



AMENDED 7/20/18
City of St. Helena
Regular City Council Meeting
Tuesday, July 24, 2018 @ 6:00 PM
Vintage Hall Board Room - Second Floor
465 Main Street, St. Helena

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

Page

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
Mayor: Alan Galbraith, Vice Mayor: Peter White, City Council: Paul Dohring, Geoff Ellsworth and Mary Koberstein
4. 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 4 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.
5. 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.
6. PRESENTATIONS AND PUBLIC RECOGNITIONS
 - 6.1. Proclamation | Community Statement on Immigration 9
[Proclamation](#)
 - 6.2. Proclamation In Honor and Recognition of Outstanding Action by Saint Helena Police Officer Steph Lupien 11
[Proclamation](#)
7. STAFF BRIEFING
 - 7.1. Staff Briefing on 2017 Wastewater Treatment and Reclamation Plant Discharge Fines 13 - 24

CEQA Determination: Not a CEQA project
Prepared By: Felix Hernandez III, Utilities Operations Manager

Recommendation:
Information Only.

[Staff Report - Pdf](#)

8. 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)

- 8.1. Consideration and proposed approval of a resolution authorizing the St. Helena High School annual homecoming parade on Main Street and authorizing City staff to assist with traffic control before, during, and after the parade. 25 - 32

CEQA Determination: Categorically Exempt, Section 15323

Prepared By: Chrissy Cook, Administrative Assistant

Recommendation:

Staff recommends the City Council adopt the resolution authorizing the St. Helena High School annual homecoming parade on Main Street authorizing City staff to assist with traffic control before, during, and after the parade.

[Staff Report - Pdf](#)

- 8.2. Consideration and approval of a resolution approving contract amendment No. 2 for Professional Services Agreement for FY 2018/19 with Mark Walsh, CPA in the amount of \$15,000 for finance related projects for a total amended contract not to exceed \$40,000. 33 - 38

CEQA Determination: Not a CEQA project

Prepared By: April Mitts, Finance Director

Recommendation:

Staff recommends City Council approve a resolution authorizing Amendment No. 2 in the amount of \$15,000 to the Agreement for Consultant Services with Mark Walsh.

[Staff Report - Pdf](#)

- 8.3. Consideration and proposed approval of a resolution approving the purchase of three self-check machines from mk Solutions for the St. Helena Library in the amount of \$20,940 and approve the ongoing maintenance and licensing agreement starting in FY 2019/20 in the amount of \$2,589 and increasing by 2.5% each year until termination of the agreement. 39 - 55

CEQA Determination: Not a CEQA project

Prepared By: Chris Kreiden, Library Director

Recommendation:

Staff recommends City Council approve the resolution authorizing the purchase of three self-check machines from mk Solutions in the amount of \$20,940 and approve the ongoing maintenance and licensing agreement starting in FY 2019/20 in the amount of

\$2,589 and increasing by 2.5% each year until termination of the agreement.

[Staff Report - Pdf](#)

- 8.4. Consideration and proposed approval of a resolution accepting bids and awarding contracts to the lowest responsible bidders for furnishing chemicals for water and wastewater treatment for Fiscal Year 2018/2019 and authorizing the City Manager to execute the necessary agreements or purchase orders on behalf of the City. 57 - 64

CEQA Determination: Not a CEQA project

Prepared By: Felix Hernandez III, Utilities Operations Manager

Recommendation:

Adopt a resolution accepting and awarding bids to the lowest responsible bidders for furnishing chemicals for the City of St. Helena water and wastewater treatment plants for Fiscal Year 2018/2019 and authorizing the City Manager to execute the necessary agreements or purchase orders on behalf of the City.

[Staff Report - Pdf](#)

- 8.5. Consideration and proposed approval of a resolution authorizing the City Manager to enter into a three-year Memorandum of Understanding, (MOU) between the City of St. Helena and the Culinary Institute of America (CIA) at Greystone in accordance with the Clery Act, to continue to provide coordinated Law Enforcement services to the properties owned and leased by the Institute. 65 - 72

CEQA Determination: Not a CEQA project

Prepared By: William Imboden, Chief of Police

Recommendation:

Staff recommends approval of a resolution authorizing the City Manager to enter into a three-year Memorandum of Understanding, (MOU) between the City of St. Helena and the Culinary Institute of America (CIA) at Greystone in accordance with the Clery Act, to continue to provide coordinated Law Enforcement services to the properties owned and leased by the Institute.

[Staff Report - Pdf](#)

- 8.6. Consideration and proposed approval of a resolution approving a contract with Dash Data, Inc for document imaging and quality control services for a total not to exceed in the amount of \$70,000 73 - 144

CEQA Determination: Not a CEQA project

Prepared By: Cindy Tzafopoulos, City Clerk

Recommendation:

Staff recommends City Council approve the resolution authorizing the contract with Dash Data, Inc.

[Staff Report - Pdf](#)

- 8.7. Consideration and proposed approval of Special Meeting Minutes of June 26, 2018 and Regular Meeting Minutes of June 26, 2018. (Minutes will be provided prior to the meeting) Provided 7/20/18 145 - 164

[Special City Council - 26 Jun 2018 - Minutes](#)

- 8.8. **ITEM 8.8 IS REMOVED AND WILL NOT BE HEARD** 165 - 212
7/17/18 Corrected Parcel Number
Council review of the Planning Commission's approval of Tentative Parcel Map and Design Review applications to allow the subdivision of an existing 14.75 acre parcel currently developed with one single family home, into two new parcels, 14.25 and 0.05 acres respectively, located at 2525 Madrona Avenue (APN 009-450-007) in the Agricultural Zoning District. No development on the newly created 0.5 acre parcel was approved with this action and the Planning Commission found that the project is exempt from the requirements of CEQA under a Class 32 Categorical Exemption. (File No. PL17-066)
- CEQA Determination: Exempt from CEQA pursuant to Section 15332, which exempts projects characterized as in-fill development when the project is consistent with the general plan and zoning; occurs within city limits on less than five acres; has no valuable habitat; won't cause any significant environmental effects; and can be served by existing public services
Prepared By: Noah Housh, Planning & Community Improvement Director
Recommendation:
It is recommended that the City Council receive the provided report on the Commission's approval, and decide if they wish to review the project at a formally noticed public hearing.
[Staff Report - Pdf](#)
- 8.9. Consideration and proposed approval of a Resolution Setting a Hearing to Approve the Annexation of Territory into the St Helena Municipal Sewer District No. 1 MSD ANNEXATION NO. 134,1025 and 1045 Pratt Avenue, St Helena, CA. 94574 (APN's) 009-142-023-000 and 009-142-024-000. 213 - 219
- CEQA Determination: Exempt from the requirements of CEQA under the "General Rule", Section 15061 (b)(3), in that it can be seen with certainty that the proposed action will have no impact on the environment.
Prepared By: Chrissy Cook, Administrative Assistant
Recommendation:
Staff recommends the City Council adopt a Resolution Setting a Hearing to Approve the Annexation of Territory into the St Helena Municipal Sewer District No. 1 MSD ANNEXATION NO. 134, 1025 and 1045 Pratt Avenue, St Helena, CA. 94574 (APN's) 009-142-023-000 and 009-142-024-000.
[Staff Report - Pdf](#)
- 8.10. Second Reading and Proposed Adoption of an Ordinance Amending Chapter 9.06, Title 9, Public Peace And Welfare, of the St. Helena Municipal Code, which Prohibits Smoking Inside All Public Buildings, Within 20 Feet Of Public Buildings, at All Sports Facilities and Sports Spectator Areas in City Parks, to include the use of Electronic Smoking Devices and Electronic Cigarettes to 221 - 238

the City's Smoking Regulations

CEQA Determination: Not a CEQA project

Prepared By: Andre Pichly, Recreation Director

Recommendation:

Staff recommends the City Council conduct the second reading and adopt the ordinance, by title only and waive further reading.

[Staff Report - Pdf](#)

9. PUBLIC HEARINGS

9.1. None

10. NEW BUSINESS

10.1. Review and Discussion of Conceptual Mobile Home Rent Stabilization Ordinance 239 - 343

CEQA Determination: Not a CEQA project

Prepared By: Mark T. Prestwich, City Manager

Recommendation:

Review, discuss and provide direction to the City Manager.

[Staff Report - Pdf](#)

[Public Comment.Pat Dell and Grace Kistner](#)

[Public Comment.Anita Peters](#)

[Public Comment.Mariam Hansen](#)

[Public Comment.Lupe Bengel](#)

[Public Comment.Marvin Braun](#)

[Public Comment - Nora O'Neill](#)

[Public Comment - Christine Talley](#)

[Public Comment-Additional.Nora O'Neill](#)

[Public Comment - Tom and Leanne Corkill](#)

[Public Comment - Patricia Rardin](#)

[Public Comment - Thomas Pickering](#)

[Public Comment.James Wayson](#)

[Public Comment.Keith Eaton](#)

[Public Comment.Michael Merriman](#)

[Public Comment.Cathy Small](#)

[Public Comment.Steven Kinney](#)

[Public Comment.Maureen O'Neill](#)

[Public Comment.Polly Keegan](#)

[Public Comment.Stephanie and Ron Burns](#)

[Public Comment.Cheryl Rorie](#)

[Public Comment.Nura Laird](#)

[Public Comment.Thelma Stratton](#)

[Public Comment - Robert Distad](#)

[9.21.18 RSO Correspondence](#)

[Rent Stabilization Q&A's](#)

10.2. UPDATED ITEM 7/20/18

345 - 394

Transmittal of Downtown St. Helena Market Analysis and Identification of Next Steps (Attachments will be provided prior to the meeting)

CEQA Determination: Not a CEQA project
Prepared By: Mark T. Prestwich, City Manager
Recommendation:
Review, discuss recommendations and provide direction to the City Manager on next steps.

[Staff Report - Pdf](#)
[St Helena Retail Exec Summary](#)
[St. Helena Retail Market Presentation](#)

- 10.3. Consideration of Resolution Approving City Council Ballot Argument In Support Of Measure E Proposing an Increase to the Transient Occupancy Tax (TOT) at the General Municipal Election to be held on Tuesday, November 6, 2018 395 - 398

CEQA Determination: Not a CEQA project
Prepared By: Mark T. Prestwich, City Manager
Recommendation:
Consider and provide direction on the draft City Council ballot argument, and either approve some revised version of the draft presented with this report or, alternatively, designate two Council members with direction to make specific revisions to the City Council ballot argument for Council members to sign.

[Staff Report - Pdf](#)

- 10.4. Consideration to designate one member of the St. Helena City Council as the 2018 League of California Cities Annual Conference voting delegate and designate two alternate voting delegates 399 - 404

CEQA Determination: Not a CEQA project
Prepared By: Cindy Tzafopoulos, City Clerk
Recommendation:
Confirm a voting delegate and two alternate voting delegates for the 2018 League of California Cities Annual Conference.

[Staff Report - Pdf](#)

- 10.5. Consideration and proposed approval of a resolution adopting a Labor Compliance Program for Proposition 84 Grant Funded Public Works Projects 405 - 484

CEQA Determination: Not a CEQA project
Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer
Recommendation:
Approve the resolution adopting a Labor Compliance Program for Proposition 84 Grant Funded Public Works Projects.

[Staff Report - Pdf](#)

11. ITEMS LIKELY TO BE PLACED ON THE NEXT OR FUTURE MEETING AGENDA:

- 11.1. **August City Council Meetings:**

8/14 Special Joint CC/PC General Plan Study Session 3pm 8/14 (staff reports due 7/27) 8/28 (staff reports due 8/10)
CONSENT:
8/14 1025 & 1045 Pratt Ave Sewer Annexation - PW
8/28 Delegate claims processing authority to REMIF - HR
8/14 Award of Contract for master utility plan - PW
8/14 Water Storage Tanks and Pump Station Upgrades - Award of Contract – PW
8/14 Adopt Labor Compliance Report - PW
8/14 Amended Coop Agreement with Caltrans for Grayson Signal for electricity(Caltrans to attend)
Jingle All the Way St. Helena Staff Update
PH or NEW BUSINESS:
8/14 Raw Water Use Charges - PW
8/14 (PH) 1025 & 1045 Pratt Ave Sewer Annexation - PW
8/14 Design Review Ordinance - Planning
8/14 Concept Review Ordinance - Planning
8/14 Class & Comp Update - HR
8/28 Bimonthly Goals and Objectives Update - Admin
8/14 Qtrly Finance Report - Fin
8/14 Grant Report – Fin
<u>September City Council Meetings:</u>
9/11 (staff reports due 8/24)
9/25 (staff reports due 9/7)
CONSENT:
St. Helena Resolution for Affordable Housing Bond (SB3) - Mayor

12. ADJOURNMENT

The next Regular City Council meeting is scheduled for August 14, 2018, 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 July 13, 2018.

Cindy Tzaferopoulos, City Clerk

In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call the City Clerk's Office (707) 967-2792. Notification 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act will enable the City to make reasonable arrangements to ensure accessibility to this meeting

CHALLENGING DECISIONS OF CITY ENTITIES

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

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

SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA

Any supplemental writings or documents distributed to a majority of the 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 <https://sthelena.civicweb.net> and will be available for public review at the respective meeting.

City of St. Helena

PROCLAMATION

COMMUNITY STATEMENT ON IMMIGRATION

WHEREAS, the City of St. Helena, as well as our law enforcement agencies, and business, non-profit, and faith communities, recognize the long and rich history of immigrants who have contributed to our City; that immigrants have supported our City's success in agriculture, tourism, education, business, healthcare, and other professions; and

WHEREAS, the building of a welcoming community is fundamental to a vibrant and inclusive City of St. Helena. We want to assure immigrants, refugees, and other newcomers opportunities for family unity, empowerment, civic engagement, safety, freedom from discrimination, oppression and violence; and

WHEREAS, it is important for our leadership to make a statement that families belong together and that the practice of separating children from their parents is cruel, traumatizing and does not represent the values that this country was founded upon; and

WHEREAS, we recognize that families seeking refuge in the US already endure emotional and physical stress, and separating children from their parents only exacerbates this stress; and

WHEREAS, these children are experiencing Adverse Childhood Experiences which research shows will put them at a higher risk for substance abuse, mental health and heart disease as adults; and

WHEREAS, we call on the federal government to immediately reunite separated children with their parents or relatives to reduce the harm done and buffer against the trauma and shock that has been inflicted; and

WHEREAS, humane conditions must be a top priority as our nation addresses the challenges of migration, and we recognize that the incarceration of children together with their parents is not a real solution and also does harm to a child's welfare and well-being; and

NOW, THEREFORE, BE IT PROCLAIMED, that we aspire to be a community that supports family health and well-being and that will be a model for inclusion and respect for all populations, including immigrants, refugees, and other newcomers, and to demonstrate values of unity and acceptance.

Dated this 24th Day of July, 2018

Alan Galbraith, Mayor
City of St. Helena

City of St. Helena
PROCLAMATION
COMMUNITY STATEMENT ON IMMIGRATION

WHEREAS the City of St. Helena, as well as our law enforcement agencies and business, nonprofit, and faith communities recognize the long and rich history of immigrants who have contributed to our City; that immigrants have supported our City's success in agriculture, tourism, education, business, healthcare, and other professions; and

WHEREAS the building of a welcoming community is fundamental to a vibrant and inclusive City of St. Helena and that we want to assure immigrants, refugees, and other newcomers opportunities for family unity, empowerment, civic engagement, safety, and freedom from discrimination, oppression, and violence; and

WHEREAS it is important for our leadership to make a statement that families belong together and that the practice of separating children from their parents is cruel and traumatizing, and does not represent the values that this country was founded upon; and

WHEREAS we recognize that families seeking refuge in the United States already endure emotional and physical stress, and separating children from their parents only exacerbates this stress; and

WHEREAS these children are experiencing Adverse Childhood Experiences, which research shows will put them at a higher risk for substance abuse, mental health, and heart disease as adults; and

WHEREAS we call on the federal government to immediately reunite separated children with their parents or relatives to reduce the harm done and to buffer against the trauma and shock that has been inflicted; and

WHEREAS humane conditions must be a top priority as our nation addresses the challenges of migration, and we recognize that the incarceration of children together with their parents is not a real solution and also does harm to a child's welfare and well-being; and

WHEREAS a relationship of trust among California's immigrant families and our local organizations, including law enforcement and schools, is essential to the effective execution of basic local functions, as well as the health and well-being of children who are vital to our City's future,

NOW, THEREFORE, BE IT PROCLAIMED that we aspire to be a community that supports family health and well-being; that will be a model for inclusion and respect for all populations, including immigrants, refugees, and other newcomers; and that demonstrate the values of unity and acceptance.

Dated this 24th Day of July, 2018

Alan Galbraith, Mayor
City of St. Helena



Report to the City Council
Council Meeting of July 24, 2018

Agenda Section: Staff Briefing

Subject: Staff Briefing on 2017 Wastewater Treatment and Reclamation Plant Discharge Fines

CEQA Determination: **Not a CEQA project**

Prepared By: Felix Hernandez III, Utilities Operations Manager

Reviewed By: Erica Ahmann Smithies, Public Works Director and City Engineer

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On July 12, 2018, the City received a letter from the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) notifying the City of alleged violations of discharge limitations and outlined a Conditional Offer to Settle Violations of NPDES Permit CA0038013. The letter provides the City the opportunity to settle the violations through payment of \$21,000 in mandatory minimum penalties pursuant to Water Code sections 13385 and 13385.1.

During the 2016/2017 fiscal year, the City received a near record year of rainfall and the City's Wastewater Treatment and Reclamation Plant discharged effluent to the Napa River under the City's NPDES Permit CA0038013. The City's NPDES permit requires extensive sampling and monitoring of effluent discharged into the Napa River. In 2017, during the months of January, February, and March, effluent sample results indicated Cyanide maximum daily effluent limits and monthly average limits were exceeded on seven (7) occasions.

DISCUSSION

On July 18, 2018, City staff met with San Francisco Bay Regional Water Quality Control Board staff to discuss the WWTRP Phase I Upgrade Project and the SFBRWQCB July 12, 2018 letter outlining the alleged violations of discharge limitations and conditional

offer to settle violations. The conditional offer to settle provides two options for response by the City.

1. Avoid a formal enforcement action and settle the alleged violations by accepting the offer to settle and pay \$21,000 in mandatory minimum penalties.
2. Contest any of the violations alleged.

City staff discussed both response options with SFBRWQCB staff. Accepting the offer to settle and pay \$21,000 in mandatory minimum penalties is very concise as SFBRWQCB staff pointed out, Water Code section 13385, subdivisions (h) and (i), require the assessment of a \$3,000 mandatory minimum penalty for specified serious and chronic effluent limitation violations. In addition to this, Water Code section 13383 allows more severe penalties whereas the Discharger may also be subject to discretionary administrative civil liabilities of up to \$10,000 per day for each violation.

In discussing the option to contest the alleged violations, City staff contended using ascorbic acid to de-chlorinate effluent has been known to cause a false positive for cyanide. The United States Environmental Protection Agency (USEPA) addresses this problem in a footnote of the USEPA Method Update Rule. Further to this, City staff pointed out many studies have found indications suggesting the presence of an uncharacterized positive interference affecting the analysis of total cyanide using colorimetric procedures, USEPA Methods and Standard Methods. Based on these facts, the City believes the cyanide sample results are not valid. City staff discussed actions being taken by the City such as the August 2017 St. Helena Disinfection Study conducted by GHD which concluded alternative de-chlorination chemicals to ascorbic acid should be considered, such as calcium thiosulfate, to increase the reliability of de-chlorination of the chlorinated effluent as well as the WWTRP Phase I Upgrade Project which in the event the cyanide results are valid.

In conclusion of the discussions, the San Francisco Bay Regional Water Quality Control Board staff indicated they are aware of the facts conveyed by the City and have already taken it into considerations when issuing the noticed of alleged violations and determining mandatory minimum penalties.

Prior to the fine letter, the City had implemented WWTRP operational changes as of October 2017. The WWTRP is now a flow through operation as opposed to batch operation, chlorination and de-chlorination chemical flow pacing is currently being implemented, cyanide samples will be collected and evaluated prior to effluent discharge season, Supervisory Control and Data Acquisition improvements are currently being implemented, and will be utilizing calcium thiosulfate for de-chlorination during the next effluent discharge season. In addition, the City is on schedule with the Cease and Desist Order and the WWTRP Phase I Upgrades.

FISCAL IMPACT

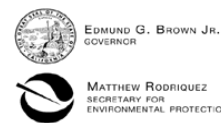
These fines were not anticipated, but payment will come from the 18/19 Operations Budget.

RECOMMENDED ACTION

Information Only.

ATTACHMENTS

[Attachment 1: MMP Offer St. Helena](#)

EDMUND G. BROWN JR.
GOVERNORMATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION**San Francisco Bay Regional Water Quality Control Board**July 12, 2018
CW-258386

City of St. Helena
 Erica Ahmann Smithies, Public Works Director
(via email only to esmithies@cityofsthelena.org)
 1480 Main Street
 St. Helena, CA 94574

Subject: **Conditional Offer to Settle Violations of NPDES Permit CA0038013
 St. Helena Wastewater Treatment Plant, St. Helena, Napa County**

Dear Ms. Smithies:

This letter notifies City of St. Helena (Discharger) of alleged violations of discharge limitations and provides the Discharger the opportunity to settle the violations through payment of **\$21,000** in mandatory minimum penalties pursuant to Water Code sections 13385 and 13385.1. Please reply by **August 13, 2018**.

NOTICE OF VIOLATION

The Assistant Executive Officer alleges that the Discharger has violated the NPDES permit indicated above as identified in Exhibit A, which is attached to this letter and incorporated by reference. The Discharger has the opportunity to address the alleged violations as discussed below.

STATUTORY LIABILITY

Water Code section 13385, subdivisions (h) and (i), require the assessment of a \$3,000 mandatory minimum penalty for specified serious and chronic effluent limitation violations. Failure to file a discharge monitoring report required pursuant to Water Code section 13383 constitutes a serious violation for each complete period of 30 days following the deadline for submitting the report. The Discharger may also be subject to discretionary administrative civil liabilities of up to \$10,000 per day for each violation, plus \$10 for each gallon discharged but not cleaned up in excess of 1,000 gallons. The Regional Water Board or the State Water Board (collectively the Water Boards) may assess these mandatory minimum penalties and discretionary administrative civil liabilities beginning with the date on which each violation first occurred.¹ The formal enforcement action the Water Boards use to assess such liability is an administrative civil liability complaint followed by a public hearing. Alternatively, the Water Boards may refer the matter to the Attorney General's Office for prosecution in the Superior Court. The Superior Court may

¹ The statute of limitations does not apply to administrative proceedings to assess mandatory minimum penalties. See *City of Oakland v. Public Employees' Retirement System*, (2002) 95 Cal.App.4th 29, 48; 3 Witkin, Cal. Procedure (5th ed. 2008) Actions, § 430. Also, the equitable doctrine of laches does not apply to mandatory minimum penalties. See State Water Board Order Nos. 2013-0053, 2013-0054, 2013-0055, and 2013-0099.

Conditional Settlement Offer
City of St. Helena

assess up to \$25,000 per day for each violation, plus \$25 per gallon discharged but not cleaned up in excess of 1,000 gallons.

CONDITIONAL OFFER TO SETTLE

The Discharger can avoid a formal enforcement action and settle the alleged violations identified in Exhibit A by accepting this conditional offer. Details of this offer are described below and in the enclosed “Acceptance of Conditional Resolution and Waiver of Right to Hearing” (Acceptance and Waiver).

This offer does not address liability for any violation not specifically identified in Exhibit A.

OPTIONS FOR RESPONSE

To accept this offer, the Discharger must complete, sign, and return the enclosed Acceptance and Waiver on or before the date specified in the first paragraph of this letter.

If the Discharger chooses to contest any of the violations alleged in Exhibit A, the Discharger should identify the specific violation and the basis for the challenge (factual error, affirmative defense, etc.) on or before the date specified in the first paragraph of this letter. Regional Water Board staff will evaluate any contested violation and take one of two actions:

- 1) Determine that the alleged violation warrants dismissal, dismiss the alleged violation within the California Integrated Water Quality System (CIWQS) database, notify the Discharger of the dismissal, and take no further action against the Discharger for the alleged violation; or
- 2) Determine that the alleged violation is meritorious and notify the Discharger of that determination. The Discharger will then have 30 days from the date of the determination to accept settlement for that violation through a mandatory minimum penalty. If the Discharger chooses not to accept settlement or does not reply to the determination, it should expect to be contacted regarding formal enforcement for the contested violation. With respect to a formal enforcement action, information received by Water Board staff during any formal investigation and assessment of the violation, as well as staff costs associated with pursuing enforcement and other considerations, may increase the liability beyond that set forth in this conditional offer.

CONDITIONS FOR REGIONAL WATER BOARD ACCEPTANCE OF RESOLUTION

Federal regulations require the Regional Water Board to publish and allow the public at least 30 days to comment on any settlement of an enforcement action addressing an NPDES permit violation (40 C.F.R. § 123.27(d)(2)(iii)). Upon receipt of the Discharger’s Acceptance and Waiver, Regional Water Board staff will publish a notice of the proposed settlement of the violation(s). If staff receives no comments within the 30-day period and no new material facts are available to the Regional Water Board, the Executive Officer will execute the Acceptance and Waiver as a stipulated order assessing the uncontested mandatory minimum penalty pursuant to Water Code sections 13385 and/or 13385.1.

If, however, significant comments are received in opposition to the proposed settlement, this offer may be withdrawn. In that circumstance, the Water Boards will also treat the Acceptance and

Conditional Settlement Offer
City of St. Helena

Waiver as withdrawn. Water Board staff will advise the Discharger of any withdrawal and may issue an administrative civil liability complaint and schedule a hearing before the Regional Water Board or State Water Board. For such a hearing, the Discharger will be free to argue against the alleged violations. Water Board staff will treat the Discharger's Acceptance and Waiver as a settlement communication and will not use it as evidence in the hearing. Water Board staff will provide the Discharger with additional information on hearing procedures if a hearing is to occur.

If the Executive Officer executes the Acceptance and Waiver, payment of the settlement amount shall be due within 30 calendar days from the date of the Executive Officer's signature. In accordance with Water Code section 13385(n)(1), funds collected pursuant to Water Code sections 13385 and 13385.1 shall be deposited into the State Water Pollution Cleanup and Abatement Account. Failure to pay the penalty within the required time may subject the Discharger to additional liability.

OPPORTUNITY FOR SUPPLEMENTAL ENVIRONMENTAL PROJECT

In lieu of paying all of the mandatory minimum penalty to the State Water Pollution Cleanup and Abatement Account, the Discharger may elect to apply a portion of the penalty to fund a supplemental environmental project (SEP).^{2,3} One SEP option is available: the SEP Fund to supplement the Regional Monitoring Program (RMP). This SEP Fund will supplement RMP studies that would not otherwise be conducted through the RMP's annually approved cost allocations. The RMP collects data and communicates information about water quality in the San Francisco Estuary in support of management decisions to restore and protect beneficial uses of the region's waters. Information about the RMP is available at <http://www.sfei.org/rmp>. The non-profit San Francisco Estuary Institute manages and administers RMP funds. No funds will go to the Water Boards.

The Discharger also may choose to pay the total mandatory minimum penalty to the State Water Pollution Cleanup and Abatement Account. These options are represented in the enclosed Acceptance and Waiver.

² Water Code section 13385(l)(1) authorizes the Regional Water Board, with the Discharger's concurrence, to direct a portion of the penalty to be expended on a SEP in accordance with the State Water Board's Enforcement Policy (https://www.waterboards.ca.gov/water_issues/programs/enforcement/water_quality_enforcement.shtml). If the penalty is less than or equal to \$15,000, 100 percent of the penalty may be expended on a SEP. If the penalty exceeds \$15,000, then up to \$15,000 plus 50 percent of the penalty that exceeds \$15,000 may be expended on a SEP.

³ See State Water Board Policy on Supplemental Environmental Projects (2017), page 10 (https://www.waterboards.ca.gov/water_issues/programs/enforcement/sep.html), and Resolution 2018-0034 (https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2018/rs2018_0015.pdf).

Conditional Settlement Offer
City of St. Helena

REGIONAL WATER BOARD CONTACT

Please reply to the attention of Debbie Phan, either by email or U.S. mail. If you want to discuss or have questions regarding this matter, please contact Debbie Phan at (510) 622-2116 or R2NPDES.MMPS@Waterboards.ca.gov.

Sincerely,

**Lisa Horowitz
McCann**

Digitally signed by Lisa
Horowitz McCann
Date: 2018.07.12 14:33:51
-07'00'

Lisa Horowitz McCann
Assistant Executive Officer

Enclosures: Exhibit A-Notice of Violation
Acceptance and Waiver

Conditional Settlement Offer
City of St. Helena

EXHIBIT A Notice of Violation

Discharger: City of St. Helena
St. Helena Wastewater Treatment Plant, 1 Chaix Lane, St. Helena, Napa County
NPDES Permit CA0038016

The following table lists the alleged violations for which the Discharger is subject to civil liabilities pursuant to Water Code sections 13385 and/or 13385.1. The table lists the mandatory minimum penalty (MMP) that applies.

CIWQS Violation ID No.	Violation Date	Parameter (Unit)	Effluent Limitation	Reported Value	Percent Exceedance ¹	Violation Type	MMP ²
1025806	1/25/2017	Cyanide, Maximum Daily Effluent Limit (µg/L)	30	90	200	C1, S	\$3,000
1025805	1/31/2017	Biochemical Oxygen Demand, 5-day (BOD5) @ 20°C, Average Monthly Percent Removal (%)	85	78	-8	C1	
1025807	1/31/2017	Cyanide, Monthly Average (µg/L)	15	53	253	C2, S	\$3,000
1025809	2/4/2017	Cyanide, Maximum Daily Effluent Limit (µg/L)	30	50	67	C3, S	\$3,000
1025810	2/28/2017	Cyanide, Maximum Daily Effluent Limit (µg/L)	30	130	333	>C3, S	\$3,000
1025808	2/28/2017	Cyanide, Monthly Average (µg/L)	15	90	500	>C3, S	\$3,000
1025811	2/28/2017	BOD5 @ 20°C, Average Monthly Percent Removal (%)	85	81	-5	C2	
1024108	3/2/2017	Cyanide, Maximum Daily Effluent Limit (µg/L)	30	130	333	>C3, S	\$3,000
1024109	3/2/2017	Cyanide, Monthly Average (µg/L)	15	130	767	>C3, S	\$3,000
Total							\$21,000
Legend: CIWQS = California Integrated Water Quality System database that the Water Boards use to track violations and enforcement. Violation ID = Identification number assigned to each permit violation within CIWQS. C = Count – Number of violations within past 180 days, including this violation. A penalty applies under Water Code section 13385(i) when the count is greater than three (> C3). S = Serious. A penalty applies under Water Code section 13385(h) whenever an effluent limitation is exceeded by 40 percent or more for a Group I pollutant or 20 percent or more for a Group II pollutant. Notes: 1. Percent that a discharger's reported value exceeds the effluent limitation for a Group I or Group II pollutant. 2. The MMP required under Water Code section 13385(h) and/or (i). CIWQS Place ID: 258386 WDID: 2 283014001							

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ORDER NO. R2-20_____
ACCEPTANCE OF CONDITIONAL RESOLUTION
AND WAIVER OF RIGHT TO HEARING

City of St. Helena
St. Helena Wastewater Treatment Plant
1 Chaix Lane, St. Helena, Napa County
NPDES Permit CA0038016, Regulatory Measure 415936

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the San Francisco Bay Regional Water Quality Control Board (Regional Water Board), City of St. Helena (Discharger) hereby accepts the conditional offer to settle alleged violations through payment of mandatory minimum penalties and waives the right to a hearing before the Regional Water Board to dispute the alleged violations. The violations are attached to this Acceptance and Waiver as Exhibit A and incorporated by reference.

The Discharger agrees that Exhibit A shall serve as a complaint pursuant to Article 2.5 of the Water Code and that no separate complaint is required for the Regional Water Board to assert jurisdiction over the alleged violations through its Assistant Executive Officer. The Discharger agrees to pay the penalties authorized by Water Code sections 13385 and 13385.1, which shall be deemed payment in full of any civil liability pursuant to Water Code section 13385 that otherwise might be assessed for the violations described in Exhibit A. The Discharger understands that this Acceptance and Waiver waives its right to contest the allegations in Exhibit A and the amount of civil liability assessed for the violations.

The Discharger understands that this Acceptance and Waiver does not address or resolve liability for any violation not specifically identified in Exhibit A.

Upon execution, the Discharger shall return the Acceptance and Waiver to the following address:

California Regional Water Quality Control Board, San Francisco Bay Region
 NPDES Wastewater Enforcement Section
 Attention: Debbie Phan
 1515 Clay Street, Suite 1400
 Oakland, California 94612

The Discharger understands that the federal regulations set forth in Code of Federal Regulations, title 40, section 123.27(d)(2)(iii), require the Regional Water Board to publish notice of, and provide at least 30 days for, public comment on any proposed resolution of an enforcement action. Accordingly, prior to execution by the Regional Water Board's Executive Officer, this Acceptance and Waiver will be published for public comment as required by law.

The Discharger understands that the Executive Officer will execute the Acceptance and Waiver if no comments are received within the public notice period and the Executive Officer agrees that the assessment of mandatory minimum penalties appropriately resolves the alleged violations. The Regional Water Board's resolution of these violations will preclude State Water Resources Control Board (State Water Board) action for the same violations.

The Discharger understands that the offer may be withdrawn if significant comments are received in opposition to the conditional offer. In that circumstance, Regional Water Board staff will

Acceptance of Conditional Resolution and Waiver of Right to Hearing
City of St. Helena
Regulatory Measure: 415936

advise the Discharger of the withdrawal and may issue an administrative civil liability complaint and schedule the matter for a hearing before the Regional Water Board or State Water Board. For such a hearing, the Discharger understands that its executed Acceptance and Waiver will be treated as a settlement communication and will not be used as evidence in the hearing.

The Discharger understands that funds collected for violations pursuant to section 13385 and 13385.1 shall be deposited in the State Water Pollution Cleanup and Abatement Account.

The Discharger understands that, in lieu of full payment of the assessed mandatory minimum penalty to the State Water Pollution Cleanup and Abatement Account, it may elect to pay a portion toward a supplemental environment project (SEP). The SEP option is the SEP Fund, which supplements Regional Monitoring Program (RMP) studies that would not otherwise be conducted through the RMP's annually approved RMP cost allocations.

The Discharger agrees to pay the amounts indicated below to the State Water Pollution Cleanup and Abatement Account and, if chosen, the SEP Fund. The Discharger understands that the Regional Water Board will consider the Discharger to have fulfilled any SEP obligation if and when the San Francisco Estuary Institute receives the Discharger's contribution to the SEP Fund. (Place a "✓" or "✗" in one box below and fill in the blanks as appropriate. Electing to pay a portion of the assessed liability to the SEP Fund will not change the total amount to be paid.)

- ☐ Pay a portion of the assessed liability to the RMP SEP Fund:
- \$_____ Amount to be paid to the SEP Fund (cannot exceed \$18,000)
- \$_____ Amount to be paid to the State Water Pollution Cleanup and Abatement Account (\$21,000 minus amount inserted above)
- \$ 21,000 Total assessed mandatory minimum penalty (sum of amounts above).

Or

- ☐ Pay the total assessed mandatory minimum liability (\$21,000) to the State Water Pollution Cleanup and Abatement Account.

The Discharger understands that once the Regional Water Board's Executive Officer executes this Acceptance and Waiver, payment no later than 30 days after the date of the Executive Officer's signature is a condition of this Acceptance and Waiver. The Discharger shall pay the assessed civil liability to the State Water Pollution Cleanup and Abatement Account and/or San Francisco Estuary Institute (for the SEP Fund) as selected above. The State Water Board will send an invoice for any payment due to the State Water Pollution Cleanup and Abatement Account. The Regional Water Board will send an invoice for any payment due to the SEP Fund.

Acceptance of Conditional Resolution and Waiver of Right to Hearing
City of St. Helena
Regulatory Measure: 415936

I hereby affirm that I am duly authorized to act on behalf of, and to bind, the Discharger in the making and giving of this Acceptance and Waiver.

City of St. Helena

By: _____
Printed or typed name Title

Signature Date

Note: Please return the signed Acceptance and Waiver with Exhibit A, together.

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

By: _____
Bruce H. Wolfe
Executive Officer
California Regional Water Quality Control Board
San Francisco Bay Region

Date



Report to the City Council
Council Meeting of July 24, 2018

Agenda Section: Consent

Subject: Consideration and proposed approval of a resolution authorizing the St. Helena High School annual homecoming parade on Main Street and authorizing City staff to assist with traffic control before, during, and after the parade.

CEQA Determination: Categorically Exempt, Section 15323

Prepared By: Chrissy Cook, Administrative Assistant

Reviewed By: Erica Ahmann Smithies, Public Works Director and City Engineer

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The St. Helena High School annual homecoming parade on Main Street is a long standing tradition.

DISCUSSION

The St. Helena High School requests approval from the City Council to hold its annual homecoming parade on Main Street. The parade will take place on Friday, October 26th, 2018, from 2:10 pm to 2:30 pm, starting at Sunshine Market parking lot, Main Street and Mitchell Drive, and ending with a rally at Lyman Park.

The Police Department also participates by controlling/detouring traffic during the parade festivities.

The St. Helena Unified School District is required to obtain an encroachment permit from Caltrans if required for the route traveled on Hwy 29.

FISCAL IMPACT

The City will provide staff to assist with pre-planning, setup and tear down of “no parking” and traffic control, and traffic control during the event. This will require approximately 15 hours of Public Works Department staff time, and approximately four hours from Police Department staff.

RECOMMENDED ACTION

Staff recommends the City Council adopt the resolution authorizing the St. Helena High School annual homecoming parade on Main Street authorizing City staff to assist with traffic control before, during, and after the parade.

ATTACHMENTS

[Letter to Council](#)

[RESO Homecoming](#)

[Application](#)

[Map](#)



June 1, 2018

St. Helena City Council
1480 Main Street
St. Helena, California 94574

Dear Council Members:

The student government of St. Helena High School would like to have our homecoming parade on Main Street on Friday, October 26, 2018, ending with a rally at Lyman Park.

Our first step in applying for permission to hold this parade is a resolution from the St. Helena City Council. This resolution should state the name of the organization, the date and time of the parade, the starting and ending points of the parade, and a statement that our local police department will do any necessary controlling or detouring of traffic on Highway 29.

The resolution requesting permission must be addressed to:

Permit Section, District 04
Cal Trans
P.O. Box 126
Napa, California 94558

The St. Helena High School Student Body would most appreciate if the City Council would pass such a resolution at their next meeting, as further approval must be obtained from the Napa Office of Highway Patrol and the Napa Office of Cal Trans.

Sincerely,

A handwritten signature in blue ink, appearing to read 'B. Scinto', is written over the word 'Sincerely,'.

Benjamin L. Scinto
Principal

1. Organization: St. Helena High School
2. Date: Friday, October 26, 2018
3. Time: 2:10 pm to 2:30 pm
4. Starting point: Main and Mitchell and Sunshine parking lot
Ending Point: Lyman Park

ST. HELENA HIGH SCHOOL – HOME OF THE SAINTS
*2015 CA Gold Ribbon School, 2015 & 2016 US News & World Report America's Best High School Silver Ranking,
2015 AP Honor Roll Recipient*
1401 GRAYSON AVENUE, ST. HELENA, CA 94574 – (P) 707.967.2740, (F) 707.967.2735

CITY OF ST. HELENA

RESOLUTION NO. 2018-

**AUTHORIZING THE ST. HELENA HIGH SCHOOL ANNUAL HOMECOMING
PARADE ON MAIN STREET AND AUTHORIZING CITY STAFF TO PROVIDE
TRAFFIC CONTROL BEFORE, DURING, AND AFTER THE PARADE**

RECITALS

- A. St. Helena High School has requested authorization to conduct their annual Homecoming Parade on Main Street on Friday, October 26, 2018 at 2:10 p.m. until 2:30 p.m.
- B. The parade shall start at the Sunshine Market Parking Lot and proceed up Main Street to Lyman Park.
- C. City staff is able to provide the necessary controlling and detouring of traffic on Highway 29, Railroad Avenue, and the parade route.
- D. Section 21101(e) of the California Vehicle Code provides the local authorities may, by resolutions, temporarily close a portion of any street for celebrations, parades, local special events, and other purposes when, in the opinion of local authorities having jurisdiction or a public officer or employee that the local authority designated by resolution, the closing is necessary for the safety and protection of persons who are to use that portion of the street during the temporary closing.

RESOLUTION

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

- 1. The City Council hereby approves the St. Helena High School request for a Homecoming Parade on Main Street on Friday October 26, 2018 from 2:10 pm to 2:30 pm.
- 2. The City Council finds that the benefits derived from authorizing the St. Helena High School Homecoming Parade starting from Sunshine Market Parking Lot on Main Street and ending at Lyman Park outweigh the anticipated inconvenience to the businesses and citizens generally.
- 3. City staff is directed provide necessary traffic control for the safety and protection of persons who are to use the portion of Main Street during the Homecoming Parade.

I HEREBY CERTIFY that this Resolution was adopted at a regular meeting of the City Council held on July 24th, 2018 by the following roll call vote:

Mayor Galbraith: _____

Vice Mayor White: _____

Councilmember Dohring: _____

Councilmember Koberstein: _____

Councilmember Ellsworth: _____

APPROVED:

ATTEST:

Alan Galbraith, Mayor

Cindy Tzafoopoulos, City Clerk

ENCROACHMENT PERMIT APPLICATION

Public Works Department
1572 Railroad Ave.
St. Helena, CA 94574
(707) 968-2658



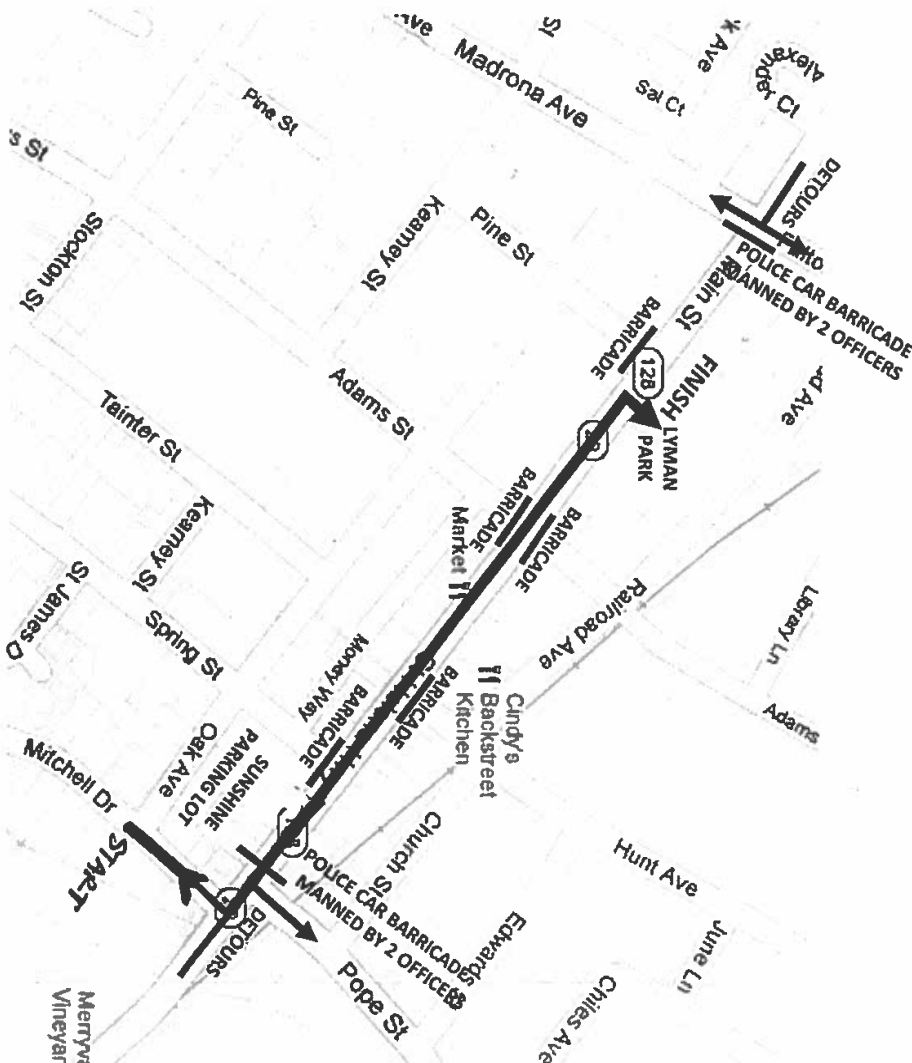
OFFICE USE ONLY	
Encroachment Permit #:	_____
Building Permit #:	_____

For Additional Information, or Forms and Documents Please Visit the Public Works Website @ <http://www.cityofstheleena.org/publicworks>

Property and Work Description	
Site Address: <u>Downtown St. Helena, starting at Mitchell Drive/Main Street, ending at Pine/Lyman Park</u>	
Related Building Permit Number _____	Work Description: <u>St. Helena High School 2018 Homecoming Parade</u>
DIAGRAM OF PROPOSED WORK <i>attach additional sheet if necessary</i>	
Estimated Start Date <u>Fri 10/26/2018</u>	Estimated Completion Date <u>Fri 10/26/2018</u>
Property Owner	
Owner Name: <u>St. Helena High School / contacts: Ben Scinto, Principal & Diana Carr, Principal's Secretary</u>	
Address: <u>1401 Grayson Avenue</u>	
City: <u>St. Helena</u>	State: <u>CA</u> Zip: <u>94574</u>
Email: <u>bscinto@sthelenaunified.org / dcarr@sthelenaunified.org</u> Phone #: <u>(707) 967-2748</u>	
Contractor/Applicant All communication from our office will be made to this person via email	
Company Name: <u>same as above</u>	Contact Name: _____
Contractor License#: _____	Expires: _____
City of St. Helena Business License #: _____	Expires: _____
Address: _____	
City: _____	State: _____ Zip: _____
Email: _____ Phone #: _____	

Applicant Check Off List Permit fees are due at the time of application and are <i>NON REFUNDABLE</i> . <i>Incomplete submittals will not be accepted. Encroachment Permit applications are reviewed on a weekly basis. Please allow up to TWO (2) weeks for approval.</i>	
Check Off Major \$500.00 fee paid Proof of Insurance Coverage Copy of Civil Plans for Related Building Permit Traffic Control Plans Site Plans USA Tag # Conditions: _____ Standards Attached: _____ Street Supervisor Approval Signature: _____ Date: _____ Water Supervisor Approval Signature: _____ Date: _____	Check Off Minor \$200.00 fee paid ✓ Proof of Insurance Coverage <i>coming July 2018</i> Copy of Civil Plans for Related Building Permit Traffic Control Plans Site Plans ✓
Minimum Insurance Requirements Major Permit 2 Million, Minor Permit 1 Million Each Line <i>Special Circumstances May Arise Which Could Cause Changes to These Guidelines</i> Attach Certificate of Insurance (COI) and Endorsements The language in the Description section (bottom middle) must state the following: "The City of St. Helena, its agents, officers, officials, employees and volunteers" are named as additionally insured." Workers Comp Liability Auto Umbrella (optional)	
Disclosure Statement NOTICE: This application will expire in 180 days from the date of submission if the permit is not pursued in good faith. The permit will expire if work is not started in 180 days or if work is abandoned for more than 180 days. A request for an extension of time must be submitted, in writing, to the Public Works Department within 180 days of issuance, or 180 days from the last approvable inspection. Permit fees are due at the time of application and are <i>NON REFUNDABLE</i> . Incomplete submittals will not be accepted. I CERTIFY THAT IN THE PERFORMANCE OF THE WORK FOR WHICH THE PERMIT IS ISSUED WILL ADHERE TO THE CITY OF ST. HELENA CITY STANDARDS. I (We) agree to save, indemnify, and hold harmless the City of St. Helena, its Agents, Officers, Officials, Employees, and Volunteers against judgments, costs and expenses which may in any way accrue against said City in consequence of the granting of this permit. Signature:  Date: <u>6/19/18</u> ☒ Owner ☐ Contractor	

ST. HELENA HIGH SCHOOL: HOMECOMING PARADE
1401 Grayson Avenue
St. Helena, CA 94574
707 967-2740





Report to the City Council
Council Meeting of July 24, 2018

Agenda Section: Consent

Subject: Consideration and approval of a resolution approving contract amendment No. 2 for Professional Services Agreement for FY 2018/19 with Mark Walsh, CPA in the amount of \$15,000 for finance related projects for a total amended contract not to exceed \$40,000.

CEQA Determination: Not a CEQA project

Prepared By: April Mitts, Finance Director

Reviewed By: Mark T. Prestwich, City Manager

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

During FY 2015 through FY 2017, the City retained the services of Mark Walsh, CPA to provide financial related consulting services with contracts each fiscal year for a total combined amount of \$30,000. The current Professional Services Agreement, STH Contract: 2017-44, was approved beginning July 2017 for a total not-to-exceed amount of \$15,000 and was later amended on February 13, 2018 via Resolution No. 2018-13 by \$10,000 for a total not-to-exceed amount of \$25,000.

Mr. Walsh's services have included strategic evaluation of finance documents, resource review to support the finance function, review of items having a significant impact on budgeting, review and assistance in writing policies, procedures, and work processes, and a serving as a resource for the City Manager and Finance Director to assist with finance-related issues.

DISCUSSION

To continue utilization of professional services by Mark Walsh, CPA on an as-needed basis, staff is recommending City Council approve Amendment No. 2 in the amount of

\$15,000 to the Agreement for Consultant Services, St. Helena Contract No. 2017-44, for a total amended contract not to exceed \$40,000.

FISCAL IMPACT

Funds for the Agreement have been included in the Adopted FY 2018/19 budget.

RECOMMENDED ACTION

Staff recommends City Council approve a resolution authorizing Amendment No. 2 in the amount of \$15,000 to the Agreement for Consultant Services with Mark Walsh.

ATTACHMENTS

[Attachment 1 - Resolution No. 2018- PSA Mark Walsh FY 18-19](#)
[Mark Walsh PSA Amendment #2](#)

Attachment 1

CITY OF ST. HELENA
RESOLUTION NO. 2018-__

**Resolution of the Council of the City of St. Helena authorizing
Amendment #2 to the Professional Services Agreement with Mark
Walsh, CPA for Consultant Services for a total not to exceed
amount of \$40,000**

RECITALS

WHEREAS, in FY 2015 through FY 2017, the City entered into a Professional Services Agreements with Mark Walsh, CPA to provide financial related consulting services; and

WHEREAS, in FY 2017-18, the City entered into its fourth Professional Services Agreement; STH Contract: 2017-044 with Mark Walsh, CPA to continue providing financial related consulting services for \$15,000; and

WHEREAS, On February 13, 2018 via Resolution No. 2018-13 City Council Approved Amendment #1 to STH Contract: 2017-44 in an amount of \$10,000 for a total not-to-exceed amount of \$25,000; and

WHEREAS, Mr. Walsh has represented they have the necessary expertise, experience, and qualifications to continue to assist the City Manager and Finance Director; and

WHEREAS, City and Consultant desire to amend the Agreement to provide consultant services by \$15,000 with Mark Walsh, CPA for continued finance related consulting services in fiscal year 2018/19; and

WHEREAS, the total amended contract is for a not to exceed amount of \$40,000.

RESOLUTION

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

1. The City Council approves the Amendment #2 with Mark Walsh, CPA for an additional \$15,000, for a total contract amount not-to-exceed \$40,000.

Approved at a Regular Meeting of the St. Helena City Council on July 24, 2018, by the following vote:

Mayor Galbraith:

Vice Mayor White:

Attachment 1

Councilmember Dohring:
Councilmember Koberstein:
Councilmember Ellsworth:

APPROVED:

Alan Galbraith, Mayor

ATTEST:

Cindy Tzaopoulos, City Clerk

Attachment 2

**AMENDMENT #2 TO AGREEMENT FOR CONSULTANT
SERVICES WITH MARK WALSH FOR FINANCE PROJECTS FY 2018-19**

- A. Pursuant to the terms of the written Agreement between City of Consultant, approved on July 1, 2017, the City entered into a Professional Services Agreement with Mark Walsh (Consultant) for professional services in connection with finance projects not to exceed \$15,000; and
- B. In February 2018, the City Council approved Amendment No. 1 via resolution No. 2018-13 to this agreement to increase the contract amount by \$10,000 for a total not to exceed amount of \$25,000; and
- C. The Consultant has represented they have the necessary expertise, experience, and qualifications to assist with various finance projects; and
- D. City and Consultant desire to amend the Agreement to provide additional finance services for an additional \$15,000 for a total not-to-exceed amount of \$40,000; and
- E. On May 8, 2018 City Council adopted Finance Policy P-FI-0013 establishing a Fraud Prevention and Detection Policy and in accordance with this policy the Consultant understands and acknowledges City maintains an anti-fraud and anti-corruption policy to protect the City, its operations, and its employees from and against financial risks, operational breaches, and unethical, fraudulent and corrupt activities. Consultant represents and warrants that Consultant, its subcontractor(s) / subconsultant(s) and their respective employees providing services pursuant to the Agreement are (1) in good standing; (2) have not been previously investigated, convicted, or debarred for fraudulent or corrupt activities; (3) will not participate in fraudulent or corrupt activities, and (4) will take steps to ensure that its employees and subcontractor(s) / subconsultant(s) employees do not participate in any fraudulent or corrupt activities. Consultant acknowledges and agrees further that it has a duty to and will report to City any information or incident(s) about possible fraudulent or corrupt activities Consultant may discover, and will cooperate in any fraud or corruption investigation conducted, with respect to Consultant's service provided pursuant to this Agreement; and
- F. All other provisions of the original Agreement remain; and
- G. Amendment No. 2 in the amount of \$15,000 to the Agreement for Consultant Services with Mark Walsh is hereby approved and entered into on July 24, 2018; and
- H. The total amended contract not to exceed \$40,000

Attachment 2

IN WITNESS WHEREOF, the parties hereto have accepted, made, and executed this Agreement upon the terms, conditions, and provisions above stated, the day and year first above written.

Date: _____

Consultant:

City:

By: _____

Name: _____

Title: _____

By: _____

Name: Mark T. Prestwich

Title: City Manager

Approved as to Form:

By: _____

Name: Thomas B. Brown

Title: City Attorney



Report to the City Council
Council Meeting of July 24, 2018

Agenda Section: Consent

Subject: Consideration and proposed approval of a resolution approving the purchase of three self-check machines from mk Solutions for the St. Helena Library in the amount of \$20,940 and approve the ongoing maintenance and licensing agreement starting in FY 2019/20 in the amount of \$2,589 and increasing by 2.5% each year until termination of the agreement.

CEQA Determination: **Not a CEQA project**

Prepared By: Chris Kreiden, Library Director

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

In March 2009, the St. Helena Public Library installed three 3M SelfCheck System machines. These machines enable library patrons to check library materials out by themselves without the assistance of staff. These machines each include a computer, a 16 inch color touchscreen monitor, barcode scanner, and receipt printer. The system reads the patron's library card and then guides them through the checkout process; the system communicates with the library's circulation software allowing the linking of the patron's account to the materials that are being taken out. Selfcheck machines free staff to answer patrons' questions. If staff is occupied with other customers, patrons in good standing can check themselves out and be on their way.

The library currently has three selfcheck machines. In 2017, 13,023 patrons checked out 38,514 items at the two selfcheck machines located by the front service desk. Because it is out of service, no data for the machine in the Children's Department can be accessed. Staff can report that children love scanning their library cards and materials. It is staff's educated guess that circulation figures for the Children's machine would have been on par with or higher than those of its adult counterparts.

Since the installation of the Library's machines almost ten years ago, there have been many improvements to selfcheck hardware and software. Newer models of the machines have built in receipt printers and scanners, which now allow patrons to use their smartphones as they would their library cards to access their accounts. Some software offers the ability to allow for the paging of staff to assist if issues arise while at the machines. Libraries can also now advertise offered library services and programs on their selfcheck machines.

DISCUSSION

To replace the three selfcheck machines currently used by the St. Helena Library, three vendors were contacted: Bibliotheca, Envisionware, and mk Solutions. Below is a summary of all three vendors:

Bibliotheca:

- Equipment and Installation Costs: \$19,227
- Annual Licensing/Subscription Costs: \$975
- Software Updates: included
- Annual Maintenance Costs: \$4,630.95

Envisionware:

- Equipment and Installation Costs: \$16,985
- Annual Licensing/Subscription Costs: none
- Software Updates: not included. The City would be required to purchase a new version when available. The actual costs are unknown for future versions; the current software costs \$3,900 with installation.
- Annual Maintenance Costs: \$1,710

mk Solutions:

- Equipment and Installation Costs: \$20,940
- Annual Maintenance Costs: \$589
- Annual Licensing/Subscription Costs: \$1,950
- Software Updates: included. There are updates, enhancements and additional features and options made available about twice a year. These are done automatically without staff needing to reboot the equipment.
- Annual Maintenance Costs: \$589 (Bronze level) with a 2.5% increase each year. mk Solutions offers three levels of maintenance plans:
 1. Bronze - \$589 per year and includes e-mail and phone support for all three machines
 2. Silver - \$1,569 per year and includes e-mail and phone support and the added benefits of onsite support and replacement parts at 50%
 3. Gold - \$1,962 a year and includes e-mail, phone, and onsite support with replacement parts at 100%

The table below shows a five year cost comparison between all proposals submitted.

	Cost for Equipment & License Year 1	Maintenance & License Year 2	Maintenance & License Year 3	Maintenance & License Year 4	Maintenance & License Year 5	TOTAL 5 YEAR COSTS
mk Solutions	20,940.00	2,589.00	2,653.73	2,720.07	2,788.07	31,690.86
Bibliotheca	19,227.00	5,605.95	5,605.95	5,605.95	5,605.95	41,650.80
Envisionware	16,985.00	1,710.00	1,710.00	1,710.00	1,710.00	23,825.00

After comparing costs, equipment, options, and features, the Library is recommending purchasing the mk Solutions product. Although mk Solutions is not the lowest bidder, staff is making this recommendation based on the following considerations:

1. The mk Solutions machine is more compact at W 18" x D 10" x H 23" and has a touchscreen display of 22 inches. All three models compared were tabletop models that include built-in receipt printers and scanners.
2. mk Solutions software has an easy user-friendly interface.
3. Switching languages can be done simply from the customer's screen and saved to their personal settings for their next visit. Receipts can be printed in the language of their choice.
4. There is the ability to provide a calendar for the promoting of library events.
5. Allows for the paging of staff if assistance is needed at the machines.
6. Changes to the configuration of options and features available can be done from anywhere and instantly with the correct access rights.
7. mk Solutions has an exclusive arrangement with Overdrive, one of the Library's e-material providers, which would make available content easy to advertise and display along with allowing patrons effortless access to their Overdrive accounts.
8. The annual subscription provides access to an evolving and transforming product.
9. Software updates are automatic without the need by staff to reboot equipment.
10. If problems with the software arise there is a remote monitoring service to solve any issues.

Library staff has reached out to users of all three systems and, while mk Solutions overall pricing is higher than Envisionware, it was reported that mk Solutions was preferable for its ease of use, customer satisfaction, and vendor performance and response.

FISCAL IMPACT

\$22,000 has been budgeted in Fiscal Year 2018/19 for the Library to acquire new selfcheck hardware and software. Maintenance and Licensing costs are included in Year 1 (Fiscal Year 2018/19) and costs starting in FY 2019/20 will be included in the annual budget process.

RECOMMENDED ACTION

Staff recommends City Council approve the resolution authorizing the purchase of three self-check machines from mk Solutions in the amount of \$20,940 and approve the

ongoing maintenance and licensing agreement starting in FY 2019/20 in the amount of \$2,589 and increasing by 2.5% each year until termination of the agreement.

ATTACHMENTS

[Bibliotheca Pricing](#)

[Envisionware Pricing](#)

[mk Solutions Pricing](#)

[mk Solutions Agreement](#)

[Resolution for selfcheck machines](#)



Customer Official System Quote

Quote Date: 03/08/2018
Quote Number: QUO-86129-N6Y8, Rev: 0

Customer Bill To:

St. Helena Public Library

1492 Library Ln
Saint Helena CA 94574
United States of America

chris@shpl.org
Tel: (707) 963-5244 x113

Quote Details

(3) Model 500 Desk Top

Location Information:

Chris Kreiden

Sales Contact: Albert Joseph Skinner

Sales Phone: (916) 768-5341

Sales Email: A.Skinner@bibliotheca.com

Prices are in US Dollars
Quote expires (60) days from Quote Date above.

If applicable, the hardware and software includes 12-month warranty, set-up and configuration

Item ID	Item Type	Quantity	Sale Price	Sub Total
SUP000001-000-US	Pre-Paid Annual Support & Maintenance (After Warranty Period) 12 Months	1	\$4,630.950	\$4,630.95
SCK500001-000-US	selfCheck 500D desktop kiosk	3	\$5,884.000	\$17,652.00
SWR000004-000-US	libraryConnect™ Devices subscription - 1 license / device Subsequent renewals after year 1 (SWR000017-000) \$325/yr	3	\$75.000	\$225.00
SHP000001-000-US	Shipping and Handling Shipping is estimated on one receiving location, unless otherwise noted, and on current rates and proposal.	1	\$1,350.000	\$1,350.00
Total (Less Sales Tax):				\$23,857.95

Additional Details

All prices including Service and Maintenance do not include any applicable sales tax. If tax exempt, A copy of Tax Exemption Certificate is required with purchase order for all tax-exempt customers.

Terms are NET 30 Days from Date of Invoice. Invoice is generated at the time of Shipment.

Quotations are good for 60 days. All dates are based on ship dates. Order must ship within the 60-day window.

After 60 days, quotation expires. Contact Bibliotheca for a New Quotation.

A 20% restocking fee, in addition to in-bound and out-bound shipping, will be charged for all returns.

GST/HST N° 859257321RT0001

Bibliotheca, LLC

3169 Holcomb Bridge Road, NW, Suite 200,
Norcross, GA 30071, USA

Phone No - 877-207-3127
Fax No - 1-877 689 2269
www.bibliotheca.com



Customer Official System Quote

Submit Purchase Order by fax to 877-689-2269 or by email to orders-us@bibliotheca.com.

Accepted By: _____

Accepted Date: _____

Customer Purchase Order Number: _____

DRAFT

Pricing for an X11 Countertop Self Check with OneStop



Bill To

Christina Kreiden
St Helena Public Library
1492 Library Lane
Windsor CA 95492
United States

TOTAL

\$16,985.00

Quote Expires: 6/25/2018

Federal EIN	Currency	Terms	Sales Rep	Maintenance Expires
58-2424595	US Dollar	* T B D : To Be Determined*	Tuttle, David B	

Quotation Title	Memo
X11 Countertop OneStop Self Checks	

Qty	Item / Description	Ship To	Unit Price	Amount
3	SSC-X11-CPS#-U <i>X11 Countertop - Portrait Display Software Included</i> <i>21.5" Touch Screen Display</i> <i>Windows 10 Pro</i> <i>Integrated Receipt Printer</i> <i>1D/2D Smartphone-ready barcode scanner</i> <i>DeskPad RFID Reader/Antenna</i> <i>10 ft Ethernet Cable / 6 ft Power Cord</i> <i>OneStop software</i> <i>RFID Software Suite</i>	1492 Library Lane	\$4,750.00	\$14,250.00
	X11 Countertop Colors: Black w/ black pad (*std)			
	Discount: *EnvisionWare Products or Services			(\$695.00)
	***** <i>New Self Check Customer Discount</i> *****			
	Subtotal			\$13,555.00

Subtotal for 3 Complete Self Check units including all hardware and software

Making Libraries Better

Computer Control - Financial Management - Circulation and Security - Enterprise Solutions

1	PS-PM-BLDG ENVISIONWARE COLLABORATIVE PROJECT SERVICES -- PER BUILDING * Includes installation of all products ordered or guidance to install items as part of a single project/trip on a per building basis. EnvisionWare generally installs management or host components and trains customers in the deployment of Client modules. * A Statement of Work (SOW) will be developed collaboratively which defines the responsibilities of EnvisionWare and your staff and includes consulting services, planning, installation, training and acceptance criteria.		\$1,000.00	\$1,000.00
Qty	Item / Description	Ship To	Unit Price	Amount
1	PS-EXPFF-U 1st Day ENVISIONWARE PROFESSIONAL SERVICES - FLAT FEE FOR EXPENSES - First of Every Five Days Onsite.		\$975.00	\$975.00
1	PS-EXPFF-U Additional Day ENVISIONWARE PROFESSIONAL SERVICES - FLAT FEE FOR EXPENSES - Additional Days After First. Maximum (4) additional days before an additional First day is required.		\$250.00	\$250.00
	Discount: *EnvisionWare Products or Services ***** Installation Discount *****			(\$250.00)
	Subtotal ***** Subtotal for onsite installation and training *****			\$1,975.00
Freight charges are estimated.			Subtotal	\$15,530.00
Send your purchase order or email confirmation to: EMAIL: orders@envisionware.com FAX: +1 678.382.6501			Freight	\$1,455.00
			Total Tax	\$0.00
			PST-CA only	
			Total	\$16,985.00

Quotation Title		Memo		
Annual Maintenance for SC Options				
Qty	Item / Description	Ship To	Unit Price	Amount
3	WM-SSC-OS-SW Bundle <i>1 YR MAINTENANCE: OneStop Self Service Circulation software bundle</i>		\$212.50	\$637.50
3	WM-SSC-COM-PLBS#-U <i>1 YR MAINTENANCE: EnvisionWare ProLine Component Self Service Station - Barcode with SOFTWARE</i>		\$299.40	\$898.20
3	WM-SSC-X11-CPS#-U <i>1 YR MAINTENANCE: X11 Countertop - Portrait Display Software Included</i>		\$570.00	\$1,710.00



mk Solutions, Inc.
 75 Acco Drive, Suite A-3
 York, PA 17402
 (860) 760-0438
 sales.us@mk-solutions.com

Proposal

Date	Proposal #
4/18/2018	50048

Name / Address
St. Helena Public Library 1492 Library Lane Saint Helena, CA 94574 USA

Ship To
St. Helena Public Library 1492 Library Lane Saint Helena, CA 94574 USA

Valid Until	Terms	Rep
4/18/2018	Due on receipt	DC

Item	Description	Qty.	Price Each	U/M	Amount
SC4-UL-TT-BC-RF-R...	mk SelfCheck – SC4 table top LibSoft (ware): Excluded Library Cards: Barcode Item Identification: RFID & Barcode Item Security: RFID Audio Support: Optional Touch Screen Size: 22" Touch Screen Orientation: Landscape Counter Design: Glass Counter Width: 18" (450mm) Ergonomic Stand: No Color Style: Black	3	5,030.00	ea	15,090.00
SW-LIBSOFT	Annual Subscription for mk LibSoft Plus Software Period: January to December Annual price increase 2.5%	3	650.00	ea	1,950.00
SET-UP-FEE-LIBSOFT	One Time Set-Up Fee per LibSoft Software Subscription	3	500.00	ea	1,500.00
SHIPPING	Packaging and Shipping		1,500.00		1,500.00
INSTALL-ONSITE	On-Site Installation by local technician	1	650.00	ea	650.00
TRAINING-ONSITE	On-Site Training	1	250.00	ea	250.00
SLA-1.1Bronze	OPTIONAL Service Level Agreement: Bronze Coverage Period: January to December Annual price increase 2.5%	0	589.00		0.00



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 75 Acco Drive, Suite A-3
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Proposal

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4/18/2018	50048

Name / Address
St. Helena Public Library 1492 Library Lane Saint Helena, CA 94574 USA

Ship To
St. Helena Public Library 1492 Library Lane Saint Helena, CA 94574 USA

Valid Until	Terms	Rep
4/18/2018	Due on receipt	DC

Item	Description	Qty.	Price Each	U/M	Amount
Payment Terms 70/2...	For mk Hardware 70 % of order value payable after receipt of order confirmation 25 % of order value with delivery 5 % of order value after installation For Software Solutions / Subscription invoicing takes place in advance for 1 year after installation For Maintenance Contracts (SLA) invoicing takes place after initial warranty and for 1 year in advance. NOTE: Annual invoices are based on calendar year.				0.00

For all orders, please email purchase order or this completed & signed document to sales.us@mk-solutions.com

Subtotal	USD 20,940.00
Sales Tax (0.0%)	USD 0.00
Total	USD 20,940.00

Maintenance Programs: **mk Hardware***Equipment and Components*

mk Solutions offers a full 12 month parts and labor warranty from date of customer acceptance on all hardware. Please note that damage caused by vandalism, negligence or work performed by a third party other than a mk service representative is not covered under this warranty.

	BRONZE	SILVER	GOLD
Annual Maintenance*	✓	✓	✓
E-Mail Support	✓	✓	✓
Phone Support (Hotline)	✓	✓	✓
Software Updates**		✓	✓
On Site Support (incl. travel expenses)		✓	✓
Hardware replacement parts		✓ (50%)	✓
Spare parts on stock		✓	✓
During Warranty	Included	Included	Included
Year 2 after Warranty	\$589.00	\$1,569.00	\$1,962.00
Year 3 after Warranty	\$604.00	\$1,608.00	\$2,011.00
Year 4 after Warranty	\$619.00	\$1,648.00	\$2,061.00
Year 5 after Warranty	\$634.00	\$1,689.00	\$2,113.00

* Depending on the product, maintenance can be done remotely. Pricing is based on the proposed system without optional items.

** If applicable

mk Software Solutions “LibSoft Plus”

DASHBOARD & MANAGEMENT FEATURES		LIBSOFT PLUS
Status of equipment in real time		✓
Condition of equipment		✓
Statistics of equipment (per hour, day, week, etc.)		✓
Convenient Management of Station		✓
Centralized Management of Multiple Stations (including entire branches or consortiums)		✓
Software version auto-updates (does not require PC restart/reboot by staff)		✓
Centralized Software version auto-updates (including entire branches or consortiums, does not require PC restart/reboot by staff)		✓
GENERAL FEATURES		LIBSOFT PLUS
100% web-based, HTML 5		✓
Compatible with different Operating Systems		✓
Compatible with existing hardware/kiosks		✓
SIP2/NCIP/Web-Services interface to any ILS		✓
ISO compliant (not proprietary)		✓
User-friendly and intuitive user interface		✓
Multi-lingual user interfaces and receipts		✓
Cover images listed with titles on screen		✓
Paper and/or Email Receipts		✓
Processes RFID items (single or bulk)		✓
Security (AFI) changes automatically		✓
Processes Barcode items and/or EM items		✓
Processes Barcode and/or RFID Patron cards		✓
Processes all existing data models		✓

Fine/Fee payment by card and/or cash	✓
Auto re-encoding to harmonize data models	\$
Export of statistics to multiple formats	✓
Changes to user interfaces and receipts (does not require PC restart/reboot by staff)	✓
SERVICE & MAINTENANCE	LIBSOFT PLUS
E-Mail Support	✓
Phone Support (Hotline)	✓
Remote Monitoring Service	✓
Maintenance of ILS interfaces	✓
Software Updates	✓
Customer Service Ticket Management	✓
Consulting options	\$

SUBSCRIPTION PRICING	QTY.	LIBSOFT PLUS
Per month & station	1	\$56.16
Per year & station	1	\$650.00
Total Annual Costs	QTY.	LIBSOFT PLUS
Year 1	3	\$1,950.00
Year 2	3	2.5% increase
Year 3	3	2.5% increase
Year 4	3	2.5% increase
Year 5	3	2.5% increase
One Time Set Up Fee (all stations)		\$1,500.00

- Pricing is based on the requested quantity in this table
- \$500.00 initial set-up fee
- Contract duration: 24 months

- Renewal: automatically for 12 months
- Cancellation, 6 months notice prior to expiration



mk Solutions, Inc.

75 Acco Drive, Suite A-3
York, PA 17402 - USA

Phone +1 860 760 0438

sales.us@mksolutions.com
www.mksolutions.com**Please complete this form**Proposal #: 50048

!!! "Select" or "cross out" any optional items in the correspondent proposal !!!

Please select from the software options quoted above in this proposal☒ mk LibSoft Plus☐ mk StaffStation☐ mk GateTracker**Please select from one of the following maintenance options quoted above in this proposal:**

Invoicing takes place in advance for 1 year after the initial warranty period.

☒ Bronze☐ Silver☐ Gold**Delivery address & Date**Name of the Library: St. Helena Library Pref. Delivery Date: _____Street: 1492 LIBRARY LN City, State, ZIP: SAINT HELENA, CA 94574Country: USA Phone: (707) 967-2805**Billing address**Name of the Library: St. Helena LibraryAccounts payable: _____ Street: 1492 LIBRARY LNCity, State, ZIP: SAINT HELENA CA Country: USAPhone: (707) 967-2805 Email: director@shpl.org

"Sales tax exemption"

☒ NoPlease provide sales tax details: 8.25 %☐ Yes

If yes, please provide certificate

Customer's order approval

Date: _____ Please use PO #: _____

Printed Name/Title: _____ Customer Signature: _____

For all orders, please email purchase order or this completed & signed document to
sales.us@mksolutions.com

CITY OF ST. HELENA

RESOLUTION NO. 2018-XX

Approving the purchase of three self-check machines from mk Solutions for the St. Helena Public Library in the amount of \$20,940 and approval of the ongoing maintenance and licensing agreement starting in FY 2019/20 in the amount of \$2,589 and increasing by 2.5% each year until termination of the agreement.

RECITALS

- A. The St. Helena Public Library desires to replace three ten year old selfcheck machines;
- B. These machines enable library patrons to check library materials out by themselves while staff is occupied assisting other library patrons;
- C. After comparing costs, equipment, options, features, and reaching out to other users, the Library recommends mk Solutions.

