Mayor: Alan Galbraith
Vice Mayor: Peter White
City Council: Sharon Crull
Paul Dohring
Greg Pitts

ST. HELENA CITY COUNCIL
REGULAR MEETING
MAY 12, 2015

5:00 PM CLOSED SESSION
CITY HALL CONFERENCE ROOM,
1480 MAIN STREET, ST. HELENA

6:00 PM REGULAR MEETING
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 voluntarily complete a "Speaker Card" and submit it to the City Clerk BEFORE that portion of the agenda is called. Speaker cards are available on the table in back of the room. Please observe the time limit of three minutes.

1. **PUBLIC COMMENTS PERTAINING TO THE CLOSED SESSION**

2. **CLOSED SESSION**
   a. Conference with Legal Counsel—Anticipated Litigation; Government Code § 54956.9, subdiv. (d)(2): Significant exposure to litigation (one potential case)

3. **OPEN SESSION – COUNCIL WILL RETURN TO OPEN SESSION AND ANNOUNCE ACTIONS TAKEN IF ANY (6:00 P.M.)**

4. **PLEDGE OF ALLEGIANCE**

5. **ROLL CALL**

6. **PUBLIC FORUM:** Members of the public are entitled to speak on matters of municipal concern not on the agenda during Public Forum. Each person's comments shall be limited to 3 minutes. Each person is entitled to speak on any non-agendized item only once at any meeting. Brief questions by Councilmembers for clarifications may be posed and answered, and Councilmembers may make requests that items be placed on future agendas, but in accordance with state law, no substantive discussion or action may take place unless and until the matter properly appears on the agenda.

7. **REPORTS BY STAFF AND CITY COUNCIL, FUTURE AGENDA ITEMS, and AB 1234 REPORTS:** Reports by staff and/or Councilmembers on items of general interest. Brief questions for clarification may be posed and answered, and Councilmembers may request that items be placed on a future agenda. Except under certain circumstances, the Brown Act prohibits any other discussion or action by the City Council.

PRESENTATIONS AND PUBLIC RECOGNITIONS

8. Proclamation – Mental health Month, presented to Napa County Health & Human Services Agency

9. Proclamation – 55th Annual National Public Works Week, presented to St. Helena Public Works

CONSENT ITEMS: Members of the Council 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)

10. Consideration and proposed approval of Regular and Special Meeting Minutes of:
    a. Regular Meeting Minutes of September 23, 2014
    b. Regular Meeting Minutes of October 14, 2014
    c. Regular Meeting Minutes of October 28, 2014

    CEQA Status: Not a CEQA Project
    Lead Staff: Cindy Black, City Clerk
    Recommendation: Adopt

11. Consideration and proposed approval of a resolution regulating the use of public property for the St. Helena Chamber of Commerce Musical Picnic in Lyman Park events

    CEQA Status: Not a CEQA Project
    Lead Staff: Cindy Black, City Clerk
    Recommendation: Adopt

12. Consideration and proposed approval of a resolution regulating the use of public property to include mobile food vendors for the St. Helena Recreation Department Summer Series for special events in 2015

    CEQA Status: Not a CEQA Project
    Lead Staff: Haidi Arias, Recreation Director
    Recommendation: Adopt

13. FEMA/OES Refund Update

    CEQA Status: Not a CEQA Project
    Lead Staff: Jennifer Phillips, City Manager
    Recommendation: No Action

PUBLIC HEARING

14. Consideration and proposed approval of a resolution approving the sale of public property known as 684 McCorkle Avenue as being consistent with the public interest and convenience and finding the sale exempt from the California Environmental Quality Act

    CEQA Status: The sale of the McCorkle Property is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to a categorical exemption under 14 CCR 15332, which exempts from review specified "in-fill development projects."
    Lead Staff: Jennifer Phillips, City Manager
    Recommendation: Adopt

NEW BUSINESS

15. Discussion and Possible Direction to St. Helena Representative to Upper Valley Waste Management Authority (UVWMA) Related to Proposal from Upper Valley Disposal and Clover Flat Landfill for Rate Increase and Franchise Term Extension

    CEQA Status: Exempt per California Environmental Act (CEQA) Guideline, Section 15061(b)(3)
    Lead Staff: Jennifer Phillips, City Manager
    Recommendation: Provide Direction

ADJOURNMENT The next Regular City Council meeting is scheduled for May 26, 2015, 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 May 8, 2015.

Cindy Black

Cindy Black, City Clerk

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 City Council regarding any item on this Agenda, after the posting of the Agenda, will be available for public review in the City Clerk'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://cityofsthelena.org and will be available for public review at the respective meeting.

City of St. Helena
PROCLAMATION

Proclamation for Mental Health Month May 2015

WHEREAS, one in four individuals will experience mental health issues in their lifetimes, which can affect parents, sisters, brothers, spouses, co-workers and others in our lives; and

WHEREAS, the Mental Health Division seeks to reduce barriers to access, improve community outreach that ensures culturally and linguistically competent care to diverse communities through culturally competent services; and

WHEAREAS, while there is still much work to be done to eliminate disparities in services and increase education about mental illness, Napa County service providers are to be commended for their collaborative approach when working with individuals in need; and

WHEREAS, there is a strong body of research documenting that with support and treatment, between 70 and 90 percent of individuals with mental illness have a significant reduction in symptoms and improved quality of life; and

WHEREAS, the Mental Health Division and other community providers have sponsored suicide prevention events and statistics show that awareness, education and action do save lives and prevent suicides; and

WHEREAS, every Napa County resident can be an ally by learning about and dispelling the myths related to mental illness and eliminating stigma by treating individuals with mental illness with respect;

NOW, THEREFORE, be it resolved that I, Alan Galbraith, Mayor of the City of St. Helena, do hereby proclaim May 2015 as Mental Health Month in St. Helena. As the Mayor, I also call upon the citizens, government agencies, public and private institutions, businesses and schools in St. Helena to recommit ourselves and our community to increasing awareness and understanding of mental health, to supporting our community members so that they can take action to protect their mental health, and to promote appropriate and accessible services for all people with mental health conditions.

_____________________________ Dated: May 12, 2015

Alan Galbraith, Mayor
City of St. Helena

THIS PAGE IS

INTENTIONALLY

BLANK

CITY OF ST. HELENA
PROCLAMATION

WHEREAS, public works services provided in our community are an integral part of our citizens' everyday lives; and

WHEREAS, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water, sewer, streets and highways, public buildings, and solid waste collection; and

WHEREAS, the health, safety and comfort of this community greatly depends on these facilities and services; and

WHEREAS, the quality and effectiveness of these facilities, as well as their planning, design, and construction, are vitally dependent upon the efforts and skill of public works crews; and

WHEREAS, the efficiency of the qualified and dedicated personnel who staff public works department is materially influenced by the people's attitude and understanding of the importance of the work they perform; and

WHEREAS, the year 2015 marks the 55th annual National Public Works Week sponsored by the American Public Works Association; and

NOW THEREFORE, BE IT RESOLVED, that the St. Helena City Council, City staff and the citizens of St. Helena do hereby proclaim the week of May 17-23, 2015 as "National Public Works Week" and encourage all citizens to join us in this worthy observance.

____

Alan Galbraith, Mayor
City of St. Helena

Dated: May 12, 2015

THIS PAGE IS

INTENTIONALLY

BLANK

Item No: 10.a

REGULAR MEETING
ST. HELENA CITY COUNCIL
VINTAGE HALL BOARD ROOM – SECOND FLOOR
465 MAIN STREET, ST. HELENA
September 23, 2014
5:00 PM CLOSED SESSION
6:00 P.M. REGULAR MEETING

A complete video recording of this meeting, except for closed session, can be found at www.cityofsthelena.org or by calling the City Clerk at (707) 967-2792. The City Council video is the official record of the Council meeting.

1. **PLEDGE OF ALLEGIANCE**

   Mayor Nevero called the meeting to order at 5:00 p.m. and the flag was saluted.

2. **ROLL CALL**

Present: Councilmembers Sculatti, Pitts, Crull, White, Mayor Nevero
Absent: None

3. **PUBLIC COMMENTS PERTAINING TO THE CLOSED SESSION**

Mayor Nevero asked if there were any public comments regarding the Closed Session matters listed. There being none, the Council convened into Closed Session.

4. **CLOSED SESSION**

   a. CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION; Government Code Section 54956.9(d)(1); City of St. Helena v. Upper Valley Disposal Service, Napa County Superior Court No. 26-64875
   b. CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION--Government Code section 54956.9(d)(1)
   Vineyard Valley Mobile Home Park v. City of St. Helena, Napa County Superior Court Case No. 26-62993

5. **OPEN SESSION – COUNCIL WILL RETURN TO OPEN SESSION AND ANNOUNCE ACTIONS TAKEN IF ANY**

The Regular Meeting was reconvened at 6:07 p.m. and City Attorney Thomas B. Brown reported there was no reportable action.

6. **PUBLIC FORUM:**

Peter Mennen addressed the City Council.

7. **REPORTS BY STAFF AND CITY COUNCIL AND FUTURE AGENDA ITEMS and AB 1234 REPORTS:**

City Manager Jennifer Phillips thanked the Chamber for hosting a community reception, announced the appointment of Cindy Black as City Clerk and Aaron Hecock as Planner.

Vice Mayor Crull reported that the annual Household Hazardous Waste event will take place on October 25th at the Calistoga Fairgrounds from 9AM to 3PM. Central Valley is no longer accepting fluorescent lamps and they can be taken to Steve's Hardware.

Councilmember White reported on an upcoming workshop at Farmstead, 738 Main which will be held from 6:30PM to 8:00PM for Napa County homeowners to make their home more energy efficient, sponsored by Energy Upgrade California.

Councilmember Sculotti reported enjoying festivities at Lyman Park in honor of Latino Heritage Month, he suggested that more events like this be held at Lyman Park.

Mayor Nevero echoed Councilmember Sculotti's sentiments. She discussed the challenge to solicit applicants to serve on the Sustainability Committee. There was Council consensus to direct staff to look at a viable, holistic green or a sustainability committee and asked both committees consider this and meet to examine ideas to potentially restructure.

Sandy Erickson addressed the City Council.

PRESENTATIONS AND PUBLIC RECOGNITIONS

8. Proclamation - Third Annual Napa Valley Latino Heritage Month from September 15th through October 15th, 2014

A Proclamation was presented recognizing the Third Annual Napa Valley Latino Heritage Month from September 15th through October 15th, 2014.

9. Proclamation – National Fire Prevention Week October 5th – 11th, 2014

A Proclamation was presented recognizing National Fire Prevention Week as October 5th – 11th, 2014.

10. Proclamation – Proclaiming October as Bullying Prevention Month

A Proclamation was presented proclaiming October as Bullying Prevention Month.

11. SR 29 Channelization Project Overview presented by Caltrans Staff Kelly Hirschberg

Kate Miller, Executive Director, NCTPA, introduced the project team members Kelly Hirschberg, Project Manager; Vince Jacala, Public Information Officer, Elias Musa, Senior Construction Engineer, and Peter Boccia, Design Engineer.

Kelly Hirschberg, Project Manager and the Project Team from Caltrans, provided an overview of the SR 29 Channelization Project, discussed the project location and description, state and federal funding, proposed improvements, communication plan coordination, and construction timeline.

City Council roundtable discussion ensued regarding tree removal and project specifications.

Bobbi Monnette addressed the City Council.

CONSENT ITEMS

12. Consideration of resolution amending the contract with Springbrook to include two interface additions; and allow the Finance Director to execute the amended contract not to exceed $30,000

13. Consideration of Resolution Approving a Consultant Services Agreement with Interwest Consulting Group to provide Public Works/City Engineering and Building and Safety Services for a total not to exceed amount of $50,000

14. Letter of Support for SB 170 (Wolk) which provides authority to the Bale Grist Mill State Historic Park (SHP) to mill and sell grain produced at the park with proceeds going back into the park to support park operations

Vice Mayor Crull moved to approve Consent. The motion was seconded by Councilmember White and on roll call carried by the following vote:
AYES: Councilmembers Crull, Sculatti, Pitts, White, Mayor Nevero
NOES: None
ABSENT: None

BREAK
Mayor Nevero called for a break at 7:30 p.m., and thereafter, reconvened the regular meeting at 7:34 p.m.

PUBLIC HEARING

15. Consideration to approve and adopt findings for a Solar Power Purchase Agreement with Sol-Ed Solar Holdings I, LLC, Approving Design Plans, Authorizing City Staff to Proceed with the Construction of the Solar Arrays at Wappo Park for the Stonebridge Wells, the Wastewater Plant and the Water Treatment Plant, and Approving a Categorical Exemption pursuant to the California Environmental Quality Act

City Manager Jennifer Phillips reported on the item.

City Council roundtable discussion ensued.

City Attorney Thomas Brown addressed questions of the City Council regarding force majeure clause language in the agreement.

The Mayor opened and closed the public comment period, given there were no speakers.

Councilmember Sculotti moved to approve and adopt findings for a Solar Power Purchase Agreement with Sol-Ed Solar Holdings I, LLC, subject to final negotiations by the City Manager, approving Design Plans, Authorizing City Staff to Proceed with the Construction of the Solar Arrays at Wappo Park for the Stonebridge Wells, the Wastewater Plant and the Water Treatment Plant, and Approving a Categorical Exemption pursuant to the California Environmental Quality Act and Adopting the Findings. The motion was seconded by Councilmember White and on roll call carried by the following vote:
AYES: Councilmembers Crull, Sculatti, Pitts, White, Mayor Nevero
NOES: None
ABSENT: None

SCHEDULED MATTERS

16. Consideration of Resolution appointing and filling expired terms to the Parks and Recreation Commission

Mayor Nevero asked for Council discussion and asked that nominations follow.

City Council roundtable discussion ensued regarding six candidates which had been narrowed to two candidates by the Mayor.

Councilmember Nevero moved to adopt resolution appointing incumbent Tracy Smith to the Parks and Recreation Commission for a one year term. The motion was seconded by Councilmember White and on roll call carried by the following vote:
AYES: Councilmembers Sculatti, Pitts, White, Mayor Nevero

NOES: Crull
ABSENT: None

Councilmember Nevero moved to adopt (the same) resolution appointing Kim Phinny to the Parks and Recreation Commission for a two year term. The motion was seconded by Councilmember Pitts and on roll call carried by the following vote:
AYES: Councilmembers Crull, Sculatti, Pitts, White, Mayor Nevero
NOES: None
ABSENT: None

17. Consideration of resolution approving creation of a new full-time position (Community Engagement Coordinator) at the St. Helena Public Library

Library Director Jennifer Baker reported on this item.

Sandy Erickson addressed the City Council.

Councilmember White moved to adopt resolution approving creation of a new full-time position (Community Engagement Coordinator) at the St. Helena Public Library. The motion was seconded by Councilmember Sculotti and on roll call carried by the following vote:
AYES: Councilmembers Crull, Sculatti, Pitts, White, Mayor Nevero
NOES: None
ABSENT: None

18. City of St. Helena organizational and staffing update

City Manager Jennifer Phillips provided an organizational and staffing update.

ADJOURNMENT

Mayor Nevero adjourned the meeting at 8:45 p.m.

APPROVED: **ATTEST:**

Alan Galbraith, Mayor

Cindy Black, City Clerk

THIS PAGE IS

INTENTIONALLY

BLANK

Item No: 10.b

REGULAR MEETING
ST. HELENA CITY COUNCIL
VINTAGE HALL BOARD ROOM – SECOND FLOOR
465 MAIN STREET, ST. HELENA
October 14, 2014
5:00 PM CLOSED SESSION
6:00 P.M. REGULAR MEETING

A complete video recording of this meeting, except for closed session, can be found at www.cityofsthelena.org or by calling the City Clerk at (707) 967-2792. The City Council video is the official record of the Council meeting.

1. **PLEDGE OF ALLEGIANCE**

Mayor Nevero called the meeting to order at 5:00 p.m. and the flag was saluted.

2. **ROLL CALL**

Present: Councilmembers Sculatti, Pitts, Crull, White, Mayor Nevero
Absent: None

3. **PUBLIC COMMENTS PERTAINING TO THE CLOSED SESSION**

Mayor Nevero asked if there were any public comments regarding the Closed Session matters listed. There being none, the Council convened into Closed Session.

4. **CLOSED SESSION**

a. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION--SIGNIFICANT EXPOSURE TO LITIGATION; Government Code Section 54956.9(d)(2) (Written threat of litigation; one case).

5. **OPEN SESSION – COUNCIL WILL RETURN TO OPEN SESSION AND ANNOUNCE ACTIONS TAKEN IF ANY**

The Regular Meeting was reconvened at 6:00 p.m. and City Attorney Thomas B. Brown reported there was no reportable action.

6. **PUBLIC FORUM:**

Bobbi Monnette addressed the City Council.

7. **REPORTS BY STAFF AND CITY COUNCIL AND FUTURE AGENDA**

City Manager Jennifer Phillips announced the cancellation of the November 11 and December 23, 2014 City Council meetings.

B. Briefing – Bike Lane on Crane Ave, Interim Public Works Director Steve Palmer

Interim Public Works Director Steve Palmer introduced Jake Snyder who both updated the City Council regarding an ATC project for bike/pedestrian improvements to provide better connectivity and safety within St. Helena. They described project specifications and the project's future award of bid.

John Milliken addressed the City Council.

