommending that the City Council approve a Use Permit Amendment for the LMR Destinations LLC Lodging project at 1000 Mills Lane.

ATTACHMENTS

[Executed Development Agreement](#)

[First Amendment to Development Agreement \(Farmstead\)-c1](#)

[St Helena -PC Resolution Approving Farmstead DA Amendment-FINAL](#)

[St Helena - Resolution Approving Amendment to Use Permit for Farmstead Project \(final\)-c1](#)

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of St. Helena
1480 Main Street
St. Helena, CA 94574
Attention: City Clerk

Record Without Fee
*Pursuant to Government Code
Section 27383*

Space Above Reserved for Recorder's Use Only

DEVELOPMENT AGREEMENT

BY AND BETWEEN

CITY OF ST. HELENA

AND

LMR DESTINATIONS LLC

Effective Date: November 26, 2020

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DEVELOPMENT AGREEMENT

This Development Agreement (“**Agreement**”), dated as of the Effective Date, is entered into by and between the City of St. Helena, a California municipal corporation (“**City**”) and LMR Destinations LLC, a California limited liability company (“**Developer**”). Developer and City may be referred to individually in this Agreement as a “**Party**” and collectively as the “**Parties**.”

R E C I T A L S

This Agreement is entered into on the basis of the following facts, understandings and intentions of the Parties. The following recitals are a substantive part of this Agreement; capitalized terms used herein and not otherwise defined are defined in Article 1 of this Agreement.

A. In order to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs and risks of development, the Legislature of the State of California enacted section 65864 *et seq.* of the Government Code (“**Development Agreement Statute**”) which authorizes a city and a developer having a legal or equitable interest in real property to enter into a binding, long-term development agreement establishing certain development rights in the property.

B. In accordance with the Development Agreement Statute, the City Council of the City of St. Helena enacted Municipal Code Chapter 17.156 (“**Development Agreement Regulations**”), which authorizes the execution of development agreements and set forth the required contents and form of those agreements. The provisions of the Development Agreement Statute and the City’s Development Agreement Regulations are collectively referred to herein as the “**Development Agreement Law**.”

C. Developer is the owner of that certain real property located at 1000 Mills Lane, St. Helena in the County of Napa, State of California and more particularly described and depicted in Exhibits A and B attached hereto and incorporated herein (the “**Property**”).

D. Developer has applied to the City to construct on the Property a maximum 65 room hotel with ancillary retail and related amenities (the “**Project**”). The Project is more fully described in Exhibit C, Project Description, and incorporated herein by reference.

E. The Project is the subject of a mitigated negative declaration (“MND”) prepared pursuant to the California Environmental Quality Act (“**CEQA**”) (Public Resources Code section 21000 *et seq.*) and approved by Resolution No. 2020-100 adopted by the City Council on October 13, 2020.

F. Prior to or concurrently with approval of this Agreement, the City will take several actions to review and plan for the future development and use of the Project (“**Existing Approvals**”). These include:

1. Ordinance No. 2020-9 approving this Agreement;
2. Resolution No. 2020-100 approving the Use Permit and Design Review for the Project;

3. Resolution No. 2020-100 approving the Lot Line Adjustment, Lot Merger, and Variance required for the Project; and

4. Resolution No. 2020-100 approving the MND.

A copy of the Existing Approvals are attached hereto as Exhibit D.

G. It is the intent of City and Developer to establish certain conditions and requirements related to review and development of the Project, which are or will be the subject of subsequent development applications and land use entitlements.

H. City finds that the Agreement will promote orderly growth and quality development in accordance with the goals and policies set forth in the General Plan; is compatible with the uses authorized in, and the regulations prescribed for, the district in which the Property is located; will promote the public convenience, general welfare, and good land use practice; will not be detrimental to the health, safety and general welfare; will not adversely affect the orderly development of property or the preservation of property value; and will promote and encourage the development of the Project by providing a greater degree of requisite certainty.

I. City and Developer have reached mutual agreement and desire to voluntarily enter into this Agreement to facilitate development of the Project subject to the conditions and requirements set forth herein.

J. City has given the required notice of its intention to adopt this Agreement and has conducted public hearings thereon pursuant to Government Code section 65867 and Municipal Code section 17.156.070. The City has reviewed and evaluated this Agreement in accordance with the Development Agreement Law and found that the provisions of this Agreement and its purposes are consistent with the Development Agreement Law and the goals, policies, standards and land use designations specified in the General Plan.

K. On October 13, 2020 the City Council introduced Ordinance No. 2020-9 approving this Agreement and authorizing its execution, and adopted that Ordinance on October 27, 2020. The Ordinance became effective on November 26, 2020.

A G R E E M E N T

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other valuable consideration, the Parties hereby agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Definitions.

"Affiliate" means and refers to any person or entity, directly or indirectly, Controlling or Controlled by or under common Control with the applicable person or entity, whether by direct or indirect ownership of equity interests, by contract or otherwise.

"Agreement" shall mean this Development Agreement between City and Developer, including all Exhibits hereto.

"Applicable Law" is defined in Section 3.2.

"CalTrans" means the California Department of Transportation.

"CEQA" means the California Environmental Quality Act, California Public Resources Code section 21000, *et seq.*, as amended from time to time.

"CEQA Guidelines" means the State CEQA Guidelines (California Code of Regulations, Title 14, section 15000, *et seq.*), as amended from time to time.

"Changes in the Law" is defined in Section 3.7.

"City" means the City of St. Helena, a municipal corporation.

"City Council" means the City Council of the City of St. Helena.

"City Manager" means City's City Manager or his or her designee.

"City Parties" means and includes City and its elected and appointed officials, officers, employees, attorneys, contractors and representatives.

"Claims" means liabilities, obligations, orders, claims, damages, fines, penalties, and expenses, including attorneys' fees and costs.

"Connection Fees" means those fees charged by City on a citywide basis or by a utility provider to utility users as a cost for connecting water, sanitary sewer, and other applicable utilities, except for any such fee or portion thereof that constitutes an Impact Fee, as defined below.

"Control" means and refers to possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether by ownership of equity interests, by contract or otherwise.

"Controlling" and "Controlled" mean and refer to exercising or having Control.

"Default" is defined in Section 12.1.

"Developer" means LMR Property Acquisition Partners LLC and its permitted successor and assigns.

"Development Agreement Law" is defined in Recital B.

"Development Agreement Regulations" is defined in Recital B.

"Development Agreement Statute" is defined in Recital A.

"Discretionary Action" or **"Discretionary Approval"** means an action which requires the exercise of judgment, deliberation or a decision on the part of the City, including any board, commission or department or any officer or employee of the City, in the process of approving or disapproving a particular activity, as distinguished from an activity which merely requires the City, including any board, commission or department or any officer or employee of the City, to determine whether there has been compliance with statutes, ordinances or regulations.

"Effective Date" means the date that this Agreement becomes effective as determined under Section 2.1.

"Enacting Ordinance" refers to the Ordinance identified in Recital K.

"Exactions" means exactions that may be imposed by the City as a condition of developing the Project, including requirements for acquisition, dedication or reservation of land; and obligations to construct on-site or off-site public and private infrastructure improvements such as roadways, utilities or other improvements necessary to support the Project, whether such exactions constitute subdivision improvements, mitigation measures in connection with environmental review of the Project, or impositions made under Applicable Law, including, but not limited to, the Highway 29 Specific Plan. For purposes of this Agreement, Exactions do not include Impact Fees.

"Existing Approvals" means and includes those permits and approvals for the Project granted by City to Developer as of the Effective Date as set forth in Recital F.

"Extension Term" is defined in Section 2.2.1.

"General Plan" means the City of St. Helena's General Plan, as amended from time to time.

"Highway 29 Specific Plan" means the Highway 29 Specific Plan approved by the City Council of the City of St. Helena on February 22, 2005.

"Housing Fees" means the nonresidential development project housing impact fees charged by the City to further affordable housing pursuant to Municipal Code section 17.146.040.

"Impact Fees" means the monetary amount charged by City in connection with a development project for the purpose of defraying all or a portion of the cost of mitigating the impacts of the development project or development of the public facilities related to the

development project, including, any “fee” as that term is defined by Government Code section 66000(b).

“**Initial Term**” is defined in Section 2.2.

“**Litigation Challenge**” is defined in Section 9.3.

“**Major Amendment**” is defined in Section 8.2.

“**Minor Amendment**” is defined in Section 8.2.

“**MND**” is defined in Recital F.

“**Mortgage**” means any mortgage, deed of trust, security agreement, and other like security instrument encumbering all or any portion of the Property or any of the Developer’s rights under this Agreement

“**Mortgagee**” means the holder of any Mortgage, and any successor, assignee or transferee of any such Mortgage holder.

“**Municipal Code**” means and refers to the City of St. Helena’s Municipal Code, as amended from time to time.

“**New City Laws**” means and includes any ordinances, resolutions, orders, rules, official policies, standards, specifications, guidelines or other regulations, which are promulgated or adopted by the City (including but not limited to any City agency, body, department, officer or employee) or its electorate (through their power of initiative or otherwise) after the Effective Date.

“**Notice of Breach**” is defined in Section 12.1.

“**Other Agency Fees**” is defined in Section 4.3.

“**Permitted Delay**” is defined in Section 13.3.

“**Permitted Transfer**” means any of the following types of Transfer by Developer, which unless otherwise provided do not require the City’s prior written approval:

1. Any Transfer to a lender pursuant to a Security Instrument as collateral for financing to pay all or any part of the cost of construction of the Project; or pursuant to a Security Instrument as collateral for a permanent financing for the Project.
2. Any Transfer directly resulting from the foreclosure or deed in lieu of foreclosure of a Security Instrument for a loan from a Lender for construction or permanent financing for the Project or as otherwise permitted under Article 11.
3. Any Transfer of stock or equity in the Developer that does not change management or operational Control of the Project, with no material change in beneficial ownership (with the exception of any conveyance to member(s) of the immediate family(ies) of

the transferor(s) or trusts for their benefit) and which constitutes a tax-free transaction under Federal income tax law and California real estate transfer tax.

4. A Property Transfer from Developer to an Affiliate provided that such Affiliate is Controlled by Long Meadow Ranch Partners, L.P., a California limited partnership.

“Planning Commission” means the City of St. Helena Planning Commission.

“Processing Fees” means all fees for processing development project applications, including any required supplemental or other further environmental review, plan checking and inspection and monitoring for land use approvals, design review, grading and building permits, General Plan maintenance fees, and other permits and entitlements required to implement the Project, which are in effect at the time those permits, approvals or entitlements are applied for, and which are intended to cover the actual costs of processing the foregoing.

“Project Approvals” means the Existing Approvals and all Subsequent Approvals.

“Project” is defined in Recital D.

“Property” is defined in Recital C.

“Property Transfer” means and refers to any “change in ownership,” as defined in Revenue and Taxation Code Sections 60, et seq., of all or any portion of the Property.

“Security Instrument” means any security instrument, deed of trust, security deed, contract for deed, deed to secure debt, or other voluntary real property (including leasehold) security instrument(s) or agreement(s) intended to grant real property (including leasehold) security for any obligation (including a purchase-money or other promissory note) encumbering the Property, as entered into, renewed, modified, consolidated, increased, decreased, amended, extended, restated, assigned (wholly or partially), collaterally assigned, or supplemented from time to time, unless and until paid, satisfied, and discharged of record. If two or more such security instruments are consolidated or restated as a single lien or held by the same Lender (as applicable), then all such security instruments so consolidated or restated shall constitute a single Security Instrument. A participation interest in a security instrument (or partial assignment of the secured loan) does not itself constitute a Security Instrument.

“Subdivision Map Act” means California Government Code sections 66410 through 66499.58, as it may be amended from time to time.

“Subsequent Approvals” is defined in Section 7.1.

“Term” means the Initial Term plus any Extension Term, if such Extension Term is granted under the terms of this Agreement.

“Total Cost” is defined in Section 7.3.1.

“Traffic Fees” means Impact Fees charged by the City to finance circulation improvements including those Impact Fees charged pursuant to Municipal Code section 3.32.100.

“Transfer” means any of the following:

1. Any assignment, conveyance, grant, hypothecation, mortgage, pledge, sale, or other transfer, whether direct or indirect, of all or any part of such property, right or obligation, or of any legal, beneficial, or equitable interest or estate in such property, right or obligation or any part of it (including the grant of any easement, lien, or other encumbrance); or
2. Any conversion, exchange, issuance, modification, reallocation, sale, or other transfer of any direct or indirect equity interest(s) in the owner of such property, right or obligation by the holders of such equity interest(s); or
3. Any merger, consolidation, sale, or lease of all or substantially all of the assets of the Developer or a series of such sales, assignments and the like that, in the aggregate, result in a disposition of more than a 49% interest of all or substantially all of the assets of the Developer; or
4. Any Property Transfer; or
5. The recordation of any deed of trust, mortgage, lien or similar encumbrance against all or any portion of the Property or the Project.

“Transient Occupancy Tax” means those taxes levied by City pursuant to Municipal Code chapter 3.28, which are collected and remitted to City by hotel operators.

ARTICLE 2 EFFECTIVE DATE AND TERM

2.1 **Effective Date.** The Effective Date of this Agreement shall be the later of (a) the date that is thirty (30) days after the date that the Enacting Ordinance is adopted, or (b) the date this Agreement is fully executed by the Parties. The Effective Date is inserted at the beginning of this Agreement. The Parties acknowledge that section 65868.5 of the Development Agreement Statute requires that this Agreement be recorded in the official records of Napa County no later than ten (10) days after the City enters into this Agreement, and that the burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement.

2.2 **Initial Term of Agreement.** The **“Initial Term”** of this Agreement shall commence on the Effective Date and shall expire on the fifth (5th) anniversary of the Effective Date, unless earlier terminated.

2.2.1 **Extension of Initial Term.** The Initial Term of this Agreement may be extended from the date of expiration of the Initial Term until the date which is five (5) years following the expiration of the Initial Term (**“Extension Term”**), provided that at the end of the Initial Term: (a) Developer is not, at the time, in Default of any of its obligations hereunder following notice and expiration of applicable cure periods; (b) the applicable Developer warranties and representations in Section 2.4 below continue to be true and correct; and (c) no event has occurred which with the passage of time or giving of notice or both would constitute a Default by Developer hereunder. Following the expiration of the Term, or the earlier completion

of development of the Project and satisfaction of all of Developer's obligations in connection therewith, this Agreement shall be deemed terminated and of no further force and effect; provided, however, that this termination shall not affect reimbursements to Developer under Section 7.3, Developer's obligation to pay the Affordable Housing Payment pursuant to Section 5.1.6, or any right or duty arising from entitlements or approvals, including the Project Approvals concurrently with, or subsequent to, the Effective Date. The Initial Term or Extension Term, as applicable, shall automatically be extended for the period of time of any actual delay resulting from any enactments pursuant to New City Laws that are necessary to protect the physical health and safety of the public that are uniformly applied on a City-wide basis.

2.2.2 Memorandum of Extension. If the Extension Term is granted, City and Developer agree to execute, acknowledge and record in the official records of Napa County a memorandum evidencing approval of the Extension Term.

2.3 City Representations and Warranties. City represents and warrants to Developer that, as of the Effective Date:

2.3.1 City is a municipal corporation, and has all necessary powers under the laws of the State of California to enter into and perform the undertakings and obligations of City under this Agreement.

2.3.2 The execution and delivery of this Agreement and the performance of the obligations of the City hereunder have been duly authorized by all necessary City Council action and all necessary approvals have been obtained.

2.3.3 This Agreement is a valid obligation of City and is enforceable in accordance with its terms.

2.3.4 During the Term of this Agreement, City shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 2.3 not to be true, immediately give written notice of such fact or condition to Developer.

2.4 Developer Representations and Warranties. Developer represents and warrants to City that, as of the Effective Date:

2.4.1 Developer is duly organized and validly existing under the laws of the State of California, and is in good standing and has all necessary powers under the laws of the State of California to own property interests and in all other respects enter into and perform the undertakings and obligations of Developer under this Agreement.

2.4.2 The execution and delivery of this Agreement and the necessary performance of the obligations of Developer hereunder have been duly authorized by all necessary company action and all necessary member approvals have been obtained.

2.4.3 This Agreement is a valid obligation of Developer and is enforceable in accordance with its terms.

2.4.4 Developer has not (a) made a general assignment for the benefit of creditors; (b) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Developer's creditors; (c) suffered the appointment of a receiver to take possession of all, or substantially all, of Developer's assets; (d) suffered the attachment or other judicial seizure of all, or substantially all, of Developer's assets; or (e) admitted in writing its inability to pay its debts as they come due.

2.4.5 During the Term of this Agreement, Developer shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 2.4 not to be true, immediately give written notice of such fact or condition to City.

ARTICLE 3 DEVELOPMENT OF THE PROPERTY

3.1 Vested Rights. The Property is hereby made subject to the provisions of this Agreement. Developer shall have the vested right to develop the Property and the Project in accordance with and subject to the Existing Approvals, the Subsequent Approvals, Applicable Law and this Agreement, which shall, among other things, control the permitted uses, density and intensity of use of the Property, requirements for on- and off-site infrastructure and public improvements, the Exactions, and the maximum height and size of buildings on the Property.

3.2 Applicable Law. City and Developer acknowledge and agree that City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions contained in this Agreement are intended to reserve to City all of its police power that cannot be so limited. Notwithstanding the foregoing reservation of City, it is the intent of City and Developer that this Agreement be construed to provide Developer with rights afforded by law, including but not limited to, the Development Agreement Statute. Therefore, the laws, rules, regulations, official policies, standards and specifications of City applicable to the development of the Property and/or the Project shall be (collectively, "**Applicable Law**");

3.2.1 Those rules, regulations, official policies, standards and specifications of the City set forth in the Project Approvals and this Agreement. For purposes of convenience and clarity and to provide a centralized set of reference documents, Exhibit E describes and attaches portions of the Project Approvals and the Applicable Law, which sets forth the applicable development standards, including permitted uses, density and intensity of uses, maximum size and height of buildings, and exactions that are vested through this Agreement. The parties do not intend for Exhibit E to limit any vested rights or other rights or obligations specifically contemplated or conferred by this Agreement;

3.2.2 With respect to matters not addressed by and not otherwise inconsistent with the Project Approvals and this Agreement, those laws, rules, regulations, official policies, standards and specifications (including City ordinances and resolutions) governing permitted uses, building locations, timing and manner of construction, densities, intensities of uses, heights and sizes, requirements for on- and off-site infrastructure and public improvements, in force and effect on the Effective Date;

3.2.3 New City Laws that relate to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure imposed at any time, provided such New City Laws are uniformly applied on a City-wide basis to all substantially similar types of development projects and properties;

3.2.4 New City Laws that revise City's uniform construction codes, including City's building code, plumbing code, mechanical code, electrical code, fire code, grading code and other uniform construction codes, as of the date of permit issuance, provided, that such New City Laws are uniformly applied on a City-wide basis to all substantially similar types of development projects and properties;

3.2.5 New City Laws that are necessary to protect physical health and safety of the public; provided, that such New City Laws are uniformly applied on a City-wide basis to all substantially similar types of development projects and properties;

3.2.6 New City Laws that do not conflict with this Agreement or the Project Approvals, provided such new City Laws are uniformly applied on a City-wide basis to all substantially similar types of development projects and properties; and

3.2.7 New City Laws that do not apply to the Property and/or the Project due to the limitations set forth above, but only to the extent that such New City Laws are accepted in writing by Developer in its sole discretion.

3.3 Development Timing. City and Developer acknowledge that Developer cannot at this time predict what portions of the Project will be included within any phase of the Project, when or the rate at which the phases will be developed or the order in which each phase will be developed. Such decisions depend upon numerous factors that are not within the control of Developer, such as market orientation and demand, interest rates, absorption, completion, availability of financing and other similar factors. In particular, and not in any limitation of any of the foregoing, since the California Supreme Court held in *Pardee Construction Co. v. The City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development prevailing over such parties' agreement, it is the desire to avoid that result by acknowledging that, unless otherwise provided for in this Agreement or the Project Approvals, Developer's vested rights under this Agreement include the right to develop the Property and the Project in such order and at such rate and at such times as Developer deems appropriate in the exercise of its discretion, subject to the terms, requirements and conditions of the Project Approvals and this Agreement.

3.4 Regulation by Other Public Agencies. City and Developer acknowledge and agree that other governmental or quasi-governmental entities not within the control of City possess authority to regulate aspects of the development of the Property and the Project and that this Agreement does not limit the authority of such other public agencies. City shall reasonably cooperate with Developer in Developer's effort to obtain such permits and approvals as may be required by other governmental or quasi-governmental entities in connection with the development of, or the provision of services to, the Property and/or the Project; provided, however, City shall

have no obligation to incur any costs, without compensation or reimbursement, or to amend any City policy, regulation or ordinance in connection therewith.

3.5 Life of Project Approvals. The term of any and all Project Approvals shall automatically be the longer of the Term or the term otherwise applicable to such Project Approval.

3.6 Developer's Right to Rebuild. City agrees that Developer may renovate or rebuild portions of the Project at any time within the Term should it become necessary due to any casualty, including natural disaster or changes in seismic requirements. Such renovations or reconstruction shall be processed as a Subsequent Project Approval consistent with all prior Project Approvals and Applicable City Law. Any such renovation or rebuilding shall be subject to all design, density and other limitations and requirements imposed by this Agreement, and shall comply with the Project Approvals, Applicable City Law, and the requirements of CEQA.

3.7 State and Federal Law. As provided in Section 65869.5 of the Development Agreement Statute, this Agreement shall not preclude the applicability to the Project of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in State or Federal laws or by changes in laws, regulations, plans or policies of special districts or other governmental entities, other than City, created or operating pursuant to the laws of the State of California ("**Changes in the Law**"). In the event Changes in the Law prevent or preclude, or render substantially more expensive or time consuming, compliance with one (1) or more provisions of this Agreement, the City and Developer shall meet and confer in good faith in order to determine whether such provisions of this Agreement shall be modified or suspended, or performance thereof delayed, as may be necessary to comply with Changes in the Law. Nothing in this Agreement shall preclude City or Developer from contesting by any available means (including administrative or judicial proceedings) the applicability to the Project any such Changes in the Law. If Changes in the Law preclude or substantially prevent or preclude, or render substantially more expensive or time consuming, performance of this Agreement in a manner that makes the Project economically infeasible, Developer, in its sole and absolute discretion, may terminate this Agreement by providing written notice thereof to City.

3.8 Subsequent Development Review. The City shall not require Developer to obtain any approvals or permits for the development of the Project in accordance with this Agreement other than those permits or approvals that are required by the Applicable Law. However, any subsequent Discretionary Action or Discretionary Approval initiated by Developer that is not otherwise permitted by or contemplated in the Project Approvals, which changes the uses, intensity, density, building height or timing of the Project, or decreases the lot area, setbacks, yards, parking or other entitlements permitted on the Property shall be subject to the rules, regulations, ordinances and official policies of the City then in effect.

3.9 Effective Development Standards. The City agrees that it is bound to permit the uses, intensity of use and density on the Property which are permitted by this Agreement, insofar as this Agreement and the Project Approvals so provide or as otherwise set forth in the Applicable Law. The City hereby agrees that it will not unreasonably withhold or unreasonably condition any Discretionary Action or Discretionary Approval which must be issued by the City in order for the Project to proceed, provided that Developer reasonably and satisfactorily complies with all preliminary procedures, actions, payments of Processing Fees, and criteria generally required of

developers by the City for processing applications for developments and consistent with this Agreement.

3.10 Moratoria. In the event an ordinance, resolution or other measure is enacted, whether by action of the City, by initiative, or otherwise after the Effective Date, which relates to the rate, timing, or sequencing of the development or construction on all or any part of the Property, including, without limitation, any ordinance, resolution or other measure restricting or precluding the issuance of building permits, the City agrees that the ordinance, resolution or other measure shall not apply to the Property or this Agreement, unless the changes are both (a) found by the City to be necessary to protect the health and safety of the residents of the City, and (b) generally applicable on a Citywide basis.

ARTICLE 4 FEES

4.1 Impact Fees and Exactions. City may charge and, subject to Developer's right to protest and/or pursue a challenge in law or equity to any new or increased Impact Fees, Developer shall pay any and all Impact Fees imposed by City, including new Impact Fees adopted after the Effective Date; provided, however, City shall only require Developer to pay new Impact Fees (including increases in Impact Fees) that are uniformly applied by City to all substantially similar types of Development Projects and properties. Pursuant to St. Helena Municipal Code Section 17.146.040, Developer shall pay Traffic Fees upon City's issuance of a certificate of occupancy, while all other Impact Fees shall be paid prior to issuance of a building permit. In addition, City may impose and Developer shall comply with those Exactions required by this Agreement and the Project Approvals. Notwithstanding anything to the contrary contained in this Section 4.1, except as otherwise specifically provided in Section 3.2 above, in no event shall the City impose any additional Exactions (beyond those set forth in the Existing Approvals and this Agreement) in connection with the development of the Project, as long as such development is substantially consistent with the Project Approvals.

4.2 Processing Fees. Subject to Developer's right to protest and/or pursue a challenge in law or equity to any new or increased Processing Fee, City may charge and Developer agrees to pay any and all Processing Fees which are in effect on a City-wide basis at the time those permits, approvals or entitlements are applied for, and which are intended to cover the actual costs of processing the foregoing.

4.3 Other Agency Fees. Nothing in this Agreement shall preclude City from collecting fees from Developer that are lawfully imposed on the Project by another agency having jurisdiction over the Project, which the City is required to collect pursuant to Applicable Law ("**Other Agency Fees**").

4.4 Connection Fees. Subject to Developer's right to protest and/or pursue a challenge in law or equity to any new or increased Connection Fee, City may charge and Developer shall pay any Connection Fee that is lawfully adopted.

ARTICLE 5 DEVELOPER OBLIGATIONS

5.1 Developer Obligations. In consideration of the rights and benefits conferred by City to Developer under this Agreement, Developer shall perform the public benefit obligations and pay to City the contributions set forth in this Article 5 all within the times set forth herein.

5.1.1 Mills Lane Improvements. Developer shall construct improvements to Mills Lane as depicted in Exhibit F (“**Mills Lane Improvements**”), which are consistent with City’s Highway 29 Specific Plan, prior to or concurrently with the development of the Project and shall complete the Mills Lane Improvements prior to the issuance of the first certificate of occupancy for the Project by the City. Construction shall be completed in accordance with improvements plans as approved by the City Engineer, and before Developer receives a final certificate of occupancy for the Project.