RESOLUTION

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

- 1. The City Council approves the Agreement with mk Solutions for purchase of three selfcheck machines for a total not to exceed the amount of \$20,940; and
- 2. The City Council approves the ongoing maintenance and licensing agreement starting in FY 2019/20 in the amount of \$2,589 with an annual 2.5% increase each year until termination of the agreement; and
- 3. The City Council authorizes the City Manager to execute the agreement.

Approved at a Regular Meeting of the St. Helena City Council on July 24, 2018 by the following vote:

Mayor Galbraith:	_____
Vice Mayor White:	_____
Councilmember Dohring:	_____
Councilmember Koberstein:	_____
Councilmember Ellsworth:	_____

APPROVED:

ATTEST:

Alan Galbraith, Mayor

Cindy Tzaopolous, City Clerk



Report to the City Council
Council Meeting of July 24, 2018

Agenda Section: Consent

Subject: Consideration and proposed approval of a resolution accepting bids and awarding contracts to the lowest responsible bidders for furnishing chemicals for water and wastewater treatment for Fiscal Year 2018/2019 and authorizing the City Manager to execute the necessary agreements or purchase orders on behalf of the City.

CEQA Determination: Not a CEQA project

Prepared By: Felix Hernandez III, Utilities Operations Manager

Reviewed By: Erica Ahmann Smithies, Public Works Director and City Engineer

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

Bulk quantities of chemicals are used in a number of different processes to treat water at the Louis Stralla Water Treatment Plant and wastewater at the City's Wastewater Treatment and Reclamation Plant. It has been the City's practice to purchase these chemicals throughout the fiscal year and to establish guaranteed prices for chemical deliveries for the entire year. Water and wastewater treatment chemicals include coagulants used to remove solids; Sodium Hypochlorite as a filter aid, oxidizer, and disinfectant; Sodium Hydroxide for pH adjustment; and non-ionic polymer as a coagulant and filter aid. The purpose of this action is to provide single contracts at one or both facilities for chemical deliveries for FY 2018/2019 for each vendor that provides the lowest unit cost.

DISCUSSION

The City of St. Helena is a member of the North Bay Agency Chemical Pool (NBACP) along with 13 other public agencies. The NBACP endeavors to obtain the best available pricing through joint purchasing. In accordance with City of St. Helena Municipal Code Section 3.04.150, The bidding requirements of Section 3.04.100 shall not apply to the

purchasing of any equipment or supplies which the purchasing officer decides to obtain through a cooperative competitive bidding procedure prepared by and processed through another public, local, state, or federal governmental agency. Cooperative purchases must be competitively awarded, and documentation as to the advantage of the cooperative purchase retained. By combining the quantities of chemicals needed by the purchasing consortium, the City benefits from the economies of scale and receives lower bid prices compared to if the City bid its chemical needs alone. Invitations to bid, issued by NBACP, were sent to 29 chemical companies on April 10, 2018. Eighteen sealed bids were received and opened on May 3, 2018 at the City of Napa's EIB Jamieson Canyon Water Treatment Plant.

A Bid Summary, which lists the bidders and bids for each primary chemical, as well as the NBACP's Recommendation for Chemical Purchase, is attached (Attachment 2). At the bottom of the bid summary is a historical pricing chart for each chemical over the last six (6) years. Review of the summary illustrates that over time, some costs have increased and others have decreased. These variances are affected by transportation, raw material and energy costs.

After review of the bids, including the NBACP recommendations, it is recommended that the Council award bids to the following lowest responsible bidders for the chemicals listed and the prices indicated:

Apparent Low Bidder	Item	Unit Cost
Univar USA	Sodium Hypochlorite (NaOCl) (12.5%) (short load)	\$0.654/gallon
Univar USA	Sodium Hypochlorite (NaOCl) (12.5%) (full load)	\$0.654/gallon
Univar USA	Sodium Hydroxide (NaOH) (50%) (full load)	\$674.60/dry ton
Chemtrade Chemicals US	Aluminum Sulfate, (35-48%)(full load)	\$255.00/dry ton
Nalco Company	Nonionic Polymer Nalco 8170 PULV	\$2.01/pound

The table below, summarizes the anticipated FY 2018/2019 quantities and costs for bid chemicals, by vendor. The total amount for water treatment is \$34,201 and for wastewater treatment is \$39,894. Historical chemical prices are shown in the chemical bid summary in Attachment 2.

Chemical costs and estimated quantities

Vendor Name	Chemical Name	Estimated Quantity	FY 17/18 Pricing	FY 17/18 Expense	Taxed
Univar	Sodium	15,900	\$0.654/gallon	\$10,399.00	no

USA	Hypochlorite LSWP	gallons			
Univar USA	Sodium Hypochlorite WWTRP	61,000 gallons	\$0.654/gallon	\$39,894.00	yes
Univar USA	Sodium Hydroxide 50% LSWP	12.0 tons	\$674.60/dry ton	\$7,771.00	no
Chemtrade Chemicals US, LLC	Aluminum Sulfate LSWP	55.0 tons	\$255.00/dry ton	\$14,925.00	no
Nalco Company	Non-ionic Polymer LSWP	550 lbs.	\$2.01/lb.	\$1,106.00	no
<i>Total Water Treatment Estimated Costs</i>				<i>\$34,201.00</i>	<i>no</i>
<i>Total Wastewater Treatment Costs</i>				<i>\$39,894.00</i>	<i>yes</i>

FISCAL IMPACT

The FY 2018/2019 Louis Stralla Water Treatment Plant process chemical budget (561-5034-2235) is \$122,000. The FY 2018/2019 Waste Water Treatment and Reclamation Plant process chemical budget (571-5029-2235) is \$125,000. The chemical costs are within the operating budgets.

RECOMMENDED ACTION

Adopt a resolution accepting and awarding bids to the lowest responsible bidders for furnishing chemicals for the City of St. Helena water and wastewater treatment plants for Fiscal Year 2018/2019 and authorizing the City Manager to execute the necessary agreements or purchase orders on behalf of the City.

ATTACHMENTS

[Attachment 1: Resolution NBACP Chemical Purchase](#)

[Attachment 2: NBACP FY 2018-2019 Award Letter Bid Tab](#)

CITY OF ST. HELENA

RESOLUTION NO. 2018-

Resolution accepting and awarding bids to the lowest responsible bidders for furnishing chemicals for the City of St. Helena water and wastewater treatment plants for Fiscal Year 2018/2019 and authorizing the City Manager to execute the necessary agreements or purchase orders on behalf of the City.

RECITALS

- A. The City of St. Helena uses bulk chemicals in its operation of the Louis Stralla Water Treatment Plant and the Waste Water Treatment and Reclamation Plant; and
- B. The City of St. Helena joined the North Bay Agency Chemical Pool (NBACP) in 2006 to obtain lowest possible pricing through joint purchasing; and
- C. The NBACP bid the chemicals on April 10, 2018, and eighteen (18) bids were received and opened on May 3, 2018 for Primary Chemicals in accordance with applicable law; and
- D. The lowest responsive bids for the chemicals to be purchased through NBACP by the City of St Helena were: Univar USA for Sodium Hypochlorite and Sodium Hydroxide, Chemtrade Chemicals US, LLC for Aluminum Sulfate, Nalco Company for Non-Ionic Polymer; and
- E. As a member of NBACP, the City of St. Helena is entitled to purchase bulk chemicals from the NBACP's low bidders at the bid price stated; and
- F. The bulk chemical purchases contemplated by this resolution are exempt from other competitive bid requirements of the St. Helena Municipal Code Chapter 3.04.1 pursuant to City of St. Helena Municipal Code Section 3.04.150, "Cooperative purchasing with other agencies"; and
- G. The City benefits from participating in the cooperative purchase because it takes advantage of lower bid prices due to the economies of scale in bidding larger quantities of chemicals for all thirteen agencies that cooperate in the purchasing consortium

RESOLUTION

The City Council of the City of St. Helena hereby resolves as follows:

1. The bids for chemicals listed above are hereby accepted.
2. Purchase Orders are awarded to the following vendors for the bulk chemicals listed below, in conformance with the NBACP lowest responsive bids, conditioned on timely execution by each vendor of the Standard Agreement contained in the NBACP Chemical Requirements for 2018/19 bid package ("Standard Agreement") and submission of all required documents:

Univar USA, for Sodium Hypochlorite (12.5%), \$0.654 /gallon (short load price) and not to exceed \$10,400 plus applicable sales tax for the Water Treatment Plant.

Univar USA, for Sodium Hypochlorite (12.5%). \$0.654/gallon (full load price) and not to exceed \$39,900 plus applicable sales tax for the Wastewater Treatment and Reclamation Plant.

Univar USA, for 50% Sodium Hydroxide \$674.60 a dry ton and not to exceed \$7,800 plus applicable sales tax.

Chemtrade for Aluminum Sulfate \$255.00/dry ton and not to exceed \$15,000 plus applicable sales tax.

Nalco Company, for Non-Ionic Polymer 8170 PULV, \$110.55/55 lb. bag and not to exceed \$1,200 plus applicable sales tax.
3. The City Manager is authorized to execute the necessary agreements or purchase orders on behalf of the City.

Approved at a Regular Meeting of the St. Helena City Council on July 24, 2018, by the following vote:

Mayor Galbraith:	_____
Vice Mayor White:	_____
Councilmember Ellsworth:	_____
Councilmember Dohring:	_____
Councilmember Koberstein:	_____

APPROVED:

ATTEST:

Alan Galbraith, Mayor

Cindy Tzaopoulos, City Clerk

May 15, 2018

To: North Bay Agency Chemical Pool Members
cc: Chemical Suppliers

Re: Recommendation for FY 2018-2019 Chemical Purchases

Please find enclosed the bid summary of the FY 2018-19 chemical bid solicitations for the North Bay Agency Chemical Pool. Based on a meeting of NBACP members on May 10, 2018, the award of bids for the various chemicals for FY 2018-19 is as follows:

Aluminum Sulfate, 35-48%	Chemtrade Chemicals US	\$255.00/DT
Aluminum Sulfate (Acid)	Thatcher Chemicals	\$297.70/DT
Aluminum Trihydrate	Chemtrade Chemicals US	\$255.00/DT
Sodium Hydroxide, 50%	Univar USA	\$674.60/DT
Sodium Hydroxide, 25%	Univar USA	\$762.55/DT
Sodium Bisulfite, 25%	Univar USA	\$1.053/gal
Liquid Chlorine gas (1 ton Cylinder)	Thatcher Chemicals	\$850.00/ton
Sodium Hypochlorite, 12.5% (full load)	Univar USA	\$0.654/gal
Sodium Hypochlorite, 12.5% (short load)	Univar USA	\$0.654/gal
Hydrofluosilicic acid, 100%	DuBois Chemicals	\$1352.17/DT
Hydrofluosilicic acid, 24% (Adjusted)	DuBois Chemicals	\$325.50
Ferric Chloride, 43%	Kemira	\$756.00/DT
Liquid Oxygen, 100%	Praxair, Inc.	\$0.255/CCF
Carbon Dioxide	Praxair, Inc	\$0.0506/lb

The polyaluminum chlorides, polymers, and polyphosphates are subject to each individual facilities performance dynamics. Agency Pool members must determine the compatibility of these chemicals with their given processes. Therefore, there will be no recommendation on these chemicals.

NBACP members will present these bids to their managers for acceptance. Purchase orders and contracts will be processed by each individual utility member to the respective chemical vendor as the fiscal year 2018-19 nears. If you have any further questions, please contact me at (707) 253-0822.

Sincerely,

Lisa Sanchez
2018/19 NBACP Chairman

FY 2018-19
North Bay Agency Chemical Pool - Primary Chemicals Bid Results

Fiscal Year 2018/2019		Alum (Dry Ton)	Acid Alum (Dry Ton)	Alum Tri (Dry Ton)	Ferric (Dry Ton)	50% NaOH (Dry ton)	25% NaOH (Dry Ton)	Liquid Cl2 Gas (1-ton Cylinder)		12.5% NaOCl (gallon)		25% Bisulfite (gallon)	Fluoride (Dry Ton) (adjusted)		LOX (CCF)	CO2 Lb
Chemical Vendor:		Full	Full	Full	Full	Full	Full	Full	Short	Full	Short	Full	100%	24%	100%	100%
Univar						\$674.60	\$762.55			\$0.654	\$0.654	\$1.053				
Brenntag						\$734.00	\$853.00									
Thatcher		\$275.00	\$297.70						\$850.00							
Praxair															\$0.255	\$0.0506
Chemtrade		\$ 255.00	\$ 305.00	\$ 255.00												
Pennco (no bid)																
Olin						\$774.81	\$844.72			\$ 0.729	\$ 0.849					
Chemurgic												\$1.310				
Kemira					\$756.00											
DuBois													\$ 1,352.17	\$ 325.50		
	Previous F/Y Prices															
	FY 18-19	\$255.00	\$297.70	\$255.00	\$756.00	\$674.60	\$762.55	\$0.00	\$850.00	\$0.65	\$0.65	\$1.0530	\$1,352.17	\$325.50	\$0.255	\$0.051
	FY 17-18	\$232.00	\$257.00		\$500.00	\$538.22	\$630.88	\$0.00	\$800.00	\$0.529	\$0.589	\$1.030	\$1,421.74	\$341.22	\$0.2790	\$98.3200
	FY 16-17	\$229.00	\$229.00		\$438.78	\$395.00	\$444.06	\$615.00	\$645.00	\$0.471	\$0.565	\$0.936	\$1,661.00	\$398.64	\$0.2674	
	FY 15-16	\$204.00	\$204.00		\$493.70	\$399.13	\$463.26	\$459.00	\$462.00	\$0.501	\$0.574	\$0.893	\$1,789.83	\$429.56	\$0.2792	
	FY 14-15	\$184.00	\$184.00		\$517.00	\$445.00	\$483.80	\$519.00	\$555.00	\$0.512	\$0.584	\$0.909	\$2,065.21	\$495.65	\$0.2700	
	FY 13-14	\$277.60	\$277.60		\$597.00	\$452.00	\$479.00	\$565.00	\$540.00	\$0.620	\$0.498	\$0.749	\$2,480.39	\$595.29	\$0.2390	
	FY 12-13	\$398.00	\$398.00		No Bid	\$475.00	\$505.00	\$565.00	\$540.00	\$0.576	\$0.478	\$0.749	\$2,550.00	\$612.00	\$0.2100	

FY 2018-19
North Bay Agency Chemical Pool - Primary Chemicals Bid Results

Fiscal Year 2018-2019 Chemical Vendor	Non-Ionic Polymer Nalco 8170			Non-Ionic Polymer SNF/Polydyne 6360			Non-Ionic Polymer Polydyne Carifloc N-3300		
	Bag	Full	Short	Tote	Full	Short	Bag	Full	Short
Chemtrade									
Jenfitch Inc.									
Cal Chem									
Polydyne				\$10.49			\$103.73		
DuBois									
Carus									
Nalco	\$2.01								
Brenntag									
Chemtron									



Report to the City Council
Council Meeting of July 24, 2018

Agenda Section: Consent

Subject: Consideration and proposed approval of a resolution authorizing the City Manager to enter into a three-year Memorandum of Understanding, (MOU) between the City of St. Helena and the Culinary Institute of America (CIA) at Greystone in accordance with the Clery Act, to continue to provide coordinated Law Enforcement services to the properties owned and leased by the Institute.

CEQA Determination: Not a CEQA project

Prepared By: William Imboden, Chief of Police

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The Culinary Institute of America at Greystone (CIA) is an accredited institute of secondary education and is subject to all the requirements of The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act").

The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses. Compliance is monitored by the United States Department of Education, which can impose civil penalties against institutions for each infraction and can suspend institutions from participating in federal student financial aid programs.

The previous MOU between the City and the CIA was authorized by the Saint Helena City Council in October, 2015.

DISCUSSION

By October 1 of each year, institutions must publish and distribute their Annual Campus Security Report to current and prospective students and employees. This report is required to provide crime statistics for the prior three years, policy statements regarding various safety and security measures, campus crime prevention program descriptions, and procedures to be followed in the investigation and prosecution of alleged sex offenses.

The institution's police department or security departments are required to maintain a public log of all crimes reported to them, or those of which they are made aware. The log is required to have the most recent 60 days' worth of information. Each entry in the log must contain the nature, date, time and general location of each crime and disposition of the complaint, if known.

The Clery Act requires institutions to give timely warnings of crimes that represent a threat to the safety of students or employees. Institutions are required to publish their policies regarding timely warnings in their Annual Campus Security Report.

An institution must keep the most recent eight years (as of 2012) of crime statistics that occurred: on campus, in institution residential facilities, in noncampus buildings, or on public property.

Institutions are required to report on crimes such as:

- Murder
- Sex offenses (forcible/nonforcible, domestic violence, dating violence, and stalking)
- Robbery
- Aggravated assault
- Burglary
- Motor vehicle theft
- Arson
- Arrest

Institutions are required to report on persons referred for campus disciplinary action for:

- Liquor law violations
- Drug-related violations
- Weapons possession

Institutions are required to report on crimes or bodily harm related to/caused by:

- Hate crimes

The CIA staffs an around the clock security department that responds to and documents any safety related issues on the campus or campus owned properties. They also report any law enforcement incidents to the Saint Helena Police Department, and defer to us in any criminal investigation. They do not have the ability to track the statistics necessary to comply with the above mentioned reporting requirements. They depend on information provided to them by the Saint Helena Police Department and other local law enforcement agencies.

FISCAL IMPACT

There are no additional costs and therefore no Fiscal Impact.

RECOMMENDED ACTION

Staff recommends approval of a resolution authorizing the City Manager to enter into a three-year Memorandum of Understanding, (MOU) between the City of St. Helena and the Culinary Institute of America (CIA) at Greystone in accordance with the Clery Act, to continue to provide coordinated Law Enforcement services to the properties owned and leased by the Institute.

ATTACHMENTS

[Attachment 1](#)

[Attachment 2](#)

ATTACHMENT 1

**CITY OF ST. HELENA
RESOLUTION NO. 2018-_____**

**Resolution authorizing entering into a Memorandum Of
Understanding (MOU) between the Culinary Institute of America at
Greystone (CIA) and the Saint Helena Police Department for
coordination Law Enforcement efforts**

RECITALS

- A. The City of St. Helena provides law enforcement services to the CIA on their campus and all the CIA owned properties; and
- B. The CIA staffs an around the clock security force that defers law enforcement activities to the Police Department; and
- C. The CIA is an accredited secondary institution that participates in Federal financial aid programs; and
- D. As such the CIA is subject to all the requirements of the "Clery Act"; and
- E. The Police Department records and maintains the statistical information the CIA requires to comply with the Clery Act; and
- F. No additional funds will be required from the General Fund for this MOU.

RESOLUTION

The City Council of the City of St. Helena hereby resolves as follows:

- 1. Entering into an MOU between the CIA and the Police Department for coordination of Law Enforcement efforts is approved.
- 2. The City Manager is authorized to sign the MOU on behalf of the City.

Approved at a Regular Meeting of the St. Helena City Council on July 24th, 2018, by the following vote:

Mayor Galbraith: _____
Vice Mayor White: _____
Councilmember Ellsworth: _____
Councilmember Dohring: _____
Councilmember Koberstein: _____

APPROVED:

ATTEST:

Alan Galbraith, Mayor

Cindy Tzaopoulos, City Clerk

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF ST. HELENA AND THE
CULINARY INSTITUTE OF AMERICA AT GREYSTONE**

This Memorandum of Understanding ("MOU"), made and entered into on _____, 2018 by and between the City of St. Helena ("City") and the Culinary Institute of America at Greystone ("CIA" or "College"), sets forth the parties' understanding of their respective duties and obligations concerning the coordination of law enforcement efforts between the College and the City.

Whereas:

- A. the College wishes by this MOU to improve its ability to address its obligations pursuant to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act");
- B. the City, by and through its Police Department, has primary law enforcement jurisdiction of all property owned, leased or under the control of College, which is in the City of St. Helena, and subject to the terms of this MOU; and
- C. the City wishes to assist College in its efforts, as set forth and subject to the terms set forth herein,

The City and College hereby agree as follows:

- 1. The City will continue to provide police services on said property consistently State law and the City's Municipal Code, and subject to the terms of this MOU and the discretion of the City's law peace officers.
- 2. The CIA Department of Campus Safety will notify the St. Helena Police Department of any serious criminal incident or situation affecting public safety which occurs on any property owned, leased, or under the control of the College within the jurisdiction of the City of St. Helena. These incidents will include, without limitation, violent felony offenses, missing persons or other situations that may affect the safety of persons on the campus or in the City. The College will encourage victims of crimes to report all crimes, and the Department of Campus Safety will assist victims in making reports to the police if requested. For purposes of this MOU, the following definitions shall apply:
 - a. "Missing Student" means any student of the College subject to the provisions of California Penal Code§ 14205, who resides in a facility owned or operated by the College and who is reported to the College as missing from his or her residence.
 - b. "Violent Felony Offense" means a violent felony offense as specified in California Education Code§§ 44010, 44011, 44346.1, 44424 or in California Penal Code§ 667.5(c).
 - c. "Serious felony" is any felony listed in California Penal Code§ 1192.7.
- 3. The St. Helena Police Department will use its endeavor to keep the CIA Department of Campus Safety informed of any emergencies which may occur within the City that may affect the safety of the staff, students and guests or any property owned, leased, or under the control of the College.
- 4. When the St. Helena Police Department executes a warrant on any property owned, leased, or under the control of the College, the Police Department will endeavor to contact the CIA Department of Campus Safety and request a Campus Safety Officer to accompany the City police officer. The City will use reasonable efforts to refrain from interrupting a class to affect an arrest or to execute a search warrant. In the event of continuous close pursuit within the City of St. Helena which continues to the CIA campus, the St. Helena Police Department will endeavor to notify the Culinary Institute Of America at Greystone Department of Campus Safety Department as soon as practical under the circumstances.

5. Designees from the St. Helena Police Department and the CIA Department of Campus Safety will meet as needed to review and discuss various operational issues, interdepartmental objectives and all events impacting both communities.
6. The St. Helena Police Department will endeavor to provide the College with information concerning crimes committed on property in the Department's jurisdiction which is owned by the College, controlled by the College or adjacent to the College campus, in order to assist the College in its efforts to meet its obligations under the Clery Act to collect and annually report to the Department of Education and its community statistics concerning certain crimes committed on such property. The College at least annually will inform the City of the specific categories of crimes for which the College must report statistics. The St. Helena Police Department will use its best efforts to either provide the statistics or other information (such as copies of incident reports) from which the statistics can be derived. Nothing in this paragraph shall be construed to require the Police Department to provide the names of individual victims or any other information the Department is prohibited from disclosing.
7. In no event shall City, or any of its officers, agents, representatives, officials, employees or insurers, be liable to College or any other person or entity for damages for any breach or violation of, or failure to perform or satisfy, this MOU. The enforceability and validity of the above limitations on the remedies available to the parties, including, without limitation, this specific provision prohibiting the recovery of damages, is part of the bargained for, negotiated consideration for City's agreement to enter into this MOU, and it is acknowledged that City would not have entered this MOU if it were to be liable in damages under this MOU. In the event College or any other person or entity seeks or accepts damages in any action or proceeding brought for breach or violation of, or failure to perform or satisfy, this MOU, such award shall destroy the consideration supporting City's agreement to enter into this MOU.
8. Notwithstanding any provision in this MOU to the contrary, the following shall apply:
 - a. Nothing in this MOU shall or is intended in any manner to impede, diminish or limit the City's ability and discretion to exercise any warrant, prioritize its law enforcement functions, or otherwise carry out the City's law enforcement duties under State law or the St. Helena Municipal Code.
 - b. The City shall have complete discretion with respect to the manner and time by which it carries out its duties, and may also in its discretion determine on a case by case basis not to carry out any such duty. Neither the College, the public nor any third party shall have the right to enforce any provision of this MOU against the City.
 - c. The City shall not be liable in any manner to the College, the public or to any third party for any claims, demands, causes of action, compensation or damages or relief of any kind arising from or in any manner connected with any act or omission by the City under this MOU.
 - d. The City does not warrant, represent or in any manner guarantee that this MOU satisfies the College's obligations under the Clery Act or any other law, and in no manner assumes any responsibility or liability for satisfying College's responsibilities thereunder.
 - e. City may terminate this MOU, with or without cause, at any time by giving ten (10) days written notice of termination to CIA.
 - f. If litigation or other proceeding is required to enforce or interpret any provision of this MOU, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorneys' fees, costs and expenses, in addition to any other relief to which it may be entitled.

- g. This MOU is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between College and City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

IN WITNESS WHEREOF, the parties hereto have accepted, made, and executed this MOU upon the terms, conditions, and provisions above stated, the day and year firstabove written.

CITY OF ST. HELENA:

By: _____
Mark Prestwich, City Manager

THE CULINARY INSTITUTE OF AMERICA AT GREYSTONE:

By: Maria Krupin
Maria Krupin – VP Finance & Administration

APPROVED AS TO FORM:

By: _____
Thomas B. Brown, City Attorney



Report to the City Council
Council Meeting of July 24, 2018

Agenda Section: Consent

Subject: Consideration and proposed approval of a resolution approving a contract with Dash Data, Inc for document imaging and quality control services for a total not to exceed in the amount of \$70,000

CEQA Determination: Not a CEQA project

Prepared By: Cindy Tzaopoulos, City Clerk

Reviewed By: Mark T. Prestwich, City Manager

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

In late 2017, the City Council adopted three-year goals and established 12-month strategic objectives to guide the organization's work. One of the objectives directed the City Clerk to complete a Request for Proposals (RFP), recommend/approve consultant and funding to complete document scanning in order to deploy public portal within City website to access City records via laserfiche. The scanning project will enhance the delivery of information to the community and City staff immensely, 24 hours a day, 365 days a year. The FY 2018-19 adopted budget includes \$70,000 for this project.

Various record types to be included in the project are currently not in a searchable optical character recognition (OCR) environment. A large majority of these records are housed in file cabinets and/or boxes on shelves. Examples of file types to be imaged are, but not limited to:

- Building Permits and Plans
- Planning Permits, Plans and Project Files
- Public Works Certifications, Plans and Reports
- Specialized Studies
- Plan Rolls, Folded Maps and Mylar Maps
- Minutes, Resolutions and Ordinances

- Contracts, Agreements and Deeds

On May 7, 2018 the City Clerk's Office issued a seeking document imaging services. At the RFP closing date, the City Clerk's office received six responses.

DISCUSSION

A team of staff reviewed the six proposals. One of the six RFP's was disqualified due to lack of insurance. The responses included:

- Hines EDM in the amount \$129,015 (total price not including document pick-up and returns)
- Dash Data, Inc. in the amount of \$131,735
- BMI imaging systems provided a pricing breakdown, but didn't provide a total project cost estimate
- GRM in the amount of \$177,329
- ECS Imaging, Inc in the amount of \$227,538
- DataArc was disqualified for lack of insurance requirement

After comparing costs, responsiveness to each requirement and conducting interviews with Hines EDM and Dash Data regarding project objectives, staff recommends accepting the proposal submitted by Dash Data, Inc. for the following reasons:

- Dash Data Inc. was responsive to all of the RFP requirements.
- The consultant visited City Hall on two separate occasions to understand City staff needs and become familiar with the records identified for scanning.
- Dash Data, Inc. included optional scanning cost saving measures.
- Unlike other proposers, they have developed software to batch upload into laserfiche. This will save the City the need to purchase \$6,700 of software from Laserfiche.

Because the responses are considerably higher than the \$70,000 FY 2018-19 budgeted amount, staff is recommending phasing of the project, with higher priority documents (e.g. planning and parcel data) imaged in year one, with the remainder of files imaged in the following fiscal year.

FISCAL IMPACT

\$70,000 has been budgeted in Fiscal Year 2018/19 to fund the project.

RECOMMENDED ACTION

Staff recommends City Council approve the resolution authorizing the contract with Dash Data, Inc.

ATTACHMENTS

[Document Imaging and Quality Control Services RFP](#)

[Addendum 1 - Document Imaging and Quality Control Services RFP](#)

[Dash Data Proposal](#)

[Resolution for Dash Data, Inc.
Contract](#)



CITY OF ST. HELENA
ADMINISTRATION DEPARTMENT

REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES
DOCUMENT IMAGING AND QUALITY CONTROL SERVICES

DATE ISSUED: Tuesday, May 7, 2018

DATE DUE: Friday, June 8, 2018

CONTACT: Cindy Tzaopoulos, City Clerk
ctzaopoulos@cityofsthelena.org
(707) 968-2742

ALL RESPONSES MUST BE MAILED OR HAND-DELIVERED TO:

CITY OF ST. HELENA
OFFICE OF THE CITY CLERK
ATTENTION: CINDY TZAPOPOULOS
1480 MAIN STREET
ST. HELENA, CA 94574

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- A. CITY OF ST. HELENA RECORDS INVENTORY
- B. SAMPLE CITY OF ST. HELENA PROFESSIONAL SERVICES CONTRACT

I. INTRODUCTION

The City of St. Helena, hereinafter referred to as the "City", is requesting proposals (RFP) from firms or individuals, hereinafter, referred to as "Proposer" to provide document imaging and quality control services to the City.

The City of St. Helena has one permanent repository for scanned records - Laserfiche. The City now desires to procure contract services for its document scanning needs and for quality control services of the scanned documents. Through this RFP, the City seeks a Consultant that can provide the highest quality product at the most affordable price.

II. CITY PROFILE

The City of St. Helena, California is located in the center of the world-famous wine growing Napa Valley, 65 miles north of San Francisco.

The area was settled in 1834 as part of General Vallejo's land grant. The City of St. Helena was incorporated as a City on March 24, 1876 and reincorporated on May 14, 1889.

The City, from its inception, has served as a rural agricultural center. Over the years, with the growth and development of the wine industry, St. Helena has become an important business and banking center for the wine industry. The City also receives many visitors as a result of the wine industry and the area's scenic qualities. The City's goal is to maintain a small-town atmosphere and to provide quality services to its citizens.

The official population of the City of St. Helena as of 2017 is 6,033 (CA Department of Finance). St. Helena is a full-service city and encompasses an area of four square miles. The City's General Fund Budget is approximately \$11.1 million.

III. SCOPE OF WORK

The City is requesting proposals from qualified Consultants for document imaging and quality control services. The City desires the quality of scanned documents and the diligence of quality control must be superior.

Examples of file types to be scanned may include but are not limited to:

- Building Permits and Plans
- Planning Permits, Plans and Project Files
- Public Works Certifications, Plans and Reports
- Specialized Studies
- Plan Rolls, Folded Maps and Mylar Maps
- Minutes, Resolutions and Ordinances
- Contracts, Agreements and Deeds

File folders may contain flat and folded documents of varying sizes and plan rolls will vary in size from under an inch to 12" or more in diameter. Proposers may assume that most paper records are in good condition.

The following criteria must be met:

Laserfiche

1. Ability to scan content directly and seamlessly into laserfiche using an upload utility - must have a tool that directly uploads content to laserfiche including auto folder generation, tool must have ability to custom build folder structure and sort files into folder structures automatically. Ability to add meta data.
2. Custom and configurable file naming convention, as well as folder naming conventions up to 256 characters.

Records

3. Ability to scan:
 - a. Manila folder- content on file folders
 - b. Post it notes
 - c. Legal documents
 - d. Letters
 - e. Carbon copies
 - f. Photo exhibits
 - g. Spiral bound books
 - h. Tabbed paper
 - i. Pocket files folders
4. Images:
 - a. Duplex scan documents to capture both front and back of document where needed. Images must be oriented correctly for viewing. Text must be readable up to the edge of the document.
 - b. Image clean-up; the scanned document should be de-skewed, de-speckled, blank pages and black borders removed, hole punch images removed and background color drop out (where possible). Color images must be viewable quality so that detail in the image is captured.
 - c. For the purposes of this RFP, Proposer is invited to offer suggestions on how best to scan color photos to maintain the quality and detail of an image while striving to reduce size of the electronic image (i.e. keep them in color or copy in gray-scale).
5. OCR all content with guarantee of 99.5% accuracy on images and ability for 600 dpi images.
6. Perform rework on errors or omissions with no additional charge.
7. Warranty period of 6 months against defects.
8. Records can be saved in PDF and TIFF format.
9. Any and all City documents in the possession of Proposer must be stored in a climate controlled safe and secure location. The City must have access to all City documents in the Proposer's possession upon request, with a hard copy or electronic file provided within 24 hours.

10. HIPAA protocol must be followed and anyone who has contact with content must have received HIPPA training.
11. Historical document scanning without unbinding, cutting, or otherwise interfering, altering, or damaging documents or their binders.
12. Documents prep non-historical:
 - a. Ability to scan small documents such as receipts as small as 1.5 inches x 3 inches in line with up to 11 x 17 documents in a single scan
 - b. Staple and fastener removal
 - c. Metal, plastic, twine, glue binder removal
 - d. Industrial staple removal capability including box and plier staples
 - e. Fix torn pages prior to scanning
 - f. Black and white, greyscale, and color scanning options
13. Once electronically imaged, documents shall be returned to their original state (restapled, bound, rolled, etc.) and returned to the original filing location, unless specifically instructed by the Project Manager to return to an alternate location. No materials will be destroyed.
14. Ability to scan documents on site at City facility, offsite at vendor's offices, or both.
15. If content is picked up, there must be at least two representatives of the scanning organization present; pick up must not be outsourced. There shall always be two representatives with the content in transit.
16. Vendor to maintain documented chain of custody through an audit trail.
17. Vendor must agree to provide private transport, content will never be mixed in transit with other clients, not additional, non-mission critical stops to occur en route.
18. Content will not leave the state of California.
19. Have California city or county government scanning project references.

PRE-PROPOSAL CONFERENCE

To facilitate the clarification of requirements, **proposers are requested to submit**, in writing, any questions they may have by 5:00PM PST on Monday, May 14, 2018. Any interpretation made to prospective proposers, will be expressed in the form of an addendum, which, if issued, will available online for all prospective proposers no later than 5:00PM PST on Friday, May 18, 2018.

Respondents who are interested in submitting a Proposal shall have the opportunity to visit City Hall located at 1480 Main Street, St. Helena, CA, whereupon the documents to be electronically imaged are located. During the site visit, the Project Manager shall identify, in general, documents to be electronically imaged under the terms of the Agreement. The City encourages the proposers to schedule an onsite visit with the Project Manager.

The work will commence when an agreement is fully executed.

IV. SCHEDULE

Responses to the RFP must be submitted to the City of St. Helena as outlined in this section.

Responses are due no later than
FRIDAY, JUNE 8, 2018 AT 5:00 PM PST
 Responses received after this date and time will not be considered.

PROPOSED SCHEDULE FOR THE REVIEW AND SELECTION PROCESS AND DESIRED TIMELINES FOR DELIVERABLES

MILESTONE	DATE	TIME
Release RFP	May 7, 2018	9:00AM PST
Question submittal deadline	May 14, 2018	4:00PM PST
Questions posted on City website (http://www.cityofsthenelena.org/cityclerk/page/document-imaging-and-quality-control-services-rfp)	May 18, 2018	5:00PM PST
Proposal due date	June 8, 2018	4:00PM PST
Review of submittals	June 11, 2018	9:00AM PST
Interviews	June 2018	TBD
City Council Approval and Award of Contract (Tentative)	June 26, 2018	9:00AM PST

The schedule may be modified and/or extended if necessary.

V. PROPOSAL REQUIREMENTS AND FORMAT

If interested in this RFP, please notify Cindy Tzaopoulos by email at ctzaopoulos@cityofsthenelena.org so you may be added to the notification list for addendums. Failure to notify Ms. Tzaopoulos could result in missing important and required information, and could result in disqualification.

All submittals must follow the format described in this section. Proposers are encouraged to submit clear and concise responses to the RFP. The City of St. Helena reserves the right to include or exclude any part of the submittals in the final agreement with the selected Consultant.

- Two (2) unbound reproducible copies of the submittal and PDF electronic copy.

To be considered for selection, submittals must arrive at the location shown below by the date and time specified in Section IV. Proposers who mail packages should allow ample delivery time to ensure timely arrival.

Submittals shall be placed in a clearly marked envelope, titled Document Imaging and Quality Control Services and hand-delivered or mailed to:

City of St. Helena
Office of the City Clerk
Attention: Cindy Tzafopoulos
1480 Main Street
St. Helena, CA 94574

It is the sole responsibility of the Proposer to ensure timely delivery. Late proposals shall not be considered. Proposals will not be accepted at any other location other than the address specified above. Faxed or emailed proposals will not be accepted.

Submittals must include the following components in the order listed below:

- Part 1: Cover Letter/Executive Summary
- Part 2: Understanding of Project Scope
- Part 3: Commitment to Project Budget & Detailed Work Plan
- Part 4: Delivery Schedule and Timeline
- Part 5: Reference Review

PART 1 | COVER LETTER/EXECUTIVE SUMMARY

In no more than three (3) pages, the Cover Letter and Executive Summary shall include:

1. The names of the key members of the Consultant team.
2. The mailing address, telephone number, and the name of the main point of contact for the Consultant team.
3. A summary of the proposers experience and qualifications and the significant advantages to selecting the Consultant.
4. An acknowledgement of any addendum(s) to the RFP document.

PART 2 | UNDERSTANDING OF PROJECT SCOPE & DETAILED WORK PLAN

Each Proposer shall demonstrate its capacity to deliver comprehensive and professional scanning services. Proposer should outline methodology and logistics capable of meeting the goals outlined in the Scanning scope of work. Proposers should draw from previous experience and demonstrated competence to articulate how their capabilities are distinct, comprehensive, and add value.

PART 3 | COMMITMENT TO PROJECT BUDGET

Consultant shall provide a total base fee for the project. Each responding Proposer shall include an acknowledgement that it can effectively complete this project within the budget indicated. Each Proposer should clearly explain in this section the methods and process it will use to insure the project is within budget and that the City will be getting the best value within the budgeted amount.

PART 4 | DELIVERY SCHEDULE AND TIMELINE

Discuss in this section the steps the Consultant team proposes to use. Clearly outline the delivery schedule and timeline of each component of the project. Specific dates should be used assuming an award to this RFP and an executed agreement on June 26, 2018. Proposer shall be prepared to begin work within two (2) weeks of the award of contract. The submittals will be evaluated based on the best value to the City and ability to complete this project in a timely and high quality manner. Indicate in the proposed scheduling the necessary involvement and various decision points required of the City. A

Gantt chart or schematic representation of the delivery timeline with pertinent milestones and events is required in this section.

PART 5 | REFERENCE REVIEW

The review team will conduct a background reference review of each completed project. Please include the following information for three (3) projects that the proposed Consultant team worked on together:

- Client contact information
- Place of Business
- Project budget
- Date of start/completion of the project

VI. PROPOSAL TERMS AND CONDITIONS

1. EXAMINATION OF PROPOSAL MATERIALS

The submission of a proposal shall be deemed a representation and warranty by the Proposer that it has investigated all aspects of the RFP, that it is aware of the applicable facts pertaining to the RFP process and its procedures and requirements, and that it has read and understands the RFP. No request for modification of the provisions of the proposal shall be considered after its submission on the grounds the Proposer was not fully informed as to any fact or condition.

2. ADDENDA INTERPRETATIONS

If it becomes necessary to revise any part of this RFP an addenda will be uploaded to the City website. The City of St. Helena is not bound by any oral representations, clarifications, or changes made in the RFP by the City or its agents, unless such clarifications or change is provided in an addendum from the City of St. Helena.

3. DESIGNATED CONTACT

For the purposes of this RFP, the City's designated Project Manager is Cindy Tzaopoulos, City Clerk. Any questions concerning the scope of work and the selection process shall be directed to Ms. Tzaopoulos, at ctzaopoulos@cityofsthenelena.org. Any and all questions and responses concerning this RFP will only be accepted in writing, via email. All questions must be received by May 14, 2018 by 5:00PM PST.

Responses to questions will be posted on the City's website, <http://www.cityofsthenelena.org/cityclerk/page/document-imaging-and-quality-control-services-rfp>, and will become part of the RFP. It is the Proposer's responsibility to check the website for updates.

4. PUBLIC RECORDS

This RFP document and all submittals in response thereto are public records. Prospective Proposers are cautioned not to include any material into the proposal that is strictly proprietary in nature.

5. PROPOSAL COSTS

All costs associated with the preparation of RFP submittals shall be borne by the Proposer. This RFP does not constitute any form of offer to contract.

6. RESERVATION OF RIGHTS

The City reserves the right, for any reason, to accept or reject any one or more proposals; to negotiate the terms and specifications of the proposal; to modify any part of the RFP; or issue a new RFP.

7. PRODUCT OWNERSHIP

Any documents resulting from the contract will be the property of the City.

8. PROFESSIONAL SERVICES AGREEMENT

All Proposers must identify in their proposal any terms and conditions of the sample Professional Service Agreement (Exhibit B) that they wish to negotiate. Insurance is required as outlined in Section 7 of the sample agreement.

9. CAUSES FOR DISQUALIFICATION

Any of the following may be considered cause to disqualify a Proposer without further consideration:

- Evidence of collusion among Proposers;
- Any attempt to improperly influence any member of the evaluation panel;
- A Proposer's default in any operation of a professional services agreement which resulted in termination of that agreement; and/or
- Existence of any lawsuit, unresolved contractual claim, or dispute between Proposer and the City.



Exhibit A

DOCUMENT IMAGING AND QUALITY CONTROL SERVICES

List of Approximate Records

Name of Department	Type of Record	*Approximate Number of Records, Cabinets, Boxes or Binders Containing Records
Building Department	4-Drawer vertical file cabinet 52.0H" x 18.0W" x 26.5D"	28 Cabinets
	Bankers Boxes - Bankers Boxes - 10H" x 12W" x 24D"	21 Boxes
	Rolled plan sets (Majority can be scanned as black and white) Majority are 4" up to 50 pages, Others range from 1 1/2" to 7 1/2" from 3-208 pages no bigger than 24"x36"	1500 Plan Sets
Planning Department	4-Drawer vertical file cabinet 52.0H" x 18.0W" x 26.5D"	95 Cabinets
	Bankers Boxes - Legal Size, 10H" x 15W" x 24D"	9 Boxes
	Bankers Boxes - 10H" x 12W" x 24D"	140 Boxes
Public Works Department	4-Drawer filing cabinet 36.0W" x 17.0D" x 53.0H"	12 Cabinets
	4-Drawer vertical file cabinet 52.0H" x 18.0W" x 26.5D"	4 Cabinets
	Flat and folded plans no bigger than 24"x36" - 35 Drawers, 46-3/4W" x 35-3/8D" x 2 3/4H"	200 Plan Sets
City Clerk	1/2" to 3" 3-Ring Binders	115 Binders
	**1 1/2" to 2 1/2 " Legal size Books	38 Books
	**2 1/2" to 2 1/2 " Legal size Books	14 Books

*Cabinets, boxes and binders filled with varying records.

** Historic books are looseleaf or leather bound.

Building Department



Planning Department



Public Works



City Clerk



Exhibit A Page 2

Exhibit B

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into on [REDACTED], 2018 by and between the City of St. Helena, located in the County of Napa, State of California (City), and [REDACTED] (Consultant).

RECITALS:

A. City desires to employ Consultant to furnish professional services in connection with the project described as [REDACTED].

B. Consultant has represented that Consultant has the necessary expertise, experience, and qualifications to perform the required duties.

NOW, THEREFORE, in consideration of the mutual premises, covenants, and conditions herein contained, the parties agree as follows:

SECTION 1 – BASIC SERVICES

Consultant agrees to perform the services set forth in **Exhibit A, “Scope of Services”** and made part of this Agreement.

SECTION 2 – ADDITIONAL SERVICES

Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to or outside of those set forth in this Agreement or **Exhibit A, “Scope of Services”**, unless such additional services and compensation are authorized in advance and in writing by the City Council or City Manager of the City.

SECTION 3 – TIME FOR COMPLETION

The time for completion of services shall be as identified in **Exhibit A, “Scope of Services”**.

SECTION 4 – COMPENSATION AND METHOD OF PAYMENT

A. Subject to any limitations set forth in this Agreement, City agrees to pay consultant the amount specified in Exhibit B, “Compensation”, attached hereto and made a part hereof. Total compensation shall not exceed \$ [REDACTED], unless additional compensation is approved in accordance with Section 2.

B. Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories if applicable: labor (by sub-category), travel, materials, equipment, supplies, subconsultant contracts, and miscellaneous expenses. City shall independently review each invoice submitted to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. If no charges or expenses are disputed, the

Page 1 of 10

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Exhibit B

invoice shall be approved, and City will use its best efforts to cause Consultant to be paid within 30 days of receipt of invoice. If the City disputes any charges or expenses, the City will return the original invoice to Consultant for correction and resubmission. If the City reasonably determines, in its sole judgment, that the invoiced charges and expenses exceed the value of the services performed to date and that it is probable that the Agreement will not be completed satisfactorily within the contract price, City may retain all or a portion of the invoiced charges and expenses. Within thirty (30) days of satisfactory completion of the project, City shall pay the retained amount, if any, to Consultant.

C. Payment to the Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

SECTION 5 – STANDARD OF PERFORMANCE

Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.

SECTION 6 – INSPECTION AND FINAL ACCEPTANCE

City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant's work within sixty (60) days after submitted to City, unless the parties mutually agree to extend such deadline. City shall reject work by a timely written explanation, otherwise Consultant's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects and fraud. Acceptance of any of Consultant's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, the sections pertaining to indemnification and insurance.

SECTION 7 – INSURANCE REQUIRED

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees, as indicated:

- A. 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.

Exhibit B

B. Minimum Limits of Insurance. Consultant shall maintain limits no less than:

1. General Liability: \$2,000,000 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: \$2,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$2,000,000 per accident for bodily injury or disease.

C. Professional Liability Insurance. When Consultant under this Agreement is duly licensed under California Business and Professions Code as an architect, landscape architect, environmental engineer or other professional engineer, or land surveyor ("design professional"), Consultant shall maintain at least \$2,000,000 of professional liability insurance.

D. Excess Limits. If Consultant maintains higher limits than the minimums shown above, City requires and shall be entitled to coverage for the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

E. Primary Coverage. For any claims related to this contract the Consultants insurance coverage shall be primary insurance as respects to City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of Consultants insurance and shall not contribute with it.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions of \$25,000 or greater must be declared to and approved by the City.

G. Other Insurance Provisions. The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its agent, officers, officials, employees, and volunteers are to be covered as additional insured as respects: liability arising out of work or operations performed by the Consultant or Consultant's subconsultants; or automobile owned, leased, hired or borrowed by the Consultant.
2. For any claims related to Consultant's conduct while performing the work of this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its agents, officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its agents, officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

Exhibit B

4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subsection (b) of Section 2782 of the Civil Code.

H. Waiver of Subrogation. Consultant's commercial general liability, automobile liability, workers' compensation, and employer's liability policies shall be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its agents, officers, officials, employees and volunteers for losses paid under the terms of this policy which arises from the work performed by the named insured for the City.

I. The Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.

J. Verification of Coverage. Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on forms that conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

SECTION 8 – INDEMNIFICATION

A. Consultant shall indemnify and hold harmless City, its agents, officers, officials, employees, and volunteers from any and all claims, demands, suits, loss, damages, injury, and/or liability (including any and all costs and expenses in connection therewith), incurred by reason of any negligent or otherwise wrongful act or omission of Consultant, its officers, agents, employees and subcontractors, or any of them, under or in connection with this Agreement; and Consultant agrees at its own cost, expense and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against City, its agents, officers, officials, employees and volunteers, or any of them, arising out of such negligent or otherwise wrongful act or omission, and to pay and satisfy any resulting judgments.

B. When Consultant under this Agreement is duly licensed under California Business and Professions Code as an architect, landscape architect, professional engineer, or land surveyor ("design professional"), the provisions of this section regarding Consultant's duty to defend and indemnify apply only to claims that arise out of or relate to the negligence, recklessness, or willful misconduct of the design professional.

C. If any action or proceeding is brought against Indemnitees by reason of any of the matters against which Consultant has agreed to indemnify Indemnitees as provided above, Consultant, upon notice from City, shall defend Indemnitees at Consultant's expense by counsel acceptable to City, such acceptance not to be unreasonably withheld. Indemnitees need not have first paid for any of the matters to which Indemnitees are entitled to Indemnification in order to be so indemnified. The insurance required to be maintained by Consultant shall ensure Consultant's obligations under this section, but the limits of such insurance shall not limit the

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liability of Consultant hereunder. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

D. The provisions of this section do not apply to claims to the extent occurring as a result of the City's sole negligence or willful acts or misconduct.

SECTION 9 – INDEPENDENT CONTRACTOR STATUS

A. Consultant is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Consultant shall have no authority to bind City in any manner or to incur an obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

B. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees or agents are in any manner officials, officers, employees or agents of City.

C. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

SECTION 10 – CONFLICTS OF INTEREST

A. Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of the City Manager. Consultant agrees to at all times avoid conflicts with the interests of City in the performance of this Agreement.

B. City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant is aware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

SECTION 11 – OWNERSHIP OF DOCUMENTS

A. All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement shall become the

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Exhibit B

sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Consultant. When requested by City, but no later than three years after project completion, Consultant shall deliver to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

B. All copyrights, patents, trade secrets, or other intellectual property rights associated with any ideas, concepts, techniques, inventions, processes, improvements, developments, works of authorship, or other products developed or created by Consultant during the course of providing services (collectively the “Work Product”) shall belong exclusively to City. The Work Product shall be considered a “work made for hire” within the meaning of Title 17 of the United States Code. Without reservation, limitation, or condition, Consultant hereby assigns, at the time of creation of the Work Products, without any requirement of further consideration, exclusively and perpetually, any and all right, title, and interest Consultant may have in the Work Product throughout the world, including without limitation any copyrights, patents, trade secrets, or other intellectual property rights, all rights of reproduction, all rights to create derivative works, and the right to secure registrations, renewals, reissues, and extensions thereof.

SECTION 12 – CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

B. Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered “voluntary” provided consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant’s conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite such response.

Exhibit B

SECTION 13 – SUSPENSION OF WORK

City may, at any time, by ten (10) days written notice suspend further performance by Consultant. All suspensions shall extend the time schedule for performance in a mutually satisfactory manner and Consultant shall be paid for services performed and reimbursable expenses incurred prior to the suspension date.

SECTION 14 – COMPLIANCE WITH LAW

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Consultant shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Consultant to comply with this section.

SECTION 15 – COMPLIANCE WITH CIVIL RIGHTS

During the performance of this contract, Consultant agrees as follows:

A. Equal Employment Opportunity. In connection with the execution of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, ancestry, age, sexual orientation, gender, gender identity and gender expression as protected categories specifically and expressively in that category, physical handicap, medical condition, marital status, sex, or national origin. Such actions shall include, but not be limited to, the following: employment, promotion, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training including apprenticeship.

B. Nondiscrimination Civil Rights Act of 1964. Consultant will comply with all federal regulations relative to nondiscrimination to federally-assisted programs.

C. Solicitations for Subcontractors including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations, made by Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by Consultant of Consultant's obligations under this Agreement and the regulations relative to nondiscrimination.

SECTION 16 – RECORDS

A. Records of Consultant's direct labor costs, payroll costs, and reimbursable expenses pertaining to this project covered by this Agreement will be kept on a generally recognized accounting basis and made available to City if and when required for a period of up to 3 years from the date of Consultant's final invoice.

B. Consultant's records and design calculations will be available for examination and audit if and as required. The cost of any reproductions shall be paid by City.

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SECTION 17 – COOPERATION BY CITY

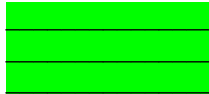
All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the Exhibit A, “Scope of Services”, shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

SECTION 18 – NOTICES

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by facsimile or first class mail, addressed as follows:

To City: City Manager
1480 Main Street
St. Helena, California 94574

To Consultant:



Notice shall be deemed effective on the date personally delivered or transmitted by facsimile, or, if mailed, three (3) days after deposit in the custody of the U.S. Postal Service.

SECTION 19 – TERMINATION

A. City may terminate this Agreement, with or without cause, at any time by giving ten (10) days written notice of termination to Consultant. If such notice is given, Consultant shall cease immediately all work in progress.

B. If either Consultant or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Consultant, or City may terminate this Agreement immediately upon written notice.

C. Upon termination of this Agreement by either Consultant or City, all property belonging to City which is in Consultant’s possession shall be delivered to City. Consultant shall furnish to City a final invoice for work performed and expenses incurred by Consultant, prepared as set forth in this Agreement.

SECTION 20 – ATTORNEY FEES

If litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorneys’ fees, costs and expenses, in addition to any other relief to which it

Exhibit B

may be entitled. In addition, any legal fees, costs and expenses incurred to enforce the provisions of this Agreement shall be reimbursed to the prevailing party.

SECTION 21 – ENTIRE AGREEMENT

This Agreement, including the attached Exhibits, is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Consultant and City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

SECTION 22 – SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties. However, this Agreement shall not be assigned by Consultant without written consent of the City.

SECTION 23 – CONTINUITY OF PERSONNEL

Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff assigned to perform the services required under this Agreement, prior to any such performance.

SECTION 24 – DEFAULT

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default and may terminate this Agreement immediately by written notice to Consultant.

SECTION 25 – WAIVER

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 26 – LAW TO GOVERN; VENUE

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Napa. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Northern District of California, in San Francisco.

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Exhibit B

SECTION 27 – SEVERABILITY

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

SECTION 28 – SPECIAL PROVISIONS

This Agreement is subject to the following special provisions: none.

IN WITNESS WHEREOF, the parties hereto have accepted, made, and executed this Agreement upon the terms, conditions, and provisions above stated, the day and year first above written.

Consultant:

City:

By: _____
Name: _____
Title: _____

By: _____
Name: Mark T. Prestwich
Title: City Manager

Approved as to Form:

By: _____
Name: Thomas B. Brown
Title: City Attorney



CITY OF ST. HELENA
ADMINISTRATION DEPARTMENT

REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES

DOCUMENT IMAGING AND QUALITY CONTROL SERVICES ADDENDUM 1

DATE ISSUED: Tuesday, May 18, 2018

CONTACT: Cindy Tzaopoulos, City Clerk
ctzaopoulos@cityofsthelena.org
(707) 968-2742

Clarifying Information

1. Financials

- a. The City of St. Helena does not have a budget for the proposed project. The City Council tasked the City Clerk to meet their goal of providing more accessible/searchable records to the community and staff.
- b. The City has identified 8 leather bound books which would require special "book scanning". The City will accept a separate quote for this service.
- c. The City doesn't have a standardized pricing model. Pricing may be broken down, but all-inclusive pricing is desirable.

2. Records Storage/Preparation

- a. No policy is in place to identify scanned records as true and exact copies of the original. All records scanned need to be returned to its original location.
- b. The mass majority of the records to be scanned are permanent records per the City's adopted retention schedule.
- c. The Consultant will prepare all documents for transport and restock.
- d. The City is willing to discuss the number of records to be released at a time and returned.

3. Scanning Records

- a. The City hasn't worked with or contracted with any other scanning vendor in the past.
- b. Spiraled bound records can be returned unbound with paper clip or binder clip. Plan sets rolled may be returned unstapled and rolled with rubber band, folded or flat plans sets returned in the same manner. Building permits may be returned unstapled with bright colored sheets delineating between each building permit in a single file.
- c. Color scans are requested for planning and building files. Plan sets can be black/white or grayscale scans.
- d. It is unknown the percentage of records with backsides, therefore all records to be scanned duplex with blank pages removed.
- e. There may be small fragile pages which will require special handling such as receipts accompanying building permits. Small pieces of paper are expected to be taped to a sheet of paper and not lost.
- f. Most cabinets are full and empty drawers are not included in the approximate count. (See Updated Exhibit A)
- g. The City doesn't have an estimated average of pages per plan set.

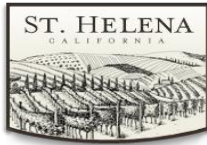
- h. The City recognizes handwritten records will not be guaranteed 99.5% OCR'd quality. Also, the City recognizes charts, graphs, legends on drawings and text that runs in two or more directions may not OCR well.
- i. There is no requirement for onsite scanning, only offered as a convenience to the consultant.
- j. The City encourages the completion of the project take the least amount of time as possible, preferable within 30 days. The City desires to start the project no later than August 1, 2018.
- k. Building Permit Files:
 - i. Each building permit will be scanned separately with the naming convention to consist of "Address and Building Permit Number" example: 1480 Main Street BD1805-003
- l. Planning/Public Works Plan Sets:
 - i. Plan sets are labeled with building permit number and address (same as above). If plan set is without a label the building permit and address will be located on the title page. If the building permit number is missing the plan set should be named by the address only.
 - ii. Plan sets may include letter/legal size reports (example: hydrology, structural calculations and or soil reports). Will need to be scanned and with the same naming convention, the reports may have a sub folder within the plan folder.

4. Supervision of Records

- a. The City of St. Helena requests observance of requested supervision of all City records and HIPPA compliance.

5. General Requirements

- a. It is desirable for California government scanning experience.
- b. Please see the attached updated professional services agreement and review for compliance. It is not required to submit a signed PSA with the quote, but prior to the award of bid (Exhibit B).



Addendum 1
Exhibit A

***Updated numbers and pictures**

DOCUMENT IMAGING AND QUALITY CONTROL SERVICES

List of Approximate Records

Name of Department	Type of Record	*Approximate Number of Records, Cabinets/Drawers Boxes or Binders Containing Records
Building	7 Four-Drawer Vertical File Cabinets 52.0H" x 18.0W" x 26.5D"	26 Drawers
	Bankers Boxes - 10H" x 12W" x 15D"	20 Boxes
	Bankers Boxes - Legal Size 10H" x 15W" x 15D"	1 Box
	Rolled plan sets (Majority can be scanned as black and white) Majority are 4" up to 50 pages, Others range from 1 ½" to 7 ½" from 3-208 pages no bigger than 24" x 36"	1,500 Plan Sets
Planning	18 Four-Drawer Vertical File Cabinets 52.0H" x 18.0W" x 26.5D"	71 Drawers
	Bankers Boxes - Legal Size 10H" x 15W" x 15D"	9 Boxes
	Bankers Boxes - 10H" x 12W" x 15D"	132 Boxes
Public Works	3 Four-Drawer File Cabinets 53.0H" x 36.0W" x 17.0D"	12 Drawers
	1 Four-Drawer File Cabinet 52.0H" x 18.0W" x 26.5D"	4 Drawers
	Bankers Boxes - 10H" x 12W" x 15D"	25 Boxes
	Bankers Boxes - Legal Size 10H" x 15W" x 15D"	5 Boxes
	Flat and folded plans no bigger than 24" x 36" - 35 Drawers, 2 ¾H" x 46-3/4W" x 35-3/8D"	1,000 Plan Sets
City Clerk	½" to 3" 3-Ring Binders	20 Binders
	**1 ½" to 2 ½" Legal Size Books	153 Books

*Cabinets, boxes and binders filled with varying sized records.

** 8 Historic books are leather bound, all other books are either short-pull rod locking/opening mechanism or two prong report cover.

Exhibit A Page 1

Building Department



Planning Department



Public Works



City Clerk



Exhibit A Page 2

Exhibit B

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into on _____, 2018 by and between the City of St. Helena, located in the County of Napa, State of California (City), and _____(Consultant).

RECITALS:

A. City desires to employ Consultant to furnish professional services in connection with the project described as _____.

B. Consultant has represented that Consultant has the necessary expertise, experience, and qualifications to perform the required duties.

NOW, THEREFORE, in consideration of the mutual premises, covenants, and conditions herein contained, the parties agree as follows:

SECTION 1 – BASIC SERVICES

Consultant agrees to perform the services set forth in **Exhibit A, “Scope of Services”** and made part of this Agreement.

SECTION 2 – ADDITIONAL SERVICES

Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to or outside of those set forth in this Agreement or **Exhibit A, “Scope of Services”**, unless such additional services and compensation are authorized in advance and in writing by the City Council or City Manager of the City.

SECTION 3 – TIME FOR COMPLETION

The time for completion of services shall be as identified in **Exhibit A, “Scope of Services”**.

SECTION 4 – COMPENSATION AND METHOD OF PAYMENT

A. Subject to any limitations set forth in this Agreement, City agrees to pay consultant the amount specified in Exhibit B, “Compensation” attached hereto and made a part hereof. Total compensation shall not exceed _____, unless additional compensation is approved in accordance with Section 2.

B. Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories if applicable: labor (by sub-category), travel, materials, equipment, supplies, subconsultant contracts, and miscellaneous expenses. City shall independently review each invoice submitted to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. If no charges or expenses are disputed, the

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Exhibit B

invoice shall be approved, and City will use its best efforts to cause Consultant to be paid within 30 days of receipt of invoice. If the City disputes any charges or expenses, the City will return the original invoice to Consultant for correction and resubmission. If the City reasonably determines, in its sole judgment, that the invoiced charges and expenses exceed the value of the services performed to date and that it is probable that the Agreement will not be completed satisfactorily within the contract price, City may retain all or a portion of the invoiced charges and expenses. Within thirty (30) days of satisfactory completion of the project, City shall pay the retained amount, if any, to Consultant.

C. Payment to the Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

SECTION 5 – STANDARD OF PERFORMANCE

Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.

SECTION 6 – INSPECTION AND FINAL ACCEPTANCE

City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant's work within sixty (60) days after submitted to City, unless the parties mutually agree to extend such deadline. City shall reject work by a timely written explanation, otherwise Consultant's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects and fraud. Acceptance of any of Consultant's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, the sections pertaining to indemnification and insurance.

SECTION 7 – INSURANCE REQUIRED

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees, as indicated:

- D. 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.

Exhibit B

E. Minimum Limits of Insurance. Consultant shall maintain limits no less than:

1. General Liability: \$2,000,000 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: \$2,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$2,000,000 per accident for bodily injury or disease.

F. Professional Liability Insurance. When Consultant under this Agreement is duly licensed under California Business and Professions Code as an architect, landscape architect, environmental engineer or other professional engineer, or land surveyor ("design professional"), Consultant shall maintain at least \$2,000,000 of professional liability insurance.

G. Excess Limits. If Consultant maintains higher limits than the minimums shown above, City requires and shall be entitled to coverage for the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

H. Primary Coverage. For any claims related to this contract the Consultants insurance coverage shall be primary insurance as respects to City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of Consultants insurance and shall not contribute with it.

I. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions of \$25,000 or greater must be declared to and approved by the City.

J. Other Insurance Provisions. The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its agent, officers, officials, employees, and volunteers are to be covered as additional insured as respects: liability arising out of work or operations performed by the Consultant or Consultant's subconsultants; or automobile owned, leased, hired or borrowed by the Consultant.
2. For any claims related to Consultant's conduct while performing the work of this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its agents, officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its agents, officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

Exhibit B

4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subsection (b) of Section 2782 of the Civil Code.

K. Waiver of Subrogation. Consultant's commercial general liability, automobile liability, workers' compensation, and employer's liability policies shall be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its agents, officers, officials, employees and volunteers for losses paid under the terms of this policy which arises from the work performed by the named insured for the City.

L. The Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.

M. Verification of Coverage. Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on forms that conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

SECTION 8 – INDEMNIFICATION

A. To the fullest extent allowed by law (including without limitation California Civil Code Sections 2782 and 2782.8), as may be applicable, Consultant shall indemnify and hold harmless City, its agents, officers, officials, employees, and volunteers from any and all claims, demands, suits, loss, damages, injury, and/or liability (including any and all costs and expenses in connection therewith) (collectively, "Liabilities"), incurred by reason of any negligent or otherwise wrongful act or omission of Consultant, its officers, agents, employees and subcontractors, or any of them, under or in connection with this Agreement; and Consultant agrees at its own cost, expense and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against City, its agents, officers, officials, employees and volunteers, or any of them, arising out of such negligent or otherwise wrongful act or omission, and to pay and satisfy any resulting judgments.

B. When Consultant under this Agreement is duly licensed under California Business and Professions Code as an architect, landscape architect, professional engineer, or land surveyor ("design professional"), the provisions of this section regarding Consultant's duty to defend and indemnify apply only to claims that arise out of or relate to the negligence, recklessness, or willful misconduct of the design professional.

C. If any action or proceeding is brought against Indemnitees by reason of any of the matters against which Consultant has agreed to indemnify Indemnitees as provided above, Consultant, upon notice from City, shall defend Indemnitees at Consultant's expense by counsel acceptable to City, such acceptance not to be unreasonably withheld. Indemnitees need not have first paid for any of the matters to which Indemnitees are entitled to Indemnification in order to be so indemnified. The insurance required to be maintained by Consultant shall ensure

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Exhibit B

Consultant's obligations under this section, but the limits of such insurance shall not limit the liability of Consultant hereunder. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

D. The provisions of this section do not apply to claims to the extent occurring as a result of the City's sole negligence, active negligence, or willful acts or misconduct.

E. Duty to Cooperate. Each party shall notify the other party immediately in writing of any claim or damage related to activities or services performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of all Liabilities arising out of the activities or services under this Agreement.

SECTION 9 – INDEPENDENT CONTRACTOR STATUS

A. Consultant is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Consultant shall have no authority to bind City in any manner or to incur an obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

B. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees or agents are in any manner officials, officers, employees or agents of City.

C. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

SECTION 10 – CONFLICTS OF INTEREST AND ANTI-FRAUD AND ANTI-CORRUPTION POLICIES

A. Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of the City Manager. Consultant agrees to at all times avoid conflicts with the interests of City in the performance of this Agreement.

B. City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant is aware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

Exhibit B

C. Consultant understands and acknowledges City maintains an anti-fraud and anti-corruption policy to protect the City, its operations, and its employees from and against financial risks, operational breaches, and unethical, fraudulent and corrupt activities. Consultant represents and warrants that Consultant, its subcontractor(s) / subconsultant(s) and their respective employees providing services pursuant to the Agreement are (1) in good standing; (2) have not been previously investigated, convicted, or debarred for fraudulent or corrupt activities; (3) will not participate in fraudulent or corrupt activities, and (4) will take steps to ensure that its employees and subcontractor(s) / subconsultant(s) employees do not participate in any fraudulent or corrupt activities. Consultant acknowledges and agrees further that it has a duty to and will report to City any information or incident(s) about possible fraudulent or corrupt activities Consultant may discover, and will cooperate in any fraud or corruption investigation conducted, with respect to Consultant's service provided pursuant to this Agreement.

SECTION 11 – OWNERSHIP OF DOCUMENTS

A. All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Consultant. When requested by City, but no later than three years after project completion, Consultant shall deliver to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

B. All copyrights, patents, trade secrets, or other intellectual property rights associated with any ideas, concepts, techniques, inventions, processes, improvements, developments, works of authorship, or other products developed or created by Consultant during the course of providing services (collectively the "Work Product") shall belong exclusively to City. The Work Product shall be considered a "work made for hire" within the meaning of Title 17 of the United States Code. Without reservation, limitation, or condition, Consultant hereby assigns, at the time of creation of the Work Products, without any requirement of further consideration, exclusively and perpetually, any and all right, title, and interest Consultant may have in the Work Product throughout the world, including without limitation any copyrights, patents, trade secrets, or other intellectual property rights, all rights of reproduction, all rights to create derivative works, and the right to secure registrations, renewals, reissues, and extensions thereof.

SECTION 12 – CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

B. Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to

Exhibit B

interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered “voluntary” provided consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys’ fees, caused by or incurred as a result of Consultant’s conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite such response.

SECTION 13 – SUSPENSION OF WORK

City may, at any time, by ten (10) days written notice suspend further performance by Consultant. All suspensions shall extend the time schedule for performance in a mutually satisfactory manner and Consultant shall be paid for services performed and reimbursable expenses incurred prior to the suspension date.

SECTION 14 – COMPLIANCE WITH LAW

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Consultant shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Consultant to comply with this section.

SECTION 15 – COMPLIANCE WITH CIVIL RIGHTS

During the performance of this contract, Consultant agrees as follows:

A. Equal Employment Opportunity. In connection with the execution of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, ancestry, age, sexual orientation, gender, gender identity and gender expression as protected categories specifically and expressly in that category, physical handicap, medical condition, marital status, sex, or national origin. Such actions shall include, but not be limited to, the following: employment, promotion, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training including apprenticeship.

Exhibit B

B. Nondiscrimination Civil Rights Act of 1964. Consultant will comply with all federal regulations relative to nondiscrimination to federally-assisted programs.

C. Solicitations for Subcontractors including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations, made by Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by Consultant of Consultant's obligations under this Agreement and the regulations relative to nondiscrimination.

SECTION 16 – RECORDS

A. Records of Consultant's direct labor costs, payroll costs, and reimbursable expenses pertaining to this project covered by this Agreement will be kept on a generally recognized accounting basis and made available to City if and when required for a period of up to 3 years from the date of Consultant's final invoice.

B. Consultant's records and design calculations will be available for examination and audit if and as required. The cost of any reproductions shall be paid by City.

SECTION 17 – COOPERATION BY CITY

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the Exhibit A, "Scope of Services", shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

SECTION 18 – NOTICES

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by facsimile or first class mail, addressed as follows:

To City: City Manager
 1480 Main Street
 St. Helena, California 94574

To Consultant:

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile, or, if mailed, three (3) days after deposit in the custody of the U.S. Postal Service.

SECTION 19 – TERMINATION

Exhibit B

A. City may terminate this Agreement, with or without cause, at any time by giving ten (10) days written notice of termination to Consultant. If such notice is given, Consultant shall cease immediately all work in progress.

B. If either Consultant or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Consultant, or City may terminate this Agreement immediately upon written notice.

C. Upon termination of this Agreement by either Consultant or City, all property belonging to City which is in Consultant's possession shall be delivered to City. Consultant shall furnish to City a final invoice for work performed and expenses incurred by Consultant, prepared as set forth in this Agreement.

SECTION 20 – ATTORNEYS' FEES

If litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorneys' fees, costs and expenses, in addition to any other relief to which it may be entitled. In addition, any legal fees, costs and expenses incurred to enforce the provisions of this Agreement shall be reimbursed to the prevailing party.

SECTION 21 – ENTIRE AGREEMENT

This Agreement, including the attached Exhibits, is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Consultant and City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

SECTION 22 – SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties. However, this Agreement shall not be assigned by Consultant without written consent of the City.

SECTION 23 – CONTINUITY OF PERSONNEL

Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff assigned to perform the services required under this Agreement, prior to any such performance.

SECTION 24 – DEFAULT

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed

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Exhibit B

after the date of default and may terminate this Agreement immediately by written notice to Consultant.

SECTION 25 – WAIVER

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 26 – LAW TO GOVERN; VENUE

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Napa. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Northern District of California, in San Francisco.

SECTION 27 – SEVERABILITY

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

SECTION 28 – SPECIAL PROVISIONS

This Agreement is subject to the following special provisions: none.

IN WITNESS WHEREOF, the parties hereto have accepted, made, and executed this Agreement upon the terms, conditions, and provisions above stated, the day and year first above written.

Consultant:

City:

By: _____
Name: _____
Title: _____

By: _____
Name: Mark T. Prestwich
Title: City Manager

Approved as to Form:

By: _____
Name: Thomas B. Brown
Title: City Attorney

Exhibit B

Exhibit A
“Scope of Services”

Exhibit B
“Compensation”

**City of St. Helena
Document Imaging and Quality Control
Services**



Prepared By:
DASH DATA INC. 491 Aldo Ave. Sanata Clara, Ca 95054



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Executive Summary & Team

As the leader of Dash Data, I can assure that my organization is the most capable for the Document Imaging and Quality Control Services RFP for the City of Saint Helena.

We have the most qualified personnel and equipment, many of us have worked for digital and cloud based content management organizations. We have the most relevant experience for taking organizations digital in the modern work environment compared to all competition. You'll find not one competitor in the entire landscape has built their business with a paperless infrastructure and workflow as the primary goal for their client base. Dash Data was founded with modern, digital platforms as the cornerstone of our philosophy.

The organization was founded with a compact desktop Fujitsu scanner and the knowledge of how cloud content platforms should be deployed to the enterprise. Since our day 1, we have hired only California staff, invested in top quality high speed scanning equipment, and employ cutting edge software that the largest companies have yet to successfully develop. We are able to automate a considerable amount of the back end side of scanning- OCR, folder creation, and sorting of digital content. Large companies do not have this combination of technology, and frequently rely on manual labor of which they are happy to bill clients. Without our automation, handling changes and the frequent unforeseen obstacles or variants can be extremely costly. Our competitors are notorious for cost overrun and 'over promising while under-delivering' due to an inability to operate in a nimble environment. For example, we have the ability to increase our scanning output, or our insurance coverage for massive projects scaling to thousands of boxes of content by 10x in under 14 days. We thrive on our ability custom design each deployment for maximum efficiency. Our size and ability to quickly scale creates more accurate pricing models and eliminates cost overrun- we feel it is much more difficult to turn an aircraft carrier than it is a jet ski.

Further, because we approach these projects with a complete understanding of the challenges in transitioning to a paperless environment, we provide numerous approaches to the way this project is handled. Ultimately, there will be many opportunities for cost reduction by custom tailoring the project to your specific needs, budget, and timeline if we are selected. We typically approach projects of this scale in stages, enabling you to be very specific in your budgetary needs, as well as enabling us to fine tune our process based on your content to maximize efficiency, accuracy, and budgetary constraints. As mentioned, we can easily modify our process based on potentially changing needs as you sample the end results.

What makes Dash Data unique is that when we are hired, some of our clients accuse us of having a self-defeating business model- which is also why they love us. Our goal is not to simply scan documents, we have a team dedicated to workflow analysis that make recommendations on process changes and technology adoption in an effort to reduce or eliminate paper production.

We evangelize the use of paperless technology. We do not want our clients to continue to generate the same or more paper as the day we are hired just so we can scan it again later, or store it off-site and hold content hostage like the rest of the competition would prefer. In fact, we do not offer an option for long term offsite storage of paper because it is not part of our DNA, nor the future of organizational workflow. While we are capable of repeat scanning jobs, we do not desire to be hired year over year for the same scanning project- our goal is to fix the paper problem. Dash Data exists as the solution to



reduce your footprint over time. We are agnostic when it comes to future technology selection, and simply guide our clients to finding the proper systems for their environment based on need.