C. Discussion and Consideration for the Tree Committee and Sustainability Committee structure and roles

Sustainability Committee Chairperson Steve Patterson reported on this item and gave a PowerPoint presentation of the Committee's key projects, committee structure, and lack of public quorum due to members' deficient attendance.

City Council roundtable discussion ensued.

Sandy Erickson addressed the City Council.

The City Council provided direction to staff to agendize the matter as to the appropriate action to potentially combine the Tree Committee and Sustainability Committee's and discuss structure and roles. Individual Councilmembers volunteered to attend upcoming Tree and Sustainability Committee meetings.

PRESENTATIONS AND PUBLIC RECOGNITIONS

8. Presentation - Sustainability Committee update by Chairperson Steve Patterson

This item was previously heard under Item 7C.

CONSENT ITEMS

Mayor Nevero commented on Items 10 and 17 and requested removal of Item 13. Councilmember Pitts requested removal of Item 18.

Mayor Nevero asked and confirmed there was no public comment.

9. Consideration of Resolution approving an agreement with Municipal Resources Group to provide professional planning services for a total not to exceed amount of $64,000

10. Consideration of Resolution Approving an Employment Agreement with Steven Palmer to serve as the City's Public Works Director and City Engineer

11. Consideration of a resolution awarding and approving construction

15. Consideration of Resolution approving use of Tweed Trust funds in the amount of $25,620 for Library Strategic Planning Project and making associated budget adjustments and contract arrangements.

16. Consideration of Resolution approving temporary closure of Oak Avenue and Adams Street and authorizing possession of open alcoholic beverages on those public streets for the October 18, 2014 Home Town Harvest Festival

17. Consideration of Resolution approving temporary street closures for the November 5, 2014 RLS Middle School Run for Funds Event

19. Recommendation to the Napa County Transportation and Planning Agency Board that St. Helena resident Donna Hinds be appointed to the Napa County Active Transportation Advisory Committee

Councilmember Pitts moved to approve Consent Items, except for Items 9, 10, 11, 12, 14, 15, 16, 17 and 19. The motion was seconded by Councilmember White and on roll call carried by the following vote:
AYES: Councilmembers Crull, Sculatti, Pitts, White, Mayor Nevero
NOES: None
ABSENT: None

Items Removed from the Consent Calendar:

18. Consideration of Resolution Approving Amendment No.1 to the Consultant Services Agreement with Jerry Haag to provide additional Planning and CEQA Analysis Services for a total not to exceed amount of $125,000

Recusal:
Mayor Nevero recused herself from participating in the matter and left the dais.

Councilmember Pitts confirmed information relating to the consultant's focus on the Hunter project, EIR work, the total cost of services, and total reimbursement of funds from developer fees. City Manager Phillips clarified an amendment in the agreement in Recital B from $25,000 to $40,000.

John Milliken and Sandy Erickson addressed the City Council.

Vice Mayor Crull re-opened the public comment period and John Milliken and Sandy Erickson again addressed the City Council.

Councilmember Pitts moved to approve Consent Item 18, as amended by revising agreement costs in Recital B from $25,000 to $40,000 and direct staff to further examine CEQA procedures. The motion was seconded by Councilmember White and on roll call carried by the following vote:
AYES: Councilmembers Crull, Sculatti, Pitts and White
NOES: None
ABSENT: None
RECUSED: Mayor Nevero

Sidewalk Improvements Project

b. Resolution amending the Fiscal Year 2013/2014 budget and Capital Improvement Program (CIP) to reflect the Transportation Development Act Article 3 Pedestrian/Bicycle Project grant funding totaling $126,000 for the Mitchell Drive Sidewalk Improvements Project

Mayor Nevero asked and confirmed there were no public comments.

Vice Mayor Crull moved to approve both resolutions under Consent Item 13. The motion was seconded by Councilmember White and on roll call carried by the following vote:
AYES: Councilmembers Crull, Sculatti, Pitts, White, Mayor Nevero
NOES: None
ABSENT: None

SCHEDULED MATTERS

20. Consideration for Introduction of Ordinance enacting St. Helena Municipal Code Chapter 2.50 to Provide for the Adoption by City Council Resolution of Protocols for the Establishment, Membership, Terms, Procedures and Operations of City Boards, Commissions and Committees

City Clerk Cindy Black reported on this item.

City Council discussion ensued.

Mayor Nevero asked and confirmed there was no public comment.

Vice Mayor Crull moved to introduce Ordinance enacting St. Helena Municipal Code Chapter 2.50 to Provide for the Adoption by City Council Resolution of Protocols for the Establishment, Membership, Terms, Procedures and Operations of City Boards, Commissions and Committees. The motion was seconded by Councilmember White and on roll call carried by the following vote:
AYES: Councilmembers Crull, Sculatti, Pitts, White, Mayor Nevero
NOES: None
ABSENT: None

21. Consideration of Resolutions expanding membership, appointing and filling terms to the Library Board of Trustees

a. Consideration of a resolution approving the membership increase from five to seven members for the City of St. Helena Library Trustee Board

City Clerk Cindy Black reported on the item.

Mayor Nevero asked and confirmed there was no public comment.

City Council discussion ensued.

Library Board Member Norma Ferriz addressed the City Council.

Mayor Nevero announced her two year nominations as Susan Swan and Bob Dye. Her one year nominations include Lin Weber, Terry Wood and Bonnie Long.

Mayor Nevero moved to adopt Resolution appointing Susan Swan and Bob Dye for a two year term and Lin Weber, Terry Wood and Bonnie Long to a one year term on the City of St. Helena Library Trustee Board. The motion was seconded by Councilmember White and on roll call carried by the following vote:
AYES: Councilmembers Crull, Sculatti, Pitts, White, Mayor Nevero
NOES: None
ABSENT: None

22. Consideration of resolution approving the allocation of $500,000 from the Affordable Housing Impact Fund for 8-units of affordable housing at 1105 Pope Street (Turley Apartments) and direct the City Manager to negotiate a funding agreement.

City Manager Jennifer Phillips reported on this item.

City Council discussion was held and questions were posed regarding local preference for individuals seeking affordable housing and the funding gap.

Larry Kromann, President, Calistoga Affordable Housing Board, provided clarifying comments.

Sandy Erickson and Bobbi Monnette addressed the City Council.

City Council roundtable discussion ensued.

Councilmember Pitts moved to adopt Resolution approving the allocation of $500,000 from the Affordable Housing Impact Fund for 8-units of affordable housing at 1105 Pope Street (Turley Apartments) and direct the City Manager to negotiate a funding agreement and return to the City Council. The motion was seconded by Councilmember White and on roll call carried by the following vote:
AYES: Councilmembers Crull, Sculatti, Pitts, White, Mayor Nevero
NOES: None
ABSENT: None

ADJOURNMENT

Mayor Nevero adjourned the meeting at 9:27 p.m.

APPROVED: **ATTEST:**

____________________ ____________________

THIS PAGE IS

INTENTIONALLY

BLANK

Item No: 10.c

REGULAR MEETING
ST. HELENA CITY COUNCIL
VINTAGE HALL BOARD ROOM – SECOND FLOOR
465 MAIN STREET, ST. HELENA
October 28, 2014
5:00 PM STUDY SESSION
6:00 P.M. REGULAR MEETING

A complete video recording of this meeting, except for closed session, can be found at www.cityofsthelena.org or by calling the City Clerk at (707) 967-2792. The City Council video is the official record of the Council meeting.

1. **PLEDGE OF ALLEGIANCE**

Vice Mayor Crull called the meeting to order at 5:00 p.m. and the flag was saluted.

2. **ROLL CALL**

Present: Councilmembers Sculatti, Pitts, Crull and White
Absent: Mayor Nevero (recused from Study Session item)

3. **PUBLIC COMMENTS PERTAINING TO THE STUDY SESSION**

City Manager Jennifer Phillips requested the ability for staff to first provide an overview of the item prior to taking public comment.

4. **STUDY SESSION**

A. Present an overview and background information regarding Historical Cultural Community Center Visioning and proposed relocation of the historic school house to the Adams Street Property

City Manager Jennifer Phillips gave a PowerPoint presentation relating to the background regarding relocating the historic schoolhouse on the Adams Street property. She asked for general direction of the City Council moving forward.

Skip Lane of the Historical Society addressed the City Council and presented a brief video.

Vice Mayor Crull asked if there were any public comments regarding the Study Session matters listed.

Marissa Schleicher, Robert Louis Stevenson Museum, Allen E. Breed and Sandy Ericson addressed the City Council.

Council discussion ensued, and Council consensus was for staff to move forward

6. **PUBLIC FORUM:**

Sandy Ericson, Olivia Everett, Martin Bennett addressed the City Council.

7. **REPORTS BY STAFF AND CITY COUNCIL AND FUTURE AGENDA ITEMS and AB 1234 REPORTS:**

City Manager Phillips reported joining in a quarterly meeting with the education community and school district strategic process.

Councilmember White reported that the Harvest Festival was a success.

Chief of Police Jacqueline Rubin reiterated the need to report suspicious activity and stated police is still investigating a recent jewelry robbery.

PRESENTATIONS AND PUBLIC RECOGNITIONS

8. Proclamation for Arbor Day

A proclamation was presented to City Arborist Jim Haller recognizing Arbor Day.

CONSENT ITEMS

Councilmember Pitts requested Item 12 be pulled from the Consent Calendar. Mayor Nevero and Councilmember Sculotti made comments under Item 14.

9. Consideration of second reading and adoption of ordinance enacting St. Helena municipal code chapter 2.50 to provide for the adoption by City Council resolution of protocols for the establishment, membership, terms, procedures and operations of City Boards, Commissions and Committees

10. Consideration of a resolution rescinding Resolution No. 2013-61 and approving an Investment Policy for the City of St. Helena

11. Consideration of a resolution approving a Capital Asset and Depreciation Policy for the City of St. Helena

13. Consideration of a resolution approving the final application for funding from the San Francisco Bay Water Quality Improvement Fund for the Upper York Creek Dam Removal Project and authorizing the City Manager to execute the Application for Federal Assistance and other related forms and agreements

14. Consideration of Resolution Approving an Employment Agreement with April Mitts

    Councilmember Sculotti commented that how active the City Manager is staffing the City back to professional employment levels, and Mayor Nevero provided a professional background of Ms. Mitts.

Vice Mayor Crull moved to approve Consent Calendar Items 9 to 11 and Items 13 through Item 16. The motion was seconded by Councilmember White and on roll call carried by the following vote:
AYES: Councilmembers Crull, Sculatti, Pitts, White, Mayor Nevero
NOES: None
ABSENT: None

12. Consideration of approving the purchase of Meily Park Play Structure in the amount of $29,009

Councilmember Pitts moved to approve Consent Calendar Item 12, with the stipulation that the City will explore what the same amount of City funding will get from Play-By-Design and if not feasible, move to fund the proposed play structure option. The motion was seconded by Councilmember Sculotti and on roll call carried by the following vote:
AYES: Councilmembers Crull, Sculatti, Pitts, White, Mayor Nevero
NOES: None
ABSENT: None

SCHEDULED MATTERS

17. Consideration of 2015 Public Safety Priorities

Chief of Police Jackie Rubin provided an overview of 2015 Public Safety priorities for the City of St. Helena and discussed their use of a resident survey.

Pam Simpson, Geoff Ellsworth, Carol Troy, Sandy Ericson, Martin Bennett, David Clark, Bobbe Clark addressed the City Council.

Council roundtable discussion ensued and directed the City Manager and Chief of Police to work on community-oriented policing.

BREAK
Mayor Nevero called for a break at 8:00 p.m. and reconvened the regular meeting at 8:10 p.m.

PUBLIC HEARING

18. Consider an appeal of the Planning Commission decision of September 16, 2014 in regards to approving a request from the DAVIES VINEYARDS WINERY for a USE PERMT AMENDMENT to expand the existing production capacity/facilities and to allow hospitality functions including tours, tastings and events at the existing facility, DESIGN REVIEW to remodel and expand the existing production facilities to include crush pad areas, an outdoor tasting area, a rooftop terrace and a hospitality building. The parcel is located at 555 MAIN STREET

Planning Consultant Victor Carniglia reported on this item.

Susan Kenwood and Geoff Ellsworth, appellants, discussed reasons for their

Kathleen Herdell, Sandy Ericson, Bill Phelps, Julio Vargas, Jack Daniels, Michael Flood, Tom Redmon, Joe Murphy, Faith Heckemeyer, Krisi Raymond, Bobbi Monnette, Bob Holmes, Susan Wren, Michael Caldarola, Susan Davis, Rich Salvestrin, Doug Barr, Martin Bennett, Richard Hechler, Fred Schweiger, Clare Barr, Kirk Reed, Pam Simpson, Karen Caldwell, Oliver Caldwell and Carol Troy addressed the City Council.

BREAK

Mayor Nevero called for a break at 10:00 p.m. and thereafter reconvened the meeting at 10:05 p.m.

Susan Kenwood and Geoff Ellsworth, appellants, provided rebuttal comments.

City Council roundtable discussion ensued.

EXTEND MEETING

Councilmember Pitts, at 10:20 p.m., moved to extend the City Council meeting to 11:00 p.m. The motion was seconded by Councilmember White and on roll call carried by the following vote:
AYES: Councilmembers Crull, Sculatti, Pitts, White, Mayor Nevero
NOES: None
ABSENT: None

Councilmember White moved to deny appeal of the Planning Commission decision of September 16, 2014 in regards to approving a request from the DAVIES VINEYARDS WINERY for a USE PERMT AMENDMENT to expand the existing production capacity/facilities and to allow hospitality functions including tours, tastings and events at the existing facility, as amended to 1) require a signal before large events occur, 2) require parking contracts with Phelps Winery and the Wine Service Cooperative, and 3) review of sound mitigation; DESIGN REVIEW to remodel and expand the existing production facilities to include crush pad areas, an outdoor tasting area, a rooftop terrace and a hospitality building at 555 Main Street. The motion was seconded by Councilmember Sculotti and on roll call carried by the following vote:
AYES: Councilmembers Sculatti, Pitts, White, Mayor Nevero
NOES: Vice Mayor Crull
ABSENT: None

19. Consider a resolution approving the request by BRAD OLDENBROOK for a parcel map to subdivide an existing 14.13 acre parcel into two parcels, one parcel consisting of 13.63 acres in area and the second parcel consisting of .5 acres. The 14.13 acre site is located on Fulton Lane approximately ½ mile northeast of the existing rail line. Parcel Number: 009-050-001. The project has been determined to be categorically exempt from CEQA, Class 15 Minor Land Divisions.

Mayor Nevero requested that because of the time, this item will be rescheduled.

ADJOURNMENT

Item No: 11

Report to the City Council Meeting of
May 12, 2015

Agenda Section: **Consent Calendar**

Subject: **Consideration and proposed approval of a resolution regulating the use of public property for the St. Helena Chamber of Commerce Musical Picnic in Lyman Park events**

CEQA Status: **Not a CEQA project**

Prepared By: **Cindy Black, City Clerk**

Approved By: **Jennifer Phillips, City Manager**

BACKGROUND

Musical Picnics in Lyman Park is an annual event sponsored by the St. Helena Chamber of Commerce. It is a free summer concert series every other Thursday evening from 6:00-8:00 pm.

DISCUSSION

The St. Helena Chamber of Commerce has requested permission to host musical entertainment and vendors at Lyman Park on the 2nd and 4th Thursdays of June, July and August of 2015, between the hours of 5:30pm and 8:00pm. Musical Picnics in Lyman Park is a family friendly concert series open to the general community. The Chamber of Commerce has requested to include merchandise, food and wine vendors during the event. Musical Picnics will utilize two street parking stalls on Railroad Ave immediately adjacent to the park for a mobile food vendor.

FISCAL IMPACT

Waive the park rental fee of $35.00 per event totaling $210.00.

RECOMMENDED ACTION

Adopt a resolution waiving the park rental fee and regulating the use of public property to include a mobile food vendor for the Musical Picnics in Lyman Park on June 11, June 25, July 9, July 23, August 13, and August 27 from 5:30pm-8:00pm.

ATTACHMENTS

Attachment 1 – Resolution

CITY OF ST. HELENA

RESOLUTION NO. 2015-

RESOLUTION REGULATING THE USE OF PUBLIC PROPERTY TO INCLUDE A MOBILE FOOD VENDOR FOR THE ST. HELENA CHAMBER OF COMMERCE MUSICAL PICNIC SERIES

RECITALS

A. The Municipal Code for the City of St. Helena does not allow or disallow mobile food vendors in areas designated as "Park District", and

B. The St. Helena City Council has the authority to regulate the use of public property, and

C. This event will be open to the general community; and

D. The St. Helena Chamber of Commerce has requested permission to host musical entertainment and vendors, including for profit sales of St. Helena branded merchandise, sales by one local food purveyor, and one winery per event at Lyman Park on the 2nd and 4th Thursdays of June, July and August of 2015, between the hours of 5:30pm and 8:00pm, and

E. In consideration of the benefits of this event to the City, the City Council also desires to regulate the use of public property to include a mobile food vendor.