5.1.2 Storm Drain Improvements. Developer shall construct those certain storm drain improvements necessary to extend and improve the storm drain along Mills Lane to serve properties on Mills Lane, La Fata Street, Fountain Street, Grayson Avenue, Main Street (to Charter Oak Avenue), and Vidovich Avenue and to construct an outfall for said storm drain into the Napa River (the “**Storm Drain Improvements**”). The Storm Drain Improvements shall be designed by City in accordance with the City’s long-standing plan for this separate project as contained in City’s Storm Drain Mater Plan dated September 2000 (*see* Table 4-1) and the Highway 29 Specific Plan (*see* pages 37-39, Exhibit 11), and are depicted in Exhibit G. City shall further be responsible for permitting required for the Storm Drain Project, which are anticipated to include permits from the California Department of Fish and Wildlife, San Francisco Regional Water Quality Control Board and Army Corps of Engineers. Developer shall commence construction of the Storm Drain Improvements after the City has secured the permits required for the Storm Drain Improvements, provided, however, that the Storm Drain Improvements shall be completed before the Developer receives a final certificate of occupancy for the Project.

5.1.3 La Fata Sidewalk Improvements. Developer shall design and construct those certain sidewalk improvements on the west side of La Fata Street as depicted in Exhibit H (the “**La Fata Sidewalk Improvements**”). Developer shall construct the La Fata Sidewalk in accordance with improvement plans as approved by the City Engineer. The La Fata Sidewalk Improvements shall be constructed concurrently with the Project and shall be completed prior to issuance of a final certificate of occupancy for the Project. In the event that the Developer secures access to an alternate employee parking lot prior to occupancy of the Project where Developer’s employees will no longer utilize the La Fata Sidewalk Improvements to access the Project site, the Developer may request that the City consider such alternate parking lot as an acceptable location for employee parking. In the event City approves such alternative parking lot for employee parking, which approval City may grant or deny in its sole discretion, Developer shall be relieved of the obligation to construct the La Fata Sidewalk Improvements pursuant to this Section 5.1.3.

5.1.4 Recycled Water Improvements. Developer shall construct and install additional piping to convey recycled water in the public right of way in Mills Lane extending from Highway 29 easterly to the eastern end of Mills Lane (the “**Recycled Water Pipe**”) in a

manner as directed by the City Engineer and shall be completed prior to November 1, 2022 as a prerequisite for a final certificate of occupancy for the Project. For purposes of this agreement “recycled water” means wastewater treated by the City’s wastewater treatment facility that meets State requirements for reuse, including but not limited to California Department of Public Health regulations contained in Title 17 and Title 22 of the California Code of Regulations. The Recycled Water Pipe shall be designed and at a size as directed by the City Engineer, but is anticipated to be a twelve (12) inch pipe and will be installed in the trench constructed for the Storm Drain Improvements. Developer shall construct and install the Recycled Water Pipe as a means of offsetting its water requirement in accordance with Chapter 13.12 of the St. Helena Municipal Code. The construction of the Recycled Water Pipe is being conducted in lieu of paying the in-lieu retrofit fee that would otherwise be required of the Project pursuant to Section 13.12.030(B) of the St. Helena Municipal Code.

5.1.4.1 To allow Developer’s Recycled Water Pipe to offset the Project’s use of City water, City shall seek options to improve its wastewater treatment facility to treat wastewater to the above referenced State requirements and shall install necessary piping such that the Recycled Water Pipe is delivering recycled water to Crane Park’s irrigation infrastructure (“Improvements”). City shall pursue efforts to complete these improvements on or before November 1, 2022, subject to CEQA and the right to not build the Improvements in any form. In the event the Improvements are not completed by November 1, 2022, City and Developer will cooperate to identify and implement measures calculated to save potable water in amounts equal to the Project’s use of City water until recycled water is delivered to Crane Park, if ever. Notwithstanding the above, nothing herein shall commit or otherwise require the City, or be interpreted as committing or requiring the City, to approve the Improvements, or any portion thereof. Further, the Parties acknowledge and agree that the City retains full discretionary authority with respect to the Improvements, and may deny or approve the Improvements, or any portion thereof. Similarly, the City retains full authority under CEQA and other environmental laws to impose any and all feasible mitigation to reduce potentially significant impacts and to consider and adopt alternatives to the Improvements, specifically including the “no project” alternative.

5.1.5 Affordable Housing. In lieu of paying the City’s nonresidential development project housing impact fee pursuant to City of St. Helena Municipal Code Section 17.146.040, Developer shall make a payment in the amount and manner set forth in this Section 5.1.6. Developer shall make a total payment to the City for affordable housing in the amount of Three Million Two Hundred Thousand Dollars (\$3,200,000) (the “Affordable Housing Payment”). The Affordable Housing Payment shall be made to the City in the manner and for the purposes set forth in this Section.

5.1.5.1 One Million Dollars (\$1,000,000) (the “Initial Housing Payment”) shall be paid to the City prior to and as a condition of issuance of the building permit for the Project. The Initial Housing Payment shall be set aside by the City to be used by Our Town St. Helena or its designee (which designee must be approved by the City) (“OTSH”) to acquire that certain parcel designated as APN 009-660-005 and commonly known at the “Phelps Property” or an equivalent parcel suitable for the purpose of developing affordable housing as approved by the City in its discretion (the “Affordable Housing Parcel”) subject to and conditioned upon satisfaction of the following conditions:

(i) Prior to the time that the Initial Housing Payment is due and payable by Developer to City, OTSH shall provide evidence satisfactory to the City that OTSH has entered into a binding purchase option or binding purchase agreement for the acquisition of the Affordable Housing Parcel. If OTSH has not provided such evidence prior to the time the Initial Housing Payment is due and payable to the City, the Initial Housing Payment may be used by the City for any affordable housing purpose at its discretion, and the City shall have no further obligation to set aside the Initial Housing Payment for the acquisition of the Affordable Housing Parcel.

(ii) Subject to paragraph (i) above, the City shall deposit the Initial Housing Payment into escrow for the acquisition of the Affordable Housing Parcel at such time as requested by OTSH, provided that OTSH has satisfied the following conditions precedent:

(a) OTSH has provided evidence satisfactory to the City that OTSH has secured land use entitlements from the City and all other applicable governmental agencies for the development of not less than twenty (20) units of for-sale or rental housing on the Affordable Housing Parcel, including but not limited to a General Plan Amendment and Zone Change. Developer acknowledges that City's zoning, building and land use regulations shall be applicable to any development of the Affordable Housing Parcel, and nothing herein shall be construed as a waiver or limitation on the City's discretion in considering any application for land use entitlements on the Affordable Housing Parcel.

(b) OTSH has provided evidence satisfactory to the City that it has secured financing sufficient to construct and develop not less than 20 units of for-sale or rental housing with not less than 50% of the total units affordable to very low income households and not less than 50% of total units affordable lower income households, both as defined in St. Helena Municipal Code Section 17.144.020.

(c) OTSH has entered into an Affordable Housing Covenant or Regulatory Agreement with the City in a form satisfactory to the City Attorney, ensuring that the Affordable Housing Parcel shall be developed with affordable for-sale or rental housing consistent with the requirements of the project financing described in paragraph (b) above, which covenant or agreement shall be recorded against the Property at the time of acquisition of the Affordable Housing Parcel by OTSH.

(d) In the event that OTSH has not satisfied the conditions precedent described in paragraphs (a)-(c) above on or before three (3) years from the date of payment of the Initial Housing Payment to the City by Developer, the City shall have no further obligation to set aside the Initial Housing Payment for the acquisition of the Affordable Housing Site, and the City may use the Initial Housing Payment for any affordable housing purpose as City deems appropriate.

5.1.5.2 The remaining Two Million Two Hundred Thousand (\$2,200,000) of the Affordable Housing Payment (the "Second Housing Payment") shall be due and payable to the City at the earlier of (i) a Transfer of the Property by Developer, other than a Permitted Transfer, (ii) conversion of the Developer's construction financing for the Project to permanent financing, or (iii) sixty (60) months after issuance of a final certificate of occupancy for

the Project. The Second Housing Payment shall be deposited into the City's affordable housing fund to be used for affordable housing purposes as City deems appropriate. This obligation shall survive the expiration of the Term or any Extended Term of this Agreement and the City shall have all rights and remedies available under this Agreement or in law or equity to compel Developer to make such Second Housing Payment at or before the time required under this Section, even if the Term or any Extended Term has expired.

5.2 City of St. Helena Business License. Developer, at its expense, shall obtain and maintain a City of St. Helena business license at all times during the Term, and shall include a provision in all general contractor agreements for the Project requiring each such general contractor to obtain and maintain a City of St. Helena business license during performance of the work of construction.

5.3 Sales Tax Point of Sale Designation. Developer shall use good faith, diligent efforts to the extent allowed by law to require all persons and entities providing bulk lumber, concrete, structural steel and pre-fabricated building components, such as roof trusses, to be used in connection with the construction and development of, or incorporated into, the Project, to (a) obtain a use tax direct payment permit; (b) elect to obtain a subcontractor permit for the job site of a contract valued at Five Million Dollars (\$5,000,000) or more; or (c) otherwise designate the Property as the place of use of material used in the construction of the Project in order to have the local portion of the sales and use tax distributed directly to City instead of through the county-wide pool. Developer shall instruct its general contractor(s) for the Project to, and cause such general contractor(s) to instruct its/their subcontractors to, cooperate with City to ensure the local sales/use tax derived from construction of the Project is allocated to City to the fullest extent possible. To assist City in its efforts to ensure that such local sales/use tax is so allocated to City, Developer shall on an annual basis provide City with such information as shall be reasonably requested by City regarding subcontractors working on the Project with contracts in excess of the amount set forth above, including a description of all applicable work and the dollar value of such subcontracts. City may use such information to contact each subcontractor who may qualify for local allocation of use taxes to City.

ARTICLE 6 ANNUAL REVIEW

6.1 Annual Review.

6.1.1 Purpose. As required by California Government Code section 65865.1 and Municipal Code section 17.156.120, City and Developer shall review this Agreement and all actions taken pursuant to the terms of this Agreement with respect to the development of the Project every twelve (12) months solely to determine good faith compliance with this Agreement. Specifically, City's annual review shall be conducted for the purposes of determining compliance by Developer with its obligations under this Agreement. Each annual review shall also document: (a) the status of the Project development, and (b) any extension of the Initial Term of this Agreement pursuant to Section 2.2.

6.1.2 Conduct of Annual Review. The annual review shall be conducted as provided in this Section 6.1.2. By December 1st of each year, Developer shall provide

documentation of its good faith compliance with this Agreement during the calendar year, and such other information as may reasonably be requested by the City Manager. Within ninety (90) days after receipt of Developer's documents of good faith compliance with this Agreement, the City Manager shall make a determination regarding whether or not Developer has complied in good faith with the provisions and conditions of this Agreement. This determination shall be made in writing with reasonable specificity, and a copy of the determination shall be provided to Developer in the manner prescribed in Section 13.2. If the City Manager finds good faith compliance by Developer with the terms of this Agreement, Developer shall be notified in writing and the review for that period shall be concluded. If the City Manager is not satisfied that Developer is performing in accordance with the terms and conditions of this Agreement, the City Manager shall prepare a written report specifying why the Developer may not be in good faith compliance with this Agreement, refer the matter to the City Council, and notify Developer in writing at least fifteen (15) business days in advance of the time at which the matter will be considered by the City Council. This notice shall include the time and place of the City Council's public hearing to evaluate good faith compliance with this Agreement, a copy of the City Manager's report and recommendations, if any, and any other information reasonably necessary to inform Developer of the nature of the proceeding. The City Council shall conduct a public hearing at which Developer must submit evidence that it has complied in good faith with the terms and conditions of this Agreement. Developer shall be given an opportunity to be heard at the hearing. The findings of the City Council on whether Developer has complied with this Agreement for the period under review shall be based upon substantial evidence in the record. If the City Council determines, based upon substantial evidence, that Developer has complied in good faith with the terms and conditions of this Agreement, the review for that period shall be concluded. If the City Council determines, based upon substantial evidence in the record, that Developer has not complied in good faith with the terms and conditions of this Agreement, or there are significant questions as to whether Developer has complied with the terms and conditions of this Agreement, the City Council, at its option, may continue the hearing and may notify Developer of the City's intent to meet and confer with Developer within thirty (30) days of such determination, prior to taking further action. Following such meeting, the City Council shall resume the hearing in order to further consider the matter and to make a determination regarding Developer's good faith compliance with the terms and conditions of this Agreement. In the event City determines Developer is not in good faith compliance with the terms and conditions of this Agreement, City may give the Developer a written Notice of Breach, in which case the provisions of Section 12.1, below, shall apply.

6.1.3 Failure to Conduct Annual Review. Failure of City to conduct an annual review shall not constitute a waiver by the City of its rights to otherwise enforce the provisions of this Agreement nor shall Developer have or assert any defense to such enforcement by reason of any such failure to conduct an annual review.

ARTICLE 7 COOPERATION AND IMPLEMENTATION

7.1 Subsequent Approvals. Certain subsequent land use approvals, entitlements, and permits other than the Existing Approvals, will be necessary or desirable for implementation of the Project ("**Subsequent Approvals**"). The Subsequent Approvals may include, without limitation, the following: amendments of the Existing Approvals, grading permits, building

permits, design review permits, sewer and water connection permits, certificates of occupancy, lot line adjustments, site plans, encroachment permits, development plans, land use plans, building plans and specifications, parcel maps and/or subdivision maps and any amendments to, or repealing of, any of the foregoing. Except as otherwise expressly provided herein, the City shall not impose requirements or conditions upon the development and construction of the Project that are inconsistent with the Project, Project Approvals, Existing Approvals, vested rights and the terms and conditions of this Agreement. The City acknowledges and agrees that except as otherwise specifically provided in Section 3.3 above, as long as development of the Project sought in the Subsequent Approvals is substantially consistent with the Project, in no event shall the City impose any additional Exactions (beyond those set forth in the Existing Approvals) in connection with the development of the Project approved in the Subsequent Approvals.

7.2 Processing Applications for Subsequent Approvals.

7.2.1 Timely Submittals by Developer. Developer acknowledges that City cannot begin processing applications for Subsequent Approvals until Developer submits complete applications on a timely basis. Developer shall use diligent good faith efforts to (a) provide to City in a timely manner any and all documents, applications, plans, and other information necessary for City to carry out its obligations hereunder; and (b) cause Developer's planners, engineers, and all other consultants to provide to City in a timely manner all such documents, applications, plans and other materials required under Applicable Law. It is the express intent of Developer and City to cooperate and diligently work to obtain any and all Subsequent Approvals.

7.2.2 Timely Processing by City. Upon submission by Developer of all appropriate applications and Processing Fees for any pending Subsequent Approval, City shall, promptly and diligently, subject to City ordinances, policies and procedures, commence and complete all steps necessary to act on Developer's currently pending Subsequent Approval applications including: (a) providing at Developer's expense planning and processing of each pending Subsequent Approval application (provided that Developer shall pay such all costs at cost plus 10% for administrative costs incurred); (b) if legally required, providing notice and holding public hearings; and (c) acting on any such pending Subsequent Approval application.

7.3 Construction and Reimbursement for Public Improvements. Pursuant to Sections 5.1.1-5.1.5 of this Agreement, Developer is required to construct the Mills Lane Improvements, Storm Drain Improvements, Recycled Water Pipe, and La Fata Sidewalk Improvements, collectively referred to herein as the "**Public Improvements**". This section sets forth the manner in which the required Public Improvements will be planned, designed and constructed, and provides for reimbursement to Developer for costs incurred in conjunction with the construction of these Public Improvements in excess of Developer's share of the costs.

7.3.1 Planning and Design of Public Improvements. City will undertake and complete the planning and design of the Storm Drain Improvements, including preparation of final design plans, specifications, drawings and related materials as necessary for Developer to issue a request for bids for construction of the Storm Drain Improvements. Developer will undertake and complete the planning and design of the Mills Lane Improvements, La Fata Sidewalk Improvements and Recycled Water Pipe, including final design plans, specifications,

drawings and related materials as necessary to solicit bids for these improvements, which materials shall be subject to the review and approval by the City Engineer.

7.3.2 Construction of Public Improvements. Following completion of the design work described above, Developer shall bid the Mills Lane Improvements, Storm Drain Improvements and Recycled Water Pipe in conformance with all local and state bidding requirements applicable to the City. The City Engineer shall assist Developer as necessary to ensure compliance with applicable bidding requirements. The improvements described above may be bid as a single project, provided that if it is bid as a single project it will be broken into component parts in a manner as approved by the City Engineer, so that the costs of each component part is clearly indicated, to allow for calculation of Developer's share of the cost of each of the required Public Improvements in accordance with this section. The Developer shall bid the La Fata Sidewalk Improvements in a manner as Developer deems appropriate. Developer shall award and enter into the contracts for all the Public Improvements and shall be solely responsible for all project and construction management activities. The Public Improvements shall be inspected and accepted by the City at the appropriate times in accordance with the City's customary practice and processes.

7.3.3 Developer Share of Public Improvement Costs. Developer shall be solely responsible to pay the full cost of constructing the Public Improvements described herein, but shall be entitled to reimbursement from the City for a portion of the cost of constructing the Public Improvements in excess of the Developer's share of such costs. Developer's share of the cost of each of the required Public Improvements is as follows:

7.3.3.1 Developer's share of the cost of the Mills Lane Improvements shall be forty-one percent (41%) of the construction costs attributable to the Mills Lane Improvements as set forth in the bid documents for such improvements, including any change orders for such improvements that are reviewed and approved by the City Engineer.

7.3.3.2 Developer's share of the cost of the Storm Drain Improvements shall be eighteen percent (18%) of the construction costs attributable to the Storm Drain Improvements as set forth in the bid documents for such improvements, including any change orders for such improvements that are reviewed and approved by the City Engineer.

7.3.3.3 Developer shall pay the full construction cost attributable to the Recycled Water Pipe as set forth in the bid documents for such improvements, including any change orders for such improvements that are reviewed and approved by the City Engineer up to a maximum amount of Two Hundred Fifty-Six Thousand Five Hundred Forty-Nine Dollars (\$256,549). Any construction costs in excess of this maximum amount shall be subject to reimbursement by the City in accordance with Section 7.3.4.

7.3.3.4 Developer shall pay the full cost of construction of the La Fata Sidewalk Improvements with no reimbursement from the City.

7.3.3.5 The amounts for which Developer is solely responsible as set forth above are collectively referred to herein as the "Developer's Share of Public Improvements."

7.3.4 Reimbursement for Costs in Excess of Developer's Share of Public Improvements.

7.3.4.1 Following construction of the Public Improvements by Developer and acceptance of said Public Improvements by the City, the City shall reimburse Developer for the construction costs of the Public Improvements in excess of the Developer's Share of Public Improvements, as set forth in the bid documents for such Public Improvements, including any change orders reviewed and approved by the City Engineer, in the manner set forth below.

7.3.4.2 City shall reimburse Developer an amount equal to fifty percent (50%) of the Transient Occupancy Tax ("TOT") received by the City from Developer pursuant to Chapter 3.28 of the St. Helena Municipal Code, until the construction costs in excess of Developer's Share of Public Improvements have been reimbursed to Developer in full. Reimbursement shall be made on a quarterly basis within thirty (30) days after the City has confirmed the amount of TOT paid by Developer for the prior quarter, provided that the City may, at its discretion, make additional or larger payments to the Developer toward to the total reimbursement amount. City may use any source of funds it deems appropriate to make the reimbursement payment required hereunder, including general fund moneys, impact fees as appropriate for the constructed improvements or other funds available to pay for the construction of capital improvements. City's obligation to reimburse Developer pursuant to this section shall survive the expiration of the Term and any Extended Term.

ARTICLE 8 AMENDMENT OF AGREEMENT AND PROJECT APPROVALS

8.1 Amendment by Written Consent. Except as otherwise expressly provided herein (including Section 6.1 relating to City's annual review and Section 12.1 relating to termination in the event of a breach), this Agreement may be terminated, modified or amended only by mutual written consent of the Parties hereto or their successors in interest or assignees and in accordance with the provisions of Government Code sections 65867, 65867.5, and 65868.

8.2 Major Amendments to Agreement. Any amendment to this Agreement which affects or relates to (a) the Term; (b) permitted uses of the Property; (c) provisions for the reservation or dedication of land; (d) conditions, terms restrictions or requirements for subsequent discretionary actions; (e) the density or intensity of the use of the Property or the maximum height or size of proposed buildings; or (f) monetary contributions by Developer, shall be deemed a "**Major Amendment**" and shall require giving of notice and a public hearing before the Planning Commission and City Council. Any amendment which is not a Major Amendment shall be deemed a "**Minor Amendment**" and shall not, except to the extent otherwise required by Applicable Law, require notice of public hearing before the Parties may execute an amendment hereto. The City Manager or his or her designee shall have the authority to determine if an amendment is a Major Amendment or a Minor Amendment.

8.3 Minor Amendment. The City Manager or his or her designee shall have the authority to review and approve amendments to this Agreement provided that such amendments are not Major Amendments.

8.4 Requirement for Writing. No modification, amendment or other change to this Agreement or any provision hereof shall be effective for any purpose unless specifically set forth in a writing which refers expressly to this Agreement and is signed by duly authorized representatives of both Parties or their successors in interest.

8.5 Subsequent CEQA Review. No additional CEQA documentation shall be required unless Developer proposes substantial changes in the Project that result in unmitigated environmental impacts beyond those analyzed in the Prior CEQA documents or in the Prior CEQA Analysis. In the event that any additional CEQA documentation is legally required for any discretionary Subsequent Approval, then the scope of such documentation shall be focused, to the extent possible consistent with CEQA, on the specific subject matter of the Subsequent Approval, and the City, at Developer's expense, shall conduct such additional CEQA review as expeditiously as possible.

ARTICLE 9 INSURANCE, INDEMNITY AND COOPERATION IN THE EVENT OF LEGAL CHALLENGE

9.1 Insurance Requirements. Developer shall procure and maintain, or cause its contractor(s) to procure and maintain, until the earlier of (a) the expiration of this Agreement; or (b) the completion of the Project, a commercial general liability policy in an amount not less than two million (\$2,000,000) combined single limit, including contractual liability together with a comprehensive automobile liability policy in the amount of one million (\$1,000,000), combined single limit. Such policy or policies shall be written on an occurrence form, so long as such form of policy is then commonly available in the commercial insurance marketplace. Developer's insurance shall be placed with insurers with a current A.M. Best's rating of no less than A-:VII or a rating otherwise approved by the City in its sole discretion. Developer shall furnish at City's request appropriate certificate(s) of insurance evidencing the insurance coverage required hereunder, and City Parties shall be named as additional insured parties in such policies. The certificate of insurance shall contain a statement of obligation on the part of the carrier to notify City of any material change, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation or termination (ten (10) days advance notice in the case of cancellation for nonpayment of premiums) where the insurance carrier provides such notice to the Developer. Coverage provided hereunder by Developer shall be primary insurance and shall not be contributing with any insurance, self-insurance or joint self-insurance maintained by City, and the policy shall contain such an endorsement. The insurance policy or the endorsement shall contain a waiver of subrogation for the benefit of City.

9.2 Indemnity and Hold Harmless. Developer shall indemnify, defend (with counsel reasonably acceptable to City) and hold harmless City Parties from and against any and all Claims, including Claims for any bodily injury, death, or property damage, resulting directly or indirectly from the development or construction of the Project by or on behalf of Developer, and/or from any other acts or omissions of Developer under this Agreement, whether such acts or omissions are by Developer or any of Developer's contractors, subcontractors, agents or employees, except to the extent such Claims arise from the sole active negligence or willful misconduct of City or City Parties.

9.3 Defense and Cooperation in the Event of a Litigation Challenge. City and Developer shall cooperate in the defense of any court action or proceeding instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, or the Project Approvals (“**Litigation Challenge**”), and the Parties shall keep each other informed of all developments relating to such defense, subject only to confidentiality requirements that may prevent the communication of such information. To the extent Developer desires to contest or defend such Litigation Challenge, (a) Developer shall take the lead role defending such Litigation Challenge and may, in its sole discretion, elect to be represented by the legal counsel of its choice; (b) City may, in its sole discretion, elect to be separately represented by the legal counsel of its choice in any such action or proceeding with the reasonable costs of such representation to be paid by Developer; (c) Developer shall reimburse City, within ten (10) business days following City’s written demand therefor, which may be made from time to time during the course of such litigation, all reasonable costs incurred by City in connection with the Litigation Challenge, including City’s administrative, legal, and court costs and City Attorney oversight expenses; and (d) Developer shall indemnify, defend, and hold harmless City Parties from and against any damages, attorneys’ fees or cost awards, including attorneys’ fees awarded under Code of Civil Procedure section 1021.5, assessed or awarded against City by way of judgment, settlement, or stipulation. Any proposed settlement of a Litigation Challenge shall be subject to City’s approval not to be unreasonably withheld, conditioned or delayed. If the terms of the proposed settlement would constitute an amendment or modification of this Agreement or any Project Approvals, the settlement shall not become effective unless such amendment or modification is approved by City in accordance with Applicable Law, and City reserves its full legislative discretion with respect thereto. If Developer opts not to contest or defend such Litigation Challenge, City shall have no obligation to do so.

9.4 Prevailing Wages. Without limiting the foregoing, Developer acknowledges the requirements of California Labor Code Section 1720, *et seq.*, and 1770 *et seq.*, as well as California Code of Regulations, Title 8, Section 16000 *et seq.* (“**Prevailing Wage Laws**”), which require the payment of prevailing wage rates and the performance of other requirements on “public works” and “maintenance” projects, as defined. If work on off-site improvements pursuant to this Agreement is being performed by Developer as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation under the contract in question is \$1,000 or more, Developer agrees to fully comply with such Prevailing Wage Laws. Developer understands and agrees that it is Developer’s obligation to determine if Prevailing Wages apply to work done on the Project or any portion of the Project. Upon Developer’s request, the City shall provide a copy of the then current prevailing rates of per diem wages. Developer shall make available to interested parties upon request, copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the work subject to Prevailing Wage Laws, and shall post copies at the Developer’s principal place of business and at the Property. Developer shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless pursuant to the indemnification provisions of this Agreement from any claim or liability arising out of any failure or alleged failure by Developer to comply with the Prevailing Wage Laws associated with any “public works” or “maintenance” projects associated with Project development.