Our sole drawback is that we are a young company. We have the capability for large scale scanning projects and have proven it with organizations like Barrett Business Services (NASDAQ: BBSI), Kleiner Perkins Caufield & Byers, Claremont Insurance Services, Westbridge Capital, and other major brands that manage large quantities of highly secure documents. It is why we were selected for organizations like Lake County Department of Education, Parkinson's Institute, and Proteus Health. We recognize our organization's youth, which is why you will also be introduced to some of the principals on our advisory and investment team who have proven they have the knowledge and experience to assist us with our growth and strategy.

We have reviewed addendum 1, thank you for this opportunity.

Brett M. Dashe

Founder & CEO

Dash Data, Inc.

491 Aldo Avenue, Santa Clara, CA 95054

415 813 8650

brett@dashdata.com

EIN 47-1591861

C3703210

**Brett Dashe:**

After graduating from Vanderbilt University with a degree in leadership and organizational effectiveness, Brett began as a corporate sales manager for Hilton hotels and became one of the top 10 sales reps globally. He made the switch to technology while working for Granicus, inc which provides live and archived video streaming and content solutions to local governments. Brett then moved to box.com where he assisted organizations with implementing cloud content management systems. This lead Brett to founding Dash Data with the goal of taking the world's organizations paperless.

Alan Weisenburger:

Alan's career began in a college for fire fighting, however he was swiftly recruited into technology. Alan has been ingrained in both large high tech and small, exponential growth start ups over the last 15 years. In addition to running his own IT firm (The Real Estate Computer Guys), Alan's resume includes well over a decade split between Napster/Roxio, EMC, Box, AvePoint, and Jumio. His background includes technical support, training, and enterprise level sales positions. Alan is in charge of Dash Data's operations and deployment.

Murray Dashe:

Murray is Dash Data's Chairman of the board and a decorated Vietnam era veteran. He returned to the US with a renewed drive and finished college and ultimately achieved a masters in economics. He maintained a 40 year career in retail which culminated as the CEO of Cost Plus World Market which he grew from 51 stores to nearly 300 in 8 years, employing over 10,000 people. Prior to his retirement at age 72, he served on the board of directors for Union Bank of California pre and post acquisition by Bank of Tokyo-Mitsubishi, Albright College, Herbal Life, and was Lead Director for Longs Drugs facilitating their acquisition by CVS.

Andrew Klobnock:

Andrew is a board member and advisor to Dash Data. He has worked at Gartner Research, the world's largest technology research and consulting firm, for the last 14 years in increasing roles and responsibility. In his sales roles, he achieved Gartner's President's club for excellence 12 times, he currently holds the title of Regional Vice President.

Javier Muniz:

Javier is part of Dash Data's advisory board. After holding various roles at Microsoft, webTV, and Brodia, Javier became co-founder and CTO of Granicus, Inc. which assists government organizations with web streaming and paperless agenda and minutes processes. Javier maintained a leadership role at Granicus for nearly 17 years, built it to 150 employees and facilitated the company being acquired twice from their continued growth and market dominance. He is currently an operator for K1 Investment Group as a partner and SVP of Engineering of Crownpeak (a K1 company) and continues to advise the current Granicus team.



Project Scope and Work Plan

Dash Data as an independent entity has been providing services in the document scanning arena since mid 2014, and providing paperless and cloud consulting and training services since 2012. Dash Data incorporates enterprise wide paperless strategies, consulting, and training. Dash Data is now partnered with the largest cloud content management and cloud platform organizations, and is a member of the elite Small Business Administration's Technology Coalition. Brett secured private funding and amassed an extremely experienced board of directors.

Dash Data is a small business with big capabilities. We have access to near instant, large scale funding through our private investors. Archaic and technology averse organizations like Iron Mountain, Data Safe, Corodata, Corovan, Ricoh and others who's primary source of revenue is to actually encourage paper production to fill offsite warehouses and generate future scanning projects- will be extinct within 25 years should they not alter their course. We take a holistic approach to our clients and seek out the processes that generate paper, then convert those processes to elegant, integrated paperless workflow that ensures our clients will be relevant for the next century. We take the burden of vetting various systems such as box, egnyte, sharefile, docusign, mxhero, laserfiche and many others for our clients based on their needs, questions, and concerns. That said, we can keep our projects to simple scanning until our clients are ready to make the shift, or have already selected their future platform as St. Helena has done.

We have worked with many large scale, heavy paper generating industries that require a high degree of security and/or compliance. In some instances we have reduce a company's paper generation in excess of 86%. These markets include the legal, financial/venture capital/private equity, and medical fields. Some of the notable organizations that have hired us include Kleiner Perkins Caufield & Byers, Claremont Insurance Services, Barret Business Services (NASDAQ: BBSI), and a project we're anticipating scaling from 50 to 3,000 boxes with Parkinson's Institute. Further, we executed a project nearly identical to St. Helena's request with Lake County Department of Education where we picked up and scanned hundreds of thousands of documents for scanning and uploaded them into Laserfiche.

At our current capacity Dash Data can scan and process approximately 1.8 million pages per month, or 3.6 million images. We have the ability to increase our output by a factor of 10 in under 14 days whenever large or multiple projects come across our desks simultaneously. That said, we always focus on educating our clients on project scope and balancing our clients' needs and timelines with a cost conscious approach.

We currently employ staff in the immediate bay area in Santa Clara county, as well as the Sacramento region. Our Sacramento branch is specifically targeting state level government bids. Further, we incorporate a staffing agency that enables us to focus on hiring disabled veterans as we grow.



Laserfiche:

1. Ability to scan content directly and seamlessly into laserfiche using an upload utility - must have a tool that directly uploads content to laserfiche including auto folder generation, tool must have ability to custom build folder structure and sort files into folder structures automatically. Ability to add meta data.

Dash Data has built a custom application that integrates with the Laserfiche system. This utility allows us to generate folders and sort digital files directly into a designated folder structure. Metadata can be systematically added to files individually or in bulk.

2. Custom and configurable file naming convention, as well as folder naming conventions up to 256 characters.

We schedule a pre-rollout meeting with the individual departments; in which we will discuss document types and classifications. During this meeting, we will discover and design a naming convention that can be expanded and easily modified for the project. The file naming convention will be created based on the limitations of the system that will ultimately hold the content once scanned.

Records

Dash Data has the ability to handle all file types and document preparation outlined in this section. Dash Data guarantees a 98% accuracy on all projects, and currently maintains a 99.2% accuracy average. We utilize a dual key entry process for all naming conventions. The initial scan operator manages the physical scanning of the documents and does an initial validation that the scan processed correctly. The software Dash Data utilizes will de-skew, remove punch hole phantoms, de-speckle, and remove blank pages. Additionally we employ a manual check when starting a data set to make minute tweaks to contrast ensuring readability. We are able to achieve this through our specialized barcode reading software which takes information we input to generate names, folder structures, and other relevant data. We place the codes on pink sheets which cleanly and clearly divide each scan from the rest. This also makes identifying and separating documents much easier in the future once returned, and our system automatically drops the pink barcode out of the digital version of the file.

After OCR is performed on the scanned file (Dash Data complies with the 99.5 % and 600dpi requirements outlined in RFP) a second QA operator spot validates files against the physical documents and checks for rotation, skew and order problems. Dash Data will re-scan and re-process any documents that fail QA at no additional charge. Dash Data will warranty all work against defects for 6 months after job completion and will re-scan any documents found out of compliance at no additional charge. This is under the assumption that the city has not destroyed the original documents prior to the 6 month warranty date.



Our clients typically take a random sampling of content scanned to check for accuracy at various intervals with a Dash Data representative present to confirm findings. The primary accuracy measures are:

1. Is content present and accounted for?
2. Is content legible?
3. Is the content oriented in an acceptable manner?
4. Is content named correctly?
5. Is content in proper end location(folder structure)?
6. Does content follow agreed upon guidelines?

Some of these items are need further review which is why we have a Dash Data representative present during QA. If any of these categories are falling short, we look to determine if there is a common theme by way of document type or staff member, scanning content so we can report to our team and tweak the process to improve accuracy. Frequently in projects of this size there is a client requested change in process or requirements part way through the project once client sees the end product and it is important for the vendor to be nimble and have the ability to change requirements (not pricing) with written signature from both parties acknowledging the change and its implementation.

3. Ability to scan:

Dash Data can scan all file types listed in this section together or separated.

a. Manila folder- content on file folders

b. Post it notes

c. Legal documents

d. Letters

e. Carbon copies

f. Photo exhibits

g. Spiral bound books

h. Tabbed paper

i. Pocket files folders



4. Images:

a. Duplex scan documents to capture both front and back of document where needed. Images must be oriented correctly for viewing. Text must be readable up to the edge of the document.

All of our scans are executed in duplex mode. Our software handles auto-rotation which ensures that all text will be inline and readable from page to page. We also employ a full edge scan.

b. Image clean-up; the scanned document should be de-skewed, de-speckled, blank pages and black borders removed, hole punch images removed and background color drop out (where possible). Color images must be viewable quality so that detail in the image is captured.

Each of our scans are calibrated for each job. The software will de-skew, remove hole phantoms and remove blank pages. Additionally we employ a manual check to make minute tweaks to contrast ensuring readability.

c. For the purposes of this RFP, Proposer is invited to offer suggestions on how best to scan color photos to maintain the quality and detail of an image while striving to reduce size of the electronic image (i.e. keep them in color or copy in gray-scale).

Color scanning by nature produces larger image sizes. Dash Data utilizes a number of different methods to allow for cost savings and reduction of image size. High speed scanning, Flat top scanning, and High resolution photography to name a few. Depending on the physical materials requiring color scanning we will work closely with the client to review and determine which method is most appropriate. This allows us to change up methods and provides an opportunity for cost savings.

5. OCR all content with guarantee of 99.5% accuracy on images and ability for 600 dpi images.

Dash Data complies with the 99.5 % and 600dpi requirements

6. Perform rework on errors or omissions with no additional charge.

Any errors or omissions will be reviewed and reworked at no additional charge.

7. Warranty period of 6 months against defects.

Dash Data will warranty all work against defects for 6months after job completion and will re-scan any documents found out of compliance at no additional charge. This is under the assumption that the city has not destroyed the original documents prior to the 6month warranty date.

8. Records can be saved in PDF and TIFF format.

Dash Data can scan into multiple formats including PDF and TIFF formats.



9. Any and all City documents in the possession of Proposer must be stored in a climate controlled safe and secure location. The City must have access to all City documents in the Proposer's possession upon request, with a hard copy or electronic file provided within 24 hours.

All Documents are stored in a behind 2 locked doors in a climate controlled facility. The Dash Data facility is also alarmed and has 24hr video surveillance. In an emergency, we are able to return the city's physical documents back within 24hrs (potentially less) due to our scanning facilities physical proximity to the St. Helena facility. Further, if a document needs to be prioritized, we can have it pulled, scanned, and uploaded within 3 hours.

10. HIPAA protocol must be followed and anyone who has contact with content must have received HIPPA training.

All of Dash Data's employees that access client data have successfully completed a HIPAA certification training. Our facility is also HIPAA compliant for storage of sensitive data.

11. Historical document scanning without unbinding, cutting, or otherwise interfering, altering, or damaging documents or their binders.

Project Description: Digitally archive historical documents bound in books using digital photography and image manipulation tools, packaged up by section via PDF.

Process: Design and construct a fixed, remote camera and light setup to execute image capture in an efficient and consistent manner, that allows the historical documents to be handled minimally and avoid destruction of documents. Design a pre and post production workflow to efficiently manipulate and package documents into PDFs based on book sections.

Pre-Production: Collect, analyze and organize materials. Design pre-production processes for sectioning content. Design and construct remote camera and light setup.

Photography: Approx 2400 pages, over 8 books.

Post-production and delivery: Apply global processing and manipulation to adjust density, tonality and clarity of captured images, as well as cropping and/or perspective correction, to each sectioned set of images. Export and compile sectioned PDFs for delivery.

Timeline: Estimated 2-3 weeks from acquisition of all materials.

12. Documents prep non-historical:

- a. Ability to scan small documents such as receipts as small as 1.5 inches x 3 inches in line with up to 11 x 17 documents in a single scan*

Our equipment is able to handle this task, depending on how frequent the variation and quality of paper, this can affect cost slightly. We can review the city's preferences and provide the city with a final product for review prior to scaling the project.



b. Staple and fastener removal

This is accomplished in the preparation phase

c. Metal, plastic, twine, glue binder removal

This is accomplished in the preparation phase

d. Industrial staple removal capability including box and plier staples

This is accomplished in the preparation phase, our staff is prepared with proper training and tools, and has experience with prepping content with triple wrapped industrial fasteners.

e. Fix torn pages prior to scanning

We ensure all content is scanner ready prior to running through our machines. It is imperative we maintain quality of the documents in order to maintain the quality of our equipment.

f. Black and white, greyscale, and color scanning options

In the pre deployment meeting, we will be reviewing all scanning options and settings as the city would prefer them applied to its content. We can accomplish all of the above tasks depending on need and budget.

13. Once electronically imaged, documents shall be returned to their original state (restapled, bound, rolled, etc.) and returned to the original filing location, unless specifically instructed by the Project Manager to return to an alternate location. No materials will be destroyed.

Dash Data has the ability to return client data to the original filing location in its original state.

14. Ability to scan documents on site at City facility, offsite at vendor's offices, or both.

Dash Data has the ability to scan at the client site or in our facility. We can build a plan with the city to determine which method and location of scanning will be most cost effective while maintaining integrity of content.

15. If content is picked up, there must be at least two representatives of the scanning organization present; pick up must not be outsourced. There shall always be two representatives with the content in transit.

Dash Data can handle all pickup and delivery of client documents. We always follow HIPAA guidelines which requires the above listed service.

16. Vendor to maintain documented chain of custody through an audit trail.



All boxes will be labeled and marked with a unique identifier. Boxes are counted on and off the truck during transport and validated by a 2nd Dash Data employee. A final count is done when the boxes are placed in the secure storage area. Boxes Are checked in and out of the storage area when being prepped and scanned.

17. Vendor must agree to provide private transport, content will never be mixed in transit with other clients, not additional, non-mission critical stops to occur en route.

All projects are handled by single transport. Content is never intermingled between clients, and content is transported between client facility and Dash Data facility with the only stops being for fuel or emergencies. This is also a function of HIPAA compliance which we adhere to.

18. Content will not leave the state of California.

All Dash Data facilities are located in Northern California.

19. Have California city or county government scanning project references.

Yes, also included in attached references. We have worked directly with Lake County department of education and anticipate future projects with other departments of the county. We have also assisted other government entities with deploying paperless software solutions and workflow. Locally this includes American Canyon.

Budget



We have had representatives visit the city on two separate occasions, specifically for this RFP. We have a good understanding of how this project needs to be deployed, also we understand what the city is looking to accomplish long term with Laserfiche and a digital infrastructure.

The only challenge with pricing on large scale scanning projects, especially those that tie into cloud content systems with potentially very large files: without diving into the content, process and testing some of the scans, as well as enabling the city to see end results, it is hard to perfectly estimate what the cost of a project can be. Likewise the client won't have a complete understanding of exactly what they want to end result to look like without seeing a result.

We keep our pricing as simple as possible by creating all inclusive per box pricing, or for large format scanning- per page pricing. We also break our pricing down as granular as a quarter box depending on how full a box is, or where a process divide may occur.

One of the elements that we pride ourselves on at Dash Data is we do not force our clients into services, nor do we have any hidden fees or discrete upsell charges. We customize each deployment, each document type, or department's data to the exact specifications and requirements our clients request. We are able to make alterations mid project based on real time feedback of data processing. For example, if a sample set is ultimately not representative of the anticipated data, or older data is different from more recent content which can change the project scope- not only do we halt production until we gain approval from the client, but we present as many opportunities to save on cost looking ahead. This empowers our clients to fully understand what changes can be made to save on cost while still working towards the ideal end result.

At Dash Data, our goal is not maximizing profits for shareholders. We have a genuine passion to evangelize the use of digital systems to assist our clients in reducing their paper footprint, and maximize their workflow efficiency. The end result is an organization that shifts away from record management based tasks such as filing, finding lost documents, or making copies; and changing that focus to as much effort on mission critical tasks. When Dash Data is hired, we do not simply scan paper, we become a vested partner in our clients' success.

The pricing below is our estimate based on what we have seen in your office and what was outlined in the RFP + addendum. Please note, should we be selected we will provide you with as much knowledge as possible via preplanning to make cost saving reductions wherever possible. We will outline every aspect of the project and inform you of which pieces the city can assist with vs outsource to reduce cost, or provide varying service option levels and timelines to provide opportunities to reduce cost. Examples include scanning settings (color v. greyscale, dpi, etc.), preparation strategy, naming conventions, timeline adjustments, etc. We will ensure you are as educated and empowered as possible to make the best decisions throughout this project.



Pricing below is all inclusive- Prep, Naming, OCR, Folder Creation, Organization, Re-fastening/binding content, etc.:

Large Format document scanning, B&W or Greyscale (up to 48"x 36"):	\$1.15 per page
Large Format document scanning, Color (up to 48"x 36"):	\$2.50 per page
Box of scanned content, B&W or Greyscale (up to 11"x17"):	\$150 per box
Box of scanned content, Color (up to 11"x17"):	\$270 per box
Historical record scanning, standard process B&W or Greyscale:	\$185 per box
Historical record scanning, in tact with no unbinding:	\$950 per book
Upload of content to Laserfiche:	\$8.50 per box
Upload of content to Laserfiche (large format):	\$0.085 per page
*HIPAA/Private pick up/delivery not to exceed:	\$1400 per trip

Estimated number of boxes:

Building Department

1500 plans sets+	tbd
47 Boxes	\$7,449.50

Planning Department

285 Boxes	\$45,172.50
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Public works

1000 plan sets+	tbd
69 Boxes	\$10,936.50

Clerk

37 Boxes (historical records, standard)	\$7,159.50
8 books (historical records, in tact scanning)	\$7,617.00



Boxes of standard content total	\$63,558.50
Plan sets (40,000 pages)+	\$49,400.00
Historical records total	\$14,776.50
Transportation of content (est.)	\$4,000.00
 Grand Total:	 \$131,735.00

NOTE: total pricing includes estimate for uploading content. Also please note, the major cost variance in this project will be the actual number of large format scans. Should there be a significant increase in the number of large format scans, we can work with the City of St Helena to reduce cost slightly more for a bulk increased rate.

*Dependent on size of truck, amount of content per trip
+unknown number of large format scans/pages with information provided. Anticipating over 40,000.



Timeline

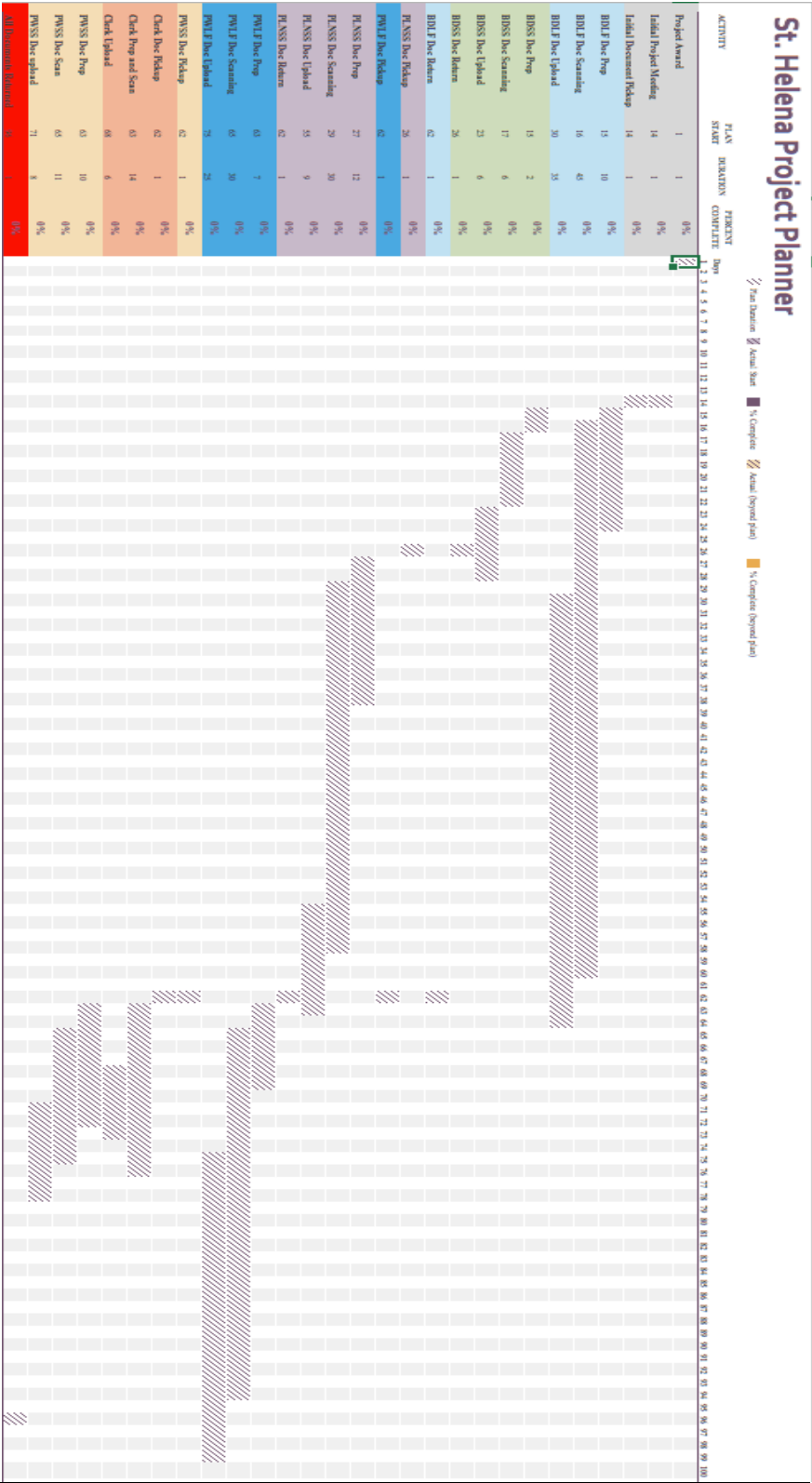
The project timeline can be somewhat fluid. Timeline is an item where we can potentially work with the city to gain some cost benefit. The city has requested a 30 day turn on the entire project should Dash Data be awarded the bid and get staffed and in production by the second week of July and complete by mid-August. While this is something that may be possible, it would require pulling teams off other projects, adding staff, and working out many logistics in short order in order to achieve the level of quality we find acceptable for a project of this scope. This requirement would increase cost.

We have placed together an aggressive timeline that we feel is realistic in order to also achieve a fair and reasonable cost while maintaining the highest quality. If we stretch the timeline further there may be additional opportunity for some process tweaks which translates to cost saving.

Also, from a timeline perspective, it should be noted we can be flexible with billing schedules and project roll out based on budgetary needs. We have worked with several clients in both extending elongated payment schedules to maintain budget, and/or scheduling projects in phases over time, as much as 2 year time frames. This is done in order to assist with adoption of new technology and workflow internally by letting staff digest the new products and format, as well as enable our clients to spread the cost of these projects over time.

We acknowledge making this transition, and doing so correctly and in a way to provide your team the best chance at future paperless success, can carry a large initial price tag in an effort to gain long term savings both in direct costs and indirect efficiency gains. We always work with, advise, and educate our clients to the best of our ability to ensure the roll out adheres to each client's specific timeline. This allows the project to function better within budget constraints, maintain a quality product, and ensure staff transition and adoption to the new environment.

(Please note, there is a soft copy of the GANTT chart included for better viewing ability should the printed version be difficult to read)



Dash Data

a.com 16



References

Ryan Mahan
 Lake County (CA)
 Director - Human Resources & Operations
 1152 South Main St.
 Lakeport, CA 95453
 Phone [\(707\) 262-4115](tel:(707)262-4115)
 Confidential Fax [\(707\) 262-4274](tel:(707)262-4274)

Budget: \$20,000 annual software, \$45,000 scanning
 Start: September 7, 2017, completion: October 10, 2017
 We assisted Lake County with selection of a content management platform based on a list of needs. They selected Laserfiche. We then provided large scale scanning services to Lake County with upload and organization into Laserfiche platform. This project was nearly identical to the request of City of St. Helena at a slightly smaller scale.

Rebekah Barr
 City Clerk, City of Sonoma
 1 The Plaza
 Sonoma, CA 95476
 707.933.2216
rbarr@sonomacity.org

Budget: \$15,000 annual software budget
 Start: August 2012, completion October 2012
 Provided cloud based paperless operational solutions while Rebekah was the clerk for City of American Canyon. Currently reviewing paperless solutions and scanning projects for the City of Sonoma.

Ken Ruotolo
 Chief Operating Officer
 Claremont Insurance Services
 1000 Burnett Avenue, Suite 440
 Concord, CA 94520
 (925) 296-8803
kruotolo@claremontcompanies.com

Budget: \$20,000 annual software, \$50,000 scanning
 Start: July 7, 2016, completion August 15, 2016
 Provided cloud based paperless operational solutions for Claremont, ran on and offsite scanning projects for hundreds of boxes of content.



Conclusion

To conclude, my team and I are confident that we can manage this transition for the City of St. Helena. We have run nearly identical projects for local government entities in the past. Further, we can pull from our experience from all other industries to provide the best quality product at a fair cost compared to any other vendor available.

We are able to double in size every year and gain market share at incredible rates because our philosophy is different from any organization in the content storage or digitization industry. We were founded on customer first principles with long term strategy being the goal of projects. Every other organization in the competitive landscape is primarily concerned with maximizing profit on scanning paper and doing nothing to assist with strategic planning to reduce future paper footprints. Our competition looks to pigeonhole their client base into proprietary systems and processes, where we take a neutral advisory position on what systems and processes are best for each clients' need.

Not only does Dash Data look to target the elimination of paper generation, but we also strive to accomplish this task in the absolute most cost effective manner possible. We do this by educating our clients on the details of our process and empowering them to make decisions and participate as much as they wish to reduce these costs.

We take this approach for two reasons- first, our backgrounds are in technology and strategy which means we have been combating and disrupting inefficient and dated processes our entire careers. Second, we know the real power and success to building the next generation of an "Iron Mountain-esque" organization, a useful one, requires partnering with our clients to guarantee their relevancy and success in a digital and heavily integrated cloud based world. Our name represents our collective future in enterprise operations.

We appreciate the opportunity to work with the City of St. Helena.

Brett M. Dashe
CEO & Founder
Dash Data, Inc.

CITY OF ST. HELENA

RESOLUTION NO. 2018-

Approving the contract with Dash Data, Inc. for document imaging and quality control services in not to exceed the amount of \$70,000

RECITALS

- A. The St. Helena City Council desires to meet a goal of enhancing the delivery of City records to the community and City staff;
- B. The document imaging and quality control project will preserve permanent records and provide searchable contact at all times of the day;
- C. After comparing City needs, pricing, cost saving measures, staff recommends Dash Data, Inc.

RESOLUTION

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

- 1. The City Council approves the contract with Dash Data, Inc. for their document imaging and quality control services for total not to exceed the amount of \$70,000; and
- 2. The City Council authorizes the City Manager to execute the agreement.

Approved at a Regular Meeting of the St. Helena City Council on July 24, 2018 by the following vote:

Mayor Galbraith:	_____
Vice Mayor White:	_____
Councilmember Dohring:	_____
Councilmember Koberstein:	_____
Councilmember Ellsworth:	_____

APPROVED:

ATTEST:

Alan Galbraith, Mayor

Cindy Tzafopoulos, City Clerk

Exhibit B

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into on 7/4/2018, 2018 by and between the City of St. Helena, located in the County of Napa, State of California (City), and Dash Data, Inc. (Consultant).

RECITALS:

A. City desires to employ Consultant to furnish professional services in connection with the project described as Document imaging and Quality Control Services.

B. Consultant has represented that Consultant has the necessary expertise, experience, and qualifications to perform the required duties.

NOW, THEREFORE, in consideration of the mutual premises, covenants, and conditions herein contained, the parties agree as follows:

SECTION 1 – BASIC SERVICES

Consultant agrees to perform the services set forth in **Exhibit A, “Scope of Services”** and made part of this Agreement.

SECTION 2 – ADDITIONAL SERVICES

Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to or outside of those set forth in this Agreement or **Exhibit A, “Scope of Services”**, unless such additional services and compensation are authorized in advance and in writing by the City Council or City Manager of the City.

SECTION 3 – TIME FOR COMPLETION

The time for completion of services shall be as identified in **Exhibit A, “Scope of Services”**.

SECTION 4 – COMPENSATION AND METHOD OF PAYMENT

A. Subject to any limitations set forth in this Agreement, City agrees to pay consultant the amount specified in Exhibit B, “Compensation” attached hereto and made a part hereof. Total compensation shall not exceed _____, unless additional compensation is approved in accordance with Section 2.

B. Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories if applicable: labor (by sub-category), travel, materials, equipment, supplies, subconsultant contracts, and miscellaneous expenses. City shall independently review each invoice submitted to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. If no charges or expenses are disputed, the

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Exhibit B

invoice shall be approved, and City will use its best efforts to cause Consultant to be paid within 30 days of receipt of invoice. If the City disputes any charges or expenses, the City will return the original invoice to Consultant for correction and resubmission. If the City reasonably determines, in its sole judgment, that the invoiced charges and expenses exceed the value of the services performed to date and that it is probable that the Agreement will not be completed satisfactorily within the contract price, City may retain all or a portion of the invoiced charges and expenses. Within thirty (30) days of satisfactory completion of the project, City shall pay the retained amount, if any, to Consultant.

C. Payment to the Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

SECTION 5 – STANDARD OF PERFORMANCE

Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.

SECTION 6 – INSPECTION AND FINAL ACCEPTANCE

City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant's work within sixty (60) days after submitted to City, unless the parties mutually agree to extend such deadline. City shall reject work by a timely written explanation, otherwise Consultant's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects and fraud. Acceptance of any of Consultant's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, the sections pertaining to indemnification and insurance.

SECTION 7 – INSURANCE REQUIRED

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees, as indicated:

- D. 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.

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Exhibit B

E. Minimum Limits of Insurance. Consultant shall maintain limits no less than:

1. General Liability: \$2,000,000 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: \$2,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$2,000,000 per accident for bodily injury or disease.

F. Professional Liability Insurance. When Consultant under this Agreement is duly licensed under California Business and Professions Code as an architect, landscape architect, environmental engineer or other professional engineer, or land surveyor ("design professional"), Consultant shall maintain at least \$2,000,000 of professional liability insurance.

G. Excess Limits. If Consultant maintains higher limits than the minimums shown above, City requires and shall be entitled to coverage for the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

H. Primary Coverage. For any claims related to this contract the Consultants insurance coverage shall be primary insurance as respects to City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of Consultants insurance and shall not contribute with it.

I. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions of \$25,000 or greater must be declared to and approved by the City.

J. Other Insurance Provisions. The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its agent, officers, officials, employees, and volunteers are to be covered as additional insured as respects: liability arising out of work or operations performed by the Consultant or Consultant's subconsultants; or automobile owned, leased, hired or borrowed by the Consultant.
2. For any claims related to Consultant's conduct while performing the work of this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its agents, officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its agents, officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

Exhibit B

4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subsection (b) of Section 2782 of the Civil Code.

K. Waiver of Subrogation. Consultant's commercial general liability, automobile liability, workers' compensation, and employer's liability policies shall be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its agents, officers, officials, employees and volunteers for losses paid under the terms of this policy which arises from the work performed by the named insured for the City.

L. The Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.

M. Verification of Coverage. Consultant shall furnish the City with original certificates and amandatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on forms that conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

SECTION 8 – INDEMNIFICATION

A. To the fullest extent allowed by law (including without limitation California Civil Code Sections 2782 and 2782.8), as may be applicable, Consultant shall indemnify and hold harmless City, its agents, officers, officials, employees, and volunteers from any and all claims, demands, suits, loss, damages, injury, and/or liability (including any and all costs and expenses in connection therewith) (collectively, "Liabilities"), incurred by reason of any negligent or otherwise wrongful act or omission of Consultant, its officers, agents, employees and subcontractors, or any of them, under or in connection with this Agreement; and Consultant agrees at its own cost, expense and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against City, its agents, officers, officials, employees and volunteers, or any of them, arising out of such negligent or otherwise wrongful act or omission, and to pay and satisfy any resulting judgments.

B. When Consultant under this Agreement is duly licensed under California Business and Professions Code as an architect, landscape architect, professional engineer, or land surveyor ("design professional"), the provisions of this section regarding Consultant's duty to defend and indemnify apply only to claims that arise out of or relate to the negligence, recklessness, or willful misconduct of the design professional.

C. If any action or proceeding is brought against Indemnitees by reason of any of the matters against which Consultant has agreed to indemnify Indemnitees as provided above, Consultant, upon notice from City, shall defend Indemnitees at Consultant's expense by counsel acceptable to City, such acceptance not to be unreasonably withheld. Indemnitees need not have first paid for any of the matters to which Indemnitees are entitled to Indemnification in order to be so indemnified. The insurance required to be maintained by Consultant shall ensure

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Consultant's obligations under this section, but the limits of such insurance shall not limit the liability of Consultant hereunder. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

D. The provisions of this section do not apply to claims to the extent occurring as a result of the City's sole negligence, active negligence, or willful acts or misconduct.

E. Duty to Cooperate. Each party shall notify the other party immediately in writing of any claim or damage related to activities or services performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of all Liabilities arising out of the activities or services under this Agreement.

SECTION 9 – INDEPENDENT CONTRACTOR STATUS

A. Consultant is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Consultant shall have no authority to bind City in any manner or to incur an obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

B. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees or agents are in any manner officials, officers, employees or agents of City.

C. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

SECTION 10 – CONFLICTS OF INTEREST AND ANTI-FRAUD AND ANTI-CORRUPTION POLICIES

A. Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of the City Manager. Consultant agrees to at all times avoid conflicts with the interests of City in the performance of this Agreement.

B. City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant is aware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

Exhibit B

C. Consultant understands and acknowledges City maintains an anti-fraud and anti-corruption policy to protect the City, its operations, and its employees from and against financial risks, operational breaches, and unethical, fraudulent and corrupt activities. Consultant represents and warrants that Consultant, its subcontractor(s) / subconsultant(s) and their respective employees providing services pursuant to the Agreement are (1) in good standing; (2) have not been previously investigated, convicted, or debarred for fraudulent or corrupt activities; (3) will not participate in fraudulent or corrupt activities, and (4) will take steps to ensure that its employees and subcontractor(s) / subconsultant(s) employees do not participate in any fraudulent or corrupt activities. Consultant acknowledges and agrees further that it has a duty to and will report to City any information or incident(s) about possible fraudulent or corrupt activities Consultant may discover, and will cooperate in any fraud or corruption investigation conducted, with respect to Consultant's service provided pursuant to this Agreement.

SECTION 11 – OWNERSHIP OF DOCUMENTS

A. All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Consultant. When requested by City, but no later than three years after project completion, Consultant shall deliver to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

B. All copyrights, patents, trade secrets, or other intellectual property rights associated with any ideas, concepts, techniques, inventions, processes, improvements, developments, works of authorship, or other products developed or created by Consultant during the course of providing services (collectively the "Work Product") shall belong exclusively to City. The Work Product shall be considered a "work made for hire" within the meaning of Title 17 of the United States Code. Without reservation, limitation, or condition, Consultant hereby assigns, at the time of creation of the Work Products, without any requirement of further consideration, exclusively and perpetually, any and all right, title, and interest Consultant may have in the Work Product throughout the world, including without limitation any copyrights, patents, trade secrets, or other intellectual property rights, all rights of reproduction, all rights to create derivative works, and the right to secure registrations, renewals, reissues, and extensions thereof.

SECTION 12 – CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

B. Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to

Exhibit B

interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered “voluntary” provided consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys’ fees, caused by or incurred as a result of Consultant’s conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite such response.

SECTION 13 – SUSPENSION OF WORK

City may, at any time, by ten (10) days written notice suspend further performance by Consultant. All suspensions shall extend the time schedule for performance in a mutually satisfactory manner and Consultant shall be paid for services performed and reimbursable expenses incurred prior to the suspension date.

SECTION 14 – COMPLIANCE WITH LAW

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Consultant shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Consultant to comply with this section.

SECTION 15 – COMPLIANCE WITH CIVIL RIGHTS

During the performance of this contract, Consultant agrees as follows:

A. Equal Employment Opportunity. In connection with the execution of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, ancestry, age, sexual orientation, gender, gender identity and gender expression as protected categories specifically and expressly in that category, physical handicap, medical condition, marital status, sex, or national origin. Such actions shall include, but not be limited to, the following: employment, promotion, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training including apprenticeship.

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B. Nondiscrimination Civil Rights Act of 1964. Consultant will comply with all federal regulations relative to nondiscrimination to federally-assisted programs.

C. Solicitations for Subcontractors including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations, made by Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by Consultant of Consultant's obligations under this Agreement and the regulations relative to nondiscrimination.

SECTION 16 – RECORDS

A. Records of Consultant's direct labor costs, payroll costs, and reimbursable expenses pertaining to this project covered by this Agreement will be kept on a generally recognized accounting basis and made available to City if and when required for a period of up to 3 years from the date of Consultant's final invoice.

B. Consultant's records and design calculations will be available for examination and audit if and as required. The cost of any reproductions shall be paid by City.

SECTION 17 – COOPERATION BY CITY

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the Exhibit A, "Scope of Services", shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

SECTION 18 – NOTICES

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by facsimile or first class mail, addressed as follows:

To City: City Manager
 1480 Main Street
 St. Helena, California 94574

To Consultant:

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile, or, if mailed, three (3) days after deposit in the custody of the U.S. Postal Service.

SECTION 19 – TERMINATION

Exhibit B

A. City may terminate this Agreement, with or without cause, at any time by giving ten (10) days written notice of termination to Consultant. If such notice is given, Consultant shall cease immediately all work in progress.

B. If either Consultant or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Consultant, or City may terminate this Agreement immediately upon written notice.

C. Upon termination of this Agreement by either Consultant or City, all property belonging to City which is in Consultant's possession shall be delivered to City. Consultant shall furnish to City a final invoice for work performed and expenses incurred by Consultant, prepared as set forth in this Agreement.

SECTION 20 – ATTORNEYS' FEES

If litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorneys' fees, costs and expenses, in addition to any other relief to which it may be entitled. In addition, any legal fees, costs and expenses incurred to enforce the provisions of this Agreement shall be reimbursed to the prevailing party.

SECTION 21 – ENTIRE AGREEMENT

This Agreement, including the attached Exhibits, is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Consultant and City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

SECTION 22 – SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties. However, this Agreement shall not be assigned by Consultant without written consent of the City.

SECTION 23 – CONTINUITY OF PERSONNEL

Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff assigned to perform the services required under this Agreement, prior to any such performance.

SECTION 24 – DEFAULT

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed

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after the date of default and may terminate this Agreement immediately by written notice to Consultant.

SECTION 25 – WAIVER

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 26 – LAW TO GOVERN; VENUE

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Napa. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Northern District of California, in San Francisco.

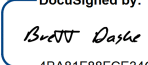
SECTION 27 – SEVERABILITY

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

SECTION 28 – SPECIAL PROVISIONS

This Agreement is subject to the following special provisions: none.

IN WITNESS WHEREOF, the parties hereto have accepted, made, and executed this Agreement upon the terms, conditions, and provisions above stated, the day and year first above written.

Consultant: DocuSigned by:

By: _____
Name: 4BA31F88FCE34C6... Brett Dashe
Title: Founder and CEO

City:

By: _____
Name: Mark T. Prestwich
Title: City Manager

Approved as to Form:

By: _____
Name: Thomas B. Brown
Title: City Attorney

Exhibit B

Exhibit A
“Scope of Services”

Exhibit B
“Compensation”



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/12/2018

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

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

PRODUCER	Adobe Insurance Brokers, LLC 284 Digital Dr. Morgan Hill CA 95037 Phone: 855-236-2346 Fax: 855-236-0001	CONTACT NAME: Christina Figueroa PHONE (A/C, No, Ext): 408-335-0699 FAX (A/C, No): E-MAIL ADDRESS:
	INSURER(S) AFFORDING COVERAGE	
INSURED	Dash Data, Inc. 491 Aldo Ave Santa Clara CA 95054	INSURER A : Hartford
		INSURER B : Hartford
		INSURER C : Hartford
		INSURER D : Amwins
		INSURER E :
		INSURER F :

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY			57SBARI4349	11/14/2017	11/14/2018	EACH OCCURRENCE \$ 2,000,000
	CLAIMS-MADE ☒ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						MED EXP (Any one person) \$ 2,000,000
	☒ POLICY ☐ PRO-JECT ☐ LOC						PERSONAL & ADV INJURY \$ 2,000,000
	OTHER:						GENERAL AGGREGATE \$ 4,000,000
							PRODUCTS - COMP/OP AGG \$ 4,000,000
B	AUTOMOBILE LIABILITY			57SBARI4349	11/14/2017	11/14/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000
	ANY AUTO						BODILY INJURY (Per person) \$
	OWNED AUTOS ONLY ☐ SCHEDULED AUTOS NON-OWNED AUTOS ONLY ☒						BODILY INJURY (Per accident) \$
	☒ HIRED AUTOS ONLY						PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB						\$
	EXCESS LIAB						EACH OCCURRENCE \$
	DED						AGGREGATE \$
	RETENTION \$						\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			57WECAB7W80	07/10/2018	07/10/2019	PER STATUTE ☐ OTH-ER ☐
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	☐ Y ☒ N	N/A				E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	E&O			SGC04766-04	11/14/2017	11/14/2018	2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Waiver of Subrogation. Consultant's commercial general liability, automobile liability, workers' compensation, and employer's liability policies shall be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its agents, officers, officials, employees and volunteers for losses paid under the terms of this policy which arises from the work performed by the named insured for the City.

CERTIFICATE HOLDER

CANCELLATION

City of St Helena 1480 Main St Helena, CA 94574 ctzafoopoulos@cityofsthelena.org	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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ACORD 25 (2016/03)

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MINUTES
City of St. Helena
Special City Council Meeting
Tuesday, June 26, 2018 @ 4:30 PM
Vintage Hall Board Room - Second Floor
465 Main Street, St. Helena

A complete video recording of this meeting, except for closed session, can be found at <https://sthelena.civicweb.net/Portal/> or by calling the City Clerk at (707) 968-2742. The City Council video is the official record of the Council meeting.

Present: Mayor Alan Galbraith, Vice Mayor Peter White, Councilmember Paul Dohring, Councilmember Geoff Ellsworth, and Councilmember Mary Koberstein

Absent: None

1. CALL TO ORDER

2. ROLL CALL

Mayor: Alan Galbraith, Vice Mayor: Peter White, City Council: Paul Dohring, Geoff Ellsworth and Mary Koberstein

SHAPE Committee Members:

Chair Mark Smithers, Vice Chair Anna Chouteau

Committee Members Doug Barr, Oliver Caldwell, Pat Dell, Jeff Feeney, Stan Knight, Tim Nieman, Joshua Parke, Susanne Salvestrin and Glenn Smith

3. PUBLIC COMMENT:

No public comment was received.

4. Board, Committee and Commission Applicant Interviews:

4.1 The City Council will interview the following Applicants:

Planning Commission

Planning Chair Grace Kistner's term of office expires June 30, 2018.

No applicants to date.

Active Transportation & Sustainability Committee

Special City Council
June 26, 2018

Active Transportation & Sustainability Committee members Tom Vence, Kris Coryell, Donna Hinds and Glenn Smith's term of office expire June 30, 2018. In addition, there is one vacant alternate term available expiring June 30, 2019.

Two applications were received from Tom Vence and Glenn Smith for five available terms. If the two applicants are appointed the committee will have a quorum to meet and conduct business.

Library Board of Trustees

Library Board of Trustee members Skip Lane, Bob Dye, Susan Swan and Emily Armstead's term of office will expire June 30, 2018.

Five applications were received from Emily Armstead, Mark Epstein, Skip Lane, Susan Swan and Rebecca Martin for four available terms.

Parks and Recreation Commission

Parks and Recreation Commission members Donna Hinds, Noelle Strouss and Tracy Smith's term of office will expire June 30, 2018.

Two applications were received from Donna Hinds and Noelle Strouss for three available terms. If the applicants are appointed the committee will have a quorum to meet and conduct business.

Prepared By: Cindy Tzaopoulos, City Clerk

The City Council interviewed Glenn Smith for a position on the Active Transportation & Sustainability Committee.

The City Council interviewed Emily Armstead, Mark Epstein, Skip Lane and Rebecca Martin for a position on the Library Board of Trustees.

5. ADJOURNMENT

The special meeting minutes were adopted at the July 24, 2018 regular meeting.

Mayor Galbraith adjourned the meeting at 5:04 p.m.

APPROVED:

ATTEST:

Alan Galbraith, Mayor

Cindy Tzaopoulos, City Clerk

MINUTES
City of St. Helena
Regular City Council Meeting
Tuesday, June 26, 2018 @ 6:00 PM
Vintage Hall Board Room - Second Floor
465 Main Street, St. Helena

A complete video recording of this meeting, except for closed session, can be found at <https://sthelena.civicweb.net/Portal/> or by calling the City Clerk at (707) 968-2742. The City Council video is the official record of the Council meeting.

Present: Mayor Alan Galbraith, Vice Mayor Peter White, Councilmember Paul Dohring, Councilmember Mary Koberstein, and Councilmember Geoff Ellsworth

Absent: None

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. PUBLIC FORUM:

Joy and Barry Brown, UpValley Family Centers Executive Director Jenny Ocón and Robyn Orsini addressed the City Council.

5. REPORTS BY STAFF AND CITY COUNCIL, FUTURE AGENDA ITEMS, and AB 1234 REPORTS:

Public Works Director Erica Ahmann Smithies reported the sidewalk at Hunt and Main Street are nearly finished.

Council Member Dohring noted he'd like to have a Fire Marshall succession planning discussion agendaized.

Council Member Ellsworth reminded the community about fire season preparedness.

Mayor Galbraith acknowledged the generous donation from A&W Root Beer towards the community fireworks show.

6. PRESENTATIONS AND PUBLIC RECOGNITIONS

6.1 Proclamation for July is Parks and Recreation Month

7. STAFF BRIEFING

Regular City Council
June 26, 2018

7.1 None

8. **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)

8.1 Consideration and proposed approval of a resolution 2018-80 approving a lease and hold harmless agreement between the City of St. Helena and Napa Valley Little League

CEQA Determination: Not a CEQA project

Prepared By: Andre Pichly, Recreation Director

Recommendation:

Staff recommends adopting the resolution approving a lease and hold harmless agreement between the City of St. Helena and Napa Valley Little League

8.2 *Updated 6/22/18

Consideration and proposed approval of:

A) a resolution 2018-81: (1) authorizing a 3.5% cost of living salary adjustment to the Firefighter classification, a 6.5% salary adjustment to the Fire Marshal and, in accordance with the requirement of California Code Section 54953(c)(3) including an oral report summarizing the recommended final action for the Fire Chief, providing an additional 3% salary adjustment for a total 6.5% salary increase for fiscal year 2018-19; (2) authorizing and approving a publicly available pay schedules in accordance with the requirement of California Code of Regulations, Title 2, Section 570.5 which includes revised salary schedules for Firefighters, Fire Marshal and Fire Chief, Police Officers Association (POA), St. Helena Employees Association (SHEA) and City Manager effective July 1, 2018; and

B) a resolution 2018-82 approving amendment No. 4 to the Employment Agreement with Fire Chief John Sorensen to authorize an additional 3.0% salary adjustment for a total 6.5% salary increase effective July 1, 2018.

CEQA Determination: Not a CEQA project

Prepared By: Kathy Robinson, Human Resources & IT Director, Mandy Kellogg, Admin Services Mgr

Recommendation:

A) Authorize and approve a 3.5% salary increase for firefighters, a 6.5% salary increase for the Fire Marshal, and an additional 3% to the Fire Chief (total of 6.5% salary increase) for Fiscal Year 2018/19 and effective July 1, 2018; and authorize and approve publicly available pay schedules in accordance with the requirement of California Code of Regulations, Title 2, Section 570.5.

Regular City Council
June 26, 2018

B) Authorize and approve Amendment No. 4 to the Employment Agreement with Fire Chief John Sorensen to authorize an additional 3.0% salary adjustment for a total 6.5% salary increase effective July 1, 2018.

- 8.3 Consideration and proposed approval of a resolution 2018-83 approving a one-year agreement with MarinIT to provide Information Technology services for an amount of \$80,000; provide systems upgrades and replacement, cloud backup services and software licenses for an additional amount of \$32,759, and a contingency of \$16,020 for unanticipated services or repairs for a total contract amount to MarinIT not to exceed of \$128,779.

CEQA Determination: Not a CEQA project

Prepared By: Kathy Robinson, Human Resources & IT Director

Recommendation:

Staff recommends City Council approve a resolution approving a one-year agreement with MarinIT to provide Information Technology services for a total not-to-exceed cost of \$128,779.

- 8.4 Consideration and proposed approval of a resolution 2018-84 authorizing a Grant Request to the Metropolitan Transportation Commission for the allocation of Fiscal Year 2018/19 Transportation Development Act Article 3 Pedestrian/Bicycle Project Funding in the Amount of \$75,000 for the R19-02 Hunt Avenue Sidewalk Gap Closure Project

CEQA Determination: Exempt from the requirements of CEQA pursuant to Section 15301, Class 1, which exempts the operation, leasing, or minor alteration of existing facilities

Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer

Recommendation:

Staff recommends City Council adopt the resolution authorizing a Grant Request to the Metropolitan Transportation Commission for the allocation of Fiscal Year 2018/19 Transportation Development Act Article 3 Pedestrian/Bicycle Project Funding in the Amount of \$75,000 for the R19-02 Hunt Avenue Sidewalk Gap Closure Project

- 8.5 *Updated 6/22/18
Consideration and proposed approval of a resolution 2018-85 approving a Unrepresented Compensation Program that covers all full-time firefighter positions not represented by an employee group (~~*Compensation Program Draft and Resolution forthcoming~~ Provided 6/22/18).

CEQA Determination: Not a CEQA project

Prepared By: Kathy Robinson, Human Resources & IT Director

Recommendation:

Staff recommends City Council approve the Resolutions establishing a new Unrepresented Compensation Program Resolution Full-time Firefighters effective July 1, 2018.

Regular City Council
June 26, 2018

Item 8.6 was removed from Consent.

- 8.6 ~~Consideration and approval of a resolution 2018-86 approving a Raw Water Use Agreement between the City of St. Helena and Spring Mountain Vineyard, Inc. for raw (non-potable) water from Lower Reservoir~~
- 8.7 Consideration and proposed approval of Regular Meeting Minutes of June 12, 2018. ~~(Will be provided prior to the meeting-Provided 6/22/18)~~
Prepared By: Cindy Tzaopoulos, City Clerk

Item 8.8 was pulled from Consent.

- 8.8 ~~*Updated 6/22/2018
Consideration and adoption of a Resolution 2018-87: (1) Awarding the R18-79 Pavement Overlay Project to Argonaut Constructors in the amount of \$398,705; (2) Authorizing the City Manager to execute the Construction Contract with Argonaut Constructors; (3) Authorizing the Director of Public Works to approve Change Orders not to exceed 20% of the contract amount; and (4) Authorizing the City Manager to execute a reimbursement agreement with Caltrans for an amount not to exceed \$65,000 \$70,000 for sidewalk replacement on Highway 29.~~
- 8.9 Transfer the balance of Fund 744, Housing Impact Fee to Fund 751, Affordable Housing Trust Fund and Deactivate Fund 744 resolution 2018-88

CEQA Determination: Not a CEQA project

Prepared By: Mandy Kellogg, Admin Services Mgr

Recommendation:

Staff recommends City Council approve a resolution authorizing a budget transfer from Housing Impact Fee (744) fund balance to the Affordable Housing Trust Fund (751-33-33-00-00, Housing In-Lieu Fee) in the amount of \$26,225.61 and deactivate Fund 744.

Item 8.10 was pulled from Consent.

- 8.10 ~~Consideration of Resolution Approving Amended and Restated Marketing and Promotional Services Agreement in the amount of \$210,000 Between the City of St. Helena and the St. Helena Chamber of Commerce~~
- 8.11 Consideration and proposed adoption of a resolution 2018-89 awarding a construction contract for R-77 Railroad Avenue Curb Ramp Upgrades and R18-80 ADA Transition Plan Curb Ramp Upgrades, to AAA Concrete Construction in the amount of \$135,670, and authorizing the Director of Public Works to approve change orders not to exceed 20% of the contract amount

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CEQA Determination: Class I Categorical Exemption under Section 15301 of CEQA

Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer
Recommendation:

Adopt the attached resolution awarding a construction contract for R-77 Railroad Avenue Curb Ramp Upgrades and R18-80 ADA Transition Plan Curb Ramp Upgrades, to AAA Concrete Construction in the amount of \$135,670, and authorizing the Director of Public Works to approve change orders not to exceed 20% of the contract amount.

- 8.12 Consideration and proposed approval of a Resolution 2018-90 Approving Amendment No. 1 of City Manager's Employment Contract; and in accordance with the requirement of California Code Section 54953(c)(3), providing an oral report summarizing the recommended final action for City Manager contract amendment beginning July 1, 2018 that provides for a one-year contract extension to June 30, 2023, a 3.5% cost-of-living adjustment to base salary for an annual base salary of \$196,526, and an administrative change in contract language to provide vehicle allowance of \$500 per month rather than \$250 per payroll period

CEQA Determination: Not a CEQA project

Prepared By: Kathy Robinson, Human Resources & IT Director

Recommendation:

Approve Amendment No. 1 to the Employee Agreement between the City of St. Helena and Mark Prestwich.

- 8.13 Second Reading and proposed adoption of an Ordinance 2018-2 Prohibiting Use of Consumer Fireworks

CEQA Determination: Not a CEQA project

Prepared By: John Sorensen, Fire Chief

Recommendation:

Staff recommends the City Council conduct the second reading and adopt the ordinance, by title only and waive further reading.

- 8.14 Consideration and approval of a resolution 2018-91 authorizing the City Manager to execute an Agreement with Napa Valley Transportation Authority to Utilize their Pre-qualified On-Call Engineer/Architect and Project Delivery Services List

CEQA Determination: Not a CEQA project

Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer
Recommendation:

Adopt a resolution authorizing the City Manager to execute an Agreement with Napa Valley Transportation Authority to Utilize their Pre-qualified On-Call Engineer/Architect and Project Delivery Services List.

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- 8.15 Consideration of a resolution 2018-92 approving Amendment #4 to the Professional Services Agreement with M-Group to provide professional planning services for an additional amount of \$120,000, for a total contract amount not to exceed \$428,000.

CEQA Determination: Not a CEQA project

Prepared By: Noah Housh, Planning & Community Improvement Director

Recommendation:

Staff recommends City Council adopt a resolution approving the Amendment #4 to the Professional Services Agreement with M-Group for an additional \$120,000, for a total contract amount not to exceed \$428,000 and authorize the City Manager to execute the agreement on behalf of the City.

- 8.16 Second reading and proposed adoption of an ordinance 2018-3 amending the City's Zoning Ordinance, St. Helena Municipal Code ("SHMC") Title 17, potentially revising Section 17.148, Signs, to be consistent with current case law as deemed appropriate by the City Council.

CEQA Determination: It is determined that the Ordinance is exempt from CEQA pursuant to Guidelines Sections 15061(b)(1), 15061(b)(2), and specifically, the "General Rule" Section 15061(b)(3), where it can be seen with certainty that the proposed action will have no significant effect on the environment.

Prepared By: Aaron Hecock, Senior Planner

Recommendation:

It is recommended by the Planning Commission of the City of St. Helena that the City Council review the Draft Ordinance and proposed text amendments to the Sign Ordinance and:

1. Determine that the proposed Zoning Code text amendments are exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15061; and
2. Review and approve the text amendments to St. Helena Municipal Code Title 17, Chapter 17.148 in order to update and modify existing Zoning Code regulations governing signs to establish compliance with current State law; and
3. Conduct second reading and adopt the ordinance, by title only and waive further reading.

- 8.17 Consideration of approval of a Resolution 2018-93:
1. Establishing 5-step increase pay scale for firefighters with 5% increments;
 2. Establishing hourly pay scale for the following positions: Engineer, Captain, and Assistant Chief;
 3. Discontinuing monthly stipends for the following positions: Engineer, Captain, and Assistant Chief; and

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4. Establishing a point value system for part-time firefighter, Engineer, Captain, and Assistant Chief positions identifying the criteria to move from step to step; and
5. Increasing Stand-by pay to cover in the Fire Chief's absence from \$105.00 per day to \$150.00 per day.

CEQA Determination: Not a CEQA project

Prepared By: April Mitts, Finance Director

Recommendation:

Staff recommends City Council adopt a resolution:

1. Establishing 5-step increase pay scale for firefighters with 5% increments;
2. Establishing hourly pay scale for the following positions: Engineer, Captain, and Assistant Chief;
3. Eliminating monthly stipends for the following positions: Engineer, Captain, and Assistant Chief; and
4. Establishing a point value system for part-time Firefighter, Engineer, Captain, and Assistant Chief positions that identifies the criteria to move from step to step; and
5. Increasing Stand-by pay to cover in the Fire Chief's absence from \$105.00 per day to \$150.00 per day.

Vice Mayor Peter White moved to approve Consent items 8.1 through 8.5, 8.7, 8.9 and 8.11 through 8.17. The motion was seconded by Councilmember Geoff Ellsworth and on roll call carried by the following vote:

AYES: Mayor Alan Galbraith, Vice Mayor Peter White, Councilmember Paul Dohring, Councilmember Mary Koberstein, and Councilmember Geoff Ellsworth

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

- 8.6 Consideration and approval of a resolution 2018-86 approving a Raw Water Use Agreement between the City of St. Helena and Spring Mountain Vineyard, Inc. for raw (non-potable) water from Lower Reservoir

CEQA Determination: Exempt from the requirements of CEQA under the "General Rule", Section 15061 (b)(3), in that it can be seen with certainty that the proposed action will have no impact on the environment.

Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer
Recommendation:

Staff recommends City Council adopt the resolution approving a Raw Water Use Agreement between the City of St. Helena and Spring Mountain Vineyard, Inc. for raw (non-potable) water from Lower Reservoir

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Public Works Director Erica Ahmann Smithies reported on this item.

Tom Belt addressed the City Council.

Mayor Galbraith requested a raw water discussion be agendaized at a later date.

Vice Mayor Peter White moved to approve item 8.6 as revised. The motion was seconded by Councilmember Geoff Ellsworth and on roll call carried by the following vote:

AYES: Mayor Alan Galbraith, Vice Mayor Peter White, Councilmember Paul Dohring, Councilmember Mary Koberstein, and Councilmember Geoff Ellsworth

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

8.8 *Updated 6/22/2018

Consideration and adoption of a Resolution 2018-87: (1) Awarding the R18-79 Pavement Overlay Project to Argonaut Constructors in the amount of \$398,705; (2) Authorizing the City Manager to execute the Construction Contract with Argonaut Constructors; (3) Authorizing the Director of Public Works to approve Change Orders not to exceed 20% of the contract amount; and (4) Authorizing the City Manager to execute a reimbursement agreement with Caltrans for an amount not to exceed ~~\$65,000~~ \$70,000 for sidewalk replacement on Highway 29.

CEQA Determination: Class I Categorical Exemption under Section 15301 of CEQA

Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer
Recommendation:

Staff Recommends City Council adopt the attached resolution: (1) Awarding the R18-79 Pavement Overlay Project to Argonaut Constructors in the amount of \$398,705; (2) Authorizing the City Manager to execute the Construction Contract with Argonaut Constructors; (3) Authorizing the Director of Public Works to approve Change Orders not to exceed 20% of the contract amount; and (4) Authorizing the City Manager to execute a reimbursement agreement with Caltrans for an amount not to exceed \$70,000 for sidewalk replacement on Highway 29.

Public Works Director Erica Ahmann Smithies reported on this item.

No public comment was received.

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Councilmember Paul Dohring moved to approve item 8.8. The motion was seconded by Vice Mayor Peter White and on roll call carried by the following vote:

AYES: Mayor Alan Galbraith, Vice Mayor Peter White, Councilmember Paul Dohring, Councilmember Mary Koberstein, and Councilmember Geoff Ellsworth

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

- 8.10 Consideration of Resolution Approving Amended and Restated Marketing and Promotional Services Agreement in the amount of \$210,000 Between the City of St. Helena and the St. Helena Chamber of Commerce

CEQA Determination: Not a CEQA project

Prepared By: Mark T. Prestwich, City Manager

Recommendation:

Adopt Resolution approving Amended and Restated Marketing and Promotional Services Agreement with St. Helena Chamber of Commerce.

City Manager Mark Prestwich reported on this item.

No public comment was received.

Councilmember Mary Koberstein moved to approve item 8.10 authorizing the City Manager to enter into the agreement so programs won't be delayed, but with further consultation to finalize the agreement between the Chamber, City Manager and two Council Members. The motion was seconded by Councilmember Paul Dohring and on roll call carried by the following vote:

AYES: Mayor Alan Galbraith, Vice Mayor Peter White, Councilmember Paul Dohring, Councilmember Mary Koberstein, and Councilmember Geoff Ellsworth

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

9. PUBLIC HEARINGS

- 9.1 *Updated 6/22/18 to include denial resolution 2018-94
Appeal of the Planning Commission decision to deny a Use Permit for the Green Biotics Wellness shop proposed for a vacant tenant space at 1309 Main Street, Suite B in the Central Business District.

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CEQA Determination: Exempt

Prepared By: Lilly Bianco, Contract Planner

Recommendation:

The Planning Commission recommends that the City Council:

1. Find that the project is statutorily exempt from CEQA pursuant to Section 15270 which specifies that CEQA does not apply to projects which a public agency rejects or disapproves, and

2. Uphold the Planning Commission's decision and deny a Use Permit to establish a Green Biotics wellness shop at 1309 Main Street, Suite B.

Planning Director Noah Housh reported on this item.

Green Biotics applicant Itay Maor addressed the City Council.

Joyce Hoshall, citizen and Joaquin Razo addressed the City Council.

Vice Mayor Peter White moved to uphold the Planning Commission's decision and deny a Use Permit to establish a Green Biotics wellness shop at 1309 Main Street, Suite B. The motion was seconded by Councilmember Mary Koberstein and on roll call carried by the following vote:

AYES: Mayor Alan Galbraith, Vice Mayor Peter White, Councilmember Paul Dohring, Councilmember Mary Koberstein, and Councilmember Geoff Ellsworth

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

Mayor Galbraith called for a recess at 7:26 pm.

Mayor Galbraith reconvened the meeting at 7:42 pm.

- 9.2 Establishing Appropriation Limits for Fiscal 2018-2019 and the Selection of Current Year Adjustment Factors resolution 2018-95

CEQA Determination: Not a CEQA project

Prepared By: April Mitts, Finance Director

Recommendation:

Staff recommends the City Council of the City of St. Helena adopt a resolution establishing an appropriation limit for Fiscal Year 2018-2019.

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Finance Director April Mitts reported on this item.

No public comment was received.

Councilmember Paul Dohring moved to approve staff's recommendation. The motion was seconded by Vice Mayor Peter White and on roll call carried by the following vote:

AYES: Mayor Alan Galbraith, Vice Mayor Peter White, Councilmember Paul Dohring, Councilmember Mary Koberstein, and Councilmember Geoff Ellsworth

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

- 9.3 Consideration and proposed adoption of a resolution 2018-96 authorizing the City Manager and/or Director of Public Works to sign and file a Financial Assistance Application, for and on behalf of the City, for a loan and/or grant agreement from the United States Department of Agriculture's (USDA) Rural Development Program for the planning, design, and/or construction of the following Capital Improvement Program Projects: Project No. S-52 Wastewater Treatment Plant Phase I Upgrades, Project No. S-66 Potable Water to the Wastewater Treatment Plant, and Project No. S18-71 Crinella Pump Station Upgrade

CEQA Determination: Not a CEQA project

Prepared By: Felix Hernandez III, Utilities Operations Manager

Recommendation:

Adopt a resolution authorizing the City Manager and/or Director of Public Works to sign and file a Financial Assistance Application, for and on behalf of the City, for a loan and/or grant agreement from the United States Department of Agriculture's (USDA) Rural Development Program for the planning, design, and/or construction of the following Capital Improvement Program Projects: Project No. S-52 Wastewater Treatment Plant Phase I Upgrades, Project No. S-66 Potable Water to the Wastewater Treatment Plant, and Project No. S18-71 Crinella Pump Station Upgrade.

Public Works Director Erica Ahmann Smithies reported on this item.

No public comment was received.

Vice Mayor Peter White moved to approve staff's recommendation. The motion was seconded by Councilmember Paul Dohring and on roll call carried by the following vote:

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AYES: Mayor Alan Galbraith, Vice Mayor Peter White, Councilmember Paul Dohring, Councilmember Mary Koberstein, and Councilmember Geoff Ellsworth
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

10. NEW BUSINESS

- 10.1 *Updated 6/22/18 to include additional application for consideration from Noelle Strouss.

Consideration and proposed approval of a resolution 2018-97 appointing applicants to various boards, commissions and committees and consider leaving the recruitment open for the unfilled terms of office until filled.

CEQA Determination: Not a CEQA project
Prepared By: Cindy Tzaopoulos, City Clerk
Recommendation:

Per resolution 2018-75 Council Rules of Procedure appointments shall be made by interview, ballot process and the Mayor shall nominate applicants with the appointments subject to approval by the majority of Council.

Planning Commission

- ~~Appoint one applicant to fill the term expiring 6/30/2022.~~

Active Transportation Sustainability Committee

- Appoint two applicants to regular term expiring June 30, 2020.

Library Board of Trustees

- Appoint four applicants to terms expiring June 30, 2020.

Parks & Recreation Committee

- Appoint two applicants to a term expiring June 30, 2020.

Vice Mayor Peter White moved to appoint the following:

Active Transportation & Sustainability Committee

Tom Vence and Glenn Smith are appointed for a two year term expiring on June 30, 2020; and

Library Board of Trustees

Emily Armstead, Skip Lane, Rebecca Martin and Susan Swan are appointed to the St. Helena Library Board of Trustees for a two year term expiring on June 30, 2020; and

Parks and Recreation Commission

Donna Hinds and Noelle Strauss are appointed to the Parks and Recreation

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Commission for a two year term expiring on June 30, 2020.

The motion was seconded by Councilmember Geoff Ellsworth and on roll call carried by the following vote:

AYES: Mayor Alan Galbraith, Vice Mayor Peter White, Councilmember Paul Dohring, Councilmember Mary Koberstein, and Councilmember Geoff Ellsworth

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

- 10.2 Introduction and First Reading of an Ordinance Amending Chapter 9.06, Title 9, Public Peace And Welfare, of the St. Helena Municipal Code, which Prohibits Smoking Inside All Public Buildings, Within 20 Feet Of Public Buildings, at All Sports Facilities and Sports Spectator Areas in City Parks, to include the use of Electronic Smoking Devices and Electronic Cigarettes to the City's Smoking Regulations

CEQA Determination: Not a CEQA project

Prepared By: Andre Pichly, Recreation Director

Recommendation:

Staff recommends the City Council introduce and conduct first reading of the ordinance, by title only and waive further reading.

Recreation Director Andre Pichly reported on this item.

Maria Gonzales and citizen addressed the City Council.

Staff was directed to review municipal code section 9.06.040 for a potential clerical error related to duplicate language.

Vice Mayor Peter White moved to introduce and conduct the first reading of the ordinance, by title only and waive further reading. The motion was seconded by Councilmember Geoff Ellsworth and on roll call carried by the following vote:

AYES: Vice Mayor Peter White and Councilmember Geoff Ellsworth

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

- 10.3 Resolution 2018-98 ordering the submission to the qualified electors of the City of St. Helena a measure to approve an increase to the transient occupancy tax at the General Municipal Election to be held on Tuesday, November 6, 2018;

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requesting consolidation by the Napa County Board of Supervisors of the election regarding said measure with the statewide general election to be held on the same date and that Napa County provide election services with full reimbursement by the City of St. Helena; setting City Council priority for filing written argument; directing the City Attorney to prepare an impartial analysis; authorizing the filing of rebuttal argument; and authorizing the release of City Council rebuttal argument

CEQA Determination: The City Council hereby finds that the proposed Transient Occupancy Tax Ordinance involves the creation of a government funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant impact on the environment and thus is not a project subject to the requirements of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.)(CEQA) pursuant to CEQA Guidelines Section 15378 (b)(4); additionally, it is noted that future affordable and workforce housing development projects or programs funded by the Transient Occupancy Tax Ordinance will be subject to environmental review in accordance with CEQA at the earliest feasible time prior to consideration and approval of such projects or programs consistent with CEQA Guidelines §§15004 and 15352.

Prepared By: Mark T. Prestwich, City Manager

Recommendation:

Adopt Resolution ordering the submission to the qualified electors of the City of St. Helena a measure to approve an increase to the transient occupancy tax at the General Municipal Election to be held on Tuesday, November 6, 2018; requesting consolidation by the Napa County Board of Supervisors of the election regarding said measure with the statewide general election to be held on the same date and that Napa County provide election services with full reimbursement by the City of St. Helena; setting City Council priority for filing written argument; directing the City Attorney to prepare an impartial analysis; authorizing the filing of rebuttal argument; and authorizing the release of City Council rebuttal argument.

City Manager Mark Prestwich reported on this item.

Susan Kenward addressed the City Council.

Vice Mayor Peter White moved to approve staff's recommendation. The motion was seconded by Mayor Alan Galbraith and on roll call carried by the following vote:

AYES: Mayor Alan Galbraith, Vice Mayor Peter White, Councilmember Paul Dohring, Councilmember Mary Koberstein, and Councilmember Geoff Ellsworth

NOES: None

ABSENT: None

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ABSTAIN: None
RECUSE: None

10.4 Follow-up discussion and direction of Capital Improvement Project C-82
Downtown Restrooms Project

CEQA Determination: 15303 New Construction or Conversion of Small
Structures
Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer
Recommendation:
Discuss and provide direction to City staff.

Public Works Director Erica Ahmann Smithies reported on this item.

No public comment was received.

Vice Mayor Peter White moved to proceed with the Capital Improvement
Project C-82 Downtown Restrooms Project. The motion was seconded by
Councilmember Paul Dohring and on roll call carried by the following vote:

AYES: Mayor Alan Galbraith, Vice Mayor Peter White, Councilmember Paul
Dohring, Councilmember Mary Koberstein, and Councilmember Geoff
Ellsworth

NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

10.5 Transmittal of Housing White Paper Prepared for City Council's "Stabilize,
Maintain and Improve Access to Housing" Goal

CEQA Determination: Not a CEQA project
Prepared By: Mark T. Prestwich, City Manager
Recommendation:
Receive and file.

City Manager Mark Prestwich reported on this item.

Consultant Erica Sklar provided a presentation.

Bobbi Monnette addressed the City Council.

10.6 *New item added 6/22/18
Continued City Council review, discussion and comment (including potential
adoption of a resolution 2018-99) responding to a referral from the County of
Napa requesting City input on a proposed Minor Modification, Development

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Agreement and CEQA analysis for the Vineland Vista Mobile Home Park, located at 341 St. Helena Highway (APNs 027-130-005 & 027-130-006) in the jurisdiction of the County of Napa.

CEQA Determination: Not a CEQA project

Prepared By: Noah Housh, Planning & Community Improvement Director

Recommendation:

It is recommended the City Council 1) Review the provided information from the County of Napa, and 2) Consider adoption of a resolution and transmission of a letter formally commenting on the proposed Minor Modification, Development Agreement and CEQA analysis for the Vineland Vista Mobile Home Park.

Planning Director Noah Housh reported on this item.

Bobbi Monnette addressed the City Council.

Vice Mayor Peter White moved to adopt a resolution as amended and transmission of a letter formally commenting on the proposed Minor Modification, Development Agreement and CEQA analysis for the Vineland Vista Mobile Home Park. The motion was seconded by Councilmember Mary Koberstein and on roll call carried by the following vote:

AYES: Mayor Alan Galbraith, Vice Mayor Peter White, Councilmember Paul Dohring, Councilmember Mary Koberstein, and Councilmember Geoff Ellsworth

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

10.7 Bimonthly Update on City Council Goals and Strategic Objectives

CEQA Determination: Not a CEQA project

Prepared By: Mark T. Prestwich, City Manager

Recommendation:

Receive and file.

City Manager Mark Prestwich provided an update.

11. ITEMS LIKELY TO BE PLACED ON THE NEXT OR FUTURE MEETING AGENDA:

11.1

July City Council Meetings:

7/10 Mtg Cancelled

7/24 (staff reports due 7/6)

CONSENT:

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7/24 Water Storage Tanks and Pump Station Upgrades - Award of Contract – PW
7/24 2nd Reading E-Cig Smoking Ordinance - Rec
7/24 Award of Contract for master utility plan - PW
7/24 Scanning RFP Award - Admin
7/24 Amended Coop Agreement with Caltrans for Grayson Signal for electricity(Caltrans to attend)
7/24 Award of labor consultant contract for Upper York Creek - PW
7/24 Adopt Labor Compliance Report - PW
PH or NEW BUSINESS:
7/24 (PH) Sewer Annexation - PW
7/24 (PH) 2525 Madrona Parcel Map - Planning
7/24 Jingle All the Way St. Helena - Rec
7/24 Kosmont – Downtown Market Study - Admin
7/24 Design Review Ordinance - Planning
7/24 Concept Review Ordinance - Planning
7/24 LOCC Voting Delegate and Reso's - Admin
7/24 Qtrly Finance Report - Fin
7/24 Grant Report – Fin
7/24 Mobile Home/Rent Stabilization Ordinance Discussion
<u>August City Council Meetings:</u>
8/14 (staff reports due 7/27)
8/28 (staff reports due 8/10)
CONSENT:
8/14 Sewer Annexation - PW
PH or NEW BUSINESS:
8/28 Bimonthly Goals and Objectives Update - Admin
<u>September City Council Meetings:</u>
9/11 (staff reports due 8/24)
9/25 (staff reports due 9/7)
CONSENT:
St. Helena Resolution for Affordable Housing Bond (SB3) - Mayor

12. ADJOURNMENT

Mayor Galbraith adjourned the meeting at 9:34 p.m.