RESOLUTION

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows:

1. Permission is hereby granted to the St. Helena Chamber of Commerce to use Lyman Park for their "Musical Picnic" events and park rental fee is waived.
2. The St. Helena Chamber of Commerce can coordinate one mobile food vendor on June 11, June 25, July 9, July 23, August 13, and August 27 from at Lyman Park.
3. Mobile food vendor may only operate business between 5:30pm to 8:00pm.
4. Mobile food vendor must:
   a. possess a valid City of St. Helena Business License
   b. possess a valid Napa County Health Permit, and
   c. provide proof of insurance to City staff.

i. Minimum Scope of Insurance. Coverage shall be at least as broad as:
   1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
   2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
   3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

ii. Minimum Limits of Insurance. Consultant shall maintain limits no less than:
   1. General Liability: $1,000,000 per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations, as applicable. If Commercial General Liability Insurance or other form with a General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
   2. Automobile Liability: $1,000,000 per accident for bodily injury and property damage.
   3. Employer's Liability: $1,000,000 per accident for bodily injury or disease.

I HEREBY CERTIFY that the this Resolution was adopted at a regular meeting of the City Council held on May 12, 2015 by the following roll call vote:

Mayor Galbraith: __________

Vice Mayor White: __________

Councilmember Crull: __________

Councilmember Dohring: __________

Councilmember Pitts: __________

APPROVED:

____

Alan Galbraith, Mayor

ATTEST:

____

Cindy Black, City Clerk

THIS PAGE IS

INTENTIONALLY

BLANK

Item No: 12

Report to the City Council
Council Meeting May 12, 2015

Agenda Section: Consent

Subject: **Consideration and proposed approval of a resolution regulating the use of public property to include mobile food vendors for the St. Helena Recreation Department Summer Series for special events from May through August 2015**

CEQA Status: **Not a CEQA Project**

Prepared By: Haidi Arias, Recreation Director

Approved By: Jennifer Phillips, City Manager

BACKGROUND

Every spring Crane Park is buzzing with activity. On any given day one can find Little League games, tennis matches, bocce matches, and skateboarders. But many citizens have asked the question, "what can we do to bring a unique, fun, and new experience to Crane Park?"

During the spring of 2013, the Recreation Department received a Food Truck petition from the parents of Little League. Little League Baseball runs out of Crane Park Baseball Fields from March to July. During the season many of the parents find themselves at Crane Park late into the evening on a daily basis, and have limited kid-friendly restaurant options. The purpose of the petition was to raise awareness that it would be helpful, convenient, and fun to have food trucks available at the park in the summer.

Bocce is another league that is well attended during the summer months at Crane Park. There are about 200 people participating each night of the week. It is part of the bocce culture to come with food and drinks ready each night, but many do not have the time to prepare dinner. League play starts at 6:30pm sharp, not leaving much room to order take-out or prepare food after work. They too have expressed interest in a special event that would include food trucks at Crane Park.

DISCUSSION

The topic of food trucks at Crane Park has been on the agenda of the Parks & Recreation Commission throughout 2014. The commissioners have discussed several ideas and options regarding introducing food trucks to St. Helena. They have reviewed many examples from San Francisco to Napa County. Commissioners have also spent time at

Crane Park discussing the location of the trucks, fees, number of trucks per day, and hours allowed in the park for operations. The purpose is *not* to create competition or take away profit from local restaurants. If kept to a handful of days of the month, this can only *help* the community by expanding accessible, convenient options on varying days throughout the busy summer season at Crane Park.

The Recreation Department along with the Parks & Recreation Commission propose a Summer Food Truck Series featuring one to three food trucks available at Crane Park no more than three times per month on varying days from May through August 2015. During the days of our summer series, food will be available from 4:00pm to 9:00pm. The parking spots closest to the bathroom would be blocked off to allow parking for food trucks. Eliminating 4-6 parking spots would still leave adequate parking for Little League, bocce, and tennis. We would be inviting food truck vendors from St. Helena and outside St. Helena to participate in this summer series. Vendors will be expected to have a valid St. Helena business license and be permitted through the County health department.

FISCAL IMPACT

None.

RECOMMENDED ACTION

Adopt a resolution regulating the use of public property to include mobile food vendors for the Recreation Summer Series no more than three times per month on varying days from May through August 2015.

ATTACHMENTS

Resolution

CITY OF ST. HELENA
RESOLUTION NO. 2015-

RESOLUTION REGULATING THE USE OF PUBLIC PROPERTY TO INCLUDE MOBILE FOOD VENDORS FOR THE ST. HELENA RECREATION DEPARTMENT SUMMER SERIES FOR SPECIAL EVENTS FROM MAY THROUGH AUGUST 2015

RECITALS

A. The Municipal Code for the City of St. Helena does not allow or disallow mobile food vendors in areas designated as "Park District", and

B. It has been expressed by several participants that they would like to have mobile food vendors in the parks for specific special events, and

C. The St. Helena City Council has the authority to regulate the use of public property.

RESOLUTION

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows:

1. The St. Helena Recreation Department can coordinate up to three mobile food vendors on no more than three times per month on varying days at Crane Park May through August 2015.
2. Mobile food vendors may only operate business between 4 pm and 9 pm.
3. Mobile food vendors may not sell alcohol on the dates specified above.
4. Mobile food vendors must:
    a. possess a valid City of St. Helena Business License
    b. be permitted as a food vender thought the County, and
    c. name the City as additionally insured and provide proof of insurance to City staff.
    d. Minimum Scope of Insurance. Coverage shall be at least as broad as:
        i. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
        ii. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
        iii. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
    e. Minimum Limits of Insurance. Consultant shall maintain limits no less than:
        i. General Liability: $1,000,000 per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations, as applicable. If Commercial General Liability Insurance or other form with a General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

ii. Automobile Liability: $1,000,000 per accident for bodily injury and property damage.
iii. Employer's Liability: $1,000,000 per accident for bodily injury or disease.

Approved at a Regular Meeting of the St. Helena City on May 12, 2015 by the following vote:

Mayor Galbraith: __________
Vice Mayor White: __________
Councilmember Crull: __________
Councilmember Dohring: __________
Councilmember Pitts: __________

APPROVED:

ATTEST:

Alan Galbraith, Mayor

Cindy Black, City Clerk

Item No: 13

Report to the City Council
Council Meeting of May 12, 2015

Agenda Section: Consent

Subject: Update on FEMA/OES Refund

CEQA Status: Not a CEQA Project

Prepared By: Jennifer Philips, City Manager

Approved By: Jennifer Phillips, City Manager

BACKGROUND

At the February 10, 2015 City Council meeting Finance Director Mitts reported on the City's annual Comprehensive Annual Financial Report (CAFR). Highlighted in this presentation was a $1.9 million reimbursement in February 2014 to the Department of Homeland Security's Federal Emergency Management Agency (FEMA)/California Governor's Office of Emergency Services (OES). Staff was asked to research the reimbursement and report to Council their findings.

At the April 10, 2015, City Council meeting, staff reported to the Council the findings to date of the research conducting regarding the reimbursement of $1.9 million to FEMA/OES. Staff was able to provide a detailed timeline of events that led up to the issuance of the $1.9 million check to FEMA/OES. Staff also hired a third party investigator to interview prior senior staff including former Finance Director Karen Scalabrini, former Interim Finance Director Sheila McCrory and former City Manager Gary Board. At the time of writing the staff report the interview with Mr. Broad had not taken place.

DISCUSSION

Since the April 10, 2015 Council meeting, several steps have taken place in the City's efforts regarding this matter. The interview with Mr. Board occurred on April 14, 2015. Mr. Board indicated that he was never made aware of FEMA's request for a refund nor was he aware of the issuance of the $1.9 million check to FEMA/OES in February 2014.

The City has hired an experienced Grant Manager who is scheduled to begin working for the City on May 11, 2015. An initial priority will be to conduct the forensic research related to the FEMA/OES grant and compile all the necessary documentation to enable the City to pursue seeking reimbursement of the $1.9 million back from FEMA.

In addition, the Grant Manager will also review all of the City's current grants and create a comprehensive grant administration program to help insure proper grant applications are submitted and all grants are properly administered.

FISCAL IMPACT

None.

RECOMMENDED ACTION

No action required

Item No: 14

Report to the City Council
Council Meeting of May 12, 2015

Agenda Section: **Public Hearing**

Subject: **City Council consideration and proposed approval of a resolution approving the sale of public property known as 684 McCorkle Avenue as being consistent with the public interest and convenience and finding the sale exempt from the California Environmental Quality Act**

CEQA Status: **The sale of the McCorkle Property is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to a categorical exemption under 14 CCR 15332, which exempts from review specified "in-fill development projects."**

Prepared By: **Aaron Hecock, Planner** AH

Approved By: **Jennifer Phillips, City Manager**

DISCUSSION

684 McCorkle Avenue ("McCorkle Property") is an existing 23,000-square foot city-owned parcel located in the High Density Residential (HR) zoning district. The City purchased the McCorkle Property in 2013 with funds from the City's Affordable Housing In-Lieu Fund and a loan from the City's General Fund, after having found it to be a potential site for a future affordable housing or workforce housing project. The possible development of the McCorkle Property for affordable or workforce housing was also recognized under the settlement of that certain litigation known as Calderon v. City of St. Helena, et al., Case Number C 12-05819 ("Calderon Settlement").

Our Town St. Helena ("OTSH") in cooperation with Rural Community Assistance Corporation ("RCAC") is working with the USDA Rural Development Mutual Self-Help Program in order to secure a Technical Assistance Grant in order to build affordable housing in St. Helena. Requirements for securing grant funding include site control, or an option for site control.

The City could sell the McCorkle Property to OTSH to develop a minimum of six (6) units of owner-occupied housing available to lower income households through a United States Department of Agriculture program that will assist the lower income households in financing the construction of the units and require the households to participate in the construction through a "self-help" program. While it appears that the zoning of the site would support eight (8) units and while OTSH would like to maximize the available units, setting a slightly lower minimum number would help to ease the sale and provide a level of flexibility as set forth below.

In addition, the development of at least six (6) units of affordable housing on the McCorkle Property on or before December 31, 2016 would allow the City to avoid an obligation under the Calderon Settlement to deposit the sum of Two Hundred Thousand and no/100 Dollars ($200,000) in the City's Affordable Housing Trust Fund or donate land of equivalent value for use in developing affordable housing units.

The City has made clear to RCAC and OTSH that the City's approval of the proposed development of affordable units on the McCorkle Property is not guaranteed by or considered as part of this sale, that the City Council is in no way prejudgment any application for approval of any project for the site, and that the City will not make any decision on such application until after it has first satisfied and completed all applicable public and environmental review.

As stated above, the development of the McCorkle Property with units of affordable housing in excess of the proposed six (6) units would meet both OTSH's interest in providing affordable housing and the City's interests under the Calderon Settlement. Indeed, the zoning of the McCorkle Property indicates that eight (8) units would normally be appropriate for the site, but until the plans for the site are submitted by OTSH and reviewed by the City Planning Department it is uncertain whether factors not currently in evidence might limit the developable area of the McCorkle Property. Accordingly, while both sides of the transaction anticipate a greater number of units being developed, in the interest of providing the greatest opportunity for this transaction to be completed the parties have agreed that approval of a minimum of six (6) units is necessary for escrow to close and the property to be transferred.

The proposed sale to OTSH is for a nominal One and No/100 Dollars ($1.00) purchase price. This will allow the disposition of the McCorkle Property to be a "land donation" for purposes of the Calderon Settlement if the value of the land exceeds that $1.00 sale price. The City must commission and receive an appraisal of the current value of the McCorkle Property as a condition of the close of escrow. Presuming the value does exceed the nominal $1.00 payment, the resultant donation of the McCorkle Property will allow the City to satisfy all or part of certain additional provisions of the Calderon Settlement with respect to commitments of cash or donations of land for affordable housing.

The sale of the McCorkle Property is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to a categorical exemption under 14 CCR 15332, which exempts from review "in-fill development projects" that are consistent with the General Plan and zoning designations and policies, that are located on city limits on parcels of less than five (5) acres that have no value has habitat for endangered or threatened species and can be served adequately by all existing utilities and public services, and that consist of developments that will not result in significant effects on traffic, noise, air quality or water quality. While the actual development of the McCorkle Property is subject to further discretionary review under the City's planning and zoning authority, including consideration of whether and to what extend additional environmental review may be required by CEQA, the City Council finds that the use proposed by and reflected in the Real Property Purchase Agreement attached hereto is subject to and consistent with CEQA's categorical exemption under 14 CCR 15332, and that no exception to that exemption applies.

On April 21, 2015 the Planning Commission found that the proposed transfer of the McCorkle Property is in conformity with the St. Helena General Plan.

On April 28, 2015 the City Council adopted a Resolution setting the time and date as May 12, 2015 for the public hearing on the sale of the McCorkle Site. As part of this hearing, the City Council may receive protests to the sale or the terms of the sale. The law applicable to this sale, California Government Code § 37425, requires that if protests are received then the sale may only be approved by at least a 4-1 majority of the City Council, which majority must overrule the protests as part of its approval of the sale.

FISCAL IMPACT

None. The sale of the property will generate minimal revenue that the City can deposit into the Affordable Housing Trust Fund, but will allow the City to avoid certain fiscal obligations under the Calderon Settlement by and through the City's donation of land for affordable housing and the ultimate development of that housing.

RECOMMENDED ACTION

Staff recommends that the City Council of the City of St. Helena adopt the attached Resolution No. 2015-___, overruling any and all protests to the sale of the McCorkle Property, finding that the sale of the McCorkle Property is exempt from review under the California Environmental Quality Act, approving the terms of the Real Property Purchase Agreement, authorizing the Mayor and City Manager to execute the Real Property Purchase Agreement on behalf of the City, and authorizing the City Manager and City Attorney to implement the Real Property Purchase Agreement on behalf of the City, including taking all actions and entering into all negotiations called for by the Agreement.

ATTACHMENTS

1. Resolution
2. Agreement

CITY OF ST. HELENA
CITY COUNCIL RESOLUTION 2015-___

APPROVING THE SALE OF PUBLIC PROPERTY KNOWN AS 684 MCCORKLE AVENUE AND FINDING THE SALE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of St. Helena owns certain real property located at 684 McCorkle Avenue, which property constitutes a 23,000-square foot parcel located in the High Density Residential (HR) zoning district and general plan land use designation ("McCorkle Site"); and

WHEREAS, the City purchased the McCorkle Site for Seven Hundred Thousand and no/100 Dollars ($700,000.00) in May of 2013 with funds from the "Affordable Housing In-Lieu Fund," which is comprised of fees paid by developers of housing within the City, combined with a loan from the City's General Fund; and

WHEREAS, the City purchased the McCorkle Site after having found that it would be a potential site for a future affordable housing or workforce housing project, as provided in City Council Resolution No. 2013-25; and

WHEREAS, the development of the McCorkle Site for affordable or workforce housing was recognized under a Settlement and Release entered into by the City in or around October of 2014 to settle that certain litigation known as Calderon v. City of St. Helena, et al., Case Number C 12-05819 ("Calderon Settlement"); and

WHEREAS, under to the Calderon Settlement, the City was required to commit Five Hundred Thousand and no/100 Dollars ($500,000) to its Affordable Housing Trust Fund, which it did on or about June 9, 2014; and

WHEREAS, the Calderon Settlement provides that if the City, in its discretion, approves the development of at least six (6) affordable housing units ("AFUs") within the City of St. Helena on or before December 31, 2016, it may avoid an obligation to deposit an additional Two Hundred Thousand and no/100 Dollars ($200,000) in the Affordable Housing Trust Fund or donate land of equivalent value for use in developing AFUs on or before that date; and

WHEREAS, the City desires to sell the McCorkle Site to Our Town St. Helena for the purpose of allowing Our Town St. Helena to develop at least six (6) AFUs consisting of owner-occupied housing available to "lower income households" as that term is defined and used in Health and Safety Code § 50079.5, through a United States Department of Agriculture program that will assist the lower income households in financing the construction of the units and require the households to participate in the construction through a "self-help" program; and

WHEREAS, while the parties acknowledge and agree that the City's approval of those six (6) AFUs is not guaranteed by or considered as part of this Resolution, that the City Council in no manner by this Resolution prejudges any application for approval of any project for the site, and that the City will not make any decision on such application until after it has first satisfied and completed all applicable public and environmental review, approval of those six (6) AFUs is a condition to the Close of Escrow for the sale of the McCorkle Site to Our Town St. Helena; and

WHEREAS, the nominal One and No/100 Dollars ($1.00) purchase price called for in the Real Estate Purchase Agreement documenting the sale of the McCorkle Site will allow the disposition of the McCorkle Site to Our Town St. Helena to be a "land donation" for purposes of the Calderon Settlement so long as the value of the McCorkle Site, as determined by an appraisal to be paid for by the City and the completion of which is a condition to the Close of Escrow, is in excess of that nominal amount; and

WHEREAS, through the below-market sale of the McCorkle Site, the City may further satisfy all or part of the Calderon Settlement's additional provisions with respect to commitments of cash or donations of land for affordable housing; and

WHEREAS, the Planning Commission on April 21, 2015 found that the proposed transfer of the McCorkle Site is in conformity with the St. Helena General Plan; and

WHEREAS, on April 28, 2015 the City Council adopted Resolution 2015-46, setting the time and date for the public hearing on the sale of the McCorkle Site; and

WHEREAS, on May 12, 2015 the City Council did hold a public hearing on the sale of the McCorkle Site, did receive public testimony on the sale; and

WHEREAS, all legal prerequisites for the sale of the McCorkle Site have therefore been satisfied.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that the City Council incorporates the above recitals and finds, as required by California Government Code §§37420 et seq., that the public interest and convenience require the sale of the McCorkle Site, known formally as Assessor's Parcel No 009-502-007, located at 684 McCorkle Avenue in the City of St. Helena, and more particularly defined and described as:

> Commencing at an iron stake on the Old "Logan" line distant thereon 46° 40' East 691.40 feet from a street monument, at the intersection Allison Avenue and McCorkle Avenue; running thence North 43° West along the Northeasterly line of land conveyed to Edward L. McAuley of Deed of Record in Book 103 of Deeds, Page 271, Official Records, 282.30 feet to the Northwesterly line of the lands conveyed to C.J. McClain by Deed of Record in Book 106 of Deeds, Page 395, Official Records; thence Northeasterly along last mentioned line 83.50 feet; thence South 43° East 290.91 feet to said old line of Logan; thence along last mentioned line South 46° 40' West 83.0 feet to the point of commencement.