ARTICLE 10 TRANSFER AND NOTICE

10.1 Transfer. Because of the necessity to coordinate development of the entirety of the Property pursuant to plans for the Project, particularly with respect to the provision of on- and off-site public improvements and public services and benefits, certain restrictions on the right of Developer to Transfer its interest under this Agreement with respect to the Property, or any portion thereof, are necessary in order to assure the achievement of the goals, objectives and public benefits of the Project and this Agreement.

10.1.1 Developer agrees to and accepts the restrictions set forth in this Section 10.1 as reasonable and as a material inducement to City to enter into this Agreement. The Developer shall promptly notify the City in writing of any and all changes whatsoever in the identity of the business entities or individuals either comprising or in Control of the Developer, as well as any and all changes in the interest or the degree of Control of the Developer by any such person, of which information the Developer or any of its partners, members or officers are notified or may otherwise have knowledge or information.

10.1.2 Except as expressly permitted in this Agreement, the Developer represents to the City that it has not made and agrees that it will not make or create, or suffer to be made or created, any Transfer other than a Permitted Transfer, either voluntarily, involuntarily or by operation of law, until after the completion of the Project and all of Developer's obligations under this Agreement; provided, however, that the City may approve in its reasonable discretion, Transfers other than Permitted Transfers prior to the completion of the Project and such obligations under this Agreement. In deciding whether to approve or disapprove any proposed Transfer, the City may consider the proposed transferee's financial strength and the experience of the proposed transferee and its senior management in undertaking and successfully completing projects of a similar type and size as the Project or that portion of the Project proposed to be transferred. Any Transfer made in contravention of this Section 10.1 shall be voidable at the election of the City and this Agreement may be terminated by the City or the City may exercise any other remedy available to the City under the terms of this Agreement, provided, however, that (i) the City shall first notify the Developer in writing of its intention to terminate this Agreement or to exercise any other remedy, and (ii) the Developer shall have twenty (20) calendar days following its receipt of such written notice to commence and, thereafter, diligently and continuously proceed to cure the default of the Developer and submit evidence of the initiation and satisfactory completion of such cure to the City, in a form and substance reasonably satisfactory to the City.

10.1.3 The Developer shall provide the City no less than thirty (30) days prior written notice of any proposed Permitted Transfer which the Developer desires to enter into prior to the completion of the Project and Developer's obligations under this Agreement, other than a Permitted Transfer for which no notice shall be required. The Developer shall have the burden of demonstrating to the City's reasonable satisfaction that the proposed Permitted Transfer meets the conditions and requirements of this Agreement with respect to Permitted Transfers.

10.1.4 Once the Developer has completed all its obligations under Article 5 of this Agreement, including but not limited to payment of the full Affordable Housing Payment, and

received a final certificate of occupancy for the Project, this Section 10.1 shall no longer apply to Transfers by Developer. City acknowledges that in the event Developer has completed all obligations under Article 5 except for making the Second Housing Payment, and Developer intends to make the Second Housing Payment concurrently with the Transfer of the Project, City shall not have discretion to approve or deny such transfer except to require the making of the Second Housing Payment concurrent with the Transfer, and Developer shall still be obligated to notify City of such Transfer in accordance with this Section 10.1.

10.2 Successive Transfer. In the event there is more than one Transfer under the provisions of this Article 10, the provisions of this Article 10 shall apply to each successive Transfer.

ARTICLE 11 MORTGAGEE PROTECTION

11.1 Mortgagee Protection. Neither entering into this Agreement nor a breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value. Nothing in this Agreement shall prevent or limit Developer, at its sole discretion, from granting one or more Mortgages encumbering all or a portion of Developer's interest in the Property or portion thereof or improvement thereon as security for one or more loans or other financing, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against and shall run to the benefit of Mortgagee who acquires title or possession to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise. Developer shall provide the City with a copy of the deed of trust or mortgage within ten (10) days after its recording in the official records of Napa County; provided, however, that Developer's failure to provide such document shall not affect any Mortgage, including without limitation, the validity, priority or enforceability of such Mortgage.

11.2 Mortgagee Not Obligated. No Mortgagee (including one who acquires title or possession to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise) shall have any obligation to construct or complete construction of improvements, or to guarantee such construction or completion; provided, however, that a Mortgagee shall not be entitled to devote the Property to any use except in full compliance with this Agreement and the other Project Approvals nor to construct any improvements thereon or institute any uses other than those uses or improvements provided for or authorized by this Agreement, or otherwise under the Project Approvals. Except as otherwise provided in this Section 11.2, all of the terms and conditions contained in this Agreement and the other Project Approvals shall be binding upon and effective against and shall run to the benefit of any person or entity, including any Mortgagee, who acquires title or possession to the Property, or any portion thereof.

11.3 Notice of Default to Mortgagee. If City receives a notice from a Mortgagee requesting a copy of any Notice of Default given Developer hereunder and specifying the address for service thereof, then City agrees to use its diligent, good faith efforts to deliver to such Mortgagee, concurrently with service thereon to Developer, any Notice of Default given to Developer. Each Mortgagee shall have the right, but not the obligation, during the same period available to Developer to cure or remedy, or to commence to cure or remedy, the event of Default

claimed or the areas of noncompliance set forth in City's Notice of Default. If a Mortgagee is required to obtain possession in order to cure any Default, the time to cure shall be tolled so long as the Mortgagee is attempting to obtain possession, including by appointment of a receiver or foreclosure, but in no event may this period exceed 120 days from the date the City delivers the Notice of Default to Developer.

11.4 No Supersedure. Nothing in this Article 11 shall be deemed to supersede or release a Mortgagee or modify a Mortgagee's obligations under any subdivision or public improvement agreement or other obligation incurred with respect to the Project outside this Agreement, nor shall any provision of this Article 11 constitute an obligation of City to such Mortgagee, except as to the notice requirements of Section 11.3.

ARTICLE 12 DEFAULT; REMEDIES; TERMINATION

12.1 Breach and Default. Subject to Permitted Delays or by mutual consent in writing, and except as otherwise provided by this Agreement, breach of, failure, or delay by either Party to perform any term or condition of this Agreement shall constitute a "**Default**." In the event of any alleged Default of any term, condition, or obligation of this 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 the Default may be satisfactorily cured ("**Notice of Breach**"). The defaulting Party shall cure the Default within thirty (30) 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 thirty (30) 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 Agreement and the non-defaulting Party may exercise any of the remedies available under this Agreement.

12.2 Failure to Cure Default Procedure. If after Default or Notice of Breach, the Planning and Building Director finds and determines that Developer remains in default and that the City intends to terminate or modify this Agreement, or those transferred or assigned rights and obligations, as the case may be, the Planning and Building Director shall make a report to the Planning Commission and then set a public hearing before the Commission in accordance with the notice and hearing requirements of Government Code Sections 65867 and 65868. If after public hearing, the Planning Commission finds and determines, on the basis of substantial evidence, that Developer, or an Assignee, as the case may be, has not cured default pursuant to this Section, and that the City shall terminate or modify this Agreement, Developer shall be entitled to appeal that finding and determination to the City Council in accordance with Section 12.10 below. In the event of a finding and determination that all defaults are cured, there shall be no appeal by any person or entity.

12.3 Withholding of Permits. In the event of a Default by Developer, or following notice of breach to Developer pursuant to Section 12.1 above and during/following the cure period

provided therein, upon a finding by the City Manager that Developer is in breach, City shall have the right to refuse to issue any permit or other Subsequent Approvals to which Developer would otherwise have been entitled pursuant to this Agreement until such Default or breach is cured. This provision is in addition to and shall not limit any actions that City may take to enforce the conditions of the Project Approvals.

12.4 Termination. In the event of an uncured Default by a Party, the non-defaulting Party shall have the right to terminate this Agreement upon giving notice of intent to terminate pursuant to Government Code section 65868 and regulations of City implementing such section. Following notice of intent to terminate, the matter shall be scheduled for consideration and review in the manner set forth in Government Code section 65867 and City regulations implementing said section. Following consideration of the evidence presented in said review before the City Council, a Party alleging Default by the other Party may give written notice of termination of this Agreement to the other Party. Termination of this Agreement shall be subject to the provisions of Section 12.12.

12.5 Specific Performance for Violation of a Condition. If City issues a Project Approval pursuant to this Agreement in reliance upon a specified condition being satisfied by Developer in the future, and if Developer then fails to satisfy such condition, City shall be entitled to specific performance for the purpose of causing Developer to satisfy such condition. If City issues a Project Approval pursuant to this Agreement and Developer fulfills its obligations under this Agreement in reliance upon a specified condition being satisfied by the City in the future, and if the City then fails to satisfy such condition, Developer shall be entitled to specific performance for the purpose of causing City to satisfy such condition.

12.6 Legal Actions.

12.6.1 Institution of Legal Actions. In addition to any other rights or remedies and subject to the limitation of damages in Section 12.7, a Party may institute legal action to cure, correct or remedy any Default, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation thereof, or to obtain any other remedies consistent with the purpose of this Agreement. Any such legal action shall be brought in the Superior Court for Napa County, California, except for actions that include claims in which the Federal District Court for the Northern District of the State of California has original jurisdiction, in which case the Northern District of the State of California shall be the proper venue.

12.6.2 Acceptance of Service of Process. In the event that any legal action is commenced by Developer against City, service of process on City shall be made by personal service upon the City Clerk of City or in such other manner as may be provided by law. In the event that any legal action is commenced by City against Developer, service of process on Developer shall be made by personal service upon CS Lawyer's Incorporating Service, Developer's registered agent for service of process, or in such other manner as may be provided by law.

12.7 Rights and Remedies Are Cumulative. The rights and remedies of the Parties are cumulative, and the exercise by a Party of one or more of such rights or remedies shall not preclude

the exercise by it, at the same or different times, of any other rights or remedies for the same Default or any other Default by the other Party, except as otherwise expressly provided herein.

12.8 No Damages. In no event shall a Party, or its boards, commissions, officers, agents or employees, be liable in damages, including without limitation, actual, consequential or punitive damages, for any Default under this Agreement. It is expressly understood and agreed that the sole legal remedy available to a Party for a breach or violation of this Agreement by the other Party shall be an action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement by the other Party, or to terminate this Agreement. This limitation on damages shall not preclude actions by a Party to enforce payments of monies or the performance of obligations requiring an obligation of money from the other Party under the terms of this Agreement including, but not limited to, obligations to pay attorneys' fees and obligations to advance monies or reimburse monies. In connection with the foregoing provisions, each Party acknowledges, warrants and represents that it has been fully informed with respect to, and represented by counsel of such Party's choice in connection with, the rights and remedies of such Party hereunder and the waivers herein contained, and after such advice and consultation has presently and actually intended, with full knowledge of such Party's rights and remedies otherwise available at law or in equity, to waive and relinquish such rights and remedies to the extent specified herein, and to rely to the extent herein specified solely on the remedies provided for herein with respect to any breach of this Agreement by the other Party.

12.9 Resolution of Disputes. With regard to any dispute involving the Project, the resolution of which is not provided for by this Agreement or Applicable Law, a Party shall, at the request of another Party, meet with designated representatives of the requesting Party promptly following its request. The parties to any such meetings shall attempt in good faith to resolve any such disputes. Nothing in this Section 12.9 shall in any way be interpreted as requiring that Developer, City and/or City's designee reach agreement with regard to those matters being addressed, nor shall the outcome of these meetings be binding in any way on City or Developer unless expressly agreed to in writing by the parties to such meetings.

12.10 Remedies upon Transfer or Assignment. Notwithstanding anything to the contrary contained in this Article 12, if Developer has transferred all or a portion of its interest in the Property pursuant to Section 10.1 above, then the City may only exercise its remedies under this Article 12 against the defaulting Developer or Assignee and such party's portion of the Property.

12.11 Appeals to City Council. Where an appeal by Developer to the City Council from a finding and/or determination of the Planning Commission is created by this Agreement, that appeal shall be taken, if at all, within twenty (20) days after the mailing of the finding and/or determination to Developer. The City Council shall act upon the finding and/or determination of the Planning Commission within eighty (80) days after the mailing, or within any additional period as may be agreed upon by Developer and the Council.

12.12 Surviving Provisions. In the event this Agreement is terminated, neither Party shall have any further rights or obligations hereunder, except for those obligations of Developer set forth in Article 9.

ARTICLE 13 **GENERAL PROVISIONS**

13.1 Covenants Binding on Successors and Assigns and Run with Land. Except as otherwise more specifically provided in this Agreement, this Agreement and all of its provisions, rights, powers, standards, terms, covenants and obligations, shall be binding upon the Parties and their respective successors (by merger, consolidation, or otherwise) and assigns, and all other persons or entities acquiring the Property, or any interest therein, and shall inure to the benefit of the Parties and their respective successors and assigns, as provided in Government Code section 65868.5.

13.2 Notice. Any notice, demand or request which may be permitted, required or desired to be given in connection herewith shall be given in writing and directed to the City and Developer as follows:

If to the City:	City Clerk City of St. Helena 1572 Railroad Avenue St. Helena, CA 94574
with a copy to:	City Attorney City of St. Helena 1572 Railroad Avenue St. Helena, CA 94574
If to Developer:	LMR Destinations LLC Attn: Ted Hall P.O. Box 477 Rutherford, CA 94573
with a copy to:	Rob Anglin Holman Teague Roche Anglin, LLP 1455 First Street, Suite 217 Napa, CA 94559 Telephone: (707) 927-4280

Notices are deemed effective if delivered by certified mail, return receipt requested, or commercial courier, with delivery to be effective upon verification of receipt. Any Party may change its respective address for notices by providing written notice of such change to the other Parties.

13.3 Permitted Delays. Performance by either of the Parties of an obligation hereunder shall be excused during any period of “**Permitted Delay**.” Permitted Delay shall mean delay beyond the reasonable control of a Party caused by (a) calamities, including without limitation earthquakes, floods, and fire; (b) civil commotion; (c) riots or terrorist acts; (d) strikes or other forms of material labor disputes; (e) shortages of materials or supplies; or (f) vandalism. A Party’s

financial inability to perform or obtain financing or adverse economic conditions generally shall not be grounds for claiming a Permitted Delay. The Party claiming a Permitted Delay shall notify the other Party of its intent to claim a Permitted Delay, the specific grounds of the same and the anticipated period of the Permitted Delay within thirty (30) business days after the occurrence of the conditions which establish the grounds for the claim. If notice by the Party claiming such extension is sent to the other Party more than thirty (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice. The period of Permitted Delay shall last no longer than the conditions preventing performance. In no event shall any Permitted Delay extend the Term of this Agreement.

13.4 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.

13.5 Waivers. Notwithstanding any other provision in this Agreement, any failures or delays by any Party in asserting any of its rights and remedies under this Agreement shall not operate as a waiver of any such rights or remedies, or deprive any such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies. A Party may specifically and expressly waive in writing any condition or breach of this Agreement by the other Party, but no such waiver shall constitute a further or continuing waiver of any preceding or succeeding breach of the same or any other provision. Consent by one Party to any act by the other Party shall not be deemed to imply consent or waiver of the necessity of obtaining such consent for the same or similar acts in the future.

13.6 Construction of Agreement. All Parties have been represented by counsel in the preparation and negotiation of this Agreement, and this Agreement shall be construed according to the fair meaning of its language. The rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement. Unless the context clearly requires otherwise, (a) the plural and singular numbers shall each be deemed to include the other; (b) the masculine, feminine, and neuter genders shall each be deemed to include the others; (c) "shall," "will," or "agrees" are mandatory, and "may" is permissive; (d) "or" is not exclusive; (e) "includes" and "including" are not limiting; and (f) "days" means calendar days unless specifically provided otherwise.

13.7 Headings. Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants, or conditions of this Agreement.

13.8 Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a specific situation, is found to be invalid, or unenforceable, in whole or in part for any reason, the remaining terms and provisions of this Agreement shall continue in full force and effect unless an essential purpose of this Agreement would be defeated by loss of the invalid or unenforceable provisions, in which case any Party may terminate this Agreement by providing written notice thereof to the other Party.

13.9 Time is of the Essence. Time is of the essence of this Agreement. All references to time in this Agreement shall refer to the time in effect in the State of California.

13.10 Extension of Time Limits. The time limits set forth in this Agreement may be extended by mutual consent in writing of the Parties in accordance with the provisions of this Agreement.

13.11 Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Developer and the City.

13.12 Entire Agreement. This Agreement (including all exhibits attached hereto, each of which is fully incorporated herein by reference), integrates all of the terms and conditions mentioned herein or incidental hereto, and constitutes the entire understanding of the Parties with respect to the subject matter hereof, and all prior or contemporaneous oral agreements, understandings, representations and statements, and all prior written agreements, understandings, representations, and statements are terminated and superseded by this Agreement.

13.13 Estoppel Certificate. Developer or its lender may, at any time, and from time to time, deliver written notice to the City requesting the City to certify in writing that: (a) this Agreement is in full force and effect; (b) this Agreement has not been amended or modified or, if so amended or modified, identifying the amendments or modifications; and (c) Developer is not in Default of the performance of its obligations, or if in Default, to describe therein the nature and extent of any such Defaults. Developer shall pay, within thirty (30) days following receipt of City's invoice, the actual costs borne by City in connection with its review of the proposed estoppel certificate, including the costs expended by the City Attorney's Office in connection therewith. The City Manager shall be authorized to execute any certificate requested by Developer hereunder. The form of estoppel certificate shall be in a form reasonably acceptable to the City Attorney. The City Manager shall execute and return such certificate within thirty (30) days following Developer's request therefor. Developer and City acknowledge that a certificate hereunder may be relied upon by tenants, transferees, investors, partners, bond counsel, underwriters, bond holders and Mortgagees. The request shall clearly indicate that failure of the City to respond within the thirty-day period will lead to a second and final request. Failure to respond to the second and final request within fifteen (15) days of receipt thereof shall be deemed approval of the estoppel certificate.

13.14 Recordation of Termination. Upon completion of performance of the Parties or termination of this Agreement, a written statement acknowledging such completion or termination shall be recorded by City in the Official Records of Napa County.

13.15 City Approvals and Actions. Whenever a reference is made herein to an action or approval to be undertaken by City, the City Manager or his or her designee is authorized to act on behalf of City, unless specifically provided otherwise or the context requires otherwise.

13.16 Negation of Partnership. The Parties specifically acknowledge that the Project is a private development, that no Party to this Agreement is acting as the agent of any other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties in the

businesses of Developer, the affairs of the City, or otherwise, or cause them to be considered joint venturers or members of any joint enterprise.

13.17 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the signatory Parties and their successors and assigns, including Mortgagees. No other person shall have any right of action based upon any provision in this Agreement.

13.18 Governing State Law. This Agreement shall be construed in accordance with the laws of the State of California, without reference to its choice of law provisions.

13.19 Recordation. As provided in Government Code Section 65868.5, the City Clerk of St. Helena shall record a copy of this Agreement with the Registrar-Recorder of the County of Napa within ten (10) days following its execution by both Parties. Developer shall provide the City Clerk with the fees for recording prior to or at the time of recording.

13.20 Exhibits. The following exhibits are attached to this Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

- Exhibit A: Property Description
- Exhibit B: Site Map
- Exhibit C: Project Description
- Exhibit D: Existing Approvals
- Exhibit E: Applicable Law & Project Approval Excerpts
- Exhibit F: Mills Lane Improvements
- Exhibit G: Storm Drain Improvements
- Exhibit H: La Fata Sidewalk Improvements

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the City and Developer have executed this Agreement as of the Effective Date.

CITY:

CITY OF ST. HELENA, a municipal corporation

By: 
Mark Prestwich, City Manager
[Signature must be notarized]

ATTEST:

By: 
Cindy Tzafopoulos, City Clerk

I hereby certify that this is a true and exact copy of the original record on file with the City of St. Helena, County of Napa, State of California.

Attest

APPROVED AS TO FORM:

By: _____
Ethan Walsh, City Attorney

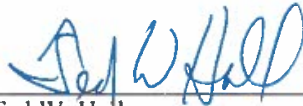

Cindy Tzafopoulos, City Clerk
Date: 11/20/20

DEVELOPER:

LMR DESTINATIONS LLC, a California limited liability company

By: Long Meadow Ranch Partners, L.P.
a California limited partnership
Its: Manager

By: LMR GP LLC,
a California limited liability company
Its: General Partner

By: 
Ted W. Hall,
Its Manager
[Signature must be notarized]

IN WITNESS WHEREOF, the City and Developer have executed this Agreement as of the Effective Date.

CITY:

CITY OF ST. HELENA, a municipal corporation

By: _____

Mark Prestwich, City Manager

[Signature must be notarized]

ATTEST:

By: _____

Cindy Tzaopoulos, City Clerk

APPROVED AS TO FORM:

By: _____

Ethan Walsh, City Attorney

DEVELOPER:

LMR DESTINATIONS LLC, a California limited liability company

By: Long Meadow Ranch Partners, L.P.
a California limited partnership
Its: Manager

By: LMR GP LLC,
a California limited liability company
Its: General Partner

By: _____

Ted W. Hall,
Its Manager

[Signature must be notarized]

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 Napa

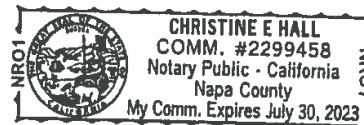
On this 17th day of November, 20__ before me, Christine E. Hall,
Notary Public, personally appeared Ted W Hall, who
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
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: Christine E Hall

(Seal)



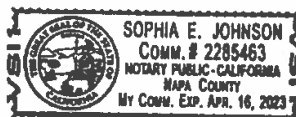
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF Napa

On this 19 day of November, 2020 before me, Sophia E. Johnson,
Notary Public, personally appeared Mark Prestwich, 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: Sophia E. Johnson (Seal)

EXHIBIT A

That certain property located in the City of St. Helena, County of Napa, California, described as follows:

PARCEL TWO, as shown on the map entitled "Parcel Map of the Lands of Carl Doumani", filed March 18, 2009, in Book 26 of Parcel Maps at page(s) 22-23, in the office of the County Recorder of Napa County.

APN: 009-070-049

Commencing at the most southerly corner of Parcel Four as shown in Book 26 of Parcel Maps at pages 22 through 23, recorded on March 18, 2009 in the office of the Napa County Recorder; thence along the southwesterly line of said Parcel Four and the southwesterly line of Parcel One of said Parcel Map North 58°45'00" West 469 feet to the TRUE POINT OF BEGINNING; thence continuing along the southwesterly line of said Parcel One North 58°45'00" West 171 feet to the northwest corner thereof; thence along the lines of said Parcel One North 31°15'00" East 575.38 feet, South 58°45'00" East 640 feet and South 31°15'00" West 25.00 feet to the southeasterly corner of Parcel Three of said Parcel Map; thence along the common line between said Parcels Three and One and the northwesterly extension thereof North 58°45'00" West 469.00 feet; thence South 31°15'00" West 550.38 feet to the true point of beginning.

APN: 009-070-052

Beginning at the most southerly corner of Parcel Four as shown in Book 26 of Parcel Maps at pages 22 through 23, recorded on March 18, 2009 in the office of the Napa County Recorder; thence along the southwesterly line of said Parcel Four and the southwesterly line of Parcel One of said Parcel Map North 58°45'00" West 469 feet; thence leaving said southwesterly line North 31°15'00" East 374.38 feet to the northwesterly extension of the common line between said Parcel Four and Parcel Three of said Parcel Map; thence along said extension and said common line South 58°45'00" East 469 feet; thence South 31°15'00" West 374.38 feet to the point of beginning.

APN: 009-070-053

Beginning at the most southerly corner of Parcel Three as shown in Book 26 of Parcel Maps at pages 22 through 23, recorded on March 18, 2009 in the office of the Napa County Recorder, said southerly corner also being the most easterly corner of Parcel Four of said Parcel Map; thence along the common line between said Parcels Three and Four and the northwesterly extension thereof North 58°45'00" West 469 feet; thence North 31°15'00" East 176 feet to the northwesterly extension of the common line between said Parcel Three and Parcel One of said Parcel map; thence along said extension and common line South 58°45'00" East 469 feet to the most easterly corner of said Parcel Three; thence along the southeasterly line of said Parcel Three South 31°15'00" West 176 feet to the point of beginning.

APN: 009-070-054

EXHIBIT B

SITE MAP



Lodging Site Plan
Farmstead at Long Meadow Ranch
St. Helena, California

Figure 3

EXHIBIT C

PROJECT DESCRIPTION

Long Meadow Ranch Lodging Project – 1000 Mills Lane

The applicant is requesting approval of a use permit, design review, lot line adjustment, lot merger, variance, water agreement, and development agreement in order to construct a 65 room hotel spread throughout 10 individual buildings that are configured with either 6 or 7 guest rooms per building. The lodging buildings will total approximately 32,100 square feet and will be single story with a maximum height of 29 feet. The lodging component of the Project would occur on approximately 6.1 acres of an overall 10 acre site; the remaining 3.9 acres would continue to be used for agricultural purposes.

Each guest room will have two bicycles assigned and stored at the room for guests' exclusive use. In addition, staffed courtesy electric-powered carts will also be available to ferry guests between properties. EVA charging stations will be provided for guests' vehicles and the Project's courtesy vehicles. Throughout the lodging portion of the property, farming will continue with an edible landscape of herbs, fruit and citrus trees, and vegetables planted along the pathways. The perimeter of the property will be lined two- and three-deep with fruit trees, creating a commercial fruit orchard, as well as providing a visual buffer to Main Street and Mills Lane. In addition to the lodging buildings described above, the Project includes the following components:

A 9,882 sf multi-purpose building with the following amenities:

- Guest reception and administration area;
- Office space;
- A bar and lounge area;
- A meeting/classroom with a demonstration kitchen primarily for lodging guests, however cooking and food preparation classes will also be open to the public on a scheduled and by appointment basis;
- A commercial kitchen which will prepare daily breakfast, assemble room service meals, provide prep for cooking demonstrations, and support the daily chef's table featuring wine and food pairings for up to 20 people per sitting. The Chef's Table will service both lodging guests and also be open to the public by reservation only;
- Outdoors areas for lodging guest use only; and
- Staff facilities located in the multi-purpose building will include a break room, restrooms, lockers and showers, and covered bicycle parking.