The regular meeting minutes of June 26, 2018 were adopted at the regular meeting of July 24, 2018.

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APPROVED:

Alan Galbraith, Mayor

ATTEST:

Cindy Tzaopoulos, City Clerk



Report to the City Council
Council Meeting of July 24, 2018

Agenda Section: Consent

Subject: Council review of the Planning Commission's approval of Tentative Parcel Map and Design Review applications to allow the subdivision of an existing 14.75 acre parcel currently developed with one single family home, into two new parcels, 14.25 and 0.05 acres respectively, located at 2525 Madrona Avenue (APN 009-944-2996) in the Agricultural Zoning District. No development on the newly created 0.5 acre parcel was approved with this action and the Planning Commission found that the project is exempt from the requirements of CEQA under a Class 32 Categorical Exemption. (File No. PL17-066)

CEQA Determination: Exempt from CEQA pursuant to Section 15332, which exempts projects characterized as in-fill development when the project is consistent with the general plan and zoning; occurs within city limits on less than five acres; has no valuable habitat; won't cause any significant environmental effects; and can be served by existing public services

Prepared By: Noah Housh, Planning & Community Improvement Director

Reviewed By: Mark T. Prestwich, City Manager

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On June 5, 2018 the Planning Commission voted 4-1 to approve a Tentative Parcel Map and Design Review to allow the subdivision of an existing 14.75 acre parcel into two newly created parcels, one 14.25 acres in size and one 0.5 acres in size at 2525 Madrona Avenue in the Twenty-Acre Agriculture (A-20) zoning district.

The project site is an existing 14.75 acre sloped property currently developed with one single family home, located at 2525 Madrona Avenue. The site is bounded by unnamed

drainage features along the north eastern boundary and the southern boundary. To the north and west are existing large estate properties also developed with single family homes and have some agricultural activities occurring within their boundaries. The site is accessed from Madrona Avenue via a culvert crossing and is located just beyond the Urban Limit Line (ULL).

DISCUSSION

The approval included a Tentative Parcel Map and Design Review to allow the creation of a new 0.5 acre parcel by subdividing an existing 14.75 acre parcel into two lots, one of which is proposed to be 0.5 acres in size (Parcel #1) and a 14.25 acre remainder. The smaller 0.5 acre Parcel 1 is designed to have some frontage onto Madrona Avenue, with access over the larger 14.25 acre lot remainder parcel via a shared access easement.

The site is designated Agricultural in both the General Plan and Zoning Code, and is located outside the City's Urban Limit line (ULL). Surrounding land uses within the City are primarily residential estate lots or vineyards, while the surrounding parcels in the County jurisdiction are generally wooded hillside properties with limited vineyard development.

The applicant did not propose a specific building design for the newly created parcel at the time the map was approved. Conditions were added to the resolution that explicitly require the future design plans of any home to be reviewed and approved by the Planning Commission as part of a public hearing process. Any future home design must meet all the required development criteria of the A-20 zoning district including setbacks, floor area ratios (FAR's), height restrictions etc.. The same condition also specifies that the architecture and design of the homes will be compatible with the surrounding area, and will be located and designed to avoid privacy impacts on surrounding properties.

In approving the project, the Planning Commission identified that the project met the General Plan and St. Helena Municipal Code (SHMC) criteria for creating the proposed parcel (see attached resolution and report). This item is being presented to the City Council in response to the requirements of SHMC Section 16.24.050 which governs Parcel Maps and Tentative Parcel Maps.

Section 16.24.050 (below) directs staff to make a written report to the City Council to provide them Or the Planning Director) an opportunity to "call up" the report for review at a public hearing before the Council. It should be noted, the code directs that this be presented within 10-days of the action by the Commission. Unfortunately, meeting this time frame was not possible given previous commitments and the recent transition to a 10-day publication deadline for Council reports. Staff will bring recommendations on how to remedy this challenge with a future meeting date for Council discussion.

16.24.050 City council review

If a tentative parcel map is approved or conditionally approved, the city planner shall forthwith make a written report thereof to the city council. Any member of the city council shall have the right to call up the tentative parcel map for city council review at a city council meeting or by a request to the planning director, either of which must be within ten (10) days of the final action by the planning commission. If the city council, by a majority vote, decides to review the map, it shall conduct a public hearing after giving notice pursuant to Section [16.04.100](#). In addition, notice shall be given to the planning commission. The public hearing shall be held within thirty (30) days after the city council decides to review the map. The city council may add, modify, or delete conditions if the city council determines that such changes are necessary to ensure that the tentative parcel map conforms to the state Subdivision Map Act and this code. The city council may deny the tentative parcel map on any of the grounds contained in Section [16.16.080](#)(D). Within ten (10) days following the conclusion of the hearing, the city council shall render its decision. (Prior code § 25.89)

FISCAL IMPACT

There are no direct fiscal impacts to the General Fund resulting from the approval of the Tentative Parcel Map. Future development of the project site could increase the property tax and impact fee revenues, based on the size and value of the future home built on the new parcel.

RECOMMENDED ACTION

It is recommended that the City Council receive the provided report on the Commission's approval, and decide if they wish to review the project at a formally noticed public hearing.

ATTACHMENTS

[PC2018-023 2525 MADRONA AVE. D.R. & TENTATIVE PARCEL MAP 6.05.18](#)
[PC Staff Report- Tentative Parcel Map and Design Review-2525 Madrona Parcel Map](#)
[Tentative Parcel Map](#)
[LACO Biologic Evaluation](#)
[LACO Geotechnical Report](#)
[FIRMETTE d2afd780-1044-11e8-be4c-001b21b31e35](#)
[Water Availability Analysis](#)

CITY OF ST. HELENA PLANNING COMMISSION

RESOLUTION PC2018-023

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ST. HELENA
GRANTING APPROVAL OF A TENTATIVE PARCEL MAP AND DESIGN REVIEW
TO ALLOW THE SUBDIVISION OF AN EXISTING 14.75 ACRE PROPERTY INTO A 0.5
ACRE "PARCEL 1" AND A 14.25 ACRE "REMAINDER PARCEL" LOCATED AT 2525
MADRONA AVENUE (FILE NO. PL17-066) IN THE A-20 ZONING DISTRICT**

PROPERTY OWNER: Brian Heim

APN: 009-450-007

Recitals

- A. On November 2, 2017**, Brain Heim (on behalf of Sanders LLC) submitted an application for a Tentative Parcel Map and Design Review to subdivide the existing parcel at 2525 Madrona Avenue in the Agricultural-20 Zoning District; and
- B. On May 15, 2018**, the Planning Commission of the City of St. Helena, State of California, continued the project to June 5, 2018; and
- C. On June 5, 2018**, the Planning Commission of the City of St Helena, considered the project, staff report, and all testimony, written and spoken, at a duly noticed public hearing.
- C. Now, therefore** let it be found that, the Planning Commission approves the requested Tentative Parcel Map and associated Design Review on the following basis:

Resolution

- A.** The Planning Commission hereby finds that this project qualifies for a Class 32 Categorical Exemptions pursuant to Section CEQA Section 15332, of the California Environmental Quality Act (CEQA), in that the A-20 Zoning district expressly permits single family residential development, the site is located within the City limits and has been previously developed with residential land uses, and the surrounding properties have been previously developed with residential land uses. In addition, the Planning Commission finds that the proposed Parcel Map and Design Review are consistent with the findings and analysis of the 1993 General Plan and Zoning Code Environmental Impact Report.
- B.** The Planning Commission has considered the Design Review design criteria identified in Municipal Code Section 17.164.030 to support the motion to approve the Design Review given that the project has been found to demonstrate:
 - 1. Consistency and compatibility with applicable elements of the general plan is found in that the project maintains the standards for lot sizes and development, identified in the Agriculture designation;

2. Compatibility of design with the immediate environment of the site given that the design maintains site design features and preserves the ability to implement agricultural uses;
3. Relationship of the design to the site given the scale of the addition, the proposed setbacks, lot size, access to the site and the transitional context of the neighborhood;
4. Determination that the design is compatible in areas considered by the Commission as having a unified design or historical character given the historic scale and design features incorporated into the proposal is founds given that the site is not located within a historic district and no development is proposed;
5. Whether the design promotes harmonious transition in scale and character in areas between different designated land use given the surrounding agricultural properties is found as the site is an ideal transition between the adjacent low density residential development and the surrounding residential estate and agricultural properties;
6. Compatibility with future construction both on and off the site given the access, context and non-historic nature of the surrounding neighborhood is supported given that the project proposes to utilize the existing access for the newly created parcel and will not impact the ability to develop any uses on surrounding properties;
7. Whether the architectural design of structures and their materials and colors are appropriate to the function of the project providing appropriate design elements and exterior features is not applicable given that no structure is proposed with the project and future development will require separate Design Review approval;
8. Whether the planning and siting of the various functions and buildings on the site create an internal sense of order and provide a desirable environment for occupants, visitors and the general community which the project does through appropriate setbacks and thoughtful site planning is found to be the case given the setback from the roadway for the proposed parcel, the maintenance of existing natural features and the transitional nature of the proposed parcel location;
9. Whether the amount and arrangement of open space and landscaping are appropriate to the design and the function of the structures which they are given the provided site plan, setback and landscaping proposed maintains significant setback from all natural features and provides adequate parcel size for future development to meet the criteria of the A-20 zoning district;
10. Whether sufficient ancillary functions are provided to support the main functions of the project and whether they are compatible with the project's design concept

which the outdoor decks, pool and rear yard arbor are found to be given that the only element of the project is the proposed creation of one 0.5 acre parcel;

11. Whether access to the property and circulation systems are safe and convenient for pedestrians, cyclists and vehicles which they are given the continuation of the single family use and maintenance of the existing access to the property is found to be given the proposed use of the existing roadway and access points with no impacts on this existing infrastructure expected to occur;
12. Whether natural features are appropriately preserved and integrated with the project which the project seeks to do through careful site planning given that the proposed parcel is gently sloping and has no prominent natural features proposed to be located within it;
13. Whether the materials, textures, colors and details of construction are an appropriate expression of its design concept and function and whether they are compatible with the adjacent and neighboring structure and functions which they are given the historic design themes and elements are not applicable given the lack of any proposed building design;
14. In areas considered by the board as having a unified design character or historical character, whether the design is compatible with such character which the design is found to be, given the features and elements referenced above is found given that the area is seen as an ideal transitional part of the neighborhood whereby low density residential housing begins to give way to larger residential and agricultural parcels;
15. Whether the landscape design concept for the site, as shown by the relationship of plant masses, open space, scale, plant forms and foliage textures and colors create a desirable and functional environment and whether the landscape concept depicts an appropriate unity with the various buildings on the site which it does through careful and appropriate planting choices and locations is supported given that no significant vegetation is located on the project site and none is proposed to be planted with this project;
16. Whether plant material is suitable and adaptable to the site, capable of being properly maintained on the site, and is of a variety which is suitable to the climate of St. Helena, which it is given the drought tolerant elements proposed is found given that any future development will be subject to the requirements of the State Water Efficient Landscape Ordinance;
17. Whether sustainability and climate protection are promoted through the use of green building practices such as appropriate site/architectural design, use of green building materials, energy efficient systems and water efficient landscape materials which is, based on the significant energy and water saving requirements of the California Building Code and City of St Helena development criteria.

C. Let it be further resolved that the Planning Commission has considered the findings identified in Municipal Code Section 16.24 to support the motion to approve the Vesting Tentative Parcel Map given that the project has been found to demonstrate:

A. That the proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan, any applicable specific plan, and other applicable provisions of this code; and

B. That the design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision, as described in the state Subdivision Map Act and any guidelines promulgated by the city council.

D. Now therefore be it further resolved that, the Tentative Map and Design Review for the above described project is granted subject to compliance with all applicable provisions of the Zoning Code subject to each of the following conditions. The proposed Final Map shall be in conformance with all City ordinances, rules, regulations and policies in effect at the time of Final Map Submittal. The conditions noted below are particularly pertinent to this approval and shall not be construed to permit violation of other laws and policies not so listed.

1. The Tentative Parcel Map and Design Review approval shall be vested within one (1) year from the date of approval. Recordation of the Final Map for the parcel allowed under this approval shall have been obtained within one (1) year from the effective date of the Parcel Map and Design Review decision or these approvals shall expire; provided however that the approved Parcel Map and Design Review may be extended for up to two (2) one-year periods pursuant to the St. Helena Municipal Code, Section 17.08.030, Extension of Permits and Approvals.
2. This permit is valid for this Tentative Parcel Map design only. New permits must be applied for any change in design. These permits will expire if the Final Map is not recorded or extended pursuant to the existing ordinances and regulations.
3. The Parcel Map and Design Review approval shall not become effective until fourteen (14) calendar days after presentation of the item to the City Council, providing that the action is not reviewed or appealed by the City Council or any other interested party within that 14 day period.
4. Any request for an extension of the Parcel Map or Design Review must be justified in writing and received by the Planning Department at least thirty (30) days prior to expiration.
5. All required fees, including planning fees, development impact fees, building fees, retrofit fees, and St. Helena Unified School District fees shall be paid prior to issuance of building permit.
6. Pursuant to City Council Resolution 2003-65, the owner and applicant are informed of the following:

In recognition of the need for additional affordable housing, and to mitigate the effects of this development on the supply and demand of affordable housing, the permittee shall be subject to a Housing Impact Fee, an inclusionary requirement, an in-lieu fee, and/or similar fair and appropriate mechanisms, to provide funds for or to develop additional affordable housing.

7. Compliance with all permit conditions shall be clearly identified on all plans submitted for Final Map approval, shall occur in accordance with specific regulations. Recordation of a map may be withheld if all conditions, including payment of fees for services rendered by the City, are not met.
8. The applicant will defend and indemnify and hold the City, its agents, officers, and employees harmless of any claim, action or proceedings to attack, set aside, void or annul an approval so long as the City promptly notifies the applicant of any such claim, action, or proceedings and the City cooperates fully in the defense of the action or proceedings.
9. Provided they are in general compliance with the approved Parcel Map and Design Review, minor modifications found to be in substantial conformance with the approved design may be approved by the Planning Director.
10. This Parcel Map and Design Review shall be binding upon all parties having any right, title or interest in the real property or any part thereof, their heirs, successors and assigns, and shall inure to their benefit and benefit of the City of St. Helena.
11. The primary purpose of this review is for compliance with the General Plan, Zoning and Subdivision Ordinance. The owner/applicant is responsible for meeting all mandated requirements.
12. Final Map submittal shall be in compliance with approved plans and exhibits date stamped May 1, 2018.
13. Installation of any and all required off-site improvements shall be completed or bonded for prior to recordation of the Final Map.
14. Any future development of the project site shall be consistent with St. Helena Municipal Code Article IV, Water Conservation Section 18.44, New Development, requiring that the applicant shall be retrofit a mandated number of fixtures to off-set the water use and demand of the future development. Appeals to this requirement may be made pursuant to Article IV, Section 18.46. The exact number of retrofits may change dependent upon final floor area submitted for the Design Review and/or building permit.
15. All conditions of approval shall be clearly identified and included on all plans submitted for future permit review and issuance.
16. Within the A-20 Zoning District, there exists a right-to-farm the adjoining property. There is a good faith expectation that no complaints will occur regarding legal, normal

agricultural activities on the adjacent land. Such activities may include day or night disbursement of chemicals, and creation of dust, noise, or fumes.

17. The riparian habitat on this property has value as a wildlife area. No trees or vegetation shall be removed without approval of the Planning Director and a note to this effect shall be placed on the Final Map prior to recordation.
18. Compliance with all conditions of the Napa County Department of Environmental Management regarding well or sewer use shall be met and/or satisfied prior to Final Map recordation or building permit issuance, as applicable.

Public Works Department Conditions of Approval

19. Approval of this project shall be subject to the requirements of, and all improvements shall be designed and constructed in accordance with the most current version at the time of improvement plan submittal, the City of St. Helena Municipal Code, the St. Helena Water and Sewer Standards, the St. Helena Street, Storm Drain and Sidewalk Standards, and all current federal, state and county codes governing such improvements.
20. The developer shall construct all on and offsite improvements in accordance with improvement plans and supporting calculations and documentation that are prepared by a registered Civil Engineer and reviewed and approved by the City of St. Helena Public Works Department.
21. The improvement plans shall include detailed designs for all on and off-site utilities, water, sewer, grading, drainage, erosion control and paving. The plans, calculations, and cost estimates must be approved by the City Engineer prior to the approval of the Final Map.
22. Access drive to Parcel 1 shall meet City municipal code section 17.124.070 requirements for "access drive," with a minimum paved width of 12' plus 2' shoulders on each side (total 16' wide).
23. The 16' access easement shall provide for a full 12' wide with 2' Class II Aggregate Base shoulders with an all weather surface with a structural rating for H20 loading from Madrona Avenue to the Parcel 1 access point.
24. A water neutrality analysis will be required as a condition of development and in accordance with City's water neutral policy. This requirement shall be noted on the Final Map.
25. Where a City water service exists or is required on either parcel, the applicant shall install an approved backflow device installed behind the existing water meter prior to Final Map approval.
26. All parcels shall have separate access to the City of St. Helena municipal water system and developer shall install water laterals, meters and backflow devices for

each parcel as required by current St. Helena and health codes, as appropriate prior to Final Map approval.

27. The developer shall complete all water and wastewater improvements, including pressure and bacterial testing, and raising manholes and cleanouts to grade prior to connection of any buildings to the City water or sewer system, as applicable.
28. The applicant shall conform to the City of St. Helena Water and Sewer Standards Section 6-2.10 which includes assessing the adequacy of the existing sewer lateral, installing needed cleanouts and a separate service for each parcel prior to Final Map approval.
29. The applicant shall repair all public improvements that are damaged by the construction process in accordance with the City Water/Sewer/Street/Storm Drain/Sidewalk Standards prior to Final Map approval.
30. Any broken curb, gutter, and/or sidewalk along the project frontage shall be replaced per City specifications prior to Final Map approval, extent to be determined by the Public Works Department.
31. Deteriorating driveway approaches shall be replaced at the direction of the Public Works Department prior to Final Map approval.

Fire Department Conditions of Approval

32. Future construction on this project site may be subject to the Wildland Urban Interface requirements for residential construction.
33. Future construction will require installation of approved interior fire sprinkler system will be required for future construction unless waived by the Fire Chief.
34. If the project is within 1000-feet of the City water supply, it will be required to connect to City services unless an alternative method of compliance is approved by the Fire Marshall. If the project is not required to connect to the City water supply, a private water connection as detailed in the California Fire Code (CFC) for water supply will be required. A Fire Department connection to the private water supply will be required water supply will be required if that is the approved supply.
35. Propane will not be permitted as a gas fuel source if PG&E natural gas service is available to serve the project parcel.
36. Load bearing access requirements comparable to the H20 standards, as outlined in the CFC, are required to be demonstrated and approved by the Fire Marshall prior to recordation of the Final Map.
37. Compliance with Fire Department access standards and requirements regarding slope, materials and dimensions must be demonstrated as a component of future development of the project site.

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

Building Department Conditions of Approval

39. A building permit is required for all onsite demolition, construction and/or change of occupancy.
40. The applicant will be required to comply with the codes adopted at the time the applicant applies for a building permit. At this time the City of St. Helena utilizes the 2016 Title 24 codes.
41. When submitting plans for a building permit, the plans shall include all documentation listed on the building permit application checklist.
42. The applicant shall provide a construction waste management plan with the building permit application.
43. The plans for construction shall include a checklist for compliance with the California Green Buildings Standards Code, mandatory measures. Provide a reference on the checklist indicating where the mandatory measures can be found on the plans.
44. When submitting plans, the title page shall include all information referenced on the building permit application checklist Title Page requirements.
45. Building Permit application materials and plans shall include any documentation pertaining to special loads applicable to the design and the specified section of the code that addresses the condition; special inspections for any systems or components requiring special inspection; requirements for seismic resistance; and a complete list of deferred submittals at time of application. Any deferral of the required submittal items shall have prior approval of the Building Official however deferral of fire sprinkler design is not allowed.
46. Properties which are on septic systems and proposing substantial renovations may require approval from the Napa County Environmental Health Department. Applicants are encouraged to engage with the County early in the building permit review process to reduce the potential for delay.
47. Building Permit application materials and plans shall include any documentation pertaining to special loads applicable to the design and the specified section of the code that addresses the condition; special inspections for any systems or components requiring special inspection; requirements for seismic resistance; and a complete list of deferred submittals at time of application. Any deferral of the required submittal items shall have prior approval of the Building Official however deferral of fire sprinkler design is not allowed.

I HEREBY CERTIFY that the foregoing Tentative Parcel Map and Design Review was duly and regularly approved by the Planning Commission of the City of St. Helena at a regular meeting of said Planning Commission held on June 5, 2018, by the following roll call vote:

AYES: Commissioner Knudsen, Monnette, Hardy and Kistner

NOES: Commissioner Ponte

ABSENT: None

ABSTAIN: None

APPROVED:



Grace Kistner
Chair, Planning Commission

ATTEST:



Noah Housh,
Planning and Community
Improvement Director



PLANNING COMMISSION REPORT

Planning Commission Meeting of June 5, 2018

AGENDA SECTION: Public Hearing

FILE NUMBER: PL17-066

SUBJECT: Tentative Parcel Map and Design Review applications requesting approval of a Parcel Map to allow the subdivision of an existing 14.75 acre parcel currently developed with one single family home, into two new parcels, 14.25 and 0.5 acres respectively. No development on the newly created 0.5 acre parcel is proposed at this time. This action further proposes finding that the project is exempt from the requirements of CEQA under a Class 32 Categorical Exemption.

PREPARED BY: Noah Housh, Planning & Community Improvement Director

APPROVED BY: Noah Housh, Planning & Community Improvement Director

APPLICATION FILED:11/02/17

ACCEPTED AS COMPLETE:03/06/18

BACKGROUND

The project site is an existing 14.75 acre sloped property currently developed with one single family home, located at 2525 Madrona Avenue. The site is bounded by unnamed drainage features along the north eastern boundary and the southern boundary. To the north and west are existing large estate properties also developed with single family homes and have some agricultural activities occurring within their boundaries. The site is accessed from Madrona Avenue via a culvert crossing and is located just beyond the Urban Limit Line (ULL).

PROJECT DESCRIPTION

The project is requesting approval of a Tentative Parcel Map and Design Review to allow the creation of a new 0.5 acre parcel by subdividing an existing 14.75 acre parcel into two lots, one of which is proposed to be 0.5 acres in size (Parcel #1) and a 14.25 acre remainder. The smaller 0.5 acre Parcel 1 is proposed to have some frontage onto

Madrona Avenue, with access over the larger 14.25 acre lot remainder parcel via a shared access easement.

The site is designated Agricultural in both the General Plan and Zoning Code, and is located outside the City's Urban Limit line (ULL). Surrounding land uses within the City are primarily residential estate lots or vineyards, while the surrounding parcels in the County jurisdiction are generally wooded hillside properties with limited vineyard development.

The applicant is not proposing a specific building design for the newly created parcel at this time. Conditions have been added to the resolution that explicitly require the future design plans of any home to be reviewed and approved by the Planning Commission as part of a public hearing process. Any future home design must meet all the required development criteria of the A-20 zoning district including setbacks, floor area ratios (FAR's), height restrictions etc.. The same condition also specifies that the architecture and design of the homes will be compatible with the surrounding area, and will be located and designed to avoid privacy impacts on surrounding properties.

ANALYSIS

CEQA

Staff has conducted the required analysis and concluded that the project is categorically exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15332. Section 15332's Class 32 Categorical Exemption applies to in-fill development projects which meet the conditions described below. As demonstrated herein, this project satisfies all of the elements of the Class 32 in-fill exemption. To qualify for the Class 32 exemption, a project must:

(a) be consistent with the applicable General Plan designation and all applicable General Plan policies as well as with applicable zoning designation and regulations.

As discussed in greater detail below, the subject property has a General Plan and Zoning designation of Agriculture and A-20. This designation and district provides for agricultural and residential uses. Single Family residential homes are permitted uses in the A-20 zoning district, and the proposed project complies with all of the A-20 district's development standards in that the proposed parcel is 0.5 acres in size, contiguous to Madrona Avenue, the location of the proposed parcel minimizes any potential impacts to future agricultural activities in the site by preserving areas between homes for agriculture and has access to adequate utilities to serve the site.

(b) occur within city limits on a project site of no more than five acres substantially surrounded by urban uses.

The project satisfies this condition as the project site is the proposed one half acre parcel, with the remaining portion of the existing property being designated as a

“remainder” parcel. Under Section 66424.6 of the Subdivision Map Act, parcels designed as such are omitted entirely from the proposed Parcel (or Tentative) Map, and shall not be counted as an element of the project. Further the proposed Parcel 1 is approximately 0.5 acres in size and located within the city limits just beyond the Urban Limit Line (ULL).

(c) have no value as habitat for endangered, rare or threatened species.

As identified in the supporting Biologic Evaluation, no such habitat exists on the project site.

(d) not result in any significant effects relating to traffic, noise, air quality, or water quality.

As discussed below and in the supporting Biologic Evaluation, the project will not result in any such impacts as it is intended to facilitate the future construction on one new single family home and associated infrastructure.

(e) be adequately served by all required utilities and public services.

The project will connect to and be served by existing city services including sewer, electricity, garbage, and access from City streets.

CEQA also contains a Categorical Exemption for Minor Land Divisions under Section 15315 however, due to conflicting definitions of “Urbanized Area”, staff has determined applicability of this Exemption is unclear and is not supporting use of this Exemption.

Further, staff finds that the project is consistent with the findings and analysis of the 1993 General Plan and Zoning Code Environmental Impact Report, where by the allowances for such a proposed subdivision are expressly identified and allowed.

1993 GENERAL PLAN

As previously mentioned the property has a General Plan designation of Agriculture and a Zoning Designation of A-20. The 1993 General Plan specifically discusses this as:

*“The AG designation provides for agricultural uses, wineries, single-family residences, and public and quasi-public uses...Within the A-20 and Winery Zoning Districts residential uses are permitted at a ratio of one (1) dwelling unit per 5 acres provided that after the first unit, any additional units would be restricted to parcels 0.5 acres or less in area; new lots must have a minimum area of 20 acres. The AG designation is applied to extensive areas of the valley floor that surround the urban core area. With the exception of those hillside areas designated **WW**, all lands outside the Urban Limit Line are designated AG regardless of their size or actual use. (Rev. 4/95)”*

Both the City's 1993 General Plan and A-20 Zoning Designation allow flexibility concerning the lot sizes and number of lots that can be created within the Agricultural Designation. This flexibility was put in place when the City (in the early 1990's) increased the minimum parcel size in the City's Agricultural areas from 5 acre minimum to a 20 acre minimum. The City's General Plan and A-20 zoning allow a parcel existing prior to October 1, 1993, to be subdivided based on a maximum density of one unit for every five (5) acres of parcel area. Since the existing parcel is 14.75 acres in size, a maximum of two (2) parcels can be created counting the existing parcel, and rounding down any fractions. The General Plan and A-20 zoning further require that any new such parcel created shall not exceed a maximum of one half (.5) acres in size. The reason for this is to maximize the size of the "remainder" parcel so that the larger "remainder" parcel can be viably used for agricultural purposes. The proposed Parcel Map meets the requirements of both the General Plan and the A-20 Agricultural zoning.

Separate from the question of the parcel size meeting General Plan and Zoning requirements, another relevant factor involving parcel size is how the proposed parcels compare with the size of existing lot sizes in the area, particularly the smaller 0.5 acre parcel. Generally, the proposed parcel map is consistent with the existing lot pattern in the area, as the parcels further along Madrona Avenue to the north transition from typical single family parcels into larger estate and agricultural properties, while those to the south along Riesling Way tend to be smaller parcels typical of their Low Density Residential land use designation. The proposed "Parcel 1" will be located in this transition area and is anticipated to fit well within the existing development and lot pattern.

As identified, the project is located outside of the boundary of the Urban Limit Line (ULL). The 1993 General Plan discuss the ULL stating

"The Land Use Map shows the incorporated City consisting of two distinct areas, a predominantly developed urban core area and a minimally developed rural, agricultural area around the periphery. The Urban Limit Line is a parcel-specific boundary that defines the outer edge of the Urban Service Area, marking the limit of where urban development is permitted. The intent of the Urban Limit Line is to discourage urban sprawl by containing urban development within a limited area during the planning period 1993-2010. Figure 2-3 shows the location of the Urban Limit Line."

While this portion of the General Plan provides discussion regarding concerns over the potential for urban sprawl, it also references the City's Residential Growth Management System (RGMS) as the primary check for potential "sprawl" impacts from residential growth. Under the RGMS, total building permits issued for new market rate residential development projects are limited to nine new units per year.

Below are some specific General Plan policies which apply to this project.

2.6.1 New development should be required to occur in a logical and orderly manner within well-defined boundaries, and be consistent with the ability to provide urban services.

2.6.2 Urban development shall be allowed to occur only within the Urban Service Area during the time frame of the General Plan.

2.6.3 Urban services such as sewer, water, and storm drainage will only be extended to development within the Urban Service Area. Exceptions will be permitted when undue hardship can be demonstrated, and proposed improvements are not found to be growth inducing.

2.6.4 Permit infill development and higher densities within currently developed areas wherever possible to minimize and postpone the need for expansion of the Urban Service Area.

2.6.5 Encourage the continuation of agricultural and low-intensity uses adjacent to the Urban Limit Line.

2.6.14 Encourage a mix of housing types and price ranges to allow choice for current and future generations of St. Helenans.

2.6.15 Encourage new residential development in all density ranges that is consistent with scale and character' of the older residential districts of the City, particularly the neighborhoods west of Main Street.

2.6.16 Encourage the development of higher density housing in areas near the center of town and close to recreation and services.

2.6.17 Minimize situations where new residential development will block public view of surrounding vineyards.

2.6.18 Minimize large lot development (one dwelling unit per acre or less), except where this scale of development would not threaten retention of vineyards, inefficiently utilize land, or physically separate the community from the surrounding vineyards.

Staff Response: Staff finds that the project is consistent with the 1993 General Plan in that the proposed new parcel would be created as a logical and orderly extension of the existing development pattern of this part of St Helena; adequate services are existing and available to serve the proposed Parcel 1; the creation of the new parcel is identified as an in-fill project, as it is intended to facilitate future construction of one single family home; the location of the proposed Parcel 1 would allow future agricultural activities to occur on the remainder parcel; the future development of Parcel 1 would allow for an additional single family use at a density that supports the transitional scale and density

from low density residential to agricultural and estate single family uses in this part of St Helena and the creation of this Parcel will not block public views of any vineyards.

HIGHWAY 29 SPECIFIC PLAN

The project is not located within the Highway 29 Specific Plan area.

HOUSING ELEMENT

The City of St Helena Housing Element identifies six goals by which housing will be promoted throughout the community. Under each goal, a number of policies, implementing actions and quantified objectives are identified as methods and metrics by which these goals will be met.

Specifically, these goals are:

1. *A Diversity of Housing to Meet Local Needs*
2. *Efficient Land Use and High Quality Neighborhoods*
3. *Conservation of Existing Housing*
4. *Assistance to Support Affordable Housing*
5. *Resource Conservation*
6. *Equal Housing Opportunities*

Generally, the Housing Element goals (and supporting policies) trend toward supporting affordable and ‘workforce’ housing development. However, a few of the adopted policies do reference subdivisions and other activities germane to the proposed project. These include:

HE2.1 Encourage higher density development where appropriate.

HE2.6 Promote a balance of types of housing throughout the whole community.

HE5.H Continue to apply Municipal Code provisions pertaining to water resources. The City will continue to require water-efficient landscaping for new residential and commercial construction, as well as implementing the Water Use Efficiency and Use Guidelines.

Staff Response: As identified, most HE policies do not apply directly to the proposal to create one new 0.5 acre parcel from an existing agriculturally designated property for future single family development. However, staff finds that the proposal to create one new parcel intended to facilitate the development of a new single family residential use is not in conflict with existing adopted HE policies and does seek to slightly increase the existing residential density in an appropriate location, transiting from low density housing to agricultural and residential estate homes; the future construction of a home on the proposed parcel would add to the variety of housing types within the community; and any new development would be subject to all water and energy efficiency mandates for residential construction.

SUBDIVISION

The creation of new parcels through a Tentative Parcel Map is governed by Section 16.24 of the St Helena Municipal Code (SHMC), with many of the specific elements of this review being dictated by the state law governing subdivision of land, the Subdivision Map Act.

Specifically, *Section 16.24.040 Action by planning commission*, identifies:

A. Upon receipt of a tentative parcel map application that is determined by the planning director to be complete, the planning department shall prepare a report and set the matter for a public hearing before the planning commission.

B. The planning commission shall approve, conditionally approve, or deny the tentative parcel map in accordance with the provisions and findings set forth in Section 16.16.080. The planning commission shall take action within fifty (50) days after certification of the environmental impact report, adoption of a negative declaration, or a determination that the project is exempt from the requirements of the California Environmental Quality Act. The city shall comply with the time period referred to in Section 21151.5 of the Public Resources Code. (Prior code § 25.88).

16.24.050 City council review.

If a tentative parcel map is approved or conditionally approved, the city planner shall forthwith make a written report thereof to the city council. Any member of the city council shall have the right to call up the tentative parcel map for city council review at a city council meeting or by a request to the planning director, either of which must be within ten (10) days of the final action by the planning commission. If the city council, by a majority vote, decides to review the map, it shall conduct a public hearing after giving notice pursuant to Section 16.04.100. In addition, notice shall be given to the planning commission. The public hearing shall be held within thirty (30) days after the city council decides to review the map. The city council may add, modify, or delete conditions if the city council determines that such changes are necessary to ensure that the tentative parcel map conforms to the state Subdivision Map Act and this code. The city council may deny the tentative parcel map on any of the grounds contained in Section 16.16.080(D). Within ten (10) days following the conclusion of the hearing, the city council shall render its decision. (Prior code § 25.89)

In response, staff has reviewed and prepared the presentation of the proposed Tentative Parcel Map for Planning Commission review and action. As required, if the Planning Commission approves the proposed Parcel Map, staff will report on the approval and analysis to the City Council. This provides the City Council with the ability to request review of the project at a noticed Public Hearing.

ZONING

The project site is located in the A-20 Zoning District. The A-20 zoning district is consistent with and implements the Agricultural General Plan designation. Section 17.20.060 and 17.20.070 identify the allowance for the creation of one new 0.5 acre parcel from the existing 14.75 acre property. Compliance with the zoning criteria for the

creation of new parcels within this district is identified and discussed in the General Plan section above.

Staff Response-Staff finds that the proposal to create one new 0.5 acre parcel through a Tentative Parcel Map and Design Review application is appropriate and that the standards are consistent with the development criteria identified in the zoning district. Compliance with these standards is further identified and discussed below.

Infrastructure:

The proposed parcel is a 0.5 acre area with an average slope of 15-percent. The parcel design includes frontage onto Madrona Avenue, however access will be via a shared access easement crossing an unnamed tributary recorded across the existing remainder parcel. No prominent natural features existing on the project site.

Road Access: The site has vehicular access from Madrona Avenue via a culvert crossing of an unnamed tributary, and is proposed to be contained within a proposed shared access easement. The portion of Madrona Avenue adjacent to the project site is a rural standard road, going from public to private as it passes the proposed parcel to the north. A condition has been added requiring the project to fund their “fair share” of any improvements to Madrona Avenue required to facilitate the subdivision of the property.

Potable Water: The site has access to an existing well on the site. Any homes developed on the property will be required to comply with the City’s Water Neutrality Program. Since plans for home are not included as part of this parcel map as explained previously, and a floor plan is needed to prepare a water neutrality analysis, a condition has been added requiring the submittal of a water neutrality report with the design review application for any homes proposed.

Waste Water: There is an existing City sewer line running through the project site and the project proposes to connect the future residential home to the City’s system, via this existing line which ultimately connects to the City system in Madrona Avenue. Therefore approval of the project would not conflict with requirements which prohibit extending City sewer service outside the Urban Limit Line

HISTORIC DISTRICT

The project site is not located within a historic district.

DESIGN REVIEW

The purpose of design review is to, among other things, promote the qualities that bring value to the community and foster attractiveness and functional utility of the community as a place to live and work. The following design criteria should be considered by the Planning Commission in review of this application (Zoning Code Section 17.164.030):

1. Consistency and compatibility with applicable elements of the general plan;
2. Compatibility of design with the immediate environment of the site;
3. Relationship of the design to the site;
4. Determination that the design is compatible in areas considered by the board as having a unified design or historical character;
5. Whether the design promotes harmonious transition in scale and character in areas between different designated land uses;
6. Compatibility with future construction both on and off the site;
7. Whether the architectural design of structures and their materials and colors are appropriate to the function of the project;
8. Whether the planning and siting of the various functions and buildings on the site create an internal sense of order and provide a desirable environment for occupants, visitors and the general community;
9. Whether the amount and arrangement of open space and landscaping are appropriate to the design and the function of the structures;
10. Whether sufficient ancillary functions are provided to support the main functions of the project and whether they are compatible with the project's design concept;
11. Whether access to the property and circulation systems are safe and convenient for pedestrians, cyclists and vehicles;
12. Whether natural features are appropriately preserved and integrated with the project;
13. Whether the materials, textures, colors and details of construction are an appropriate expression of its design concept and function and whether they are compatible with the adjacent and neighboring structure and functions;
14. In areas considered by the board as having a unified design character or historical character, whether the design is compatible with such character;
15. Whether the landscape design concept for the site, as shown by the relationship of plant masses, open space, scale, plant forms and foliage textures and colors create a desirable and functional environment and whether the landscape concept depicts an appropriate unity with the various buildings on the site;
16. Whether plant material is suitable and adaptable to the site, capable of being properly maintained on the site, and is of a variety which is suitable to the climate of St. Helena;
17. Whether sustainability and climate protection are promoted through the use of green building practices such as appropriate site/architectural design, use of green building materials, energy efficient systems and water efficient landscape materials.

Section 20.040 requires that any subdivision in the A-20 zoning district receive Design Review approval and the applicant has filed a Design Review application. Staff finds that the proposed project is consistent with the required design review criteria listed above and any future construction of a single family home would be required to obtain approval for that design under existing City regulations.

WATER NEUTRALITY

Future development of the project site would be subject to the City's water Neutrality requirements. However, the approval of the requested Tentative Map does not require water neutrality report or analysis.

ISSUES

No issues have been identified with the proposed Parcel Map that have not been discussed in the analysis above.

CORRESPONDENCE

A Notice of Application was sent out to neighboring property owners and residents which generated some interest in the application. However, no comments specifically supporting or opposing the project were received by staff.

STAFF RECOMMENDATION

It is recommended by the Planning and Community Improvement Department that the Planning Commission:

1. Determine that the project is exempt from the requirements of CEQA under Section 15332 as a Class 32 "In-Fill" Categorical Exemption, and further find that the proposed project is within the scope of the findings and analysis of the 1993 General Plan and Zoning Code Environmental Impact Report, where by the allowances for such a proposed subdivision are expressly identified and allowed.
2. Accept the required findings and approve the requested Tentative Parcel Map and Design Review for the proposal to subdivide an existing 14.75 acre parcel into two lots, a 0.5 acre Parcel 1 and 14.25 acre designated remainder. No development on the newly created 0.5 acre parcel is proposed or approved with this action.

ATTACHMENTS

[PC Reso-DR and Parcel Map](#)

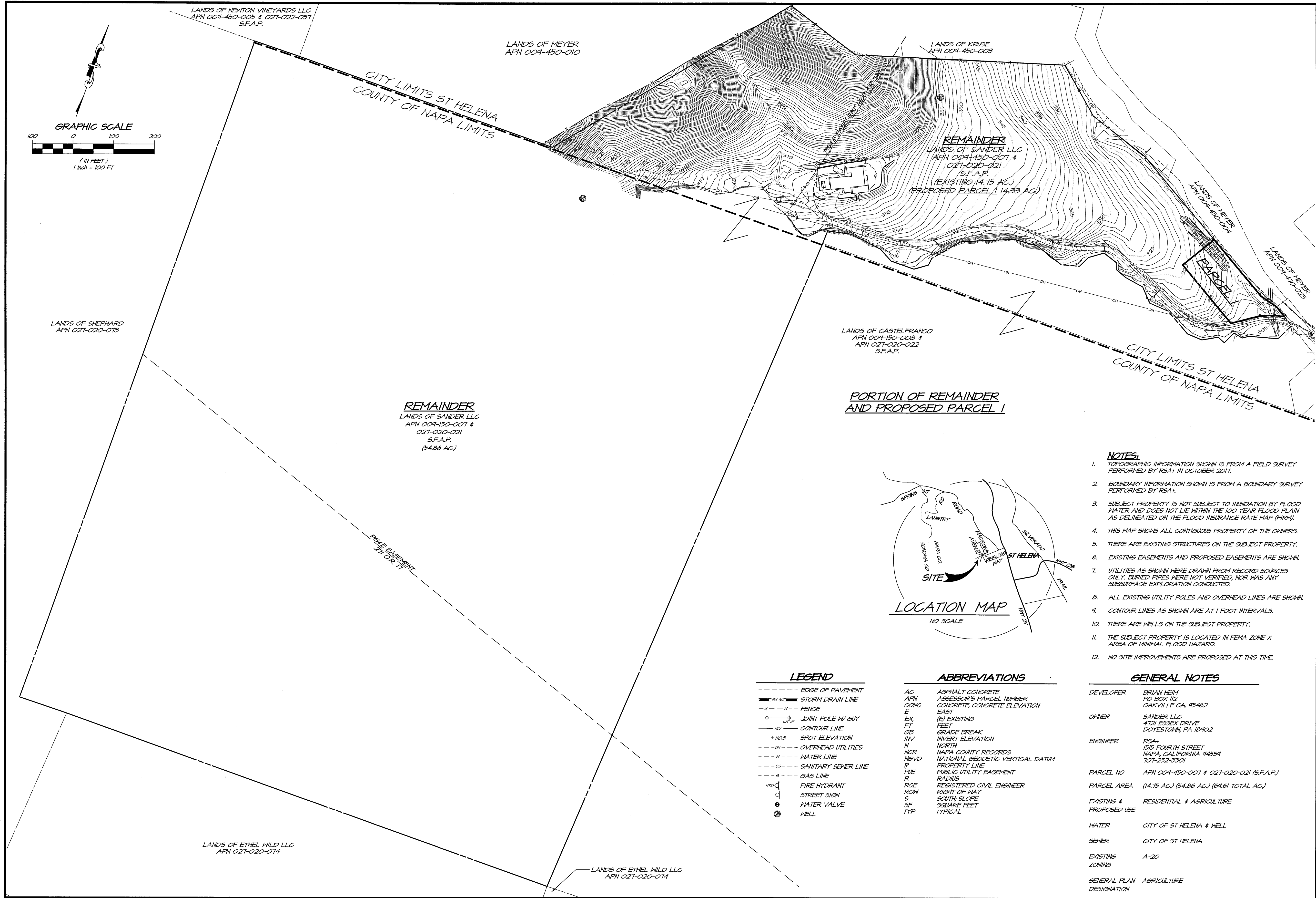
[PC Reso-DR and Parcel Map](#)

[LACO Geotechnical Report](#)

[LACO Biologic Evaluation](#)

[FIRMETTE_d2afd780-1044-11e8-be4c-001b21b31e35](#)

[Water Availability Analysis](#)



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GENERAL REVISIONS PER CITY COMMENTS		REVISIONS	
NO.	DATE	BY	
1	3/8/2018	DRH	

LANDS OF SENDER LLC VESTING TENTATIVE PARCEL MAP

CITY OF ST HELENA
CALIFORNIA

DATE	11-01-2017
DRAWN	DRH
DESIGNED	DRH
CHECKED	
JOB NO.	4487
SHEET NO.	TPM 1
1 OF 2 SHEETS	

REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF CALIFORNIA
NO. 10000
EXPIRATION DATE 12/31/2018

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TECHNICAL MEMORANDUM

Biological Evaluation, Portion of 2525 Madrona, Avenue, St. Helena, California
Assessor's Parcel Number (APN) 009-450-007

Date: February 8, 2018

Project No.: 7772.01

Prepared For: Brian Heim

Prepared By: Gary Lester
Sr. Environmental Scientist

Attachments: Appendix 1: List of Plant Species Encountered

1.0 INTRODUCTION

Brian Heim has requested professional services from LACO Associates (LACO) to conduct a biological evaluation and provide a written report of findings for a proposed development, approximately 0.5-acre in size, in St. Helena, Napa County, California, on a portion of the property identified as Assessor's Parcel Number (APN) 009-450-007, totaling approximately 14.75 acres in size. The project, consisting of a proposed single-family residence and driveway, would be located at 2525 Madrona Avenue; in St. Helena (Site). The proposed development would occur within a proposed 0.5-acre lot line adjustment in the extreme southeastern portion of the parcel.

LACO's Senior Environmental Scientist, Gary Lester, conducted a biological survey of the project Site to characterize existing biological conditions; identify potential impacts to sensitive habitats resulting from implementation of the project; and locate rare, threatened, or endangered plant and wildlife species at the proposed house site, adjacent habitats and along the proposed driveway alignment.

This biological evaluation was conducted in conformance with the scope of services described in the agreement dated January 25, 2018, between Brian Heim and LACO, and follows the Napa County (2007) Guideline for Preparing Biological Resources Reconnaissance Surveys.

2.0 EXISTING DATA REVIEW

LACO reviewed topographic maps, aerial photography, proposed development plans, and California Department of Fish and Wildlife's (CDFW) California Natural Diversity Data Base (CNDDb) (<http://www.dfg.ca.gov/biogeodata/cnddb/> [Rutherford Quad, CDFW, 2018]) prior to the field survey for the potential presence of sensitive species. Species ranked 1B, 2, 3, and 4 (herein referred to as sensitive

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2525 Madrona Avenue Biological Survey
Brian Heim; APN 009-450-007

species) in the California Native Plant Society's (CNPS) Inventory of Rare and Endangered Plants of California (<http://www.rareplants.cnps.org/>) were reviewed to determine potential presence in the vicinity of the Site (Rutherford Quad plant species list). The CNPS inventory includes all species currently listed as rare or endangered by the federal and state governments.

3.0 FIELD SURVEY

An intuitively-controlled, pedestrian field survey of the proposed Site (APN 009-450-007) was conducted on January 29-30, 2018, following protocol developed by the California Department of Fish and Wildlife (CDFW) (DFG, 2009). The survey was high in coverage (95 to 100%), and included the parcel road frontage and seasonal stream channels adjacent to the Site, and proposed house site. The survey route was selected to include the intact woodland vegetation edge and all native vegetation within and adjacent to the proposed parcel boundaries.

Environmentally-sensitive habitat areas, including the adjacent unnamed seasonal creeks and woodland habitats in the vicinity of the proposed access road and proposed house site, were surveyed to determine potential impacts that may result from implementation of the project. Plants were identified to the taxonomic level (genus or species) necessary for rare plant identification. The scientific nomenclature followed the Jepson Manual, 2nd. Edition (Baldwin, et. al., 2012).

4.0 ENVIRONMENTAL SETTING

The subject property portion is approximately 0.5 acres in size, located off Madrona Avenue in the northwestern most side of the Town of St. Helena, Napa County, California. Elevations in the project area range between approximately 302 and 320 feet above mean sea level. The project area (entire existing parcel) features an existing single-family residence, surfaced driveway, long-established olive orchard, and two Class II streams. One small un-named Class II stream appears to follow the majority of the southern property line and the second Class II stream occurs along the final 50 feet of the southeastern most corner. The entire parcel is composed of moderately sloping ground (5 to 10%), with a predominance of open non-native pasture grasses. Natural habitats include evergreen broadleaf forests (oak woodland), broadleaf deciduous forest (riparian), and herbaceous ruderal (non-native annual and perennial forbs). Soils appear to be fine-loamy alluvium mix, an association of Pleasanton, Rincon Antioch and Soper soils (California Soil Resource Lab, 2013), developed from the thinly bedded sedimentary rocks of the Great Valley Sequence. Most of the St. Helena watershed, including the surveyed parcel in the project area, was once densely forested oak woodlands (ICE, 2003).

5.0 SENSITIVE SPECIES ANALYSIS

Sensitive Plant Species Historically Reported Nearby

Based on the species identified in the CNPS and CNDDDB records, the range of habitats present, and the geographical range of the various sensitive species, the sensitive plant species considered most likely to occur in the project vicinity are listed in Table 1. Only oak woodlands and riparian habitats were present, eliminating many sensitive species specific to other types of habitats, such as those originating from serpentine or volcanic soils. None of these species were observed on-site.

TECHNICAL MEMORANDUM
2525 Madrona Avenue Biological Survey
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Table 1: Sensitive Plant Species Potentially Present in the Project Area

Species	Common Name	CNPS List	Preferred Habitat
<i>Amorpha californica</i> var. <i>napensis</i>	Napa false indigo	1B.2	Broadleaf forest, chaparral, oak woodlands; flowers May to July
<i>Astragalus claranus</i>	Clara Hunt's milk-vetch	1B.1	Oak woodland, chaparral, grasslands; flowers April-May.
<i>Brodiaea leptandra</i>	narrow-anthered brodiaea	1B.2	Broadleaved & coniferous forests, chaparral; flowers May to July
<i>Leptosiphon jepsonii</i>	Jepson's leptosiphon	1B.2	Chaparral, oak woodland; flowers April to May
<i>Lupinus sericatus</i>	Cobb Mountain lupine	1B.2	Chaparral, oak woodland, coniferous forest; flowers late March to June
<i>Streptanthus hesperidis</i>	green jewel-flower	1B.2	Chaparral, oak woodland; flowers May to July

The following summaries are for the sensitive plant species shown in Table 1.

Napa false indigo grows in widely localized oak woodlands and chaparral habitats from Napa County to Marin County. Suitable oak woodland habitat for this species occurs throughout the surveyed project area. A nearby population, located 7 miles southwest on Dry Creek Road, was observed May 24, 2013, May 17, 2017, and July 6, 2017. The high degree of non-native vegetation dominance on the project Site possibly excludes this species.

Clara Hunt's milk-vetch is known from historical collections near St. Helena and a remnant population on the west end of Lewelling Lane near St. Helena. The known occurrences occur in grasslands originating from thin clay soils. No species of milk-vetch was observed during the survey, with Clara Hunt's milk-vetch unlikely on the project Site due to the lack of clayey surface soils.

The **narrow-anthered brodiaea** is widely distributed over much of the central California coast range. Closest occurrence is recorded from Stuart Canyon, approximately 11 miles southwest from the project area. The narrow-anthered brodiaea was not observed during the survey, possibly due to the limitation of fine, rocky soils.

Jepson's leptosiphon is known from chaparral and oak woodlands in the Central Coast Range. A nearby historical collection site is from 7 miles south on Dry Creek Road. This location was visited during the second field visit, but no population was located. No Jepson's leptosiphon was observed during the survey, likely due to the lack of any serpentine or volcanic soils.

Cobb Mountain lupine is known from oak or pine woodlands in gravelly soils, sometimes on serpentine. A known population on Trinity Road (7 miles south of the project Site), was searched for during the second site visit, but no population was detected. Cobb Mountain lupine was not observed during the survey, likely due to the lack of extreme gravelly slopes and soils.

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Green jewel-flower is known from extreme rocky (serpentine) chaparral. A historic site is located near the outfall of Lake Hennessey, east of St. Helena. Green jewel-flower was not observed during the survey, likely due to the lack of extreme chaparral soils.

Potential Sensitive Animal Species Present

According to CNDDB (2018) records, Rutherford Quad species list, the range of habitats present, and the geographical range of the sensitive animal species, the species considered most likely to occur in the vicinity of the proposed project area are listed in Table 2. Lack of permanent water on-site excludes the likelihood of these species being present. None of the below species were observed on-site during the site surveys.

Table 2: Sensitive Animal Species Potentially Present in the Proposed Project Area

Species	Common Name	Fed/State List	Preferred Habitat
<i>Antrozous pallidus</i>	pallid bat	none	Tree roosts
<i>Cypeloides niger</i>	black swift	none	Nests behind waterfalls
<i>Emys marmorata</i>	western pond turtle	none	Open fresh water
<i>Haliaeetus leucocephalus</i>	bald eagle	none	Nests in mature coniferous tree top
<i>Rana boylei</i>	foothill yellow-legged frog	none	Permanent forest streams

The following summaries are for the sensitive animal species shown in Table 2.

Pallid bat potentially uses the Napa River tributaries for foraging and travel. Suitable roosting habitat for this species occurs throughout the wooded portions of the Coast Range. The permanent waterways of Napa River would most likely be the nearest roost and foraging opportunities. No suitable foraging habitat for this species exists on the site and therefore, no likely roosting would occur on-site.

The **black swift** is known from California waterfalls, cliff seeps, and other extreme aerial wetlands. No waterfalls are known to occur in the area. No migrant or foraging black swifts were observed from the property during field surveys.

The **western pond turtle** occurs in permanent freshwater ways or ponds. No suitable habitat for this species occurs on the project Site.

The **bald eagle** is known from northern California waterways. Nests are recorded from mature canopy trees or snags. CDFW lists the California populations of Bald Eagle as threatened. No suitable nesting or foraging habitat for this species exists on the Site, therefore there is little likelihood for Bald Eagle to be found at the Site.

The **foothill yellow-legged frog** habitat requirements are relatively undisturbed permanent forested streams. Potential suitable habitat may occur on Napa River tributaries. The California populations are proposed to be listed as State Threatened. No foothill yellow-legged frogs were observed in the seasonal tributaries on-site.

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2525 Madrona Avenue Biological Survey
Brian Heim; APN 009-450-007

6.0 SURVEY RESULTS

The dominant vegetation throughout the surveyed project parcel portion is non-native grassland comprising primarily perennial ryegrass (*Festuca perennis*) and orchard grass (*Dactylis glomerata*), with widely scattered cover of cut-leaf geranium (*Geranium dissectum*), perennial cat's ear (*Hypochaeris radicata*), velvet grass (*Holcus lanatus*), annual bluegrass (*Poa annua*), and white clover (*Trifolium repens*). A narrow strip of oak woodland occurs along the parcel's northern and southern borders, comprising primarily coast live oak (*Quercus agrifolia*) and valley oak (*Quercus lobata*), with widely scattered canopy cover of olive (*Olea europaea*), foothill pine (*Pinus sabiniana*), and bitter cherry (*Prunus emarginata*). Canopy coverage ranges from 75 to 100 percent. A sparse ground cover occurs in the oak woodland habitat including poison oak (*Toxicodendron diversilobum*), coyote brush (*Baccharis pilularis*), toyon (*Heteromeles arbutifolia*), English ivy (*Helix hedra*), purple periwinkle (*Vinca major*), and wood rose (*Rosa gymnocarpa*). Ground cover coverage ranges from 0 to 75 percent.

Riparian vegetation occurs within the survey area, primarily along the Class II tributaries along the southern border and eastern most portion of the property. Riparian vegetation comprises canopy trees of coast live oak, shining willow (*Salix lucida*), bitter cherry, spreading rush (*Juncus patens*), California mugwort (*Artemisia douglasiana*), canary grass (*Phalaris canariensis*), California maidenhair (*Adiantum jordanii*), creeping bent grass (*Agrostis stolonifera*), and a variety of other native and non-native herbs and grasses. A list of all plant species encountered during the field survey is attached as Appendix 1.

Notable wildlife found associated with the oak woodland consists of common year-round resident and likely summer-resident breeding birds.

7.0 RECOMMENDATIONS

Oak woodlands and seasonal stream habitats encountered in the field survey would likely be considered Environmentally Sensitive Habitat Areas (ESHA) by the City of St. Helena, which has primary jurisdiction over the project area, imposing requirements for adequate setbacks or mitigations for project-related impacts. It appears that the proposed residential house location is over 50 feet from the existing Class II stream channels. An existing paved access occurs between the proposed house site and the streams. No further road approach to the stream channels is being proposed. The proposed house location appears to be well outside any mature oak dripline. The setbacks for the house and driveway appear adequate to protect existing stream and oak woodland resources.

8.0 REFERENCES

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- California Department of Fish and Wildlife, Natural Diversity Database. Accessed February 2018. Rutherford Quad, (<https://map.dfg.ca.gov/rarefind/view/RareFind.aspx#>)

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TECHNICAL MEMORANDUM
2525 Madrona Avenue Biological Survey
Brian Heim; APN 009-450-007

APPENDIX 1

List of Plant Species Encountered

Project No. 7772.01; February 8, 2018

LACO

Appendix 1 – List of Plant Species Encountered
 Biological Survey
 Brian Heim, APN 009-450-007

Appendix 1 – List of Plant Species Encountered			
Species	Common Name	Fed/State List	Native / Non-Native
<i>Achillea millefolia</i>	yarrow	none	Native
<i>Acmispon micranthus</i>	hill lotus	none	Native
<i>Achyrachaena mollis</i>	blow-wives	none	Native
<i>Adiantum jordanii</i>	California maiden-hair	none	Native
<i>Aesculus californica</i>	California buckeye	none	Native
<i>Aira caryophyllea</i>	silver hair grass	none	Non-Native
<i>Agrostis stolonifera</i>	creeping bent grass	none	Non-Native
<i>Alnus rhombifolia</i>	white alder	none	Native
<i>Anagallis arvensis</i>	scarlet pimpernel	none	Non-Native
<i>Anisocarpus madioides</i>	woodland mardia	none	Native
<i>Artemisia douglasiana</i>	California mugwort	none	Native
<i>Avena barbata</i>	slender oat grass	none	Non-Native
<i>Baccharis pilularis</i>	coyote brush	none	Non-Native
<i>Bromus carinatus</i>	California brome	none	Native
<i>Bromus diandrus</i>	ripgut grass	none	Non-Native
<i>Bromus hordeaceus</i>	soft chess	none	Non-Native
<i>Bromus madritensis</i>	foxtail chess	none	Non-Native
<i>Carduus pycnocephalus</i>	Italian thistle	none	Native
<i>Centaurea solstitialis</i>	yellow star-thistle	none	Non-Native
<i>Centaurea tenuiflorum</i>	slender centaury	none	Non-Native
<i>Cerastium glomeratum</i>	common chickweed	none	Non-Native
<i>Claytonia perfoliata</i>	miner's lettuce	none	Native
<i>Cynoglossum grande</i>	western hounds tongue	none	Native
<i>Cynurus enchinatus</i>	annual dogtail	none	Non-Native
<i>Cyperus eragrostis</i>	tall flat sedge	none	Native
<i>Dactylis glomeratum</i>	orchard grass	none	Non-Native
<i>Dichelostemma capitatum</i>	blue dicks	none	Native
<i>Drymocallis glandulosa</i>	sticky cinquefoil	none	Native
<i>Erigeron canadensis</i>	horseweed	none	Native
<i>Erodium botrys</i>	common storksbill	none	Non-Native
<i>Festuca perenne</i>	perennial ryegrass	none	Non-Native
<i>Fraxinus latifolia</i>	Oregon ash	none	Native
<i>Galium triflorum</i>	sweet bedstraw	none	Native
<i>Gastridium phleoides</i>	nit grass	none	Non-Native
<i>Geranium molle</i>	common geranium	none	Non-Native
<i>Hedra helix</i>	English ivy	none	Non-Native
<i>Heteromeles arbutifolia</i>	toyon	none	Native
<i>Hypochaeris glabra</i>	annual cat's ear	none	Non-Native
<i>Iris macrosiphon</i>	ground iris	none	Native
<i>Juncus patens</i>	spreading rush	none	Native
<i>Lapsana communis</i>	nipplewort	none	Native

Appendix 1 – List of Plant Species Encountered
 Biological Survey
 Brian Heim, APN 009-450-007

<i>Lonicera hispidula</i>	hairy honeysuckle	none	Native
<i>Lupinus bicolor</i>	annual lupine	none	Native
<i>Madia elegans</i>	common tarweed	none	Native
<i>Medicago arabica</i>	spotted burclover	none	Non-Native
<i>Nemophila heterophylla</i>	small baby blue-eyes	none	Native
<i>Olea europaea</i>	olive	none	Non-Native
<i>Osmorhiza berteroi</i>	sweet cicely	none	Native
<i>Oxalis pes-caprae</i>	Bermuda buttercup	none	Non-Native
<i>Phalaris canariensis</i>	canary grass	none	Non-Native
<i>Pinus sabinata</i>	foothill pine	none	Native
<i>Plantago lanceolata</i>	English plantain	none	Non-Native
<i>Plantago major</i>	common plantain	none	Non-Native
<i>Poa annua</i>	annual bluegrass	none	Non-Native
<i>Polypogon monspeliensis</i>	rabbit's foot grass	none	Non-Native
<i>Prunella vulgaris</i>	self-heal	none	Non-Native
<i>Quercus agrifolia</i>	coast live oak	none	Native
<i>Quercus lobata</i>	valley oak	none	Native
<i>Ranunculus occidentalis</i>	western buttercup	none	Native
<i>Rosa gymnocarpa</i>	wood rose	none	Native
<i>Rubus armenicus</i>	Himalaya blackberry	none	Non-Native
<i>Rubus leucodermis</i>	black-cap	none	Native
<i>Rumex crispus</i>	curly dock	none	Non-Native
<i>Salix lucida</i>	shining willow	none	Native
<i>Sanicula crassicaulis</i>	Pacific sanicle	none	Native
<i>Sisyrinchium bellum</i>	blue-eyed grass	none	Native
<i>Stachys bullata</i>	California hedge-nettle	none	Native
<i>Scandix pecten-veneris</i>	Venus' needle	none	Non-Native
<i>Sonchus oleraceus</i>	sow thistle	none	Non-Native
<i>Symphoricarpos mollis</i>	creeping snowberry	none	Native
<i>Toxicodendron diversilobum</i>	poison oak	none	Native
<i>Trifolium repens</i>	white clover	none	Non-Native
<i>Umbellularia californica</i>	California bay	none	Native
<i>Vicia hirsuta</i>	annual vetch	none	Non-Native
<i>Vinca major</i>	greater periwinkle	none	Non-Native
<i>Vulpia bromoides</i>	smooth brome	none	Native



TECHNICAL MEMORANDUM

Biological Evaluation, Portion of 2525 Madrona, Avenue, St. Helena, California
Assessor's Parcel Number (APN) 009-450-007

Date: February 8, 2018

Project No.: 7772.01

Prepared For: Brian Heim

Prepared By: Gary Lester
Sr. Environmental Scientist

Attachments: Appendix 1: List of Plant Species Encountered

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TECHNICAL MEMORANDUM
 2525 Madrona Avenue Biological Survey
 Brian Heim; APN 009-450-007

species) in the California Native Plant Society's (CNPS) Inventory of Rare and Endangered Plants of California (<http://www.rareplants.cnps.org/>) were reviewed to determine potential presence in the vicinity of the Site (Rutherford Quad plant species list). The CNPS inventory includes all species currently listed as rare or endangered by the federal and state governments.

3.0 FIELD SURVEY

An intuitively-controlled, pedestrian field survey of the proposed Site (APN 009-450-007) was conducted on January 29-30, 2018, following protocol developed by the California Department of Fish and Wildlife (CDFW) (DFG, 2009). The survey was high in coverage (95 to 100%), and included the parcel road frontage and seasonal stream channels adjacent to the Site, and proposed house site. The survey route was selected to include the intact woodland vegetation edge and all native vegetation within and adjacent to the proposed parcel boundaries.

Environmentally-sensitive habitat areas, including the adjacent unnamed seasonal creeks and woodland habitats in the vicinity of the proposed access road and proposed house site, were surveyed to determine potential impacts that may result from implementation of the project. Plants were identified to the taxonomic level (genus or species) necessary for rare plant identification. The scientific nomenclature followed the Jepson Manual, 2nd. Edition (Baldwin, et. al., 2012).

4.0 ENVIRONMENTAL SETTING

The subject property portion is approximately 0.5 acres in size, located off Madrona Avenue in the northwestern most side of the Town of St. Helena, Napa County, California. Elevations in the project area range between approximately 302 and 320 feet above mean sea level. The project area (entire existing parcel) features an existing single-family residence, surfaced driveway, long-established olive orchard, and two Class II streams. One small un-named Class II stream appears to follow the majority of the southern property line and the second Class II stream occurs along the final 50 feet of the southeastern most corner. The entire parcel is composed of moderately sloping ground (5 to 10%), with a predominance of open non-native pasture grasses. Natural habitats include evergreen broadleaf forests (oak woodland), broadleaf deciduous forest (riparian), and herbaceous ruderal (non-native annual and perennial forbs). Soils appear to be fine-loamy alluvium mix, an association of Pleasanton, Rincon Antioch and Soper soils (California Soil Resource Lab, 2013), developed from the thinly bedded sedimentary rocks of the Great Valley Sequence. Most of the St. Helena watershed, including the surveyed parcel in the project area, was once densely forested oak woodlands (ICE, 2003).

5.0 SENSITIVE SPECIES ANALYSIS

Sensitive Plant Species Historically Reported Nearby

Based on the species identified in the CNPS and CNDDDB records, the range of habitats present, and the geographical range of the various sensitive species, the sensitive plant species considered most likely to occur in the project vicinity are listed in Table 1. Only oak woodlands and riparian habitats were present, eliminating many sensitive species specific to other types of habitats, such as those originating from serpentine or volcanic soils. None of these species were observed on-site.

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Table 1: Sensitive Plant Species Potentially Present in the Project Area

Species	Common Name	CNPS List	Preferred Habitat
<i>Amorpha californica</i> var. <i>napensis</i>	Napa false indigo	1B.2	Broadleaf forest, chaparral, oak woodlands; flowers May to July
<i>Astragalus claranus</i>	Clara Hunt's milk-vetch	1B.1	Oak woodland, chaparral, grasslands; flowers April-May.
<i>Brodiaea leptandra</i>	narrow-anthered brodiaea	1B.2	Broadleaved & coniferous forests, chaparral; flowers May to July
<i>Leptosiphon jepsonii</i>	Jepson's leptosiphon	1B.2	Chaparral, oak woodland; flowers April to May
<i>Lupinus sericatus</i>	Cobb Mountain lupine	1B.2	Chaparral, oak woodland, coniferous forest; flowers late March to June
<i>Streptanthus hesperidis</i>	green jewel-flower	1B.2	Chaparral, oak woodland; flowers May to July

The following summaries are for the sensitive plant species shown in Table 1.

Napa false indigo grows in widely localized oak woodlands and chaparral habitats from Napa County to Marin County. Suitable oak woodland habitat for this species occurs throughout the surveyed project area. A nearby population, located 7 miles southwest on Dry Creek Road, was observed May 24, 2013, May 17, 2017, and July 6, 2017. The high degree of non-native vegetation dominance on the project Site possibly excludes this species.

Clara Hunt's milk-vetch is known from historical collections near St. Helena and a remnant population on the west end of Lewelling Lane near St. Helena. The known occurrences occur in grasslands originating from thin clay soils. No species of milk-vetch was observed during the survey, with Clara Hunt's milk-vetch unlikely on the project Site due to the lack of clayey surface soils.

The **narrow-anthered brodiaea** is widely distributed over much of the central California coast range. Closest occurrence is recorded from Stuart Canyon, approximately 11 miles southwest from the project area. The narrow-anthered brodiaea was not observed during the survey, possibly due to the limitation of fine, rocky soils.

Jepson's leptosiphon is known from chaparral and oak woodlands in the Central Coast Range. A nearby historical collection site is from 7 miles south on Dry Creek Road. This location was visited during the second field visit, but no population was located. No Jepson's leptosiphon was observed during the survey, likely due to the lack of any serpentine or volcanic soils.

Cobb Mountain lupine is known from oak or pine woodlands in gravelly soils, sometimes on serpentine. A known population on Trinity Road (7 miles south of the project Site), was searched for during the second site visit, but no population was detected. Cobb Mountain lupine was not observed during the survey, likely due to the lack of extreme gravelly slopes and soils.

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Green jewel-flower is known from extreme rocky (serpentine) chaparral. A historic site is located near the outfall of Lake Hennessey, east of St. Helena. Green jewel-flower was not observed during the survey, likely due to the lack of extreme chaparral soils.

Potential Sensitive Animal Species Present

According to CNDDB (2018) records, Rutherford Quad species list, the range of habitats present, and the geographical range of the sensitive animal species, the species considered most likely to occur in the vicinity of the proposed project area are listed in Table 2. Lack of permanent water on-site excludes the likelihood of these species being present. None of the below species were observed on-site during the site surveys.

Table 2: Sensitive Animal Species Potentially Present in the Proposed Project Area

Species	Common Name	Fed/State List	Preferred Habitat
<i>Antrozous pallidus</i>	pallid bat	none	Tree roosts
<i>Cypeloides niger</i>	black swift	none	Nests behind waterfalls
<i>Emys marmorata</i>	western pond turtle	none	Open fresh water
<i>Haliaeetus leucocephalus</i>	bald eagle	none	Nests in mature coniferous tree top
<i>Rana boylei</i>	foothill yellow-legged frog	none	Permanent forest streams

The following summaries are for the sensitive animal species shown in Table 2.

Pallid bat potentially uses the Napa River tributaries for foraging and travel. Suitable roosting habitat for this species occurs throughout the wooded portions of the Coast Range. The permanent waterways of Napa River would most likely be the nearest roost and foraging opportunities. No suitable foraging habitat for this species exists on the site and therefore, no likely roosting would occur on-site.

The **black swift** is known from California waterfalls, cliff seeps, and other extreme aerial wetlands. No waterfalls are known to occur in the area. No migrant or foraging black swifts were observed from the property during field surveys.

The **western pond turtle** occurs in permanent freshwater ways or ponds. No suitable habitat for this species occurs on the project Site.

The **bald eagle** is known from northern California waterways. Nests are recorded from mature canopy trees or snags. CDFW lists the California populations of Bald Eagle as threatened. No suitable nesting or foraging habitat for this species exists on the Site, therefore there is little likelihood for Bald Eagle to be found at the Site.

The **foothill yellow-legged frog** habitat requirements are relatively undisturbed permanent forested streams. Potential suitable habitat may occur on Napa River tributaries. The California populations are proposed to be listed as State Threatened. No foothill yellow-legged frogs were observed in the seasonal tributaries on-site.

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6.0 SURVEY RESULTS

The dominant vegetation throughout the surveyed project parcel portion is non-native grassland comprising primarily perennial ryegrass (*Festuca perennis*) and orchard grass (*Dactylis glomerata*), with widely scattered cover of cut-leaf geranium (*Geranium dissectum*), perennial cat's ear (*Hypochaeris radicata*), velvet grass (*Holcus lanatus*), annual bluegrass (*Poa annua*), and white clover (*Trifolium repens*). A narrow strip of oak woodland occurs along the parcel's northern and southern borders, comprising primarily coast live oak (*Quercus agrifolia*) and valley oak (*Quercus lobata*), with widely scattered canopy cover of olive (*Olea europaea*), foothill pine (*Pinus sabiniana*), and bitter cherry (*Prunus emarginata*). Canopy coverage ranges from 75 to 100 percent. A sparse ground cover occurs in the oak woodland habitat including poison oak (*Toxicodendron diversilobum*), coyote brush (*Baccharis pilularis*), toyon (*Heteromeles arbutifolia*), English ivy (*Helix hedra*), purple periwinkle (*Vinca major*), and wood rose (*Rosa gymnocarpa*). Ground cover coverage ranges from 0 to 75 percent.

Riparian vegetation occurs within the survey area, primarily along the Class II tributaries along the southern border and eastern most portion of the property. Riparian vegetation comprises canopy trees of coast live oak, shining willow (*Salix lucida*), bitter cherry, spreading rush (*Juncus patens*), California mugwort (*Artemisia douglasiana*), canary grass (*Phalaris canariensis*), California maidenhair (*Adiantum jordanii*), creeping bent grass (*Agrostis stolonifera*), and a variety of other native and non-native herbs and grasses. A list of all plant species encountered during the field survey is attached as Appendix 1.

Notable wildlife found associated with the oak woodland consists of common year-round resident and likely summer-resident breeding birds.

7.0 RECOMMENDATIONS

Oak woodlands and seasonal stream habitats encountered in the field survey would likely be considered Environmentally Sensitive Habitat Areas (ESHA) by the City of St. Helena, which has primary jurisdiction over the project area, imposing requirements for adequate setbacks or mitigations for project-related impacts. It appears that the proposed residential house location is over 50 feet from the existing Class II stream channels. An existing paved access occurs between the proposed house site and the streams. No further road approach to the stream channels is being proposed. The proposed house location appears to be well outside any mature oak dripline. The setbacks for the house and driveway appear adequate to protect existing stream and oak woodland resources.