BE IT FURTHER RESOLVED that the City Council of the City of St. Helena, having heard and considered any and all protests to the sale of the McCorkle Site, hereby overrules such protests to the sale of the McCorkle Site, or to any or all of the substance of this Resolution, and therefore approves the sale of the McCorkle Site and the form and terms of the Real Property Purchase Agreement attached hereto as Exhibit "A".

BE IT FURTHER RESOLVED that the City Council finds that the sale of the McCorkle Site is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to a categorical exemption under 14 CCR 15332, which exempts from review "in-fill development projects" that are consistent with the General Plan and zoning designations and policies, that are located on city limits on parcels of less than five (5) acres that have no value has habitat for endangered or threatened species and can be served adequately by all existing utilities and public services, and that consist of developments that will not result in significant effects on traffic, noise, air quality or water quality. While the actual development of the McCorkle Site is subject to further discretionary review under the City's planning and zoning authority, including consideration of whether and to what extend additional environmental review may be required by CEQA, the City Council finds that the use proposed by and reflected in the Real Property Purchase Agreement is subject to and consistent with CEQA's categorical exemption under 14 CCR 15332, and that no exception to that exemption applies.

BE IT FURTHER RESOLVED that the Mayor and City Manager are authorized to execute the Real Property Purchase Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Manager and City Attorney are authorized to implement the Real Property Purchase Agreement on behalf of the City, including taking all actions, executing all further documents, and entering into all negotiations called for by the Agreement.

I HEREBY CERTIFY that the foregoing Resolution was duly approved by the City Council of the City of St. Helena at a regular meeting of said City Council held on May 12, 2015 by the following roll call vote:

Mayor Galbraith: __________

Vice Mayor White: __________

Councilmember Crull: __________

Councilmember Dohring: __________

Councilmember Pitts: __________

APPROVED: ATTEST:

______________________ ______________________

Alan Galbraith, Mayor Cindy Black, City Clerk

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement (this "**Agreement**"), dated as of ___________2015 (the "**Effective Date**"), is between the City of St. Helena, a general law city and municipal corporation ("**Seller**") and Our Town St. Helena (OTSH), a California nonprofit public benefit corporation ("**Buyer**").

1. Recitals.

Whereas, Seller is the owner of a site commonly known as "**the McCorkle Site**" located at 684 McCorkle Avenue in the City of St. Helena (APN 009-502-007).

Whereas, Buyer seeks to purchase the McCorkle Site on the terms provided in this Agreement, and Seller has indicated that it is willing to sell the McCorkle Site to Buyer on such terms.

Whereas, Seller purchased the McCorkle Site for Seven Hundred Thousand and no/100 Dollars ($700,000.00) in May of 2013 with funds from Seller's "Affordable Housing In-Lieu Fund" and a loan from the Seller's General Fund after having found that it would be a potential site for a future affordable housing or workforce housing project, as provided in Resolution No. 2013-25 adopted by Seller's City Council.

Whereas, the development of the McCorkle Site for affordable or workforce housing was recognized under that Settlement and Release entered into by the Seller in or around October of 2014 to settle that certain litigation known as Calderon v. City of St. Helena, et al., Case Number C 12-05819 ("Calderon Settlement").

Whereas, it is Seller's intent that the land use approvals required for development of at least six (6) AFUs on the property will constitute issuance of the City of St. Helena's approval of at least six (6) Affordable Housing Units ("AFUs" as defined by the Calderon Settlement) by December 31, 2016 under the Calderon Settlement such that the City will not be required to make a payment of Two Hundred Thousand and no/00 Dollars ($200,000.00) to the Affordable Housing Trust Fund by December 31, 2016. Nothing in this Agreement is intended to or shall in any manner limit or excuse any requirement that the proposed development of the McCorkle site shall comply with all applicable public and environmental review requirements, nor shall this Agreement in any manner constitute a pre-approval, pre-judgment or pre-committment by the City of St. Helena of any permit or other approval necessary for the development of the McCorkle Site. The Parties acknowledge and agree that the City reserves unfettered discretion to deny or limit any such development proposal after conducting such public and environmental review.

Whereas, the nominal One and No/100 Dollars ($1.00) purchase price called for below allows Seller's disposition of the McCorkle Site to Buyer to constitute a "donation" for purposes of the Calderon Settlement in the amount of the appraised value of the McCorkle Site.

Now Therefore, the parties agree as follows:

2. Agreement to Purchase and Use for Development of Affordable Housing.

(A) Buyer agrees to purchase from Seller, and Seller agrees to sell to Buyer, all of the following property constituting the McCorkle Site (collectively, the "**Property**"):

(1) that certain real property more particularly described on **Exhibit A** to this Agreement and all related rights and appurtenances (the "**Land**");

(2) all buildings, structures, parking areas, sidewalks, landscaping and other improvements located on the Land (collectively, the "**Improvements**");

(3) all furniture, fixtures, equipment, machinery, building materials, supplies, inventory and other tangible property owned by Seller and located on the Land (collectively, the "**Personalty**");

(4) all right, title and interest of Seller in and to all transferable permits, licenses, approvals, utility rights, development rights and similar rights related to the Property, if any, whether granted by governmental authorities or private persons,

The transfer of the Property contemplated by this Agreement is referred to in this Agreement as the "**Transaction**."

(B) Buyer covenants and agrees that it shall remove the Improvements and Personalty and develop the Land as owner-occupied housing for persons and households at the income levels prescribed in Section (2)(C) below.

(C) Buyer covenants and agrees to develop on the McCorkle Site no fewer than six (6) AFUs of owner-occupied housing, of no less than two bedrooms per AFU, available to "lower income households" as that term is defined and used in Health and Safety Code § 50079.5. In general, "lower income household" means a person or family whose income does not exceed eighty percent (80%) of the area median income for the applicable geographic area of the state, adjusted for family size, and revised annually by the California Department of Housing and Community Development. Buyer will use its best efforts to make the AFUs developed on the Property available to "very low income households" as defined and used in the Health and Safety Code, but Seller agrees that as long as Buyer meets the conditions of its obligations to its funding source to develop AFUs for "very low income" households, and so long as the AFUs on the Property are available to "lower income households," then Buyer will be in compliance with the terms of this Agreement. While Seller may in its discretion determine to advance additional funds to assist Buyer in the development of housing affordable to "very low income households," this Agreement shall not obligate Seller to provide further subsidy or support for the AFUs that Buyer is developing pursuant to its agreements with its funding source. Nor does this Agreement obligate Seller to provide any subsidy or support for the six (6) or more AFUs anticipated to be built by Buyer on the McCorkle Site. Should Buyer desire to utilize the additional funds Seller may in its discretion determine to make available to develop housing affordable to "very low income households," Buyer and Seller agree that will require a separate agreement to document that assistance. Buyer further agrees that Buyer's representations about its plan for the development of private residences via a self-help program more particularly described below have caused Seller to conclude that the development is exempt from the application of the California Prevailing Wage Law (Labor Code §§ 1720 et seq.) via the application of Labor Code § 1720(c)(5)(A), and that Buyer will defend and indemnify, defend and hold harmless Seller and its officers, employees, and agents against any claim arising under the California Prevailing Wage Law in connection with the benefits received by Buyer pursuant to this Agreement.

(D) Buyer agrees to record a Declaration of Restrictive Covenants ("Declaration") setting forth the affordability covenants applicable to all AFUs to be developed on the McCorkle Site, and including a Regulatory Agreement to be executed by the first purchaser of each AFU obligating that purchaser to comply with the terms of the Declaration and limiting the resale price of each AFU. Buyer acknowledges that the period of time during with the restriction on resale price shall be effective is of significant importance to Seller and Buyer therefore agrees to seek the longest term for the restrictions that is allowable under the laws and regulations governing Buyer's financing and that is compatible with California affordable housing laws. Buyer further agrees that the Declaration shall be subject to the review and approval of the Seller's City Manager and City Attorney, which approval shall not be unreasonably withheld so long as its terms are consistent with Seller's duties pursuant to the Calderon Settlement. Buyer shall execute the Declaration and deliver it to the Escrow Agent to with the Close of Escrow and it shall be recorded against the Property at the Close of Escrow.

3. Purchase Price.

(A) Purchase Price. The purchase price to be paid by Buyer for the Property (the "**Purchase Price**") is One and No/100 Dollars ($1.00). The entirety of the Purchase Price shall be deposited by Buyer concurrent with the opening of Escrow, as more fully defined and described below ("Deposit").

(B) Financing. Buyer assumes full responsibility to obtain the funds required for payment of the Purchase Price. All costs and expenses incurred in connection with any financing of the acquisition or development of the Property by the Buyer pursuant to this Purchase Contract shall be solely the responsibility of Buyer, including but not limited to the financing of the development of the property necessary to meet Buyer's obligations to its funding source as identified in Section 4(A)(5) of this Agreement.

4. Contingencies.

(A) Buyer Contingencies. The obligations of Buyer under this Agreement are contingent upon each of the following:

(1) Seller Performance. Seller shall have provided Buyer all documentation referred to in this Agreement within fifteen (15) days of Buyer's execution of this Agreement.

(2) Representations and Warranties. The representations and warranties of Seller contained in this Agreement shall be true as of the Closing Date as if made on the Closing Date.

(3) Governmental Approvals. Buyer shall have obtained all final land use approvals from the City of St. Helena, CA and any other government agency having jurisdiction over the Property necessary in Buyer's judgment in order to make the use of the Property which Buyer intends, including subdividing the Land to allow for the development of at least six (6) owner-occupied AFUs. Seller shall cooperate in all reasonable respects with Buyer in obtaining such approvals, and shall execute such documents as may be reasonably required in connection therewith in order to allow Buyer to seek the governmental approvals. Nothing in this agreement shall be deemed to constitute a pre-approval by the City of St. Helena of any permit or other approval necessary for the development of the Property.

(4) Board of Directors Approval. This Agreement is subject to the approval of the Our Town St. Helena Board of Directors.

(5) Financing Approvals. Buyer shall have obtained financing in the form of an obligation by the United States Department of Agriculture ("USDA") of a USDA Rural Development 523 Technical Assistance grant to Buyer to manage and operate the Self-Help Program and an obligation by the USDA of USDA Rural Development 502 Single Family Housing Direct Home loans tied to the McCorkle Site for use by the eventual owner-occupiers of the units built by Buyer on the McCorkle Site.

(6) Condition of Property. There shall have been no material change in the condition of the Property as reasonably determined by Buyer between the opening of Escrow and the Closing Date.

(7) Condition of Title. There shall have been no adverse material change in the condition of the Title as reasonably determined by Buyer between the date of this Agreement and the Closing Date.

(8) Appraisal. Buyer may rely on the appraisal being prepared by Seller pursuant to Section 4(B)(2) below.

(B) **Seller Contingencies**. The obligations of Seller under this Agreement are contingent upon the following:

(1) Buyer having obtained and provided to Seller evidence of proof of financing in the form of an obligation by the USDA of a USDA Rural Development 523 Technical Assistance grant to Buyer to manage and operate OTSH's Self-Help Program and an obligation by the USDA of USDA Rural Development 502 Single Family Housing Direct Home loans tied to the McCorkle Site for use by the eventual owner-occupiers of the units built by Buyer on the McCorkle Site.

(2) Seller obtaining, at Seller's own cost, an appraisal of the Property satisfactory to Seller.

(3) Buyer having placed into Escrow the Declaration.

In the event that any of the contingencies set forth in this Section 4 are not satisfied as of the Closing Date, the parties shall not be obligated to proceed with the Close of Escrow and Buyer shall be entitled to a refund of its Deposit and all interest accrued thereon.

5. Close of Escrow.

(A) Escrow. The purchase of the Property will be completed through an escrow ("**Escrow**") to be opened with Insured Titles ("**Title Company**"). The escrow will be opened within two (2) Business Days after the Effective Date by delivering to the Title Company the Initial Deposit and a copy of this Agreement, as fully executed. Subject to any extension allowed by other provisions of this Agreement, the Close of Escrow will take place on that day that is one hundred eighty (180) days after the expiration of the Feasibility Period (defined in Section 6 below) at a place and time so designated by Buyer and Seller, or earlier upon written agreement of Buyer and Seller, time being of the essence (the "**Closing Date**"). As used in this Agreement, "**Close of Escrow**" means the recording of the Deed (as defined below) by the Escrow Agent and payment to Seller of the Purchase Price. At Buyer's option, the Closing Date may be extended one time for up to one hundred eighty (180) days upon delivery of written notice thereof to Seller at least two (2) Business Days prior to the original Closing Date. No further extensions of the Closing Date are authorized under this Agreement.

(B) Seller Documents. Prior to Close of Escrow, Seller will deposit with the Title Company the following items (collectively, the "**Seller Documents**"): (a) a grant deed (the "**Deed**"), executed and acknowledged by Seller, conveying to Buyer fee simple title to the Land and the Improvements subject only to the Permitted Exceptions (as defined below) (the "**Deed**"); (b) a bill of sale, executed by Seller, conveying the Personalty to Buyer free of any liens or encumbrances; (c) such documents as the Title Company may reasonably require to establish the authority of Seller to complete the Transaction; (d) any additional documents that the Title Company may reasonably require for proper consummation of the Transaction;

(C) Buyer Documents. Prior to Close of Escrow, Buyer will deposit with the Title Company the following items (collectively, the "**Buyer Documents**"): (a) such documents as the Title Company may reasonably require to establish the authority of Buyer to complete the Transaction; (b) the Declaration required to satisfy Section 2(D) of this Agreement; and (c) any additional documents that the Title Company may reasonably require for proper consummation of the Transaction.

(D) Return of Documents. The Title Company shall return any documents to the person who deposited them if the Seller or Buyer terminates this Agreement under circumstances permitted by this Agreement.

(E) Close of Escrow. Upon satisfaction or completion of the foregoing conditions and deliveries and performance by each party of its obligations required to be performed during the pendency of this Agreement, the parties shall direct the Title Company to immediately record and deliver the documents described above to the appropriate parties and make the disbursements according to the closing statements executed by Seller and Buyer.

(F) Contracts, Leases. etc. Simultaneously with the Close of Escrow, Seller will deliver to Buyer, outside of the closing escrow, originals or, if originals are not in Seller's possession, copies of (a) documents evidencing other permits, licenses. approvals, utility rights, development rights and similar rights related to the Property, if any, that are transferred to Buyer, (b) all Leases and all guaranties of Leases,

6. Due Diligence.

(A) Due Diligence Materials. Seller shall, within fifteen (15) days after the Effective Date (the "**Materials Delivery Deadline**"), deliver to Buyer those items listed on **Exhibit C** hereto to the extent the same are in Seller's possession or reasonable control (the "**Materials**").

Buyer acknowledges that all materials made available by Seller and its affiliates or any officer, director, trustee, agent, employee or other person acting or purporting to act on behalf of Seller or any of its affiliates, including but not limited to the Materials, are provided to Buyer without any representation or warranty whatsoever as to their accuracy, completeness or sufficiency for the purposes for which Buyer uses such materials.

(B) Inspections. Prior to the Closing of Escrow, Buyer and its representatives, consultants and contractors may enter upon the Property upon reasonable advance notice to Seller (which shall be no less than 48 hours) to make such inspections and tests regarding the Property as Buyer deems necessary or desirable, subject to rights of tenants to exclude or limit such inspections and tests. Buyer shall obtain Seller's approval before undertaking any intrusive, destructive or invasive testing or any soil borings, which approval Seller agrees not to withhold unreasonably or delay. Damages to the Property resulting from any inspection or testing conducted by or at the direction of Buyer will be repaired by Buyer so that the Property is restored to its condition as of the Effective Date. Buyer shall keep the Property free and clear of any liens and indemnify, defend and hold harmless Seller and its property manager against any claim arising out of activities conducted at the Property by Buyer and its representatives, consultants and contractors and related damage, liability, obligation, claim, suit, cause of action, judgment, settlement, penalty, fine, cost or expense (including reasonable fees and disbursements of attorneys and other professionals and court costs). If the results of any of Buyer's investigations trigger a reporting requirement to a governmental authority pursuant to applicable law, then prior to any such reporting, Buyer shall give advance written notice to Seller and shall allow Seller to participate in any such reporting. Buyer shall pay for the cost of its feasibility review, including any third party reports regarding the Property (the "**Buyer Reports**"). The Buyer Reports shall be the sole property of Buyer. However, Seller may request a copy of any of the Buyer Reports so long as it reimburses Buyer for the cost of such requested Buyer Report.