Additional Facilities and Buildings:

- A 3,452 sf utility and service building which would include a bicycle center for guests, housekeeping, pool support and a green energy facility. This building would also accommodate a small laundry area serving incidental needs for the pool, gym, spa and lodging.
- A 3,114 sf spa building which would include four treatment rooms and two saunas;
- A 2,652 sf pool and fitness building which would include a gym, lockers, and showers;
- Two outdoor pools, including one children's pool, would be located in-between the three buildings; and
- Two (2) 1,000 sf agricultural barns in the northeast corner of the agriculturally zoned area will house tractors, farm equipment and will accommodate repair and maintenance activities.

<u>Proposed Floor Area Summary:</u>	
	<u>PROPOSED (gsf)</u>
Guest Lodging	32,100
Multi-purpose Building	9,882
Pool & Fitness Building	2,652
Spa Building	3,114
Utility Building	3,452
Agricultural Barns	2,000
TOTAL:	53,200 sf

The spa, pool and fitness building and associated pools would be for use by lodging guests only. Construction of the buildings described above would result in approximately 53,200 sf of new commercial floor area on the currently vacant property.

Employment: On average up to 65 employees, split into 3 shifts will work daily at the property. If employees travel to work by automobile, they will park at the supplemental parking lot located at McCormick and Dowdell. Secure covered bicycle storage, showers and lockers will also be provided for employees. A transportation demand manager (TDM) will be appointed to

facilitate employee car-pooling and other programs to reduce vehicle miles traveled (VMT). Ten employees already working at the current restaurant will support breakfast and room service at the lodging facility. An additional 11 employees will be added to the existing marketing, sales, reservations and support services already operating for Farmstead at Long Meadow Ranch (these employees will work at the LMR offices at 801 Main Street, St. Helena).

Access and Parking: Automobile access to the lodging facilities will be from Mills Lane.

Mills Lane will be realigned with Grayson Avenue at Highway 29 and widened to accommodate two lanes of traffic and parallel parking on both sides of the street. In addition, a 10' class 1 sidewalk and landscaping strip will be added on the north side of the street to accommodate pedestrian and bicycle traffic. Stop signs will be added at the north end of La Fata and at the exit from the Lodging driveway entrance. With the improvements of Mills Lane, a proper connection to La Fata will be completed at the same time. Also, a sidewalk will be added to the west side of La Fata. LMR will complete the construction of the Mills Lane and La Fata Street improvements prior to the opening of the lodging with costs allocated per the Highway 29 Specific plan, development agreement and conditions of approval.

The entrance to the registration parking court and parking lot will be aligned with La Fata Street. There will be 80 onsite parking spaces. All employee parking will be at the supplemental lot located at McCormick and Dowdell. Employees will not be allowed to park on site or on neighboring side streets. The applicant will provide an on-call shuttle for employees to both sites when needed at night. Secure bicycle parking will also be available for general public guests not staying at the lodging.

Water: The lodging and related facilities' needs for potable water (identified as approximately 5.8 acre-feet annual requirement) will be fulfilled through a connection to the City of St. Helena water system. Existing on-site non-potable wells will service all agricultural and landscaping activities. The pool will initially be filled by water from outside the City of St. Helena. To achieve the City's requirements for water neutrality the Developer and City have negotiated for Developer to provide an innovative program to achieve water neutrality through the Development Agreement. As set forth in the terms of the Development Agreement, the Developer has agreed to construct and install recycled water infrastructure (i.e., purple pipe) in Mills Lane extending from Highway 29 easterly to the eastern end of Mills Lane. As the City's wastewater treatment plant transitions to tertiary treatment, the City plans to implement a water recycling system that would allow for use of recycled water for irrigation and landscaping purposes. The piping that the Developer has agreed to install will, at a minimum, provide the ability to irrigate the landscaping at Crane Park and the fields at St. Helena Elementary School with recycled water, which would provide projected annual water savings of more than two times the annual water usage for the lodging project. Developer has agreed to fund these improvements at a cost of up to \$256,549, which is more than \$100,000 more than the in-lieu fees that Developer would pay under the City's water neutrality ordinance (the in-lieu fee would have been \$142,341.73). In addition to the Development Agreement, the applicant will enter into a water agreement that will set a cap on allowable water usage for the project and require that the applicant construct the recycled water improvements described in this section.

EXHIBIT D
EXISTING APPROVALS

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Exhibit D

CITY OF ST. HELENA

ORDINANCE NO. 2020-9

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF ST. HELENA APPROVING A
DEVELOPMENT AGREEMENT WITH LMR
DESTINATIONS, LLC RELATING TO THE
FARMSTEAD LODGING PROJECT AT 1000 MILLS
LANE**

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Sections 65864 *et seq.* (the "Development Agreement Statute") which authorizes cities to enter into agreements for the development of real property with any person having a legal or equitable interest in such property in order to establish certain development rights in such property; and

WHEREAS, in accordance with the Development Agreement Statute, the City of St. Helena (the "City") has enacted regulations encompassed in St. Helena Municipal Code Chapter 17.156 (the "Development Agreement Regulations") to implement procedures for the processing and approval of development agreements in accordance with the Development Agreement Statute; and

WHEREAS, in accordance with the Development Agreement Statute and the Development Agreement Regulations, LMR Destinations, LLC, a California limited liability company (the "Developer") has applied to the City for certain land use entitlements and a development agreement for the development of the Farmstead Lodging Project, a 65 room single story hotel project, which in addition to the guest rooms includes a multi-purpose building for guest reception/administration, a bar and lounge area, meeting/classroom with demonstration kitchen, commercial kitchen and staff facilities; a utility and service building; a spa building; a pool and fitness building; two outdoor pools; two agricultural barns; and approximately 3.9 acres of land used for agricultural purposes (the "Project"); and

WHEREAS, on October 13, 2020, the City Council approved Resolution No. 2020-100 adopting a Mitigated Negative Declaration for the Project (the "Mitigated Negative Declaration"), finding there is no substantial evidence in support of a fair argument that the proposed Project will have a significant, adverse impact on the environment with the mitigation measures proposed and adopting a resolution approving Design Review, Use Permit, Lot Line Adjustment, Lot Merger, Variance and Water Agreement (the "Project Entitlements") for the Farmstead at Long Meadow Ranch Project at 1000 Mills Lane; and

WHEREAS, Developer desires to carry out the development of the Project consistent with the General Plan, the Highway 29 Specific Plan and the Development Agreement and the vested entitlements referenced therein; and

WHEREAS, the Development Agreement will assure both the City and the Developer that the Project will proceed as proposed and that the public improvements and other amenities and funding obligations of the Developer will be accomplished as proposed; and that the Project can proceed without disruption caused by a change in City planning and development policies and requirements, which assurance will thereby reduce the actual or perceived risk of planning, financing and proceeding with construction of the Project and promote the achievement of the private and public objectives of the Project; and

WHEREAS, the Planning Commission of the City held a duly noticed public hearing on August 18, 2020 on the Mitigated Negative Declaration, Project Entitlements and the Development Agreement, during which public hearing the Planning Commission received comments from the Developer, City staff, and members of the general public and made a recommendation to the City Council on the adoption of the Mitigated Negative Declaration and approval of the Project Entitlements and the Development Agreement; and

WHEREAS, pursuant to Section 65867 of the Government Code, the City Council held a duly noticed public hearing on October 13, 2020 on the Mitigated Negative Declaration, Project Entitlements and the Development Agreement, during which public hearing the City Council received comments from the Developer, City staff, and members of the general public.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ST. HELENA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. This Ordinance incorporates, and by this reference makes a part hereof, the Development Agreement attached hereto as Exhibit A, subject to the provisions of Section 5 hereof.

SECTION 2. This Ordinance is adopted under the authority of Government Code Section 65864 et seq., and pursuant to the Development Agreement Regulations.

SECTION 3. In accordance with the Development Agreement Regulations, the City Council hereby finds and determines that the provisions of the Development Agreement are consistent with the General Plan and Highway 29 Specific Plan. Specifically, the Project to be developed pursuant to the Development Agreement is consistent with the land use designations for the parcel upon which the Project will be developed. The lodging component of the Project will be constructed on the portion of the parcel that is within the City's Urban Limit Line and is designated as Service Commercial (SC), where lodging is an allowable use. The portions of the parcel that are outside the Urban Limit Line will remain in agricultural use, consistent with the requirements of the General Plan. The Project will further numerous policies of the General Plan as more

specifically enumerated in the City staff reports prepared for this Ordinance, in that the Project would support both a local and visitor serving component to the City's economy by providing jobs, tax revenue, and additional amenities. The Project would enhance the character in the SC district by redeveloping an under-utilized site in the commercial district. The Project would also be oriented toward an upscale market, consistent with the Napa Valley's reputation as a producer of world-class wines. Further, the Project is consistent with the Highway 29 Specific Plan and would implement its direction by providing for the realignment of Mills Lane with Grayson Avenue consistent with the goals of the Highway 29 Specific Plan.

SECTION 4. The foregoing findings and determinations are based upon the following:

- (a) The Recitals set forth in this Ordinance, which are deemed true and correct;
- (b) The City's General Plan;
- (c) The City's Highway 29 Specific Plan;
- (d) Resolution No. 2020-100, adopted by the City Council on October 13, 2020, making findings as to the Mitigated Negative Declaration for the Project, including the Statement of Findings and the Mitigation Monitoring and Reporting Program, and adopted a resolution approving Design Review, Use Permit, Lot Line Adjustment, Lot Merger, Variance, and Water Agreement for Mills Lane, approved by and incorporated in said Resolution, which Resolution and exhibits are incorporated herein by reference as if set forth in full;
- (e) Resolution No. ___ of the Planning Commission of the City of St. Helena recommending that the City Council approve a Development Agreement with LMR Destinations, LLC relating to the Farmstead Lodging Project;
- (f) All City staff reports (and all other public reports and documents) prepared for the City Council, relating to the Development Agreement and other actions relating to the Property;
- (g) All documentary and oral evidence received at public hearings or submitted to the City during the comment period relating to the Development Agreement, and other actions relating to the Property; and
- (h) All other matters of common knowledge to the City Council, including, but not limited to the City's fiscal and financial status; City policies and regulations; reports, projections and correspondence related to development within and surrounding the City; State laws and regulations and publications.

SECTION 5. The City Council hereby approves the Development Agreement, attached hereto as Exhibit A, subject further to such minor, conforming and clarifying changes consistent with the terms thereof as may be approved by the City Manager, in consultation with the City Attorney to execution thereof, including completion of references and status of planning approvals, and completion and conformity of all exhibits thereto.

SECTION 6. The City Manager is hereby authorized and directed to perform all acts authorized to be performed by the City Manager in the administration of the Development Agreement pursuant to the terms of the Development Agreement.

SECTION 7. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 8. This ordinance shall become effective on and after the thirtieth (30th) day following its adoption.

SECTION 9. The Mayor shall sign, and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of applicable law.

PASSED, APPROVED AND ADOPTED by the City Council of the City of St. Helena, California, at a regular meeting of the City Council held on the 27th day of October, 2020 by the following vote:

Mayor Ellsworth:	<u>Yes</u>
Vice Mayor Dohring:	<u>Yes</u>
Councilmember Chouteau:	<u>Yes</u>
Councilmember Knudsen:	<u>Yes</u>
Councilmember Koberstein:	<u>Yes</u>




Geoff Ellsworth, Mayor

I, CINDY TZAFPOULOS, CITY CLERK of the City of St. Helena, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 13th day of October, 2020 by the following vote:

Mayor Ellsworth: Yes
Vice Mayor Dohring: Yes
Councilmember Chouteau: Yes
Councilmember Knudsen: Yes
Councilmember Koberstein: Yes


Cindy Tzaopoulos, City Clerk

EXHIBIT A

Farmstead Development Agreement

[Inserted behind this cover page]

CITY OF ST. HELENA

RESOLUTION NO. 2020-100

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST. HELENA ADOPTING A
MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND
REPORTING PROGRAM, AND ADOPTING A RESOLUTION APPROVING DESIGN
REVIEW, A USE PERMIT, A LOT LINE ADJUSTMENT, A LOT MERGER, A
VARIANCE, AND A WATER AGREEMENT FOR THE FARMSTEAD AT LONG
MEADOW RANCH PROJECT AT 1000 MILLS LANE IN THE CITY OF ST. HELENA,
CALIFORNIA**

PROPERTY OWNER: LMR Destinations LLC

APN: 009-070-49,52,53,54

Recitals

1. LMR Destinations LLC has submitted applications to the City of St. Helena for a Use Permit, Design Review, Lot Line Adjustment, Lot Merger, Variance, Water Agreement and Development Agreement approval in order to construct an new 65 room hotel and associated facilities at 1000 Mills Lane in the Service Commercial and Twenty-acre Agriculture districts as described below:
 - A 9,882 sf multi-purpose building; and
 - A 3,452 sf utility and service building; and
 - A 3,114 sf spa building; and
 - A 2,652 sf pool and fitness building; and
 - Two outdoor pools, including one children's pool; and
 - Two (2) 1,000 sf agricultural barns.
2. Pursuant to CEQA Guidelines Sections 15072 and 15073, a Draft Mitigated Negative Declaration and included Initial Study was circulated for public review and comment from May 29, 2020 until June 29, 2020; and
3. The Initial Study/Mitigated Negative Declaration concluded that implementation of the Project could result in a number of potentially significant effects on the environment and identified mitigation measures that would reduce the significant effects to a less-than-significant level; and
4. Whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a Mitigation Monitoring and Reporting Program to ensure compliance with the mitigation measures during project implementation; and
5. A public notice was published in the Napa Valley Register and mailed to residents and occupants within 300 feet of the project site in compliance with state and local law; and
6. The Planning Commission of the City of St. Helena, State of California, considered the project, staff report, and all testimony, written and spoken, at a duly noticed public hearing on September 14, 2020 and September 17, 2020; and
7. At conclusion of the meeting on September 17, 2020, the Planning Commission recommended that the City Council of the City of St. Helena adopt the Mitigated

Negative Declaration and Mitigation Monitoring and Reporting Program and approve a Use Permit, Design Review, Lot Line Adjustment, Lot Merger, Variance, and Water Agreement approving a Development Agreement thereby authorizing the modifications described in the staff report and the reviewed plans based on the findings below and subject to the conditions of approval enumerated herein.

Resolution

- A. In reviewing the findings in this Resolution, the City Council relied upon and hereby incorporates by reference all of the documents referenced in this Resolution and the associated staff reports, City files for this matter, correspondence, presentations and other materials.
- B. CEQA Findings:
 - 1. The City Council has independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration, public comments, and all other information in the record and has considered the information contained therein, prior to acting upon or approving the Project; and
 - 2. The Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and consistent with state and local guidelines implementing CEQA; and
 - 3. On the basis of the whole record, there is no substantial evidence that the Project as designed, conditioned, and mitigated, will have a significant effect on the environment; and
 - 4. The Initial Study/Mitigated Negative Declaration represents the independent judgment and analysis of the City as lead agency for the Project.
 - 5. Based on the foregoing, the City Council approves the Initial Study/Mitigated Negative Declaration and adopts the Mitigation Monitoring and Reporting Program for the Project.
 - 6. The custodian of the documents and other materials that constitute the record of proceedings is Cindy Tzafopoulos, City Clerk and may be inspected at 1572 Railroad Avenue, St. Helena, CA 94574.
- C. In accordance with the design review criteria identified in SHMC Section 17.164.030, the City Council finds that the project demonstrates the following:
 - 1. *Consistency and compatibility with applicable elements of the General Plan and Highway 29 Specific Plan in that the proposed structures are consistent with the intent of applicable General Plan and Highway 29 Specific Plan policies pertaining to development in the Service Commercial and Agricultural Districts.*
 - 2. *Compatibility of design with the immediate environment of the site in that the project has been designed to be compatible with the surrounding environment.*
 - 3. *Relationship of the design to the site is found to be consistent in that the project has been designed to be compatible with the site and the surrounding area.*

4. That the design is compatible in areas considered by the board as having a unified design or historical character in that the project has been designed to be compatible with the site and the surrounding area.
 5. That the design promotes harmonious transition in scale and character in areas between different designated land uses in that the project is of a similar scale and character to other development in the immediate area.
 6. Compatibility with future construction both on and off the site in that the proposed project will blend in with existing and future construction in the immediate vicinity.
 7. That the architectural design of structures and their materials and colors are appropriate to the function of the project in that the project has been professionally designed to suit the site and its surroundings.
 8. That the planning and siting of the various functions and buildings on the site create an internal sense of order and provide a desirable environment for occupants, visitors and the general community in that the improvements have been designed to be compatible with the site and its surroundings.
 9. That the amount and arrangement of open space and landscaping are appropriate to the design and the function of the structures in that landscaping and open space will enhance the overall appearance of the property and the immediate vicinity.
 10. That access to the property and circulation systems are safe and convenient for pedestrians, cyclists and vehicles in that access to the site will be provided via a realigned Mills Lane. Additional pedestrian connectivity will be provided by new sidewalks on LaFata Street and a pedestrian path connecting the property to 738 Main Street.
 11. That natural features are appropriately preserved and integrated with the project in that the project has been designed to be compatible with the site and its surroundings.
 12. That the materials, textures, colors and details of construction are an appropriate expression of its design concept and function and whether they are compatible with the adjacent and neighboring structure and functions in that the proposed siding, colors, and roofing materials are consistent with the site context and compatible with surrounding design.
 13. That the landscape design concept for the site, as shown by the relationship of plant masses, open space, scale, plant forms and foliage textures and colors create a desirable and functional environment and whether the landscape concept depicts an appropriate unity with the various buildings on the site in that project landscaping and open space will enhance the project site and its surroundings.
 14. That sustainability and climate protection are promoted through the use of green building practices such as appropriate site/architectural design, use of green building materials, energy efficient systems and water efficient landscape materials in that project related construction is required to meet all California Building Codes and City of St. Helena development standards.
- D. In accordance with SHMC Section 17.168.050, the City Council adopts the following use permit findings to support the motion to recommend approval of the use permit:

1. *That the proposed uses would not generate odors, fumes, dust, light, glare, radiation or refuse that would be injurious to surrounding uses or to the community in that proposed uses are related to a new hotel and would largely occur indoors within new buildings.*
2. *That the proposed uses would not generate levels of noise that adversely affect the health, safety, or welfare of neighboring properties in that the proposed project is subject to City noise regulations and is not anticipated to produce frequent noise audible beyond the property line.*
3. *That the proposed use would not generate traffic noise in excess of the "normally acceptable" range identified in the General Plan as traffic related impacts have been identified in the Mitigated Negative Declaration and been determined to be less than significant.*
4. *That the proposed use would not make excessive demands on the provision of public services including water supply, sewer capacity, energy supply, communication facilities, police protection, and fire protection in that impacts to these services have been identified in the Mitigated Negative Declaration and been determined to be less than significant.*
5. *That the proposed uses would provide adequate ingress and egress to and from the proposed location in that ingress and egress to the project site would be provided via a realigned Mills Lane.*
6. *That allowing the proposed uses would not conflict with the City's goal of maintaining the economic viability of a local serving economy in that the proposed project would be consistent with General Plan Update 2040 policies.*
7. *That the proposed uses would be compatible with surrounding land uses and would not conflict with the purpose established for the district within which it would be located as the proposed project is consistent with the intent of the Service Commercial and A-20 zoning districts.*
8. *That the proposed uses would not be in conflict with the City's General Plan in that the project would support both a local and visitor serving component to the City's economy by providing jobs, tax revenue, and additional amenities.*
9. *That the proposed uses would not be injurious to public health, safety, or welfare in that the proposed uses consist of a new hotel and ancillary facilities and would largely occur indoors within new buildings.*
10. *That granting the use permit would not set a precedent for the approval of similar uses whose incremental effect would be detrimental to the City or would be in conflict with the General Plan in that this use permit only applies to this property and to this specific use.*
11. *That, as demonstrated on a detailed plan submitted by the applicant, adequate off-street parking to accommodate the long term parking needs of employees and business owners and customers is available in that the proposed project has provided required off-street parking.*
12. *That the capacity of surrounding streets is adequate to serve the automobile and delivery truck traffic generated by the proposed use in that the project site can adequately be served by existing streets and a realigned Mills Lane.*

- E. In accordance with SHMC Section 17.172.050, the City Council adopts the following findings to support the motion to recommend approval of the variance:
1. *A hardship peculiar to the property, not created by the owner, exists as this requirement doesn't follow modern operational models and creates operational inefficiencies and therefore constitutes a peculiar hardship that is appropriately addressed and may be resolved through consideration of a Variance.*
 2. *Other hotels in the SC district are not burdened by this requirement, therefore, the variance is necessary for the preservation and enjoyment of substantial property rights available to other properties in the same district and vicinity; and that a variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his or her neighbors.*
 3. *The authorization of the variance will not be a substantial detriment to adjacent properties and will not materially impair the purpose and intent of this title or the public interest, or adversely affect the general plan.*
 4. *Inasmuch as there are not a significant number of similar properties in the vicinity or zoning district, it is not reasonably practicable to formulate a general regulation for such condition or situation. In other words, there are not enough hotels to make it necessary or practical to amend the zoning code to address this peculiar situation.*
 5. *An approval of this Variance to allow for a 24/7 365 day/year on-site manager opposed to requiring that a manager physically live on-site will enhance the public health, safety and welfare of the community.*
- F. In accordance with the requirements of SHMC Chapter 16.08, the City Council approves the lot line adjustment and lot merger as described in the staff report.
- G. The City Council approves design review, a use permit, a variance, a lot line adjustment, a lot merger, and a water agreement, for the above-described project located at 1000 Mills Lane subject to the following conditions of approval. The conditions noted below are particularly pertinent to this permit and shall not be construed to permit violation of other laws and policies not so listed.

Planning Department Conditions of Approval

1. The project shall be in conformance with all city ordinances, rules, regulations and policies in effect at the time of issuance of a building permit.
2. This approval shall be vested pursuant to the development agreement, provided however that the approval may be extended under the terms of the development agreement or for up to two (2) one-year periods pursuant to the St. Helena Municipal Code, Section 17.08.130, Extension of Permits and Approvals.
3. Any request for an extension of this approval shall be justified in writing and received by the Planning Department at least thirty (30) days prior to expiration.
4. All required fees, unless otherwise specified in the development agreement, including planning fees, development impact fees, building fees, and St. Helena Unified School District fees shall be paid prior to issuance of a building permit except as expressly

provided herein. Fees shall be those in effect at the time of the issuance of the building permit.

5. Developer shall make a payment for the purpose of furthering the City's affordable housing goals in accordance with the requirements of Section 5.1.6 entered into by and between Developer and the City for this project. The Development Agreement requires \$1,000,000 to be paid to the City prior to issuance of the building permit, and the remaining \$2,200,000 to be paid at the earlier of (i) Transfer of the Property by Developer, other than a Permitted Transfer ("Transfer" and "Permitted Transfer" are defined in the Development Agreement); (ii) conversion of Developer's construction financing for the Project to permanent financing, or (iii) sixty (60) months after issuance of a final certificate of occupancy for the Project.
6. Compliance with all permit conditions shall occur in accordance with specific regulations but in all cases no later than prior to occupancy or initiation of use unless another time is set by law or by this approval. Occupancy or final inspection of a project may be withheld if all conditions, including payment of fees for services rendered by the City, are not met.
7. In any action or proceeding to attack, challenge, invalidate, set aside, void or annul the City's approval of applicant's Project, in whole or in part, applicant shall defend, at its own expense and without any cost to the City, and with counsel acceptable to the City, and shall fully and completely indemnify and hold the City, its agents, officers, and employees harmless from and against any and all claims, causes of action, damages, costs, attorney's fees and liability of any kind, so long as the City reasonably promptly notifies the applicant of any such claim, action, or proceedings and the City cooperates fully in the defense of the action or proceedings.
8. Provided they are in general compliance with this approval and the development agreement, minor modifications may be approved by the Planning and Building Director.
9. Pursuant to St. Helena Municipal Code Section 17.08.110, this permit shall run with the land and shall be binding upon all parties having any right, title or interest in the real property or any part thereof, their heirs, successors and assigns, and shall inure to their benefit and benefit of the City of St. Helena.
10. The primary purpose of this review is for compliance with the General Plan and Zoning Ordinance. The property owners or their designee shall be responsible for meeting with the Building Official, Fire Inspector and or Public Works Department to review compliance with Building Codes, Fire Codes and specific Public Works Standards including fire protection systems and any applicable accessibility standards of Title 24.
11. Construction shall be in compliance with plans submitted and reviewed by the Planning Commission on September 14, 2020 and September 17, 2020, and by the City Council on October 13, 2020 except as modified herein.
12. If the property is sold or otherwise conveyed to new owners, the owner or successor in interest is required to notify the Planning Director in writing within 30 days of the change in ownership. The use permit shall then be brought before the Planning Commission for review in order for the City to assess whether operational practices that are different than what is approved in this use permit may occur and whether a use permit amendment is required.

13. For attendees who are not lodging guests, 1) the chef's table and demonstration classes shall occur during off-peak hours, 2) the chef's table is limited to 20 persons per event and 3) the demonstration classes are limited to 40 persons per event.
14. The spa, fitness building, pools, and outdoor seating areas are for the use of guests only.
15. Bar and lounge activities shall comply with the City's noise ordinance.
16. All live and amplified music must comply with applicable City noise regulations.
17. With the exception of handicapped employees, all employees shall park in the off-site supplemental lot; employees shall not park on-site or on neighboring streets.
18. All guests and visitors must park on-site or at applicant provided off-site parking.
19. Planters and tree wells must be bordered by a six-inch high concrete curb or equivalent barrier approved by the City.
20. A minimum of 20% of the subject property must remain maintained landscaping and shall be kept in a weed-free condition.
21. The owner or successor in interest shall notify the City in writing if the lease option for the off-site parking lot to be used for employee parking at Dowdell/McCormick is lost or the lease is otherwise terminated or expires. The owner or successor in interest shall provide evidence that a parking lot with a similar number of parking spaces has been secured (and is approximately the same distance from the project site or applicant provides appropriate transportation from parking to project site).
22. Prior to issuance of a Certificate of Occupancy, the applicant shall designate a Transportation Demand Management (TDM) coordinator to establish programs to ensure VMT by guests and employees are reduced, including, but not limited to, employee car and vanpooling, employer-sponsored transit passes, bicycle-sharing, showers, lockers, secure bike storage, and winery tours for guests with pickup and drop-off at the lodge.
23. Prior to issuance of a Certificate of Occupancy, the developer shall provide verification that an on-call shuttle service is available during all hours as long as there is an off-site employee parking lot.
24. Prior to issuance of a Certificate of Occupancy, the developer shall install a shelter at the off-site Dowdell Lane parking lot.
25. Prior to issuance of a grading permit, the project site shall be adequately fenced and secured to prevent trespassing.
26. Exterior lighting shall be directed or shielded to prevent glare onto the public roadway or adjacent properties.
27. Prior to issuance of a Certificate of Occupancy, the applicant shall provide two (2) courtesy bicycles per guest room.
28. To reduce disturbance of residents in the project vicinity, construction activities which generate noise that can be heard at the property line of any parcel of real property within the City limits shall be limited to 8:00 a.m. to 5:00 p.m. Monday through Saturday. Delivery of materials/equipment and cleaning and servicing of machines/equipment shall be limited to 7:00 a.m. to 6:00 p.m. Exceptions to these time restrictions may be granted by the Public Works Director for one of the following

reasons: (1) inclement weather affecting work, (2) emergency work, or (3) other work, if work and equipment will not create noise that may be unreasonably offensive to neighbors as to constitute a nuisance. The City Engineer must be notified and give approval in advance of such work. No construction activities shall occur on Sundays or federal or local holidays that generate noise that can be heard at the property line of any parcel of real property within the City limits.