8.0 REFERENCES

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TECHNICAL MEMORANDUM
2525 Madrona Avenue Biological Survey
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APPENDIX 1

List of Plant Species Encountered

Appendix 1 – List of Plant Species Encountered
 Biological Survey
 Brian Heim, APN 009-450-007

Appendix 1 – List of Plant Species Encountered			
Species	Common Name	Fed/State List	Native / Non-Native
<i>Achillea millefolia</i>	yarrow	none	Native
<i>Acmispon micranthus</i>	hill lotus	none	Native
<i>Achyrachaena mollis</i>	blow-wives	none	Native
<i>Adiantum jordanii</i>	California maiden-hair	none	Native
<i>Aesculus californica</i>	California buckeye	none	Native
<i>Aira caryophylla</i>	silver hair grass	none	Non-Native
<i>Agrostis stolonifera</i>	creeping bent grass	none	Non-Native
<i>Alnus rhombifolia</i>	white alder	none	Native
<i>Anagallis arvensis</i>	scarlet pimpernel	none	Non-Native
<i>Anisocarpus madioides</i>	woodland madia	none	Native
<i>Artemisia douglasiana</i>	California mugwort	none	Native
<i>Avena barbata</i>	slender oat grass	none	Non-Native
<i>Baccharis pilularis</i>	coyote brush	none	Non-Native
<i>Bromus carinatus</i>	California brome	none	Native
<i>Bromus diandrus</i>	ripgut grass	none	Non-Native
<i>Bromus hordeaceus</i>	soft chess	none	Non-Native
<i>Bromus madritensis</i>	foxtail chess	none	Non-Native
<i>Carduus pycnocephalus</i>	Italian thistle	none	Native
<i>Centaurea solstitialis</i>	yellow star-thistle	none	Non-Native
<i>Centaurea tenuiflorum</i>	slender centaury	none	Non-Native
<i>Cerastium glomeratum</i>	common chickweed	none	Non-Native
<i>Claytonia perfoliata</i>	miner's lettuce	none	Native
<i>Cynoglossum grande</i>	western hounds tongue	none	Native
<i>Cynurus enchinatus</i>	annual dogtail	none	Non-Native
<i>Cyperus eragrostis</i>	tall flat sedge	none	Native
<i>Dactylis glomeratum</i>	orchard grass	none	Non-Native
<i>Dichelostemma capitatum</i>	blue dicks	none	Native
<i>Drymocallis glandulosa</i>	sticky cinquefoil	none	Native
<i>Erigeron canadensis</i>	horseweed	none	Native
<i>Erodium botrys</i>	common storksbill	none	Non-Native
<i>Festuca perenne</i>	perennial ryegrass	none	Non-Native
<i>Fraxinus latifolia</i>	Oregon ash	none	Native
<i>Galium triflorum</i>	sweet bedstraw	none	Native
<i>Gastridium phleoides</i>	nit grass	none	Non-Native
<i>Geranium molle</i>	common geranium	none	Non-Native
<i>Hedra helix</i>	English ivy	none	Non-Native
<i>Heteromeles arbutifolia</i>	toyon	none	Native
<i>Hypochaeris glabra</i>	annual cat's ear	none	Non-Native
<i>Iris macrosiphon</i>	ground iris	none	Native
<i>Juncus patens</i>	spreading rush	none	Native
<i>Lapsana communis</i>	nipplewort	none	Native

Appendix 1 – List of Plant Species Encountered
Biological Survey
Brian Heim, APN 009-450-007

<i>Lonicera hispidula</i>	hairy honeysuckle	none	Native
<i>Lupinus bicolor</i>	annual lupine	none	Native
<i>Madia elegans</i>	common tarweed	none	Native
<i>Medicago arabica</i>	spotted burclover	none	Non-Native
<i>Nemophila heterophylla</i>	small baby blue-eyes	none	Native
<i>Olea europaea</i>	olive	none	Non-Native
<i>Osmorhiza berteroi</i>	sweet cicely	none	Native
<i>Oxalis pes-caprae</i>	Bermuda buttercup	none	Non-Native
<i>Phalaris canariensis</i>	canary grass	none	Non-Native
<i>Pinus sabinata</i>	foothill pine	none	Native
<i>Plantago lanceolata</i>	English plantain	none	Non-Native
<i>Plantago major</i>	common plantain	none	Non-Native
<i>Poa annua</i>	annual bluegrass	none	Non-Native
<i>Polypogon monspeliensis</i>	rabbit's foot grass	none	Non-Native
<i>Prunella vulgaris</i>	self-heal	none	Non-Native
<i>Quercus agrifolia</i>	coast live oak	none	Native
<i>Quercus lobata</i>	valley oak	none	Native
<i>Ranunculus occidentalis</i>	western buttercup	none	Native
<i>Rosa gymnocarpa</i>	wood rose	none	Native
<i>Rubus armenicus</i>	Himalaya blackberry	none	Non-Native
<i>Rubus leucodermis</i>	black-cap	none	Native
<i>Rumex crispus</i>	curly dock	none	Non-Native
<i>Salix lucida</i>	shining willow	none	Native
<i>Sanicula crassicaulis</i>	Pacific sanicle	none	Native
<i>Sisyrinchium bellum</i>	blue-eyed grass	none	Native
<i>Stachys bullata</i>	California hedge-nettle	none	Native
<i>Scandix pecten-veneris</i>	Venus' needle	none	Non-Native
<i>Sonchus oleraceus</i>	sow thistle	none	Non-Native
<i>Symphoricarpos mollis</i>	creeping snowberry	none	Native
<i>Toxicodendron diversilobum</i>	poison oak	none	Native
<i>Trifolium repens</i>	white clover	none	Non-Native
<i>Umbellularia californica</i>	California bay	none	Native
<i>Vicia hirsuta</i>	annual vetch	none	Non-Native
<i>Vinca major</i>	greater periwinkle	none	Non-Native
<i>Vulpia bromoides</i>	smooth brome	none	Native

National Flood Hazard Layer FIRMette



38°29'57.03"N



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

Without Base Flood Elevation (BFE)
Zone A, V, AE, AR

With BFE or Depth
Regulatory Floodway Zone AE, AO, AH, VE, AR

0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X

Future Conditions 1% Annual Chance Flood Hazard Zone X

Area with Reduced Flood Risk due to Levee, See Notes, Zone X

Area with Flood Risk due to Levee Zone D

NO SCREEN

Area of Minimal Flood Hazard Zone X

Effective LOMIRs

Area of Undetermined Flood Hazard Zone D

Channel, Culvert, or Storm Sewer

Levee, Dike, or Floodwall

Cross Sections with 1% Annual Chance Water Surface Elevation

Coastal Transect

Base Flood Elevation Line (BFE)

Limit of Study

Jurisdiction Boundary

Coastal Transect Baseline

Profile Baseline

Hydrographic Feature

Digital Data Available

No Digital Data Available

Unmapped

Other Areas

General Structures

Other Features

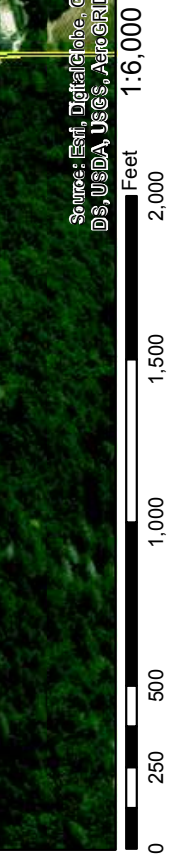
Map Panels

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The base map shown complies with FEMA's base map accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 2/12/2018 at 5:34:19 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: base map imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

122°28'39.51"W



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



WATER AVAILABILITY ANALYSIS

JAYDEN PROPERTIES, LLC RESIDENCE
OAKVILLE GRADE
NAPA, CA 94558

APN: 027-340-071

PROPERTY OWNER:
Jayden Properties, LLC



Project# 4112056.0
August 3, 2017

1515 Fourth Street, Napa, CA 94559

www.rsacivil.com

707.252.3301.v 707.252.4966.f



I. Executive Summary

The Jayden Properties, LLC Madrona Residence project proposes to construct a new well on a hillside parcel near Madrona Avenue and Reisling Way. Below is a summary of the existing and proposed water use for the property. Detailed calculations can be found on the next page. Based on the location of the subject parcel in Napa Valley, a Groundwater recharge rate of 1.0 af/yr/acre for the Valley Floor was adopted for the subject parcel which encompass 14.75 acres to give a total groundwater recharge of 14.75 af/yr for the project parcels. The increase in water usage for the proposed improvements comes from the addition of a residence on the parcel.

Usage Type	Existing Usage [af/yr]	Proposed Usage [af/yr]
Residence	0.75	1.50
Totals (Acre-ft per Year)	0.75	1.50
Estimated Ground Water Recharge (Acre-ft per Year)	14.75	14.75

The proposed water use for The Jayden Properties, LLC Madrona Residence project will result in an increase of 0.75 af/yr. The resultant proposed water use of 1.50 af/yr is less than the estimated groundwater recharge rate of 14.75 af/yr.

Jayden Properties, LLC Madrona Residence
Water Availability Analysis



II. Water Use Calculation

Existing Water Demand

Residence – (0.75 af/yr/residence x	1	residence) =	0.75	af/yr
		Total =	0.75	af/yr

Proposed Water Demand

Residence – (0.75 af/yr/residence x	2	residence) =	1.50	af/yr
		Total =	1.50	af/yr



A Tradition of Stewardship
A Commitment to Service

Department of Public Works

1195 Third Street, Suite 201
Napa, CA 94559-3092
www.co.napa.ca.us/publicworks

Main: (707) 253-4351
Fax: (707) 253-4627

Donald G. Ridenhour, P.E.
Director

WATER AVAILABILITY ANALYSIS - PHASE ONE STUDY

Introduction: As an applicant for a permit with Napa County, It has been determined that Chapter 13.15 of the Napa County Code is applicable to approval of your permit. One step of the permit process is to adequately evaluate the amount of water your project will use and the potential impact your application might have on the static groundwater levels within your neighborhood. The public works department requires that a Phase 1 Water Availability Analysis (WAA) be included with your application. The purpose of this form is to assist you in the preparation of this analysis. You may present the analysis in an alternative form so long as it substantially includes the information required below. Please include any calculations you may have to support your estimates.

The reason for the WAA is for you, the applicant, to inform us, to the best of your ability, what changes in water use will occur on your property as a result of an approval of your permit application. By examining the attached guidelines and filling in the blanks, you will provide the information we require to evaluate potential impacts to static water levels of neighboring wells.

Step #1:

Provide a map and site plan of your parcel(s). The map should be an 8-1/2"x11" reproduction of a USGS quad sheet (1:24,000 scale) with your parcel outlined on the map. Include on the map the nearest neighboring well. The site plan should be an 8-1/2"x11" site plan of your parcel(s) with the locations of all structures, gardens, vineyards, etc in which well water will be used. If more than one water source is available, indicate the interconnecting piping from the subject well to the areas of use. Attach these two sheets to your application. If multiple parcels are involved, clearly show the parcels from which the fair share calculation will be based and properly identify the assessor's parcel numbers for these parcels. Identify all existing or proposed wells

Step #2: Determine total parcel acreage and water allotment factor. If your project spans multiple parcels, please fill a separate form for each parcel.

Determine the allowable water allotment for your parcels:

Parcel Location Factors

The allowable allotment of water is based on the location of your parcel. There are 3 different location classifications. Valley floor areas include all locations that are within the Napa Valley, Pope Valley and Carneros Region, except for areas specified as groundwater deficient areas. Groundwater deficient areas are areas that have been determined by the public works department as having a history of problems with groundwater. All other areas are classified as Mountain Areas.

Please underline your location classification below (Public Works can assist you in determining your classification if necessary):

Valley Floor	1.0 acre feet per acre per year
Mountain Areas	0.5 acre feet per acre per year
MST Groundwater Deficient Area	0.3 acre feet per acre per year

Assessor's Parcel Number(s)	Parcel Size (A)	Parcel Location Factor (B)	Allowable Water Allotment (A) X (B)
009-450-007	14.75	1.0 (Valley Floor)	14.75 acre-feet/year

Step #3:

Using the guidelines in Attachment A, tabulate the existing and projected future water usage on the parcel(s) in acre-feet per year (af/yr). Transfer the information from the guidelines to the table below.

EXISTING USE:		PROPOSED USE:	
Residential	<u>0.75</u> af/yr	Residential	<u>1.50</u> af/yr
Farm Labor Dwelling	_____ af/yr	Farm Labor Dwelling	_____ af/yr
Winery	_____ af/yr	Winery	_____ af/yr
Commercial	_____ af/yr	Commercial	_____ f/yr
Vineyard*	_____ af/yr	Vineyard*	_____ af/yr
Other Agriculture	_____ af/yr	Other Agriculture	_____ af/yr
Landscaping	_____ af/yr	Landscaping	_____ af/yr
Other Usage (List Separately):		Other Usage (List Separately):	
_____	_____ af/yr	_____	_____ af/yr
_____	_____ af/yr	_____	_____ af/yr
_____	_____ af/yr	_____	_____ af/yr

TOTAL: 0.75 af/yr
244,388.3 gallons"

TOTAL: 1.50 af/yr TOTAL:
TOTAL: 488,776.5 gallons"

Is the proposed use less than the existing usage? ☐ Yes ☒ No ☐ Equal

Step #4:

Provide any other information that may be significant to this analysis. For example, any calculations supporting your estimates, well test information including draw down over time, historical water data, visual observations of water levels, well drilling information, changes in neighboring land uses, the usage if other water sources such as city water or reservoirs, the timing of the development, etc. Use additional sheets if necessary.

The existing usage of 0.75 af/yr comes from the existing residence on the site. The proposed increase comes from the addition of another residence on the parcel. This results in the 0.75 af/yr increase.

Conclusion: Congratulations! Just sign the form and you are done! Public works staff will now compare your projected future water usage with a threshold of use as determined for your parcel(s) size, location, topography, rainfall, soil types, historical water data for your area, and other hydrogeologic information. They will use the above information to evaluate if your proposed project will have a detrimental effect on groundwater levels and/or neighboring well levels. Should that evaluation result in a determination that your project may adversely impact neighboring water levels, a phase two water analysis may be required. You will be advised of such a decision.

Signature: _____ Date: _____ Phone: _____



Report to the City Council
Council Meeting of July 24, 2018

Agenda Section: Consent

Subject: Consideration and proposed approval of a Resolution Setting a Hearing to Approve the Annexation of Territory into the St Helena Municipal Sewer District No. 1 MSD ANNEXATION NO. 134,1025 and 1045 Pratt Avenue, St Helena, CA. 94574 (APN's) 009-142-023-000 and 009-142-024-000.

CEQA Determination: Exempt from the requirements of CEQA under the "General Rule", Section 15061 (b)(3), in that it can be seen with certainty that the proposed action will have no impact on the environment.

Prepared By: Chrissy Cook, Administrative Assistant

Reviewed By: Erica Ahmann Smithies, Public Works Director and City Engineer

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

Mark Andrade owner of 1025 and 1045 Pratt Avenue, St Helena, CA. 94574, Napa County Assessor Parcel Numbers (APN's) 009-142-023-000 and 009-142-024-000, has applied to be annexed into the St. Helena Municipal Sewer District No. 1 (District). A location map and description for the property is shown in Attachment 1. City Council approval of the connection is the formal administrative process to change the property's tax rate area code from septic to sanitary sewer for tax purposes.

DISCUSSION

This resolution ordering the public hearing is the first step of the process to annex the property into the District. The resolution requires a vote of at least two-thirds of all the members of the City Council (at least four affirmative votes) to order the public hearing. (Health and Saf. Code § 4643.)

The next step will be to notice and hold a public hearing for objections, if any, from persons interested in the proposed annexation during a regularly scheduled City Council meeting August 14th, 2018. At that time, the City Council will consider a resolution approving the property annexation (which will also require at least four affirmative votes). (Health and Safety Code § 4645-47.)

If the City Council approves the second resolution, City staff will then process the annexation with Napa County and the State Board of Equalization to change the tax rate area code for the property. Staff will work with the applicant to obtain required encroachment and building permits.

FISCAL IMPACT

The Applicant is responsible for all costs for annexation and connection. The Applicant previously constructed a sewer lateral from their 1025 Pratt residence and connected to the City sewer in the street, but was not annexed at that time. However, with the Applicant's new construction of their 1045 Pratt residence and the need to connect to the City sewer system, City staff is recommending that both parcels are annexed at this time. The Applicant is required to pay the annexation, connection, and impact fees.

RECOMMENDED ACTION

Staff recommends the City Council adopt a Resolution Setting a Hearing to Approve the Annexation of Territory into the St Helena Municipal Sewer District No. 1 MSD ANNEXATION NO. 134, 1025 and 1045 Pratt Avenue, St Helena, CA. 94574 (APN's) 009-142-023-000 and 009-142-024-000.

ATTACHMENTS

[Application](#)

[Resolution](#)

[Map and Description](#)



CITY OF ST. HELENA

DEPARTMENT OF PUBLIC WORKS

1572RAILROAD AVENUE, ST. HELENA, CA. 94574

707-968-2658

Application for Sewer Annexation

APPLICANT INFORMATION			
Applicant(s) Name MARK ANDRADE		Phone 408/472 1948	
Applicant(s) Street Address 401 E ARQUES AVE	City SUNNYVALE	State CA	Zip 94085
Property Owner Name MARK ANDRADE		Phone	
PROPERTY INFORMATION			
Property Address seeking sewer annexation 1045 PRATT AVE		City ST HELENA	State CA
Assessor's Parcel No (APN) 009-142-024		Dwelling Square Footage 3423	Existing Land Use EMPTY LOT
Subsequent Development Plans, if any, and Timing			
REQUIRED SIGNATURE			
I hereby certify that this application and all other documents submitted are true and correct to the best of my knowledge and belief. I also certify that I am the owner of the above property and have full legal rights to the property.			
Property Owner Signature <i>Mark Andrade</i>		Date 4/18/18	
**** FOR OFFICE USE ONLY ****			
Application Received By C Cook		Date Application Received 4/18/18	
Present Zoning		General Plan Designation	
Application Checklist		Date Completed	
St. Helena Application for Sewer Annexation		Sewer Connection Application Fee (St. Helena)	
Statement of Boundary Change Application: BOE		Annexation Process (St. Helena)	
Fees submitted		Connection Fee Inspection (St. Helena)	
Staff Report/Resolution Drafted		Sewer Impact Fee (St. Helena)	
City Council Approved		State Board of Equalization (BOE) Fee	
Legal Description and Map		Napa County Mapping Flat Fee	
Confirm Tax Area Rate		Total Due at Application	
Submission to BOE		Sewer Impact Fee: \$ _____ * X _____ (Habitable SF)	
Submission to Napa County Auditor		(17/18) *PER SF \$51 SFR \$74 MFR \$49 Office \$66 Industrial \$99 Com/Retail \$98 Lodging	
Submission to Napa County Assessor's office		Total Collected with Application	
Napa County Tax Rate Area Change Received		Date Payment Received	
Grading Permits Approved		Fees to other agencies:	
Encroachment Permits Approved		State Board of Equalization Fee (Check # _____)	
Finance Notified		Napa County Mapping Flat Fee (Check # _____)	
Date Service Began		\$162.00	

used
6/14/18

Updated 2/2018

CITY OF ST. HELENA

RESOLUTION NO. 2018-

**Resolution Setting a Hearing to Approve the Annexation of Territory into the St
Helena Municipal Sewer District No. 1 MSD ANNEXATION NO. 134
1025 & 1045 Pratt Avenue, St Helena, CA
(APN's) 009-142-023-000 & 009-142-024-000**

RECITALS

- A. The properties at 1025 & 1045 Pratt Avenue, St Helena, CA (APN's) 009-142-023-000 & 009-142-024-000 will benefit from annexation into the St. Helena Municipal Sewer District No. 1; and
- B. The owner of 1025 & 1045 Pratt Avenue has requested annexation into the St. Helena Municipal Sewer District No. 1; and
- C. The legal description and boundary for the territory to be annexed is described in the attached Exhibit A – Annexation Description; and
- D. All annexation fees have been paid.

RESOLUTION

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

- 1. The territory described in the attached Exhibit A – Annexation Description, commonly known as 1025 & 1045 Pratt Avenue, St Helena, CA (APN's) 009-142-023-000 & 009-142-024-000; and
- 2. Is hereby ordered for a hearing set; and
- 3. A hearing for objections, if any, by any person interested in the proposed annexation shall be held during the regular meeting of the City Council at 6:00 on August 14th, 2018.

Approved at a Regular Meeting of the St. Helena City Council on July 24th, 2018
by the following vote:

Mayor Galbraith: _____

Vice Mayor White: _____

Councilmember Ellsworth: _____

Councilmember Dohring: _____

Councilmember Koberstein: _____

APPROVED:

ATTEST:

Alan Galbraith
Mayor

Cindy Tzaferopoulos
City Clerk

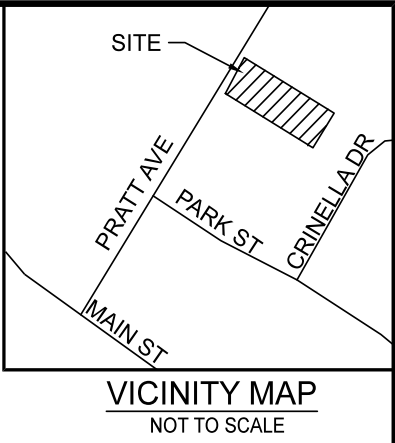
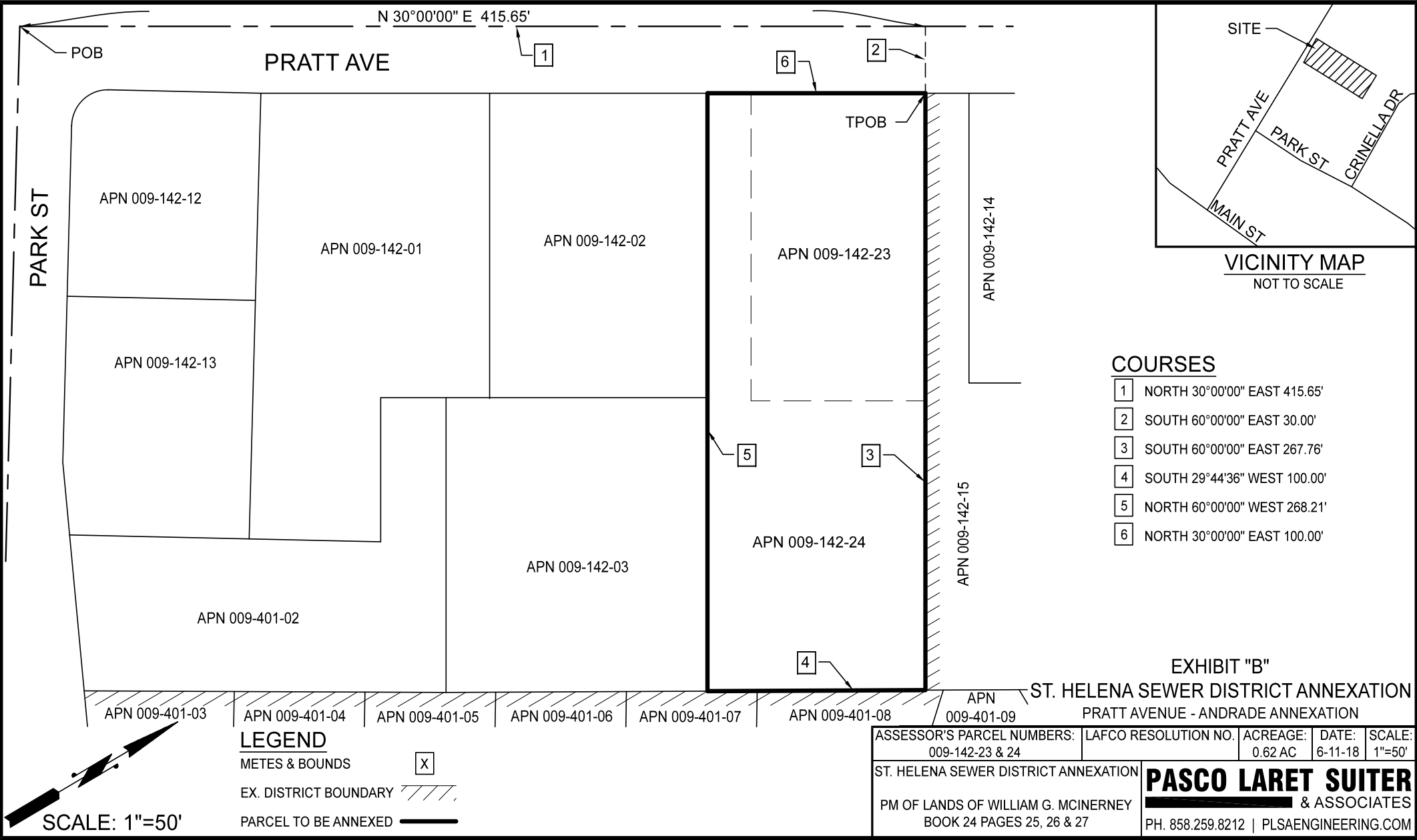


EXHIBIT "A"

"PRATT AVENUE-ANDRADE ANNEXATION"

GEOGRAPHICAL DESCRIPTION

APN: 009-142-023 & 024

ANNEXATION NO _____

ALL THAT CERTAIN PROPERTY, SITUATED IN THAT PORTION OF LOTS ONE AND TWO AS SHOWN ON THE MAP ENTITLED PARCEL MAP OF THE LANDS OF WILLIAM G. MCINERNEY, FILED DECEMBER 29, 2003 AT BOOK 24 OF PARCEL MAPS AT PAGES 25 – 27, NAPA COUNTY RECORDS, OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF PRATT AVENUE AND PARK STREET AS SHOWN ON SAID BOOK 24 OF PARCEL MAPS AT PAGES 25 – 27 AND BOOK 17 OF RECORD OF SURVEYS AT PAGE 13; THENCE ALONG THE FOLLOWING NUMBERED COURSES:

1. THENCE NORTH 30°00'00" EAST 415.65 FEET ALONG THE CENTERLINE OF SAID PRATT AVENUE TO A POINT OF INTERSECTION WITH THE NORTHERLY PROLONGATION OF THE NORTHERLY LINE OF SAID LOT 1;
2. THENCE SOUTH 60°00'00" EAST 30.00 FEET ALONG SAID PROLONGATION TO THE **TRUE POINT OF BEGINNING**
3. THENCE SOUTH 60°00'00" EAST 267.76 FEET;
4. THENCE SOUTH 29°44'36" WEST 100.00 FEET;
5. THENCE NORTH 60°00'00" WEST 268.21 FEET;
6. THENCE NORTH 30°00'00" EAST 100.00 FEET, TO THE **TRUE POINT OF BEGINNING**

CONTAINING 0.615 ACRES OF LAND MORE OR LESS

FOR ASSESMENT PURPOSES ONLY. THIS DESCRIPTION OF LAND IS NOT A LEGAL PROPERTY DESCRIPTION AS DEFINED IN THE SUBDIVISION MAP ACT AND MAY NOT BE USED AS THE BASIS FOR AN OFFER FOR SALE OF THE LAND DESCRIBED.



Report to the City Council
Council Meeting of July 24, 2018

Agenda Section: Consent

Subject: Second Reading and Proposed Adoption of an Ordinance Amending Chapter 9.06, Title 9, Public Peace And Welfare, of the St. Helena Municipal Code, which Prohibits Smoking Inside All Public Buildings, Within 20 Feet Of Public Buildings, at All Sports Facilities and Sports Spectator Areas in City Parks, to include the use of Electronic Smoking Devices and Electronic Cigarettes to the City's Smoking Regulations

CEQA Not a CEQA project
Determination:

Prepared By: Andre Pichly, Recreation Director

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

In 2004, the California Government Code was amended to prohibit smoking within 20 feet of a main entrance, exit and operable window of all public buildings, either owned or leased, that are occupied by the state or any subdivision thereof, including cities (Govt. Code §§ 7596-7598) (the "Anti-Smoking Law"). In 2008, the St Helena City Council approved Ordinance Chapter 9.06, Title 9, Public Peace and Welfare, of the St. Helena Municipal Code, to prohibit smoking at all sports facilities and sports spectator areas in City parks, inside all public buildings, and within 20 feet of public buildings. By adopting a local ordinance, the City's Police Department can issue a citation for violation of the relevant Municipal Code section. In February 2018, the City was approached about expanding the prohibition to include electronic smoking devices and electronic cigarettes.

On June 26, 2018, the City Council introduced and held the first reading of the proposed ordinance. Staff was directed to review section 9.06.040 due to containing duplicate

language from section 9.06.060. It was determined a clerical error was made and the original language was omitted from the online published municipal code. Staff researched the correct language from the original ordinance 2008-3 (attached) and updated the proposed redline ordinance with the correct language.

DISCUSSION

Electronic smoking devices and electronic cigarettes is a growing section of the smoking industry. According to the American Association of Poison Control Centers, exposures to e-cigarette devices and liquid nicotine, especially children, poses a serious health risk. In 2014 more than half of reported exposures to e-cigarettes and liquid nicotine occurred in young children under the age of 6. Some children and toddlers who come in contact with e-cigarette devices or liquid nicotine have become very ill; some even requiring emergency room visits with nausea and vomiting being the most significant symptoms.

There is great concern over how these products are marketed. Despite not being able to use traditional avenues for promoting these products, manufacturers use tactics that distract from the safety hazards of these products by referring on the labels to the e-liquid as "e-juice" and promote them as candy and fruit flavors, such as cotton candy, gummy bear, chocolate mint, watermelon, and grape. The fact that e-cigarettes contain nicotine is downplayed in e-cigarette advertising. Younger adults and youth who are experimenting with these products may not realize that e-juice contains the highly addictive chemical nicotine, and that the products are classified as a tobacco product.

According to the Dr. Vivek H. Murthy, M.D., the U.S. Surgeon General, e-cigarette use among middle and high school students has more than tripled since 2011. Among young adults 18–24 years of age, e-cigarette use more than doubled from 2013 to 2014 following a period of relative stability from 2011 to 2013. The most commonly cited reasons for using e-cigarettes among both youth and young adults are curiosity, flavoring/taste, and low perceived harm compared to other tobacco products. The Surgeon General, in his 2016 report titled, *E-Cigarette Use Among Youth and Young Adults*, states "We must protect our nation's young people from a lifetime of nicotine addiction and associated problems by immediately addressing e-cigarettes as an urgent public health problem."

FISCAL IMPACT

None.

RECOMMENDED ACTION

Staff recommends the City Council conduct the second reading and adopt the ordinance, by title only and waive further reading.

ATTACHMENTS

[Chapter 9.06 Smoking Regulations - Updated](#)

[Chapter 9.06 Smoking Regulations - Redline Version - Updated](#)

[Ordinance 2008-3](#)

CITY OF ST. HELENA

ORDINANCE NO. _____

**AMENDING CHAPTER 9.06 OF THE ST. HELENA MUNICIPAL CODE TO ADD
ELECTRONIC SMOKING DEVICES AND ELECTRONIC CIGARETTES TO THE
CITY'S SMOKING REGULATIONS**

The City Council of the City of St. Helena does hereby ordain as follows:

SECTION 1. Chapter 9.06 Amended. Chapter 9.06 of the St. Helena Municipal Code is hereby amended to read in its entirety as shown on Exhibit A, attached hereto and incorporated herein by reference.

SECTION 2. CEQA. The City Council hereby finds that the action to adopt this Ordinance to amend Chapter 9.06 of the St. Helena Municipal Code is not a project subject to the provisions of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) (CEQA).

SECTION 3: General Plan Consistency. The City Council finds this ordinance is consistent with the St. Helena General Plan.

SECTION 4. Severability. The City Council hereby declares every section, paragraph, sentence, cause and phrase is severable. If any section, paragraph, sentence, clause or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

SECTION 5: Inclusion in the St. Helena Municipal Code. It is the intention of the St. Helena City Council that the text in Exhibit A of this ordinance be made a part of the St. Helena Municipal Code and that the text may be renumbered or relettered and the word "Ordinance" may be changed to "Section," "Chapter," or such other appropriate word or phrase to accomplish this intention.

SECTION 7: Effective Date. This ordinance shall take effect and be in force (thirty) 30 days after its adoption, and a summary of this ordinance shall be published once with the names of the members of the Council voting for and against the ordinance in the St. Helena Star, a newspaper of general circulation published in the city of St. Helena.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the 26th day of June, 2018, and was adopted at a regular meeting of the St. Helena City Council on the 26th day of June, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Alan Galbraith, Mayor

ATTEST:

CITY OF ST. HELENA

Cindy Tzafopoulos, City Clerk

I, CINDY TZAFPOULOS, CITY CLERK of the City of St. Helena, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the ____ day of _____, 2018. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Cindy Tzafopoulos, City Clerk

APPROVED AS TO FORM:

Thomas B. Brown, City Attorney

EXHIBIT A

**Chapter 9.06
SMOKING REGULATIONS**

Sections:

[9.06.010 Findings and purpose.](#)

[9.06.020 Definitions.](#)

[9.06.040 Smoking prohibited in and around city buildings.](#)

[9.06.060 Smoking prohibited at public sports facilities, public sports spectator areas, playground structures, and municipal parks.](#)

[9.06.080 Violations an infraction.](#)

9.06.010 Findings and purpose.

- A. State law prohibits smoking in all public buildings and within twenty (20) feet of a public building, which includes city-owned or leased buildings that are occupied by the city of St. Helena.
- B. State law prohibits smoking within twenty-five (25) feet of playgrounds and tot lots.
- C. No state law mechanism exists under which local police can enforce these smoking prohibitions.
- D. State law allows the city to adopt a more restrictive ordinance regarding smoking on or around government facilities and playgrounds.
- E. Nonconsensual exposure to secondhand smoke at sports facilities, sports spectator areas, and municipal parks is a nuisance and a threat to the health of the general public and sports players and spectators.
- F. As aerosol emissions from electronic smoking devices have been found to contain at least ten chemicals that are on California's list of chemicals known to cause cancer, birth defects, or other reproductive harm, including acetaldehyde benzene, cadmium, formaldehyde, isoprene, lead, nickel, nicotine, N nitrosonornicotine, and toluene, second hand exposure to e-cigarette aerosol is a health concern.
- G. People exposed to aerosol emissions from electronic smoking devices and electronic cigarettes absorb nicotine, a substance that can cause cancer, birth defects, or reproductive harm,

at levels comparable to second hand smoke, and are also exposed to volatile organic compounds and other particulate matter that can lead to tissue inflammation.

H. Non-smokers who suffer from allergies, respiratory disease, or the negative effects of breathing secondhand tobacco smoke or aerosol emissions from electronic smoking devices or electronic cigarettes may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions.

I. Accordingly, the city council finds it is within its basic police power to implement and enforce the provisions of this chapter, and declares that the purposes of this chapter are:

1. To effectuate state law preventing smoking inside all public buildings and within twenty (20) feet of public buildings, all to the general health, safety, and welfare of the public;
2. To assist in the enforcement of laws prohibiting smoking in all public buildings and within twenty (20) feet of a public building; and
3. To protect the health of the general public, including sports players, spectators who utilize the sports facilities and sports spectator areas, and those who use playground structures and municipal parks. (Ord. 12-4 § 1: Ord. 08-3 (part))

9.06.020 Definitions.

For the purposes of this chapter:

A. “Electronic Smoking Device or Electronic Cigarette” means an electronic and/or battery operated device, the use of which may resemble smoking, which can be used to deliver vapors for an inhaled dose of nicotine or other substance. This term shall include, without limitation, every variation and type of such devices whether they are manufactured, distributed, marketed or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vaporizer, a device that heats a flavored liquid, usually containing nicotine, until it produces a vapor, or any other similar product name or descriptor.

B. “Inside a public building” means all indoor areas of the building, except for covered parking lots and residential space. “Inside a public building” includes any indoor space leased to the state, county, or city, except for covered parking lots and residential space (a private living area, not including common areas such as lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of a multi-complex building such as a dormitory).

C. “Public building” means a building, or any area within a building, owned and occupied, in whole or in part, or leased and occupied, in whole or in part, by the state, county, or the city of St. Helena.

D. “Public sports facilities” means property owned by the city that has as its main purpose the facilitation of the playing of a sport, including but not limited to baseball fields, soccer fields, tennis courts, basketball courts, skateparks, volleyball courts, swimming pools, and bocce courts.

E. “Public sports spectator areas” means the areas designated for the use of spectators of sports at public sports facilities, including but not limited to bleachers and seating areas, and any other area within such proximity to public sports facilities that its use by spectators is common.

F. “Playground structures” means areas constructed and/or intended as an outdoor area set aside for primarily children’s recreation and play, containing equipment such as swings, slides, or other play structures.

G. “Smoking” means and includes (1) inhaling, exhaling, burning, carrying, or leaving any lighted cigar, cigarette, weed or plant or other combustible substance whose smoke is intended to be inhaled; (2) inhaling or exhaling upon burning or carrying any lighted smoking equipment for tobacco, nicotine or any other plant or product used for personal habit commonly known as smoking and/or (3) inhaling or exhaling upon, vaporizing or otherwise using any electronic smoking device or electronic cigarette. (Ord. 08-3 (part))

9.06.040 Smoking prohibited in and around city buildings.

Smoking shall be prohibited, and no person shall smoke, inside a public building or within 20 feet of any entrance(s), exit(s), operable window(s), ventilation intake systems and covered entryways of any public building in the City of St. Helena. All public buildings owned or leased by the City of St. Helena shall have posted "No Smoking Within 20 Feet" signs outside of all entrance(s), exit(s), operable window(s), and ventilation intake systems. This prohibition shall be enforced consistent with the provisions of the St. Helena Municipal Code. (Ord. 12-4 § 2: Ord. 08-3 (part))

9.06.060 Smoking prohibited at public sports facilities, public sports spectator areas, playground structures, and municipal parks.

Smoking shall be prohibited, and no person shall smoke, on the grounds of public sports facilities or public sports spectator areas, or on or around playground structures, or in municipal parks as that term is defined in Section [12.32.010](#). All public sports facilities, public sports spectator areas, playground structures, and municipal parks shall have posted “No Smoking” signs citing this code section outside, on, or near all entrance(s), exit(s), any existing operable window(s), and/or ventilation intake systems, or such sign shall be placed openly and in public view in such areas where no entrance/exit is obvious. (Ord. 12-4 § 2: Ord. 08-3 (part))

9.06.080 Violations an infraction.

Violations of any section herein shall be considered an infraction and the provision herein shall be enforced consistent with the St. Helena Municipal Code. (Ord. 08-3 (part))

OAK #4822-3065-2002 v1

CITY OF ST. HELENA

ORDINANCE NO. _____

**AMENDING CHAPTER 9.06 OF THE ST. HELENA MUNICIPAL CODE TO ADD
ELECTRONIC SMOKING DEVICES AND ELECTRONIC CIGARETTES TO THE
CITY'S SMOKING REGULATIONS**

The City Council of the City of St. Helena does hereby ordain as follows:

SECTION 1. Chapter 9.06 Amended. Chapter 9.06 of the St. Helena Municipal Code is hereby amended to read in its entirety as shown on Exhibit A, attached hereto and incorporated herein by reference.

SECTION 2. CEQA. The City Council hereby finds that the action to adopt this Ordinance to amend Chapter 9.06 of the St. Helena Municipal Code is not a project subject to the provisions of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) (CEQA).

SECTION 3: General Plan Consistency. The City Council finds this ordinance is consistent with the St. Helena General Plan.

SECTION 4. Severability. The City Council hereby declares every section, paragraph, sentence, cause and phrase is severable. If any section, paragraph, sentence, clause or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

SECTION 5: Inclusion in the St. Helena Municipal Code. It is the intention of the St. Helena City Council that the text in Exhibit A of this ordinance be made a part of the St. Helena Municipal Code and that the text may be renumbered or relettered and the word "Ordinance" may be changed to "Section," "Chapter," or such other appropriate word or phrase to accomplish this intention.

SECTION 7: Effective Date. This ordinance shall take effect and be in force (thirty) 30 days after its adoption, and a summary of this ordinance shall be published once with the names of the members of the Council voting for and against the ordinance in the St. Helena Star, a newspaper of general circulation published in the city of St. Helena.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the ___ day of _____ 2018, and was adopted at a regular meeting of the St. Helena City Council on the ___ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Alan Galbraith, Mayor

ATTEST:

CITY OF ST. HELENA

Cindy Tzaopoulos, City Clerk

I, CINDY TZAFPOULOS, CITY CLERK of the City of St. Helena, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the ____ day of _____, 2018. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Cindy Tzaopoulos, City Clerk

APPROVED AS TO FORM:

Thomas B. Brown, City Attorney

EXHIBIT A

Chapter 9.06 SMOKING REGULATIONS

Sections:

9.06.010 Findings and purpose.

9.06.020 Definitions.

9.06.040 Smoking prohibited in and around city buildings.

9.06.060 Smoking prohibited at public sports facilities, public sports spectator areas, playground structures, and municipal parks.

9.06.080 Violations an infraction.

9.06.010 Findings and purpose.

A. State law prohibits smoking in all public buildings and within twenty (20) feet of a public building, which includes city-owned or leased buildings that are occupied by the city of St. Helena.

B. State law prohibits smoking within twenty-five (25) feet of playgrounds and tot lots.

C. No state law mechanism exists under which local police can enforce these smoking prohibitions.

D. State law allows the city to adopt a more restrictive ordinance regarding smoking on or around government facilities and playgrounds.

E. Nonconsensual exposure to secondhand smoke at sports facilities, sports spectator areas, and municipal parks is a nuisance and a threat to the health of the general public and sports players and spectators.

F. As aerosol emissions from electronic smoking devices have been found to contain at least ten chemicals that are on California's list of chemicals known to cause cancer, birth defects, or other reproductive harm, including acetaldehyde benzene, cadmium, formaldehyde, isoprene, lead, nickel, nicotine, N nitrosornicotine, and toluene, second hand exposure to e-cigarette aerosol is a health concern.

G. People exposed to aerosol emissions from electronic smoking devices and electronic cigarettes absorb nicotine, a substance that can cause cancer, birth defects, or reproductive harm, at levels comparable to second hand smoke, and are also exposed to volatile organic compounds and other particulate matter that can lead to tissue inflammation.

H. Non-smokers who suffer from allergies, respiratory disease, or the negative effects of breathing secondhand tobacco smoke or aerosol emissions from electronic smoking devices or electronic cigarettes may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions.

I. Accordingly, the city council finds it is within its basic police power to implement and enforce the provisions of this chapter, and declares that the purposes of this chapter are:

1. To effectuate state law preventing smoking inside all public buildings and within twenty (20) feet of public buildings, all to the general health, safety, and welfare of the public;
2. To assist in the enforcement of laws prohibiting smoking in all public buildings and within twenty (20) feet of a public building; and
3. To protect the health of the general public, including sports players, spectators who utilize the sports facilities and sports spectator areas, and those who use playground structures and municipal parks. (Ord. 12-4 § 1: Ord. 08-3 (part))

9.06.020 Definitions.

For the purposes of this chapter:

A. “Electronic Smoking Device or Electronic Cigarette” means an electronic and/or battery operated device, the use of which may resemble smoking, which can be used to deliver vapors for an inhaled dose of nicotine or other substance. This term shall include, without limitation, every variation and type of such devices whether they are manufactured, distributed, marketed or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vaporizer, a device that heats a flavored liquid, usually containing nicotine, until it produces a vapor, or any other similar product name or descriptor.

B. “Inside a public building” means all indoor areas of the building, except for covered parking lots and residential space. “Inside a public building” includes any indoor space leased to the state, county, or city, except for covered parking lots and residential space (a private living area, not including common areas such as lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of a multi-complex building such as a dormitory).

CB. “Public building” means a building, or any area within a building, owned and occupied, in whole or in part, or leased and occupied, in whole or in part, by the state, county, or the city of St. Helena.

DE. “Public sports facilities” means property owned by the city that has as its main purpose the facilitation of the playing of a sport, including but not limited to baseball fields, soccer fields, tennis courts, basketball courts, skateparks, volleyball courts, swimming pools, and bocce courts.

ED. “Public sports spectator areas” means the areas designated for the use of spectators of sports at public sports facilities, including but not limited to bleachers and seating areas, and any other area within such proximity to public sports facilities that its use by spectators is common.

FE. “Playground structures” means areas constructed and/or intended as an outdoor area set aside for primarily children’s recreation and play, containing equipment such as swings, slides, or other play structures.

~~GF.~~ “Smoking” means and includes (1) inhaling, exhaling, burning, carrying, or leaving any lighted cigar, cigarette, weed or plant or other combustible substance whose smoke is intended to be inhaled; (2) inhaling or exhaling upon burning or carrying any lighted smoking equipment for tobacco, nicotine or any other plant or product used for personal habit commonly known as smoking and/or (3) inhaling or exhaling upon, vaporizing or otherwise using any electronic smoking device or electronic cigarette. (Ord. 08-3 (part))

9.06.040 Smoking prohibited in and around city buildings.

~~Smoking shall be prohibited, and no person shall smoke, inside a public building or within 20 feet of any entrance(s), exit(s), operable window(s), ventilation intake systems and covered entryways of any public building in the City of St. Helena. All public buildings owned or leased by the City of St. Helena shall have posted "No Smoking Within 20 Feet" signs outside of all entrance(s), exit(s), operable window(s), and ventilation intake systems. This prohibition shall be enforced consistent with the provisions of the St. Helena Municipal Code. Smoking shall be prohibited, and no person shall smoke, on the grounds of public sports facilities or public sports spectator areas, or on or around playground structures, or in municipal parks as that term is defined in Section 12.32.010. All public sports facilities, public sports spectator areas, playground structures, and municipal parks shall have posted “No Smoking” signs citing this code section outside, on, or near all entrance(s), exit(s), any existing operable window(s), and/or ventilation intake systems, or such sign shall be placed openly and in public view in such areas where no entrance/exit is obvious.~~ (Ord. 12-4 § 2: Ord. 08-3 (part))

9.06.060 Smoking prohibited at public sports facilities, public sports spectator areas, playground structures, and municipal parks.

Smoking shall be prohibited, and no person shall smoke, on the grounds of public sports facilities or public sports spectator areas, or on or around playground structures, or in municipal parks as that term is defined in Section 12.32.010. All public sports facilities, public sports spectator areas, playground structures, and municipal parks shall have posted “No Smoking” signs citing this code section outside, on, or near all entrance(s), exit(s), any existing operable window(s), and/or ventilation intake systems, or such sign shall be placed openly and in public view in such areas where no entrance/exit is obvious. (Ord. 12-4 § 2: Ord. 08-3 (part))

9.06.080 Violations an infraction.

Violations of any section herein shall be considered an infraction and the provision herein shall be enforced consistent with the St. Helena Municipal Code. (Ord. 08-3 (part))

City of St. Helena

Ordinance No. 2008-3

ADDING CHAPTER 9.06 TO TITLE 9, PUBLIC PEACE AND WELFARE, OF THE ST. HELENA MUNICIPAL CODE TO PROHIBIT SMOKING INSIDE ALL PUBLIC BUILDINGS, WITHIN 20 FEET OF PUBLIC BUILDINGS, AT ALL SPORTS FACILITIES AND SPORTS SPECTATOR AREAS, AND AT PLAYGROUND STRUCTURES LOCATED WITHIN CITY PARKS.

The City Council hereby finds as follows:

A. California Government Code §§ 7596-7598, effective January 1, 2004, prohibit smoking inside all public buildings, or within 20 feet of a main entrance, exit, operable window or ventilation intake system of a public building, including buildings owned or leased and occupied by a city.

B. The St. Helena Police Department has encountered individuals smoking in areas around public buildings in St. Helena, but there are no relevant state law enforcement mechanisms available for citing violators of the state law prohibition on smoking in or around public buildings.

C. The City has received complaints about smoking at sports facilities and sports spectator areas owned by the City, which may be used by smokers and non-smokers, and are areas where children frequently congregate. Children also use playground areas in City parks.

D. Anti-smoking laws further protect Californians from secondhand smoke ("SHS") exposure. SHS has been known to cause 4,700 deaths annually in California, including deaths from lung cancer and heart disease. SHS has also been shown to be responsible for asthma, eye irritation, and respiratory problems in non-smokers and children.

E. California Government Code §§ 7596-7598 allows local communities to adopt more restrictive local ordinances or policies regarding smoking on or around government facilities.

F. Adding a chapter to the St. Helena Municipal Code to prohibit smoking consistent with state law, and making violations of the chapter an infraction punishable by fine will allow the St. Helena Police Department to enforce the state's smoking prohibition.

Therefore, the City Council of the City of St. Helena does ordain as follows:

Chapter 9.06, To Prohibit Smoking Inside All Public Buildings, Within 20 Feet Of Public Buildings, At All Sports Facilities and Sports Spectator Areas, and At Playground Structures Located Within City Parks is added to Title 9 of the St. Helena Municipal Code to read as follows:

9.06.010 Findings and Purpose

- A. State law prohibits smoking in all public buildings and within 20 feet of a public building, which includes city-owned or leased buildings that are occupied by the City of St. Helena.
- B. No state law mechanism exists under which local police can enforce this smoking prohibition.
- C. State law allows the City to adopt a more restrictive ordinance regarding smoking on or around government facilities.
- D. Nonconsensual exposure to secondhand smoke at sports facilities and sports spectator areas in City parks is a nuisance and a threat to the health of the general public and sports players and spectators.
- C. Accordingly, the City Council finds it is within its basic police power to implement and enforce the provisions of this Chapter, and declares that the purposes of this Chapter are:
 - 1. To effectuate state law preventing smoking inside all public buildings and within 20 feet of public buildings, all to the general health, safety, and welfare of the public;
 - 2. To assist in the enforcement of laws prohibiting smoking in all public buildings and within 20 feet of a public building; and
 - 3. To protect the health of the general public, including sports players, spectators who utilize the sports facilities and sports spectator areas, and those who use playground structures, within City parks.

9.06.020 Definitions.

For the purposes of this Chapter:

- A. "Inside a public building" means all indoor areas of the building, except for covered parking lots, residential space. "Inside a public building" includes any indoor space leased to the state, county, or city, except for covered parking lots and residential space (a private living area, not including common areas such as lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of a multi-complex building such as a dormitory.)
- B. "Public building" means a building, or any area within a building, owned and occupied, in whole or in part, or leased and occupied, in whole or in part, by the state, county, or the City of St. Helena.
- C. "Public sports facilities" means property owned by the City that has as its main purpose the facilitation of the playing of a sport, including but not limited to, baseball fields, soccer fields, tennis courts, basketball courts, skateparks, volleyball courts, swimming pools, and bocce courts.
- D. "Public sports spectator areas" means the areas designated for the use of spectators

of sports at public sports facilities including, but not limited to, bleachers and seating areas, and any other area within such proximity to public sports facilities that its use by spectators is common.

E. "Playground structures" means areas constructed and/or intended as an outdoor area set aside for primarily children's recreation and play, containing equipment such as swings, slides, or other play structures.

F. "Smoking" means inhaling, exhaling, burning, carrying, or leaving any lighted cigar, cigarette, weed or plant or other combustible substance whose smoke is intended to be inhaled.

9.06.040 Smoking prohibited in and around city buildings.

Smoking shall be prohibited, and no person shall smoke, inside a public building or within 20 feet of any entrance(s), exit(s), operable window(s), ventilation intake systems and covered entryways of any public building in the City of St. Helena. All public buildings owned or leased by the City of St. Helena shall have posted "No Smoking Within 20 Feet" signs outside of all entrance(s), exit(s), operable window(s), and ventilation intake systems. This prohibition shall be enforced consistent with the provisions of the St. Helena Municipal Code.

9.06.060 Smoking prohibited at public sports facilities, public sports spectator areas, and playground structures.

Smoking shall be prohibited, and no person shall smoke, on the grounds of public sports facilities or public sports spectator areas, or on or around playground structures. All public sports facilities, public sports spectator areas, and playground structures shall have posted "No Smoking" signs citing this Code section, outside, on, or near all entrance(s), exit(s), any existing operable window(s), and/or ventilation intake systems, or such sign shall be placed openly and in public view in such areas where no entrance/exit is obvious.

9.06.080 Violations an infraction.

Violations of any section herein shall be considered an infraction and the provision herein shall be enforced consistent with the St. Helena Municipal Code.

The foregoing ordinance was passed and adopted at a Regular Meeting of the City Council of the City of St. Helena, State of California, held on the 9th day of September, 2008 by the following vote:

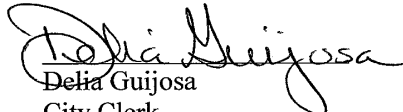
AYES: Councilmembers Sklar, Novak, Schoch, Potter, Mayor Britton

NOES: None

APPROVED:


Delford Britton
Mayor

ATTEST:


Delia Guijosa
City Clerk





Report to the City Council
Council Meeting of July 24, 2018

Agenda Section: New Business

Subject: Review and Discussion of Conceptual Mobile Home Rent Stabilization Ordinance

CEQA Determination: Not a CEQA project

Prepared By: Mark T. Prestwich, City Manager

Reviewed By: Noah Housh, Planning & Community Improvement Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

In late 2017, the City Council adopted three year goals and 12-month strategic objectives to guide the work of the City. One of the objectives included a request to evaluate and recommend for City Council consideration rent stabilization options to maintain mobile home parks as an affordable housing option. The Housing White Paper transmitted to the City Council on June 26, 2018 identified the critical shortage and rising cost of housing in St. Helena, and recommended establishing a rent stabilization ordinance for senior housing among numerous other strategies.

Residents of mobile home parks, unlike apartment tenants or residents of other rental properties, are uniquely situated because they make a substantial investment in a residence for which a space is rented or leased. Mobile homes are also difficult to relocate. When faced with space rent increases, mobile home residents must make the difficult choice to either pay the rent increase, or spend thousands of dollars to relocate. The City of St. Helena is home to one mobile home park consisting of 214 spaces. Approximately 208 spaces are currently occupied, resulting in a vacancy of just 2.8%. This low vacancy rate is an indicator that there is high demand for affordable housing options.

Residents have expressed concerns to the City regarding rising rents, and many of these residents are elderly, on fixed incomes, or are persons of low and moderate income. Accordingly, residents are requesting action to address these concerns.

DISCUSSION

Recognizing the unique position of mobile home residents and the particular hardship that these residents experience when faced with rising space rents, several public agencies throughout California have enacted mobile home rent stabilization ordinances. To facilitate a discussion of ordinance options, Staff has prepared a draft ordinance modeled after the City of Calistoga.

Legal Landscape

As a starting point, it is helpful to provide some background of California's Mobile Home Residency Law (MRL), which governs the relationship between mobile home park owners and tenants. (Civil Code § 798, et seq.) The MRL provides procedures for providing notice of rent increases, and regulates the contents of rental agreements, as well as the termination of tenancies. A park owner may only terminate a lease based on a reason specified in state law. (See Civil Code § 798.56(a)-(i).) These reasons include: a residents failure to comply with the law, comply with a rule or regulation of the park that is a part of the rental agreement, pay rent; or the park owner changes the use of the park after correctly following the specified procedure. (Id.) These "just cause" eviction provisions do not apply to residents who rent mobile homes owned by others.

The MRL does not specifically restrict the amount of rent that a mobile home park owner can charge park residents. (See *Cacho v. Boudreau* (2007) 40 Cal.4th 341, 350.) However, the MRL provides that if a resident signs a long term lease, as defined as longer than twelve (12) months in duration, that lease is exempt from any rent stabilization ordinance. (Civil Code § 798.17(a)(1).) This means that any rent stabilization ordinance, rule, or regulation adopted by the Council would not be applicable to long term leases. Additionally, a rent stabilization ordinance would not be applicable to leases where the mobile home owner is not using the space for his or her primary residence. (Civil Code § 798.17(b)(2).)

Any rent stabilization ordinance must guarantee the land owner a fair return on investment. (See *Galland v. City of Clovis* (2001) 24 Cal.4th 1003, 1021.) A typical rent stabilization ordinance has two rent adjustment procedures: 1) a process whereby a landlord can implement a rent increase that is tied to the percentage increase of the consumer price index without any regulatory review ("Standard Adjustment"); and 2) a petition process that allows the land owner to increase rents above the Standard Adjustment ("Individualized Adjustment"). In this Individualized Adjustment process, ordinances typically include factors to take into consideration in setting a maximum allowable rent. A hearing officer or an arbitrator would then take these factors into account when considering the landlord's petition.

One issue to note is that unlike in the residential rent control context, the Council has the option to regulate vacancy control in a mobile home rent stabilization ordinance. A strict vacancy control provision would specify that upon turnover of a space, park owners would be prohibited from increasing rents beyond the maximum allowable amount. This option maintains the affordability of the space permanently. A vacancy decontrol provision, on the other hand, would allow park owners to raise space rents upon the turnover of the space to a new occupant. Vacancy control provisions are important because they impact the affordability of a space over time, and have an effect on mobile home sales prices.

Staff has prepared three tables to illustrate and contrast procedures related to administration and rent adjustments in both Calistoga and Contra Costa County, as well as various approaches to annual consumer price increase adjustments. The Contra Costa County ordinance includes additional regulatory processes for rent increases and stricter limits on annual increases and pass through regulatory fees. In contrast, the Calistoga ordinance presents fewer regulatory tasks and provides that rent disputes may be referred to an independent arbitrator, whose decision shall be final and binding.

FISCAL IMPACT

Not applicable.

RECOMMENDED ACTION

Review, discuss and provide direction to the City Manager.

ATTACHMENTS

[Mobile Home Rent Stabilization Ordinance](#)

[Copy of Mobilehome Rent Stabilization Ordinance Comparison Chart 7242018 Meeting](#)

Chapter 9.24

Mobile Home Park Rent Stabilization Ordinance

9.24.010 Purpose and Findings.

A. The purpose of this Chapter is to stabilize Mobile Home Space rents by preventing excessive and unreasonable rent increases, and to assure that Mobile Home Park Owners receive a fair and reasonable return on their investment.

B. The City Council finds and declares the following:

1. Mobile homes provide an important alternative form of housing; and
2. Within St. Helena City limits there is one mobile home park with a total of 214 spaces, and presently, approximately 208 of those spaces are occupied, thus resulting in a vacancy rate of just 2.8 percent; and
3. St. Helena's Housing Element Update for 2015-2017 acknowledged that mobile homes constitute an important component of the City's affordable stock; and
5. Market conditions suggest that the high demand for mobile home spaces is likely to persist; and
6. The City of St. Helena currently does not regulate rental amounts or rent increases on mobile homeowners to ensure that that rents stay affordable; and
7. Residents of mobile home parks, unlike apartment tenants or residents of other rental properties, are in a unique position in that they have made a substantial investment in a residence for which space is rented or leased; and
8. The removal or relocation of a mobile home from a park space is generally accomplished at substantial cost depending on how far away the new location is situated; and
9. The removal or relocation of a mobile home may cause extensive damage to the mobile home; and
10. The potential for rents to increase within mobile home parks within the City could cause hardship to a substantial number of mobile homeowners and residents of the parks, many of who are elderly, on fixed incomes, or are persons of low and moderate income; and
11. On multiple occasions, members of the community have expressed concerns to the City Council regarding rising rents citywide, including mobile home rents, and their potential to leave St. Helena residents vulnerable to displacement from the community; and

15. The foregoing conditions create a detrimental effect on substantial numbers of mobile homeowners and residents, and thus constitute a threat to the public health, safety, and welfare; and

16. It is necessary to protect mobile homeowners and residents of mobile home parks from unreasonable rent increases and at the same time recognize the rights of mobile home park owners to receive a reasonable return on their investments.

9.24.020 Definitions.

A. “Administrator” shall refer to the Administrator of the City’s Mobile Home Space Rent Stabilization Program. The Administrator shall be the Planning and Community Improvement Director, or such other City employee as the City Manager may, in the Manager’s discretion, appoint to serve as Administrator.

B. “Affected Homeowners” shall mean those Mobile Homeowners who are subject to a Rent Increase. For purposes of providing notice of any Rent Increase and copies pursuant to this Chapter and calculating the number of Affected Homeowners in support of a rent arbitration petition, each Mobile Home Space subject to a Rent Increase shall be deemed to have only one Affected Homeowner. Reference to “All Affected Homeowners” shall mean one Homeowner from each Mobile Home Space subject to the proposed Rent Increase.

C. “Arbitrator” shall refer to a person who:

1. Is neither a Homeowner nor has an interest in a Mobile Home Park of a nature that would require disqualification under the provisions of the Political Reform Act if the person were an elected State official; and

2. The Administrator determines that the Arbitrator meets one of the following criteria:

a. Completion of a Juris Doctor or equivalent degree from a school of law and completion of a formal course of training in arbitration, which, in the sole judgment of the Administrator, provides that person with the knowledge and skills to conduct a space rent dispute arbitration in a professional and successful manner; or

b. Completion of at least three arbitration proceedings for a Superior Court or other public entity that involved issues the Administrator finds similar to those raised in space rent dispute arbitrations; or

c. Prior service as a Superior Court pro tempore judge.

D. “Arms-Length Transaction” shall refer to a transaction negotiated by unrelated parties, each acting in his or her own self-interest, which serves as a basis for a fair return determination in this Chapter.

E. “Base Rent” shall mean the authorized Rent calculated pursuant to the provisions of Section 9.24.040, plus any Rent Increase allowed under this Chapter, unless it is expressly excluded from Base Rent, plus any adjustment attributable to vacancy decontrol as provided in Section 9.24.050.

F. “Capital Improvements” shall mean those new improvements or replacements that materially add to the value of the property and appreciably prolong its useful life or adapt it to new uses, consist of more than ordinary maintenance and/or repairs, and which may be amortized over the useful remaining life of the improvement to the property. Capital Improvement costs shall include all costs reasonably and necessarily related to the planning, engineering, and construction of the improvement or replacement and shall include debt service costs, if any, incurred as a direct result of the Capital Improvement or replacement.

G. “Consumer Price Index” or “CPI” shall mean the Consumer Price Index for All Urban Consumers, San Francisco-Oakland-San Jose region, or any successor designation of that index that may be adopted by the U.S. Bureau of Labor Statistics as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics.

H. “Gross Income” shall have the meaning set forth in Section 9.24.130.

I. “Homeowner” shall mean an existing Mobile Homeowner.

J. “Homeowner Representative” shall mean a designated homeowner association (HOA) or its designee who shall have the authority to represent the interest of, negotiate on behalf of, and bind the Homeowners.

K. “Housing Service” shall mean a service or facility provided by the Mobile Home Park Owner related to the use or occupancy of a Mobile Home Space, which is neither a Capital Improvement nor a Substantial Rehabilitation. “Housing Service” includes, but is not limited to, repairs (including street repairs), replacement, maintenance, landscaping, painting, lighting, heat, water, utilities, laundry facilities, refuse removal, recreational and meeting facilities, parking, security service, and employee services.

L. “Mediator” shall mean a person who:

1. Is neither a Homeowner nor has an interest in a Mobile Home Park of a nature that would require disqualification under the provisions of the Political Reform Act if the person were an elected State official; and

2. The Administrator determines that the Mediator meets one of the following criteria:

- a. Is a member of the American Arbitration Association and has specific experience in mediating real estate matters; or
- b. Completion of a Juris Doctor or equivalent degree from a school of law and completion of a formal course of training in mediation or arbitration which, in the judgment of the Administrator, provides that person with the knowledge and skills to conduct a space rent dispute mediation in a professional and successful manner; or
- c. Completion of at least three mediation proceedings for a Superior Court or other public entity that involved issues the Administrator finds similar to those raised in space rent dispute mediations; or
- d. Prior service as a Superior Court pro tempore judge.

M. “Mobile home” shall mean structure designed for human habitation and for being moved on a street under permit pursuant to California Vehicle Code section 35790. “Mobile home” includes a manufactured home, as defined in California Health and Safety Code section 18007, and a mobile home, as defined in California Health and Safety Code section 18008.

N. “Mobile Homeowner” shall mean a person who has a tenancy in a Mobile Home Park under a rental agreement that is not otherwise exempt from regulation under this Chapter pursuant to California Civil Code sections 798.17 or 798.45.

O. “Mobile Home Park” shall refer to any area of land within the City where two or more Mobile Home Spaces are rented, or held out for rent, to accommodate mobile homes used for human habitation.

P. “Mobile Home Park Owner” shall mean any park owner, lessor, or sublessor of a Mobile Home Park in the City who receives or is entitled to receive Rent for the use or occupancy of any Mobile Home Space thereof and who reports to the Internal Revenue Service any income received or loss of income resulting from such ownership or claims any expenses, credits, or deductions because of such ownership, and the representative, agent, or successor of such park owner, lessor, or sublessor.

Q. “Mobile Home Space” shall mean any site within a Mobile Home Park located in the City intended, designed, or used for the location or accommodation of a mobile home. “Mobile Home Space” includes any accessory structures or appurtenances attached to the mobile home or used in conjunction therewith. “Mobile Home Space” does not include: 1) sites rented together and concurrently with a Mobile Home provided by the Mobile Home Park Owner; and 2) “New Construction” as defined by California Civil Code section 798.45.

R. “Net Operating Income” shall have the meaning set forth in Section 9.24.120.

S. “Operating Expenses” shall have the meaning set forth in Section 9.24.140.

T. “Park Owner Representative” shall mean a Mobile Home Park Owner or designated representative who shall have the authority to represent the interest of, negotiate on behalf of, and bind park owner parties.

U. “Percent Change in Consumer Price Index” shall mean the annual percent change in the Consumer Price Index, calculated to the nearest tenth, published for the month of [MONTH], or the closest preceding month for which an index is published in the event that an index for the month of [MONTH] is not released.

V. “Prospective Homeowner” shall refer to a person who is not currently a Homeowner in a Mobile Home Park but is a prospective homeowner who desires the use of a Mobile Home Space as defined in this Chapter and has approached the Mobile Home Park Owner as such.

W. “Rent” shall refer to the total consideration, including any bonus, benefit, or gratuity, demanded or received by a Mobile Home Park Owner for or in connection with the use occupancy of a Mobile Home dwelling unit.

X. “Rent Increase” shall mean any additional Rent demanded of, or paid by, a Homeowner for Mobile Home Space. “Rent Increase” includes any reduction in Housing Services without a corresponding reduction in the amount demanded or paid for Rent.

Y. “Rent Stabilization Administration Fee” shall refer to the fee established from time to time by resolution of the City Council in accordance with the provisions of Section 9.24.190.

Z. “Substantial Rehabilitation” shall mean that work done by a Mobile Home Park Owner to a Mobile Home Space or to the common areas of the Mobile Home Park, exclusive of Capital Improvements, which as a value in excess of \$200.00, and is performed either to secure compliance with any State or local law, or to repair damage result from fire, earthquake, or other casualty or natural disaster, to the extent such work is not reimbursed by insurance or other benefits. Costs of substantial rehabilitation include all costs reasonably and necessarily related to the planning, engineering, and construction of the work. Such costs shall also include debt service costs incurred as a direct result of the substantial rehabilitation work, if any.

9.24.030 Applicability.

A. The provisions of this Chapter shall apply to every Mobile Home Park within the City, except that the provisions of this Chapter shall not apply to Mobile Home Spaces which are subject to a written rental agreement that is for more than 12-month duration pursuant to Civil Code section 798.17. The provisions of this Chapter shall also not apply to a newly constructed space initially held out for rent per Civil Code section 798.45.

B. The exceptions provided in this Section 9.24.030(A) shall be effective only until the expiration or other termination of the rental agreement subject to the exception, whereupon all provisions of this Chapter shall immediately be applicable to the Mobile Home Space, unless the rental agreement meets the criteria of Civil Code section 798.17.

C. Forty-eight hours prior to any rental agreement or lease in excess of 12 months being executed by a Homeowner or Prospective Homeowner, the Mobile Home Park Owner shall:

1. Offer any Homeowner or Prospective Homeowner the option of a rental agreement or lease for a term of 12 months or less which will permit such person to receive the benefits of the Mobile Home Space Rent Stabilization Program;
2. Provide the Homeowner or Prospective Homeowner a copy of the City Information Sheet, which provides information about the Mobile Home Park Rent Stabilization Ordinance and includes the Administrator's contact information;
3. Inform the Homeowner or Prospective Homeowner in writing that consultation by the Mobile Home Park's Homeowner Representative is available upon request;
4. Inform the Homeowner or Prospective Homeowner orally and in writing that if the Homeowner or Prospective Homeowner signs a lease or rental agreement with a term in excess of 12 months, and complies with Civil Code Section 798.17, then the lease or rental agreement is not subject to the terms and protections of this Chapter. The written notification shall include a copy of Civil Code section 798.27 and state the following language:

UNDER ST. HELENA MUNICIPAL CODE SECTION 9.24.030, YOU ARE LEGALLY ENTITLED TO A RENTAL AGREEMENT FOR A TERM OF 12 MONTHS OR LESS OR A MONTH-TO-MONTH TENANCY. IF THE TERM OF THE LEASE IS MORE THAN 12 MONTHS IN DURATION, AND THAT LEASE MEETS THE REQUIREMENTS OF CIVIL CODE SECTION 798.17, YOU WILL NOT BE COVERED BY ST. HELENA'S RENT STABILIZATION ORDINANCE.

5. At the time the rental agreement is first offered to the Homeowner or Prospective Homeowner, the Mobile Home Park Owner shall provide written notice to the Homeowner or Prospective Homeowner of the Homeowner's or Prospective Homeowner's right to (1) have at least 30 days to inspect the rental agreement, and (2) void the rental agreement by notifying the Mobile Home Park Owner in writing within 72 hours of the acceptance of a rental agreement. The failure of the Mobile Home Park Owner to provide this written notice shall make the rental agreement voidable at the Homeowner's or Prospective Homeowner's option. The receipt of any written notice provided pursuant to this subsection shall be acknowledged in writing by the Homeowner or Prospective Homeowner.

D. A Mobile Home Park Owner's efforts to circumvent the requirements of this Section 9.24.030 shall be unlawful, as well as an unfair business practice subject to enforcement under California Business and Professions Code Section 17200. A lease or rental agreement in excess of 12 months, executed by a Homeowner or Prospective Homeowner, shall not be exempt from this Chapter unless it complies with each and every requirement of Civil Code Section 798.17.

9.24.040 Base Rent.

A. Initial Calculation.

1. Except as provided herein, a Mobile Home Park Owner shall not demand, accept, or retain Rent for a Mobile Home Space exceeding the Rent in effect for that space on [DATE]. In the event that a Mobile Home Space was not occupied on [DATE], the Base Rent for that Mobile Home Space shall be the highest Mobile Home Space Rent charged by the Mobile Home Park Owner for a comparable space in the Mobile Home Park on [DATE], plus any Rent Increases allowed thereafter pursuant to this Chapter unless otherwise provided.

2. If a Mobile Home Space is exempted from the provisions of this Chapter because it is the subject of a rental agreement pursuant to California Civil Code Section 798.17, and that agreement expires and is not renewed, then the Base Rent, until the next annual adjustment pursuant to this Chapter, shall be the highest Mobile Home Space Rent charged by the Mobile Home Park Owner for a comparable space in the Mobile Home Park on [DATE], plus any Rent Increases allowed thereafter pursuant to this Chapter unless otherwise provided.

3. It shall be presumed that the Base Rent yields a fair return.

B. A Mobile Home Park Owner may seek an adjustment to the initial Base Rent if it can be clearly established that circumstances exist which require an adjustment to assure that the Mobile Home Park Owner is receiving a fair return.

1. In seeking an adjustment to the initial Base Rent under this section, the procedures set forth in Sections 9.24.080 and 9.24.090 shall apply.

2. The guidelines for determining an adjustment to the initial Base Rent are set forth in Section 9.24.150.

9.24.050 Vacancy Control – Establishment of a New Base Rent.

A. A Mobile Home Park Owner is prohibited from increasing the Rent for a Mobile Home Space upon the sale of a mobile home on a site to a Prospective Homeowner or Homeowner.

B. A Mobile Home Park Owner shall be permitted to charge a new Base Rent for a Mobile Home Space whenever a lawful vacancy occurs. For purposes of this Chapter, “lawful space vacancy” shall mean:

1. A vacancy occurring because of the termination of the tenancy of a Mobile Home Homeowner in accordance with California Civil Code sections 798.56 through 798.58; or

2. A vacancy of the Mobile Home Space arising from the voluntary removal of a mobile home from the Mobile Home Space by the Mobile Homeowner. A removal of the mobile home from the Mobile Home Space for the purpose of performing rehabilitation or Capital Improvements to the space or for the purpose of upgrading the mobile home shall not constitute a voluntary removal of the mobile home.

C. Any alleged violation of this Section 9.24.050 shall be subject to automatic arbitration pursuant to Section 9.24.090(F).

9.24.060 Anniversary Date.

The anniversary date for all Rent Increases in the Mobile Home Park Owner's park shall be established by City Council resolution at a public hearing. Rent Increases, if any, except as specified below, shall be enacted only on the anniversary date of a Mobile Home Park. The Mobile Home Park Owner shall post the anniversary date in the park office or areas where it can easily be seen by Homeowners.

9.24.070 Rent Increase Limitations.

A. As of the effective date of this Chapter, no Rent Increases may be implemented within 12 months of the effective date of the preceding Rent Increase unless otherwise authorized under this Chapter. The permissible annual increase shall be the lesser of:

1. One hundred (100) percent of the Percent Change in the Consumer Price Index; or
2. Six percent of the Base Rent.

B. A Mobile Home Park Owner shall not implement a Rent Increase within a 12-month period, unless the Mobile Home Park Owner can clearly establish that the Rent Increase is necessary to cover costs of operation, maintenance, Capital Improvements, or Substantial Rehabilitation that were not reasonably foreseeable at the time notice of the preceding Rent Increase was given. If a Mobile Home Park Owner seeks a Rent Increase pursuant to this Subsection 9.24.070(B), the procedures set forth in Sections 9.24.080 and 9.24.090 shall apply.

C. In the event that a Mobile Home Park Owner wishes to implement a Rent Increase on the anniversary date or within a 12-month period more than the amount permitted in subsection (A) of this Section 9.24.070 and less than 300 percent of the Percent Change in the Consumer Price Index, the procedures set forth in Section 9.24.080 and 9.24.090 shall apply.

D. In the event that a Mobile Home Park Owner wishes to implement a Rent Increase for any Mobile Home Space on the anniversary date or within a 12-month period in an amount equal to or more than 300 percent of the Percent Change in the Consumer Price Index, the procedures set forth in Section 9.24.080 and 9.24.090 shall be followed except that the petition requirements of Section 9.24.090(C)-(D) shall not apply because an arbitration shall automatically be required to show good cause why such an increase is necessary.

E. The Arbitrator may reduce the proposed Rent Increases pursuant to subsections (B), (C) or (D) of this Section 9.24.070 to a figure determined upon the evidence submitted by the Mobile Home Park Owner or the Park Owner Representative to be a fair return.

F. Any notice of a Rent Increase implemented by a Mobile Home Park Owner pursuant to this Section 9.24.070 shall be provided in writing to Affected Homeowners at least 90 days before any Rent Increase is to take effect.