(C) Return of the Materials; Confidentiality. If, for any reason, this Agreement is terminated, Buyer covenants and agrees (a) to promptly return to Seller any and all Materials delivered to Buyer by Seller; (b) to promptly deliver to Seller copies of any Buyer Reports requested by Seller and for which Seller has reimbursed Buyer; and (c) that any and all of the Materials and other information obtained by Buyer regarding the Property shall be and remain privileged and confidential information which shall not be disclosed, reproduced, quoted from or otherwise disseminated, in whole or in part, except to Buyer's attorneys, employees, lenders, lender's attorneys, investors, accountants, advisors, consultants and agents, without the express prior consent of Seller or as may otherwise be required by any court order or any law, rule or regulation of any governmental authority having jurisdiction over Buyer or the Property; provided, however, that the foregoing shall not apply: (i) to the use of such information in any litigation that may arise between Seller and Buyer under this Agreement; or (ii) to any information that becomes known to a third party other than as a result of Buyer's breach of this Section.

7. Title; Survey.

(A) Title Commitment. As soon as practicable after the Effective Date, Seller will cause the Title Company to deliver to Buyer a title commitment covering the Property (the "**Title Commitment**") providing for the issuance at the Closing of Escrow of an CLTA Owner's Policy (the "**Title Policy**") in the amount of the appraised value insuring Buyer as owner of fee simple title to the Land, together with copies of all documents and instruments listed as exceptions to title in the Title Commitment (the "**Title Documents**"). Within sixty (60) days after Buyer's receipt of the Title Commitment, Buyer shall notify Seller in writing of Buyer's approval of or its objections to any exceptions to title reflected by the Title Commitment ("**Buyer's Title Notice**"). Exceptions to which Buyer objects shall be "**Disapproved Exceptions**." Exceptions which are approved by Buyer or to which Buyer does not object in Buyer's Title Notice shall be "**Permitted Exceptions**." If Buyer fails to so notify Seller of any Disapproved Exceptions within such period, Buyer shall be deemed to have approved the Title Commitment.

(B) If applicable, Seller shall notify Buyer in writing ("**Seller's Title Notice**") by 5:00 P.M. on the 5th day following Seller's receipt of Buyer's Title Notice whether Seller will remove any Disapproved Exceptions from the Title Commitment identified by Buyer in Buyer's Title Notice. Seller shall have no obligation to remove any Disapproved Exception. If Seller fails to deliver a Seller's Title Notice to Buyer as provided above, Seller shall be deemed to have elected not to remove any of the Disapproved Exceptions identified by Buyer in Buyer's Title Notice. Unless Seller agrees to remove all Disapproved Exceptions, Buyer shall elect, in a written notice delivered to Seller by 5:00 P.M. on the 5th day following Buyer's receipt of Seller's Title Notice (if delivered), either (i) to waive its objection to all Disapproved Exceptions (except any Disapproved Exception that Seller has agreed to remove), in which case those Disapproved Exceptions covered by the waiver shall become Permitted Exceptions, or (ii) terminate this Agreement, in which case the Deposit with accrued interest will be refunded to Buyer. If Buyer fails to deliver such notice, it will be deemed to have waived its objection to such Disapproved Exceptions. If Seller agrees to remove any Disapproved Exception and then is unable or fails to remove such Disapproved Exceptions prior to Close of Escrow, the provisions of Section 7 (D) below shall apply.

(C) If any exception to title to the Property not shown on the Title Commitment is discovered prior to Close of Escrow ("**New Exceptions**") Seller shall immediately give written notice to Buyer and Title Company of each such New Exception. Buyer shall, within one (1) business day of receiving such notice, provide written notice to Seller and Title Company of any New Exceptions which Buyer (i) approves, and such approved New Exceptions shall be deemed to be Permitted Exceptions, and/or (ii) disapproves, and such disapproved New Exceptions shall be deemed to be Disapproved Exceptions. Any New Exception which becomes a Disapproved Exception pursuant to this Section shall be handled in accordance with the notice provisions and within the number of days in the time frames established in Section 7(B) above; provided that if the Closing Date is within five (5) days after the date a New Exception becomes a Disapproved Exception pursuant to this Section, the parties shall agree on a reasonable postponement of the Closing Date (not to exceed fifteen (15) days) for the purposes of handling such Disapproved Exceptions in accordance with Section 7(B).

(D) If, on or prior to the Closing Date, Seller fails or is unable to cure or remove the Disapproved Exceptions that it has obligated itself to remove, Seller shall have no liability therefore, but Buyer may notify Seller in writing that it elects to deem all such Disapproved Exceptions to be Permitted Exceptions and proceed with the transactions contemplated under this Agreement or to notify Seller that this Agreement is terminated, at which time Buyer shall be entitled to a refund of all of the Deposit together with any accrued interest.

(E) Buyer's obligation to purchase the Property is conditioned on the Title Company issuing to Buyer a CLTA Owner's Policy of Title Insurance (the "**Title Policy**") insuring that Buyer holds fee simple title to the Land and all related appurtenances. The Title Policy must be in the amount of the appraised value, must contain as exceptions only Permitted Exceptions and additional exceptions for matters created by Buyer. Seller will pay the premium for the Title Policy issued in the amount of the Purchase Price, and Buyer shall pay the premium for any endorsements to the Title Policy it desires, including but not limited to the cost to delete the "Standard Printed Exceptions" from the Title Policy. Notwithstanding anything to the contrary herein, Section 7(A) above shall provide Buyer's sole remedies for any title objections.

(F) Seller shall deliver to Buyer the most current CLTA survey of the Property (the "**Existing Survey**"), if any, pursuant to Section 7(A) above. Any update to the Existing Survey shall be at Buyer's sole cost and expense.

8. Closing Costs

Closing Costs. Buyer and Seller shall share equally and each pay one-half (1/2) of any escrow and closing fees charged by the Title Company and the premium for the Title Policy. Buyer and Seller will each pay their own attorneys' fees. Other costs will be paid by Seller or Buyer, as applicable, as specified by other provisions of this Agreement.

9. Representation and Warranties.

(A) Seller Representations and Warranties. In order to induce Buyer to enter into this Agreement and to complete the Transaction and develop the Property as set forth herein, Seller represents and warrants to Buyer that, as of the Effective Date and the Close of Escrow:

(1) Seller is a duly organized and validly existing general law city and municipal corporation under the laws of the State of California. Seller is the owner of the fee simple title to the Land and Improvements. Seller has the power to enter into this Agreement, to perform its obligations under this Agreement and to complete the Transaction as contemplated by this Agreement. Seller has taken all action necessary to authorize the execution and delivery of this Agreement and the performance by Seller of its obligations under this Agreement and the completion of the Transaction as contemplated by this Agreement;

(2) this Agreement has been duly executed and delivered by Seller and constitutes a valid, binding and enforceable obligation of Seller, subject to bankruptcy and other debtor relief laws and principles of equity;

(3) the execution and delivery of this Agreement by Seller and the performance by Seller of its obligations under this Agreement and the completion of the Transaction as contemplated by this Agreement will not result in (a) a breach of, or a default under, any contract, agreement, commitment or other document or instrument to which Seller is party or by which Seller or the Property is bound (except service contracts, as to which Seller makes no representation or warranty) or (b) a violation of any law, ordinance, regulation or rule of any governmental authority applicable to Seller or any judgment, order or decree of any court or governmental authority that is binding on Seller; and

(4) except as may be later disclosed by Seller pursuant to Section 7(A) above, Seller has received no notice of any action, suit, proceeding, inquiry or investigation pending or threatened by or before any court or governmental authority (a) against or affecting the Property or arising out of the development, construction, financing, operation, leasing, maintenance or management of the Property, or (b) that would prevent or hinder the performance by Seller of its obligations under this Agreement or the completion of the Transaction as contemplated by this Agreement.

(5) Seller has received no notice of actual or threatened cancellation or suspension of any utility services or certificate of occupancy for any portion of the Real Property. Seller has received no notice of actual or threatened special assessments or reassessments of the Property. The Property is, and to Seller's best knowledge has been, used in compliance with all governmental laws and permits. All necessary permits have been obtained and are in full force and effect and no default exists thereunder.

(6) To the best of Seller's knowledge (without duty of further inquiry), no Hazardous Materials have been generated, treated, stored, transferred from, released or disposed of, or otherwise placed, deposited in or located on the Property, nor has any activity been undertaken on the Property that would cause or contribute to the Property becoming a treatment, storage or disposal facility within the meaning of, or otherwise bring the Property within the ambit of, any state, local or federal law, regulation, rule, policy or order relating to the

protection of the environment. The Seller is unaware of any discharge, release or threatened release of Hazardous Materials from the Property. The Seller is unaware of any Hazardous Materials or conditions in or on the Property that may support a claim or cause of action under any state, local or federal law, regulation, rule, policy or order relating to the protection of the environment. The Property is not now, and to the best knowledge of Seller never has been, listed on any list of sites contaminated with Hazardous Materials, nor used as landfill, dump, disposal or storage site for Hazardous Materials. Seller has delivered to Buyer copies of all environmental reports and studies relating to the Property which are in the possession of Seller.

(7) Seller is not in default concerning any of its obligations or liabilities regarding the Property.

(8) Seller is not a "foreign person", "foreign partnership", "foreign trust" or "foreign estate", as those terms are defined in Section 1445 of the Internal Revenue Code.

(9) Seller does not know of any wells, individual sewage treatment systems, or above ground or underground tanks in or about the Property

(10) Other than as may be imposed as a result of city or county zoning ordinances (available for inspection in public records) the Seller is unaware of any private restrictions that affect the uses which may be made of the Property by Buyer, including, but not limited to, the size or cost of any building or structures to be place on the Property, limitations on use or restrictions in regard to fences, roofs, garages and heights of buildings or structures to be placed on the Property, agreements to subject architectural plans to an association or other group, provisions requiring the joining with others in group actions, or restrictions imposed on the Real Property due to its historical significance.

(11) There are no property interests or other improvements that are owned by Seller and which are necessary or useful for the operation of the Property that are not being conveyed pursuant to this Agreement.

(B) Buyer Representation and Warranties. In order to induce Seller to enter into this Agreement and to complete the Transaction, Buyer represents and warrants to Seller that, as of the Effective Date and the Close of Escrow:

(1) Buyer is a nonprofit, public benefit corporation duly organized and validly existing under the laws of the State of California. Buyer has the power to enter into this Agreement, to perform its obligations under this Agreement and to complete the Transaction as contemplated by this Agreement. Buyer has taken all action necessary to authorize the execution and delivery of this Agreement, the performance by Buyer of its obligations under this Agreement and the completion of the Transaction as contemplated by this Agreement;

(2) this Agreement has been duly executed and delivered by Buyer and constitutes a valid, binding and enforceable obligation of Buyer, subject to bankruptcy and other debtor relief laws and principles of equity;

(3) the execution and delivery of this Agreement by Buyer, the performance by Buyer of its obligations under this Agreement and the completion of the Transaction as contemplated by this Agreement will not result in (a) a breach of, or a default under, any contract, agreement, commitment or other document or instrument to which Buyer is party or by which Buyer is bound or (b) a violation of any law, ordinance, regulation or rule of any governmental authority applicable to Buyer or any judgment, order or decree of any court or governmental authority that is binding on Buyer;

(4) there is no action, suit, proceeding, inquiry or investigation (including any bankruptcy or other debtor relief proceeding), pending or to the knowledge of Buyer threatened, against Buyer by or before any court or governmental authority that would prevent or hinder the performance by Buyer of its obligations under this Agreement or the completion of the Transaction as contemplated by this Agreement;

(5) except for consents, approvals, authorizations and filings expressly disclosed on **Exhibit D** hereto, Buyer is not required to obtain any consent, approval or authorization from, or to make any filing with, any person (including any governmental authority) in connection with, or as a condition to, the execution and delivery of this Agreement, the performance by Buyer of its obligations under this Agreement or the completion of the Transaction as contemplated by this Agreement; and

(6) Neither Buyer nor any affiliate of Buyer (as defined in 24 CFR § 200.215) has been debarred, suspended or voluntarily excluded from participation in any program of a State government or agency, or has been the subject of a limited denial of participation issued pursuant to 24 CPR Part 24, Subpart G.

(C) Disclaimer of Warranties. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES IN SECTION (9)(A), SELLER SPECIFICALLY DISCLAIMS ALL WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE (INCLUDING WARRANTIES OF MERCHANTABILITY AND WARRANTIES OF FITNESS FOR USE OR ACCEPTABILITY FOR THE PURPOSE INTENDED BY BUYER) WITH RESPECT TO THE PROPERTY OR ITS CONDITION, OR THE CONSTRUCTION, PROSPECTS, OPERATIONS OR RESULTS OF OPERATIONS OF THE PROPERTY, OR ITS PAST OR FUTURE FINANCIAL PERFORMANCE IN ANY RESPECT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE DISCLAIMERS IN THIS SECTION 9(C) SPECIFICALLY EXTEND TO (1) MATTERS RELATING TO HAZARDOUS MATERIALS (AS DEFINED BELOW) AND COMPLIANCE WITH ENVIRONMENTAL LAWS (AS DEFINED BELOW), (2) GEOLOGICAL CONDITIONS, INCLUDING SUBSIDENCE, SUBSURFACE CONDITIONS, WATER TABLE, UNDERGROUND STREAMS AND RESERVOIRS AND OTHER

UNDERGROUND WATER CONDITIONS, LIMITATIONS REGARDING THE WITHDRAWAL OF WATER, EARTHQUAKE FAULTS, AND MATTERS RELATING TO FLOOD PRONE AREAS, FLOOD PLAIN, FLOODWAY OR SPECIAL FLOOD HAZARDS, (3) DRAINAGE, (4) SOIL CONDITIONS, INCLUDING THE EXISTENCE OF INSTABILITY, CONDITIONS OF SOIL FILL, SUSCEPTIBILITY TO LANDSLIDES, AND THE SUFFICIENCY OF ANY UNDERSHORING, (5) ZONING AND SUBDIVISION AND COMPLIANCE WITH ZONING AND SUBDIVISION LAWS, (6) THE VALUE AND PROFIT POTENTIAL OF THE PROPERTY AND (7) DESIGN, QUALITY, SUITABILITY, STRUCTURAL INTEGRITY AND PHYSICAL CONDITION OF THE PROPERTY AND COMPLIANCE OF THE PROPERTY WITH ANY LAWS (INCLUDING BUILDING CODES AND SIMILAR LAWS, THE CODE (DEFINED BELOW), THE AMERICANS WITH DISABILITIES ACT OF 1990 AND THE FAIR HOUSING AMENDMENTS ACT OF 1988), AND THE PAST OR FUTURE RECEIPT OF ANY FORM OF SUBSIDY OR INCOME RELATED TO THE PROPERTY (INCLUDING, WITHOUT IMPLIED LIMITATION, STATE OR FEDERAL TAX CREDITS). BUYER REPRESENTS AND WARRANTS TO SELLER THAT BUYER IS A KNOWLEDGEABLE, EXPERIENCED AND SOPHISTICATED BUYER OF REAL ESTATE. BUYER ACKNOWLEDGES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES MADE BY SELLER IN SECTIONS 9(A), BUYER HAS NOT RELIED UPON AND WILL NOT RELY UPON, EITHER DIRECTLY OR INDIRECTLY, ANY STATEMENT OF SELLER OR ANY OF ITS AFFILIATES OR ANY OFFICER, DIRECTOR, TRUSTEE, AGENT, EMPLOYEE OR OTHER PERSON ACTING OR PURPORTING TO ACT ON BEHALF OF SELLER OR ANY OF ITS AFFILIATES. BUYER ACKNOWLEDGES THAT IT HAS CONDUCTED OR WILL CONDUCT SUCH INSPECTIONS AND INVESTIGATIONS AS TO THE CONDITION OF THE PROPERTY AND ALL MATTERS BEARING UPON THE PROPERTY AND THE CONSTRUCTION, PROSPECTS, OPERATIONS AND RESULTS OF OPERATIONS OF THE PROPERTY AS IT DEEMS NECESSARY TO PROTECT ITS INTERESTS. BUYER IS ACQUIRING THE PROPERTY "**AS IS**" AND "**WHERE IS**" AND WITH ALL FAULTS, DEFECTS OR OTHER ADVERSE MATTERS. UPON CLOSE OF ESCROW, BUYER WILL ACCEPT THE PROPERTY SUBJECT TO ADVERSE STRUCTURAL, PHYSICAL, ECONOMIC OR ENVIRONMENTAL CONDITIONS THAT MAY THEN EXIST AND THAT WERE NOT REVEALED BY THE INSPECTIONS AND INVESTIGATIONS CONDUCTED BY BUYER, AND, PROVIDED THAT SELLER IS NOT IN MATERIAL DEFAULT UNDER THIS AGREEMENT AS OF THE CLOSE OF ESCROW AND BUYER HAS NOT PROVIDED A NOTICE OF MATERIAL DEFAULT TO SELLER, BUYER SPECIFICALLY WAIVES AND RELEASES (1) ALL WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE (INCLUDING WARRANTIES OF MERCHANTABILITY AND WARRANTIES OF FITNESS FOR USE OR ACCEPTABILITY FOR THE PURPOSE INTENDED BY SELLER) WITH RESPECT TO THE PROPERTY OR ITS CONDITION OR THE CONSTRUCTION, PROSPECTS, OPERATIONS OR RESULTS OF OPERATIONS OF THE PROPERTY AND (2) ALL RIGHTS, REMEDIES, RECOURSE OR OTHER BASIS FOR RECOVERY (INCLUDING ANY RIGHTS, REMEDIES, RECOURSE OR BASIS FOR RECOVERY BASED ON NEGLIGENCE OR STRICT LIABILITY) THAT BUYER WOULD OTHERWISE HAVE AGAINST SELLER, OR ANY OF ITS AFFILIATES, ANY PERSON WHO HOLDS A DIRECT OR INDIRECT OWNERSHIP INTEREST IN SELLER OR ANY SUCH AFFILIATE AND THE RESPECTIVE OFFICERS, DIRECTORS, TRUSTEES,

AGENTS AND EMPLOYEES OF EACH SUCH PERSON IN RESPECT OF THE CONDITION OF THE PROPERTY OR OTHER MATTERS WITH RESPECT TO THIS AGREEMENT (EXCEPT THE REPRESENTATIONS AND WARRANTIES IN SECTIONS 9(A), BUYER ACKNOWLEDGES AND AGREES THAT THE DISCLAIMERS, WAIVERS AND RELEASES SET FORTH IN THIS SECTION 9(C) ARE AN INTEGRAL PART OF THIS AGREEMENT AND THAT SELLER WOULD NOT HAVE AGREED TO COMPLETE THE SALE ON THE TERMS PROVIDED IN THIS AGREEMENT WITHOUT THE DISCLAIMERS, WAIVERS AND RELEASES SET FORTH IN THIS SECTION 9(C).