Public Works Department Conditions of Approval

29. Approval of this project shall be subject to the requirements of, and all improvements shall be designed and constructed in accordance with, the most current version at the time of improvement plan submittal, Caltrans Standards and Specifications, the City of St. Helena Municipal Code, the St. Helena Water and Sewer Standards, the St. Helena Street, Storm Drain and Sidewalk Standards, and all current federal, state and county codes governing such improvements.
30. For any improvements outside the existing building envelope, a grading and drainage plan showing topographic data, all easements, infrastructure onsite and directly adjoining, and an erosion control plan shall be submitted for review and approval by the City Engineer prior to the issuance of a building permit. If the project entails more than 50 cubic yards of soil disturbance, 10,000 square feet of disturbance area, a cut or fill of 3 feet or more, or alteration of any drainage pattern, a grading permit shall be required.
31. Improvement plans shall incorporate all grading, drainage, and utilities shown on the approved Use Permit package, those improvements agreed to in public hearings, the requirements of these conditions of approval, and those improvements required by any codes in effect at the time of plan submittal.
32. Drainage needs to be routed to prevent inundation of neighboring properties. Grading and/or site improvement plans shall show how 2-year and 10-year storm flows shall be infiltrated on site and/or diverted at the property lines to prevent inundation of neighboring properties. The Developer shall submit a storm drain system design calculations for the project in accordance with City of St. Helena, Napa County and State of California codes in effect at the time of improvement plan submittal. The calculations shall include a hydrology map, hydrology and hydraulic calculations, pipe size calculations, inlet capacity calculations, and other information necessary to support the proposed design.
33. Prior to the issuance of a Certificate of Occupancy, the Developer shall install storm drain Detention system improvements as required to maintain post development 10-year runoff from the pre-development levels. The Developer shall submit storm drain detention system supporting calculations for review and approval prior to improvement plan approval.
34. Prior to the issuance of a Certificate of Occupancy, the Developer shall install detention system inlets sized to pass at minimum the 25-year flows.
35. A grading and drainage plan shall be prepared for the project that includes a design that allows for a 100-year overland release. All graded building pads shall be above the 100-year overland release elevation.

36. The grading plans provided by the Developer for review shall include the existing topography shown with contour lines labeled at one-foot intervals and extending a minimum of 100-feet beyond the limits of the site, or sufficient distance to indicate impacts on adjacent properties.
37. Erosion and sediment control plans shall conform to the latest State and City codes at a minimum
38. Prior to the issuance of a grading permit or building permit (whichever occurs first), the project property owner shall file a Notice of Intent (NOI) with the State Water Resources Control Board and prepare a Construction Storm Water Pollution Prevention Plan (SWPPP). This is required because the overall project grading involves an area of disturbed surface soil that is greater than or equal to one acre, .
39. The Developer shall execute a City of St. Helena Water Agreement with an annual water use cap of 1,953,928 gallons per year prior to issuance of a Building Permit.
40. Due to the new water demand on the City system in the amount of 1,953,928 gallons per year, the Developer shall implement an alternative innovative method of mitigating water use as allowed under Section 13.12.030(B) of the SHMC, and approved by City Council in the Development Agreement prior to certificate of occupancy. The required offsite improvements to offset water demand as required pursuant to the Development Agreement is as follows: The Developer shall construct and install \$256,549 worth of water infrastructure (i.e., purple pipe) in Mills Lane between Highway 29 easterly to the eastern end of Mills Lane. This purple pipe is intended to connect to a future wastewater treatment facility and deliver recycled water to Crane Park's irrigation infrastructure by November 1, 2022, significantly reducing the City's use of potable water. No certificate of occupancy for the Lodging component may be issued, until either the Developer has demonstrated or City has confirmed that either: (a) the water savings from the irrigation of Crane Park with recycled water from the wastewater treatment facility offsets the Lodging component's anticipated water demand, or (b) the Developer has identified and implemented other measures calculated to save potable water in amounts equal to the Project's anticipated use of City water permanently or until recycled water is delivered to Crane Park. Such improvements shall be constructed and approved by the City Engineer in accordance with the terms of the Development Agreement prior to the issuance of a final certificate of occupancy for the Project. Developer may be eligible for partial reimbursement of the costs of construction of the improvements required under this condition in accordance with the terms of the Development Agreement.
41. The Developer shall adhere to the executed Water Agreement with the City and shall incorporate water conservation practices into the proposed project per the Water Availability Analysis prepared by Sherwood Design Engineers, dated May 2, 2017 and the revision dated September 2, 2020. The water conservation requirements shall be replicated in full on the architectural plans.
42. Prior to issuance of a Certificate of Occupancy, all parcels shall be connected to the City of St. Helena municipal water system and installed per City of St. Helena standards.
43. Prior to issuance of a grading or building permit (whichever occurs first) a detailed Post-Construction Stormwater Control Plan (SWCP) that identifies and sizes all

permanent post-construction stormwater treatment BMPs shall be prepared by the applicant's engineer and submitted for review approval. The Plan shall be prepared in accordance with the latest edition of the *Bay Area Stormwater Management Agencies Association (BASMAA) Post-Construction Manual* and the requirements of the State Water Resources Control Board Phase II Municipal Separate Storm Water System (MS4) General Permit (Order 2013-0001 DWQ).

44. Prior to the issuance of a Certificate of Occupancy, a Post Construction Stormwater Operations and Maintenance Plan that provides a color-coded plan sheet showing all storm drain and water quality infrastructure that is to be maintained, along with detailed instructions and schedules for the ongoing maintenance and operation of all post-construction stormwater BMPs shall be submitted by the applicant's engineer for review and approval by the City Engineer. Once approved, the property owner shall enter into an agreement with the City that provides the terms, conditions, and security associated with the ongoing requirements of the Post Construction Stormwater Best Management Practices.
45. If proposed/new landscaping involves an area greater than 500 square feet or rehabilitation of more than 2,500 square feet, the proposed landscaping shall comply with the State's Model Water Efficient Landscape Ordinance (MWELo). MWELo compliance shall be demonstrated as part of the building permit submittal.
46. Prior to issuance of a grading permit, a detailed Soils Investigation/Geotechnical Report shall be prepared by the developer and submitted for review. The report shall address, at a minimum, potential for liquefaction, R-values, expansive soils and seismic risk. The improvement plans shall incorporate all design and construction criteria recommended in the Geotechnical Report.
47. Prior to issuance of a grading permit, unless otherwise explicitly permitted, all existing abandoned wells, septic tanks/systems and/or underground fuel storage tanks shall be abandoned under permit and inspection of Napa County Department of Environmental Services or other designated agency. If there are none, the Developers project engineer shall provide a letter describing the scope of the search done to make this determination.
48. Per the September 14, 2020 Technical Memo titled "Hydrogeologic Evaluation of Possible Impact of Proposed Irrigation-Supply Pumping on Local Aquifer Systems Proposed Farmstead Lodge Property" by Richard Slade and Associates, the applicant shall adhere to the following:
 - a) Prior to certificate of occupancy, the applicant shall initiate a groundwater monitoring program for the three active onsite wells. This will include frequent, consistent, and accurate monitoring of water levels, frequent monitoring of pumping rates and pumped volumes of groundwater and could also include verifying the accuracy of the existing flow meters in Well #1- PWS and Well #2-IRR. Water level monitoring should continue to utilize pressure transducers set to a depth just above the depth setting of the new pump in Well #1-PWS and Well #2-IRR. A new transducer should be installed and properly calibrated in the Shared well, along with a proper dual reading flow meter that is installed at an appropriate location on the discharge pipe near its wellhead. These transducer installations must include occasional corroboration using a manual water level sounder. The acquired data shall be

- downloaded and reviewed on a quarterly basis by the applicant and submitted to the City Public Works Department on an annual basis by June 30; and
- b) Prior to certificate of occupancy, the applicant shall have completed one of the following options on the inactive well:
- i. Shall demolish the inactive well per State and County standards (DWR, Bulletin 74-90); or
 - ii. Leave the inactive well on the parcel as part as a permanent groundwater monitoring well. The acquired data shall be downloaded and reviewed on a quarterly basis by the applicant and submitted to the City Public Works Department on an annual basis by June 30; or
 - iii. Submit the appropriate permit applications to the City and the County to rehabilitate the inactive well in order to utilize it for an emergency back-up supply well. The well will be required to be monitored similarly as the three active wells and submitted to the City Public Works Department on an annual basis by June 30.
49. Prior to the issuance of a grading permit, the site plan shall show the location of any trees within the project area. Provide a tree protection plan for approval by the Public Works Director prior to approval of the building permit. The plan shall be coordinated with any civil grading/drainage/improvement plans.
50. The Developer shall keep adjoining public streets free and clean of project dirt, mud, materials, and debris during the construction period, as is found necessary by the City Engineer.
51. Prior to the issuance of a Certificate of Occupancy, the Developer shall underground all on-site utility lines per St. Helena Municipal Code. The cost of undergrounding shall be the responsibility of the Developer.
52. Due to the economic and engineering infeasibility of undergrounding regional serving overhead power lines, such existing lines may remain on overhead power poles.
53. Any new and modified existing water laterals, meters and backflow prevention devices shall be required and constructed in accordance with the current requirements of the City of St. Helena's Water Standards and the California Department of Health Standards. Existing meter boxes located within a driveway shall be retrofitted with a traffic-rated box. New laterals shall be located perpendicular to the water main and outside any driveway/drive aisle.
54. Remodels or new construction which require fire sprinklers shall install an appropriately-sized water service with appropriate backflow and meter devices prior to Certificate of Occupancy. Fire system calculations shall be submitted with the Grading and Drainage Plan to verify fire service lateral and meter sizing. Deferred submittals are not accepted.
55. Proposed separations between public water facilities and other utilities shall meet the minimum separations as specified by the Department of Health and the City of St. Helena Public Works Standards.

56. No construction may commence until adequate access to fire water supply is available to building sites as approved by the Fire Chief.
57. Wastewater discharged is subject to all of the requirements and limitations set forth in Chapter 13.24, Wastewater Discharge, of the St. Helena Municipal Code.
58. Prior to the issuance of the first building permit for 1000 Mills Lane, the Developer shall apply for annexation to the St. Helena Municipal Sewer District No. 1. The application shall be completed in accordance with the City of St. Helena's Sewer Annexation Procedures including all annexation, impact, connection, and sewer fees.
59. Prior to issuance of a building permit, in order to confirm the theoretical assumptions in the Theoretical Sewer Capacity provided by Sherwood Design Engineers dated May 2, 2017, the Developer is required to perform 7-day flow monitoring at the downstream sanitary sewer manholes (No. 1-89 and No. 1-94) to verify that the existing sewer pipe has adequate capacity to accommodate the proposed additional flows. Peak sewer flows will not be allowed to exceed 2/3 full pipe. If the proposed wastewater discharge regimen increases peak flows to greater than 2/3 full pipe at the monitored locations and with the current infrastructure, the owner may be subject to paying a share of the cost of sewer upgrades with a dollar amount proportional to the increase in wastewater flow as a result of the site development.
 - c) Concurrent with the building permit application, the Developer shall apply for and obtain a Wastewater Discharge Permit from the Department of Public Works as specified in St Helena Municipal Code Section 13.24.50. The permit conditions will require:
 - a. Discharge flow rate shall not exceed 5,150 gallons per day.
 - b. The onsite force main system shall provide protection from accidental discharge of prohibited materials or other wastes regulated as defined in Chapter 13.24, Wastewater Discharge, of St. Helena Municipal Code. Such facilities shall be provided and maintained at the Owner's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval prior to building permit approval.
 - c. Owner shall continuously maintain records of all daily flows for a rolling three year period. Said records shall be made available to the City for review upon request.
 - d. The City shall have the right to inspect all parts of the onsite force main system at anytime during normal business hours. Failure to take immediate corrective actions on any deficiencies found may result in enforcement actions as provided under the St. Helena Municipal Code or other applicable law.
60. Prior to the issuance of a Certificate of Occupancy, the Developer is required to install a wastewater flow meter measuring the total volume of wastewater leaving the project site, into the City's sewage collection infrastructure, and after installation,

have the wastewater flow meter calibrated yearly. Annual wastewater flow meter calibration records are to be maintained by the project ownership and made available to City staff upon request. The style, design, manufacturer, and location of this meter must be of a form found to be acceptable by the City. The costs associated with the installation and calibration of this meter are required to be fully borne by the Developers, and the results of the flow measurement are to be utilized to determine the amount of the wastewater bills for the uses on site. Said meter is required to be installed and functional prior to occupancy of the project.

61. Prior to issuance of a certificate of occupancy, trash areas, dumpsters and recycling containers shall be enclosed and roofed per State and County standards to prevent water run-on to the trash area and water runoff from the area, to contain litter and trash so that it is not dispersed by the wind or run-off during waste removal. In the event that wine or food is disposed in these areas, the enclosed trash area shall drain to the sanitary sewer system. An area drain connected to the sanitary sewer shall be installed in the enclosure area and a structural control such as an oil/water separator or sand filter shall be included. No other area shall drain into the trash enclosure. A sign shall be posted prohibiting the dumping of hazardous materials into the sanitary sewer.
62. Where applicable, the applicant shall be required to submit to the requirements for annual inspections of food/beverage service establishments and businesses that handle hazardous wastes for illicit stormwater discharges as required by the State National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges. The annual stormwater illicit discharge inspections are performed and invoiced by Napa County Department of Environmental Management.
63. Provide details of all proposed fencing, walls, and gates on all plans submitted for building permit review.
64. Prior to Certificate of Occupancy, the Developer shall repair all public improvements that are damaged by the construction process in accordance with the City Water/Sewer/Street/Storm Drain/Sidewalk Standards.
65. Existing streets being cut by new utility services will require edge grinding and an A.C. overlay per City standards, extent to be determined by the Public Works Department.
66. The Developer shall be required to pay a fair share fee contribution in the amount of 23.3% towards the Dowdell Lane and Highway 29 signalization at the time such improvement is constructed by the City.
67. The Developer shall construct those certain storm drain improvements necessary to extend and improve the storm drain along Mills Lane. These storm drain improvements will serve properties on Mills Lane, La Fata Street, Fountain Street, Grayson Avenue, Main Street (to Charter Oak Avenue), and Vidovich Avenue and to construct an outfall for said storm drain into the Napa River. The Storm Drain Improvements shall be designed by City in accordance with the City's long-standing plan for this separate project is contained in City's Storm Drain Master Plan dated September 2000 (*see* Table 4-1) and the Highway 29 Specific Plan (*see* pages 37-39, Exhibit 11). City shall further be responsible for permitting required for the Storm Drain Project, which shall likely include permits from the California Department of

Fish and Wildlife, San Francisco Regional Water Quality Control Board, and the United States Army Corp of Engineers. Developer shall commence construction of the Storm Drain Improvements after the City has secured the permits required for the Storm Drain Improvements, provided, however, that the Storm Drain Improvements shall be completed before the Developer receives final certificate of occupancy for the Project. Upon completion of the storm drain improvements described in this condition, Developer shall be eligible for reimbursement of costs in excess of its proportionate share of costs in accordance with the terms of the Development Agreement.

68. Developer shall construct improvements to Mills Lane, which are consistent with City's Highway 29 Specific Plan, prior to or concurrently with the development of the Project and shall complete the Mills Lane Improvements prior to the issuance of the first certificate of occupancy for the Project by the City. Construction shall be completed in accordance with improvements plans as approved by the City Engineer, and before Developer receives a final certificate of occupancy for the Project.
69. The Developer shall construct all on and offsite improvements in accordance with the improvement plans and supporting calculations that are prepared by a registered civil engineer and reviewed by the City of St. Helena Public Works Department. The improvement plans and supporting calculations shall include detailed designs for all utilities, water, grading, drainage, erosion control and paving.
70. Prior to issuance of a grading or building permit, the Developer shall be required to obtain a City encroachment permit for improvements on public right-of-way.
71. The following offsite improvements shall be installed by the Developer, completed prior to the issuance of a Certificate of Occupancy and will be provided on a separate offsite improvement plan set:
 - In accordance with civil site plans prepared by Sherwood Design Engineers, dated May 6, 2019, all required public frontage and street improvements shall be designed and built in accordance with City of St. Helena ordinances, Public Works Department Standard Specifications, and Caltrans requirements.
 - Specific offsite improvements include, in general, pavement widening, realignment of Mills Lane in accordance with the Highway 29 Specific Plan, signal upgrade at Highway 29/Main Street/Grayson Avenue/Mills Lane, signage, striping, street lighting, required accessible pedestrian curb ramps, and a new railroad crossing.
 - The typical half cross section of Mills Lane shall consist of a landscape strip, 10' path, curb and gutter, 8' parking strip, and 12' travel lane.
 - In accordance with civil site plans prepared by Sherwood Design Engineers, dated May 6, 2019, the Developer shall extend the City water main from La Fata to the City's 12" water main on Highway 29 and install adequately spaced fire hydrants per the approval of the City's Fire Chief.
 - In accordance with civil site plans prepared by Sherwood Design Engineers, dated May 6, 2019, the Developer shall extend the sewer main on La Fata to the project site.

- As identified in the 2019 Traffic Study by Crane Transportation Group, the Developer shall extend the sidewalk from La Fata Street to Mills Lane with a crosswalk to the project site. The La Fata Sidewalk improvements shall further be completed in accordance with the terms of the Development Agreement.
 - The improvement plans shall include a Construction Traffic Control Plan.
 - The improvement plans shall include an Erosion and Sediment Control Plan.
 - The improvement plans shall include a Joint Trench Plan (as necessary).
72. The Developer shall be required to obtain a Caltrans encroachment permit for improvements on and immediately adjacent to Highway 29 as necessary to complete the offsite improvements as outlined above.
73. The Developer shall be required to obtain permits necessary to complete work on the railroad right-of-way as necessary in conjunction with the offsite improvements as outlined above.
74. The Developer shall construct all on and offsite improvements which are consistent with City's Highway 29 Specific Plan, prior to or concurrently with the development of the Project and shall complete the Mills Lane Improvements prior to the issuance of the final certificate of occupancy for the Project by the City. Construction shall be completed in accordance with improvements plans as approved by the City Engineer and before the Developer receives a final certificate of occupancy for the Project.
75. Prior to issuance of a certificate of occupancy, the Developer shall pay traffic impact fees based on the Master Fee Schedule, and the fee will assume all square footage calculated at the lodging rate.
76. Prior to issuance of a certificate of occupancy, the Developer shall demonstrate that water to fill the swimming pools came from outside St. Helena.

Building Department Conditions of Approval

77. A building permit is required for all onsite demolition, construction and/or change of occupancy.
78. The applicant will be required to comply with the codes adopted at the time the applicant applies for a building permit. At this time the City of St. Helena utilizes the 2019 Title 24 codes.
79. When submitting plans for a building permit, the plans shall include all documentation listed on the building permit application checklist.
80. The applicant shall provide a construction waste management plan with the building permit application.
81. The plans for construction shall include a checklist for compliance with the California Green Buildings Standards Code, mandatory measures. Provide a reference on the checklist indicating where the mandatory measures can be found on the plans.
82. When submitting plans, the title page shall include all information referenced on the building permit application checklist Title Page requirements.

83. Building Permit application materials and plans shall include any documentation pertaining to special loads applicable to the design and the specified section of the code that addresses the condition; special inspections for any systems or components requiring special inspection; requirements for seismic resistance; and a complete list of deferred submittals at time of application. Any deferral of the required submittal items shall have prior approval of the Building Official however deferral of fire sprinkler design is not allowed.

84. Properties which are on septic systems and proposing substantial renovations may require approval from the Napa County Environmental Health Department. Applicants are encouraged to engage with the County early in the building permit review process to reduce the potential for delay.

Fire Department Conditions of Approval

85. Plans submitted for building permit shall exhibit compliance with the current St. Helena Fire Code, as adopted and codified in St. Helena Municipal Code Chapter 15.36.

86. Fire sprinklers and fire hydrants shall be installed as required by Fire Code and the Fire Department.

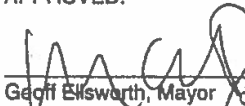
87. One hour minimum fire resistant construction on all exterior walls within 10' of property boundary is required. Fire resistant construction of interior walls shall be determined by type of occupancy.

88. Any gates installed to control vehicular access to a property are required to be setback 30-feet from the property line and/or edge of pavement, whichever is greater. No vehicle gates may be installed without Fire Department and Public Works Department review and explicit approval.

I HEREBY CERTIFY that the City of St. Helena City Council approved the foregoing at a Regular Meeting of the St. Helena City Council on October 13, 2020, by the following vote:

Mayor Ellsworth:	Yes
Vice Mayor Dohring:	Yes
Councilmember Koberstein:	Yes
Councilmember Chouteau:	Yes
Councilmember Knudsen:	Yes

APPROVED:


Geoff Ellsworth, Mayor



ATTEST:


Cindy Tzafopoulos, City Clerk

Exhibit D (Ord. 2020-9)
Page 16

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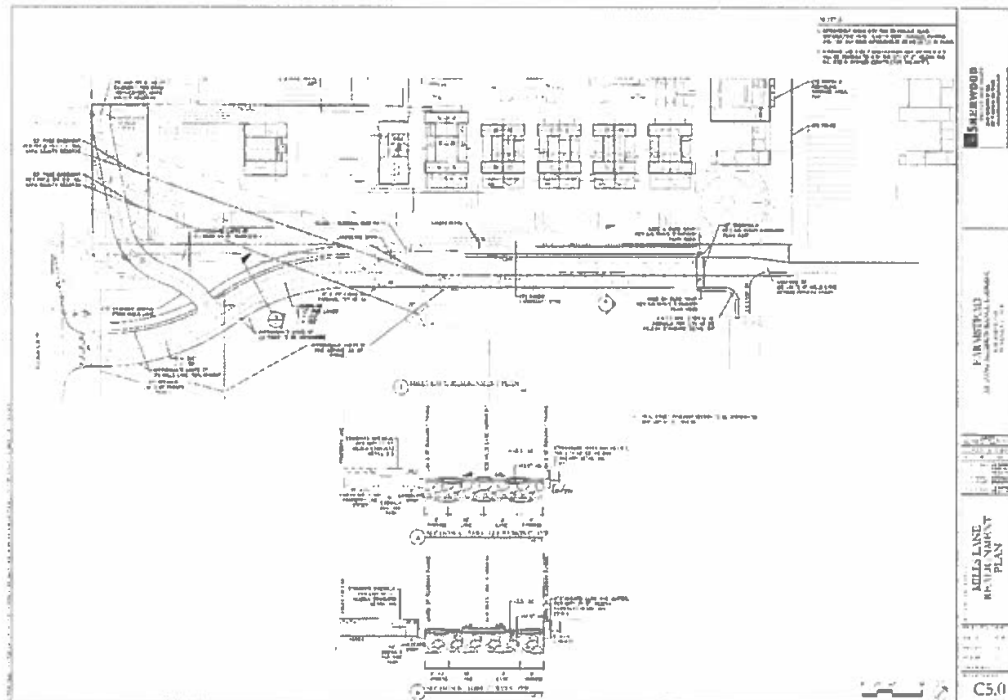
EXHIBIT E

APPLICABLE LAW AND PROJECT APPROVAL EXCERPTS

- St. Helena General Plan Update 2040 as adopted in June 2019, located at:
https://www.cityofsthenana.org/sites/default/files/fileattachments/planning_resources/page/3505/final_plan_compiled.pdf
- Highway 29 Specific Plan as adopted February 22, 2005, located at:
https://www.cityofsthenana.org/sites/default/files/fileattachments/planning_resources/page/2961/highway_29_specific_plan_final_dtd_feb_22_2005.pdf
- St. Helena Zoning Code Chapter 17.52 (Service Commercial (SC) District) effective as of November 26, 2020
- City Council Resolution No. 2020-100 and all conditions of approval contained therein (attached as part of Exhibit E)
- Ordinance No. 2020-9 (attached as part of Exhibit E)
- Farmstead at Long Meadow Ranch Projects Initial Study/Mitigated Negative Declaration (including but not limited to all mitigations measures incorporated therein) as certified by Resolution 2020-100, located at:
<https://www.cityofsthenana.org/planning/page/farmstead-long-meadow-ranch>