9.24.080 Information Required From Mobile Home Park Owner.

A. Within 30 days after the effective date of this Chapter and upon the re-renting of each Mobile Home Space thereafter, the Mobile Home Park Owner shall supply each Affected Homeowner or Prospective Homeowner with a copy of the City Information Sheet, which provides information about the Mobile Home Park Rent Stabilization Ordinance and includes the Administrator's contact information.

B. Whenever the Mobile Home Park Owner serves a notice of a Rent Increase, except a notice of Rent Increase implemented pursuant to Section 9.24.070(A), the Mobile Home Park Owner shall at the same time and in the same manner serve the Affected Homeowner or Prospective Homeowner with a notice that sets forth all of the following information:

1. The amount of the Rent Increase both in dollars and as a percentage of existing Rent and documentation supporting the level of increase desired, including, but not limited to: a summary of the unavoidable increases in maintenance and Operating Expenses; a statement of the cost, nature, amortization, and allocation among Mobile Home Spaces of any Substantial Rehabilitation or Capital Improvement; a summary of the increased cost of the Mobile Home Park Owner's debt service and the date and nature of the sale or refinancing transaction; a summary of the Mobile Home Park Owner's Net Operating Income of the preceding 24 months and other relevant information that supports the level of Rent Increase desired;

2. A current listing of all other Affected Homeowners and the spaces which they rent may be requested through the Homeowner Representative;

3. The address and telephone number of the Administrator and statement that the Homeowner is encouraged to contact the Administrator for an explanation of the provisions of this Chapter;

4. A copy of the petition form prepared and provided by the Administrator which initiates the process of rent review established by this Chapter;

5. If applicable, notification that the proposed Rent Increase exceeds 300 percent of the change in the Consumer Price Index, and that arbitration is automatically required by the provisions of Section 9.24.070(D) without any need to file an arbitration petition. Such notices shall bear the following language in capital letters: "ARBITRATION OF THE PROPOSED INCREASE IS AUTOMATICALLY REQUIRED IN THIS MATTER BY OPERATION OF LAW." Erroneous use of this notice shall be regarded as an irrevocable stipulation to submit to arbitration;

6. Time and place for a mandatory informational meeting with the Homeowners to be held on the Mobile Home Park premises. The informational meeting shall be held within 10 days from the service of the notice of Rent Increase.

7. The Mobile Home Park Owner shall, at the same time, file with the Administrator two copies of the notice and summary of expenses required in Section 9.24.080(B)(1), along with two copies of all relevant financial records, bills or documents which substantiate the level of increase proposed. This financial information shall be verified in writing by an auditor or certified public accountant or certified in writing as true and correct under penalty of perjury by the Mobile Home Park Owner. This information will be made available at City Hall for inspection and copying by the Affected Homeowners.

D. A Mobile Home Park Owner's failure to provide any information, documents, or notices required by this Section 9.24.080 shall not be entitled to collect any Rent Increase that might otherwise be awarded by an Arbitrator. Such failure by the Mobile Home Park Owner shall be a defense in any action brought by the Mobile Home Park Owner to recover possession of a Mobile Home Space or to collect any Rent Increase from the Homeowner.

E. An Affected Homeowner who is given notice of a Rent Increase is entitled to file a petition for rent review as provided in Section 9.24.090 regardless of whether the Mobile Home Park Owner has failed to provide the Affected Homeowner with all the information, documents and notices required by this Chapter.

9.24.090 Rent Dispute Resolution Process.

A. A Homeowner may contact the Administrator for an explanation of the provisions of this Chapter.

B. If a Rent Increase is proposed pursuant to Section 9.24.070(B)-(D), then after service of the Rent Increase notice and the production of the accompanying information required by Section 9.24.080, the Mobile Home Park Owner shall set a time and place for a informational meeting with the Homeowners and a mediation meeting to be held on the Mobile Home Park premises. The informational meeting shall be held within 10 days from the service of the notice of Rent Increase. The mediation meeting shall be held within 20 days from the service of the notice of Rent Increase or notice from the Administrator that mediation is required pursuant to this Section 9.24.090. The Mobile Home Park Owner shall give Affected Homeowners and the Administrator at least 10 days' advance notice of this meeting. The Mobile Home Park Owner and the Affected Homeowners shall serve any additional documents to be presented at the mediation on the other party and the Administrator at least five days before the meeting.

The purpose of this mediation meeting shall be to allow and encourage the parties to mediate any differences they may have concerning the proposed Rent Increase. At the meeting, the Mobile Home Park Owner or Park Owner Representative shall be available to meet with Affected Homeowners or Homeowner Representative to explain the reasons for the proposed Rent Increase. If the parties agree to a specific Rent Increase, the Mediator shall prepare a mediation agreement setting forth the terms of the agreement between the Mobile Home Park Owner and

the Affected Homeowners. The mediation agreement shall be executed by the parties and a copy of the agreement shall be filed with the Administrator.

C. Petition Procedures.

1. If discussions between the Mobile Home Park Owner and Affected Homeowners, either informally or pursuant to subsection (B) of this Section 9.24.090, do not resolve the dispute, the Homeowners or Homeowner Representative may file with the Administrator a petition for rent review with a copy of the notice of Rent Increase within 30 days after receipt of the Rent Increase notice.

2. The Administrator shall not accept a petition for rent review unless it has been signed by at least 51 percent of All Affected Homeowners.

3. As soon as possible after a petition has been filed with respect to Mobile Home Spaces that are within a Mobile Home Park, the Administrator shall, to the extent possible, consistent with the time limitations provided herein, consolidate petitions involving similarly situated Affected Homeowners.

4. Upon the filing of a petition, the Rent Increase shall not be implemented until and to the extent it is awarded by an Arbitrator or until the petition is abandoned by the Affected Homeowners or the Homeowner Representative. "Abandoned" as used herein shall mean a failure to actively pursue the necessary steps to prepare the Homeowners' case for the arbitration. An automatic arbitration based upon a 300 percent Consumer Price Index increase shall not require active Homeowner participation and shall not be considered abandoned due to lack of Homeowner participation.

D. Contents of Petition.

1. The petition for rent review shall: a) set forth the total number of affected Mobile Home Spaces in the Mobile Home Park; b) identify the name of the Homeowners who occupy each space; and 3) state the date upon which the notice of the Rent Increase was received by the Homeowner.

2. After obtaining the required signatures of Affected Homeowners, the Homeowners shall deliver the petition or mail it by certified mail to the Administrator at the following address: City of St. Helena, 1480 Main Street, St. Helena, California 94574. No petition shall be accepted unless it is accompanied by the requisite number of signatures and is received in the office of the Administrator within the 30-day period set forth in subsection (C) of this Section 9.24.090. The Administrator shall provide a copy of the completed petition to the Mobile Home Park Owner and the Arbitrator.

E. After the Administrator has accepted a petition for rent review, the Administrator shall remit to the Mobile Home Park Owner and petitioning Homeowners or the Homeowner Representative an information questionnaire in such form as the Administrator may prescribe. The completed information questionnaire must be returned to the Administrator at least five

business days prior to the date scheduled for hearing of the petition by the Arbitrator. The Administrator shall provide copies of the completed information questionnaire to the Arbitrator, the Mobile Home Park Owner, and the Affected Homeowners or the Homeowner Representative.

F. Upon receipt of a petition, or in the event of an automatic arbitration pursuant to Section 9.24.070(D), or upon an Affected Homeowner's claim of a vacancy control rent increase violation pursuant to Section 9.24.050, the Administrator shall, within 15 business days, assign an Arbitrator. The Administrator shall set a date for the arbitration hearing no sooner than 10 working days nor later than 30 working days after the Arbitrator is assigned. The Mobile Home Park Owner and All Affected Homeowners shall be notified immediately in writing by the Administrator of the date, time, and place of the hearing either in person or by ordinary mail.

Any additional documents to be presented at the hearing by either the park owner or the Affected Homeowners, other than those previously submitted pursuant to Section 9.24.080(C) or subsection (B) of this Section 9.24.090, shall be served on the other party, the Administrator, and the Arbitrator at least 10 working days before the hearing by mail or in-person delivery. All financial documents submitted shall be verified in writing by an auditor or certified public accountant, or certified in writing as true and correct under penalty of perjury by the Mobile Home Park Owner.

G. Arbitration Hearing.

1. The Mobile Home Park Owner and any Affected Homeowners may appear at the hearing and offer oral and documentary evidence. Both the Mobile Home Park Owner and Homeowners may designate a representative or representatives to appear for them at the hearing. The Arbitrator may grant or order one continuance to each party not to exceed 10 business days from the date of the hearing. A further continuance may be granted if stipulated to by all the parties. The burden of proving that the amount of Rent Increase is reasonable shall be on the Mobile Home Park Owner by a preponderance of the evidence. The hearing need not be conducted according to technical rules relating to evidence and witnesses. The rules of evidence and manner of producing evidence shall be those rules set forth in California Government Code Section 11513 for the conduct of hearings under the Administrative Procedure Act. These rules may be relaxed at the discretion of the Arbitrator in the interests of justice.

2. Any party may have electronic recording equipment or a court reporter present to record and prepare a transcript of the hearing before the Arbitrator. Such equipment or reporter shall be provided at that party's own expense.

3. Any jurisdictional or procedural dispute regarding the process set forth herein may be decided by the Arbitrator.

4. The Arbitrator shall, within 14 days of the conclusion of the hearing, submit by mail a written statement of decision and the reasons for the decision to the Administrator. The Administrator shall mail copies of the decision to the Mobile Home Park Owner and Affected Homeowners.

5. The decision of the Arbitrator, rendered in accordance with this Section 9.24.090, shall be final and binding upon the Mobile Home Park Owner and Affected Homeowners. The decision of the Arbitrator will be subject to the provisions of California Code of Civil Procedure Section 1094.5.

H. It is the intent of the Council to have a final decision rendered within 90 days of the initial notice of the Rent Increase. The Administrator or the Arbitrator may, however, modify the time periods set forth herein at his or her discretion to promote the purposes of this Chapter.

9.24.100 Subpoena Power.

Subpoenas, including subpoenas duces tecum, requiring a person to attend at a particular time and place to testify as a witness, may be issued in connection with any dispute pending before an Arbitrator. Subpoenas shall be issued at the request of the Administrator, an Arbitrator, the Homeowners, or the Mobile Home Park Owners. Subpoenas shall be issued and attested by the City Attorney. A subpoena duces tecum shall be issued only upon the filing with the City Attorney of an affidavit showing good cause for the production of the matters or things desired to be produced, setting forth in full detail the materiality thereof to the issues involved in the proceedings, and stating that the witness has the desired matters or things in his or her possession or under his or her control. A copy of such affidavit shall be served with the subpoena. Any subpoena or subpoena duces tecum issued pursuant to the provisions of this Chapter may be served in person or by certified mail, before the hearing for which attendance is sought. Any subpoena or subpoena duces tecum issued pursuant to the provisions of this Chapter shall be deemed issued by and in the name of the Council.

9.24.110 Standards of Review.

A. The Arbitrator shall determine whether Rent Increases proposed or imposed by the Mobile Home Park Owner are reasonable based upon the circumstances and all the provisions of this Chapter. The Arbitrator shall take into consideration that the purpose of this Chapter is to permit Mobile Home Park Owners a just and reasonable return, while protecting Homeowners from unnecessary or unreasonable Rent Increases.

B. The Arbitrator shall not allow more than one Rent Increase per Mobile Home Space per 12-month period, unless a Mobile Home Park Owner can clearly establish that the Rent Increase is necessary to cover costs of operation, maintenance, Capital Improvements, and/or Substantial Rehabilitation not reasonably foreseeable at the time notice of the preceding Rent Increase was given.

C. Maintenance of Net Operating Income.

1. It shall be presumed that the base year Net Operating Income adjusted by 75 percent of the increase or decrease in the CPI since the base year yields a fair return. Mobile Home Park Owners shall be entitled to maintain and increase their Net Operating Income in

accordance with this Section 9.24.110. The Arbitrator shall make a determination of whether the Mobile Home Park Owner's Net Operating Income yields a fair return under this standard.

2. The formula for calculating the fair NOI return shall be as follows:

$$\text{Fair NOI} = \text{Base Year NOI} \times (1 + .75) \% \text{ change in CPI}$$

3. Except as provided in Section 9.24.150, it shall be presumed that the Net Operating Income produced by the Mobile Home Park during the base year provided a fair return.

4. Calendar year 2017 shall be established as the base year for purposes of determining whether a Mobile Home Park Owner's Net Operating Income provides a fair return. If a satisfactory base year is, in the Arbitrator's opinion, not otherwise available, such as where a Mobile Home Park Owner did not own the subject property in the base year and/or the 2017 Operating Expenses are not available, the Arbitrator may take any relevant evidence into account to construct a base year.

5. The base year CPI shall be the CPI level in June 2017.

6. The percentage change in the CPI shall be calculated by using the CPI as of the month prior to the noticed increase.

7. The comparison NOI year shall be the most recent calendar or fiscal year, unless another period is found by the Arbitrator to be more appropriate.

D. A park owner may seek a Rent Increase based on the cost of a completed new Capital Improvement, as defined in Section 9.24.020(F), together with a reasonable return upon the Capital Improvement investment, only if the Mobile Home Park Owner has:

1. Established by written verification or other competent evidence to the satisfaction of the Arbitrator that the costs of the new Capital Improvement are factually correct as claimed;

2. Cost factored and amortized the costs of the Capital Improvement over the good faith estimate of the remaining life of the improvement, but in no event for a period of less than 60 months; and

3. Allocated the increase among Affected Homeowners on a per space basis and separately itemized such increase on the Rent bill. Such increases shall not be considered included in the Base Rent for purposes of the annual permissible Rent Increases pursuant to Section 9.24.070(A).

E. Mitigating Factors. In evaluating a Rent Increase, the Arbitrator shall also consider the following factors in addition to any other factors the Arbitrator deems relevant in order to determine whether there are any circumstances that may justify a reduction in a proposed Rent Increase:

1. In the event the Mobile Home Park Owner reduces or eliminates any Housing Services, a proportionate share of the cost savings due to such reduction or elimination shall be passed on in the form of a decrease in existing Rent or a decrease in the amount of a Rent Increase otherwise proposed or permitted by this Chapter.

2. The physical condition of the Mobile Home Space or Park of which it is a part, including the quantity and quality of maintenance and repairs performed during the preceding 12 months.

F. Notwithstanding any other provision to the contrary, no provision of this Chapter shall be applied to prohibit the granting of a Rent Increase that is demonstrated to be necessary to provide a Mobile Home Park Owner with a fair and reasonable return.

9.24.120 Net Operating Income.

In evaluating a Rent Increase imposed by a Mobile Home Park Owner to maintain the Mobile Home Park Owner's Net Operating Income, "Net Operating Income" (NOI) shall mean the Gross Income as defined in Section 9.24.130 of the Mobile Home Park less the Operating Expenses as defined in Section 9.24.140.

9.24.130 Gross Income.

For purposes of calculating the Net Operating Income pursuant to Section 9.24.120, "Gross Income" shall mean the sum of the following:

A. Gross Mobile Home Space rents, computed as gross space rental income at 100 percent occupancy; plus

B. Other income generated as a result of the operation of the Mobile Home Park, including, but not limited to, fees for services actually rendered; plus

C. Revenue received by a Mobile Home Park Owner from the sale of gas and electricity to Homeowners where such utilities are billed individually to the Homeowners by the Mobile Home Park Owner. Such revenue shall equal the total cost of the utilities to the Homeowners minus the amount paid by the Mobile Home Park Owner for such utilities to the utility provider; minus

D. Uncollected Mobile Home Space Rents due to vacancy and bad debts to the extent that the same are beyond a Mobile Home Park Owner's control. Uncollected Mobile Home Space Rents in excess of three percent of gross Mobile Home Space Rents shall be presumed to be unreasonable unless established otherwise and shall not be included in computing Gross Income. If uncollected Mobile Home Space Rents must be estimated, then the average of the preceding three years' experience shall be used.

9.24.140 Operating Expenses.

A. For purposes of calculating Net Operating Income pursuant to Section 9.24.120, “Operating Expenses” may include:

1. Real property taxes and assessments.
2. Utility costs to the extent that they represent costs to the Mobile Home Park Owner which are not passed through to Homeowners of the Mobile Home Park.
3. Management expenses (including the compensation of administrative personnel, including the value of any Mobile Home Space offered as part of compensation for such services), reasonable and necessary advertising to ensure occupancy, legal and accounting services as permitted herein, and other managerial expenses. Management expenses are presumed to be not more than five percent of Gross Income, unless established otherwise.
4. In addition to the management expenses listed above, if the Mobile Home Park Owner performs managerial or maintenance services which are uncompensated, the Mobile Home Park Owner may include the reasonable value of such services or Operating Expenses. Mobile Home Park Owner-performed labor shall be limited to five percent of Gross Income unless the Arbitrator finds that such a limitation would be substantially unfair in a given case. A Mobile Home Park Owner must devote substantially all of the Mobile Home Park Owner’s time, that is, at least 40 hours per week, to performing such managerial or maintenance services in order to warrant the full five percent credit as an Operating Expense. No credit for such services shall be authorized unless a Mobile Home Park Owner documents the hours utilized in performing such services and the nature of the services provided.
5. Normal repair and maintenance expenses for the grounds and common facilities, including but not limited to landscaping, cleaning, and repair of equipment and facilities.
6. Operating supplies such as janitorial supplies, gardening supplies, and stationery.
7. Insurance premiums prorated over the life of the policy.
8. Other taxes, fees, and permits, except as provided in Section 9.24.190.
9. Reserves for replacement of long-term improvements or facilities, provided that accumulated reserves shall not exceed five percent of Gross Income.
10. A Mobile Home Park Owner may include the cost of necessary Capital Improvement or Substantial Rehabilitation expenditures which would exceed existing reserves for replacement. A necessary Capital Improvement shall be an improvement required to maintain the common facilities and areas of the Mobile Home Park in a decent, safe, and sanitary condition or to maintain the existing level of Mobile Home Park amenities and services. In the event that the necessary Capital Improvement or Substantial Rehabilitation expenditure is necessitated as the result of an accident, disaster, or other event for which the Mobile Home Park

Owner received insurance or other benefits, only those costs otherwise allowable and exceeding such benefits may be calculated as Operating Expenses.

Expenditures for necessary Capital Improvements to upgrade existing facilities, together with a reasonable return upon the Capital Improvement investment made by the Mobile Home Park Owner, shall be an allowable Operating Expense only if the park owner has:

- a. Informed the Affected Homeowners prior to initiating construction or implementation of the Capital Improvement regarding the nature, purpose and estimated cost of the improvement; and
- b. Established by written verification or other competent evidence to the satisfaction of the Arbitrator that the costs of Capital Improvement provided to the Homeowners for their general use are factually correct as claimed; and
- c. Cost factored and amortized the costs of the improvement over the good faith estimate of the remaining life of the improvement, but in no event for a period of less than 60 months; and
- d. Allocated the increase among Affected Homeowners on a per space basis and separately itemized such increase on the Rent bill. Such increases shall not be considered included in the Base Rent for purposes of the annual permissible Rent Increases pursuant to Section 9.24.070(A).

11. Increases in interest payments which result from one of the following situations or the equivalent thereof:

- a. Refinancing of the outstanding principal owed for the acquisition of a park where such refinancing is mandated by the terms of a financing transaction entered into prior to [DATE, 2018], for instance, termination of a loan with a balloon payment; or
- b. Increased interest costs incurred as a result of a variable interest rate loan used to finance the acquisition of the park and entered into prior to [DATE, 2018].

In refinancing, increased interest shall be permitted to be considered as an Operating Expense only where the Mobile Home Park Owner can show that the terms of the refinancing were reasonable and consistent with prudent business practices under the circumstances.

B. "Operating Expenses" shall not include the following:

1. Debt service expenses, except as provided in subsection (A)(11) of this Section 9.24.140;
2. Depreciation;

3. Any expense for which the Mobile Home Park Owner is reimbursed; or

4. Attorneys' fees and costs (except printing costs and documentation as required by Section 9.24.080) incurred in proceedings before an Arbitrator or in connection with legal proceedings challenging the decision of an Arbitrator or the validity or applicability of this Chapter.

C. Whenever a particular expense exceeds the normal industry or other comparable standard, the Mobile Home Park Owner shall bear the burden of proving the reasonableness of the expense. To the extent that the Arbitrator finds any such expense to be unreasonable, the Arbitrator shall adjust the expense to reflect the normal industry or other comparable standard.

9.24.150 Special Base Year NOI/Base Rent Adjustments.

A. Mobile Home Park Owners may obtain a one-time special adjustment to the base year NOI and/or Base Rent dates if the rebuts the presumption that the base year NOI and/or Base Rent date yielded a fair return. The Arbitrator shall not make such a determination unless the Arbitrator has first made at least one of the following findings:

1. That the Mobile Home Park Owner's Operating Expenses in the base year were unusually high or low in comparison to the three years prior to the base year. The average expenses for this period shall be presumed to reflect reasonable average annual expenses and the average of such expenses shall be used to calculate and adjust the base year NOI.

In determining whether the park owner's Operating Expenses were unusually high or low, the Arbitrator shall consider whether:

a. The park owner made substantial Capital Improvements during the base year, which were not reflected in the Rent levels on the Base Rent date.

b. Substantial repairs were made due to uninsured damage caused by fire, natural disaster or vandalism.

c. Maintenance and repair were below accepted standards so as to cause significant deterioration in the quality of Housing Services.

d. Other expenses were unreasonably high or low notwithstanding the following of prudent business practice.

2. That the Rent was disproportionate due to one of the enumerated factors below:

a. The Rent on the base date was exceptionally high or low due to the fact that the Rent was not established in an Arms-Length Transaction.

b. The Rent on the Base Rent date was substantially higher or lower than at other times of the year by reason of premiums being charged or rebates given for reasons unique to particular spaces.

B. If the circumstances specified in subsection (A)(2) of this Section 9.24.150 are demonstrated, the Base Rent date shall be adjusted to reflect the Rent that would have been received if the Base Rent date had been set under general market conditions. In making this adjustment, the Arbitrator shall utilize the median rent in effect on the Base Rent date, or a good faith estimate of such median rent, for comparable spaces within the Mobile Home Park or, if necessary, other comparable parks. Comparability shall be judged based on the location of the park, services, amenities provided, and other relevant factors.

9.24.160 Obligations of the Parties.

A. After the Mobile Home Park Owner's proposed effective date of a noticed Rent Increase, if the Arbitrator finds that the proposed increase or any portion thereof that was previously inoperative is justified, All Affected Homeowners shall pay the amount found justified to the Mobile Home Park within 30 days after the decision is made.

B. If the Arbitrator finds that an increase or any portion thereof is not justified, the Mobile Home Park Owner shall refund any amount found to be unjustified, but that had been paid, to All Affected Homeowners within 90 days of the Arbitrator's decision. In the event that the tenancy of an Affected Homeowner is terminated for any reason prior to receipt of a refund, the balance of the credit due the Homeowner shall be paid by the Mobile Home Park Owner within 30 days from the date of the termination of the tenancy.

C. Any sum of money that under the provisions of this Section 9.24.160 is the obligation of the Mobile Home Park Owner or Homeowner to pay, as the case may be, shall constitute a debt and, subject to the foregoing provisions of this section, may be collected in any manner provided by law for the collection of debts.

9.24.170 Homeowner's Right of Refusal.

An Affected Homeowner may refuse to pay any increase in Rent which is in violation of this Chapter, provided a petition has been filed and either no final decision has been reached by an Arbitrator or the increase has been determined to violate the provisions of this Chapter. Such right of refusal to pay shall be a defense in any action brought to recover possession of a Mobile Home Space or to collect the Rent Increase.

9.24.180 Retaliatory Acts – Homeowner's Right to Organize.

No Mobile Home Park Owner may retaliate against a Homeowner, Homeowner Representative, or Prospective Homeowner for the assertion or exercise of rights under this Chapter in any manner. This includes, but is not limited to, threatening to bring or bringing an action to recover possession of a Mobile Home Space, engaging in any form of harassment that causes a Homeowner to quit the premises, dissuading a Prospective Homeowner from freely exercising

the Homeowner's legal option to choose a tenancy of a shorter term, decreasing Housing Services, increasing the Mobile Home Space Rent, or imposing or increasing a security deposit or any other charge payable by a Homeowner.

9.24.190 Fees.

- A. The costs of administration of this Chapter, including the costs of mediation and arbitration, shall be borne by the City, subject to reimbursement by imposition of a Rent Stabilization Administration Fee ("Fee") chargeable against each Mobile Home Space in the City.
- B. The Administrator shall recommend to the City from time to time the amount of the Fee and the Council shall adopt such Fee by resolution at a public hearing. A reporting of expenditures and staff time spent on administration of this Chapter shall be conducted during review of the City's budget.
- C. On or before **September 30th** of the fiscal year of the adoption of this Chapter, and thereafter on or before **July 31st** of each subsequent fiscal year, each Mobile Home Park Owner in the City shall register with the City. The Mobile Home Park Owner shall provide, in writing, the name and address of the Mobile Home Park Owner, and a statement of the number of Mobile Home Spaces, including both occupied and unoccupied spaces, contained in that Mobile Home Park Owner's Mobile Home Park. Re-registration and provision of this information must also be made upon change of ownership of the Mobile Home Park, or an increase or a decrease in the number of spaces available at a Mobile Home Park Owner's Mobile Home Park.
- D. On or before **September 30th** of the fiscal year of adoption, and thereafter on or before **July 31st** of each and every subsequent fiscal year, each Mobile Home Park Owner shall pay to the City the Fee then in effect for each Mobile Home Space in the Mobile Home Park Owner's Mobile Home Park, except for those spaces subject to a rental agreement in full compliance with the requirements of California Civil Code Section 798.17(a) and (b).
- E. Allocation of the Fee.
 - 1. A Mobile Home Park Owner may allocate 50 percent of the Fee imposed on a Mobile Home Space to the Homeowners in accordance with the provisions set forth in this Section 9.24.190. This allocation shall be passed on, if at all, no later than the next park anniversary date or within 12 months from the date of payment to the City. The remaining 50 percent of the Fee imposed on a Mobile Home Space shall not be passed on in any way to Homeowners.
 - 2. The Mobile Home Park Owner shall post in a common area for a period of 90 days for All Affected Homeowners to read, documentation supporting the allowable amount to be collected in order for the Mobile Home Park Owner to recover 50 percent of the Fee. At a minimum, such documentation shall include:
 - a. Billing notices or other equivalent documents from the City imposing Fee;

- b. A copy of this Section;
- c. The calculations used by the park owner to apportion the cost of the allowable percentage among the Affected Homeowners;
- d. The address and telephone number of the Administrator; and
- e. Notice to the Affected Homeowners that Homeowners are encouraged to contact the Administrator for an explanation of the provisions of this Chapter.

3. The Fee allocation shall not be considered part of the Base Rent upon which future Rent Increases can be based.

4. The Fee allocation shall be separately listed on any monthly or other periodic billing statement to the Homeowner.

F. A service fee equal to one and one-half percent per month will be charged on Mobile Home Park Owners who make late payments of Fees required under this Chapter. The service fee may not be passed on to Homeowners.

9.24.200 Exemption from Fees.

A. A Mobile Home Park Owner who is eligible for a space fee exemption pursuant to Civil Code Section 798.17 or any other provision of this Chapter, shall provide the Administrator with the following documentation, as appropriate:

1. A listing of long-term executed lease space numbers and spaces used other than for residency;

2. For a newly constructed space, proof that the space was constructed and initially held out for rent after [DATE, 2018]; and

3. A statement of the basis for the exemption.

B. The Administrator's decision as to an exemption shall be final.

9.24.210 Nonwaivable Obligations.

Any provision, whether oral or written, in or pertaining to a rental agreement whereby any provision of this Chapter is waived or modified, is against public policy and void, except with respect to any rental agreement complying with all of the terms and conditions set forth in California Civil Code Section 798.17.

9.24.220 Remedies And Waiver of Rights.

A. In addition to those penalties and remedies set forth in this Chapter, no Mobile Home Park Owner shall demand, accept, receive, or retain any Rent in excess of the amounts allowed under this Chapter. In the event that a Mobile Home Park Owner demands, accepts, receives, or retains any payment in excess of the amounts allowed under this Chapter, the Homeowner may file a civil suit against the Mobile Home Park Owner. A Mobile Home Park Owner who demands, accepts, receives, or retains any payment of Rent in excess of the amounts allowed under this Chapter shall be liable to the Homeowner in the amount by which the payment or payments have exceeded the allowable Rent. In such a case, the Rent shall be adjusted to reflect the lawful Rent pursuant to this Chapter.

B. A Mobile Home Park Owner who willfully demands, accepts, or retains any payment of Rent in violation of the provisions of this Chapter shall be liable in a civil action to the person from whom payment is demanded, accepted or retained for damages in the sum of three times the amount by which payment or payments demanded, accepted or retained exceed the maximum Rent which could lawfully be demanded, accepted or retained. A prevailing Homeowner in a civil action brought to enforce this Chapter shall be awarded reasonable attorneys' fees and costs as determined by the court. No administrative remedy need be exhausted prior to filing suit pursuant to this Section 9.24.220.

C. The remedies available in this Chapter are not exclusive and may be used cumulatively with any other remedies available in this Chapter or at law.

D. Waiver of Rights.

1. Any waiver or purported waiver by a Homeowner of rights granted under this Chapter prior to the time when said rights may be exercised shall be void as contrary to public policy, except as provided in this Section 9.24.220.

2. It shall be unlawful for a Mobile Home Park Owner to require or attempt to require, as a condition of tenancy in a Mobile Home Park, a Homeowner, or Prospective Homeowner, to waive, in a lease or rental agreement, the rights granted to a Homeowner by this Chapter.

3. It shall be unlawful for a Mobile Home Park Owner to deny or threaten to deny a tenancy in a Mobile Home Park to any person on account of such person's refusal to enter into a lease or rental agreement or any other agreement under which such person would waive the rights granted to a tenant by this Chapter.

4. Nothing in this Section 9.24.220 shall preclude a Mobile Home Owner or tenant, or Prospective Homeowner, from entering into a lease or rental agreement; provided, that such lease or rental agreement is not procured by a requirement that it be entered into as a condition of tenancy in the Mobile Home Park, and is not procured under a threat of denial of tenancy in the Mobile Home Park.

E. If a Homeowner fails to bring an action to enforce this Chapter within a reasonable time after the date of the violation, the City Council may bring such an action or settle the claim on

the Homeowner's behalf. If the City Council brings such an action, the Homeowner shall be provided the right to opt in or out of the action. In the case of an opt-in, the Homeowner on whose behalf the City Council acted is barred from bringing a separate action against the Landlord in regard to the same violation, and the City shall be entitled to recuparate the costs it incurred from any monetary recovery from the Mobile Home Park Owner, with the remainder to go to the Homeowner against whom the violation has been committed. In the case of an opt-out, the Homeowner shall retain all rights relating to his or her right to private action. The City Council may take other such enforcement action as necessary to ensure compliance with this Chapter.

9.24.230 Rights of Affected Parties Reserved.

- A. This Chapter shall not be construed to limit or curtail any other action or proceeding which may be pursued by an Affected Homeowner or Mobile Home Park Owner before any court or other body having jurisdiction thereof.
- B. Defense to Action for Recovery of Possession.
 - 1. A Mobile Home Park Owner's failure to comply with any of the provisions of this Chapter or any regulations promulgated hereunder shall serve as a complete affirmative defense in any action brought to recover possession of a Mobile Home Space.
 - 2. A Homeowner's refusal to pay Rent in excess of the amount allowed under this Chapter shall be a complete affirmative defense in any action brought to: a) recover possession of a Mobile Home Space for nonpayment of Rent; or b) collect Rent in excess of the amount allowed under this Chapter.

9.24.240 Extension of Time Limits.

By written agreement of the parties, upon application to the Administrator, or for good cause shown to the Mediator or Arbitrator, the timeframes provided for under this Chapter may be extended.

9.24.250 Regulations and Review By the City Council.

- A. The City Council may issue rules and regulations as necessary to further the purpose of this Chapter. If any portion of this Chapter is declared invalid or unenforceable by decision of a court of competent jurisdiction or rendered invalid or unenforceable by law, the City Council shall have the authority to enact replacement regulations consistent with the intent and purpose of the invalidated or unenforceable provisions of this Chapter to the extent necessary to resolve any inconsistency. The subject matter of such replacement regulations shall be limited to the matters addressed in this Chapter.
- B. The Council shall review the effectiveness of this Chapter within five years from the effective date to determine whether a full-scale review of the Ordinance is necessary. Notice of

the time and place of the Council's review shall be published at least 10 days prior to the review date in a newspaper of general circulation in the City.

9.24.260 Environmental Determination.

The City Council finds that the adoption and implementation of this Article are exempt from the provisions of the California Environmental Quality Act under section 15061(b)(3) in that the City Council finds there is no possibility that the implementation of this Article may have significant effects on the environment.

9.24.270 Partial Invalidity.

If any provision of this Chapter or application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable. This Chapter shall be liberally construed to achieve the purposes of this Chapter and to preserve its validity.

Administration								
	Applicability	City Staff Person	City Point Person Responsibilities	Council Responsibilities	Park Owner Implementation of Rent Increase	Financing	Pass Through of Regulatory Fees	Rental Registry
Contra Costa County	State law limits (does not apply to spaces subject to an agreement longer than 12 months per Civil Code Section 798.17; does not apply to newly constructed spaces per CC 798.45) (Sec. 540-2.206(b)(1)); Not applicable to spaces where rent is less than \$350/month (Sec. 540-2.206(b)(2)); Not applicable to parks where the highest rent charged is less than median rent as determined by a City Council program to determine median rents (Sec. 540-2.206(b)(3))	Rent Review Officer as designated by the city administrator (Sec. 540-2.204(p))	Assigns a hearing officer to a petition (Sec. 540-2.204E); Acknowledges receipt of notice from park owner of the list of people impacted by rent increase which is required before a rent increase can be implemented (Sec. 540-2.602); Reviews petitions opposing the implementation of rent increase and verifies petition requirements are met (Sec. 540-2.804, Sec. 540-806); Assigns mediator after valid petition received and convenes meeting btw park owner and homeowner rep. (Sec. 540-2.808); Assigns hearing officer if mediation unsuccessful after 40 days (Sec. 540-2.810); Receives declaration from park owner under penalty of perjury regarding capital improvement increases (Sec. 540-2.1204(c)); Prepares a summary of ordinance that is provided to a prospective homeowner (Sec. 540-2.1408(b)); Award monetary damages for unlawfully received rent (Sec. 540-2.1608); Adopt regulations under Ordinance (Sec. 540-2.1604)	Approve program to determine median mobilehome space rents (Sec. 540-2.206(b)(3)); Establish amount of regulatory fee to cover the costs of hearings (Sec. 540-2.812); Receive annual report from City Administrator regarding amount of administration fee and set administration fee (Sec. 540-2.1602(b)); Review report of vacancy rate and consider appropriateness of ordinance (Sec. 540-2.1610)	1) Provide at least 90 days notice to homeowner in advance of ANY rent increase and notice of informal meeting (Sec. 540-2.602(a)); 2) Set up informational meeting with mobilehome owners to take place 30 days after notice (Sec. 540-2.602(b)); 3) Provide notice to Rent Review Officer and Homeowner's Rep (Sec. 540-2.602(b). Rent increases can proceed unless petition filed for rent review.	Residents pay fee for processing petition (Sec. 540-2.804(d)); Park owner pays a hearing fee (Sec. 540-2.812); Regulatory per-space fee imposed on park owner (Sec. 540-1602)	35% of regulatory fees can be passed through to residents (Sec. 540-2.1602E)	—
Calistoga	State law limits (does not apply to spaces subject to an agreement longer than 12 months per Civil Code Section 798.17; does not apply to newly constructed spaces per CC 798.45)	Planning and Building Director or other designee appointed by City Manager (Sec. 2.22.020)	Obtain petition from homeowners for rent review (2.22.090(D)); Remit "an informational questionnaire" to park owner after receiving petition (2.22.090E)) Assign arbitrator within 15 days (2.22.090(F)); Set hearing date between 10-30 days after assignment of arbitrator (Ibid.)	Set anniversary date for all rent increases (2.22.060); Council's consideration of amount of regulatory fee (2.22.190(B)); Review Ordinance after 5 years (2.22.250)	Provide at least 90 days notice to homeowner in advance of increase (Sec. 2.22.070); If increase larger than annual general adjustment: 1) set up informational meeting with mobilehome owners w/in 10 days of notice (2.22.070(B)(6)); 2) file CPA-verified financial documentation to City (2.22.070(C)); 3) set up mandatory mediation with homeowners w/in 20 days of notice (2.22.090(B)), if dispute not resolved, residents have 30 days to file petition.	City bears the costs but can be reimbursed through the imposition of a regulatory fee against each space (2.22.190(a))	50% of registration fee may pass through to resident (2.22.190(E)(1))	Yes, park owners must register by September 30th and change of ownership (2.22.190C)

<u>Annual General Adjustment</u>		
	Implementation	Banking Increases
Contra Costa County	The greater of: 75% of CPI with a cap of 3% (Sec. 540-2.404(a)(2)); or Two Percent (Sec. 540-2.404(a)(1))	Silent
Calistoga	The lesser of 100% of CPI (Sec. 2.22.070(A)(1) or 6 % of base rent (Sec. 2.22.070(A)(2))	Silent

<u>Individualized Adjustments</u>		
	Definition of Fair Rate of Return	Procedure
Contra Costa County	Generally undefined; "Maintenance of Net Operating Income" when considering Major Rent Increases (Sec. 540-1.1006)	There are procedures for implementing 4 types of rent increases: 1) Annual General Adjustments (Standard annual rent increase) (Sec. 540-2.404); 2) Pass through of regulatory fee (Sec. 540-2.406); 3) Capital improvement increases (Sec. 540-2.408); 4) Major Rent Increase (Sec. 540-2.410; Sec. 540-2.1002). Hearing officer makes determination.
Calistoga	"Maintenance of net operating income" (2.22.110)	Arbitration Hearing (2.22.090(G))

July 21, 2018

To: Mayor Galbraith, Vice Mayor White, City Councilmembers Dohring, Koberstein and Ellsworth

CC: City Manager Mark Prestwich, Planning and Community Development Director Noah Housh

We want to thank you for your efforts to establish a Rent Stabilization Ordinance for Mobile Home Parks in St. Helena. We have read and discussed the proposed ordinance and have some questions and some suggestions.

1. Staff Report: The use of the term affordable housing was unfortunate. Some people here in Vineyard Valley thought you were meeting your affordable housing requirements "on the back of Vineyard Valley residents." The term Senior Housing or Senior Housing that is sustainable would be more acceptable and provide less opportunity for criticism.
2. Page 212 of 328 refers to Homeowners Representative and seems to indicate that this person would be part of a HOA. Our Homeowners Association is strictly social as designated in our Articles of Incorporation. We could find a suitable resident from our residents but he/she would not be part of the HOA.
3. Page 212 of 328 refers to Housing Service and that is a new category to us and likely to the owners. We had streets repaved last year and it was passed through to us as a Capital Improvement. This seems to indicate that it should be Housing Service. Actually, you talk about three classifications. Housing Service, Capital Improvements and Substantial Rehabilitation. This needs to be defined clearly and the definitions need to be located close together in the definitions so they can be compared.
4. Page 216 of 328 item 2 refers to a space being exempted from the provisions of this Chapter because it is the subject of a rental agreement pursuant to California Civil Code Section 798.17. We have read that Civil Code as well and still don't know what you are saying here. Please give us an example of what this means. Does this refer to Homeowners who choose to sign a lease?
5. Page 217 of 328 talks about the permissible annual increase in rent being the lesser of One hundred percent of the Percentage change in the CPI or Six percent of Base Rent. This is contradictory to pages 222 and 223. Please explain
6. Pages 222 and 223 of 328 discusses Net Operating Income adjusted to 75% of the CPI. The formula for Fair NOI is Base year NOI x (1 + .75) % change in CPI.
7. The CPI for June of 2018 for the Bay Area was at 3.9%. If we were to pay 100% of this we would be paying more rent than we do now. We would likely not accept this unless the 75% of the CPI were the metric.
8. Page 229 of 328 talks about fees for administration including the costs of mediation. First it says the City will assume the charges. Then it says the costs will be divided between the owners and the residents who have chosen the RSO program. This could become a stumbling block for people who are unsure whether to enroll in the RSO. In Calistoga they pay .87 monthly and the City uses this money to establish a fund for mediation. If a dispute rises to a higher level and goes to court the City has absorbed the costs. We don't know how you can modify what you have written but this needs to be modified.

9. We need some explanation of 9.24.080 on page 218 of 328. First of all, does this only apply to renters with a lease because it says it applies “except a notice of Rent Increase pursuant to Section 9.24.070?” The second question is whether the owner is required to show things like water and garbage that are passed through to all tenant with absolutely no opportunity to view the original bill? Since we don’t have individual water meters like they have in the Calistoga Mobile Home Parks we have always wanted more information. Again, if you sign up for the RSO you are not privy to this information, right?

We really appreciate your efforts to establish this ordinance and understand that it requires a great deal of research, and expertise to write the same. We would however, be ever so grateful if you could write things like this that consumers should read in some kind of language not requiring a Law degree to understand. This last comment is really directed at the City Attorney but we know he works at the pleasure of the City Council so you would have the power to change this. We remember when insurance companies started to write insurance policies in understandable language. We have encouraged VV residents to read this and after having read it three times without clear understanding it seems like maybe we made a mistake by encouraging people to read the document. It is always good to have a choice and this allows that to happen. It appears that our rent would go up more than it does now but we would have the protection necessary if the Park were sold and the owners would not be able to increase the lot rent if and when we sold this house. So, for people on fixed income they have to consider whether having an annual rent increase greater than it is now could be offset by the other two advantages of the RSO. Even the fees for arbitration as set forth in this ordinance could be a large burden. Once again thank you very much for your efforts.

Pat Dell and Grace Kistner

25 San Juan Court, St. Helena, CA. 94574

Cindy Tzaopoulos

From: Anita Peters <anitamons@gmail.com>
Sent: Monday, July 23, 2018 9:09 AM
To: Cindy Tzaopoulos
Subject: NEW BUSINESS: Rent Control for Vineyard Valley Mobile Home Park.

>>>> Dear St.Helena City Council Members,

>>>>

>>>> Vineyard Valley has been my residence for over two years. The grounds, amenities, security, improvements and maintenance are excellent.

>>>>

>>>> A resident of one of the Calistoga mobile home parks and an employee of one in Windsor told me that rent control has caused a decline in their services. Enforcement of rules and regulations in these two mobile home parks has also become lax as a result of not having the money to hire managers.

>>>>

>>>> A long term lease is favorable to me. I am worried that rent control may create a myriad of state regulations that will result in the deterioration of all the services I appreciate at Vineyard Valley Mobile Home Park.

>>>

>>> Vineyard Valley is a community and all residents must have a voice before the city government decides to impose an ordinance of any type.

>>>>

>>>> Sincerely,

>>>>

>>>> Anita M. Peters

>>>> 8 Los Robles Court

>>>> St. Helena, Ca. 94574

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Cindy Tzaopoulos

From: Mariam Hansen <wartuhi@comcast.net>
Sent: Monday, July 23, 2018 12:57 PM
To: Cindy Tzaopoulos
Subject: July 24 10.1

Dear City Council,

It came as a great shock to most Vineyard Valley residents to learn that a rent control ordinance was to be considered on July 24. Friday 13th July lived up to its name. I'm told that a small group of VV residents have been working on it with the city and that it came about because Erika Sklar from Our Town St. Helena said it should.

According to some, residents of Vineyard Valley are clamoring for rent control. This is probably not the impression Councilwoman Koberstein got when she attended a community meeting at Vineyard Valley on July 18. Almost everyone is very happy with the way Vineyard Valley LLC has treated them. When admonished for not informing the public that a rent control ordinance was being written, Councilwoman Koberstein stated it was the fault of Vineyard Valley residents for not knowing what the city's goals are!! Let the residents have a voice—put it to vote!!

Everyone who moves into Vineyard Valley (VV) signs a lease of at least 7 years. State law says rent control does not apply to mobile home park lots covered by an agreement longer than 12 months.

At the end of each lease term the VV office automatically sends out a new lease to be signed. Tenants have a choice to sign or not. Out of about 250 lots, only 19 do not have a lease.

Leaseholders know with certainty their rent will go up 3% a year.

Just look at the new bureaucracy the city must pay for:

- New rent review officer must be appointed.
- City must register each lot and collect a regulatory fee -set anniversary date for all rent increases
- set regulatory fee
- choose Consumer Price Index date
- verify CPA documentation submitted by landlord
- Accept petitions from tenants objecting to rent increase
- Organize a hearing for petitioners -Collect petitioners and landlord processing fees
- Assign a hearing officer to a petition
- Receive notice from landlord as to which lots are subject to rent increase
- Review petitions and verify requirements are met -Assign mediator and set meeting with tenant and landlord

And more

Keeping St. Helena affordable is certainly a lofty goal, but economic forces beyond the control of the city government are jacking up the cost of living in St. Helena. Every time the Chamber of Commerce sends out an email they advertise St. Helena lifestyle. Visitors become buyers and bid up the cost of even the most modest house. The city itself is responsible for the panic that ensued in VV over the astronomical water and sewer rate increase last year and more increases are yet to come. City is responsible for requirements that jack up the cost of building anything in town. City rules allow multiple middle class

houses to be demolished every week, to be replaced by luxury homes. Example: 1814 Spring, 1504 Stockton, etc. Just walk from Spring down Allyn.

May long time residents are fed up with the growth in tourism, tech millionaires, traffic, living costs. They are tired of the deserted neighborhoods on week days and influx of partiers on the weekend. Yet they are happy to sell their property for an astronomical sum and move out of state. Congressman Mike Thompson's cousin is the latest one to announce his departure.

Rent control in Vineyard Valley will not put a dent in any of this.

Best wishes,
Mariam Hansen

Cindy Tzaopoulos

From: lupejazz <lupejazz@sbcglobal.net>
Sent: Tuesday, July 24, 2018 4:46 PM
To: Cindy Tzaopoulos
Subject: Rent Stabilization aka Rent Control

Dear Miss. Tzaopoulos,

RE: RENT STABILIZATION AKA RENT CONTROL

Allow me to introduce myself, my name is Lupe Bengel. I, along with my husband David Bengel, are residents of beautiful, Vineyard Valley (VV) here in lovely Saint Helena, since approximately, January 2006. And, I would like to share with you and City Council of St. Helena the following.

Before we purchased our home we read, and then had an in person meeting with Vineyard Valley (VV) mgmt., making sure we understood our lease/rent agreement. We were owners of our house BUT, not the land it sits on.

Our yearly basic base Space rent (MINUS: water, sewer surcharge and garbage) is calculated at 3% per a formula devised to be fair by Owners. And, we agreed, signed and understood what this land lease for our house with VV entailed. So far, the land rent formula is working. And, so far, we are able to financially afford this formula. Also, one can see by the beautification projects of the past, present and current maintenance of VV grounds and amenities, that our current owners and management are fair and diligently work at making and keeping VV a desirable and unique mobile home park. The best in the West!

If you haven't yet had the opportunity to visit our beautiful, peaceful and welcoming Vineyard Valley Mobile Home Park, please do so.

Therefore, in regards to the subject of "Rent Stabilization aka Rent Control" being proposed before the City Council of Saint Helena at tonight's Council meeting, my husband and I, are expressing this proposal is NOT FAVORABLE in our humble opinion.

Respectfully,
Lupe and David Bengel
11 Laguna Seca Court
Saint Helena, CA
707-312-9062

Sent via my Samsung Galaxy, an AT&T 4G LTE smartphone

7/23/18

Dear St. Helena City Council Members and City Manager,

I am writing this letter to strongly recommend that you adopt a Rent Stabilization Ordinance (RSO) similar to the one we have in Calistoga to protect the mobile home owners in your community from excessive space rent increases and use of leverage by park owners to increase rents when homes are sold.

I am probably the person most familiar with the RSO in Calistoga, and I could write volumes about its background and history, so I will try to be brief.

For background and updated knowledge concerning mobile home rent control, however, I would recommend the attorney Will Constantine. I have spoken to him on the phone, and paying for an hour of his phone or skype time would, I think you would find, be extremely worthwhile.

William J Constantine Attorney At Law
303 Potrero Street
Santa Cruz, CA 95060-2741
Phone: (831) 420-1238
WConst1238@aol.com

Our ordinance provides protection for homeowners while assuring park owner a fair return on investment.

The idea behind our ordinance is to give park owners a basic market rate at the ordinances inception and then allow annual increases to allow for inflation of their ordinary expenses while considering larger increases for extraordinary expenses when justifiably called for.

The alternative usually amounts to what park owners call “market” increases which amount to competition among parks to raise rents (and an ever changing market rate) to reflect what the market will bear, or as much as they can get to reflect the state of the market - a dizzying process where only the homeowners suffer.

When Chateau Calistoga Mobile Home Park was sold several years ago, the new owner met in mediation with a group representing most of the homeowners in the park. He proposed a \$200/month rent increase over a period of three years. For whatever reason (although RSO arbitrations had succeeded in the past) the homeowners (represented by the GSMOL attorney) agreed.

A dozen homeowners held out, acquired pro bono legal assistance from a large firm, went to arbitration - and won. Rather than a \$200 rent increase over three years, they paid about \$8.00/year annual CPI increases.

In Calistoga, to my understanding, the ordinance has only suffered as a result of the city not keeping tabs on its own attorneys. The city won't look at possible revisions to the ordinance at present for fear of pressure from the park owners. The mayor claims that the city spent over a million dollars fighting appeals made by a park owner - all of which were won by the city.

Although there is a fund supported by park owners and homeowners to pay for the original arbitration, appeals must be paid for by the city.

With this knowledge, homeowners at Rancho acquired pro bono help for the city from a large S.F. Law Firm when the owner appealed an arbitrator's decision. I was informed by a member of that firm that their resources

were not being properly utilized, so the city itself has only itself to blame for the inflated expense.

I am going to propose two changes to our ordinance that you might incorporate into yours if you adopt it. I would consult with Donald P Davis who I believe is still a member of your city attorney's firm concerning these changes. In a manual for Arbitrators written in 1994 Davis indicated that nearly half of an annual CPI increase went beyond inflation to "profit" for the park owner. I would suggest that you change the 100% CPI increase to 50 to 75% in the interest of fairness to the homeowner.

Also, our Social Security increases are based on the national CPI, while the park owner's annual rent increases are based upon the S.F.- Oakland Bay Area CPI which has been on average 20% higher over the past 25 years.

I would be glad to try to answer any other questions you may have.

Marvin Braun
21 Rockrose Lane
Calistoga, CA 94515

Phone 707 942-5317

marvinbraun@sbcglobal.net

St. Helena City Council Meeting, July 24, 2018

I am Nora O'Neill, and I live in the Vineyard Valley Home Park. I am here tonight to support Mr. Greg Reynolds and the owners of Vineyard Valley and to urge the members of this City Council to cease their "Review and Discussion" of unneeded rent control in this privately owned home park.

Vineyard Valley is an idyllic setting in this beautiful little town, and the owners are exceptionally good landlords, who work hard to keep the idyllic nature of The Park intact, making residents feel at home and keeping the cost of living there affordable. We enjoy a beautiful swimming pool, hot tub, club house, putting green, walking trails, game rooms, exercise gym, workshop, library, and Park social events, not to mention the beautiful overall garden environment. I have lived in Vineyard Valley for 7 years and have never had a problem. Whenever I have had a question about something, the staff has responded promptly and efficiently to answer it.

At the emergency meeting in the Park last Wednesday to inform us on this subject, it appeared that 90-95% of the homeowners had been blindsided by this whole matter. It seems the rent-control concept came about in response to a small few and not the vast majority of the residents. The residents of Vineyard Valley are in no need of Government intervention and oversight.

The added costs brought on by increased staff time required to handle the regulatory oversight of this rent-control concept would be an unnecessary burden to the City of St. Helena and to the owners of Vineyard Valley and would have a negative effect on our home values and our living environment.

None of this is needed, and none of it should be pursued. Again, the overwhelming majority of residents in the Park were not aware of and do not support this potential regulation. Thank you.

Cindy Tzaopoulos

Subject: FW: Rent Control

From: Christine Talley <talleysaint@aol.com>

Date: July 31, 2018 at 12:40:47 PM PDT

To: mkoberstein@cityofsthelena.org

Subject: Rent Control

Hi Mary,
I live in Vineyard Valley. I was at the meeting in Vineyard Valley where you and Mr. Reynolds attended.

I would like to see the rent control go into affect here in VV. I am a widowed senior living only on my SS and pension.

There are quite a few of us here who are similar.

Lately, the tenants moving in here are couples with 2 incomes coming from expensive homes which they sold and do not care if the rents continue to

go up.

Those of us who have lived here for more years do not have that kind of income, that's why we moved into manufactured homes.

St. Helena needs to have more low income housing and VV should be that way.

Mr. Reynolds the owner just wants to make money. He says he put a lot of money into beautification of the property. However, it is just for his ability to sell

the homes at a higher price.

Thank you for trying to help us.

Christine Talley

Nora O'Neill

37 Laguna Seca Court
St. Helena, CA 94574

July 31, 2018

The City Council
City of St. Helena
1480 Main Street
St. Helena, CA 94547

Members of the City Council:

I am writing to you in connection with your consideration of rent control for Vineyard Valley.

World-renowned economist Thomas Sowell, PhD, Economics, Senior Fellow at the Hoover Institute at Stanford University, has said, *"The biggest economic fallacy of housing is that 'affordable housing' requires government intervention."* Below is a synopsis of Dr. Sowell's comments on rent control, taken from an interview he did on February 10, 2014, in connection with his book, ECONOMIC FACTS AND FALLACIES:

Before rent control was enacted, there were more people living in housing and government housing projects in San Francisco and New York City than there are now. San Francisco and New York City have had rent control for many, many years. Today, these 2 cities have the highest rent prices in the United States.

With rent control, people either reduce the number of houses they build, or they stop building houses altogether because, with rent control, there is no longer an incentive to invest in housing; and, they put their money elsewhere, such as in stocks and bonds.

Rent control leaves political authorities with the predicament of having no new houses being built while, at the same time, the old houses are wearing out, usually wearing out faster under rent control because the landlords don't have the incentive to keep up the properties as much.

So, the politicians say, we are trying to protect the poor, so we won't regulate luxury housing. Of course, affordable housing and luxury housing both use the same labor and materials. Consequently, in this situation, all the labor and materials that would have gone to ordinary housing goes to luxury housing because that is where the money can be made, hence, no new ordinary housing is being built.

Before government intervention became pervasive in the housing markets, we find people were paying a smaller percentage of housing at the beginning of the 20th Century than at the end of the 20th Century.

1901 -- housing was 23% of the average American family's spending

2003 -- housing was 33% of a far larger amount of the average American family's spending

The City Council of St. Helena, CA
 July 31, 2018
 Page 2 of 3

What happens is that the politicians end up restricting the amount of housing that can be built; and, the basic law of supply and demand dictates that if you restrict the supply while the demand is growing, the prices will go through the roof.

WHO BENEFITS FROM THE RENT CONTROL ARRANGEMENT?

The politicians gain most of all – they get the reputation of being for the poor and downtrodden, they are setting aside “affordable housing” units, they are preventing some evil landlord from raising the rent through rent control, and they are able to keep the public paranoid that, if they take away the rent control, there will be sky-high pricing. So, the politicians gain from this.

Both the landlords and the tenants lose. They lose in different ways and to different extents. Tenants lose because they cannot find a place to live; landlords lose because they do not make the profit they would have made otherwise. In addition, the builders lose because there is no demand for building condos and apartments if no one can make a profit from it.

Where builders are allowed to construct homes and apartments without severe government restrictions, even growing populations and rising incomes do not cause housing prices to shoot up because the supply of newly constructed housing keeps up with the growing demand. Example: Contrast Houston vs. San Francisco:

In 2014 it was estimated by a real estate company that the average house in Houston cost \$155,000, while the average house price in San Francisco was \$1.5 million. Houston does not have zoning laws; however, in California, there are many, many laws and regulations, planning commission reviews, hearings, expensive fees every step of the way, etc., etc.

Let’s review why this housing shortage exists in St. Helena. A lot of the problem stems from the Ag Preserve back in the 1980’s, where one of the “selling points” of the Ag Preserve to the voters at the time was to “keep Napa Valley from being filled with condos and apartments, which would make Hwy 29 a parking lot!” Consequently, with the Ag Preserve in place, the development of Napa Valley was practically all focused on vineyards and wineries, with hardly any thought given to the future need for housing.

We have ended up with tons of vineyards and wineries, yet all of their employees (plus the teachers, restaurant workers, general business employees, and city employees) need housing; but, there is no housing because of the Ag Preserve’s resultant limit on condos and apartments. Instead, everyone put in vineyards and wineries, and the builders were left with only building wineries and luxury homes for the rich. Worst of all, not only is Hwy 29 now a parking lot for traffic, but also, the Silverado Trail is now a parking lot because of the employees who have to commute to their jobs due to the lack of housing.

Adding rent control to this mix only makes the housing problem worse – it does not fix the cause of the problem, but only adds a Band-Aid. Thus, no end is in sight for the lack of housing, which will go on, and on, and on.

The City Council of St. Helena, CA
 July 31, 2018
 Page 3 of 3

As I advised you at the July 24, 2018, City Council Meeting, Vineyard Valley is an idyllic setting in this beautiful little town, and the owners are exceptionally good landlords, who work hard to keep the idyllic nature of The Park intact, making residents feel at home and keeping the cost of living there affordable. We enjoy a beautiful swimming pool, hot tub, club house, putting green, walking trails, game rooms, exercise gym, workshop, library, and Park social events, not to mention the beautiful overall garden environment. I have lived in Vineyard Valley for 7 years and have never had a problem. Whenever I have had a question about something, the staff has responded promptly and efficiently to answer it.

At the emergency meeting held at Vineyard Valley to inform us on this subject, it appeared that 90-95% of the homeowners had been blindsided by this whole matter. It seems the rent-control concept came about in response to a small few and not the vast majority of the residents. The residents of Vineyard Valley are in no need of Government intervention and oversight.

The added costs brought on by increased staff time required to handle the regulatory oversight of this rent-control concept would be an unnecessary burden to the City of St. Helena and to the owners of Vineyard Valley and would have a negative effect on our home values and our living environment. None of this is needed, and none of it should be pursued.

Does the City of St. Helena want to lead the whole Napa Valley down the cumbersome, highly regulated, and costly road that rent control would lead to? Rent control is not a good option for St. Helena nor for the Napa Valley.

The housing problem needs to be met head on. I think it would be a good thing for you to investigate encouraging landowners, through tax incentives, etc., to build some apartment buildings on some of their property. Also, I think the wineries should work together to build housing – they have the land, and they are the major cause of this housing shortage. Perhaps they could take half of their proceeds from their wine auction every year and build housing to alleviate the problem they are responsible for creating. If the wineries can afford to pay \$90,000 every year to completely rebuild the 9th hole at Meadowood, after it is damaged from the Wine Auction, they can certainly afford to build housing throughout this Valley. They have a big responsibility for this housing shortage in Napa Valley, and they should be willing to help solve the problem.

Thank you,

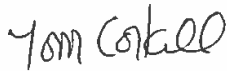
Nora O'Neill

July 31, 2018

City of St Helena
Geoff Ellsworth
1480 Main St.
St. Helena, Ca. 94574

Mr. Ellsworth,

I am writing to you to let you know that as residents of Vineyard Valley we do not support the rent control ordinance that is under consideration by the city council. The park is run beautifully and is the most affordable housing option in St. Helena. We do not need another costly layer of government bureaucracy when there is an existing option of a long term lease that insures affordability. It is my understanding that the vast majority of VV residents are not in favor of rent control.





Tom & Leanne Corkill
20 Del Rio Court
St Helena, Ca. 94574

Cindy Tzaopoulos

From: Patricia Rardin <patriciarardin@gmail.com>
Sent: Sunday, August 05, 2018 1:40 PM
To: Cindy Tzaopoulos
Subject: Rent Stabilization Ordinaance

Attn: Mayor Galbraith, Vice Mayor White, Councilpersons
Dohring, Ellsworth and Koberstein

My name is Patricia Rardin, age 97, tenant of Vineyard Valley
for over 6 years.

I am writing to indicate that I am in favor of the Rent
Stabilization Ordinance. I like the fact that I would have the
choice of signing a long term lease or paying my rent on a month
to month basis.

I like the fact that there is some control in the lot rent that
the owners can charge prospective buyers if I sell my home.
I also like the fact that there is protection of the amount of
my rent if the park were to be sold.

I intend to live the rest of my life here and like the financial
security this ordinance would provide for me.

Thank you for your consideration

--

Carpe Diem

Patricia on Cloud Ten

Cindy Tzaopoulos

From: Mark Prestwich
Sent: Monday, August 06, 2018 8:18 AM
To: Cindy Tzaopoulos
Subject: FW: Rent Stabilization

FYI

From: Thomas Pickering <bigpickill@me.com>
Sent: Sunday, August 5, 2018 11:48 AM
To: Alan Galbraith <AGalbraith@cityofsthelena.org>; Mark Prestwich <MPrestwich@cityofsthelena.org>
Cc: Peter White <PWhite@cityofsthelena.org>; Mary Koberstein <MKoberstein@cityofsthelena.org>; Geoff Ellsworth <GEllsworth@cityofsthelena.org>; pdoring@cityofsthelena.org
Subject: Rent Stabilization

August 5, 2018

Saint Helena City Council

Re: Rent Stabilization for Vineyard Valley

I am writing this letter to suggest that rent stabilization for the park seems like a good idea, one that should be discussed in greater detail at the upcoming meetings at Vineyard Valley with Mary Koberstein and Mark Prestwich.

I have read through the note from the City Council titled "Some Questions About Rent Stabilization" dated July 24, 2018. While it answered many of my questions, there are still some I have. Believe me when I say that most people in the park have not read this document and it will be informative for many.

Thomas Pickering

11 La Cuesta Court

Saint Helena, CA 94574

Cindy Tzaopoulos

From: James Wayson <jwandms@pacbell.net>
Sent: Sunday, August 05, 2018 12:44 PM
To: Cindy Tzaopoulos
Subject: Rent stabilization

As residents of St. Helena and Vineyard Valley, we would like to go on record as supporting the proposal for rent stabilization.

Marianne Sylvia, 8 Del Rio Ct., Saint Helena, Ca.
James Wayson, 8 Del Rio Ct., Saint Helena, Ca.

Cindy Tzaopoulos

From: Mark Prestwich
Sent: Tuesday, August 07, 2018 11:23 AM
To: Cindy Tzaopoulos
Subject: FW: Stabilization of Rent

FYI

-----Original Message-----

From: Keith Eaton <william1946@comcast.net>
Sent: Monday, August 6, 2018 1:00 PM
To: Mark Prestwich <MPrestwich@cityofsthelena.org>
Subject: Stabilization of Rent

My wife and I have been residents of Vineyard Valley for more than 14 years.

We believe that the Rent Stabilization ordinance will protect our future financial security and keep the homes in Vineyard Valley as an affordable option for Saint Helena seniors.

We are in favor of the Rent Stabilization Ordinance.

Thank you for your work in keeping affordable housing possible in Saint Helena.

Jane and Keith Eaton

Sent from my iPhone



7/13/18

It disappoints us to share with you today that the City of St Helena came to us 4 days ago to announce that you, the residents in VV had asked that a rent control ordinance be put in place.

It saddens us mostly that there was apparently a disconnect between residents and ownership and that the first hint of that disconnect was an ordinance presented to us on Tuesday by the City Manager and 2 council members.

We have kept our promises to you with the rebuild of many areas in the park. Back in 2013 we told you “your home is our home”, we have expended great energy and expense to reconstruct and reinvest in your community since Dick McDonnell’s passing. We have communicated honestly and brought new and capable folks to manage the office and landscape of Vineyard Valley. We have heard positive comments from many of you on these improvements in leadership, property amenities, safety and beautification. We have also seen tremendous strides by VVHA to bring this community together again. We believed we were on the upswing.

Whoever has decided to speak on your behalf perhaps without your approval should come forward and explain this action to you first. If you have real concerns demonstrate some respect for parties involved and communicate first with all the residents and then please come to leadership. If consensus has been reached then please share how and when that happened and more importantly why this is good for the residents.

I would encourage all of you to examine other data on rent control. Put your questions and comments together. We will make ourselves available for conversations on this topic next week. This represents a sea change for us in the way this community is operated. **You should be consulted first and then you should be sure this is what you want.**

Vineyard Valley Leadership

290 Pope Street • St. Helena, CA 94574 • (707)963-2725
vineyardvalleymhp@gmail.com

VINEYARD VALLEY COMMUNITY MEETING
WEDNESDAY JULY 18, 2018 3:30 PM, VV CLUBHOUSE

RENT CONTROL/STABILIZATION

This is a very important meeting and all should attend. It is in regards to the letter that was sent out to all residents on Friday, July 13 and the item on the City Council agenda for July 24th. It affects all of us that are homeowners in the park. If you need assistance to get to the clubhouse please let the office know and they will send someone to get you. The panel will consist of City Council Member Mary Koberstein, Park Owner Greg Reynolds, Doug Johnson from WMA and a spokesperson for the residents that have been involved in this without us.

The agenda for the meeting is posted on the main bulletin board at the Mail Room



VINEYARD
VALLEY

Sunday July 29, 2018

Dear Vineyard Valley Resident

Just A huge note of **Thanks** for your support and involvement over the last few weeks. You took what was quite the stealth operation and turned a big light on it. We received a number of letters in support of leaving Vineyard Valley's rent increase formula alone. We would appreciate it if you are in favor of **no change** that you too might contribute a letter that we can share with the Mayor and City Council. Please write your letter and either email it back or drop it by the office and we will deliver it to City Hall.

I have included 3 wonderful examples of opinions expressed by a few of your fellow homeowners. Please have a read and then put your thoughts on paper and share them. They don't have to be long they just need to express **your view**.

Additionally We would like to hear from you if there are any questions or concerns you may have about the proposed rent control ordinance and how it may affect residents here at Vineyard Valley. We will do our best to answer those issues. We can protect your confidentiality if you wish, in either one of these exercises.

Thank You again for your support, more education to follow.

Greg Reynolds

Leadership Team



July 30, 2018

[REDACTED]
[REDACTED]
St. Helena, CA 94574

Dear [REDACTED],

With a Rent Ordinance in full discussion at City Hall there is a real chance it could be approved. If it's approved you, as a month to month renter (no current lease on file), may be subject to carrying 50% of the Fees the city imposes on the park. There are just 19 of you which means depending on the size of the fees this could be an expensive endeavor upsetting your planned budget. If you would like a rent prediction you can count on please come and see Shelly in the office and she can provide you a short term lease to address this brief economic uncertainty.

Regards,

Greg Reynolds
Leadership Team

290 Pope Street • St. Helena, CA 94574 • (707)963-2725
vineyardvalleymhp@gmail.com

From: Vineyard Valley MHP [<mailto:vineyardvalleymhp@gmail.com>]

Sent: Friday, August 03, 2018 4:42 PM

To: Jeanne Wilson

Subject: 45 Years Family Owned and Operated

When people ask me about my love of wine in the Valley, usually in that discussion I mention that my support of small family owned wineries is at the top of my list. The wines are crafted with care and delivered from people that seem genuinely concerned about their product and me, their customer.

The challenge today in the Valley is that locally operated wineries have been scooped up by large corporate entities and that after a few years the relationships with wine makers, vineyard managers and ultimately their customers suffer greatly. Something special is lost.

I consider our ownership and stewardship of Vineyard Valley that of a family owned and operated business. A winery, a local restaurant, a family owned mobile home park, 45 years in the making. We are not even as corporate as Meadowood although we have been recently compared to them in front of City Council.

As you see businesses leave St. Helena and wineries get scooped up by large global concerns I would ask that you put us in a different category and support us. Please voice your opposition to the Mayor and City Council on this pending Rent Control Ordinance. The City is not a Corporate Entity but they can exercise their oversight in a way that will change the way we are owned and operated, ultimately affecting you our customer. It has taken a long time to make this good wine and we have stayed the course. Please support our position.

Send us your letters for City Hall and share any questions and concerns you may have.

VV Leadership Team

Michael Merriman
4 La Cuesta Court
Saint Helena, CA 94574

August 4, 2018

Mark Prestwich
City Manager
City Of St Helena
1480 Main Street
St. Helena, CA 94574

Dear Mark,

As the discussion of the merits of a Rent Stabilization Ordinance (RSO) continues, it is important to point out the often-questionable steps that the owners of Vineyard Valley are taking to combat the passage of such an ordinance.

1. Upon learning of the city's desire to move this ordinance in a meeting with you on Tuesday, July 10, 2018, they embarked on an organized campaign that included the hiring of a paid lobbyist from their powerful park-owners' organization (WMA). [see attached]
2. On Friday, July 13, 2018, at the close of the business day/week, they distributed an inflammatory and divisive letter to all tenants, suggesting that this effort was somehow done in secret and it would behoove the tenants to search out the perpetrator(s). [see attached]
3. Ownership arranged for a meeting of all tenants, so they could present their position on Wednesday, July 18, 2018, a meeting that was chaired by the President of our Homeowners' Association (thereby intimating that the tenants' association was supportive of the owners' position). This meeting was highly contentious and, although Council Member Koberstein represented the city's position in a very logical and clear presentation, ownership played on the emotions of the tenants rather than presenting factual material. [see attached]
4. On Sunday, July 29, 2018, a letter was sent to tenants from ownership characterizing the RSO as "quite the stealth operation..." and asking tenants to begin a letter-writing-campaign to The City in *protest of the proposed RSO*. They even attached three example letters from which to crib. [see attached]
5. Another letter, July 30, 2018, was sent to the 19 lapsed residents that asked them to renew their leases (and waive their right to the RSO) because they might be saddled with a crippling assessment of fees should they operate under the protection of the RSO. [See attached scare tactic letter. I have been approached by two of these confused and panicked residents seeking clarification.]
6. On Friday, August 3, 2018, again at the close of the business day/week (a strategy in-and-of-itself) they sent, to all residents, another, second letter painting themselves as a "family owned and operated business" when, in fact, they are a corporation of faceless investors (LLC). In this letter, they point out that many family-owned wineries are being "scooped up by large corporate entities..." and they try to make the connection that fighting the RSO will prevent that fact here. ***In reality, this is exactly the reason that we NEED the RSO!*** [see attached]

Mark, I expect more action from ownership as they battle against the RSO. I would hope that The City and the Council maintain their firm resolve and move this important ordinance to the finish line. We need it for the protection of our futures and protection of Vineyard Valley as an affordable solution for senior housing.

Sincerely,
Michael Merriman
Vineyard Valley Tenant

Cindy Tzaopoulos

From: Mark Prestwich
Sent: Wednesday, August 08, 2018 10:48 AM
To: Cindy Tzaopoulos
Subject: FW: RSO

FYI

-----Original Message-----

From: pinutbutter2@gmail.com <pinutbutter2@gmail.com>
Sent: Tuesday, August 7, 2018 4:46 PM
To: Mark Prestwich <MPrestwich@cityofsthelena.org>
Subject: RSO

Hi Mark,

I am a Vineyard Valley resident and I am in favor of this ordinance.

Cathy Small

Cindy Tzaopoulos

From: Kinney / VanNett <Steveandmae@comcast.net>
Sent: Wednesday, August 15, 2018 8:10 AM
To: Mark Prestwich
Cc: Cindy Tzaopoulos
Subject: Rent Stabilization

August 15, 2018

The City of St. Helena
1480 Main St
St Helena, California

Rent stabilization Ordinance

I am writing in support of the Rent Stabilization Ordinance. I feel this is a very important issue to the longevity of The Park and I would like to share my feelings on the matter.

First, let me state unequivocally that I love Vineyard Valley. Its beauty and sense of community are what attracted me. I am looking forward to spending the rest of my life here.

There has been a lot of talk concerning the Rent Stabilization Ordinance. A lot of it seems to ignore some basic financial issues facing us. In the last two years my fee has increased over 20%! To me this is an unsustainable growth pattern. I am fearful that I may not be able to afford to stay here if this continues

Much of the "maintenance", touted by Ownership, has been long overdue. Much of what's been done, pool, spa, etc., was due to their falling apart. Also, we are bearing a significant part of the tab for these "improvements". Again, look at the added fees for road and water. We have not had much, if any input, on these changes and decisions. Maybe it is the cynic in me, but I also feel that all these projects happening at once, points to a sale or re-organization of ownership.

I am happy that these issues have come to the attention of the city of St. Helena, and that they are working to keep this Park affordable for all of us

Steven Kinney
6 La Canada
St Helena, California

Attention Mayor Galbraith, Vice Mayor White, Councilpersons Dohring, Ellsworth and Koberstein

My name is Maureen O'Neill. My husband Tom and I moved to Vineyard Valley in the Year 2000.

We intend to live out our days here and believe the rent stabilization ordinance would give us some financial security we currently do not have.

We like the fact that the ordinance provides some control over the increase in lot rent if we would have to sell our home.

We like the fact that the rent increase is tied to the CPI. Even though our present lease provides only a 3% yearly increase there is no guarantee that at the end of our current lease the owners will not choose to raise it to a much higher level. This would cause a lot of us on fixed incomes to move.

There is no way to guarantee that the current owners will not sell the park. If the property were to be sold it is highly likely that the new owners will raise the rent as much as they want to as soon as our current lease runs out.

For these reasons and the fact that with the ordinance we have a choice of signing a long term lease or renting on a month basis I would ask that you approve this Rent Stabilization ordinance.

Sincerely,

Maureen O'Neill
Maureen O'Neill

6 Del Campo Court
Sain Helena, CA.

Cindy Tzaopoulos

From: Polly Keegan <pkeegan01@gmail.com>
Sent: Thursday, August 16, 2018 11:25 AM
To: Cindy Tzaopoulos
Subject: Mobile Home Rent Stabilization Ordinance

My name is Polly Keegan, I live in the Vineyard Valley Mobile Home Park.