IN ADDITION TO THE ABOVE AND TO THE FULLEST EXTENT AUTHORIZED BY LAW, BUYER FULLY AND COMPLETELY RELEASES SELLER AND ITS AGENTS, OFFICERS, AND EMPLOYEES ("RELEASED PARTIES"), AND HOLDS SELLER AND EACH OF THE OTHER RELEASED PARTIES HARMLESS, FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, INJURIES AND DAMAGES ARISING FROM OR IN ANY WAY RELATED TO THE CONDITION OF THE PROPERTY, WHICH BUYER ACCEPTS WITHOUT LIMITATION IN ITS "AS IS" CONDITION. BUYER UNDERSTANDS THAT THE FOREGOING INCLUDES BUT IS NOT LIMITED TO CONDITIONS RELATED TO COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES REGULATION, ORDERS OR REQUIREMENTS, INCLUDING, WITHOUT LIMITATION, TITLE III OF THE AMERICANS WITH DISABILITIES ACT OF 1990, CALIFORNIA HEALTH & SAFETY CODE, THE VISUAL ARTISTS RIGHTS ACT, THE FEDERAL WATER POLLUTION CONTROL ACT, THE FEDERAL RESOURCE CONSERVATION AND RECOVERY ACT, THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS AT 40 C.F.R., PART 261, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED, THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976, THE CLEAN WATER ACT, THE SAFE DRINKING WATER ACT, THE HAZARDOUS MATERIALS TRANSPORTATION ACT, THE TOXIC SUBSTANCE CONTROL ACT, REGULATIONS PROMULGATED UNDER ANY OF THE FOREGOING, AND THE PRESENCE OR ABSENCE OF HAZARDOUS SUBSTANCES AT, ON, UNDER, OR ADJACENT TO THE PROPERTY. BY INITIALING BELOW, THE BUYER ACKNOWLEDGES THAT (I) BUYER HAS READ THE ABOVE AND IT IS FULLY UNDERSTOOD, (II) BUYER HAS HAD THE CHANCE TO ASK QUESTIONS OF ITS COUNSEL ABOUT ITS MEANING AND SIGNIFICANCE, AND (III) BUYER HAS ACCEPTED AND AGREED TO THE TERMS SET FORTH ABOVE.

Buyer and Seller each have separately initialed this provision to indicate its agreement to such waiver.

Seller: _______________ Buyer: _______________

(D) Survival. The representations and warranties in Sections 9 (A) and 9(B) will survive Close of Escrow only for a period of two (2) years, and no claim shall be allowed on any such representation or warranty unless notice of the claim and a detailed statement of the basis for the claim is delivered by the claimant to the other party within such one-year period. Nothing in this Section 9(D) limits the disclaimers, waivers and releases in Section 9(C), all of which will survive Close of Escrow without limit as to time.

10. Additional Pre-Closing Obligations.

(A) Maintenance of Insurance. Seller agrees that it will maintain all insurance in effect as of the Effective Date with respect to the Property (or comparable insurance) until the earlier of the Close of Escrow or the termination of this Agreement by Buyer or Seller as provided in this Agreement.

(B) Service Contracts and Liens. Until the earlier of the Close of Escrow or the termination of this Agreement by Buyer or Seller, without Buyer's consent, which consent shall not be unreasonably withheld or delayed, Seller will not (a) enter into any new service contract that will be binding upon Buyer or the Property after Close of Escrow, or amend or otherwise modify any existing Service Contract that will not expire prior to Close of Escrow, (b) grant, create or allow the creation of any easement, right-of-way, encumbrance, lien, restriction, condition, assessment or other cloud on title which affects the Property except for leases executed in the ordinary course of business or (c) amend, extend or otherwise modify the terms of any existing easement, right-of-way, encumbrance, lien, restriction, condition, assessment or other cloud on title which affects the Property, except for lease modifications and terminations in the ordinary course of business.

11. Remedies.

(A) Liquidated Damages. IF BUYER FAILS TO PURCHASE THE PROPERTY IN VIOLATION OF THIS AGREEMENT, THE PARTIES HAVE DETERMINED AND AGREED THAT THE ACTUAL AMOUNT OF DAMAGES THAT WOULD BE SUSTAINED BY SELLER AS A RESULT OF SUCH BUYER'S DEFAULT UNDER THIS AGREEMENT IS DIFFICULT OR IMPOSSIBLE TO ASCERTAIN AND THAT IN SUCH EVENT SELLER, AS ITS SOLE AND EXCLUSIVE REMEDY, MAY TERMINATE THIS AGREEMENT AND, UPON SO DOING, WILL BE ENTITLED TO RECEIVE THE DEPOSIT AS LIQUIDATED DAMAGES. BY PLACING THEIR INITIALS BELOW, BUYER AND SELLER ACKNOWLEDGE THEIR AGREEMENT TO THIS LIQUIDATED DAMAGES PROVISION. IT IS AGREED THAT SELLER SHALL NOT HAVE ANY CAUSE OF ACTION OR CLAIM WHATSOEVER AGAINST BUYER BECAUSE OF A DEFAULT OF THIS AGREEMENT BY BUYER, AND SELLER'S SOLE AND EXCLUSIVE REMEDY SHALL BE THE RECEIPT OF THE ABOVE REFERENCED SUM AS LIQUIDATED DAMAGES. PAYMENT TO SELLER OF THE ABOVE REFERENCED SUM IS NOT INTENDED AS A FORFEITURE OR PENALTY, BUT INSTEAD, IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER.

BUYER'S INITIALS:__________ SELLER'S INITIALS: __________

(B) Buyer's Remedy. If Seller fails to perform any of its material obligations under this Agreement, then Buyer (provided that Buyer is not then in a material default under this Agreement), as its sole and exclusive remedy, may either (a) terminate this Agreement, in which case Buyer may recover the Deposit subject to delivery of the Buyer Reports or (b) enforce specific performance of Seller's obligation to sell the Property pursuant to this Agreement. Under no circumstance shall City be subject to, nor shall Buyer seek or demand, damages for any failure to perform or satisfy any obligations under this Agreement.

(C) Cumulative Remedies. Except as otherwise specifically provided in this Agreement, all remedies provided for in this Agreement or available as a matter of law (whether at law, in equity, by statute or otherwise) are cumulative and may be exercised concurrently or consecutively, in such order as a party may elect. Limitations on remedies apply only to the obligations specifically referenced to be limited.

12. Possession.

Seller will deliver possession of the Property to Buyer at the time of Close of Escrow, subject to (a) rights of tenants under Leases identified in the rent roll delivered at Close of Escrow, and (b) the Permitted Exceptions.

13. Casualty and Condemnation.

(A) Notice to Buyer. Seller will notify Buyer within five (5) days after receiving notice of, or otherwise becoming aware of, (a) any Casualty Loss (as defined below) that, if not repaired by the Closing Date, would allow Buyer to terminate its obligation to complete the Transaction and receive the Deposit (with accrued interest) (b) the commencement of any proceedings for the taking by eminent domain of all or any part of the Property.

(B) Casualty Loss. If, prior to Close of Escrow, the Property is damaged by fire, windstorm, rioting or other civil disturbance, acts of war, earthquake or other casualty (a "**Casualty Loss**") and the cost to repair the related damage is more than $100,000, then Buyer, at its option, may terminate its obligation to complete the Transaction, in which case the Deposit will be returned to Buyer. If Buyer elects to complete the Transaction notwithstanding a Casualty Loss, or if this Agreement requires Buyer to purchase the Property despite a Casualty Loss, then Seller will deliver to Buyer at Close of Escrow, through the closing escrow, all insurance proceeds previously received by Seller, an amount equal to the deductible under Seller's insurance in respect of the damage and an assignment of Seller's rights with respect to all uncollected insurance proceeds (in either case, net of proceeds of rental loss and business interruption insurance allocable to the period through the Closing Date, amounts expended by Seller to stabilize or repair the Property and costs incurred by Seller in making proof of loss or settling claims with insurers), and Seller will cooperate with Buyer after Close of Escrow in making claim for, and collecting, all available insurance proceeds.

(C) Eminent Domain. If, prior to Close of Escrow, all or a part of the Property is taken by eminent domain or any proceedings for the taking by eminent domain of all or part of the Property is commenced, then Buyer, at its option, may terminate its obligation to complete the Transaction, in which case the Deposit (with accrued interest) will be returned to Buyer. If Buyer elects to complete the Transaction notwithstanding a taking by eminent domain or proceeding therefore, Seller will deliver to Buyer at Close of Escrow, through the closing escrow, all condemnation proceeds previously received by Seller and an assignment of Seller's rights with respect to all uncollected condemnation proceeds (in either case, net of proceeds allocable to loss of use of the Property for the period through the Closing Date and costs incurred by Seller in connection with such proceedings) and such documents as Buyer may reasonably request to substitute itself for Seller in any pending eminent domain proceedings.

14. Consequences of Termination.

If Buyer or Seller terminates this Agreement under circumstances permitted by this Agreement, neither Buyer nor Seller will have any further obligation under this Agreement, except indemnity obligations under Sections 6(B), which shall survive such termination. Nothing in this Section 14 is intended to limit the obligations of the Title Company or the provisions of this Agreement dealing with the disposition of funds or documents held in escrow following termination of the obligations of Buyer or Seller.

15. Miscellaneous.

(A) Survival. Subject to Sections 9(C) and 9(D), all covenants, undertakings and obligations under this Agreement and all representations and warranties contained in this Agreement will survive the Close of Escrow and will not be merged into the Deed or other documents delivered pursuant to this Agreement.

(B) Interpretation. When the context so requires in this Agreement, words of one gender include one or more other genders, singular words include the plural, and plural words include the singular. Use of the words "include" and "including" are intended as an introduction to illustrative matters and not as a limitation. References in this Agreement to "Sections" are to the numbered subdivisions of this Agreement, unless another document is specifically referenced. The word "party" when used in this Agreement means either Buyer or Seller unless another meaning is required by the context. The word "person" includes individuals, entities and governmental authorities. The word "governmental authority" is intended to be construed broadly and includes governmental agencies, instrumentalities, bodies, boards, departments and officers and individuals acting in any official capacity. The word "laws" is intended to be construed broadly and includes all codes, statutes, case law, rules, regulations, pronouncements, requirements, orders, directives, decisions, decrees, judgments and formal or informal guidance or interpretations of any court or governmental authority.

(C) Attorneys' Fees. Should either party employ attorneys to enforce any of the provisions hereof, the party losing in any final judgment agrees to pay the prevailing party all reasonable costs, charges and expenses, including attorneys' fees, expended or incurred in connection therewith.

(D) Notice. Any and all notices required or permitted hereunder shall be sent by personal service, certified or registered mail, postage prepaid, return receipt requested, by a nationally recognized overnight courier service or by electronic mail with a hard copy to follow to the parties at the following address:

If to Seller: ______________________________
____
____
____
Telephone:____________________
Email: __________________________

With a copy to: ______________________________
____
____
Telephone:____________________
Email: __________________________

With an additional copy to:

If to Buyer:

With a copy to:

If to Title Company: ______________________________
____
____
____
Telephone:____________________
Email: __________________________

Any such notices shall be deemed to have been sufficiently given or served upon any party hereto: (a) one business day after deposit with a nationally recognized overnight courier on or before the latest daily pickup time during a business day, next business day delivery charges prepaid, (b) as of the date of transmission if sent by facsimile prior to 5:00 PM (local time of the recipient) during any business day and confirmed by a printed report reflecting error free transmission, (c) upon the date of service if served by personal delivery, or (d) two Business Days after deposit in the United States mails on or before the latest daily pickup time during a business day, certified mail, return receipt requested, postage prepaid. The above addresses may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice.

(E) Successors and Permitted Assigns. This Agreement will be binding upon and will inure to the benefit of Buyer and Seller and their respective successors and permitted assigns. Any indemnity in favor of a party also will benefit each person who holds a direct or indirect ownership interest in such party and the respective officers, directors, trustees, agents, employees and affiliates of such party and such owners, and all such persons are third-party beneficiaries of this Agreement to the extent of their rights to indemnity under the related provision and may enforce that provision against Buyer or Seller, as applicable. The Title Company and the Broker are not third-party beneficiaries of this Agreement, nor may the Title Company or the Broker enforce this Agreement or any obligation under this Agreement.

(F) Headings. The Section headings contained in this Agreement are for convenience of reference only and are not intended to delineate or limit the meaning of any provision of this Agreement or be considered in construing or interpreting the provisions of this Agreement.

(G) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement. To facilitate execution of this Agreement, the parties may execute and exchange by facsimile counterparts of the signature pages.

(H) Entire Agreement. This Agreement embodies the entire agreement and understanding between Buyer and Seller with respect to its subject matter and supersedes all prior agreements and understandings, written and oral, between Buyer and Seller related to that subject matter. This Agreement and the obligations of the parties under this Agreement may be amended, waived and discharged only by an instrument in writing executed by the party against which enforcement of the amendment, waiver or discharge is sought. Joinder of the Title Company and the Broker will not be necessary to make any amendment, waiver or discharge effective between Buyer and Seller.

(I) Severability. The determination that any provision of this Agreement is invalid or unenforceable will not affect the validity or enforceability of the remaining provisions or of that provision under other circumstances. Any invalid or unenforceable provision will be enforced to the maximum extent permitted by law.

(J) Limited Liability. No officer, employee, or agent of Seller shall have any personal liability directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or in connection with this Agreement, and Buyer and Buyer's successors and assigns shall look solely to Seller's interest in the Property or Seller's interest in the net sales proceeds from the sale of the Property following a transfer thereof, for the payment of any claim or for any performance hereunder, and Buyer hereby waives any and all claims for personal liability against any officer, employee, or agent of Seller.

(K) Hazardous Materials. "**Hazardous Materials**" means (a) any substance that constitutes hazardous materials, hazardous waste or toxic waste within the meaning of any Environmental Law or that otherwise is subject to regulation under any Environmental Law and (b) regardless of whether it is so classified, any radioactive material, radon, asbestos, any medical waste, polychlorinated biphenyls (PCB's), lead-based paint, urea formaldehyde foam insulation and petroleum or petroleum derivatives. "**Environmental Law**" means any law relating to the protection of the environment or, to the extent related to environmental conditions, human health or safety, including the Comprehensive Environmental Response, Compensation and Liability Act, as amended; the Hazardous Materials Transportation Act, as amended; the Resource Conservation and Recovery Act, as amended; the Toxic Substances Control Act, as amended; the Federal Water Pollution Control Act, as amended; and similar laws of the State of Montana.

(L) Assignment. Neither Buyer nor Seller may assign its rights under this Agreement without the approval of the other party, which approval may be withheld in such other party's discretion, except that Buyer may assign its rights to a related or affiliated entity controlled by Buyer and in which Buyer has a majority ownership interest, without Seller's approval, provided, however, that if Buyer makes such an assignment, Buyer shall, notwithstanding the assignment, remain fully obligated under this Agreement.

(M) Confidentiality. Buyer and Seller agree that this Agreement, having been approved by the City Council of the City of St. Helena, is a public document and its existence and terms may be disclosed by either party at any time, including but not limited to (i) disclosure necessary to allow a party's employees, representatives and consultants to perform their duties hereunder; (ii) disclosure required by law or by regulators, including in response to a subpoena or request made pursuant to the California Public Records Act; and (iii) disclosure in connection with litigation to enforce the terms of this Agreement.

(N) Governmental Law. This Agreement will be governed by the laws of the State of California without giving effect to principles of conflicts of law.

(O) Time. All references to a specific time in this Agreement shall refer to the local time in St. Helena, CA.

(P) Calculation of Time Periods. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designed period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. The last day of any period of time described herein shall be deemed to end at 5:00 p.m. St. Helena, CA time.