EXHIBIT F

MILLS LANE IMPROVEMENTS



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Exhibit F

EXHIBIT G
STORM DRAIN IMPROVEMENTS

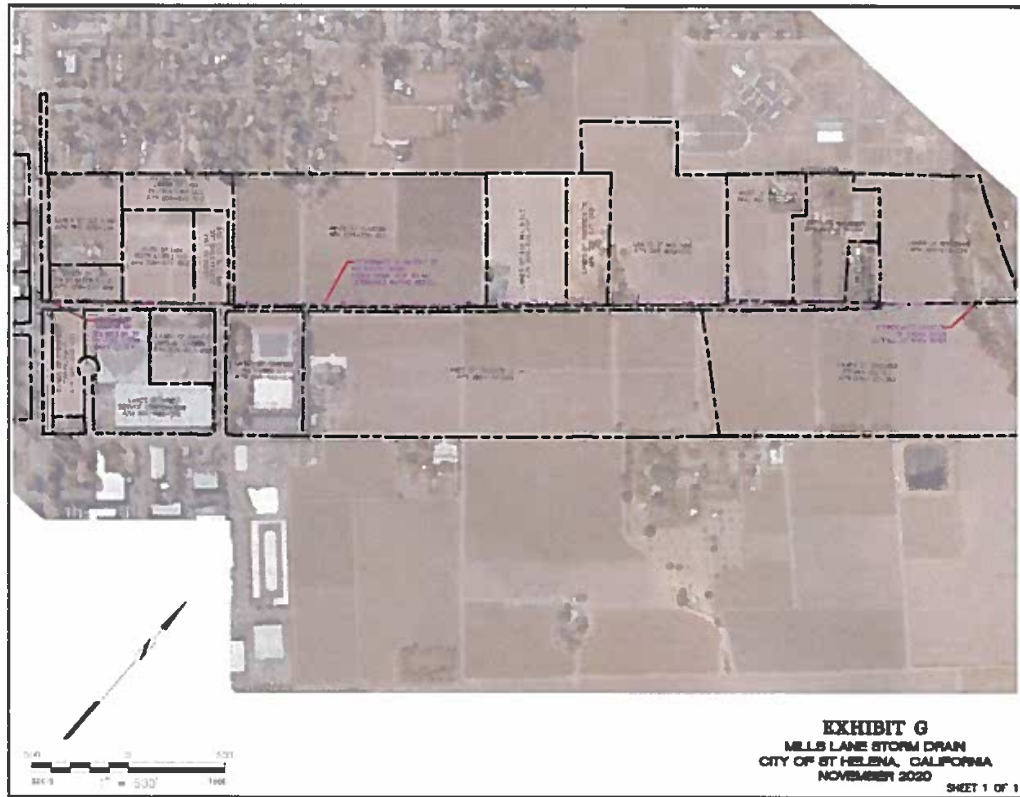
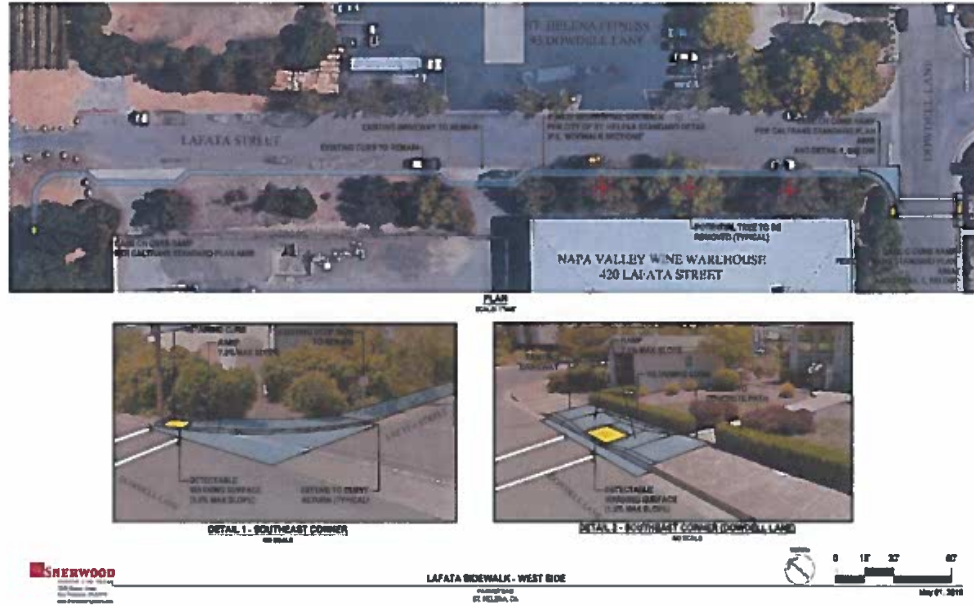


EXHIBIT H
LA FATA SIDEWALK IMPROVEMENTS



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Exhibit H

RECORDING REQUESTED BY
AND WHEN RECORDED, MAIL TO:

City of St. Helena
1480 Main Street
St. Helena, California 94574
Attn: City Clerk

Record Without Fee
*Pursuant to Government Code
Section 27383*

Space Above Reserved for Recorder's Use Only

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

BY AND BETWEEN

CITY OF ST. HELENA

AND

LMR DESTINATIONS LLC

Effective Date: _____, 2022

DA 2022-001

**FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF ST. HELENA
AND LMR DESTINATIONS LLC**

This First Amendment to Development Agreement (“**First Amendment**”), dated as of the Effective Date set forth above, is entered into by and between the City of St. Helena, a California municipal corporation, (“**City**”) and LMR Destinations LLC, a California limited liability company (“**Developer**”) . City and Developer may be referred to individually in this First Amendment as “**Party**” or collectively as “**Parties.**”

RECITALS

A. City entered into a Development Agreement with an effective date of November 26, 2020, and recorded in the Official Records of Napa County as Document No. 2020-0031913 (the “**Development Agreement**”), providing for the development of that certain property located at 1000 Mills Lane, St. Helena in the County of Napa as more particularly described in Exhibit A attached hereto and incorporated herein (the “**Property**”), with a maximum 65 room hotel with ancillary retail and related amenities as more particularly described in the Development Agreement (the “**Project**”).

B. Concurrently with the approval of the Development Agreement, the City took several actions to approve the Project, which actions are more specifically described as the “**Existing Approvals**” in the Development Agreement. Since the approval of the Development Agreement, Developer has been proceeding with the development of the Project in accordance with the requirements of the Development Agreement and the Existing Approvals.

C. City and Developer desire to amend certain provisions of the Development Agreement with respect to certain outstanding obligations of Developer under the Development Agreement. The Development Agreement obligates Developer to construct certain storm drain improvements necessary to install a storm drain along Mills Lane to serve properties on Mills Lane, La Fata Street, Fountain Street, Grayson Avenue, Main Street (to Charter Oak Avenue), and Vidovich Avenue and to construct an outfall for said storm drain into the Napa River (the “**Storm Drain Improvements**”) as contemplated in the City’s Storm Drain Master Plan dated September 2000. The Storm Drain Improvements are not needed at this time, nor are they required for the Project. The parties therefore desire to eliminate the requirement to construct the Storm Drain Improvements and instead provide that Developer will connect to an infiltration system to be included in the Mills Lane right way. The Parties have further agreed that to the extent Developer experiences financial savings from the as more particularly elimination of Developer’s obligation to contribute to the cost of the Storm Drain Improvements, Developer shall contribute those

financial savings to City for the City's construction of recycled water improvements or other water conservation measures.

D. In addition, the Parties have determined that certain other amendments and/or clarifications to the Development Agreement should be made to reflect the changes described in these recitals.

AGREEMENTS

1. Incorporation of Recitals. The Parties agree that the above recitals are true and correct and are incorporated herein by reference.

2. Amendment to Section 5.1.2. Section 5.1.2 of the Development Agreement is hereby amended and restated in its entirety to read as follows:

"5.1.2. Stormwater Infiltration System. Developer shall, at its sole cost and expense, design and construct stormwater infiltration system improvements adjacent to the Mills Lane Improvements and within the existing public right of way for Mills Lane and on an alignment as generally depicted in Exhibit G attached hereto and incorporated herein by this reference (the "Infiltration System Improvements"), which Infiltration System Improvements shall be designed to retain and infiltrate at a minimum 25 year stormwater flows. The Project shall include inlets from the Project to the Infiltration System Improvements to manage at minimum such 25 year stormwater flows. The Infiltration System Improvements shall be constructed prior to or concurrently with the development of the Project and in accordance with improvement plans approved by the City Engineer and verified to meet the standards for retention and infiltration as set forth herein. Developer shall complete the Infiltration System Improvements prior to the issuance of the first certificate of occupancy for the Project by the City.

5.1.2.1 Determining Cost of Infiltration System Improvements. Within fifteen (15) days following execution by Developer of the construction contract or change order that provides for the construction of the Infiltration System Improvements, Developer shall provide City with written confirmation of the cost of the Infiltration System Improvements, along with documentary support for such costs through the construction contract or change order documenting such improvements, which shall include separate line items as necessary to clearly document the separate cost of the Infiltration System Improvements. The City Engineer shall confirm the cost of the Infiltration System Improvements based on the documentation provided, which confirmation by the City Engineer shall be deemed to constitute the cost of the Infiltration System Improvements.

3. Amendment to Section 5.1.4. Section 5.1.4 of the Development Agreement is hereby amended and restated in its entirety to read as follows:

5.1.4 Recycled Water Improvements. Developer shall construct and install additional piping to convey recycled water in the public right of way in Mills Lane extending from the intersection of Highway 29 and Mills Lane easterly to the eastern end of Mills Lane

(the “**Recycled Water Pipe**”) in a manner as directed by the City Engineer and consistent with plans and specifications as approved by the City and shall be completed prior to November 1, ~~2022~~2024 as a prerequisite for a final certificate of occupancy for the Project. For purposes of this agreement “recycled water” means wastewater treated by the City’s wastewater treatment facility that meets State requirements for reuse, including but not limited to California Department of Public Health regulations contained in Title 17 and Title 22 of the California Code of Regulations. The Recycled Water Pipe shall be designed and at a size as directed by the City Engineer, but is anticipated to be a twelve (12) inch pipe and will be installed in ~~the~~ a trench constructed in the public right of way for Mills Lane as more specifically set forth in the plans and specifications approved by the City Engineer pursuant to this Section 5.1.4 for the Storm Drain Improvements. Developer shall construct and install the Recycled Water Pipe as a means of offsetting its water requirement in accordance with Chapter 13.12 of the St. Helena Municipal Code. The construction of the Recycled Water Pipe is being conducted in lieu of paying the in-lieu retrofit fee that would otherwise be required of the Project pursuant to Section 13.12.030(B) of the St. Helena Municipal Code.

5.1.4.1 To allow Developer’s Recycled Water Pipe to offset the Project’s use of City water, City shall seek options to improve its wastewater treatment facility to treat wastewater to the above referenced State requirements and shall install necessary piping such that the Recycled Water Pipe is delivering recycled water to Crane Park’s irrigation infrastructure (“Recycled Water Improvements”). City shall pursue efforts to complete these improvements on or before November 1, 2024 subject to CEQA and the right to not build the Recycled Water Improvements in any form. In the event the Recycled Water Improvements are not completed by November 1, ~~2022~~2024 City and Developer will cooperate to identify and implement measures calculated to save potable water in amounts equal to the Project’s use of City water until recycled water is delivered to Crane Park, if ever. Notwithstanding the above, nothing herein shall commit or otherwise require the City, or be interpreted as committing or requiring the City, to approve the Recycled Water Improvements, or any portion thereof. Further, the Parties acknowledge and agree that the City retains full discretionary authority with respect to the Recycled Water Improvements, and may deny or approve the Recycled Water Improvements, or any portion thereof. Similarly, the City retains full authority under CEQA and other environmental laws to impose any and all feasible mitigation to reduce potentially significant impacts and to consider and adopt alternatives to the Recycled Water Improvements, specifically including the “no project” alternative.

4. Amendment to Section 7.3. Section 7.3 is hereby amended and restated in its entirety to read as follows:

7.3 Construction and Reimbursement for Public Improvements. Pursuant to Sections 5.1.1-5.1.5 of this Agreement, Developer is required to construct the Mills Lane Improvements, ~~Storm Drain Infiltration System~~ Improvements, Recycled Water Pipe, and La Fata Sidewalk Improvements, collectively referred to herein as the “**Public Improvements**”. This section sets forth the manner in which the required Public Improvements will be planned, designed and constructed, and provides for reimbursement to Developer for costs incurred in conjunction with

contracts with third parties for the planning, design, construction management and construction of these Public Improvements in excess of Developer's share of such costs.

7.3.1 Planning and Design of Public Improvements. ~~City will undertake and complete the planning and design of the Storm Drain Improvements, including preparation of final design plans, specifications, drawings and related materials as necessary for Developer to issue a request for bids for construction of the Storm Drain Improvements.~~ Developer will undertake and complete the planning and design of the Mills Lane Improvements, Infiltration System Improvements, La Fata Sidewalk Improvements and Recycled Water Pipe, including final design plans, specifications, drawings and related materials as necessary to solicit bids for these improvements, which materials shall be subject to the review and approval by the City Engineer. All third party contracts that Developer will include as part of the cost of the Public Improvements used for purposes of calculating the amount to be reimbursed to Developer pursuant to Section 7.3.4 of this Agreement, including agreement for planning, design and construction management work, shall be subject to the review and approval of the City Engineer to determine the reasonableness of such costs. Developer shall not be eligible for any reimbursement for costs incurred pursuant to such contracts unless and until the contracts are reviewed and approved in writing by the City Engineer, which approval may be granted or withheld in the City Engineer's reasonable discretion.

7.3.2 Construction of Public Improvements. Following completion of the design work described above, Developer shall bid the Mills Lane Improvements, ~~Storm Drain Infiltration System~~ Improvements and Recycled Water Pipe in conformance with all local and state bidding requirements applicable to the City. The City Engineer shall assist Developer as necessary to ensure compliance with applicable bidding requirements. The improvements described above may be bid as a single project, provided that if it is bid as a single project it will be broken into component parts in a manner as approved by the City Engineer, so that the costs of each component part is clearly indicated, to allow for calculation of Developer's share of the cost of each of the required Public Improvements in accordance with this section. The Developer shall bid the La Fata Sidewalk Improvements in a manner as Developer deems appropriate. Developer shall award and enter into the contracts for all the Public Improvements and shall be solely responsible for all project and construction management activities. The Public Improvements shall be inspected and accepted by the City at the appropriate times in accordance with the City's customary practice and processes.

7.3.3 Developer Share of Public Improvement Costs. Developer shall be solely responsible to pay the full cost of planning, designing, construction management, and constructing the Public Improvements described herein, but shall be entitled to reimbursement from the City for portion of such costs in excess of the Developer's share of such costs. Developer's share of the cost of each of the required Public Improvements is as follows:

7.3.3.1 Developer's share of the cost of the Mills Lane Improvements shall be forty-one percent (41%) of the planning, design, construction management and construction costs attributable to the Mills Lane

Improvements as set forth in the bid documents for such improvements, including any change orders for such improvements and third party contracts for planning, design and construction management services that are reviewed and approved by the City Engineer.

7.3.3.2 Developer's share of the cost of the Storm Drain Infiltration System Improvements shall be ~~eighteen~~ one hundred percent (100%) of the planning, design, construction management, and construction costs attributable to the Storm Drain Infiltration System Improvements as set forth in the bid documents for such improvements, including any change orders for such improvements and third party contracts for planning, design and construction management services that are reviewed and approved by the City Engineer.

7.3.3.3 Developer shall pay the full planning, design, construction management and construction cost attributable to the Recycled Water Pipe as set forth in the bid documents for such improvements, including any change orders for such improvements and third party contracts for planning, design and construction management services that are reviewed and approved by the City Engineer up to a maximum amount of Two Hundred Fifty-Six Thousand Five Hundred Forty-Nine Dollars (\$256,549). Any planning, design, construction management and construction costs approved by the City Engineer in excess of this maximum amount shall be subject to reimbursement by the City in accordance with Section 7.3.4.

7.3.3.4 Developer shall pay the full cost of planning, design, construction management and construction of the La Fata Sidewalk Improvements with no reimbursement from the City.

7.3.3.5 The amounts for which Developer is solely responsible as set forth above are collectively referred to herein as the "Developer's Share of Public Improvements."

7.3.4 Reimbursement for Costs in Excess of Developer's Share of Public Improvements.

7.3.4.1 Following construction of the Public Improvements by Developer and acceptance of said Public Improvements by the City, the City shall reimburse Developer for the planning, design, construction management and construction costs of the Public Improvements approved by the City Engineer and in excess of the Developer's Share of Public Improvements, as set forth in the bid documents for such Public Improvements, including any change orders and third party contracts for planning, design and construction management services reviewed and approved by the City Engineer, in the manner set forth below. Developer shall, within sixty (60) days following the date when all of the Public Improvements have been accepted by the City, submit to the City Engineer a calculation of the dollar amount of Developer's Share of Public Improvements, along with all supporting documentation for such calculation as requested by the

City Engineer, including but not limited to the construction contracts for all of the Public Improvements and all change orders for the Public Improvements, as well as all third party contracts for planning, design and construction management services, and invoices documenting costs incurred thereunder. Within thirty (30) days of such submission, City Engineer shall notify Developer in writing of the City Engineer's final determination of the Developer's Share of Public Improvements, and the total amount to be reimbursed to Developer pursuant to this Section 7.3.4. In the event of any dispute between the parties as to the calculation of the amount to be reimbursed to Developer for such costs, the parties shall meet and confer in an effort to resolve such disputes prior to taking any other action pursuant to this Agreement.

7.3.4.2 City shall reimburse Developer an amount equal to fifty percent (50%) of the Transient Occupancy Tax (“TOT”) received by the City from Developer pursuant to Chapter 3.28 of the St. Helena Municipal Code, until the approved planning, design, construction management and construction costs in excess of Developer's Share of Public Improvements have been reimbursed to Developer in full. Reimbursement shall be made on a quarterly basis within thirty (30) days after the City has confirmed the amount of TOT paid by Developer for the prior quarter, provided that the City may, at its discretion, make additional or larger payments to the Developer toward to the total reimbursement amount. City may use any source of funds it deems appropriate to make the reimbursement payment required hereunder, including general fund moneys, impact fees as appropriate for the constructed improvements or other funds available to pay for the construction of capital improvements. City's obligation to reimburse Developer pursuant to this section shall survive the expiration of the Term and any Extended Term.

7.3.5 Developer contribution to Recycled Water Improvements. Developer shall separately pay directly to the City an amount equal to the difference between (i) eighteen percent (18%) of the projected cost of the Storm Drain Improvements that were to be constructed by Developer prior to the adoption of the First Amendment (which cost the Parties stipulate is Seven Hundred Sixty-Three Thousand Eight Hundred Forty Dollars (\$763,840) based on the low bid received by Developer for such work) (“Developer's Storm Drain Improvements Cost Share”) and (ii) the cost of construction of the Infiltration System Improvements (specifically excluding the planning, design and construction management costs) as determined pursuant to Subsection 7.3.3.2 above to be used by City for the construction of the Recycled Water Improvements as described in Section 5.1.4.1 of this Agreement, or if the City does not proceed with construction of the Recycled Water Improvements, for such water conservation measures as the City deems appropriate in its sole discretion (the “Recycled Water Contribution”). The Recycled Water Contribution shall be paid to City by Developer within thirty (30) days following confirmation of the cost of the Infiltration System Improvements by the City Engineer pursuant to Section 5.1.2 of this Agreement.

5. Amendment to Exhibit D. Exhibit D to the Development Agreement (“Existing Approvals”) shall be modified and amended to incorporate the Amendments to Existing Approvals

as attached to this First Amendment as Exhibit B and incorporated herein by this reference. Except as specifically modified or amended by Exhibit B to this First Amendment, Exhibit D to the Development Agreement shall remain in full force and effect.

6. Amendment to Exhibit G. Exhibit G to the Development Agreement (“Storm Drain Improvements”) is hereby deleted and is replaced with the Exhibit G attached to this Amendment and incorporate herein by this reference, which depicts the alignment of the Infiltration System Improvements.

7. Exhibits. The following exhibits are attached to this Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

Exhibit A: Property Description

Exhibit B. Amendments to Existing Approvals

Exhibit G. Alignment of Infiltration System Improvements

8. Except as modified by this First Amendment, all terms and conditions of the Development Agreement remain unchanged and are in full force and effect.

7. This First Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument.

[Signatures on Following Page]

IN WITNESS WHEREOF, the City and Developer have executed this Agreement as of the Effective Date.

CITY:

CITY OF ST. HELENA, a municipal corporation

By: _____
Anil Comelo, City Manager
[Signature must be notarized]

ATTEST:

By: _____
Cindy Tzaopoulos, City Clerk

APPROVED AS TO FORM:

By: _____
Ethan Walsh, City Attorney

DEVELOPER:

LMR DESTINATIONS LLC, a California limited liability company

By: Long Meadow Ranch Partners, L.P.
a California limited partnership
Its: Manager

By: LMR GP LLC,
a California limited liability company
Its: General Partner

By: _____
Ted W. Hall,
Its Manager
[Signature must be notarized]

Notary 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 _____, 20____, 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 of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
☐ Corporate Officer

Title(s)

☐ Partner(s) ☐ Limited
 ☐ General

☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:
Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

Notary 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 _____, 20____, 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 of Notary Public	
OPTIONAL <i>Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.</i>	
CAPACITY CLAIMED BY SIGNER ☐ Individual ☐ Corporate Officer _____ Title(s) ☐ Partner(s) ☐ Limited ☐ General ☐ Attorney-In-Fact ☐ Trustee(s) ☐ Guardian/Conservator ☐ Other: Signer is representing: Name Of Person(s) Or Entity(ies) _____ _____	DESCRIPTION OF ATTACHED DOCUMENT _____ Title or Type of Document _____ Number of Pages _____ Date of Document _____ Signer(s) Other Than Named Above

Notary 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 _____, 20____, 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 of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
 ☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

EXHIBIT A

Legal Description for the Property

[Attached behind this cover page]

Exhibit A

83578.00106\40671059.8

Escrow Number: P-253830-JR (3)

NEW ALBION SURVEYS, Inc
CONSULTING LAND SURVEYORS1113 Hunt Avenue St. Helena, CA 95474
(707) 963-1217 ♦ FAX (707) 963-1829
E-Mail: jwebb@albionsurveys.comJanuary 26, 2018
Rev February 17, 2021**Exhibit "A"****DESCRIPTION**
Proposed LMR Parcel

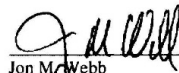
All that real property situate in the City of St Helena, County of Napa, State of California, being a portion of the lands described in the Grant Deed to David A. Gold and Katherine A. Gold, Trustees of the David A. Gold and Katherine A. Gold Living Trust recorded November 3, 2002 as instrument number 2002-0044827 in the Official Records of Napa County and also being portions of Parcel One, Parcel Two, Parcel Three and Parcel Four as shown on the map entitled, "Parcel Map of the Lands of Carl Doumani" recorded March 18, 2009 and filed in Book 26 of Parcel Maps, at Pages 22 and 23 of Official Records of Napa County, said portions being more particularly described as a whole as follows:

Beginning at a point on the northwest line of Parcel Two as shown on the map entitled, "Parcel Map of the Lands of Carl Doumani" recorded March 18, 2009 and filed in Book 26 of Parcel Maps, at Pages 22 and 23 of Official Records of Napa County, said point being North 31°15'00" East 75.00 feet along said northwest line from the most western corner of said Parcel Two and thence leaving said northwest line and running along a line which runs parallel with, and lies 75.00 feet northerly of the southwest line of said Parcel Two, South 59°13'30" East 184.00 feet to the intersection with the southeast line of said Parcel Two; thence along said southeast line and the southeast lines of said Parcel Four, Parcel Three and Parcel One North 31°15'00" East 873.85 feet to the most eastern corner of said Parcel One; thence along the northeast and northwest lines of said Parcel One North 58°45'00" West 640.00 feet and South 31°15'00" West 575.38 feet to the most western corner thereof, said western corner also being the most northern corner of said lands of Gold; thence along the northwest line of said lands of Gold South 31°15'00" West 378.78 feet to the most western corner thereof; thence along the southwest line of said lands of Gold South 59°13'30" East 50.00 feet; thence leaving said southwest line and running along a line which runs parallel with, and lies 50.00 feet southeasterly of said northwest line of Gold, North 31°15'00" East 455.37 feet; thence parallel with the northeast line of said lands of Gold South 58°45'00" East 246.00 feet; thence parallel with said northwest line of Gold South 31°15'00" West 77.00 feet to the intersection with said northeast line of Gold; thence along said northeast line South 58°45'00" East 160.01 feet to the most eastern corner thereof, said eastern corner also being the most northern corner of said Parcel Two; thence along said northwest line of Parcel Two South 31°15'00" West 300.00 feet, more or less, to the Point of Beginning.

The Basis of Bearings of this description is the map entitled, "Parcel Map of the Lands of Carl Doumani" recorded March 18, 2009 and filed in Book 26 of Parcel Maps, at Pages 22 and 23 of Official Records of Napa County

End of Description

Prepared from record data under the direction of the undersigned on behalf of New Albion Surveys, Inc.


Jon M. Webb
Licensed Land Surveyor No. 6709
Certificate renewal date: June 30, 2022



2-17-21
Date

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The consolidation of underlying lots, parcels or portions thereof, as set forth in the above description, constitutes an expressed written statement of the grantor, merging said underlying lots, parcels or portions thereof pursuant to Section 1093 of the California Civil Code.