I am FOR the ordinance named above, primarily to keep VV an affordable housing opportunity for many people. It has many options for opting in or out, and I feel it is fair and needed. Every time a new house sells, the owners raise the monthly rent fee significantly.

Some people in the Park are afraid that the owners do not wish to share their financials, and might sell the park rather than deal with government interference. Personally, I would like to view the "books" and understand where the +/- \$2M a year money goes, and wonder why they do not provide this information.

Thanks very much,

Polly

7 San Ardo Court

707-927-6666

August 1, 2018

To the Mayor & City Council of St. Helena,

We absolutely oppose the proposed Rent Stabilization Ordinance for Vineyard Valley Mobile Home Park. The owners & staff of Vineyard Valley are doing their job in maintaining a beautiful Park. This proposed ordinance will only bring discord & distrust.

NO, NO, NO, DO NOT ALLOW THIS ORDINANCE TO PASS!!!

Sincerely,

The image shows two handwritten signatures in blue ink. The first signature, on the left, is 'Ronald J. Burns' and the second signature, on the right, is 'Stephanie E. Burns'. Both signatures are written in a cursive, flowing style.

Stephanie & Ron Burns
4 Del Campo Court
St. Helena, Ca 94574

18 San Juan Ct.
St. Helena, CA 94574

August 9, 2018

City Council
1480 Main Street
St Helena, CA 94574

Dear Council Members:

I am a fairly new resident of Vineyard Valley, retired, living on a fixed income. Conceptually, I am in favor of the proposed Rent Stabilization Ordinance. I'd like to think I could afford to live out my golden years with some degree of financial certainty. And that I, or my heirs would have an easy time of selling my home without onerous economic ramifications when the time comes. Limiting annual rental increases would assist with that.

In an ideal world, a standard of fairness would apply to all inhabitants of Vineyard Valley. I would ask the council to make some changes to this ordinance. Particularly in the arena of rent increase and expense proration. While a CPI increase (with a cap of 6%) may be a common factor used by commercial property managers, does it really create equality between members of this community subject to this ordinance and those operating under a longer term lease? Until those long term leases are phased out, I would suggest an annual cap of 3%, conforming to existing leases, might be more appropriate.

I applaud the council's willingness to propose this ordinance, and look forward to further educational meetings and discussions.

Sincerely,

Cheryl Rorie
Vineyard Valley Mobile Home Park Resident

Cindy Tzaopoulos

From: Nura Laird <nuralaird@gmail.com>
Sent: Wednesday, August 29, 2018 1:31 PM
To: Cindy Tzaopoulos
Subject: rent stabilization ordinance

Dear City Clerk,

I write you at the suggestion of Pat Dell who, like myself, is a resident of Vineyard Valley.

I plan to attend the informational meeting this Thursday at the fire house, but before then, I appreciate the opportunity to convey to you two messages about this ordinance.

1. I am grateful to the Council for its concern about the scarcity of affordable housing in St. Helena, not just for me, but, more importantly, in principle. And I am grateful that the Council is spending time with us to inform us and answer our questions. I am in favor of the ordinance, and I have the same reservations as Pat Dell and some other Vineyard Valley residents.

2. I am a professional mediator, and I teach mediation in a University. The language in the "Definitions" section of the ordinance regarding arbitration/mediation is misleading and misrepresents the true intent and distinction between mediation and arbitration.

It would be awkward to explain this point fully in this email, so here I will just summarize. In arbitration, the arbitrator ultimately decides the matter between the parties like a judge would do. In mediation, the mediator facilitates the parties in deciding for themselves, empowering them to resolve their conflicts, and helps them achieve win-win solutions as best as possible. As you can imagine, most parties would prefer mediation in order to be given a fair chance at getting their needs met.

I would love the opportunity to clarify this point with you and/or the Council if necessary, but for now, I wanted the Council to hear this point from a professional mediator.

As the ordinance stands now, re these definitions, I could not in good conscience sign it; and I would want to educate others so that they understand this crucial distinction and so that they can sign or not with full understanding.

Thank you for your time and consideration.

Warmly, Nura Lora Laird

August 27, 2018

TO: Mayor Galbraith, Vice Mayor Peter White and City Council Members Geoff Ellsworth, Paul Dohring, Mary Koberstein

"WHAT IF"...

I first want to say I do not live my life based on "What ifs".

About this proposed ordinance to control rent at Vineyard Valley Mobile Home Park, I am opposed to anything that caters to FEAR. Make no mistake about it this proposal does. This is why:

I chose to and continue to choose to live at Vineyard Valley. I believe every resident here chose to live here. We all knew when we made this choice that we rented the land. I am not a victim and though I originally moved here in 1994 and my husband and I lost our home and all we had in the flood of 1995, (we had only 70% insurance coverage) I still was not a victim. I moved back here in 1999 and have lived here ever since.

I sold or was part of selling 100 homes that were "rehabbed" from the flood. I saw a community of and for seniors built again in this city. I never have seen greed nor lack of caring by the owner(s) of this Park. Instead I saw struggle to keep this Park here for Seniors and to maintain it through much hardship for many years. We have been more than fairly treated with our rent, our maintenance and our service here. There is NO EVIDENCE from our management that this will not continue.

I have read the City handout of July 24th titled "Some Questions About Rent Stabilization". On page one, Item 2, they tell me why they are "considering" a Mobile Home Rent Stabilization Ordinance—which by the way I do wonder why it was already written before open discussion and information was given.

In this explanation the City uses a fear based rationale in paragraph one - "IF the Park owner raises rent"... This is fear based. They then go on to use the income based City Care program for assistance in paying utility bills (of which I am one to use the PGE Care program but did not choose the city one) to justify putting a rent stabilization ordinance on us at Vineyard Valley is not sound reasoning. Using this program does not mean we need rent control and it doesn't necessarily mean we have trouble paying our rent. We already have rent stabilization as you must know by now. We have long term leases (if we choose them and those who do not are not charged any more) which define our increases. Because we may use this program does not mean we are victims or will be victims of the Park Owners and need protection from our City Fathers.

They go on to use the fact that approximately 100 counties and cities in California have adopted rent control ordinances. I say, "so what", maybe they needed and WANTED them. Then the last sentence and rationale of the City states is ..." to evaluate rent stabilization to help ensure long term viability of mobile homes as an affordable housing choice in the community".

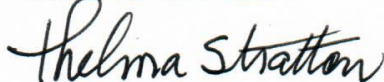
Well, we have been AFFORDABLE for a long long time. It was in 1994 when my husband and I first bought here and affordable long before that. Again there is no indication that we will not remain that way and without rent control/stabilization.

I am opposed to anything that caters to FEAR otherwise I could now fear that I couldn't sell my house at market value under these new ordinances or WHAT IF the city may put this in as a deed restriction in the future sometime, OR WHAT IF the city decided to make this into a "family park" and on and on.

I am more than dismayed by the way this process has taken place. It has made it much more difficult if not now impossible to maintain an open mind which I feel is necessary for me and all others in decision making.

I ASK YOU TO LET THIS GO AT THIS TIME. IF ANYTHING SHOULD EVER BE NEEDED IN THE FUTURE IT MUST START WITH OPEN DIALOG AND TO BE OF LASTING VALUE MUST BENEFIT ALL.

THANK YOU VERY MUCH.



Sincerely,
Thelma Stratton
23 San Lucas Court
Saint Helena, CA 94574

Robert R. Distad
5 Del Monte Court
St. Helena, Ca.
94574

September 9, 2018

St. Helena City Council
City Hall
1480 Main Street
St. Helena, Ca. 94574

Re: Housing Goals & the proposed Rent Stabilization Ordinance

Dear Mayor Galbraith, Vice Mayor White and Council Members Dohring, Koberstein and Ellsworth:

I write in support of your efforts to accomplish your 2017 Council goal to "Stabilize, Maintain and Improve Access to Housing" in St. Helena.

I have read the White Paper prepared by Ms. Ericka Sklar and am impressed with the breadth of her analysis, and am consequently concerned by the complexity and interrelatedness of the many factors you must deal with in your efforts to address the challenges and recommendations identified in her report.

At the outset of her report one of her phrases that caught my eye and continues to resonate with me is the following:

"It is clear from a review of population, housing and employment data that there is a mismatch between housing affordability and income for both St. Helena residents and employees."

I think we all know what this means, and are also quite aware of what its implications are for St. Helena if no effort is made to address the status quo. While funding mechanisms necessary to undertake the initiatives Ms. Sklar identifies are complex and likely time consuming and costly, some of the regulatory proposals she identifies are less so, and are far more likely to produce a reduction in the cost of permanent resident housing in St. Helena.

Most particularly I call your attention to bullet point #3 on page 5 of the Reports Executive Summary:

- Establish rent stabilization ordinance for senior housing

I am aware of the controversy and concern that the introduction of this topic has made in the lives of Vineyard Valley residents and management. I live in Vineyard Valley and have listened to its residents, both proponents and opponents. It is of little value now to consider how or why the public engagement strategies recommended by Ms. Sklar in her report, and by City Manager Prestwich in his transmittal of that report to you for your June 26th Council Meeting, were not timely implemented. City residents' feelings have been hurt, tempers have flared, council members have been chastised for their efforts, and many minds have been firmly made up one way or the other as to the value and efficacy of the proposed rent stabilization ordinance.

Amidst all this heated discourse I am hopeful you will remain focused on your goal to maintain affordable housing for seniors.....mindful that it is a goal not just for today's challenging circumstances, but for the future as well.

If the past is any indicator of what is to come, what can St. Helena's senior residents expect in terms of future living costs:

-The cost of city provided services will continue to increase (water, sewer, garbage pickup and recycling, etc.)

-Any Social Security increases will be minimal. (2% in 2018, 0.3% in 2017, no increase in 2016, 1.7% in 2015, 1.5% in 2014)

-Medical Care costs will continue to rise. Medical Care inflation has outpaced the inflation calculated by the CPI-W in 33 of the past 35 years.

This is the same index that is used to determine whether and to what extent there will be an increase in Social Security payments.

-The cost of Medicare will rise. Medicare Part B premiums since their introduction 52 years ago in 1966 have risen at an annual compounded rate of roughly 7.7%. While future annual increases may continue to be mitigated by the current "hold harmless" clause (which restricts most enrollees rate increases to whatever the Social Securities COLA is for that year), the practical effect is that any social security increase is taken away by the Part B premium increase.

Here are the factors I believe should be of significance to you in your deliberative processes.

-Any St. Helena Senior on a fixed income will increasingly face agonizing decisions on how to spend their limited resources. Stories abound about seniors going hungry or, as bad, foregoing necessary medications because of their prohibitive costs. While this council is not responsible for addressing these significant public health issues, it certainly must be cognizant of them when considering what impact a rent stabilization ordinance might have on ameliorating these concerns.

-Your ordinance does not affect all Vineyard Valley residents. The Ordinance only applies to leases of 12 months or less. Most of us have long term leases and have every intention of renewing those leases upon their expiration. Since your Ordinance only affects those who choose to be covered by it, there is no meaningful unfairness or tangible harm visited on those of us who choose not to accept its coverage.

-I believe there are residents in Vineyard Valley, current and future, who could and will benefit from the Ordinance.

Do I know who? No—and I do not wish to know. I respect all persons rights to privacy.

Do I know how many? No, but in listening to conversations at gatherings and events, I hear & learn that they are here.

What do I know? I know that for some an acknowledgement of poverty is painful and shaming, and that consequently their support is silent. We should seek to speak for those we know are afraid or ashamed or unable to speak for themselves.

-Finally, and in keeping with both the U. S. and California Constitutions, the park owner is guaranteed a "fair return" on her/his investment.

Rent Stabilization Ordinances have been in existence in California long enough so that this "term of art" is neither amorphous nor ambiguous. This is a very important factor, one the has caused concern for a number of Vineyard Valley residents who fear that this proposed ordinance will somehow cause the park owner to "cut back" or do less by way of maintenance and park beautification. I do not subscribe to that fear. Two of the current owners are children of the Park's founder. They maintain residences here. They have made a commitment to continue to maintain the Park's premiere status. I take them at their word.

Thank you for your time and consideration.

Yours truly



Robert R. Distad

September 18, 2018

To Mayor Alan Galbraith, All Council Members, and Mark Prestwick, City Manager.

We the undersigned, as residents of Vineyard Valley, are against the proposed "Rent Stabilization Ordinance" for the following reasons:

"If it ain't broke don't fix it"

We trust the intentions of park management and feel the improvements that have been made recently were done so out of love for the Park and its residents and NOT because management had any intentions of selling the park. The management has given us no reason to believe they will sell the park. This is a family owned park, with family members living here and encouraging their friends to buy homes here.

The rent stabilization process was flawed from the beginning. Everyone MUST HAVE the same knowledge and input in the beginning for the process to have satisfactory results and for ALL and NOT just a few people with their own views. This did not happen.

Vineyard Valley is not like any other manufactured home park and should be treated as such.

We are unique in that Vineyard Valley is more like a magically landscaped park with amazing amenities that include:

- beautiful landscaping including a total of 815 trees (191 Redwood trees, 139 Maple trees and 485 misc. trees)
- a wonderful pool and pool setting along with water aerobics and a hot tub and spa & newly remodeled bathrooms.
- a sauna
- a bocce court
- a very large landscaped koi pond with water lilies and water fountains
- a well-supplied work-out room (recently upgraded and remodeled) and weekly yoga classes
- a beauty salon
- a wood work shop
- a clubhouse for our social activities
- 4 fulltime gardeners.
- walking paths lined with trees and flowers
- night security
- a library
- a pool room
- kitchen facilities

All of this is paid for and maintained by management. Recent capital improvements include a new emergency pump system, refurbished pool and spa including new bathrooms and showers, newly renovated gym with new equipment, replacement of trees along the main street, and last but not least, management has hired an arborist. All these improvements have been provided by management with no cost to residents

In 2017 the park did a capital improvement by paving our streets and residents were asked to pay a \$8.40 monthly pass through over a period of 15 years.

We believe we are already on rent control. We know every year we pay 3% more annually and can budget accordingly. We also have long term leases ranging from 7 to 15 years. This provides a sense of

security and minimizes anxiety that would come with monthly or annual leases. As seniors, anything that can mitigate fear and anxiety is important to our well-being.

Point of fact: the rate of increases in Vineyard Valley has been 3% for over forty years under the same owners!!!!!!! Now that is data that should matter!

We are not convinced that if the park were sold that rent stabilization would work. Should this happen there would be a property appraisal and the new owners would have the right to make a profit, passing the increase to residents.

And who needs the bureaucracy and hassle of this ordinance? For example:

- New rent review officer must be appointed
- City must register each lot and collect a regulatory fee-set anniversary date for all rent increases
- Set a regulatory fee
- Choose CPI data
- Verify CPA documentation submitted by landlord
- Accept petitions from tenants objecting to rent increase
- Organize a hearing for petitioners and collect petitioners and landlord processing fees
- Assign a hearing office to a petition
- Receive notice from landlord as to which lots are subject to rent increase
- Review petitions and verify requirements are met and assign a mediator.

Sounds like a lot of bureaucracy to us not to mention the expense to the city of Saint Helena, paid for by it's taxpayers.

Because of the constant efforts by the owners and management to care for, beautify, and improve the park, we have been very fortunate to see our homes go up in value. We do not want to do anything that would impact our future.

Also, we do not want to do anything that would impact the quality of care and improvements the management provides currently which has resulted in increasing the value of our homes. If the park owners and management feel that the administration of rent stabilization becomes too burdensome and costly to manage, will this incite them to consider selling Vineyard Valley.

For those long-term residents who are having financial hardships, the management has and would be willing to work with those individuals.

And last, residents in Vineyard Valley represent a significant bloc of voters in Saint Helena. We should have a voice!

Please hear us, we are more than satisfied with what we have in ownership, management and our rent. WE HAVE NO EVIDENCE THAT THIS WILL CHANGE!

First Name	Last Name	Address	Signature
1 Rosalie	Blumberg	2 San Ardo Ct.	Rosalie Blumberg
2. LYDIA	PLOTKIN	27 REDONDO CT.	Lydia Plotkin
3 Carla	Holm	8 San Juan Ct.	Carla C. Holm
4. MYRNA	CARATI	3 SAN JUAN	Myrna Caratti
5. Elizabeth	Green	2 Laguna Seca	Elizabeth Green
6. Lois	Bloom.	21 Redondo Court	Lois Bloom
7. Danny	Bloom.	21 Redondo Court	Danny Bloom
8. JAN	CRADEN	46 LAGUNA SECA	Jan Craden
9. Robert J.	FITZGERALD	6 Del Monte Ct	Robert J. Fitzgerald

First Name	Last Name	Address	Signature
10.	Julie Fitzgerald	6 Del Monte Ct	JULIE FITZGERALD
11.	Linda Messenger	5 Del Monte Ct	LINDA MESSENGER
12.	Paul Giuliani	22 REDONDO CT.	LAUREZ GIULIANI
13.	Sheretana Doron	14 DEL RIO CT, ST HELENA	
14.	Joyce Bobb	15 Redonda Ct.	St. Helena
15.	Ann & Vera Testana	5 DEL RIO CT.	St. Helena
16.	Victor & Pierette Simpson	2 Del Campo Ct	St. Helena
17.	Ronda Urman	1 San Ardo Ct	St. Helena
18.	John Polley	Here Laguna Seca Ct	
19.	George Baba	- 18 San Lucas	
20.	Emmy Bala	18 San Lucas Ct.	
21.	PAUL BLUMBERG	2 San Ardo	Paul Blumberg
22.	Catherine Armody	20 San Juan	
23.	Bill Snyder	20 San Juan Ct	
24.	Robney B. Green	2 LAGUNA SECA COURT.	

First Name	Last Name	Address	Signature
25.	Diana	Mauli 16 Redondo Ct.	Diana Mauli
26.	Diana	Mahoney 10 Del Rio Ct	Diana Mahoney
27.	Janeen	di Rienzo 10 Redondo Ct.	Janeen di Rienzo
28.	Cheryl	Olson 19 Laguna	Cheryl Olson
30.	Ferene	Brunner 19 Laguna Seca	Ferene Brunner
31.	Suzanne	Day James 32 Redondo Ct	Suzanne Day James
32.	Denise	Leone 7 Redondo Ct	Denise Leone
33.	Cameen	Fran 6 Redondo Ct.	Cameen Fran
34.	Marie	Wangler 25 Redondo	Marie Wangler
35.	Herb	Brook 15 Redondo	Herb Brook
36.	Gary	Giello 7 Del Monte Ct	Gary Giello
37.	Janette	Acies 7 Del Monte Ct.	Janette Acies
38.	Emy	Dandell 11 SAN LUCAS	Emy Dandell

	First Name	Last Name	Address	Signature
39.	Linda Titus	Titus	38 Laguna Seca Ct.	Linda Titus
40.	TOM	VENCE	22 SAN LUCAS CT	Tom Vence
41.	STEVE	McNabb	4 Del Rio CT	Steve McNabb
42.	CHUCK	STEWART	18 LOS ROBLES	Chuck Stewart
43.	Edgar	Adams		
44.	MICHAEL	BURNS	11 SAN JUAN CT.	Mike Burns
45.	Jeannie	BURNS	11 SAN JUAN CT	Jeannie Burns
46.	Susan	Ernst	14 San Juan Ct	Susan A. Ernst
47.	NORA	O'Neill	37 Laguna Seca Ct.	Nora O'Neill
48.	Monty	Dehnert	6 San Lucas Ct.	Monty Dehnert
49.	Barbara	Dehnert	6 San Lucas Ct.	Barbara Dehnert
50.	Diana M.	Lagunero	7 LOS ROBLES	DIANA LAVAGNINO
51.	Jeane	Hilson	36 Laguna Seca Ct.	

First Name	Last Name	Address	Signature
52. <u>Lucy</u>	<u>DePuy</u>	<u>4 Laguna Seca</u>	<u>Lucy DePuy</u>
53. <u>MIRIAM</u>	<u>HESS</u>	<u>8 LAGUNA SECA</u>	<u>Miriam Hess</u>
54. <u>Ann Camacho</u>		<u>18 Del Rio Ct.</u>	
55. <u>FRED O CAMACHO</u>		<u>18 Del Rio Ct</u>	<u>Fred Camacho</u>
56. <u>Carol McWilder</u>	<u># 55</u>	<u>Laguna Seca</u>	
57. <u>TOM WILSON</u>	<u># 55</u>	<u>LAGUNA SECA</u>	<u>Tom Wilson</u>
58. <u>John Morrison</u>			
59. <u>Margaret O'Fallon</u>	<u>57</u>	<u>Laguna Seca</u>	
60. <u>Katherine McDonald</u>		<u>14 Redado Ct.</u>	
61. <u>Oleta McGrath</u>		<u>4 San Lucas</u>	
62. <u>Lois O. Trask</u>		<u>17 Del Rio Ct.</u>	
63. <u>Lois O. Trask</u>		<u>17 DEL RIO CT.</u>	
64. <u>Julia Rogers</u>		<u>12 San Lucas Ct</u>	
65. <u>Biggs</u>		<u>1 San Juan Ct</u>	

	First Name	Last Name	Address	Signature
66.	Debra	Auster	1 San Juan Ct	
67.	Andree	Bryan	39 Laguna Seca Court.	Andree U. Bryan.
68.	Gail	Cresick	15 San Juan Ct. St. H.	
69.	Janet W.	Bengel	11 Laguna Seca Ct	
70.	Luz M.	Bengel	11 Laguna Seca Ct	
71	Ken	Young	12 Del Rio Ct.	
72	Diane	BAM	12 Del Rio Ct. St. H.	
73	SHERYL	FOEHM	7 SAN JUAN CT.	Sheryl Foehn
74	Silvia	Segura	1 Laguna Seca Ct.	
75	Michael	Shaw	1 Laguna Seca Ct.	
76.	Doug	Bontje	2 Los Robles Ct.	
77.	Katherine	Bontje	2 Los Robles Ct.	
78	Erna	Muller	16 San Juan.	

	First Name	Last Name	Address	Signature
79.	Paul	Sculatti	1 La Cuesta Ct.	Paul Sculatti
80.	Kay	Fectter	12 La Cuesta	Kay Fectter
81.	Hilda	Bettinelli	" " "	Hilda Bettinelli
82.	Frances	Craw	1 Los Robles Ct	Frances Craw
83.	Anita M.	Peters	8 Los Robles Ct.	Anita M. Peters
84.	Don	CLARK	19 Los Robles Ct.	Don Clark
85.	Victoria A.	Buckle	19 Los Robles Ct. St. Helena	Victoria A. Buckle
86.	Judith	Pohlers	24 San Juan Cr.	Judith Pohler
87.	Janet	Weitz	12 Los Robles Ct.	Janet Weitz
88.	Ingrid	Draun	51 Laguna Seca Ct.	Ingrid Draun
89.	Wendy		51 Laguna Seca Ct	Wendy

	First Name	Last Name	Address	Signature
90.	Mary A.	Maurer	#19 Redondo Ct. 94574	Mary A. Maurer 9/17/18
91.	Mary Ann	Maurer	#19 Redondo Ct. 94574	Mary Ann Maurer

First Name	Last Name	Address	Signature
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92. TREVOR BARLOW 14 LOS ROBLES

[Signature]

93. Dennis Mailey 7 SAN LUCAS CT

[Signature]

94. Ann Mailey 7 SAN LUCAS CT

[Signature]

95. Judy Calish 40 Laguna Seca

Judith Calish

100. Thelma Stratton 3223 SAN LUCAS Thelma Stratton

101. Tom CORKILL 20 Del Rio Tom Corkill

102. Leanne CORKILL 20 Del Rio Leanne Corkill

103. Mariam ~~M. Hansen~~ Hansen 5 San Lucas Ct.

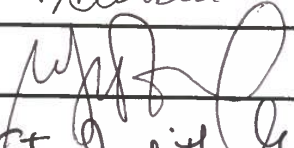
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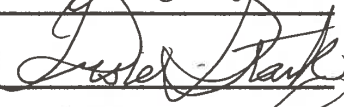
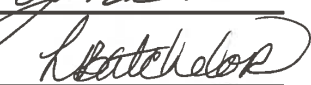
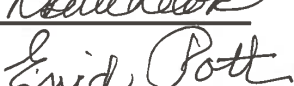
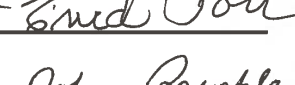
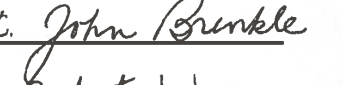
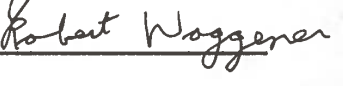
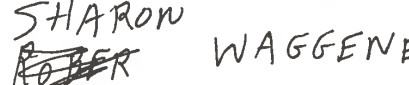
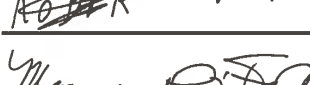
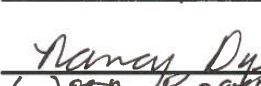
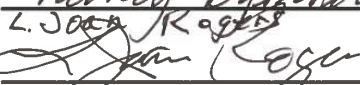
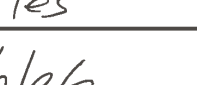
104. DOLANIS Mosler 1 San Lucas Ct

[Signature]

105. Dennis Hansen 5 San Lucas Ct.

[Signature]

	First Name	Last Name	Address	Signature
106.	TIM	BROWNFIELD	2 SAN LUCAS	
107.	CARROLL	COTTEN	1 DEL RIO	Carroll Cotten
108.	CAROL	HAVENS	21 LAGUNA SECA	Carol Havens
109.	Thomas	Ringenberg	9 Los Robles	Thomas Ringenberg
110.	Barbara	Ringenberg	9 Los Robles	Barbara Ringenberg
111.	Belinda	June	20 Laguna Seca Ct.	Belinda June
112.	GUY	ARONSON	20 Laguna Seca Ct.	Guy Aronson
113.	Robyn	Orsini	3 Los Robles Ct.	Robyn Orsini
114.	JOSEPH	ORSINI	3 LOS ROBLES CT.	Joseph Orsini
115.	MARIL	SIORAL	20 LOS ROBLES	
116.	Judith	Greene	20 Redondo Ct.	Judith Greene
117.	Gerry	Gallagher	23 San Juan (by Lianne James)	Gerry Gallagher
118.	ELLEN	COTTEN	1 Del Rio	Ellen Cotten

	First Name	Last Name	Address	Signature
119.	Ed	STARK	29 Redondo	
120.	SUSIE	STARK	29 Redondo	
121.	Jenny	Mosher	12 Redondo	
122.	Leona	Batchelor	11 Redondo	
123.	Enid	Pott	5 San Luis Ct	
124.	JOHN	BRENKLE	8 Redondo Ct.	
125.	ROBERT	WAGGENER	3 REDONDO CT.	
126.	SHARON	WAGGENER	3 REDONDO CT.	
127.	Margaret	O'Farrell	57 Laguna Seca Ct	
128.	Anne	Shirley	6 Laguna Seca Ct	
129.	Bert	Shirley	6 Laguna Seca Ct.	
130.	Nancy	Dupshaw	2 La Canada Ct	
131.	John	Rosen	3 La Canada Ct	
132.	Lou	Marini	10 Los Robles	
133.	LEONAR	MARINI	10 Los Robles	
134.	Vivian	Robison	35 Redondo Ct	
135.	Kenneth	Robison	35 Redondo Ct	

	First Name	Last Name	Address	Signature
136.	NANCY	BEATON	34 REDONDO CT	<i>Nancy Beaton</i>
137.	Jean	Bianchini	1 Redondo Ct.	<i>Jean H Bianchini</i>
138.	DAUNA	CURRIE	25 REDONDO C.	<i>Dauna C. Currie</i>
139.	Pat + Carl	Myers	3 SanArdo	<i>Patricia Myers</i> <i>Carl K Myers</i>
140.				
141.	Joy A.	Peters	17 Redondo	<i>Joy A. PETERS</i>
142.	Berta	Berger	26 Redondo	<i>Berta Berger</i>
143.	mick	Berger	26 Redondo	<i>mick Berger</i>
144.	Marsha	Maxcy	31 Redondo	<i>MARSHA MAXCY</i>
145.	Norman L.	James		<i>NORMAN L. JAMES</i>

SOME QUESTIONS ABOUT RENT STABILIZATION

July 24, 2018

1. What is Mobile Home Rent Stabilization?

Generally, a local mobile home rent stabilization ordinance regulates the maximum amount of rent that a park owner can charge for a mobile home space. The maximum amount is based on a formula, often the lesser of a set percentage or the annual percentage increase in the Consumer Price Index (CPI). There is no legal requirement that obligates the park owner to impose the maximum amount allowable under a rent stabilization ordinance. In the event that the park owner feels that the maximum amount allowed under an ordinance does not provide the park owner a fair return as is constitutionally required, the park owner can petition for an individualized review process.

2. Why is the St. Helena City Council considering a Mobile Home Rent Stabilization Ordinance?

Mobile home ownership is widely acknowledged to be a less expensive single family housing option for seniors and other populations living on fixed incomes. Mobile homes are unique in that although the resident owns the home, they rent the land that the home sits on from a third party park owner. If the park owner raises space rents to a prohibitive price, mobile home owners may face eviction if they cannot pay the rent.

Although Vineyard Valley is the only mobile home park located within St. Helena, the 215 mobile home spaces account for approximately 9.5% of all the single-family housing stock in St. Helena (based on 2016-17 water rate study data). Approximately one in five households of two persons or less in Vineyard Valley lives on a gross annual income of less than \$33,900 (based on June 2018 participation in the City's St. Helena CARES program that helps low income residents pay utility bills).

In November 2017, the City Council adopted a goal to Maintain, Stabilize and Improve Access to Housing. Approximately 100 counties and cities in California have adopted rent stabilization ordinances. The City Council desired to evaluate rent stabilization to help ensure long term viability of mobile homes as an affordable housing choice in the community.

3. Would Rent Stabilization apply to all leases in Vineyard Valley?

Pursuant to State law, any local rent stabilization ordinance would only apply to leases that are twelve months or less in duration provided that other requirements are also met. (Civil Code section 798.18.) Thus, rent stabilization would apply to leases of twelve months or less upon adoption of such an ordinance.

A resident who currently has a lease of longer than one year would have the option to opt-in to a lease that is subject to rent stabilization at renewal. At that time, if rent stabilization is in place, the landlord is obligated to offer the option of a 12 month lease per Civil Code section 798.18.

4. What are some key characteristics of a Rent Stabilization Ordinance?

- a. The ordinance applies to leases of 12 months or less. Thus, individual mobile homeowners have the choice of whether to opt-in or opt-out of the ordinance. A mobile homeowner opts-in by signing a 12 month lease subject to the limits of rent adjustments prescribed by the ordinance. Any homeowner that does not want to be part of the program can choose to opt-out by signing a space lease that is longer than twelve months.
- b. Under the draft ordinance, if a lease is subject to the ordinance, , the buyer of any home upon sale will be subject to the ordinance. Without rent stabilization, the park owner can increase rent, change rent escalation provisions, or change the terms offered to the buyer.
- c. Under the draft ordinance, upon any sale of the park, the new park owner is required to maintain rent stabilization regulations for those owners that have opted in.
- d. Homeowners with longer term leases have the option to switch to a stabilized lease upon renewal under the draft ordinance.
- e. Under the State's Mobile Home Residency Law, if a mobile homeowner has an issue with a park owner, those disputes are primarily resolved through the courts. The draft ordinance requires that residents and the park owner to go through a dispute resolution process if there is a dispute based on the level of a rent increase.

5. I have a long term lease now with a 3% rent escalation factor. What happens when my lease comes up for renewal?

If a rent stabilization ordinance is not in place, the park owner is under no obligation to offer you a lease at the same rent, for the same term, or subject to the same rent escalation factor. Upon the expiration of the lease term, pursuant to Civil Code sections 798.55 and 798.56, the park owner cannot refuse to offer you an extension of your “tenancy” unless a specified reason exists. Tenancy means your right as the homeowner to the use of a site within a mobile home park on which to locate, maintain, and occupy a mobile home, site improvements, and accessory structures for human habitation, including the use of the services and facilities of the park. (Civil Code section 798.12.)

6. What are the obligations of the landlord under a rent stabilization ordinance upon renewal or offering a new lease?

Under the draft ordinance, 48 hours prior to any rental agreement in excess of 12 months being executed, the Park owner must:

- offer a homeowner the option of a rental agreement or lease of a term of 12 months or less;
- provide a copy of a city information sheet that explains the ordinance
- inform the homeowner that the mobile home park owner representative is available upon request
- inform the homeowner orally and in writing that a lease for longer than 12 months is not subject to rent stabilization.

Upon renewal, the park owner must supply each homeowner that has a rent stabilized lease with a copy of the City Information Sheet and contact information for the City’s Administrator.

7. What is the procedure under the draft Rent Stabilization Ordinance if the landlord proposes an increase that is within the permissible cap on annual increases set forth in 9.24.070(A)?

As provided in Civil Code section 798.30, the park owner must provide a 90 day notice prior to implementing the rent increase.

8. Under the draft Rent Stabilization Ordinance, what is the procedure if the landlord proposes an increase that exceeds the permissible cap in 9.24.070(A)?

- a. The park owner must provide the impacted homeowners with a notice of the rent increase, and that notice must include, among other things, documentation to support the level of rent increase desired. Verified copies of that documentation must also be delivered to the City Administrator.
- b. If the proposed increase exceeds 300 percent of the change in CPI, the park owner shall notify the affected owners that arbitration is required.
- c. The notice must include a list of the affected owners, contact information for the City Administrator and a copy of the form of petition.
- d. The park owner must set a date and time for an informational meeting between the homeowners and the park owner, which must take place on the park premises within 10 days of the notice of the rent increase.
- e. If the parties cannot agree to a resolution at the informational meeting, there must be a mediation meeting that is held within 20 days of the notice of the rent increase. In addition, any affected homeowner is entitled to file a petition with the City requesting review.
- f. If 51% of rent stabilized tenants do not agree with the results of the mediation, they can present petition to the City and the matter goes to arbitration.

9. What Is City's involvement in administering the ordinance?

- a. The City's Planning and Community Improvement Director will have the responsibility to administer the ordinance. Under the draft ordinance, the Administrator has responsibility over the following:
 - i. Maintain a City Information Sheet that provides information about the rent stabilization ordinance and contact information for the Administrator;
 - ii. Receive petitions from affected homeowners for rent review (9.29.090(D));
 - iii. Remit "an informational questionnaire" to the park owner that is delivered to the arbitrator after being completed by the park owner (9.24.090E));

City of St. Helena

- iv. Assign an arbitrator within 15 days upon receiving a petition (9.24.090(F));
- v. Schedule an arbitration hearing date between 10-30 days after assignment of arbitrator (Ibid.).

The City does not have a role in the day-to-day administration of the park aside from setting rent levels and facilitating the dispute process. The City itself does not act as the mediator, arbitrator or as a rent control board.

10. What are the limits on fees that can be passed through to affected homeowners and what discretion does the City have with respect to fee pass throughs?

Litigation costs cannot be passed through to residents under the draft ordinance (See Sec. 9.24.014(B)(4)). The draft ordinance contemplates that costs of administering the ordinance, including the mediation and arbitration of disputes, would be addressed by assessing 50% to the park owner and 50% to homeowners on a per-space basis.

However, the City Council has many legally permissible options regarding whether to pass through fees, how much, and when. For example, the City Council could:

- a. Provide that the fee only comes into effect when a certain percentage of leases are stabilized, say 50%, 66% or 75%.
- b. Eliminate the fee entirely;
- c. Adopt a CARE program to assist with fee payment.

11. Does rent stabilization affect if and how costs for debt service and capital improvements can be passed through to affected homeowners?

- a. Under the draft ordinance, a park owner would be required to follow a procedure before implementing a capital improvement pass through. Currently, park owners can pass these costs to residents without following any procedure.
- b. Under the draft ordinance, expenses related to the park owner's debt are regulated under rent stabilization. Debt is not an eligible operating expense under rent stabilization. Generally, the exclusion of debt from

City of St. Helena

the calculation deters owners from making unnecessary investments that would then be subsidized by park residents. Owners would also be deterred from leveraging the park and passing those costs onto tenants. However, the owner can include the increase in interest expense to the extent that increase relates to refinancing to make a balloon payment, or increased interest due to variable rate financing. Without a local rent stabilization ordinance, there are very few limits on the level of rent that a park owner can impose. Park owners, thus, could pass through debts as desired.

- c. Under the draft ordinance, depreciation is not an allowable operating expense.
- d. As a component of operating expenses, a park owner can include the cost of necessary Capital Improvements or Substantial Rehabilitation expenditures that exceed existing reserves. Capital improvement expenditures to upgrade existing facilities, along with a reasonable return on that investment, are allowable provided that:
 - i. prior to initiating the work, the park owner informs the affected homeowners of the nature, purpose and estimated cost;
 - ii. if resolved through arbitration, the park owner provides the arbitrator with verification that the costs;
 - iii. the park owner cost factors and amortized the costs over the remaining useful life of the improvements but in any case not less than five years;
 - iv. the park owner allocates the cost among affected homeowners on a per space basis and separately itemizes the cost on the rent invoice. The pass through cost is not considered part of base rent for purpose of calculating future rent increases.

12. What are “housing services”?

Under the ordinance, “housing services” are services or facilities provide by the park owner related to use and occupancy of the mobile home space, but that are not capital improvements of substantial rehabilitation. Housing services includes, but is not limited to items such as repairs, replacement, maintenance, landscaping, painting, lighting, utilities refuse removal, recreational and meeting facilities, parking security service and employee services.

In the event the park owner reduces or eliminates any Housing Services, a proportionate share of the cost savings due to such reduction or elimination shall be passed on in the form of a decrease in existing rent or a decrease in the amount of a rent increase otherwise proposed or permitted by the rent stabilization ordinance.

13. What impact does rent stabilization place on a park owner's return on investment?

Park owners are constitutionally required to receive a "fair return" on their investment. The formula provided for in the draft ordinance is a commonly acceptable method that has been upheld by Courts as providing a fair return.

14. Can the landlord retaliate against an affected homeowner for invoking his or her rights under the law?

No. The draft ordinance provides that a park owner cannot retaliate against a resident or prospective resident that invokes his or her rights under the law. If such conduct occurs, the impacted party would have a cause of action against the park owner.



Report to the City Council
Council Meeting of July 24, 2018

Agenda Section: New Business

Subject: Transmittal of Downtown St. Helena Market Analysis and Identification of Next Steps (Attachments will be provided prior to the meeting)

CEQA Determination: Not a CEQA project

Prepared By: Mark T. Prestwich, City Manager

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

In an effort to accelerate the City's efforts of identifying strategies to support a healthy downtown economy and business mix, the City Council authorized an agreement with Kosmont Companies on March 27, 2018 to conduct a market analysis of the downtown. This study is complimentary to and supports one of the City Council's three year goals ("Ensure Long Term Economic Sustainability While Safeguarding St. Helena's Unique Culture and Quality of Life"). A specific 12-month strategic objective of goal attainment includes developing solutions to revitalize and create a resilient downtown, and presenting the City Council with an inventory of issues related to vacant and underutilized commercial space by July 31, 2018.

The resulting Downtown St. Helena Market Analysis includes a review of national retail trends, an analysis of local economic, demographic and market trends, and recommendations. More than a dozen business owners, property owners and other stakeholders were interviewed for the project.

DISCUSSION

The study notes that vacancy in the City was very low until 2017, but may have been harmed by the extended major road and utility repair work on Highway 29 that began in 2013. Today, the downtown retail vacancy rate (8%) is significantly higher than the

vacancy rate of the Napa County submarket (2.6%), and many neighboring submarkets. Asking lease rates in St. Helena are at an all-time high historically and higher than those for the Napa County submarket, and all of the neighboring submarkets. Further, second home buyers are replacing full time residents, negatively impacting retail sales. Retailers also report it is difficult to maintain a quality workforce because of the high cost of housing. Additionally, the study states the City does not have a business-friendly reputation, due in part to the lack of discretionary approvals and difficult entitlement and permitting rules.

The report provides more than 20 marketing, capital investment and administrative recommendations to enhance the economic vitality of downtown St. Helena.

FISCAL IMPACT

Not applicable.

RECOMMENDED ACTION

Review, discuss recommendations and provide direction to the City Manager on next steps.



July 24, 2018

Mr. Mark Prestwich
City Manager
City of St. Helena
1480 Main Street
St. Helena, CA 94574

Re: St. Helena Downtown Retail Analysis

Dear Mr. Prestwich:

Kosmont & Associates ("Consultant" or "Kosmont") was retained by the City of St. Helena ("City" or "St. Helena") for real estate advisory services in connection with a focused retail market analysis of the Downtown area. Kosmont is pleased to present our findings below.

BACKGROUND

Downtown St. Helena is facing significant vacancies as a result of macro changes in the retail industry and competition for retail sales from Calistoga to the north and Yountville and Napa to the south. The City would like to increase the vibrancy and reduce retail vacancies in the historic Downtown.

EXECUTIVE SUMMARY

St. Helena, which lies in the heart of Napa Valley, has flourished for over 140 years embellished by the expansive development of the winery/tourism industries. The City's robust and generally upscale suburban character has several unique features: home to Culinary Institute of America, a major transportation corridor – CA State Highway 29, and is in close proximity to open space and recreational amenities.

The demographics of Napa Valley are changing rapidly with wealth and visitors on the rise. The City is facing competition for sales and hotel tax dollars from Calistoga to the north and Yountville and Napa to the south. The City can mitigate this circumstance by proactively embracing economic opportunities or face potential negative consequences resulting from surrounding area's growth in retail and hospitality industries. Investing in Downtown and creating a business friendly environment will help capture revenue. Prohibiting new development won't stop the traffic.

The City has achieved relative economic success. However, St. Helena will need to evolve as the digital economy converts the lifestyles and social patterns of every generation. With today's consumer's using online websites for purchasing commodities, clothing, and a broad array of soft goods (e.g. Amazon.com), even the most vibrant

communities are exposed to the closure of department stores, reduction in retail store format sizes, trends reinforced by bankruptcies of dozens of major retail store chains. As a result, today's economic forces demand approaches to land use that explore diversification in uses and densities, and concepts for public amenities and private attractions that help cities capture trips and thus "sales" sufficient to retain vibrant commercial districts.

Younger consumers, with their increased use of media and digital communication, seek gathering places with restaurants, entertainment venues and experiential retail, rather than simply a collection of traditional store fronts. Another important group, is the creative class of professionals (artists, designers, scientists, musicians, and programmers) who are an important force in economic development across the United States. This dynamic workforce segment is attracted to communities with urban environments and clustered centers, which provide a sense of vitality, diversity, convenience and balanced mix of work, entertainment, services, arts and culture.

The Millennial population (ages 18-34) also brings opportunities for communities to attract new technology business and create 24/7 live work environments that can revitalize downtowns.

Demographic Summary

- St. Helena is a low density City with approx. 6,000 residents
- It has an aging population - median age of 44 in City and 54 within a 10 mile radius (older than County and State median ages)
- Average household size of 2.38, smaller than County and State averages; Average household income of approx. \$118k for the City is much higher than the County and State
- Well educated population: Educational attainment in St. Helena is higher than that of the County and State, with a majority of residents having completed a bachelor's degree or higher
- St. Helena experiences a larger daytime population, as more people enter the City for work compared to those who leave, resulting in a net inflow of jobs

Retail Market Overview

- Following the Great Recession, vacancy in the City was very low until 2017; but 2017 vacancy is not near the historic highs hit during the Great Recession
- Downtown St. Helena retail vacancy rate (8%) is significantly higher than the vacancy rate of the Napa County submarket (2.6%), and many neighboring submarkets.
- Asking lease rates in St. Helena are at an all time high historically and higher than those for the Napa County submarket, and all of the neighboring submarkets.
- With average retail rents above \$40 psf, plus NNN costs of \$5 to \$10 psf, store owners typically need to generate sales of \$600 psf to be profitable.
- Most local serving merchants cannot achieve that sales volume from the approx. 2,000 local resident households – thus the critical need for attracting visitors and other Napa Valley residents to shop in St. Helena.

Retail Sales Trends

- Historic growth in retail sales from 2006 to 2016 in St. Helena was 16% compared to Yountville's 82% growth, and Napa County's 35% growth. As a result, City's share of the County's retail sales has declined from 10% in 2006 to 8.6% last year
- Retail sales per capita for the St. Helena in 2016 (~\$28,200) is greater than the retail sales per capita of Calistoga (~\$12,000), Napa County (~\$13,800) and the State (\$11,300), but less than Yountville (~\$30,700)
- Higher performing sales categories for St. Helena include apparel stores, home furnishings and appliance stores, other retail stores, grocery stores, and auto dealers and supply stores
- Lower performing retail categories include restaurants and bars (*relative to Yountville*)

National Retail Trends

Retail is as much about *distribution* of goods as it is *destination* to consume goods. Think: disruption and bifurcation.

Omnichanneling – Consumers have multiple ways to shop for and receive goods:

- **The Traditional Approach** – Buy and pick up in store
- **Buy and Receive** – Buy in store receive at home
- **Click and Collect** – Buy online and pick up in store
- **Click and Receive** – Buy online and receive at home

E-commerce sales to reach \$462 billion in 2018, up 12.8% (U.S.)

- Growth from apparel, sporting goods, electronics, office supply
- Still internet captures only approx. 9% of total retail sales

Kosmont observations based on stakeholder interviews, research and tours:

Kosmont confidentially interviewed approximately one dozen stakeholders, primarily comprised of St. Helena business owners and property owners. There were several themes that came out of the interviews:

- Historic context, changing conditions
- Problems with City zoning code and permit process
- Changing market forces
- Public Investment needs

We have itemized these findings along with our own internal observations and lessons learned from similar downtown revitalization assignments throughout California.

History

- As late as 2007, downtown retail was booming with no vacancies
- Following the 2008-09 Great Recession, businesses recovered until 2013, when Napa County started major road and utility repair work on Highway 29. Three

years of construction made commuting from Napa to St. Helena challenging resulting in lost Bay Area day trippers

- 2nd home buyers are replacing full time residents negatively impacting retail sales
- Resident population is not supporting all existing retail stores
- Few new retail shops opened in recent years
- Zoning code is antiquated and lacks consistent regulations for current retail trends

Market Forces

- Retailers are facing many new challenges – bulk discount centers and online shopping/delivery are cannibalizing conventional in store sales nationwide
- Food service comprises as much as 30% of all shopping center tenants in the industry – “Food and Place are new anchor tenants”
- St. Helena needs more specialty shops that provide unique goods/experience – “Authenticity” and strong Customer Service
- Need to attract visitor spending to improve Downtown retail sales
- Many property owners have high asking rents
- City has lost cache for high end customers
- Yountville attracting Millennials and “foodies” with strong restaurant and hotel options and pristine walking environment

Other Conditions

- City does not have a business-friendly reputation (e.g. difficult entitlement and permitting rules)
- Conditional Use Permit process for new retailers is expensive and high risk (estimated 20% to 30% of applications are rejected by Planning Commission)
- Restaurants and hotels must go through an additional City Council approval process to finalize number of seats/rooms allowed
- Very few retail uses are allowed by right. Permits run with the land – many tenants cannot practically relocate without high cost/risk
- Existence of “do nothing” and “anti-corporate” sentiment in the community
- Hard to maintain quality workforce because high cost of housing
- Some landlords are not motivated to lease buildings because of past high rent expectations
- Planning staff has no discretionary approvals
- Welcome Center has moved to downtown to be more effective

RECOMMENDATIONS

Given today’s economic challenges, the City is faced with a series of choices in planning for its long-term future.

- Does the City want to strategically select and attract types of new retail/entertainments/visitor concepts – or – focus more on retention of existing businesses?

- Does the City want to add and improve community services?
- Does the City want to pursue the status quo approach in which St. Helena is becoming characterized as a “second home” community – or – pursue an approach that allows a residential, live/work/play environment for all generations?

Sustainable economic growth is characterized by a combination of judicious and strategic public policy with private sector investment. When successful, sustainable economic growth provides fundamentally reliable incomes for the labor force, profitable business opportunities for employers, and adequate tax revenues for maintaining services and infrastructure that supports the future needs of the community. When responding to business needs in a fast-paced digital laced world, it is critical that government be able to respond in a timely manner to take advantage of opportunities as they arise and evolve.

Kosmont suggested strategies for consideration:

Marketing / Outreach

- City should consider resolving “anti-business” reputation and image through marketing/branding
- Establish tie-ins with Downtown merchants, Culinary Institute and wineries
- Consider concept of monthly or more frequent community events in Downtown (e.g. First Friday, Art Walks, Music/Food Fests)
- Consider high image or “formula” retail (e.g. Tesla / Nordstrom’s) or Market Hall concepts for vacant Masonic Lodge and other prime locations
- Need to create more experiences for shoppers (e.g. “Pop Ups”, entertainment, breweries, etc)
- Work with landlords on economic market realities and more aggressive leasing campaigns
- Educate landlords/businesses and City Council on experiential, destination and omnichannel retail trends

Capital Investment

- Improve image with infrastructure improvements
- Capitalize on new sidewalk improvement program – encourage facade improvements and add landscape and street art
- Focus construction during morning hours during offseason to minimize downtown business disruption
- Activate Money Way
- Provide more parking and wayfinding signage
- Provide some 20-30 minute parking zones on Main Street to facilitate in and out customers
- Provide valet parking service or shuttles on weekends

*Downtown St. Helena Retail Analysis
July 24, 2018
Page 6 of 6*

Administrative Actions

- Fundamentally review/revamp zoning and permitting process to be more flexible to accommodate market and changing retailer and customer dynamics
- Identify beneficial retail categories and streamline permit process
- Provide permits for temporary Pop Up users
- Allow high end hotel development – increase evening business and tax revenue
- Consider allowing infill housing or blended use in vacant buildings near Main Street
- Allow ancillary and accessory uses in existing businesses without requiring new conditional use permits
- Provide process to allow for live music/amplified sound to attract customers in evenings (can limit to 9:00 pm or 10:00 pm)
- Allow restaurant and hotel applications with no more than a single CUP process
- Permit some limited high end “formula” retail stores:
 - Small shop owners have high failure rate - don't have adequate financial capital in high cost locations
 - Success breeds success
- Consider allowing Wine Train dropoff to increase business and reduce car traffic and need for parking
- Expand community outreach efforts to get broad feedback on land use issues (e.g. digiConversation^R)
- Consider Specific Plan for zoning strategy/higher density on targeted sites

NEXT STEPS / IMPLEMENTATION

Kosmont is prepared to assist the City in implementing the desired actions.



City of St. Helena

Downtown Retail Market Analysis

July 24, 2018

Prepared By:
Kosmont Companies



Kosmont Companies

Kosmont Companies is a nationally-recognized real estate & economics advisory firm specializing in public-private transactions for 30 years.

- **Offers a full range of economics & real estate advisory services including:**
 - Market and Feasibility Analyses
 - Economic Development Strategies & Implementation
 - Identification of Funding Sources & Financing Strategies
 - Fiscal Impact & Economic Benefit Studies
 - Retailer/Developer & Business Recruitment
 - Public-Private Transaction Structuring & Negotiation
- **Winning track record of initiating and implementing projects for municipalities**
 - In-house team includes registered municipal advisors, financial analysts, lawyers, former bond underwriters, former city managers & department heads
 - Extensive network of brokers, investors and market data for real-time information, and retail industry leadership

Note: If needed, Financial Advisory and Real Estate Brokerage services provided by Kosmont Realty Corporation (SEC / MSRB Registered Municipal Advisor and Licensed Real Estate Brokerage Firm)

Project Background

- Kosmont Companies was retained by the City of St. Helena for real estate advisory services in connection with a focused retail market analysis of Downtown and Main St./CA State Highway 29
- Downtown is facing significant vacancies as a result of macro changes in the retail industry and competition for retail sales from Calistoga to the north and Yountville and Napa to the south. City would like to increase the vibrancy and reduce retail vacancies in the historic Downtown
- In order to assist the City, Kosmont has prepared an Economic and Demographic Profile, and a Retail Market Analysis to evaluate the Downtown's retail viability compared to neighboring jurisdictions and Napa County



Overview

- St. Helena, which lies in the heart of Napa Valley, has flourished for over 140 years most recently from major growth in the winery / tourism industry.
- Home to Culinary Institute of America and bisected by a major transportation corridor – Highway 29, the future for St. Helena and its Downtown faces some hurdles, as the digital economy converts the lifestyles and social patterns of every generation.
- With online channels for purchasing of commodities, clothing and an array of soft goods, the most vibrant communities are faced with closure of department stores and reduction in retail brick and mortar formats.
- These forces demand new approaches to land use to capture trips and thus “sales” sufficient to retain vibrant commercial districts.



Approach

Kosmont followed these steps:

- Look at national retail trends
- Analyze economic, demographic and market trends for City and County
- Interview over a dozen business, community leaders and stakeholder groups
- Assess the City's tolerance for risk
- Review Economic Development Tools
 - Digital marketing
 - Enhanced zoning and permitting
- Consideration of strategic approaches to retail
- Examine successful retail and economic development case studies in similar communities
- Community-wide retail plan changes
- Consider project specific focus on Opportunity Sites that are private or public owned with sufficient beneficial attributes of size, location, desirability.



Stakeholder Interview Observations

Kosmont confidentially interviewed approximately one dozen stakeholders, primarily comprised of St. Helena business owners and property owners.

There were several themes that came out of the interviews:

- Historic context, changing conditions
- Problems with City zoning code and permit process
- Changing market forces
- Public Investment needs

On the following slides, we have itemized these findings along with our own internal observations and lessons learned from similar downtown revitalization assignments throughout California.

History

- Late 2007, Downtown retail was booming (with no vacancies)
- Following 2008-09 Great Recession:
 - Businesses finally recovered in 2013
 - In 2013, County began major road and utility repair over 3 years on Highway 29, limiting commuting from Napa to St. Helena (lost Bay Area day trippers)
- Currently, Downtown is experiencing increased vacancy of commercial space, with limited retail openings in recent years (Costar data shows ~17,000 SF of vacant retail space)
- City's Zoning Code is outdated and lacks consistent regulations for current retail trends
- Demographic changes:
 - 2nd home buyers are replacing long term residents – negatively impacting retail sales
 - Existing resident population cannot support all existing retail stores



Market Forces



- Retailers are facing new challenges: Bulk discount centers and online retail are cannibalizing conventional store sales globally
- Food service comprises as much as 30% of all shopping center tenants
- St. Helena needs more specialty shops that provide unique goods/experience and needs to attract visitor spending to improve Downtown retail sales
- High asking rents
- Yountville is attracting Millennials and “foodies” with strong restaurant and hotel options enhanced by a pristine walking environment

Other Conditions

- City does not have a business-friendly reputation (e.g., difficult entitlement and permitting rules)
- Conditional Use Permit process for new retailers is expensive and high risk (estimated 20% to 30% of applications are rejected by Planning Commission)
- Restaurants/hotels must go through additional City Council approval process to finalize number of seats/rooms allowed
- Very few retail uses are allowed by right. Permits run with land – tenants cannot relocate without high cost/risk
- Existence of “do nothing” and “anti-corporate” sentiment in the community
- Hard to maintain quality workforce due to high cost of housing
- Some landlords are not motivated to lease buildings at affordable/market rent levels based on personal wealth and unrealistic tenant expectations
- Welcome Center moved to middle of Downtown to be more effective



Economic & Demographic Profile

Existing Conditions

Population and Income

City, County and State

<u>2017</u>	City of St. Helena	County of Napa	State of California
Population	6,069	143,012	39,611,295
Households	2,503	50,794	13,264,119
Average HH Size	2.38	2.72	2.92
Median Age	44.0	40.8	36.0
% Hispanic Origin	36.4%	34.8%	39.5%
Per Capita Income	\$49,310	\$37,618	\$32,632
Median HH Income	\$75,857	\$74,777	\$65,223
Average HH Income	\$117,823	\$103,312	\$95,805
<u>2017-2022 Projected Annual Growth</u>			
Population	0.75%	0.71%	0.84%
Median HH Income	2.36%	2.16%	2.80%

Source: ESRI, California Department of Finance (2018)

Population and Income

Radii from City Hall (1480 Main St.)

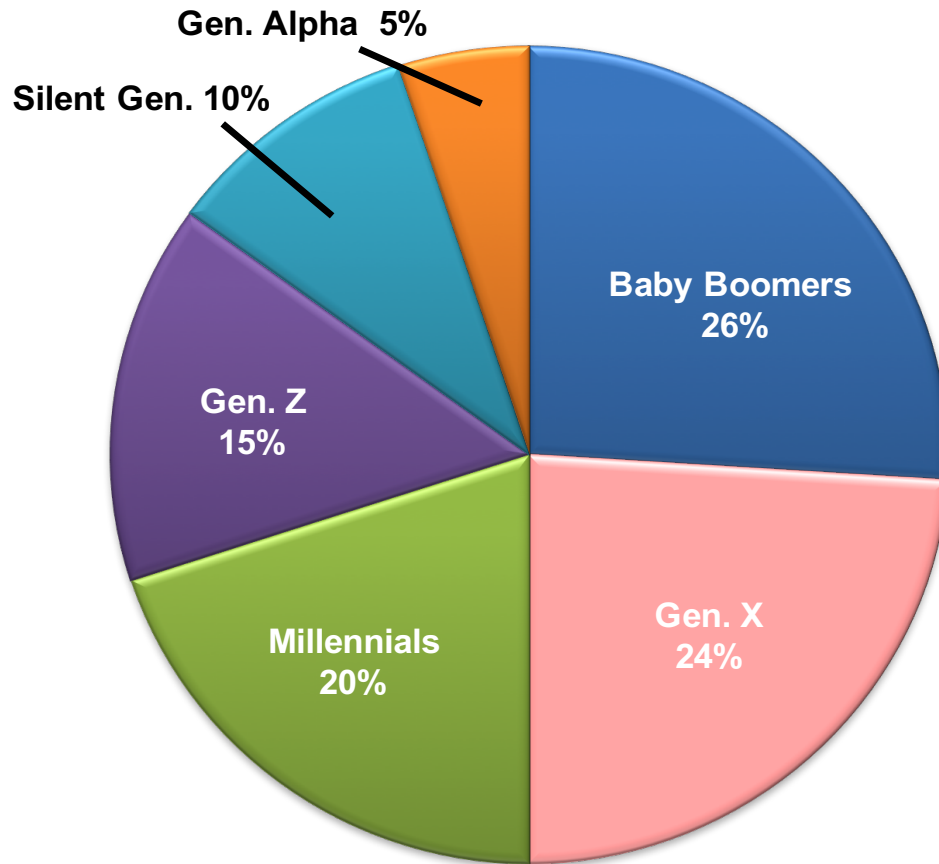
	Radii		
<u>2017</u>	3 Miles	5 Miles	10 Miles
Population	8,525	11,370	38,545
Households	3,536	4,348	16,341
Average HH Size	2.37	2.46	2.20
Median Age	46.9	44.9	53.9
% Hispanic Origin	32.1%	30.0%	22.3%
Per Capita Income	\$52,795	\$50,877	\$49,264
Median HH Income	\$82,439	\$83,344	\$75,999
Average HH Income	\$124,245	\$125,571	\$113,037
<u>2017-2022 Annual Growth Rate</u>			
Population	0.78%	0.73%	0.68%
Median HH Income	2.35%	2.47%	2.28%

Source: ESRI (2018)



Population by Age

City of St. Helena



Generation	Population (2017)
Baby Boomers (55-74 years old)	1,578
Gen. X (35-54 years old)	1,444
Millennials (18-34 years old)	1,183
Gen. Z (5-17 years old)	929
Silent Gen. (75+ years old)	631
Gen. Alpha (0-4 years old)	303
TOTAL POPULATION	6,069

Source: ESRI (2018)

Housing Units

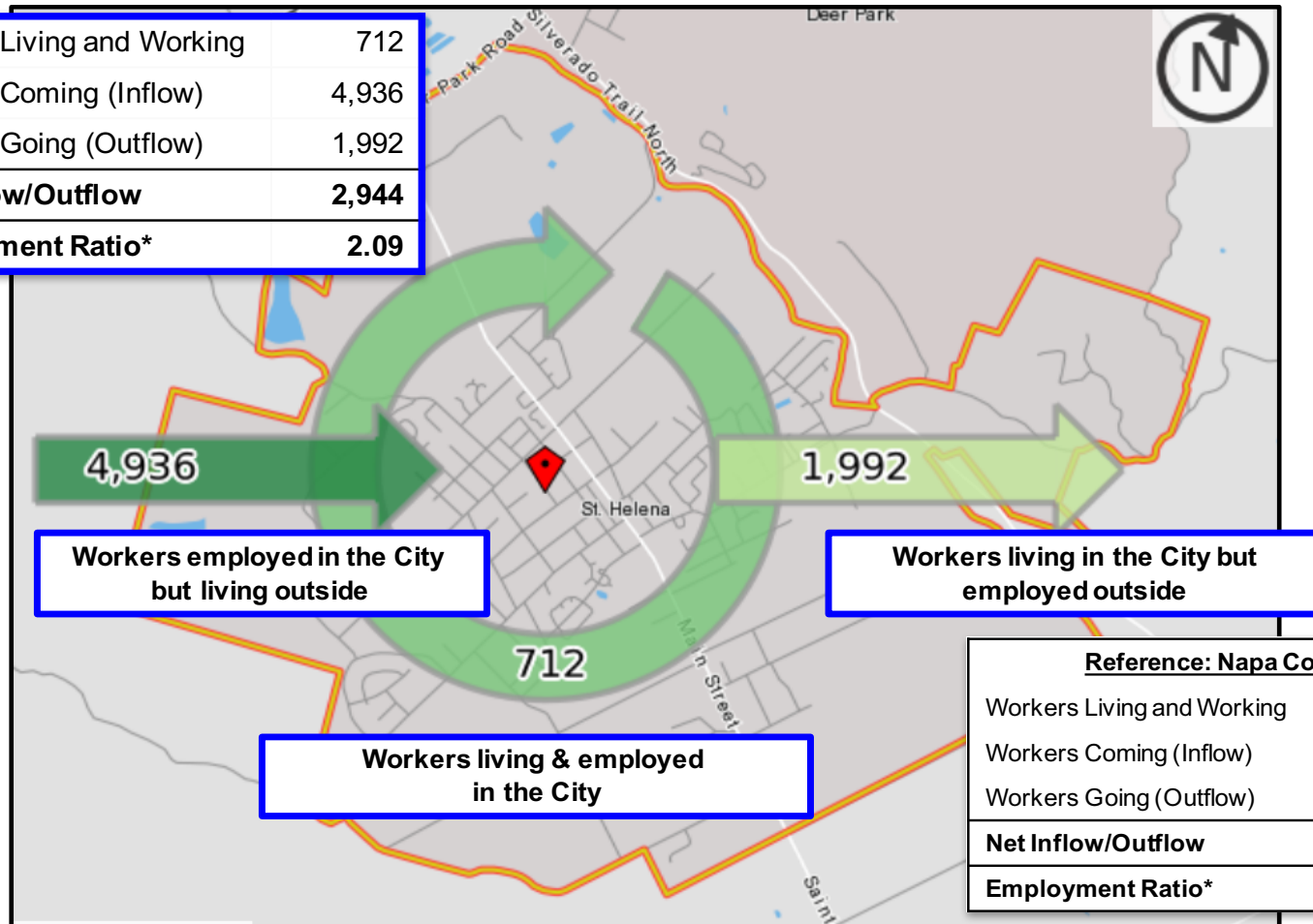
Units / Households	#	% of Total Units
Primary (“Full Time”)	2,503	86%
<i>Owner-Occupied</i>	<i>1,357</i>	<i>47%</i>
<i>Renter-Occupied</i>	<i>1,146</i>	<i>39%</i>
Seasonal (“Part Time”) / Vacant Units	393	14%
Total Housing Units	2,896	100%

Source: ESRI (Based on 2010 Census)

Worker Inflow / Outflow

“Are jobs coming or going?”

Workers Living and Working	712
Workers Coming (Inflow)	4,936
Workers Going (Outflow)	1,992
Net Inflow/Outflow	2,944
Employment Ratio*	2.09



<u>Reference: Napa County</u>	
Workers Living and Working	36,250
Workers Coming (Inflow)	37,354
Workers Going (Outflow)	31,648
Net Inflow/Outflow	5,706
Employment Ratio*	1.08

***Employment Ratio** = People employed within City (living and working in City + those who come into the City for work) / Employed population of City (living and working in City + workers who live in the City, but work outside of the City)

Source: U.S. Census Bureau Center for Economic Studies (2015)

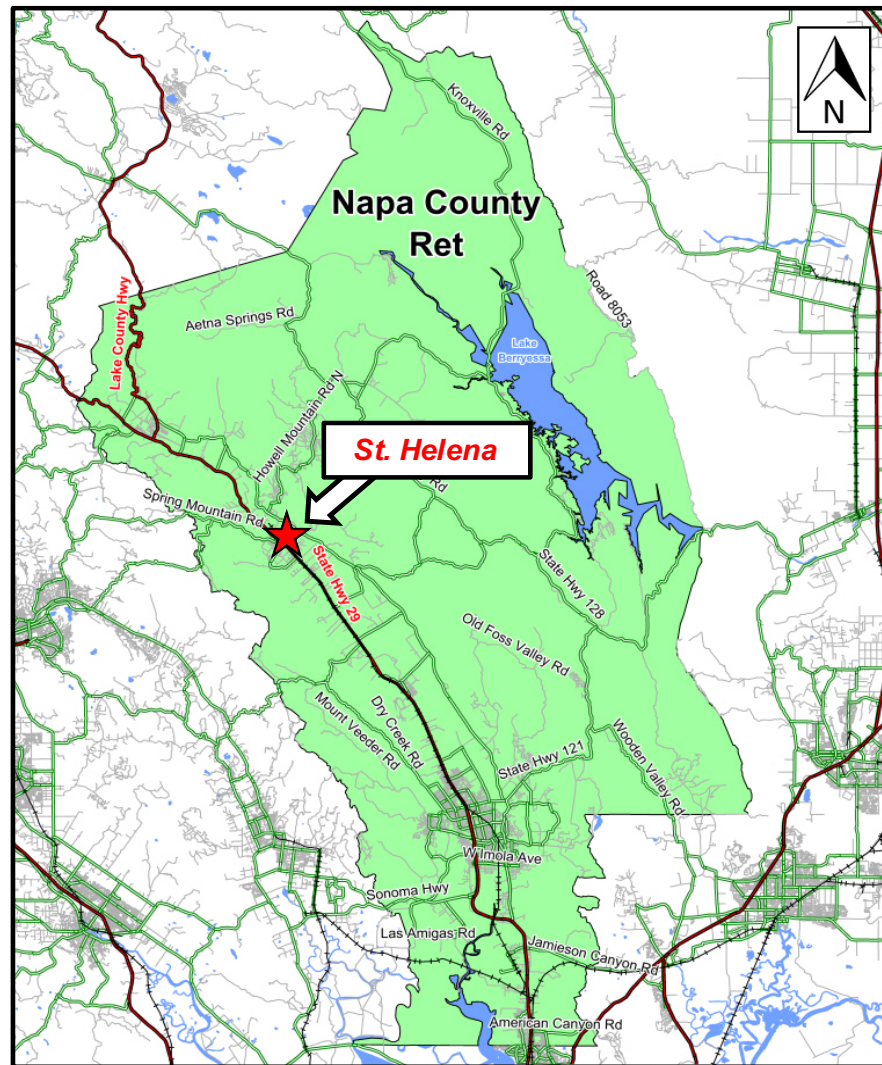
Summary: Existing Conditions

- Low density City with approx. 6,000 residents
- Aging population - median age of 44 in City and 54 within a 10 mile radius (older than County and State median ages)
- Average household size of 2.38, smaller than County and State averages. Average household income for the City is much higher than the County and State
- **Well educated population:** Educational attainment in St. Helena is higher than that of the County and State, with a majority of residents having completed a bachelor's degree or higher.
- St. Helena experiences a larger daytime population, as more people enter the City for work compared to those who leave, resulting in a **net inflow of jobs.**

Retail Market Data

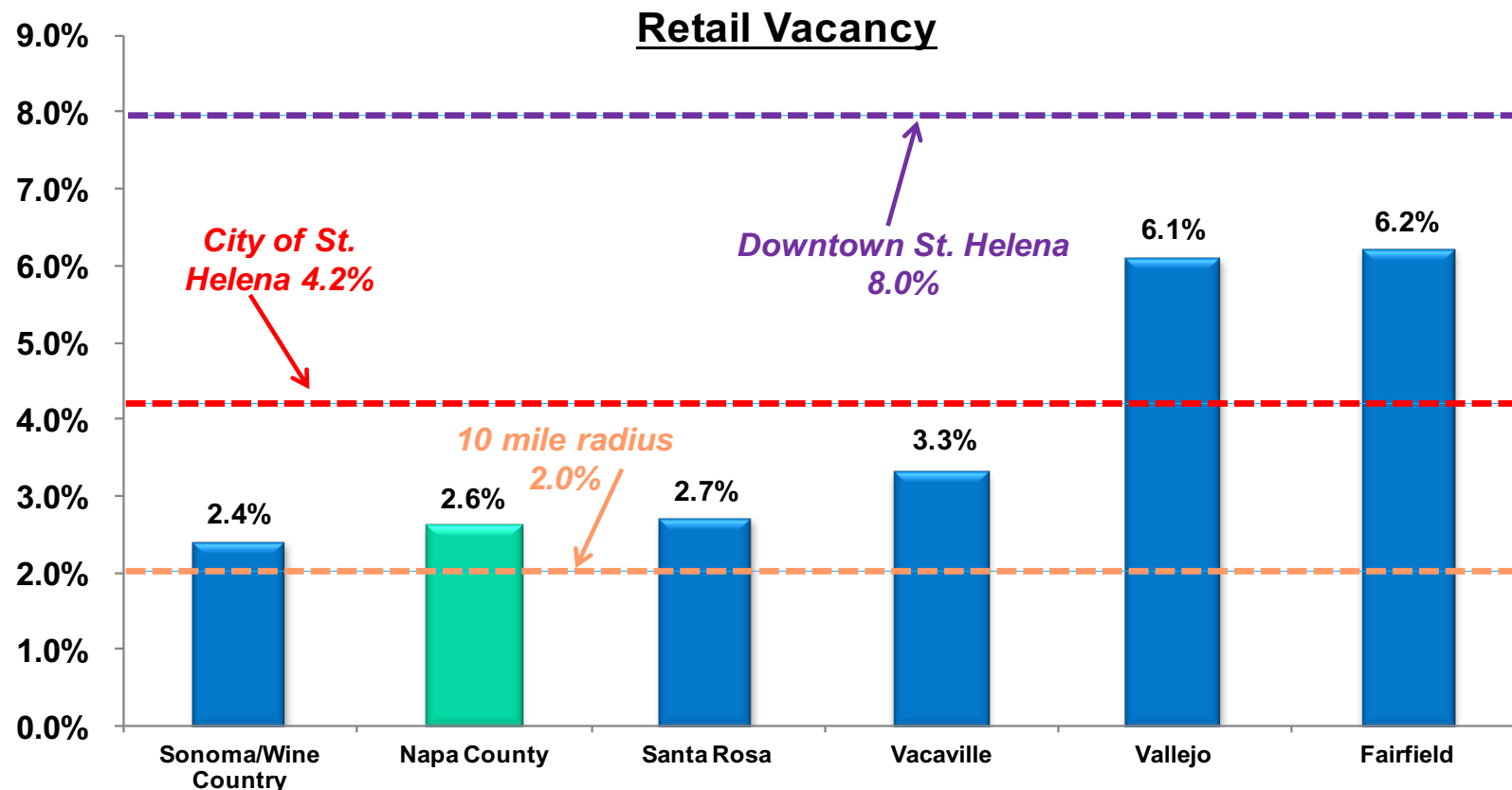
Supply, Vacancy, & Lease Rates

Napa County Retail Submarket



Source: CoStar (2018)

Retail Vacancy by Submarket



Total Gross Leasable Area (GLA) in millions of SF:

1.4	6.2	11.7	7.3	6.3	7.4
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Source: CoStar (Q1 2018) **Notes:** CoStar includes St. Helena in the Napa County submarket for retail; City of St. Helena Total Retail Market = 0.4 M sq. ft.; Downtown St. Helena Total Retail Market = 0.2 M sq. ft; 10 mile radius Total Retail Market = 1.2M sq. ft. (within 10 mile radius of 1480 Main St.); Downtown St. Helena refers to the area bounded by Oak Ave. on the west, Church St./Railroad Ave. on the east, Pine St. to the north, and Pope St./Mitchell Dr. to the South

St. Helena Retail Market Summary

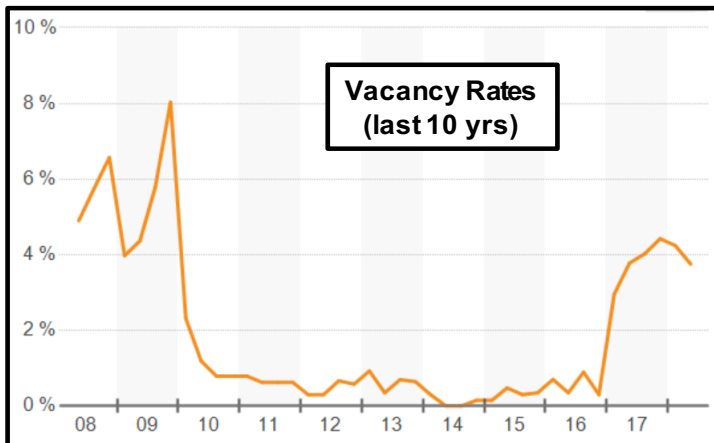
	Retail Summary (Q1 2018)			
	City of St. Helena	Downtown St. Helena*	St. Helena 10-Mile Radius**	Napa County
Availability				
NNN Rent Per SF	\$41.92	\$41.92	\$38.93	\$40.12
Vacancy Rate	4.2%	8.0%	2.0%	2.6%
Vacant SF	17,061	17,061	23,067	161,592
Availability Rate	3.5%	6.6%	2.2%	14.7%
Available SF	14,061	14,061	24,967	1,039,156
Inventory				
Existing Buildings	90	60	240	789
Existing SF	402,590	213,962	1,151,096	6,225,718

Source: CoStar (2018); **Notes:** *Downtown St. Helena refers to the area bounded by Oak Ave. on the west, Church St./Railroad Ave. on the east, Pine St. to the north, and Pope St./Mitchell Dr. to the South. **10 mile radius from City Hall (1480 Main St.).