(Q) No Third Party. This Agreement is not intended to give or confer any benefits, claims, actions or remedies to any person or party beneficiary, decree or otherwise.

(R) Recording. In no event shall this Agreement or any memorandum of this Agreement be recorded. Any such recordation or attempted recordation shall constitute a breach of this Agreement by the party performing such recordation or attempted recordation.

(S) Time of the Essence. Time is of the essence in the performance of each and every term, condition and covenant contained in this Agreement.

(T) Construction. The Parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement and any exhibits or amendments thereto.

(U) Special District Disclosure Statement. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND EXCESSIVE TAX BURDENS TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE DEBT FINANCING REQUIREMENTS OF THE AUTHORIZED GENERAL OBLIGATION INDEBTEDNESS OF SUCH DISTRICT SERVICING SUCH INDEBTEDNESS, AND THE POTENTIAL FOR AN INCREASE IN SUCH MILL LEVIES.

(V) Dispute Over Deposit. Notwithstanding any termination of this Agreement, Buyer and Seller agree that, in the event of any controversy regarding the Deposit and things of value held by the Title Company, unless mutual written instructions are received by the holder of the Deposit and things of value, the Title Company shall not be required to take any action but may await any proceeding, or at the Title Company's option and sole discretion, may interplead all parties and deposit any moneys or things of value into a court of competent jurisdiction and shall recover court costs and reasonable attorney fees.

(W) No Brokers. Buyer and Seller each hereby represent and warrant to the other that it has not dealt with a real estate broker or agent relative to this Agreement, and each further represents and warrants to the other that it has employed no broker and/or finder in connection with this Agreement or the McCorkle Site. If any claim, demand or cause of action for brokerage and/or finder's fees is asserted against a party to this Agreement then the party, the Buyer or Seller as applicable, through whom the consultant, broker or finder is making the claim shall protect, indemnify, defend (with an attorney of indemnitee's choice) and hold harmless the other party from and against any and all such claims, demands and causes of action, including, without limitation, all claims of brokers, agents or finders, licensed or unlicensed, and all claims of real estate or other consultants which exist or may arise with respect to the McCorkle Site.

[SIGNATURES ON FOLLOWING PAGE]

BUYER:

Our Town St. Helena, a California nonprofit public benefit corporation

By: ______________________________
Name: ______________________________
Title: ______________________________

By: ______________________________
Name: ______________________________
Title: ______________________________

SELLER:

City of St. Helena, a California Municipality

By: ______________________________
Jennifer Phillips
City Manager

Approved as to form:

By: ______________________________
Thomas B. Brown
City Attorney

Attested by:

By: ______________________________
Cindy Black
City Clerk

TITLE COMPANY JOINDER

The undersigned joins in the execution of the foregoing Agreement for the sole purpose of agreeing to hold and disburse the Deposit in accordance with the provisions of the Agreement. The Title Company's consent shall not be required to amend any other provision or term of this Agreement.

TITLE COMPANY:

Insured Titles

By: ______________________________

Name: ______________________________

Title: ______________________________

EXHIBIT A

LEGAL DESCRIPTION OF THE LAND

KAL, S18, T28 N, R21 W, BLOCK 48, Lot 1, KAL LOTS 1,2,3,4,10

<u>EXHIBIT B</u>

TITLE COMPANY WIRING INSTRUCTIONS

EXHIBIT C

MATERIALS

1. Seller's most recent title policy for the Property;

2. Seller's most recent CLTA survey for the Property, if any;

3. Summary of any pending or threatened litigation pertaining to the Property;

4. Any property reports and studies, including any soils reports, engineering reports and flood maps;

5. Copies of all contracts currently in effect with the City of St. Helena pertaining to the Property;

6. Any other contracts pertaining to the Property, including but not limited to service and maintenance contracts and warranty contracts;

7. Environmental reports, including any Phase I and Phase II reports for the Project;

8. Any ACM asbestos testing reports for the Property and any operation and maintenance plans created for the Property as a result of the ACM testing;

9. List of any known current material violations of any State of Federal law applicable to the Property that remain uncured;

10. Copies of all certificates evidencing all insurance coverage maintained by Seller with respect to the Property, including but not limited to any flood insurance; and

11. Other information reasonably requested by Buyer to enable Buyer to complete the feasibility work, including but not limited to any other agreements, documents, plans, information or records in the possession of the Seller or any manager of the Property or otherwise available to Seller that affects the use or operation of the Property; such other documents will be provided by Seller as feasible, and Buyer agrees that if they are not provided in the first 15 days after the opening of Escrow, Seller will not be deemed to be in default.

EXHIBIT D

BUYER'S REQUIRED CONSENTS, APPROVALS AND AUTHORIZATIONS

[TO BE COMPLETED]

Item No: 15

Report to the City Council
Council Meeting of May 12, 2015

Agenda Section: **New Business**

Subject: **Discussion and Possible Direction to St Helena Representative to Upper Valley Waste Management Authority (UVWMA) Related to Proposal from Upper Valley Disposal and Clover Flat Landfill for Rate Increase and Franchise Term Extension**

CEQA Status: **Not a CEQA Project**

Prepared By: **Jennifer Philips, City Manager**

Approved By: **Jennifer Phillips, City Manager**

DISCUSSION

The City is a member of the Upper Valley Waste Management Authority (UVWMA) which was formed for the purpose of providing coordination of economical, regional waste management services, and meeting the requirements of the California Integrated Waste Management Act - namely to reduce the amount of "waste" currently being landfilled and instead keep valuable materials and resources within the economic cycle.

The current Franchise Agreement with Upper Valley Disposal was signed in September 25, 1995 and is set to expire in 2025. At the UVWMA Board meeting on April 20, 2015, a consultant presentation was provided by Edgar & Associates and commissioned by entitled, "Upper Valley Waste Management Authority Upper Valley Recycling Master Plan Clover Flat Resource Recovery Park Facility Updates for Climate Action Planning". A copy of this presentation is attached to this report as Attachment A.

The purpose of presentation to the UVWMA Board was to provide information to support a rate increase in both collection costs and landfill tipping fees along with a request for a franchise term extension of 10-20 years.

City staff has not had the opportunity to review and analyze the information provided in this presentation. A representative from Upper Valley Disposal and Clover Flat Landfill has requested to attend the Council meeting and provide information to the Council.

The purpose of this staff report is to provide the Council with this information and seek direction from Council for both staff and the City's voting representative on what information the Council would like to be provided in order to consider a rate increase, landfill tip fee increase and non-competitive long-term extension to the franchise agreement.

FISCAL IMPACT

Unknown

RECOMMENDED ACTION

Provide direction to both staff and the City's voting representative on what information the Council would like to be provided to consider a rate increase, landfill tipping fee increase and non-competitive long-term extension to the franchise agreement.

ATTACHMENTS

Upper Valley Waste Management Authority, Upper Valley Recycling Master Plan, Clover Flat Resource Recovery Park Facility Updates for Climate Action Planning

Upper Valley Waste Management Authority
Upper Valley Recycling Master Plan
Clover Flat Resource Recovery Park
Facility Updates for Climate Action Planning

1

UPPER VALLEY DISPOSAL RECYCLING

CLOVER FLAT RESOURCE RECOVERY PARK

By Edgar & Associates, Inc.
April 20, 2015

- UVDS Compost Facility Master Plan
- UVR Recycling Facility
- UVDS Fleet CARB Compliance Update
- Diesel or CNG Fueling Options
- GHG Inventory – Net Zero

- New SWFP – 15 year capacity (2021 to 2047)
- Phase 2 Development
- Gate Operations
- Biomass Conversion Facility
- Landfill Closure Cost Estimates
- Landfill Closure Trust Fund

UVDS Master Plan – CUP in 2015

3

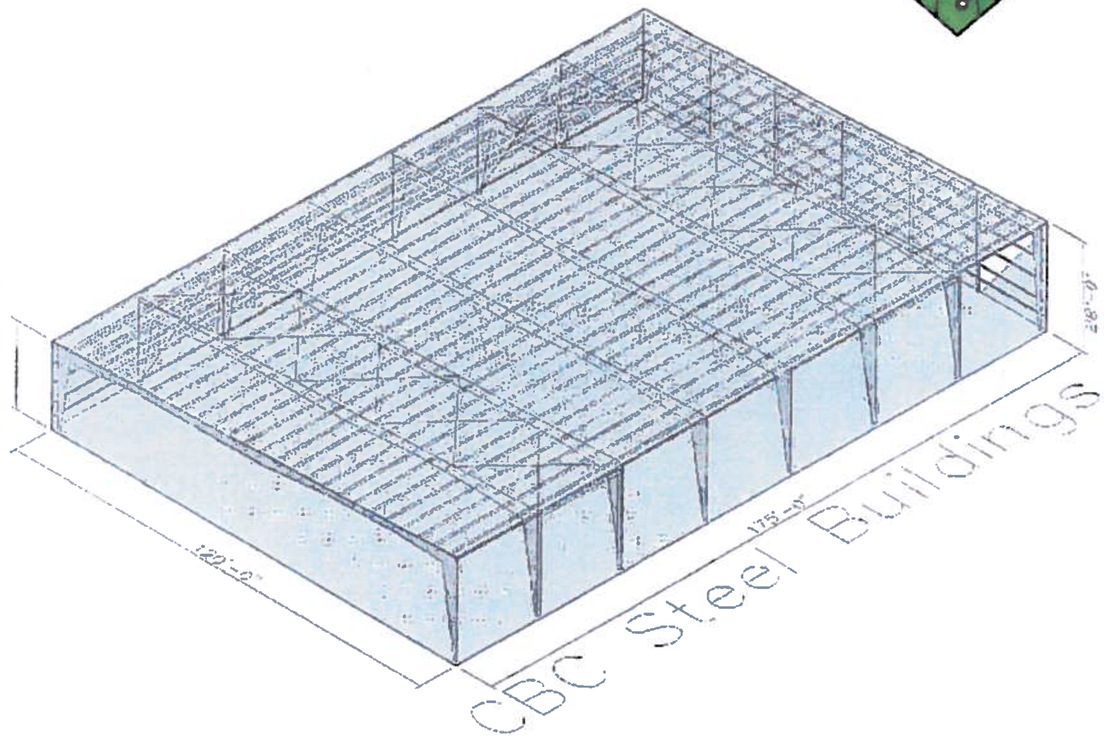
- UVDS Compost Facility
  - Add Food Waste/Green Waste as feedstocks
    - Mandatory Commercial Organics – AB 1826 (Chesbro, 2014) 2016-2018-2019
    - Residential Co-collected organics – add food waste to green waste (AB 32 - Climate Action Plans)
  - Comply with new Water Board compost regulations (to be adopted June 2015) to line pond and certify pad
  - Comply with new Stormwater Pollution Prevention Plan (effective July 1, 2015)
  - Add Organics Blending Barn to process and mix food waste
- UVDS Recycling MRF Facility
  - Add more dry commercial mixed recyclables – mandatory commercial collection (AB 341, 2011) after food waste in removed
  - Obtain a Full Solid Waste Facility Permit
  - Add 0.5 MW solar to roof-top

4

Upper Valley Disposal

- Add "Organics Blending Barn"
- Blend commercial food waste with wood chips and compost
- Receive co-collected residential organics for blending
- 120' x 175' semi-enclosed building
- CEQA mitigation for stormwater mitigation, noise, odors, dust
- CalRecycle Grant

Food Waste
Organics Blending Barn



UVDS Fleet and Fueling Station Option

5

- Fleet Transition underway for required CARB compliance
  - CARB Heavy-Duty Vehicle Rule – Criteria Pollutants
  - Older trucks with older technology will fail and need replacement
  - Held off and deferred for years – warranties expiring
    - 21 UVDS Fleet from 2015 to 2022
    - 2 in 2015, 3 per year from 2016 to 2021
- Fleet/Fuel Options – Diesel or CNG
  - $4,715,000 estimate Fleet Replacement - Diesel
  - $5,605,000 estimate Fleet Replacement – CNG option ($42,000 more per truck)
- CNG Fueling Station Option at UVDS – bring in PG&E pipeline gas
  - $1,000,000 for CNG fueling station
- CNG is 23% less greenhouse gases than diesel
  - CNG – cheaper fuel cost, less noise, CARB compliant
  - Possible CNG Fleet using Renewable CNG from landfill gas is 80% less carbon
  - Possible CNG using Renewable CNG from waste water treatment plants is 70% less carbon

UVDS Sustainability Initiatives

- Climate Action Plans themes (renewable energy, alternate fuels and fleets, zero waste, compost use)
- AB 32 Scoping Plan (2008, 2014 First Update)
  - Methane Mitigation Plan – Organics out of landfills
  - Net Zero by 2030 (UVDS/CFL is Net Zero Now)
- AB 32 – 2030 Mid-Terms Goals – proposed Legislation
  - SB 350 - 50% renewable energy by 2030, 50% less petroleum by 2030
- 2.3 MW of renewable power including CFL (Marin Clean Energy)

GHG Analysis for CUP/CEQA

- GHG Inventory – 2006 Base Year established
  - UVDS Fleet, UVR Processing, CFL Disposal
- GHG Analysis for CUP/CEQA - Implement Climate Action Plans
- GHG Inventory – 2014 Calendar Year and 2020 Projections underway

- CUP Application to be submitted Summer 2015
- Revised SWFP in 2016 – update ever 5 years
- UVDS Make-Over to accommodate change in laws

Clover Flat Resource Recovery Park

8

CUP – SWFP completed | **2009 to 2014 process**

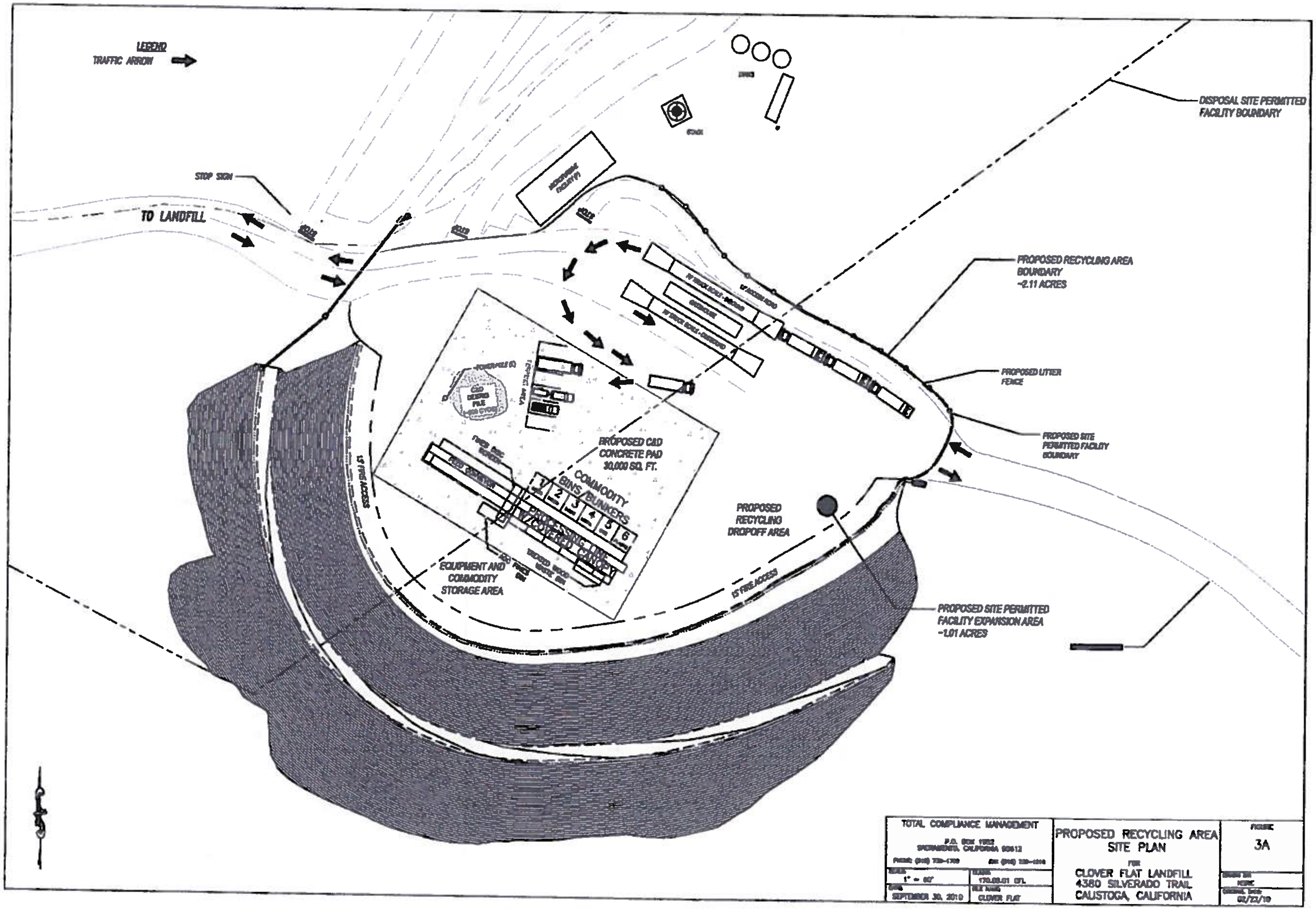
- New SWFP – 15 year capacity (2021 to 2047)
- Phase 2 Development
- Gate Operations
- Biomass Conversion Facility
- Landfill Closure Cost Estimates
- Landfill Closure Trust Fund

Approved Key Phase 2 Elements:

- SWFP Closure date of the Landfill from 2021 to 2047 (15-year capacity requirement) – less tons with more mandated recycling.
- Expand the entrance facilities and the Recycling Center from 1.1 acres to 2.1 acres
- Move and expand C&D Processing Line
- Permitted in-vessel food waste composting and food waste transfer and processing operations.
- Increase the storage of recyclable materials Add a 0.8 MW landfill gas to energy plant
- Add a 1.0 MW biomass conversion facility that uses clean processed wood waste in a gasification unit.