EXHIBIT B
AMENDMENTS TO EXISTING APPROVALS

[to be inserted]

EXHIBIT G
ALIGNMENT OF INFILTRATION SYSTEM IMPROVEMENTS

[to be inserted]

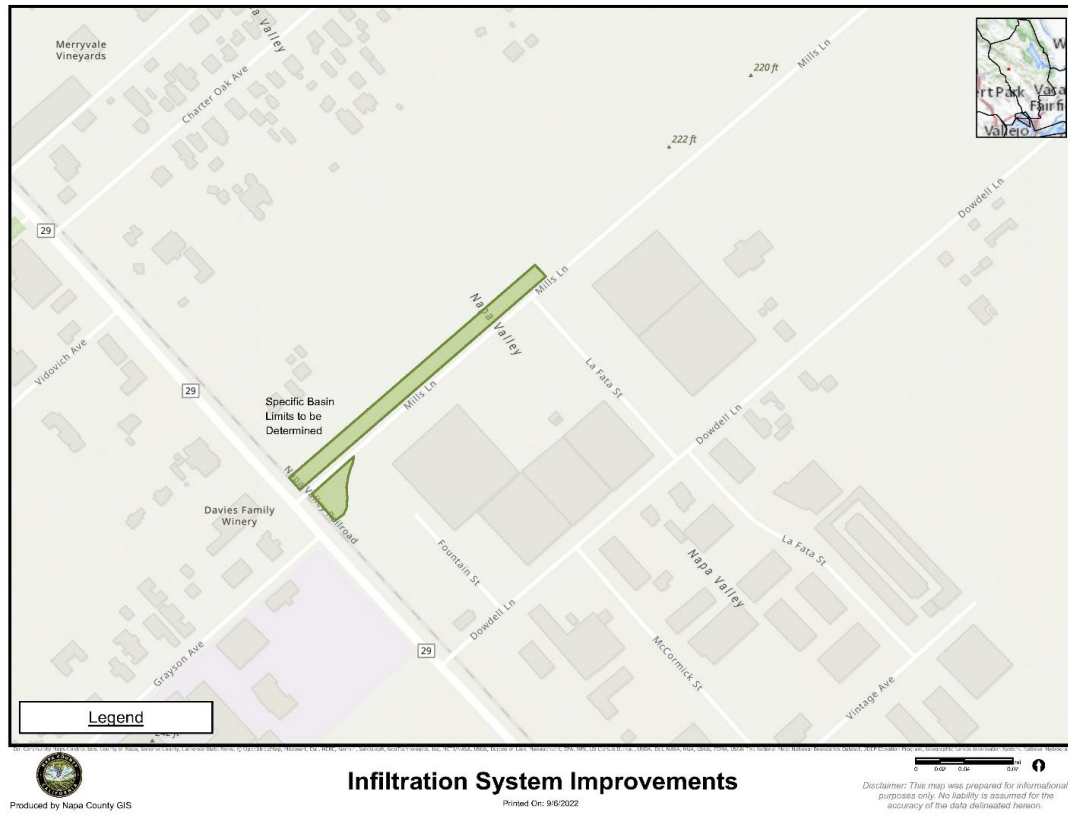


Exhibit G

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**CITY OF ST. HELENA PLANNING COMMISSION
RESOLUTION NO. _____
RECOMMENDING THAT THE CITY COUNCIL APPROVE AN AMENDMENT TO
THE DEVELOPMENT AGREEMENT WITH LMR DESTINATIONS, LLC FOR THE
PROJECT LOCATED AT
1000 MILLS LANE (DA 2022-001)**

Recitals

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Sections 65864 *et seq.* (the "Development Agreement Statute") which authorizes cities to enter into agreements for the development of real property with any person having a legal or equitable interest in such property in order to establish certain development rights in such property; and

WHEREAS, in accordance with the Development Agreement Statute, the City of St. Helena (the "City") has enacted regulations encompassed in St. Helena Municipal Code Chapter 17.156 (the "Development Agreement Regulations") to implement procedures for the processing and approval of development agreements in accordance with the Development Agreement Statute; and

WHEREAS, On October 13, 2020, in accordance with the Development Agreement Statute and the Development Agreement Regulations, the City Council adopted Ordinance No. 2020-9 approving a Development Agreement (the "Development Agreement") with LMR Destinations, LLC, a California limited liability company (the "Developer") for the development of a 65 room single story hotel project, which in addition to the guest rooms includes a multi-purpose building for guest reception/administration, a bar and lounge area, meeting/classroom with demonstration kitchen, commercial kitchen and staff facilities; a utility and service building; a spa building; a pool and fitness building; two outdoor pools; two agricultural barns; and approximately 3.9 acres of land used for agricultural purposes (the "Project"); and

WHEREAS, The Development Agreement required the Developer to construct certain storm drain improvements adjacent to Mills Lane and extending to the Napa River prior to occupancy of the Project; and

WHEREAS, The storm drain improvements are not necessary for the Project. The Project is required to be designed to retain stormwater flows from up to a ten year storm event through on-site detention systems, and stormwater flows from up to a 25 year storm event can be released from the Project site into an infiltration system that will allow such stormwater flows to infiltrate into the ground; and

WHEREAS, City and Developer desire to eliminate the requirement in the Development Agreement to construct the storm drain improvements and instead have Developer provide for an infiltration system in the Mills Lane right of way, and are therefore amending the Development Agreement to replace the requirement to construct the storm drain with a requirement to include an

infiltration system within the Mills Lane right of way that will retain storm water runoff from the Project up to a 25 year storm event; and

WHEREAS, the Development Agreement Regulations provide at St. Helena Municipal Code Section 17.156.080 and 17.56.100 that the Planning Commission shall hold a duly noticed public hearing on any proposed development agreement or amendment to a development agreement, and following such public hearing the Planning Commission shall make a recommendation to the City Council on whether or not to approve the development agreement, which recommendation shall include whether or not the development agreement proposed: (a) Is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan; (b) is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located; (c) is in conformity with public convenience, general welfare and good land use practice; (d) will be detrimental to the health, safety and general welfare; (e) will adversely affect the orderly development of property or the preservation of property values. The recommendation shall include the reasons for the recommendation;

WHEREAS, the Development Agreement as amended will assure both the City and the Developer that the Project will proceed as proposed and that the public improvements and other amenities and funding obligations of the Developer will be accomplished as proposed; and that the Project can proceed without disruption caused by a change in City planning and development policies and requirements, which assurance will thereby reduce the actual or perceived risk of planning, financing and proceeding with construction of the Project and promote the achievement of the private and public objectives of the Project; and

WHEREAS, the Planning Commission of the City held a duly noticed public hearing on September 29, 2022 on the Development Agreement Amendment and an associated amendment to the Use Permit for the Project, during which public hearing the Planning Commission received comments from the Developer, City staff, and members of the general public; and

WHEREAS, the Planning Commission desires to make its recommendation to the City Council in accordance with Section 17.156.080 of the St. Helena Municipal Code through this Resolution.

NOW THEREFORE, THE PLANNING COMMISSION OF THE CITY OF ST. HELENA, CALIFORNIA, HEREBY RESOLVES AS FOLLOWS:

SECTION 1. This Resolution incorporates, and by this reference makes a part hereof, the Development Agreement Amendment attached hereto as Exhibit A.

SECTION 2. In accordance with the Development Agreement Regulations and specifically St. Helena Municipal Code Section 17.156.080, the Planning Commission hereby

make the following determinations and findings with regard to the proposed Development Agreement Amendment:

A. The proposed Development Agreement Amendment is consistent with the objectives, policies and general land uses and programs specified in the General Plan and Highway 29 Specific Plan. Specifically, the Project to be developed pursuant to the Development Agreement as amended is consistent with the land use designations for the parcel upon which the Project will be developed. The lodging component of the Project will be constructed on the portion of the parcel that is within the City's Urban Limit Line and is designated for as Service Commercial (SC), where lodging is an allowable use. The portions of the parcel that are outside the Urban Limit Line will remain in agricultural use, consistent with the requirements of the General Plan. The Project will further numerous policies of the General Plan as more specifically enumerated in the City staff report to the Planning Commission prepared in conjunction with the Planning Commission's consideration of the Project, in that the Project would support both a local and visitor serving component to the City's economy by providing jobs, tax revenue, and additional amenities. The Project would enhance the character in the Service Commercial district by redeveloping an under-utilized site in the district. The Project would also be oriented toward an upscale market, consistent with the Napa Valley's reputation as a producer of world-class wines. Further, the Project is consistent with the Highway 29 Specific Plan and would implement its direction by providing for the realignment of Mills Lane with Grayson Avenue consistent with the goals of the Highway 29 Specific Plan.

B. The Development Agreement Amendment is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property upon which the proposed Project will be located. The Project as proposed meets all development standards as required by Section 17.52 of the Municipal Code including setbacks, height, floor area ratio, landscaping, and other requirements set forth therein, as more specifically described in the staff report prepared in conjunction with the Project. The Project is subject to a Use Permit, which shall be amended concurrently with the Development Agreement, that includes conditions to ensure compliance with the regulations prescribed for the land use district in which the Project shall be located.

C. The Development Agreement, as amended, is in conformity with public convenience, general welfare and good land use practice. As outlined above, the proposed Project is consistent with the land use and zoning designations for the parcel upon which it will be located, and will further multiple policies contained in the City's General Plan. The terms of the Development Agreement as amended will additionally ensure valuable infrastructure will be installed, including the realignment of Mills Lane, installation of recycled water infrastructure that will significantly help to reduce burdens on the City's water system and additional financial contributions to recycled water infrastructure or other water conservation measures. Further, the Development Agreement will help to further the City's affordable housing goals and thereby benefit the general welfare of the City and its residents, by making a monetary contribution toward

affordable housing that is over fifteen times the amount that Developer would be required to pay toward affordable housing in absence of the Development Agreement.

D. The Development Agreement Amendment will not be detrimental to the health, safety and general welfare of the City. As described herein, the proposed Project is consistent with the land use and zoning designations for the parcel upon which it will be located. The hotel portion of the development will be located within the City's Urban Limit Line, and the portions of the proposed Project that are outside of the Urban Limit Line will remain in agricultural use, consistent with the goals and policies of the City's General Plan. The proposed Project will enhance the character of the Service Commercial district by redeveloping an under-utilized site, will provide significant new tax revenue to the City to provide needed services and amenities to the community, and will make beneficial improvements to the City's infrastructure that will benefit both the Project and the community at large.

E. The Development Agreement Amendment will not adversely affect the orderly development of the property or the preservation of property values. The proposed Project is not phased, is located on an underutilized site contemplated for service commercial development, is located within the City limits, and the lodging will be located within an area contemplated for urban development in both the General Plan and the City's zoning map. All public infrastructure improvements required to serve the Project are required to be constructed prior to the Project receiving a certificate of occupancy. The development of the Project contemplated in the Development Agreement as amended will therefore not adversely affect the orderly development of the property. Further, the proposed Project will be oriented toward an upscale market, consistent with the Napa Valley's reputation as a producer of world-class wines, which will not only preserve but will likely enhance property values. Further, the requirement to realign Mills Lane will benefit neighboring property owners and help to preserve property values.

SECTION 4. The foregoing findings and determinations are based upon the following:

- (a) The Recitals set forth in this Resolution, which are deemed true and correct;
- (b) The City's General Plan;
- (c) The City's Highway 29 Specific Plan;
- (d) All City staff reports (and all other public reports and documents) prepared for the Planning Commission, relating to the Development Agreement Amendment and other actions relating to the Property;
- (f) All documentary and oral evidence received at public hearings or submitted to the Planning Commission during the comment period relating to the Development Agreement Amendment, and other actions relating to the Property; and

- (g) All other matters of common knowledge to the Planning Commission, including, but not limited to the City's fiscal and financial status; City policies and regulations; reports, projections and correspondence related to development within and surrounding the City; State laws and regulations and publications.

SECTION 5. The Planning Commission hereby recommends, based on the findings and determinations contained herein, that the City Council approve the Development Agreement Amendment, attached hereto as Exhibit A, subject further to such minor, conforming and clarifying changes consistent with the terms thereof as may be approved by the City Manager, in consultation with the City Attorney to execution thereof, including completion of references and status of planning approvals, and completion and conformity of all exhibits thereto.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2022.

AYES:

NOES:

ABSENT:

ABSTAIN:

John Ponte, Chair

ATTEST:

Maya DeRosa, Community Development Director

APPROVED AS TO FORM:

Ethan Walsh, City Attorney

EXHIBIT A

Development Agreement Amendment

[Inserted behind this cover page]

**CITY OF ST. HELENA PLANNING COMMISSION
RESOLUTION NO. _____
RECOMMENDING THAT THE CITY COUNCIL GRANT A USE PERMIT
AMENDMENT APPROVAL TO LMR DESTINATIONS LLC FOR THE PROJECT
LOCATED AT
1000 MILLS LANE (File No. PL_22-046)**

PROPERTY OWNER: LMR Destinations LLC

APN: 009-070-057

Recitals

1. On October 13, 2020, the City Council of the City of St. Helena adopted Resolution No. 2020-100, approving a Use Permit, Design Review, Lot Line Adjustment, Lot Merger, Variance, and Water Agreement to allow LMR Destinations, LLC (the “Developer”) to construct a new 65 room hotel and associated facilities at 1000 Mills Lane in the Service Commercial and Twenty-acre Agriculture districts as described below (the “Project”):
 - A 9,882 sf multi-purpose building; and
 - A 3,452 sf utility and service building; and
 - A 3,114 sf spa building; and
 - A 2,652 sf pool and fitness building; and
 - Two outdoor pools, including one children’s pool; and
 - Two (2) 1,000 sf agricultural barns.
2. On October 13, 2020, the City Council additionally adopted Ordinance No. 2020-9 approving a Development Agreement for the Project, which vested certain rights to Developer in developing the Project and included additional obligations and public benefits that Developer agreed to provide as consideration for the rights vested by the Development Agreement.
3. The City prepared an Initial Study/Mitigated Negative Declaration for the Project, which was independently reviewed and analyzed by the City Council, along with public comments, and all other information in the record and the City Council considered the information contained therein, prior to acting upon or approving the Project; and
4. Based on its review of the Initial Study/Mitigated Negative Declaration and all other testimony and information presented to the Council in conjunction with the Project the City Council, on behalf of the City as lead agency for the Project, determined based on its independent judgment and analysis that there was no substantial evidence that the Project as designed, conditioned, and mitigated, will have a significant effect on the environment; and
5. The City Council therefore approved the Mitigated Negative Declaration (SCH No. 2020050553) (“MND”) and Mitigation Monitoring and Reporting Program (“MMRP”) for the Project on October 13, 2020; and

6. The Development Agreement required the Developer to construct certain storm drain improvements adjacent to Mills Lane and extending to the Napa River prior to occupancy of the Project; and
7. The storm drain improvements are not necessary for the Project. The Project is required to be designed to retain stormwater flows from up to a ten year storm event through on-site detention systems, and stormwater flows from up to a 25 year storm event can be released from the Project site into an infiltration system that will allow such stormwater flows to infiltrate into the ground; and
8. City and Developer desire to eliminate the requirement in the Development Agreement to construct the storm drain improvements and instead have Developer provide for an infiltration system in the Mills Lane right of way, and are therefore amending the Development Agreement to replace the requirement to construct the storm drain with a requirement to include an infiltration system within the Mills Lane right of way that will retain storm water runoff from the Project up to a 25 year storm event; and
9. The conditions of approval for the Use Permit as adopted by Resolution No. 2020-100 contemplated that the Developer would be constructing the storm drain, and incorporated the requirement to construct the storm drain as set forth in the Development Agreement into the conditions of approval; and
10. Based on the amendment to the Development Agreement; the City desires to amend the conditions of approval for the Use Permit to replace the requirement to construct the storm drain with the requirement to construct the infiltration system, and make minor conforming edits to the conditions of approval; and
11. A public notice of the public hearing before the Planning Commission for this proposed amendment to the Use Permit and the proposed Amendment to the Development Agreement for the Project was published in the Napa Valley Register and mailed to residents and occupants within 300 feet of the project site in compliance with state and local law; and
12. The Planning Commission of the City of St. Helena, State of California, considered the project, staff report, and all testimony, written and spoken, at a duly noticed public hearing on September 29, 2022; and
13. The Planning Commission desires to recommend that the City Council of the City of St. Helena approve the Amendment to the Use Permit, and the First Amendment to the Development Agreement for the Project based on the findings below and subject to the conditions of approval enumerated herein.

Resolution

- A. In reviewing the findings in this Resolution, the Planning Commission relied upon and hereby incorporates by reference all of the documents referenced in this Resolution and the associated staff reports, City files for this matter, correspondence, presentations and other materials.

B. CEQA Findings:

1. The Planning Commission has independently reviewed and analyzed the Mitigated Negative Declaration and Mitigation Monitoring Plan previously approved for the Project as well as public comments, and all other information in the record and has considered the information contained therein, prior to acting upon or approving the proposed amendment to the Development Agreement or the Use Permit Amendment; and
 2. On the basis of the whole record, the City has determined that the minor modifications made to the infrastructure conditions of approval and development agreement terms for the Project site are consistent with the MND and MMRP previously prepared and adopted for the Project on October 13, 2020, and would not result in new impacts or any substantial changes to any significant effects previously identified. Specifically, substantial changes are not proposed in the Project that would require major revisions of the Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects have not occurred; new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Mitigated Negative Declaration was adopted, as applicable, showing any of the following, has not come to light: (i) that the Project would have one or more significant effects not discussed in the earlier environmental documentation; (ii) that significant effects previously examined would be substantially more severe than shown in the earlier environmental documentation; (iii) that mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects, but the applicant declined to adopt such measures; or (iv) that mitigation measures or alternatives considerably different from those previously analyzed would substantially reduce one or more significant effects on the environment, but which the applicant declined to adopt. Thus, based on these findings and all evidence in the record, the City has determined that none of the conditions specified in State CEQA Guidelines section 15162 requiring preparation of a subsequent or supplemental EIR or MND would occur and no additional environmental review is required; and
 3. The custodian of the documents and other materials that constitute the record of proceedings is Cindy Tzafopoulos, City Clerk and may be inspected at 1572 Railroad Avenue, St. Helena, CA 94574.
- C. The Planning Commission recommends that in accordance with SHMC Section 17.168.050, the City Council adopt the following use permit findings to support the motion to recommend approval of the amendment to the use permit:
1. *That the proposed uses would not generate odors, fumes, dust, light, glare, radiation or refuse that would be injurious to surrounding uses or to the community in that proposed uses are related to a new hotel and would largely occur indoors within new buildings.*
 2. *That the proposed uses would not generate levels of noise that adversely affect the health, safety, or welfare of neighboring properties in that the proposed project is subject to City noise regulations and is not anticipated to produce frequent noise audible beyond the property line.*

3. *That the proposed use would not generate traffic noise in excess of the "normally acceptable" range identified in the General Plan as traffic related impacts have been identified in the Mitigated Negative Declaration and been determined to be less than significant.*
 4. *That the proposed use would not make excessive demands on the provision of public services including water supply, sewer capacity, energy supply, communication facilities, police protection, and fire protection in that impacts to these services have been identified in the Mitigated Negative Declaration and been determined to be less than significant.*
 5. *That the proposed uses would provide adequate ingress and egress to and from the proposed location in that ingress and egress to the project site would be provided via a realigned Mills Lane.*
 6. *That allowing the proposed uses would not conflict with the City's goal of maintaining the economic viability of a local serving economy in that the proposed project would be consistent with General Plan Update 2040 policies.*
 7. *That the proposed uses would be compatible with surrounding land uses and would not conflict with the purpose established for the district within which it would be located as the proposed project is consistent with the intent of the Service Commercial and A-20 zoning districts.*
 8. *That the proposed uses would not be in conflict with the City's General Plan in that the project would support both a local and visitor serving component to the City's economy by providing jobs, tax revenue, and additional amenities.*
 9. *That the proposed uses would not be injurious to public health, safety, or welfare in that the proposed uses consist of a new hotel and ancillary facilities and would largely occur indoors within new buildings.*
 10. *That granting the use permit would not set a precedent for the approval of similar uses whose incremental effect would be detrimental to the City or would be in conflict with the General Plan in that this use permit only applies to this property and to this specific use.*
 11. *That, as demonstrated on a detailed plan submitted by the applicant, adequate off-street parking to accommodate the long term parking needs of employees and business owners and customers is available in that the proposed project has provided required off-street parking.*
 12. *That the capacity of surrounding streets is adequate to serve the automobile and delivery truck traffic generated by the proposed use in that the project site can adequately be served by existing streets and a realigned Mills Lane.*
- D. The Planning Commission further recommends that based on the foregoing, the City Council approve an amendment to the use permit for the above-described project located at 1000 Mills Lane to amend the conditions of approval for such use permit as set forth herein. The conditions of approval listed herein shall amend, replace and supersede the conditions of approval included in Resolution No. 2020-100 in their entirety, and shall hereafter constitute the conditions of approval for the Project. The conditions of approval included herein show the changes to such conditions through strike-through and underlining of the original conditions. The conditions set

forth herein are particularly pertinent to this permit and shall not be construed to permit violation of other laws and policies not so listed. All other entitlements granted by Resolution No. 2020-100, including Design Review Approval, Lot Line Adjustment, Lot Merger, Variance, and Water Agreement remain in full force and effect as approved on October 13, 2020.

Planning Department Conditions of Approval

1. The project shall be in conformance with all city ordinances, rules, regulations and policies in effect at the time of issuance of a building permit.
2. This approval shall be vested pursuant to the development agreement, provided however that the approval may be extended under the terms of the development agreement or for up to two (2) one-year periods pursuant to the St. Helena Municipal Code, Section 17.08.130, Extension of Permits and Approvals.
3. Any request for an extension of this approval shall be justified in writing and received by the Planning Department at least thirty (30) days prior to expiration.
4. All required fees, unless otherwise specified in the development agreement, including planning fees, development impact fees, building fees, and St. Helena Unified School District fees shall be paid prior to issuance of a building permit except as expressly provided herein. Fees shall be those in effect at the time of the issuance of the building permit.
5. Developer shall make a payment for the purpose of furthering the City's affordable housing goals in accordance with the requirements of Section 5.1.6 entered into by and between Developer and the City for this project. The Development Agreement requires \$1,000,000 to be paid to the City prior to issuance of the building permit, and the remaining \$2,200,000 to be paid at the earlier of (i) Transfer of the Property by Developer, other than a Permitted Transfer ("Transfer" and "Permitted Transfer" are defined in the Development Agreement); (ii) conversion of Developer's construction financing for the Project to permanent financing, or (iii) sixty (60) months after issuance of a final certificate of occupancy for the Project.
6. Compliance with all permit conditions shall occur in accordance with specific regulations but in all cases no later than prior to occupancy or initiation of use unless another time is set by law or by this approval. Occupancy or final inspection of a project may be withheld if all conditions, including payment of fees for services rendered by the City, are not met.
7. In any action or proceeding to attack, challenge, invalidate, set aside, void or annul the City's approval of applicant's Project, in whole or in part, applicant shall defend, at its own expense and without any cost to the City, and with counsel acceptable to the City, and shall fully and completely indemnify and hold the City, its agents, officers, and employees harmless from and against any and all claims, causes of action, damages, costs, attorney's fees and liability of any kind, so long as the City reasonably promptly notifies the applicant of any such claim, action, or proceedings and the City cooperates fully in the defense of the action or proceedings.
8. Provided they are in general compliance with this approval and the development agreement, minor modifications may be approved by the Planning and Building Director.
9. Pursuant to St. Helena Municipal Code Section 17.08.110, this permit shall run with the land and shall be binding upon all parties having any right, title or interest in the real property or any

part thereof, their heirs, successors and assigns, and shall inure to their benefit and benefit of the City of St. Helena.

10. The primary purpose of this review is for compliance with the General Plan and Zoning Ordinance. The property owners or their designee shall be responsible for meeting with the Building Official, Fire Inspector and or Public Works Department to review compliance with Building Codes, Fire Codes and specific Public Works Standards including fire protection systems and any applicable accessibility standards of Title 24.
11. Construction shall be in compliance with plans submitted and reviewed by the Planning Commission on September 14, 2020 and September 17, 2020, and by the City Council on October 13, 2020 except as modified herein.
12. If the property is sold or otherwise conveyed to new owners, the owner or successor in interest is required to notify the Planning Director in writing within 30 days of the change in ownership. The use permit shall then be brought before the Planning Commission for review in order for the City to assess whether operational practices that are different than what is approved in this use permit may occur and whether a use permit amendment is required.
13. For attendees who are not lodging guests, 1) the chef's table and demonstration classes shall occur during off-peak hours, 2) the chef's table is limited to 20 persons per event and 3) the demonstration classes are limited to 40 persons per event.
14. The spa, fitness building, pools, and outdoor seating areas are for the use of guests only.
15. Bar and lounge activities shall comply with the City's noise ordinance.
16. All live and amplified music must comply with applicable City noise regulations.
17. With the exception of handicapped employees, all employees shall park in the off-site supplemental lot; employees shall not park on-site or on neighboring streets.
18. All guests and visitors must park on-site or at applicant provided off-site parking.
19. Planters and tree wells must be bordered by a six-inch high concrete curb or equivalent barrier approved by the City.
20. A minimum of 20% of the subject property must remain maintained landscaping and shall be kept in a weed-free condition.
21. The owner or successor in interest shall notify the City in writing if the lease option for the off-site parking lot to be used for employee parking at Dowdell/McCormick is lost or the lease is otherwise terminated or expires. The owner or successor in interest shall provide evidence that a parking lot with a similar number of parking spaces has been secured (and is approximately the same distance from the project site or applicant provides appropriate transportation from parking to project site).
22. Prior to issuance of a Certificate of Occupancy, the applicant shall designate a Transportation Demand Management (TDM) coordinator to establish programs to ensure VMT by guests and employees are reduced, including, but not limited to, employee car and vanpooling, employer-sponsored transit passes, bicycle-sharing, showers, lockers, secure bike storage, and winery tours for guests with pickup and drop-off at the lodge.

23. Prior to issuance of a Certificate of Occupancy, the developer shall provide verification that an on-call shuttle service is available during all hours as long as there is an off-site employee parking lot.
24. Prior to issuance of a Certificate of Occupancy, the developer shall install a shelter at the off-site Dowdell Lane parking lot.
25. Prior to issuance of a grading permit, the project site shall be adequately fenced and secured to prevent trespassing.
26. Exterior lighting shall be directed or shielded to prevent glare onto the public roadway or adjacent properties.
27. Prior to issuance of a Certificate of Occupancy, the applicant shall provide two (2) courtesy bicycles per guest room.
28. To reduce disturbance of residents in the project vicinity, construction activities which generate noise that can be heard at the property line of any parcel of real property within the City limits shall be limited to 8:00 a.m. to 5:00 p.m. Monday through Saturday. Delivery of materials/equipment and cleaning and servicing of machines/equipment shall be limited to 7:00 a.m. to 6:00 p.m. Exceptions to these time restrictions may be granted by the Public Works Director for one of the following reasons: (1) inclement weather affecting work, (2) emergency work, or (3) other work, if work and equipment will not create noise that may be unreasonably offensive to neighbors as to constitute a nuisance. The City Engineer must be notified and give approval in advance of such work. No construction activities shall occur on Sundays or federal or local holidays that generate noise that can be heard at the property line of any parcel of real property within the City limits.

Public Works Department Conditions of Approval

29. Approval of this project shall be subject to the requirements of, and all improvements shall be designed and constructed in accordance with, the most current version at the time of improvement plan submittal, Caltrans Standards and Specifications, the City of St. Helena Municipal Code, the St. Helena Water and Sewer Standards, the St. Helena Street, Storm Drain and Sidewalk Standards, and all current federal, state and county codes governing such improvements.
30. For any improvements outside the existing building envelope, a grading and drainage plan showing topographic data, all easements, infrastructure onsite and directly adjoining, and an erosion control plan shall be submitted for review and approval by the City Engineer prior to the issuance of a building permit. If the project entails more than 50 cubic yards of soil disturbance, 10,000 square feet of disturbance area, a cut or fill of 3 feet or more, or alteration of any drainage pattern, a grading permit shall be required.
31. Improvement plans shall incorporate all grading, drainage, and utilities shown on the approved Use Permit package, those improvements agreed to in public hearings, the

requirements of these conditions of approval, and those improvements required by any codes in effect at the time of plan submittal.

32. Drainage needs to be routed to prevent inundation of neighboring properties. Grading and/or site improvement plans shall show how 2-year and 10-year storm flows shall be infiltrated on site and/or diverted at the property lines to prevent inundation of neighboring properties. The Developer shall submit a storm ~~drain~~ water infiltration system design calculations for the project in accordance with City of St. Helena, Napa County and State of California codes in effect at the time of improvement plan submittal. The calculations shall include a hydrology map, hydrology and hydraulic calculations, pipe size calculations, inlet capacity calculations, and other information necessary to support the proposed design.
33. Prior to the issuance of a Certificate of Occupancy, the Developer shall install storm drain Detention system improvements as required to maintain post development 10-year runoff from the pre-development levels. The Developer shall submit storm drain detention system supporting calculations for review and approval prior to improvement plan approval.
34. Prior to the issuance of a Certificate of Occupancy, the Developer shall install detention system inlets sized to pass at minimum the 25-year flows.
35. A grading and drainage plan shall be prepared for the project that includes a design that allows for a 100-year overland release. All graded building pads shall be above the 100-year overland release elevation.
36. The grading plans provided by the Developer for review shall include the existing topography shown with contour lines labeled at one-foot intervals and extending a minimum of 100-feet beyond the limits of the site, or sufficient distance to indicate impacts on adjacent properties.
37. Erosion and sediment control plans shall conform to the latest State and City codes at a minimum
38. Prior to the issuance of a grading permit or building permit (whichever occurs first), the project property owner shall file a Notice of Intent (NOI) with the State Water Resources Control Board and prepare a Construction Storm Water Pollution Prevention Plan (SWPPP). This is required because the overall project grading involves an area of disturbed surface soil that is greater than or equal to one acre, .
39. The Developer shall execute a City of St. Helena Water Agreement with an annual water use cap of 1,953,928 gallons per year prior to issuance of a Building Permit.
40. Due to the new water demand on the City system in the amount of 1,953,928 gallons per year, the Developer shall implement an alternative innovative method of mitigating water use as allowed under Section 13.12.030(B) of the SHMC, and approved by City Council in the Development Agreement prior to certificate of occupancy. The required offsite improvements to offset water demand as required pursuant to the Development Agreement is as follows: The Developer shall construct and install \$256,549 worth of water infrastructure (i.e., purple pipe) in Mills Lane between Highway 29 easterly to the eastern end of Mills Lane. This purple pipe is intended to connect to a future wastewater treatment facility and deliver recycled water to Crane Park's irrigation infrastructure by November 1, 2024⁴², significantly reducing the City's use of potable water. No certificate of occupancy for the

Lodging component may be issued, until either the Developer has demonstrated or City has confirmed that either: (a) the water savings from the irrigation of Crane Park with recycled water from the wastewater treatment facility offsets the Lodging component's anticipated water demand, or (b) the Developer has identified and implemented other measures calculated to save potable water in amounts equal to the Project's anticipated use of City water permanently or until recycled water is delivered to Crane Park. Such improvements shall be constructed and approved by the City Engineer in accordance with the terms of the Development Agreement prior to the issuance of a final certificate of occupancy for the Project. Developer may be eligible for partial reimbursement of the costs of construction of the improvements required under this condition in accordance with the terms of the Development Agreement.

41. The Developer shall adhere to the executed Water Agreement with the City and shall incorporate water conservation practices into the proposed project per the Water Availability Analysis prepared by Sherwood Design Engineers, dated May 2, 2017 and the revision dated September 2, 2020. The water conservation requirements shall be replicated in full on the architectural plans.
42. Prior to issuance of a Certificate of Occupancy, all parcels shall be connected to the City of St. Helena municipal water system and installed per City of St. Helena standards.
43. Prior to issuance of a grading or building permit (whichever occurs first) a detailed Post-Construction Stormwater Control Plan (SWCP) that identifies and sizes all permanent post-construction stormwater treatment BMPs shall be prepared by the applicant's engineer and submitted for review approval. The Plan shall be prepared in accordance with the latest edition of the *Bay Area Stormwater Management Agencies Association (BASMAA) Post-Construction Manual* and the requirements of the State Water Resources Control Board Phase II Municipal Separate Storm Water System (MS4) General Permit (Order 2013-0001 DWQ).
44. Prior to the issuance of a Certificate of Occupancy, a Post Construction Stormwater Operations and Maintenance Plan that provides a color-coded plan sheet showing all storm drainage and water quality infrastructure that is to be maintained, along with detailed instructions and schedules for the ongoing maintenance and operation of all post-construction stormwater BMPs shall be submitted by the applicant's engineer for review and approval by the City Engineer. Once approved, the property owner shall enter into an agreement with the City that provides the terms, conditions, and security associated with the ongoing requirements of the Post Construction Stormwater Best Management Practices.
45. If proposed/new landscaping involves an area greater than 500 square feet or rehabilitation of more than 2,500 square feet, the proposed landscaping shall comply with the State's Model Water Efficient Landscape Ordinance (MWELo). MWELo compliance shall be demonstrated as part of the building permit submittal.
46. Prior to issuance of a grading permit, a detailed Soils Investigation/Geotechnical Report shall be prepared by the developer and submitted for review. The report shall address, at a minimum, potential for liquefaction, R-values, expansive soils and seismic risk. The improvement plans shall incorporate all design and construction criteria recommended in the Geotechnical Report.

47. Prior to issuance of a grading permit, unless otherwise explicitly permitted, all existing abandoned wells, septic tanks/systems and/or underground fuel storage tanks shall be abandoned under permit and inspection of Napa County Department of Environmental Services or other designated agency. If there are none, the Developers project engineer shall provide a letter describing the scope of the search done to make this determination.
48. Per the September 14, 2020 Technical Memo titled “Hydrogeologic Evaluation of Possible Impact of Proposed Irrigation-Supply Pumping on Local Aquifer Systems Proposed Farmstead Lodge Property” by Richard Slade and Associates, the applicant shall adhere to the following:
 - a) Prior to certificate of occupancy, the applicant shall initiate a groundwater monitoring program for the three active onsite wells. This will include frequent, consistent, and accurate monitoring of water levels, frequent monitoring of pumping rates and pumped volumes of groundwater and could also include verifying the accuracy of the existing flow meters in Well #1- PWS and Well #2-IRR. Water level monitoring should continue to utilize pressure transducers set to a depth just above the depth setting of the new pump in Well #1-PWS and Well #2-IRR. A new transducer should be installed and properly calibrated in the Shared well, along with a proper dual reading flow meter that is installed at an appropriate location on the discharge pipe near its wellhead. These transducer installations must include occasional corroboration using a manual water level sounder. The acquired data shall be downloaded and reviewed on a quarterly basis by the applicant and submitted to the City Public Works Department on an annual basis by June 30; and
 - b) Prior to certificate of occupancy, the applicant shall have completed one of the following options on the inactive well:
 - i. Shall demolish the inactive well per State and County standards (DWR, Bulletin 74-90); or
 - ii. Leave the inactive well on the parcel as part as a permanent groundwater monitoring well. The acquired data shall be downloaded and reviewed on a quarterly basis by the applicant and submitted to the City Public Works Department on an annual basis by June 30; or
 - iii. Submit the appropriate permit applications to the City and the County to rehabilitate the inactive well in order to utilize it for an emergency back-up supply well. The well will be required to be monitored similarly as the three active wells and submitted to the City Public Works Department on an annual basis by June 30.
49. Prior to the issuance of a grading permit, the site plan shall show the location of any trees within the project area. Provide a tree protection plan for approval by the Public Works Director prior to approval of the building permit. The plan shall be coordinated with any civil grading/drainage/improvement plans.
50. The Developer shall keep adjoining public streets free and clean of project dirt, mud, materials, and debris during the construction period, as is found necessary by the City Engineer.

51. Prior to the issuance of a Certificate of Occupancy, the Developer shall underground all on-site utility lines per St. Helena Municipal Code. The cost of undergrounding shall be the responsibility of the Developer.
52. Due to the economic and engineering infeasibility of undergrounding regional serving overhead power lines, such existing lines may remain on overhead power poles.
53. Any new and modified existing water laterals, meters and backflow prevention devices shall be required and constructed in accordance with the current requirements of the City of St. Helena's Water Standards and the California Department of Health Standards. Existing meter boxes located within a driveway shall be retrofitted with a traffic-rated box. New laterals shall be located perpendicular to the water main and outside any driveway/drive aisle.
54. Remodels or new construction which require fire sprinklers shall install an appropriately-sized water service with appropriate backflow and meter devices prior to Certificate of Occupancy. Fire system calculations shall be submitted with the Grading and Drainage Plan to verify fire service lateral and meter sizing. Deferred submittals are not accepted.
55. Proposed separations between public water facilities and other utilities shall meet the minimum separations as specified by the Department of Health and the City of St. Helena Public Works Standards.
56. No construction may commence until adequate access to fire water supply is available to building sites as approved by the Fire Chief.
57. Wastewater discharged is subject to all of the requirements and limitations set forth in Chapter 13.24, Wastewater Discharge, of the St. Helena Municipal Code.
58. Prior to the issuance of the first building permit for 1000 Mills Lane, the Developer shall apply for annexation to the St. Helena Municipal Sewer District No. 1. The application shall be completed in accordance with the City of St. Helena's Sewer Annexation Procedures including all annexation, impact, connection, and sewer fees.
59. Prior to issuance of a building permit, in order to confirm the theoretical assumptions in the Theoretical Sewer Capacity provided by Sherwood Design Engineers dated May 2, 2017, the Developer is required to perform 7-day flow monitoring at the downstream sanitary sewer manholes (No. 1-89 and No. 1-94) to verify that the existing sewer pipe has adequate capacity to accommodate the proposed additional flows. Peak sewer flows will not be allowed to exceed 2/3 full pipe. If the proposed wastewater discharge regimen increases peak flows to greater than 2/3 full pipe at the monitored locations and with the current infrastructure, the owner may be subject to paying a share of the cost of sewer upgrades with a dollar amount proportional to the increase in wastewater flow as a result of the site development.
 - c) Concurrent with the building permit application, the Developer shall apply for and obtain a Wastewater Discharge Permit from the Department of Public Works as specified in St Helena Municipal Code Section 13.24.50. The permit conditions will require:
 - a. Discharge flow rate shall not exceed 5,150 gallons per day.

- b. The onsite force main system shall provide protection from accidental discharge of prohibited materials or other wastes regulated as defined in Chapter 13.24, Wastewater Discharge, of St. Helena Municipal Code. Such facilities shall be provided and maintained at the Owner's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval prior to building permit approval.
 - c. Owner shall continuously maintain records of all daily flows for a rolling three year period. Said records shall be made available to the City for review upon request.
 - d. The City shall have the right to inspect all parts of the onsite force main system at anytime during normal business hours. Failure to take immediate corrective actions on any deficiencies found may result in enforcement actions as provided under the St. Helena Municipal Code or other applicable law.
- 60. Prior to the issuance of a Certificate of Occupancy, the Developer is required to install a wastewater flow meter measuring the total volume of wastewater leaving the project site, into the City's sewage collection infrastructure, and after installation, have the wastewater flow meter calibrated yearly. Annual wastewater flow meter calibration records are to be maintained by the project ownership and made available to City staff upon request. The style, design, manufacturer, and location of this meter must be of a form found to be acceptable by the City. The costs associated with the installation and calibration of this meter are required to be fully borne by the Developers, and the results of the flow measurement are to be utilized to determine the amount of the wastewater bills for the uses on site. Said meter is required to be installed and functional prior to occupancy of the project.
- 61. Prior to issuance of a certificate of occupancy, trash areas, dumpsters and recycling containers shall be enclosed and roofed per State and County standards to prevent water run-on to the trash area and water runoff from the area, to contain litter and trash so that it is not dispersed by the wind or run-off during waste removal. In the event that wine or food is disposed in these areas, the enclosed trash area shall drain to the sanitary sewer system. An area drain connected to the sanitary sewer shall be installed in the enclosure area and a structural control such as an oil/water separator or sand filter shall be included. No other area shall drain into the trash enclosure. A sign shall be posted prohibiting the dumping of hazardous materials into the sanitary sewer.
- 62. Where applicable, the applicant shall be required to submit to the requirements for annual inspections of food/beverage service establishments and businesses that handle hazardous wastes for illicit stormwater discharges as required by the State National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges. The annual

stormwater illicit discharge inspections are performed and invoiced by Napa County Department of Environmental Management.

63. Provide details of all proposed fencing, walls, and gates on all plans submitted for building permit review.
64. Prior to Certificate of Occupancy, the Developer shall repair all public improvements that are damaged by the construction process in accordance with the City Water/Sewer/Street/Storm Drain/Sidewalk Standards.
65. Existing streets being cut by new utility services will require edge grinding and an A.C. overlay per City standards, extent to be determined by the Public Works Department.
66. The Developer shall be required to pay a fair share fee contribution in the amount of 23.3% towards the Dowdell Lane and Highway 29 signalization at the time such improvement is constructed by the City.
67. ~~The Developer shall construct those certain storm drain improvements necessary to extend and improve the storm drain along Mills Lane. These storm drain improvements will serve properties on Mills Lane, La Fata Street, Fountain Street, Grayson Avenue, Main Street (to Charter Oak Avenue), and Vidovich Avenue and to construct an outfall for said storm drain into the Napa River. The Storm Drain Improvements shall be designed by City in accordance with the City's long-standing plan for this separate project is contained in City's Storm Drain Master Plan dated September 2000 (see Table 4-1) and the Highway 29 Specific Plan (see pages 37-39, Exhibit 11). City shall further be responsible for permitting required for the Storm Drain Project, which shall likely include permits from the California Department of Fish and Wildlife, San Francisco Regional Water Quality Control Board, and the United States Army Corp of Engineers. Developer shall commence construction of the Storm Drain Improvements after the City has secured the permits required for the Storm Drain Improvements, provided, however, that the Storm Drain Improvements shall be completed before the Developer receives final certificate of occupancy for the Project. Upon completion of the storm drain improvements described in this condition, Developer shall be eligible for reimbursement of costs in excess of its proportionate share of costs in accordance with the terms of the Development Agreement.~~ Developer shall, at its sole cost and expense, design and construct stormwater infiltration system improvements adjacent to the Mills Lane improvements described in Condition No. 68 and within the existing public right of way for Mills Lane, which infiltration system improvements shall be designed to retain and infiltrate at a minimum 25 year stormwater flows. The development of 1000 Mills Lane shall include inlets from the development to the infiltration system improvements to manage at minimum such 25 year stormwater flows. The infiltration system improvements shall be constructed prior to or concurrently with the development of 1000 Mills Lane and in accordance with improvement plans approved by the City Engineer and verified to meet the standards for retention and infiltration as set forth herein. Developer shall complete the infiltration system improvements required by this condition prior to the issuance of the first certificate of occupancy for 1000 Mills Lane by the City.
68. Developer shall construct improvements to Mills Lane, which are consistent with City's Highway 29 Specific Plan, prior to or concurrently with the development of the Project and shall complete the Mills Lane Improvements prior to the issuance of the first certificate of

occupancy for the Project by the City. Construction shall be completed in accordance with improvements plans as approved by the City Engineer, and before Developer receives a final certificate of occupancy for the Project.

69. The Developer shall construct all on and offsite improvements in accordance with the improvement plans and supporting calculations that are prepared by a registered civil engineer and reviewed by the City of St. Helena Public Works Department. The improvement plans and supporting calculations shall include detailed designs for all utilities, water, grading, drainage, erosion control and paving.
70. Prior to issuance of a grading or building permit, the Developer shall be required to obtain a City encroachment permit for improvements on public right-of-way.
71. The following offsite improvements shall be installed by the Developer, completed prior to the issuance of a Certificate of Occupancy and will be provided on a separate offsite improvement plan set:
 - In accordance with civil site plans prepared by Sherwood Design Engineers, dated May 6, 2019, all required public frontage and street improvements shall be designed and built in accordance with City of St. Helena ordinances, Public Works Department Standard Specifications, and Caltrans requirements.
 - Specific offsite improvements include, in general, pavement widening, realignment of Mills Lane in accordance with the Highway 29 Specific Plan, signal upgrade at Highway 29/Main Street/Grayson Avenue/Mills Lane, signage, striping, street lighting, required accessible pedestrian curb ramps, and a new railroad crossing.
 - The typical half cross section of Mills Lane shall consist of a landscape strip, 10' path, curb and gutter, 8' parking strip, and 12' travel lane.
 - In accordance with civil site plans prepared by Sherwood Design Engineers, dated May 6, 2019, the Developer shall extend the City water main from La Fata to the City's 12" water main on Highway 29 and install adequately spaced fire hydrants per the approval of the City's Fire Chief.
 - In accordance with civil site plans prepared by Sherwood Design Engineers, dated May 6, 2019, the Developer shall extend the sewer main on La Fata to the project site.
 - As identified in the 2019 Traffic Study by Crane Transportation Group, the Developer shall extend the sidewalk from La Fata Street to Mills Lane with a crosswalk to the project site. The La Fata Sidewalk improvements shall further be completed in accordance with the terms of the Development Agreement.
 - The improvement plans shall include a Construction Traffic Control Plan.
 - The improvement plans shall include an Erosion and Sediment Control Plan.
 - The improvement plans shall include a Joint Trench Plan (as necessary).
72. The Developer shall be required to obtain a Caltrans encroachment permit for improvements on and immediately adjacent to Highway 29 as necessary to complete the offsite improvements as outlined above.

73. The Developer shall be required to obtain permits necessary to complete work on the railroad right-of-way as necessary in conjunction with the offsite improvements as outlined above.
74. The Developer shall construct all on and offsite improvements which are consistent with City's Highway 29 Specific Plan, prior to or concurrently with the development of the Project and shall complete the Mills Lane Improvements prior to the issuance of the final certificate of occupancy for the Project by the City. Construction shall be completed in accordance with improvements plans as approved by the City Engineer and before the Developer receives a final certificate of occupancy for the Project.
75. Prior to issuance of a certificate of occupancy, the Developer shall pay traffic impact fees based on the Master Fee Schedule, and the fee will assume all square footage calculated at the lodging rate.
76. Prior to issuance of a certificate of occupancy, the Developer shall demonstrate that water to fill the swimming pools came from outside St. Helena.

Building Department Conditions of Approval

77. A building permit is required for all onsite demolition, construction and/or change of occupancy.
78. The applicant will be required to comply with the codes adopted at the time the applicant applies for a building permit. At this time the City of St. Helena utilizes the 2019 Title 24 codes.
79. When submitting plans for a building permit, the plans shall include all documentation listed on the building permit application checklist.
80. The applicant shall provide a construction waste management plan with the building permit application.
81. The plans for construction shall include a checklist for compliance with the California Green Buildings Standards Code, mandatory measures. Provide a reference on the checklist indicating where the mandatory measures can be found on the plans.
82. When submitting plans, the title page shall include all information referenced on the building permit application checklist Title Page requirements.
83. Building Permit application materials and plans shall include any documentation pertaining to special loads applicable to the design and the specified section of the code that addresses the condition; special inspections for any systems or components requiring special inspection; requirements for seismic resistance; and a complete list of deferred submittals at time of application. Any deferral of the required submittal items shall have prior approval of the Building Official however deferral of fire sprinkler design is not allowed.
84. Properties which are on septic systems and proposing substantial renovations may require approval from the Napa County Environmental Health Department. Applicants are encouraged to engage with the County early in the building permit review process to reduce the potential for delay.

Fire Department Conditions of Approval

85. Plans submitted for building permit shall exhibit compliance with the current St. Helena Fire Code, as adopted and codified in St. Helena Municipal Code Chapter 15.36.
86. Fire sprinklers and fire hydrants shall be installed as required by Fire Code and the Fire Department.
87. One hour minimum fire resistant construction on all exterior walls within 10' of property boundary is required. Fire resistant construction of interior walls shall be determined by type of occupancy.
88. Any gates installed to control vehicular access to a property are required to be setback 30-feet from the property line and/or edge of pavement, whichever is greater. No vehicle gates may be installed without Fire Department and Public Works Department review and explicit approval.

I HEREBY CERTIFY that the City of St. Helena Planning Commission recommends that the City of St. Helena City Council approve the foregoing use permit amendment at a special meeting of said Planning Commission held on September 29, 2022 , by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

John Ponte
Chair, Planning Commission

Maya DeRosa, AICP
Community Development Director



Planning Commission

September 26, 2022

**Farmstead DA Amendment and
Use Permit Amendment
#PL22-046 DA 2022-001**



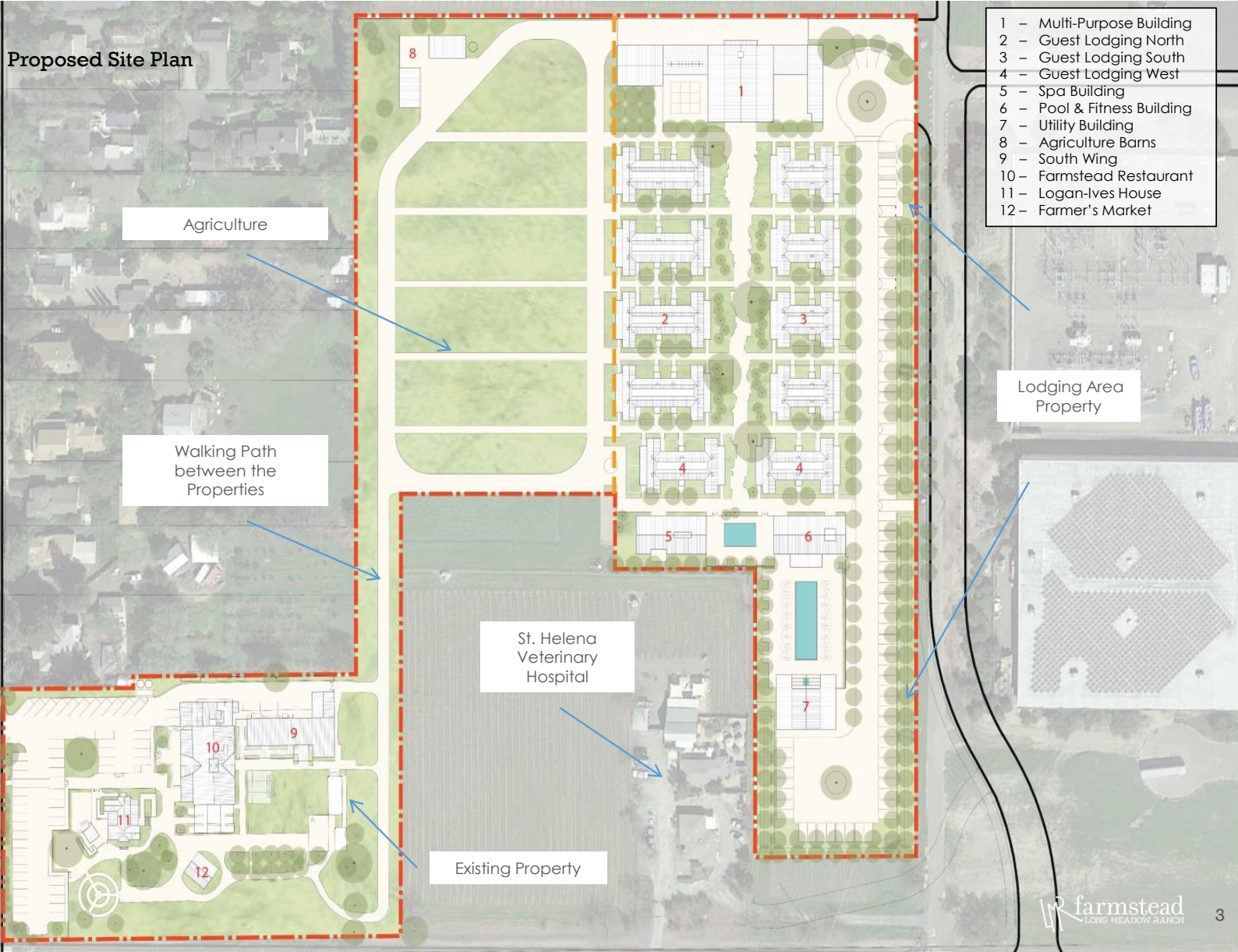
BACKGROUND-FARMSTEAD LODGING PROJECT

- October 13, 2020, City Council approved a Use Permit, Design Review and Development Agreement
- Scope of Project: 65 hotel rooms, multi-purpose building, fitness center and spa





Proposed Site Plan





Scope of Infrastructure Changes

STORM DRAIN

- Construction of Storm Drain in Mills Lane not needed
- Developer to construct an infiltration system in Mills Lane ROW
- Designed for up to a 10 year storm event
- Cost savings from not building storm drain to fund recycled water system



Amendment to Use Permit

- Resolution changes conditions numbers 32, 40, 44, and 67
- The condition of approvals amendments - underline for new text and strikeout for deleted text
- An amendment to the use permit resolution recital #10 is proposed



Development Agreement Amendment

- SHMC Chapter 17.156 requires public hearing
- Revised approach to addressing storm drainage
- Additional monetary contribution toward the City's future recycled water project
- Change to timing of completion of recycled water improvements
- Clarifies reimbursement of developer costs



Recommendation

Staff recommends that the Planning Commission:

1. Find that none of the conditions specified in State CEQA Guidelines section 15162 require the preparation of a subsequent or supplemental EIR or MND and no additional environmental review is required; and
2. Adopt the attached resolution recommending the City Council make specific findings and recommending that the City Council adopt an Ordinance approving a Development Agreement Amendment between the applicant and the City of St. Helena for the LMR Destinations LLC lodging project at 1000 Mills Lane; and
3. Adopt the attached resolution recommending the City Council make specific findings and recommending that the City Council approve a Use Permit Amendment with the staff amendments for the LMR Destinations LLC lodging project at 1000 Mills Lane.



Infiltration System Improvements



Produced by Napa County GIS

Infiltration System Improvements

Printed On: 9/8/2022

Disclaimer: This map was prepared for informational purposes only. No liability is assumed for the accuracy of the data delineated hereon.