Expand Gate Recycling Operations

- Move the existing canopied recycling processing line from the landfill deck on intermediate cover to the expanded Recycling Center with 90,000 square feet of pavement – add more recycling types
- Add more recycling capacity to gate area including EPR for paint, carpet and mattresses
- Cut 70,000 CYD with drainage and vegetative plan
- Gate house, scale, lighting, litter fence, septic facilities, and power
- Preliminary Cost Estimate: $1.4 million (shared costs over 10 years
- Construction date: 2016 - 2017



LEGEND
TRAFFIC ARROW
STOP SIGN
TO LANDFILL
DISPOSAL SITE PERMITTED FACILITY BOUNDARY
PROPOSED RECYCLING AREA BOUNDARY ~2.11 ACRES
PROPOSED LITTER FENCE
PROPOSED SITE PERMITTED FACILITY BOUNDARY
PROPOSED C&D CONCRETE PAD 30,000 SQ. FT.
COMMODITY BINS/BUNKERS
1 2 3 4 5 6
PROPOSED RECYCLING DROPOFF AREA
EQUIPMENT AND COMMODITY STORAGE AREA
PROPOSED SITE PERMITTED FACILITY EXPANSION AREA ~1.01 ACRES
13' FIRE ACCESS
13' FIRE ACCESS
TOTAL COMPLIANCE MANAGEMENT
SEPTEMBER 30, 2010
CLOVER FLAT
PROPOSED RECYCLING AREA SITE PLAN
CLOVER FLAT LANDFILL
4380 SILVERADO TRAIL
CALISTOGA, CALIFORNIA
3A

Renewable Energy Facilities

- Add a clean wood waste Biomass Conversion Facility 40 TPD – 1 MW for on-site use and off-site sales
- Implements Climate Action Plans
- Community Choice (Marin Clean Energy
- SB 498 – confirmed as renewable and diversion
- Obtain necessary BAAQMD Permits to Operate
- Preliminary Cost Estimate: $5.5 million – private funding
- SB 1122 Incentives as distributed energy
- Possible construction date: 2016-2017

Landfill Closure Cost Estimate

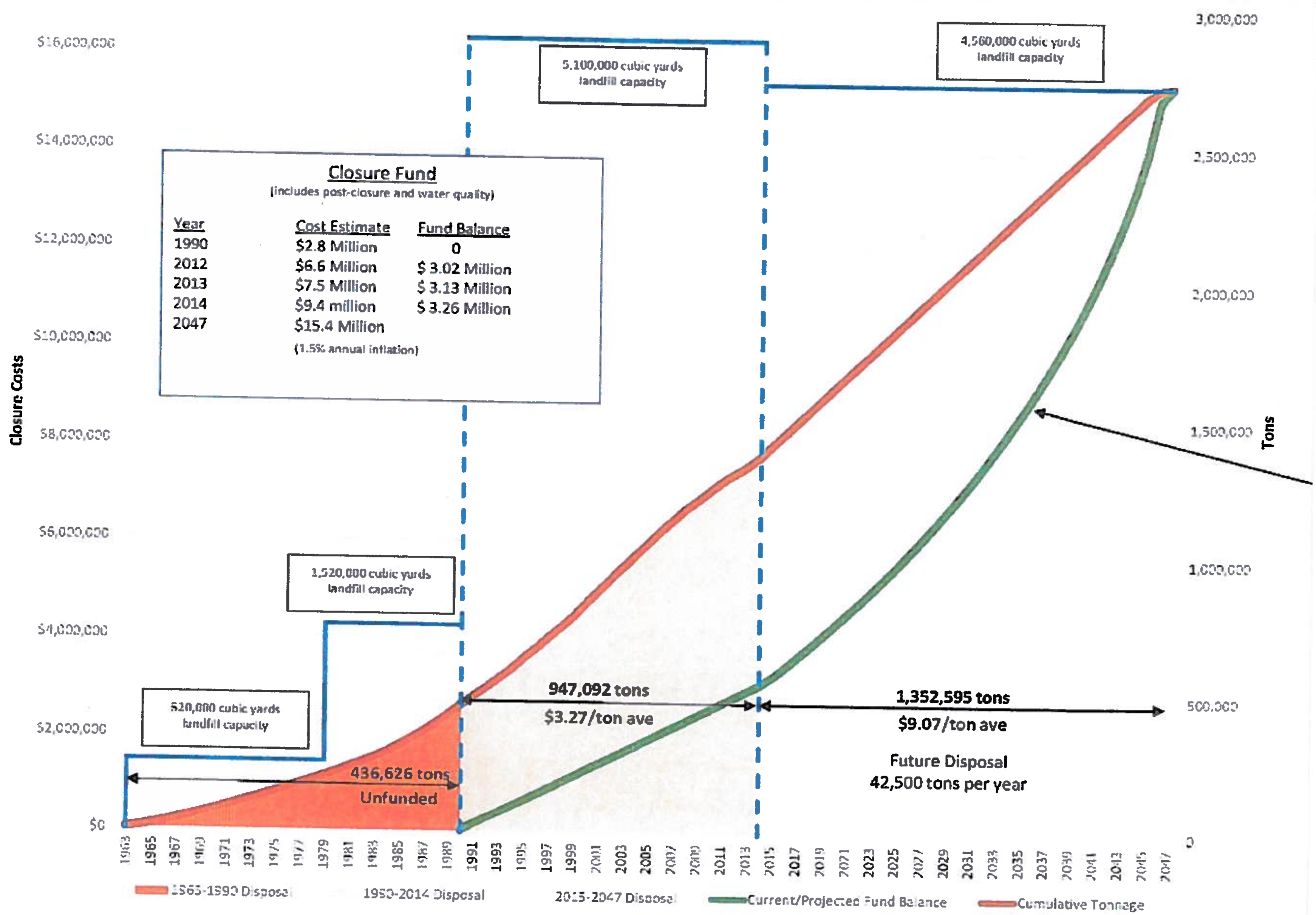
13

- Closure Costs increase - $9,423,777 (2014 estimate – approved by CalRecycle)
  - $5,281,402 closure cost – clay and HDPE plastic cap
  - $3,973,557 post-closure maintenance for over 30 years plus
  - $ 168,815 corrective action – water quality
- Up from $7.5 million (2013) new regulations and $6.6 million (2012)
- Change of law - CalRecycle Title 27 regulations
  - Long-Term Postclosure Maintenance and Corrective Action Cost Estimates and Financial Assurance Demonstrations for Landfills
  - The Office of Administrative Law approved the regulations on April 9, 2010, and they became effective on July 1, 2010. Triggered with the SWFP Revision started with 2012 CUP Modification and approved in 2014 SWFP Revision.
  - Proposed regulations on closure, postclosure maintenance, and corrective action plan cost estimates and related financial assurance demonstrations.
  - Regulations required prevailing wage and CALTRANS force-account rates for closure costs
  - California Code of Regulations, Title 27, Division 2, Subdivision 1:
  - Chapter 4, Subchapter 4 - Chapter 6, Subchapter 3, Article 1 and Article 2

Landfill Closure Trust Fund

- Closure Date from 2021 to 2047 with and less disposal tons – 50,000 to 40,000 TPY – with mandatory commercial recycling, AB 32, and more efficient
- Current Trust Fund Amount - $3,260,588 (Dec. 2014)
  - Trustee for UVWMA – Distributed with CalRecycle approval for Closure
- Funds to be collected - $6,163,189
- Remaining Capacity – 2,430,600 cubic yards
  - Refer to graphics on next page
  - 1,352,595 tons – 42,500 tons per year planned average–
  - 1.5% inflation – $9.0/ton average from 2015 to 2047
  - Diminishing capacity CalRecycle funding formula
  - Annual capacity filled/remaining capacity **x** remaining cost estimate to be funded
  - 2015 - 35,000 tons/1,352,595 tons x $6,163,189 = $160,000 - $4.57/ton

Clover Flat Landfill Closure Costs



CFL & UVDS
Planning for a Sustainable Future

16

CLOVER FLAT RESOURCE PARK RECOVERY

UPPER VALLEY DISPOSAL RECYCLING

Inventory – Fully Integrated

- 30+ years of Landfill Remaining Capacity
- C&D Recycling
- Residential and Commercial Recycling
- Food and Greenwaste Composting
- Renewable Power Plant

CLOVER FLAT RESOURCE RECOVERY PARK

UPPER VALLEY DISPOSAL RECYCLING

Sustainability - The Drivers

- Environmental Regulation Drivers
- Change in Waste Volumes and Types
- Economic Growth Impacts

CLOVER FLAT
RESOURCE PARK RECOVERY

UPPER VALLEY
DISPOSAL RECYCLING

Sustainability – It Pays for Itself

19

- Lowest Cost Option
- Best Environmental Option
- Best Economic Growth Option

CLOVER FLAT RESOURCE RECOVERY PARK

UPPER VALLEY DISPOSAL RECYCLING

Agreements – Perfect Timing

- CFL & UVDS – 10 years remaining
- Both have options to extend
- Right time to exercise those options
  - Regulations
  - Low cost of money
- What's needed?
  - Time to depreciate improvements
  - Commitment of volume

CLOVER FLAT RESOURCE RECOVERY PARK

UPPER VALLEY DISPOSAL RECYCLING

Sustainability Goals

21

- Decrease Traffic
- Decrease Green House Gas Emissions
- Increase Diversion
- Increase Renewable Energy
- Minimize Rate Impacts

Clover Flat Options

22

- **Option A**
  - Current Agreement
  - No Sustainability Upgrades
- **Option B**
  - Extend Agreement 10 years
  - Sustainability Upgrades
- **Option C**
  - Extend Agreement 20 years
  - Sustainability Upgrades

Landfill Agreement Term Extension

"The AGREEMENT can be thereafter be renewed for succeeding **(10) year terms** provided that the permitted life of the LANDFILL has been extended for at least **ten additional years** thirty-six (36) months before the termination date of this AGREEMENT and **written notice** of intent to renew is given by AGENCY to CONTRACTOR…"

Sustainability Upgrades

- Electric Grinder (Renewable Power) - $700k
  - 100% CFL
- Biogasification (1MW Renewable Power) - $5.5M
  - 100% CFL
- Front Entrance Improvements - $1.4M
  - 50% UVDS
  - 50% CFL

CLOVER FLAT RESOURCE PARK RECOVERY

Closure / Post Closure Trust Fund

- Prevailing Wage / Caltrans Force Account
- Landfill life <u>greater than</u> Agreement

CLOVER FLAT RESOURCE RECOVERY PARK

Prevailing Wage/Caltrans

26

- Previous Estimate = $7.5M
- New Estimate = $9.4M
- **Net Increase = $1.9M**

Prevailing Wage/Caltrans

27

- Option A = $190k/yr = $4.42 / ton
- Option B = $95k/yr = $2.21 / ton
- Option C = $63k/yr = 1.47 / ton

Note: Based on 43,000 tons per year

Landfill Life Greater Than Agreement

28

- Start of Agreement (2007)
- Where we are now? (2015)
- Challenges
- Solutions
- What to do now?

CLOVER FLAT RESOURCE PARK RECOVERY

Agreement

- Closure/Post Closure responsibility of Contractor
- Deposits into Trust Fund per regulations
- Agency's money in Trust Fund
- **Landfill life <u>less than</u> Agreement**

Trust Fund

"CONTRACTOR shall be responsible for all **closure and thirty years of post-closure costs** relating to the LANDFILL. CONTRACTOR shall establish and maintain at its sole expense any closure and post-closure trust fund now and hereafter required under any **applicable federal, or state law or regulation**."

"In the event a 'trust fund'…is created and **funds are collected from the rate payers** for closure and post-closure costs, CONTRACTOR shall collect such funds and **hold as trustee for AGENCY** and shall not own such funds…"

Where are we now?

- **Landfill life <u>greater than</u> Agreement**
- Increased diversion
- Increased density

CLOVER FLAT
RESOURCE PARK RECOVERY

Challenges

32

- Landfill needs Agency volume to be economically viable

- Closure/Post Closure Trust Fund will be underfunded at end of Agreement

CLOVER FLAT RESOURCE RECOVERY PARK

Trust Fund Balance

- Current Fund Balance = $3.3M
- Closure Cost = $9.4M
- **Balance = $6.1M**
- Regulatory Increase = $1.9M
- Remaining Balance = $4.2M

Trust Fund

- Option A = $420k/yr = $9.77 / ton
- Option B = $210/yr = $4.88 / ton
- Option C = $140/yr = **3.26 / ton**

Note: Based on 43,000 tons per year

Summary

35

- Option A = $14.18/ton ($0.90/mo residential)
- Option B = $7.09/ton ($0.45/mo residential)
- Option C = $4.73/ton ($0.30/mo residential)

CLOVER FLAT RESOURCE RECOVERY PARK

Solutions

36

- Increase annual Closure/Post Closure Trust Fund deposit greater than mandated in Agreement
- Extend Agreement

What to do now?

- May 1 rate review submittal will include rate increase request to cover Closure/Post Closure Trust Fund regulatory increase and short fall (Option A).

- **Request:** Have Agency and Contractor staff explore options and bring back to the Board on May 18 for consideration.

CLOVER FLAT RESOURCE PARK RECOVERY

UVDS Options

- Option A
  - Current Agreement
  - No Sustainability Upgrades
- Option B
  - Extend Agreement 10 years
  - Sustainability Upgrades
- Option C
  - Extend Agreement 20 years
  - Sustainability Upgrades

UPPER VALLEY DISPOSAL RECYCLING

Collection Agreement Term Extension

"The AGREEMENT shall thereafter be renewed **automatically** for succeeding **ten (10) year terms** ...unless written notice of intent not to renew is given by AGENCY to Contactor...

Sustainability Upgrades

- Facility
- Collection Trucks

Upper Valley Disposal Recycling

Facility Upgrades

- MRF Roof = $300k
  - Allocation 100% UVDS
- Solar = $800k
  - Allocation 100% Contractor (Option B & C)
- Organics Mixing Barn = $500k (Regulatory Driven)
  - Allocation 100% UVDS
- Retention Pond = $400k (Regulatory Driven)
  - Allocation 50% UVDS
- Total UVDS = $1M

Facility Depreciation

- Option A = $100k / year
- Option B = $50k / year
- Option C = $50k / year

Collection Truck Upgrades

- Collection Fleet
- Replacement Criteria
- Cost

Collection Fleet

- 7 Side Loaders
- 4 Front Loaders
- 2 Food Waste Trucks
- 2 Forks Trucks
- 6 Roll Off Trucks
- Total Trucks = 21

UPPER VALLEY DISPOSAL RECYCLING

Collection Truck Replacement Criteria

1. **FRONT LINE** - Truck is front line piece of equipment (used at least once per week)

2. **AGE** - Truck is at least 10 years old

3. **CARB** - Truck is required to be replaced due to CARB regulations and or 3rd party exhaust retrofit 5 years warranty has expired.

Collection Truck Replacement Cost

- 2 Side Loaders @ $350k each = $700k
- 2 Front Loaders @ $350k each = $700k
- 1 Fork Truck @ $150k = $150k
- 2 Roll Off Trucks @ $150k each = $300k
- **Total = 7 Trucks @ Cost = $1.85M**

Collection Truck Depreciation

- Total Cost = $1.85M
- Depreciation Duration = 5 years
- **Annual Depreciation = $370,000 per year**

UPPER VALLEY DISPOSAL RECYCLING

CNG Sustainability Option

- CNG Fueling Station = $1M
- CNG Truck Incremental Cost: 21 Trucks @ $40k/truck = $840k
- **Annual Depreciation = $134k/year**

CNG Savings

49

- Fuel Consumption = 100,000 gallons/year
- Diesel Price = $2.70/gallon
- CNG Price = $1.20/gallon
- Fuel Savings = $150,000/year

UPPER VALLEY DISPOSAL RECYCLING

Summary

- Option A = $470k/year (1.07/mo residential)
- Option B = $420k/year (0.95/mo residential)
- Option C = $420/year (0.95/mo residential)
- No rate impact this year

What to do now?

51

- May 1 rate review submittal will include **no** sustainability options (Option A).
- **Request:** Have Agency and Contractor staff explore options and bring back to the Board on May 18 for consideration.

Sustainability Summary

- Biogasification – 1MW of renewable power
- Solar – 0.5MW of renewable power
- CNG Trucks – 23% reduction in GHG emissions
- **No Rate Impact**

CLOVER FLAT RESOURCE PARK RECOVERY

UPPER VALLEY DISPOSAL RECYCLING

Options

- Option A
  - Current Agreement
  - No Sustainability Upgrades
- Option B
  - Extend Agreement 10 years
  - Sustainability Upgrades
- Option C
  - Extend Agreement 20 years
  - Sustainability Upgrades

THIS PAGE IS

INTENTIONALLY

BLANK