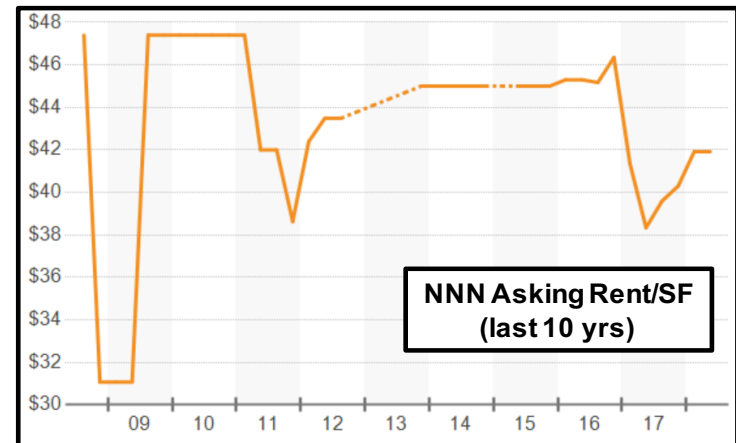
Retail Market History

City of St. Helena

Year	Inventory Bldgs	Inventory SF	Vacant SF Total	Occupancy	Gross Absorption SF Total	NNN Rent
2017	90	402,590	17,800	95.6%	3,310	\$40.29
2016	90	402,590	1,200	99.7%	6,276	\$46.35
2015	90	402,590	1,400	99.7%	1,815	\$45.00
2014	90	402,590	600	99.9%	2,600	\$45.00
2013	90	402,590	2,600	99.4%	3,730	\$45.00
2012	90	402,590	2,330	99.4%	4,375	-
2011	90	402,590	2,500	99.4%	1,875	\$38.63
2010	90	402,590	3,175	99.2%	31,300	\$47.40
2009	91	409,090	33,130	91.9%	15,775	\$47.40
2008	91	409,090	27,100	93.4%	4,300	\$31.07
2007	91	409,090	24,300	94.1%	9,225	-
2006	91	409,090	24,025	94.1%	0	-



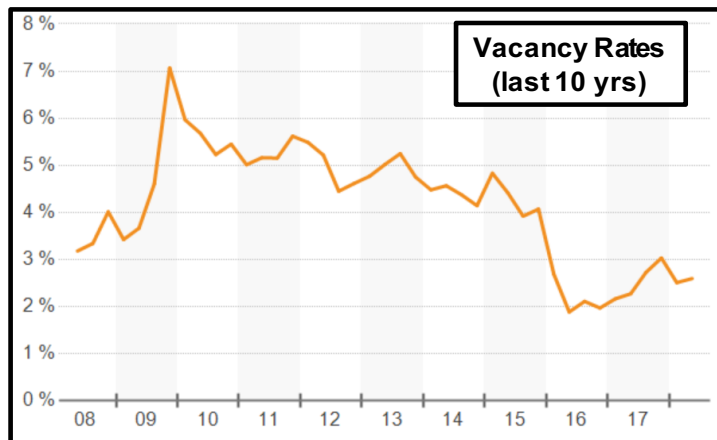
Source: CoStar (2018)



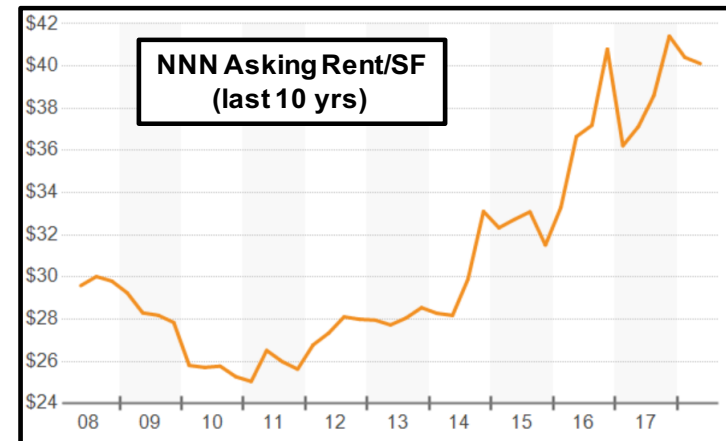
Retail Market History

Napa County

Year	Inventory Bldgs	Inventory SF	Vacant SF Total	Vacant Percent % Total	Occupancy SF	Occupancy %	Gross Absorption SF Total	NNN Rent Overall
2017	788	6,197,088	187,851	3	6,009,237	97	141,750	\$41.42
2016	786	6,175,161	121,621	2	6,053,540	98	279,042	\$40.81
2015	784	6,121,687	249,186	4.1	5,872,501	95.9	207,119	\$31.51
2014	783	6,059,407	251,084	4.1	5,808,323	95.9	117,950	\$33.11
2013	783	6,059,407	288,035	4.8	5,771,372	95.2	113,438	\$28.54
2012	779	6,037,392	279,696	4.6	5,757,696	95.4	253,158	\$27.99
2011	773	5,939,310	335,086	5.6	5,604,224	94.4	133,872	\$25.63
2010	771	5,932,632	325,162	5.5	5,607,470	94.5	232,068	\$25.27
2009	769	5,906,483	421,408	7.1	5,485,075	92.9	207,838	\$27.84
2008	767	5,837,048	236,482	4.1	5,600,566	95.9	109,758	\$29.80
2007	763	5,802,304	187,250	3.2	5,615,054	96.8	356,708	\$30.05
2006	757	5,585,106	226,168	4	5,358,938	96	44,259	\$31.06



Source: CoStar (2018).



Summary: Retail Market Conditions

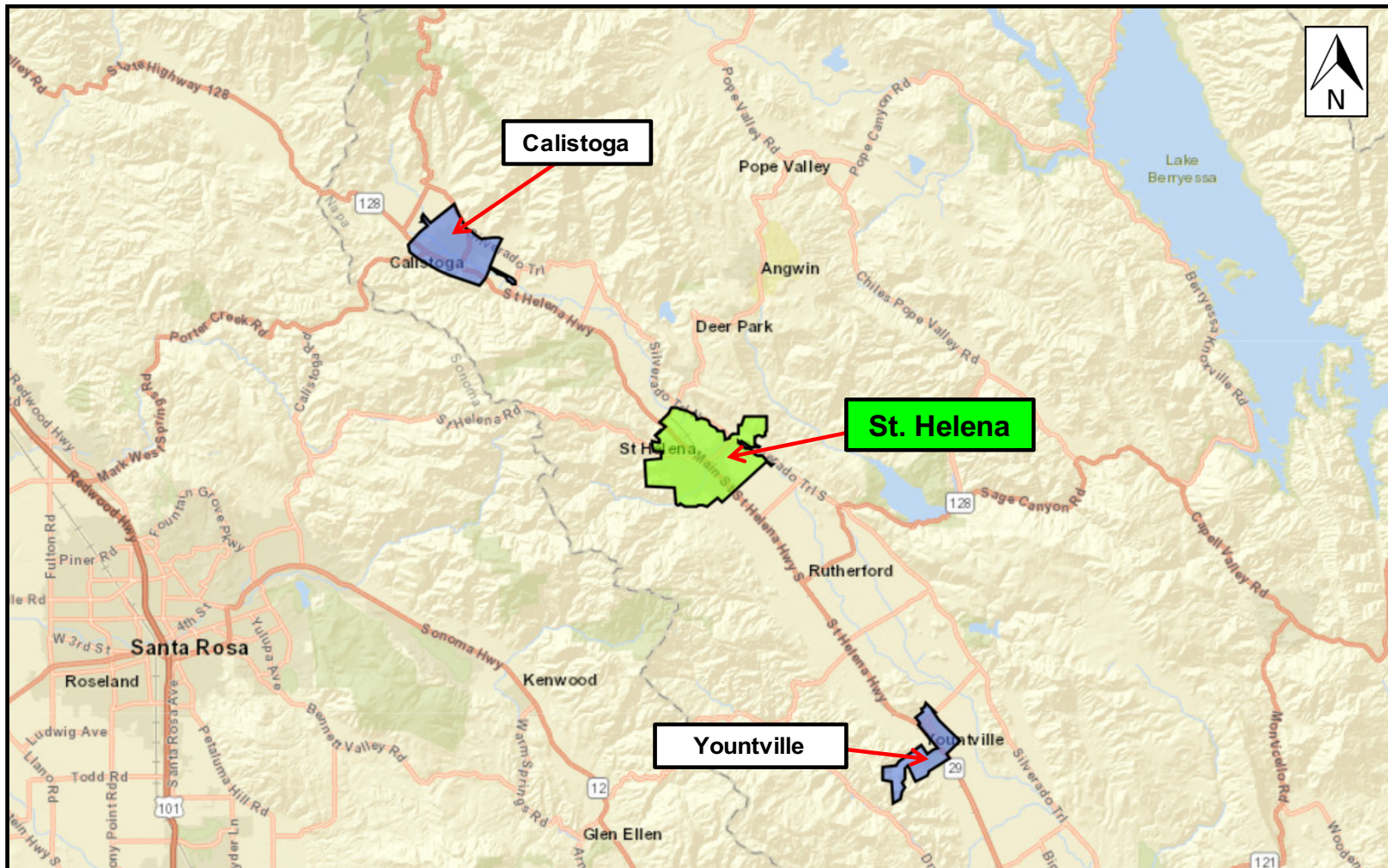
- Following the Great Recession, vacancy in the City was very low until 2017; but 2017 vacancy is below historic high in 2008.
- Downtown St. Helena retail vacancy rate (8%) is significantly **higher** than the vacancy rate of the Napa County submarket (2.6%), and many neighboring submarkets.
- Asking lease rates in St. Helena are at an all time high historically and **higher** than those for the Napa County submarket, and all of the neighboring submarkets.
- With average retail rents above \$40 psf, plus NNN costs of \$5 to \$10 psf, store owners typically need to generate sales of \$600 psf to be profitable (i.e. restaurants, jewelry stores).
- Most local serving merchants cannot achieve that sales volume from the approx. 2,000 local resident households – thus the critical need for attracting visitors and other Napa Valley residents to shop in St. Helena.
- With wealthy residents and high income Napa Valley visitors, specialty retailers can build synergy and afford high rents, if there is a business friendly environment

Source: CoStar (2018)

Retail Sales Analysis

Retail Sales Performance

St. Helena & Comparison Cities



Source: ESRI (2018)

Retail Sales Comparison

St. Helena & Comparison Cities

TOTAL RETAIL SALES 2006-2016

	St. Helena	Calistoga	Yountville	Napa County
2016	\$169,446,000	\$62,251,000	\$91,709,000	\$1,959,676,000
2015	\$164,192,000	\$60,320,000	\$88,866,000	\$1,898,911,000
2014	\$152,728,000	\$59,134,000	\$93,529,000	\$1,840,811,000
2013	\$142,666,000	\$56,508,000	\$86,861,000	\$1,755,049,000
2012	\$131,264,000	\$54,114,000	\$74,080,000	\$1,612,489,000
2011	\$121,176,000	\$52,894,000	\$68,764,000	\$1,500,810,000
2010	\$119,131,000	\$46,981,000	\$60,369,000	\$1,383,036,000
2009	\$121,538,000	\$45,095,000	\$55,188,000	\$1,325,300,000
2008	\$142,305,000	\$54,077,000	\$53,443,000	\$1,499,296,000
2007	\$153,436,000	\$60,006,000	\$54,998,000	\$1,514,461,000
2006	\$146,130,000	\$56,804,000	\$50,539,000	\$1,455,025,000

Source: "2017 California Retail Survey", Eureka Group

Retail Sales Comparison

St. Helena & Comparison Cities

% OF TOTAL RETAIL SALES IN NAPA COUNTY 2006-2016

	St. Helena	Calistoga	Yountville
2016	8.6%	3.2%	4.7%
2015	8.6%	3.2%	4.7%
2014	8.3%	3.2%	5.1%
2013	8.1%	3.2%	4.9%
2012	8.1%	3.4%	4.6%
2011	8.1%	3.5%	4.6%
2010	8.6%	3.4%	4.4%
2009	9.2%	3.4%	4.2%
2008	9.5%	3.6%	3.6%
2007	10.1%	4.0%	3.6%
2006	10.0%	3.9%	3.5%

Source: "2017 California Retail Survey", Eureka Group

Per Capita Retail Sales by Category 2015 & 2016

St. Helena & Comparison Regions

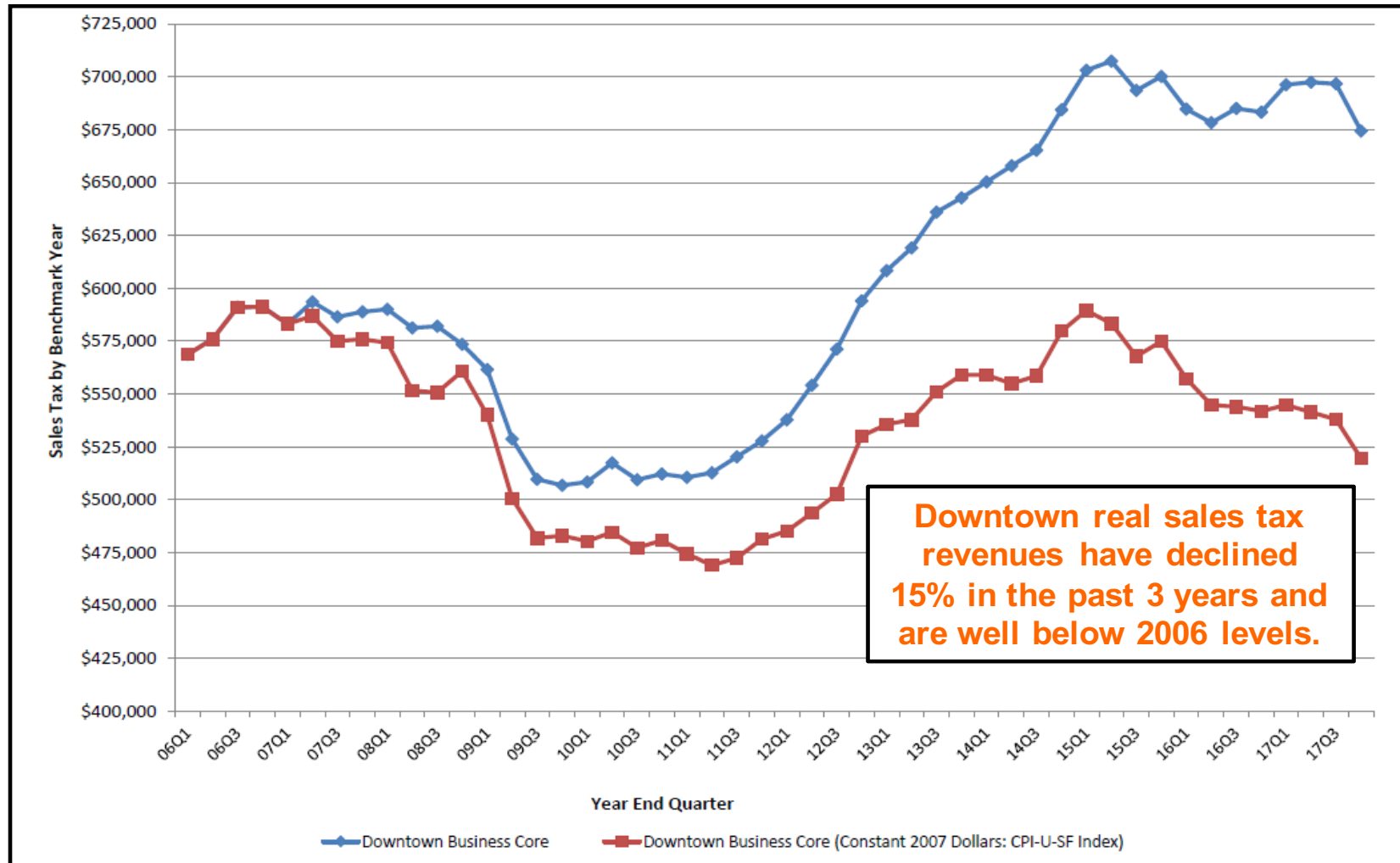
	St. Helena		Calistoga		Yountville		Napa County		California	
Population (2016)	6,004		5,180		2,987		142,028		39,255,883	
Retail Category	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016
<u>Shopper Goods (GAFO):</u>										
Apparel Stores	\$1,738	\$1,772	\$331	\$333	\$1,243	\$1,272	\$929	\$951	\$889	\$909
Gen. Merchandise	N/A	N/A	\$1	\$1	N/A	N/A	\$1,244	\$1,274	\$1,421	\$1,454
Home Furn. & Appliance	\$1,125	\$1,147	\$15	\$15	\$469	\$479	\$423	\$433	\$733	\$750
Other Retail Stores	\$8,843	\$9,015	\$4,890	\$4,920	\$812	\$830	\$1,573	\$1,610	\$1,474	\$1,507
Total GAFO	\$11,706	\$11,934	\$5,237	\$5,269	\$2,524	\$2,581	\$4,169	\$4,268	\$4,517	\$4,620
<u>Convenience Goods:</u>										
Grocery	\$3,426	\$3,493	\$1,973	\$1,985	\$2,866	\$2,932	\$1,918	\$1,963	\$611	\$625
Restaurants & Bars	\$8,813	\$8,985	\$4,734	\$4,763	\$24,622	\$25,188	\$3,078	\$3,151	\$1,899	\$1,942
Total Convenience	\$12,239	\$12,478	\$6,707	\$6,748	\$27,488	\$28,120	\$4,996	\$5,114	\$2,510	\$2,567
<u>Heavy Commercial Goods:</u>										
Build. Materials	\$1,045	\$1,065	N/A	N/A	N/A	N/A	\$1,656	\$1,696	\$784	\$801
Auto Dealers & Supply	\$2,693	\$2,746	N/A	N/A	N/A	N/A	\$1,264	\$1,294	\$2,065	\$2,112
Service Stations	N/A	N/A	N/A	N/A	N/A	N/A	\$1,392	\$1,425	\$1,218	\$1,246
Total Heavy Commercial	\$3,738	\$3,811	N/A	N/A	N/A	N/A	\$4,312	\$4,415	\$4,067	\$4,159
TOTAL	\$27,683	\$28,223	\$11,944	\$12,017	\$30,012	\$30,701	\$13,477	\$13,797	\$11,094	\$11,346

Key: Indicates higher or equal value for St. Helena Indicates lower value for St. Helena

Source: "2017 California Retail Survey", Eureka Group

Note: N/A indicates data unavailable due to confidentiality

Historical Sales Tax Revenue For Downtown St. Helena



Source: ESRI (2018)

Summary: Retail Sales Performance

- Consumer spending across retail categories is totaled for the purpose of evaluating potential sales leakage / capture across jurisdictions
- Historic growth in retail sales from 2006 to 2016 in St. Helena was 16% compared to Yountville's 82% growth, and Napa County's 35% growth. As a result, St. Helena's share of the County's retail sales has declined from 10% in 2006 to 8.6% last year
- Retail sales per capita for the St. Helena in 2016 (~\$28,200) is **greater than** the retail sales per capita of Calistoga (~\$12,000), Napa County (~\$13,800) and the State (\$11,300), but **less than** Yountville (~\$30,700)
- Higher performing sales categories for St. Helena include **apparel stores, home furnishings and appliance stores, other retail stores, grocery stores, and auto dealers and supply stores**
- Lower performing retail categories include **restaurants and bars (relative to Yountville)**
- The California Retail Survey does not disclose sales for general merchandise stores in St. Helena. Thus, it is difficult to discern if St. Helena is performing well in these retail categories relative to other jurisdictions

National Retail Trends

Entertainment, Omnichanneling

Retail Meets Industrial: Destination or Distribution?

- Retail is as much about **distribution** of goods as it is **destination** to consume goods. Think: disruption and bifurcation
- **Omnichanneling** – Consumers have **multiple ways to shop for and receive goods**:
 - **The Traditional Approach** – Buy and pick up in store
 - **Buy and Receive** – Buy in store receive at home
 - **Click and Collect** – Buy online and pick up in store
 - **Click and Receive** – Buy online and receive at home
- E-commerce sales to **reach \$462 billion in 2018**, up 12.8% (U.S.)
 - Growth from apparel, sporting goods, electronics, office supply
 - Still internet captures only approx. 9% of total retail sales

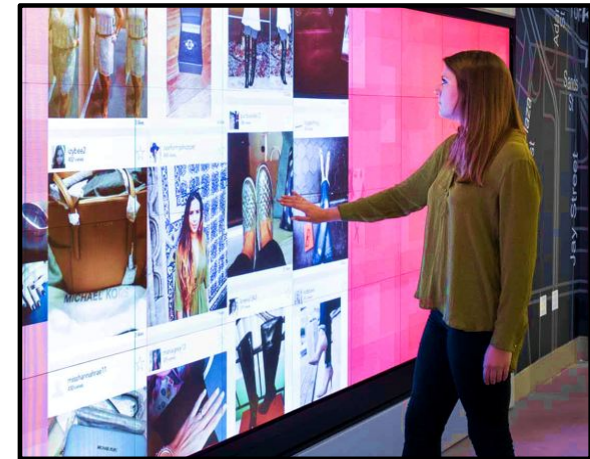


Sources: <https://www.retailcustomerexperience.com/news/omnichannel-retailers-big-winners-in-holiday-season/>; Shopping Centers Today, Feb. 2017, Datex; <https://www.statista.com/statistics/272391/us-retail-e-commerce-sales-forecast/>; <https://www.statista.com/statistics/379112/e-commerce-share-of-retail-sales-in-us/>

Re-engineering Retail

1. The store is no longer just a place to buy

- MUST present an **integrated shopping environment** including locating in a diverse setting (office, work, transit, residents nearby)
- MUST **embrace omnichanneling**- develop a digital and physical presence
- MUST **redefine platforms** from just “selling” to “**solving customers’ problems/answering questions**”
- MUST **invest in technology** and make it strategic to their business



2. Information is at the center of the change

- MUST **become data/information oriented; embrace connectivity**
- IoT/Apps/Social Media are data sources

3. Stake-out the digital universe

- Millennials are digital natives; consumers begin paths to purchase online
- Internet has made shopping a 24/7, anytime, anywhere activity



Retail Sales Driven by Place or Pace of Delivery

Destination	Distribution
Experience Food Entertainment Blended Use	Industrial Fulfillment Click and Collect Last-Mile Delivery



Blended Use: Paseo Colorado; Pasadena, CA



Amazon Fulfillment Center; San Bernardino, CA

Options / Recommendations

Next Steps

Options

Given today's economic challenges, the City is faced with a series of choices in planning for its long-term future.

1. Does the City want to strategically select and attract types of new retail/entertainment/visitor concepts – or – focus more on retention of existing businesses?
2. Does the City want to expand and improve community services?
3. Does the City want the status quo approach, in which St. Helena is becoming characterized as a “second home” community – or – pursue an approach that can allows a residential, live/work/play environment for all generations?

Assuming the City is willing to consider a more proactive approach, Kosmont offers the following recommendations in three classifications:

- Marketing
- Capital Investment
- Administrative Actions

Recommendations/Implementation

Marketing / Outreach

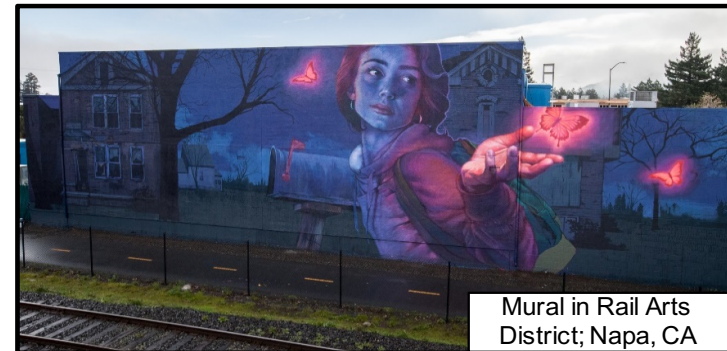
- City should consider resolving “anti-business” reputation and image through marketing/branding
- Establish tie-ins with Downtown merchants, Culinary Institute and wineries
- Consider concept of monthly or frequent community events in Downtown (e.g. First Friday, Art Walks, Music/Food Fests)
- Consider high image “formula” or corporate retail (e.g. Tesla / Nordstrom) or Market Hall concepts for Masonic Lodge
- Need to create more experiences for shoppers (e.g. “Pop Up” tenants, entertainment components, breweries, etc.)
- Work with landlords on economic market realities and more aggressive leasing campaigns
- Educate landlords/businesses and City Council on experiential, destination, and omnichannel retail trends



Recommendations/Implementation

Capital Investment

- Improve image with infrastructure improvements
- Capitalize on new sidewalk improvement program – encourage facade improvements and add landscape/street art
- Focus construction during morning hours during offseason to minimize downtown business disruption
- Activate Money Way
- Provide more parking and wayfinding signage
- Provide some 20-30 minute parking zones on Main Street to facilitate in and out customers
- Provide shuttle/valet parking service on weekends



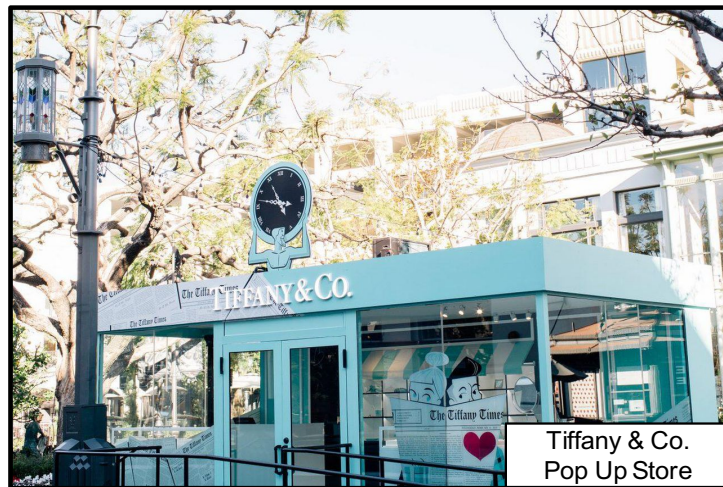
Recommendations/Implementation

Administrative Actions

- Fundamentally review/revamp zoning and permitting process to be more flexible to accommodate market and changing retailer and customer dynamics
- Identify beneficial retail categories and streamline permit process
- Allow high end hotel development near Main St – increase evening business demand
- Consider allowing infill housing/blended-use in vacant buildings near Main Street
- Provide permits for temporary Pop Up uses
- Allow ancillary/accessory uses in existing businesses without requiring new permit
- Allow restaurant and hotel applications with no more than a single CUP process
- Provide process to allow for live music /amplified sound to attract customers in the evenings (can limit to 9:00 or 10:00 pm)



Puma Pop Up Store



Tiffany & Co.
Pop Up Store

Recommendations/Implementation

Administrative Actions (Cont.)

- Permit some high end “formula” retail stores:
 - *Small shop owners have high failure rate – inadequate financial capital to start business in high cost locations*
- Consider allowing Wine Train drop off – expand business, while reducing car traffic and need for parking
- Expand community outreach efforts to get broad feedback on land use issues – (e.g., digiConversation^R)
- Consider Specific Plan for zoning strategy/higher density on targeted sites



The Wine Train

Let Your Voice Be Heard

Click below to share your thoughts on the Poway Road Corridor Specific Plan.

[SHARE YOUR THOUGHTS](#)

Poway Road Corridor Specific Plan

A specific plan is a zoning and development tool that implements the Poway General Plan. It links General Plan policies and individual development proposals in a defined area. State law requires that specific plans be consistent with the General Plan. The Poway Road Corridor Specific Plan was developed in conjunction with civic leaders, residents, businesses, and developers, and directly implements the Poway General Plan policies and guidelines.

Community Amenities The draft plan promotes and encourages the creation and preservation of community amenities.	Traffic Plan The draft plan promotes an efficient flow of all modes of transportation.	Preserving Views The draft plan includes various view protection and preservation components that support Poway's community image and character.	New Housing The draft plan provides for additional housing options for a wide range of households.	Frequently Asked Questions Click here to find answers to frequently asked questions.
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Share your thoughts on the Poway Road Corridor Specific Plan.

[SHARE YOUR THOUGHTS](#) [READ THE PLAN](#)

Community Amenities Traffic Plan Height Restrictions Housing Poway Road Corridor Specific Plan

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digiConversation^R example: Poway Road Corridor Website (www.powayroadcorridor.online)

Next Steps

Upon City Council consideration of Downtown Retail Market Analysis and direction to City Staff, Kosmont can work with City on the following:

- Administrative implementation items such as advising on flexible zoning changes
- Economic Development tools and implementation to facilitate public and private capital investment in Downtown (e.g., special districts, façade/tenant improvement programs)
- Marketing/outreach implementation items such as business attraction at various ICSC conferences; Kosmont can also work/continue to work with property owners such as Masonic Lodge on leasing vacant space

Questions & Discussion

Thank you



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(424) 297-1070 | www.kosmont.com | CA Broker #01182660





Report to the City Council
Council Meeting of July 24, 2018

Agenda Section: New Business

Subject: Consideration of Resolution Approving City Council Ballot Argument In Support Of Measure E Proposing an Increase to the Transient Occupancy Tax (TOT) at the General Municipal Election to be held on Tuesday, November 6, 2018

CEQA Determination: Not a CEQA project

Prepared By: Mark T. Prestwich, City Manager

Reviewed By:

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

This report reiterates much of the report presented on June 26, 2018.

In December 2017, the City Council adopted a three year goal to “Stabilize, Maintain and Improve Access to Housing.” In short, housing production has not kept pace with job growth and is no longer aligned with the income levels of local employees. The contributing factors for this are complex and interrelated as noted in a May 8, 2018 draft executive summary of a forthcoming housing white paper. Identifying consistent and reliable funding to leverage grant resources and to fund housing programs and services has been identified as a critical need.

Concurrently, over the past year, Visit Napa Valley (VNV), the official tourism marketing organization for Napa Valley, has been exploring potential funding mechanisms to address the region’s housing challenges. Based on outreach to lodging representatives, industry partners, local government officials and affordable housing advocates, on May 8, 2018, VNV formally requested the City join with other Napa County local governments to consider placement of a 1% transient occupancy tax (hotel tax), paid for by visitors, on the November 2018 ballot. Funds from the measure would be designated for housing projects and programs serving the region's workforce. If all jurisdictions

participated at this level, VNV estimates approximately \$5 million would be generated annually for these projects.

The City Council discussed the concept at their meetings of May 22, 2018 and June 12, 2018 and directed staff to prepare a 1% hotel tax ordinance dedicated to funding housing programs and services for placement on the November 6, 2018 ballot. This measure is estimated to generate approximately \$279,000 annually in dedicated housing funding. Because the measure restricts all revenue for specific purposes, it is considered a “special tax” and will require 2/3 voter approval. Napa County, Napa, Yountville, and Calistoga have also decided to move forward with a 1% hotel tax measure in their jurisdictions.

The Council considered these matters again at their meeting on June 26, 2018. The Council voted to adopt a resolution as follows;

- ordering the submission to the qualified electors of the City of St. Helena a measure to approve an increase to the transient occupancy tax at the General Municipal Election to be held on Tuesday, November 6, 2018;
- requesting consolidation by the Napa County Board of Supervisors of the election regarding said measure with the statewide general election to be held on the same date and that Napa County provide election services with full reimbursement by the City of St. Helena;
- authorizing the City Council to submit a ballot argument supporting the measure and setting City Council priority for filing written argument;
- directing the City Attorney to prepare an impartial analysis;
- authorizing the filing of rebuttal argument; and
- authorizing the release of City Council rebuttal argument.

DISCUSSION

This report brings before the City Council a draft of the City Council’s ballot argument in support of Measure E as authorized on June 26. Under the Elections Code the City Council ballot argument may not exceed 300 words. The deadline for the City Council to submit its ballot argument is Friday August 17, 2018.

Staff recommends that the City Council consider and provide direction on the draft City Council ballot argument, and either approve some revised version of the draft presented with this report or, alternatively, designate two Council members with direction to make specific revisions to the City Council ballot argument for Council members to sign.

FISCAL IMPACT

The City Council consideration and approval of a ballot argument will have little or no fiscal impact. The 1% TOT increase proposed by Measure E would raise approximately \$279,000 annually.

RECOMMENDED ACTION

Consider and provide direction on the draft City Council ballot argument, and either approve some revised version of the draft presented with this report or, alternatively, designate two Council members with direction to make specific revisions to the City Council ballot argument for Council members to sign.

ATTACHMENTS

[Measure E City Council Ballot Argument](#)

ARGUMENT IN FAVOR OF MEASURE E

Please vote YES on Measure E.

As the St. Helena Star has noted, a “white paper” study recently prepared for the city confirmed what citizens have long known-- that St. Helena has a severe housing crisis, and that the city needs new sources of revenue to address that crisis.

Visitor stays at hotels and motels in St. Helena contribute to the challenge as they increase the employment of workers needing local housing opportunities.

Along with every other city in the Napa Valley, the St. Helena City Council voted to place Measure E on the ballot to increase the city’s Transient Occupancy Tax (TOT) by 1% to 13%. The funds received by this 1% increase would be restricted to support much needed affordable and workforce housing and related programs.

The TOT is a tax paid for by tourists and visitors who stay in our hotels and motels. St. Helena residents do not pay this tax unless they stay in a local hotel.

In Fiscal Year 2017-18, the TOT in St. Helena generated \$___million in revenue for the City. A 1% increase in the TOT currently amounts to approximately \$239,000 annually.

Measure E’s modest 1% TOT increase does not place St. Helena out of market for the region.

Measure E enjoys the support of our local hotel and tourist groups. They agree that the proposed TOT increase achieves an important balance between maintaining our competitiveness for tourism dollars, while providing an opportunity to fund critically-needed housing.

Please join us in voting YES on Measure E, and help St. Helena address its critical need for affordable and workforce housing.

/S/

Alan Galbraith, Mayor
Peter White, Mayor Pro Tempore
Paul Dohring, City Councilmember
Geoff Ellsworth, City Councilmember
Mary Koberstein, City Councilmember



Report to the City Council
Council Meeting of July 24, 2018

Agenda Section: New Business

Subject: Consideration to designate one member of the St. Helena City Council as the 2018 League of California Cities Annual Conference voting delegate and designate two alternate voting delegates

CEQA Not a CEQA project
Determination:

Prepared By: Cindy Tzaopoulos, City Clerk

Reviewed By: Mark T. Prestwich, City Manager

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The League of California Cities 2018 Annual Conference is scheduled for September 12-14 in Long Beach. As part of the Conference, the League will hold its annual business meeting, during which League membership considers and takes action on resolutions that establish League policy. In order to vote at the annual business meeting, the League requires City Council action to designate a voting delegate and alternates.

Council will review and take a position on the League's proposed resolutions under a separate agenda item. The delegate would then vote according to the City's position on each resolution during the business meeting.

DISCUSSION

Mayor Alan Galbraith, Council Member Koberstein and City Manager Mark Prestwich are representing the City of St. Helena at the League of California Cities 2018 Annual Conference.

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDED ACTION

Confirm a voting delegate and two alternate voting delegates for the 2018 League of California Cities Annual Conference.

ATTACHMENTS

[Attachment 1 - League of California Cities request for voting delegate designation.](#)



1400 K Street, Suite 400 • Sacramento,
California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

Council Action Advised by July 31, 2018

May 17, 2018

TO: Mayors, City Managers and City Clerks

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference – September 12 - 14, Long Beach**

The League's 2018 Annual Conference is scheduled for September 12 – 14 in Long Beach. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly), scheduled for 12:30 p.m. on Friday, September 14, at the Long Beach Convention Center. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity.

Please complete the attached Voting Delegate form and return it to the League's office no later than Friday, August 31, 2018. This will allow us time to establish voting delegate/alternate records prior to the conference.

Please note the following procedures are intended to ensure the integrity of the voting process at the Annual Business Meeting.

- **Action by Council Required.** Consistent with League bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates **must** be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. To register for the conference, please go to our website: www.cacities.org. In order to cast a vote, at least one voter must be present at the

Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.

- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.
- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the Sacramento Convention Center, will be open at the following times: Wednesday, September 12, 8:00 a.m. – 6:00 p.m.; Thursday, September 13, 7:00 a.m. – 4:00 p.m.; and Friday, September 14, 7:30 a.m.– 11:30 a.m.. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League's office by Friday, August 31. If you have questions, please call Kayla Curry at (916) 658-8254.

Attachments:

- Annual Conference Voting Procedures
- Voting Delegate/Alternate Form

Annual Conference Voting Procedures

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: _____

**2018 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM**

Please complete this form and return it to the League office by Friday, August 31, 2018. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

In order to vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE

Name: _____

Title: _____

2. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

3. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES.

OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: _____ E-mail: _____

Mayor or City Clerk _____ Phone: _____
(circle one) (signature)

Date: _____

Please complete and return by Friday, August 31, 2018

League of California Cities
ATTN: Kayla Curry
1400 K Street, 4th Floor
Sacramento, CA 95814

FAX: (916) 658-8240
E-mail: kcurry@cacities.org
(916) 658-8254



Report to the City Council
Council Meeting of July 24, 2018

Agenda Section: New Business

Subject: Consideration and proposed approval of a resolution **adopting a Labor Compliance Program for Proposition 84 Grant Funded Public Works Projects**

CEQA Determination: **Not a CEQA project**

Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The City is required to have an approved Labor Compliance Program in order to satisfy conditions on the use of State Proposition 84 grant funds. Proposition 84 grant funds were received to complete design and construction of the Upper York Creek Dam Removal Project. Labor Compliance Program approval is needed prior to awarding construction contracts.

Proposition 84 requires the body awarding a contract for a public works project financed in any part with Proposition 84 funds to adopt and enforce, or contract with a third party to enforce, a labor compliance program that meets the requirements of California Labor Code section 1771.5(b). Labor Compliance Programs are the means by which an awarding body may enforce prevailing wage laws on its own public works projects, as an alternative to the traditional enforcement role of the Division of Labor Standards Enforcement.

Labor Compliance Programs are required in order to, among other things, inform contractors about their prevailing wage obligations, monitor compliance by obtaining and reviewing certified payroll reports, investigate complaints and other suspected violations, and take appropriate enforcement action when violations are found. The Labor Compliance Programs must be approved by governing body and must follow

specific reporting and performance standards set forth in regulations adopted by the Director of Industrial Relations at Title 8, California Code of Regulations, sections 16421 - 16439.

Recipients of Proposition 84 funds can either create and administer the Labor Compliance Program with their own staff or hire a third party to prepare and enforce the Program with staff oversight. For the Proposition 84 grant funding for the Upper York Creek Dam Removal, the City issued a request for proposals from qualified firms to assist the City with the preparation of a labor compliance program and construction monitoring services. On May 11, 2018, three firms submitted proposals and after reviewing them, Contractor Compliance and Monitoring, Inc. (CCMI) was the firm selected to help obtain approval of the program from the Department of Industrial Relations and to enforce the approved labor compliance program. The contract with CCMI is for an amount not to exceed \$25,000 and is a grant-reimbursable cost.

DISCUSSION

The Labor Compliance Program manual has been prepared and is on file with the City Clerk. Adoption of the attached resolution would approve the City's Labor Compliance Program and authorize its enforcement. With resolution adoption, CCMI would submit the Program to the State for approval and enforce the Labor Compliance Program for the Upper York Creek Dam Removal project. CCMI's work would include assistance with bid advertisements, pre-bid conference training, post award labor compliance workshops, and support to contractors via phone and email. During construction, CCMI will review and monitor certified payroll to verify compliance, maintain communication with contractors concerning possible violations and discrepancies, review and approve each pay application, and generally provide expertise in the field of California Labor Code Enforcement and Federal Labor standards.

FISCAL IMPACT

The total project budget for the Upper York Creek Dam Removal is \$6,455,000. Funding for the project is comprised of State Proposition 84 funds, EPA funds, City Water Bonds, City Water Enterprise Funds and City General Funds.

RECOMMENDED ACTION

Approve the resolution adopting a Labor Compliance Program for Proposition 84 Grant Funded Public Works Projects.

ATTACHMENTS

[Attachment 1: Resolution](#)

[Attachment 2: Admin Manual LCP](#)

[Attachment 3: LCP Appendix A](#)

CITY OF ST. HELENA

RESOLUTION No. 2018-

**Resolution Adopting a Labor Compliance Program for
Proposition 84 Grant Funded Public Works Projects**

RECITALS

- A. The California Labor Code requires contractors on public works projects pay their workers based on the prevailing wage rates which are established and issued by California's Department of Industrial Relations, Divisions of Labor Statistics and Research; and
- B. The California Labor Code requires contractors to keep accurate payroll records of trade workers on all public works project and to submit copies of certified payroll records upon request; and
- C. The California Labor Code Section 1777.5 requires contractors to employ registered apprentices on public works projects; and
- D. The provisions of the California Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) require the establishment of a Labor Compliance Program (LCP) to monitor the prevailing wage and apprenticeship requirements on any project using Proposition 84 funding; and
- E. The City of St. Helena has applied and been awarded Proposition 84 funds; and

RESOLUTION

The City Council of the City of St. Helena hereby resolves as follows:

1. Adopts the Labor Compliance Program and directs City staff to proceed with obtaining approval of said Program from the Department of Industrial Relations.

Approved at a Regular Meeting of the St. Helena City Council on July 24, 2018, by the following vote:

Mayor Galbraith:	_____
Vice Mayor White:	_____
Councilmember Ellsworth:	_____
Councilmember Dohring:	_____
Councilmember Koberstein:	_____

APPROVED:

ATTEST:

Alan Galbraith, Mayor

Cindy Tzafoopoulos, City Clerk

**LABOR COMPLIANCE PROGRAM IMPLEMENTED BY
CONTRACTOR COMPLIANCE AND MONITORING, INC.
ON BEHALF OF THE CITY OF ST HELENA**

INTRODUCTION

CONTRACTOR COMPLIANCE AND MONITORING, INC. (hereinafter referenced collectively as the “CCMI”) implements this Labor Compliance Program on behalf of the above named Public Agency for the purpose of complying with Labor Code Section 1771.3 and/or 1771.5. CCMI was previously approved by the DIR as a Third Party LCP from March 2003 through 2011. This Administrative Manual is a summary of the services CCMI will provide and the implementation of the LCP we perform as part of the Agency’s continuing commitment to the requirements of LCP laws and regulations. CCMI will continue to update its program as the laws and regulations relating to Labor Compliance Programs are changed and updated.

California Labor Code Section 1770, et seq., requires contractors on public works projects pay their workers based on the prevailing wage rates which are established and issued by the Department of Industrial Relations, Division of Labor Statistics and Research.

California Labor Code Section 1776 requires contractors to keep accurate payroll records of tradeworkers on all public works projects and to submit copies of certified payroll records upon request.

California Labor Code Section 1777.5 requires contractors to employ registered apprentices on public works projects.

This labor compliance program contains the labor compliance standards required by State for project subject to the requirements of Proposition 84 which include, but are not limited, the following:

1. Payment of applicable general prevailing wage rates.
2. Employment of properly registered apprentices.
3. Providing certified payroll records upon request but not less than monthly.
4. Monitoring Agency construction sites for the verification of proper payments of prevailing wage rates and work classification.
5. Conducting pre-job conferences with contractors/subcontractors.
6. Withholding contract payments and imposing penalties for noncompliance.
7. Applicable reports to the California Labor Commissioner
8. Preparation and submittal of an Annual Report to the Department of Industrial Relations.

CCMI is committed to providing a current, complete and accurate LCP program for all applicable projects. As such, CCMI has adopted and will update this administrative manual and LCP documents each time the Labor Code is amended and /or the DIR issues new regulations relating to LCPs. CCMI will also continue see that its staff receives updated training when the Labor Code and DIR regulations relating to LCP change.

SECTION I.

PUBLIC WORKS SUBJECT TO PREVAILING WAGE LAWS

State prevailing wage rates as set forth in Labor Code Sections 1720, 1720.2, 1720.3, and 1771, have been made applicable to construction contracts funded with public funds and include, but are not limited to, such types of work as construction, alteration, demolition, repair, or maintenance work. The Division of Labor Statistics and Research (DLSR) predetermines the appropriate prevailing wage rates for particular construction trades and crafts by county.

A. Types of Contracts to Which Prevailing Wage Requirements Apply

As provided in Proposition 84 and/or Labor Code Section 1771.5, an Awarding Body shall implement a Labor Compliance Program (LCP) that includes the following steps. CCMI will perform or assist in the performance of these items:

1. Provide LCP compliance under the requirements of the California Labor Code.
2. Submit appropriate Application and forms to DIR for approval of LCP compliance on Proposition 84 projects.
3. Review specifications and bid and contract documents (as requested) for compliance with prevailing wage language.
4. Conduct a Preconstruction Conference meeting and provide training and information on LCP requirements including providing handout materials (checklist) for all contractors and subcontractors.
5. Provide a phone line and e-mail contact where contractors and subcontractors can contact CCMI for clarification on prevailing wage, certified payrolls, apprenticeship and compliance issues.
6. License check and confirmation with California Contractor's State License Board of current and active license status, as well as worker's compensation coverage of all contractors and all listed subcontractors.
7. Review and comparison of work classification with California prevailing wage classification to ensure the contractor is paying the correct prevailing wage rate.

8. Monitoring of all Apprenticeship Requirements. Collection and review of all DAS-140 and DAS-142 forms. Review of applicable apprenticeship ratios employed, correct wages paid, training contributions (CAC2 forms).
9. Monthly audit of certified payrolls forms. This includes obtaining the applicable prevailing wage determinations for each project. Certified Payrolls are generally delivered by the Contractor to CCMI for review and audit. Auditing the payrolls includes: checking proper trade classifications, checking for overtime, weekend, holiday or shift work, checking for ** increases, reviewing fringe benefit contribution and verifying that amortization is correct (when used) and review of training contributions made. When appropriate, travel and subsistence is also reviewed
10. Monthly jobsite audits and random interviews of workers (to determine veracity of certified payroll information, compliance with anti-kickback, equal employment opportunity requirements, jobsite posting requirements, etc.).
11. Verification of posting on the projects on a regular basis.
12. Monthly request for verification of payment by requesting each contractor and subcontractor on the project provide proof of payment (cancelled check and wage statement or direct deposit and wage statement) for an employee selected (by CCMI) on a random basis from the certified payrolls.
13. Additional detailed audit and/or investigations of contractors through review of cancelled checks, time cards, and related records (as needed).
14. Monthly report to the Agency by CCMI regarding compliance of contractors and subcontractors audited. To the extent that a contractor is either not in compliance and/or additional paperwork is needed for review, the Agency and the general contractor are contacted by CCMI.
15. Communication of potential violations to the Agency with recommended action. In the event that potential paperwork or compliance issues with a contractor cannot be resolved quickly, the Agency will be notified of this potential problem and a recommendation will be made to the Agency to retain a certain portion of the scheduled progress payment until the issue is resolved. The Awarding Body shall always maintain the authority whether or not to withhold funds or take other corrective action.
16. Communications with Contractors. CCMI will work with all contractors and subcontractors with the goal of amicable agreement on resolving issues related to violations, penalties and compliance. All meeting and calls with contractors will be documented in the project folder maintained by CCMI.
17. Third Party Requests for documents. A project with a high profile oftentimes draws the attention of certain local watchdog groups who frequently request copies of certified payrolls and related "Public Documents". CCMI will provide the appropriate

redacted copies of certified payroll and related LCP documentation to any third party who makes an appropriate request.

18. Issuing of all final close of project reports, including imposition of penalties and reports to Labor Commissioner (Request for Forfeiture); issuing Notices to Withhold and other close out documentation with the approval of the Awarding Body.
19. Provide Annual Report to DIR for all LCP projects on which CCMI provided LCP services.

SECTION II.**COMPETITIVE BIDDING ON PUBLIC
WORKS CONTRACTS – CONTRACT LANGUAGE**

CCMI will provide the following information to Awarding Agencies with whom it has been contracted. All Public Agency bid advertisements (or bid invitations) and public works contracts requiring LCP compliance shall contain appropriate language concerning the requirements of the Public Works chapter of the Labor Code similar to the sample language listed below:

This project is subject to the requirements of Section 1770 et seq. of the California Labor Code requiring the payment of prevailing wages, the training of apprentices and compliance with other applicable requirements. Contractors and all subcontractors who perform work on the project are required to comply with these requirements. Prevailing wage information for this project is available at the Agency's main office or may be obtained via the internet at: www.dir.ca.gov.

This project is subject to the requirements of a Labor Compliance Program as required by the California Labor Code. This requires full compliance by all contractors and subcontractors on the project in accordance with the provisions of Labor Code Section 1720 et. seq. The Agency is required by law to review and audit the work performed on this project to ensure that proper prevailing wages and all apprenticeship requirements are met. Specifically, contractors are reminded the need for compliance with Labor Code Section 1774 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls), Section 1777.5 in the employment of apprentices on public works projects and Section 1811-1813 regarding the payment of overtime on public works projects.

SECTION III.

JOB START MEETING

After the Agency awards the public works contract, and prior to the commencement of the work, a mandatory Pre-Construction Conference shall be conducted with the contractor and subcontractors for the particular project. The general contractor is responsible to see that the information provided at the Pre Construction Conference, relating to Labor Compliance Program (LCP) requirements, is distributed to its subcontractors.

At that meeting, the Agency will discuss the federal and state labor law requirements applicable to the contract, including prevailing wage requirements, the respective record keeping responsibilities, the requirement for the submittal of certified payroll records to the Agency, the prohibition against discrimination in employment and other items required to be covered at the pre-job conference (see Appendix A).

Included in the handout package is a “Checklist of Labor Law Requirements for Review at Job Start Meetings” and is a brief summary of the labor laws which will be reviewed in the Pre-Construction Conference.

Additionally, the handout material includes the following sample forms:

Certified Payroll Form

Fringe Benefit Reporting Form (PW 26)

DAS 140- Register to Train Apprentices

DAS 142 – Request for Dispatch of Apprentices

CAC 2- Apprenticeship Contribution Form

Notice of LCP Contact Information- required to be posted on jobsite

Also included in the packet for illustrative purposes, is a sample copy of a prevailing wage determination. This assists the contractors as the Agency reviews prevailing wage requirements and such things as the double asterisk rule, the difference between Basic Hourly Rate and Total Hourly Rate, etc.

Contractors are referred to the DIR website at www.dir.ca.gov for updated prevailing wage information, apprenticeship regulations, forms, etc. And, the contractor is provided with information regarding the LCP contact person assigned to the specific project. Contractors are reminded that all of the steps required of the Labor Compliance Program are the same steps currently required on all prevailing wage projects. It is just that the LCP now requires that all the documentation be submitted and reviewed.

The last page of the handout is a duplicate copy of the signature page from the “Checklist” included earlier in the packet. This page is repeated so the contractor can merely remove the last page from the packet, sign it and turn it in to the Agency staff at the conclusion of the meeting.

The contractors and subcontractors present at the Pre Construction Meeting will be given the opportunity to ask questions of the Agency and CCMI relative to the items contained in the Labor Law Requirements Checklist. The checklist will then be signed by the contractor’s representative and a copy will be kept by the Agency and/or CCMI.

The average time to review this information with contractors is approximately 30 minutes to one hour, depending on the number of contractors in attendance and the number of questions asked.

The General (Prime) Contractor is responsible to provide copies of the LCP Pre Construction Package and Checklist of Labor Law Requirement to all subcontractors on the project who are not in attendance at the Pre Construction Conference.

SECTION IV.

REVIEW OF CERTIFIED PAYROLL RECORDS

A. Certified Payroll Records Required

The contractor and each subcontractor shall maintain “payrolls records” (timecards, canceled checks, cash receipts, trust fund forms, accounting ledgers, tax forms, superintendent and foreman daily logs (as defined by Title 8 CCR Section 16000) during the course of the work and shall preserve them for a period of three (3) years thereafter for all trades workers working at the Agency’s project sites. Such records shall include the name, address, and social security number of each worker, his or her classification, a general description of the work each employee performed each day, the rate of pay (including rates of contributions for, or costs to provide fringe benefits), daily and weekly number of hours worked, overtime worked and paid, training contributions paid (if applicable), deductions made, actual wages paid and check number or other tracking number for direct deposit confirming payment to the worker.

1. Submittal of Certified Payroll Records

The contractor and each subcontractor shall maintain weekly certified payroll records for submittal to the Agency as required, but not less than monthly. The contractor shall be responsible for the submittal of payroll records of all its subcontractors. All certified payroll records shall be accompanied by a statement of compliance or “certification” signed by the contractor indicating that the payroll records are correct and complete, that the wage rates contained therein are not less than those determined by the Director of the Department of Industrial Relations, and that the classifications set forth for each employee conform with the work performed and shall include at least the following language:

I, _____ (Name-print) the undersigned, am _____ (position in business) with the authority to act for and on behalf of _____, (name of business and/or contractor) certify under penalty of perjury that the records or copies thereof submitted and consisting of _____ (description, no. of pages) are the originals or true, full and correct copies of the originals which depict the payroll record(s) of the actual disbursements by way of cash, check, or whatever form to the individual or individuals named. Date: _____
Signature: _____

The Public Agency reserves the right to include more stringent language.

For weeks in which a contractor/subcontractor is not working on a project, a Statement of Non-Performance is required. Once a particular contractor/subcontractor has completed their work, the last Certified Payroll submitted should be identified as the “Final” Certified Payroll.

The certified payroll records required by Labor Code Section 1776 shall be submitted to the DIR electronically through the eCPR system. Complete certified payroll information shall also be maintained and submitted either in hard copy or electronically to the City subject to all of the following conditions:

- (a) The reports must contain all of the information required by Labor Code Section 1776, with the information organized in a manner that is similar or identical to how the information is reported on the Department of Industrial Relations' suggested "Public Works Payroll Reporting Form" (Form A-1-131);
- (b) The reports shall be in a format and use software that is readily accessible and available to contractors, awarding bodies, Labor Compliance Programs, and the Department of Industrial Relations;
- (c) Reports submitted to an awarding body, a Labor Compliance Program, the Division of Labor Standards Enforcement, or other entity within the Department of Industrial Relations must be either (1) in the form of a non-modifiable image or record that bears an electronic signature or includes a copy of any original certification made on paper, or alternatively (2) printed out and submitted on paper with an original signature;
- (d) The requirements for redacting certain information shall be followed when certified payroll records are disclosed to the public pursuant to Labor Code Section 1776(e), whether the records are provided electronically or as hard copies; and
- (e) No contractor or subcontractor shall be mandated to submit or receive electronic reports when it otherwise lacks the resources or capacity to do so, nor shall any contractor or subcontractor be required to purchase or use proprietary software that is not generally available to the public.

2. Full Accountability

Each individual, laborer or craftsperson working on a public works contract must appear on the payroll. The basic concept is that the employer who pays the tradesworker must report that individual on its payroll. This includes individuals working as apprentices in an apprenticeable trade. Owner-operators are to be reported by the contractor employing them; rental equipment operators are to be reported by the rental company paying the workers' wages.

Sole owners and partners who work on a contract must also submit a certified payroll record listing the days and hours worked, and the trade classification descriptive of the work actually done. The contractor shall permit such representatives of the Agency and/or the DIR to interview trades workers during working hours on the project site.

3. Responsibility for Subcontractors

The contractor shall be responsible for ensuring adherence to labor standards provisions by its subcontractors in the manner specified by Labor Code Section 1775. Moreover, the contractor is responsible for Labor Code violations by its subcontractors of which it has knowledge.

- a. The contractor shall monitor the payment of the specified general prevailing per diem wages by each subcontractor to its employees by periodic review of the subcontractor's certified payroll records.
- b. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor

for work performed on the public works project (upon receipt of notification that a wage complaint has been resolved, the contractor shall pay any money retained from and owed to a subcontractor).

- c. Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the general prevailing rate of per diem wages to its employees on the public works project, as well as any penalties which may have been imposed for working hours violations (Labor Code Section 1775 and 1813).

4. Payment to Employees

Employees must be paid unconditionally, the full amounts which are due and payable for the period covered by the particular payday. An employer must, therefore, establish a fixed workweek (i.e., Sunday through Saturday). On each and every payday, each worker must be paid all sums due and must be provided with an itemized wage statement.

If an individual is called a subcontractor, when, in fact, he/she is merely a journey level mechanic supplying only his/her labor, such an individual would not be deemed a bona fide subcontractor and must be reported on the payroll of the contractor who contracted for his or her services as a tradesworker. Moreover, any person who does not hold a valid contractor's license cannot be a subcontractor, and anyone hired by that person is the worker or employee of the contractor who contracted for his or her services for purposes of workers' compensation laws.

A worker's rate for straight time hours must equal or exceed the rate specified in the contract by reference to the Prevailing Wage Rate Determinations for the class of work actually performed. Any work performed on Saturday, Sunday, and/or a holiday, or a portion thereof, must be paid the prevailing rate established for those days regardless of the fixed workweek. The hourly rate for hours worked in excess of 8 hours in a day or 40 hours in a workweek shall be premium (overtime) pay. All work performed in excess of eight hours per day, 40 hours per week, on Saturday, on Sunday, and on holidays shall be paid in accordance with the applicable Prevailing Wage Determination. Additionally, appropriate shift pay and applicable travel and subsistence pay is also required.

5. Maintaining Records:

The Agency/CCMI shall maintain all records relating to any project subject to Labor Compliance for a period of three (3) years from the date of the filing of the Notice of Completion of the Project. In the event no Notice of Completion is filed, the Agency/CCMI shall maintain all LCP records relating to a specific project for three (3) years from the date of actual completion or beneficial occupancy, whichever is later.

B. Apprentices

Apprentices shall be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program registered and approved by the State Division of Apprenticeship Standards. The allowable ratio of apprentices to journeypersons in any

craft/classification shall not be greater than the ratio permitted to the contractor as to its entire workforce under the registered program. Any worker listed on a payroll at an apprentice wage rate who is not registered shall be paid the journey level wage rate determined by the Department of Industrial Relations for the classification of the work he/she actually performed.

The contractor shall furnish written evidence of the registration (i.e. Apprenticeship Agreement or Statement of Registration) of its training program and apprentices, as well as the ratios allowed and the wage rates required to be paid thereunder for the area of construction, upon request by the Agency or CCMI.

Pre-apprentices, trainees, trainees in nonapprenticeable crafts, and others who are not duly registered will not be permitted on public works projects unless they are paid full prevailing wage rates as journeypersons.

Compliance with California Labor Code Section 1777.5 requires all public works contractors and subcontractors to:

1. Register the prevailing wage project (DAS-140);
2. Request to Train apprentices on public works projects in a ratio to journeypersons as stipulated in the Apprenticeship Standards under which each Joint Apprenticeship Committee operates, but in no case shall the ratio be less than one (1) apprentice hour to each five (5) journeypersons hours worked on the project. (DAS-142 or equivalent documentation or the actual employment of apprentices).
3. Contribute to the training fund in the amount identified in the prevailing wage rate publication for journeypersons and apprentices. Where the trust fund administrators cannot accept the contributions, then payment shall be made to the California Apprenticeship Council, Post Office Box 420603, San Francisco, CA 94142; and
4. It should be noted that a prior approval for a separate project does not confirm approval to train on any other project. The contractor/subcontractor must check with the applicable Apprenticeship Committee to verify status.

C. Payroll Review and Audits

Payroll review and audits shall be conducted by the CCMI..

CCMI preference and practice is to review all certified payroll for all employees for all weeks of work on a project at least once a month. However, CCMI **shall** review the certified payrolls not less than one a month. The CCMI **shall** review payrolls for **at least** one full week of payroll for each contractor or subcontractor performing work on the applicable project for each month in which work was performed on the project.

1. Audit of the obligation to pay the prevailing per diem wage means review and audit of weekly-certified payroll records for compliance with:

- a. All elements defined as the General Prevailing Rate of Per Diem Wages in Title 8 CCR Section 16000, which were determined to be prevailing in the Director's determination in effect on the date of the call for bids, or as reflected in any subsequent revised determination issued by the Director's office, copies of which are available at the Agency's Facility Office and posted at the public works job site;
- b. All elements defined as Employer Payments to Workers set forth in Title 8 CCR Section 16000, which were determined to be prevailing in the Director's determination in effect on the date of the call for bids, or as reflected in any subsequent revised determination issued by the Director's office, copies of which are available at the Agency's Facility Office and posted at the public works job site.

CCMI shall also request verification of proper payment of prevailing wages to workers by randomly requesting paycheck verification for at least one worker from each contractor/subcontractor for at least one weekly period within each month.¹

2. Audit of the obligation to employ and train apprentices means inquiry to the program sponsor for the apprenticeable craft or trade in the area of the public work as to: whether contract award information was received (DAS-140), including an estimate of journey person hours to be performed and the number of apprentices to be employed; whether apprentices have been requested (DAS-142), and whether the request has been met; whether the program sponsor knows of any amounts received from the contractor or subcontractor for the training fund or the California Apprenticeship Council (CAC-2); and whether persons listed on the certified payroll in that craft or trade being paid less than the journey person rate are apprentices registered with that program and working under apprentice agreements approved by the Division of Apprenticeship Standards. Alternatively, or in addition to inquiring of the program sponsor, CCMI shall, as appropriate, reference the DIR website for the listing of enrolled apprentices and any contribution alleged made by a contractor on a CAC-2 form for the payment of training contributions.

DAS 140 - Register to Train – CCMI will collect a DAS-140 from each contractor for **each** apprenticeable craft employed on the project. The original DAS-140 should be sent within ten days of each contractor/subcontractor signing the contract, but not later than the first day the contractor/or applicable subcontractor commenced work on the project. A copy of DAS 140 forms should be turned in with each contractor's and subcontractor's first certified payroll. If the form is not completed correctly or is not submitted, the

¹ Title 8 CCR §16432- (c) "Confirmation" of payroll records furnished by contractors and subcontractors shall be defined as an independent corroboration of reported prevailing wage payments. Confirmation may be accomplished through worker interviews, examination of paychecks or paycheck stubs, direct confirmation of payments from third party recipients of "Employer Payments" (as defined at section 16000 of Title 8 of the California Code of Regulations), or any other reasonable method of corroboration. For each month in which a contractor or subcontractor reports having workers employed on the public work, confirmation of furnished payroll records shall be undertaken randomly for at least one worker for at least one weekly period within that month"

contractor/subcontractor will be notified of this deficiency and asked to take corrective action by completing and filing a correct DAS-140 form.

DAS 142 - Request apprentices- CCMI will look for apprentices being employed on the project (through examination of certified payrolls) in proper ration and/or look to receive a DAS-142 (or its equivalent) from the contractor/subcontractor for each apprenticeable trade employed on the project and confirmation that the DAS-142 form was sent to an appropriate apprenticeship committee. A contractor is NOT REQUIRED to use the DAS-142 form, but can document its request for apprentices by any other written means. However, if a contractor does use the 142 form (filling it out properly and filing it promptly), with a delivery receipt, the contractor is “legally presumed” to be in compliance.

Employ Apprentices in 1:5 ratio – To the extent that apprentices are available for employment, the Labor Code mandates that apprentices are employed in a 1:5 ratio. This means an average (calculated at the end of the project) of one apprentice hour for every 5 journeymen hours. Some approved Apprenticeship Standards recognize a different ratio and those other ratios may be used so long as the apprenticeship committee has DAS approval.

Pay correct apprenticeship rates - Apprenticeship wage rates paid will also be verified by CCMI against the applicable prevailing wage determination for such apprentice level.

Pay correct training contribution (CAC 2) - CCMI will review and confirm that the training contributions set forth in the prevailing wage determination are paid to either an approved apprenticeship committee or to the California Apprenticeship Council. (CAC-2 contributions to be confirmed through DIR website).

Additional Review: CCMI will also engage in the following additional review to determine LCP compliance:

Proper Licensing

Businesses and Professions Code Section 7000 et seq. requires all companies performing construction work to be properly licensed and bonded. CCMI will check the contractor's/subcontractor's license status through the Contractors State License Board website at: www.cslb.ca.gov. Contractors working without a valid license will be removed from the project.

Worker's Compensation Insurance

Labor Code Section 1861- All contractors and subcontractors employing workers on the project are required to provide worker's compensation coverage. CCMI will verify that all contractors/subcontractors have appropriate worker's compensation while employing workers on

the project. This information can also be verified through the California Contractor's State Licensing Board website.

Electrician Certification:

The Division of Labor Standard Enforcement also requires that all electricians employed by a C-10 licensed contractor in the State of California possess adequate training to perform their job. As such, all electricians must fall into one of the following categories:

- Journeyman- Certified
- Journeyman- Trainee
- Apprentice

CCMI will check the status of all electricians employed by using the DIR website. A list of any electricians which do not fall into one of these categories will be communicated immediately to the Agency and the prime contractor so that the individual can be removed from the project. And, the incident will be reported to the DLSE/CSLB at the end of the project.

The Agency shall also review and provide compliance review for all other items listed on the Checklist (Appendix A).

SECTION V.

ONSITE JOB VISITS AND WORKER INTERVIEWS

Site Visitations

1. Safety is the paramount factor for any site visit to any Agency construction projects. CCMI's site monitor is will comply with all safety rules and exercise reasonable caution at all times.
2. All personnel working on or visiting any Agency construction sites are required to be properly identified and visibly wear CCMI issued picture ID's (badge). Additionally, all authorized personnel are required to wear hard hats and safety shoes.
3. Authorized personnel shall visit all sites on a non-interference basis and take a minimum amount of the workers' time for interview purposes.
 - a. Upon arrival at a site, the site monitor will check in at the site superintendent's (contractor's) trailer to determine if the appropriate postings are on the jobsite. These include, but are not limited to:
 - ☐ EEO Posters
 - ☐ Prevailing wage sheets posted
 - ☐ Notice informing the employees that the project is subject to a Labor Compliance Program and providing the Agency's LCP contact information.
 - ☐ Other appropriate required postings required by law.

Where a jobsite trailer is not present on the site, CCMI or the Agency shall seek to confirm that this information is posted elsewhere on the site or available to the employees at the jobsite or at their place of employment and is readily accessible and visible to each such employee.

Interviewing

1. Not less than once a month, job site interviews of employees will take place. It is CCMI's practice to attempt to interview at least one employee from each contractor/subcontractor who performs work on the project. With that goal in mind, interviews may be conducted on a weekly basis, but in no event less than monthly.
2. Once CCMI's staff checks in with the site superintendent and obtains access to the site, the Interviewer will attempt to locate tradespersons working in clusters. For instance, several painters, electricians, roofers, etc. working in one area. The interviewer shall identify themselves as a CCMI employee and Agency representative, and ask to speak to the employee for a few minutes. Interviews should not be conducted in an area or during

a time when either the interviewer or the worker would be subject to injury due to worksite activity.

These interviews are random; two or three tradespersons for each subcontractor is sufficient for one visit. Any persons missed are usually interviewed on subsequent visits. Thirty minutes of interviewing per site is typically sufficient, depending upon the site size and/or number of subcontractors present. Contractor tradespersons should also be interviewed.

3. Using the Labor Compliance Site Visitation Interview form, each person will be asked the following: name, social security number, employer, title (trade), rate of pay, and task being performed at the time of interview. (See Appendix B).

Guidelines for Interviewers:

- a. Should someone decline to speak with you, respect those wishes. If someone asks if this is union-related, tell them no. CCMI works with both open and closed shop trades.
- b. If you try to interview someone who does not speak English and you cannot communicate in the appropriate language, try to locate a coworker who can interpret for you. If you find an entire crew unable to speak English and no interpreter, include this in your report. CCMI's Interviewer staff is also fluent in Spanish.
- c. If someone refuses to disclose his/her social security number to you, respect those wishes. However, assure that person that all information given is kept strictly confidential.
- d. If someone does not know their rate of pay (most tradespersons do not know the exact penny of wages earned), ask for an estimate. If the response is, "whatever prevailing wage is", so indicate on the form.
- e. If someone indicates that he/she is an apprentice, make sure that you ask him/her what period. These can be anywhere from 1st to 10th. If s/he's not sure, ask him/her how many years s/he's been apprenticed in the specific trade and/or to estimate and so indicate on the interview form.
- f. ALWAYS thank them for their time.
- g. Keep in mind that you are there to collect information only, do not tell them how to do their jobs. Should you witness what you consider a potentially unsafe or unwarranted condition, you are to contact the site inspector or job superintendent of your findings immediately and make a note on your site visitation log of what you observed. Upon your return to the office, report your findings to the CCMI staff person responsible for the certified payroll audit for this project.

Reporting

All original interview forms shall be submitted to the CCMI no later than the end of each workweek.

Daily Job Logs

The Daily Job Logs will be used by the Agency/CCMI to cross check staffing on the various LCP projects. The Daily Reports should list those contractors and subcontractors present on the site on a specific day as well as the number of employees employed on the project by each contractor/subcontractor. While the Daily Reports are merely a “snap shot” of the project at the time of the report information, the Daily Reports are used by the Agency/CCMI to determine if a Contractor has failed to properly list all employees performing work on the project.

Extended Audits

When the Agency/CCMI finds a potential violation which leads it to believe that prevailing wages has not been properly paid and the documentation submitted by the contractor/subcontractor is inconclusive, the Agency/CCMI will exercise its authority to conduct a full investigation to verify whether appropriate prevailing wages were paid on the project

1. Requesting Additional Documentation from Contractor

The Agency/CCMI shall request additional documents in writing, listing the specific documentation requested. The Agency/CCMI will also invoke the provisions of Labor Code Section 1776 in demanding that the documents be produced within 10 days.

2. Conducting Additional Interviews

Based on CCMI's investigation, the CCMI may engage in additional interviewing of employees who worked on the project. These interviews may be conducted in person or via other means of communication (i.e. email, telephone, mail).

SECTION VI.

ENFORCEMENT

Duty of the Awarding Body

A Labor Compliance Program shall have a duty to the Director to enforce the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code and these regulations in a manner consistent with the practice of the Labor Commissioner. It is the practice of the LCP to refer to the Director's ongoing advisory service of web-posted public works coverage determinations as a source of information and guidance in making enforcement decisions. It is also the practice of the LCP to be represented by an attorney in prevailing wage hearings conducted pursuant to Labor Code Section 1742(b) and sections 17201-17270 of Title 8 of the California Code of Regulations.

CCMI has a duty to report all violations and proposed remedial action to the Agency who in turn has a duty to enforce the Labor Code public works requirements (Chapter 1 of part 7 of Division 2 and Division 3 of the Labor Code).

Audits:

An Audit shall be conducted as deemed necessary whenever the Labor Compliance Program has determined that there has been a violation of the Public Works Chapter of the Labor Code resulting in the underpayment of wages. An "Audit" for this purpose shall be defined as a written summary reflecting prevailing wage deficiencies for each underpaid worker, and including any penalties to be assessed under Labor Code Sections 1775 and 1813, as determined by the Labor Compliance Program after consideration of the best information available as to actual hours worked, amounts paid, and classifications of workers employed in connection with the public work. Such available information may include, but is not limited to, worker interviews, complaints from workers or other interested persons, all time cards, cancelled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments, work schedules by days and hours, and the disbursement by way of cash, check, or in whatever form or manner, of funds to a person(s) by job classification and/or skill pursuant to a public works project. An Audit is sufficiently detailed when it enables the Labor Commissioner, if requested to determine the amount of forfeiture under section 16437, to draw reasonable conclusions as to compliance with the requirements of the Public Works Chapter of the Labor Code, and to enable accurate computation of underpayments of wages to workers and of applicable penalties and forfeitures. An Audit using the forms in Appendix B of 16437, when accompanied by a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation and the basis upon which the determination of underpayment was made, presumptively demonstrates sufficiency. Records supporting an Audit shall be maintained by the Labor Compliance Program to satisfy its burden of coming forward with evidence in administrative review proceedings under Labor Code Section 1742 and the Prevailing Wage Hearing Regulations found at sections 17201-17270 of Title 8 of the California Code of Regulations.

After the Labor Compliance Program has determined that violations of the prevailing wage laws

have resulted in the underpayment of wages and an audit has been prepared, notification shall be provided to the contractor and affected subcontractor of an opportunity to resolve the wage deficiency prior to a determination of the amount of forfeiture by the Labor Commissioner pursuant to these regulations. The contractor and affected subcontractor shall be provided at least 10 days following such notification to submit exculpatory information consistent with the "good faith mistake" factors set forth in Labor Code Section 1775(a)(2)(A)(i) and (ii). If, based upon the contractor's submission, the Labor Compliance Program reasonably concludes that the failure to pay the correct wages was a good faith mistake, and has no knowledge that the contractor and affected subcontractor have a prior record of failing to meet their prevailing wage obligations, the Labor Compliance Program shall not be required to request the Labor Commissioner for a determination of the amount of penalties to be assessed under Labor Code Section 1775 if the underpayment of wages to workers is promptly corrected and proof of such payment is submitted to the Labor Compliance Program. For each instance in which a wage deficiency is resolved in accordance with this regulation, the Labor Compliance Program shall maintain a written record of the failure of the contractor or subcontractor to meet its prevailing wage obligation. The record shall identify the public works project, the contractor or affected subcontractor involved, and the gross amount of wages paid to workers to resolve the prevailing wage deficiency; and the record shall also include a copy of the Audit prepared pursuant to subpart (e) above along with any exculpatory information submitted to the Labor Compliance Program by the affected contractor or subcontractor.

Monthly Communication to the Contractor:

Upon completion of the monthly review of certified payrolls, CCMI shall communicate to the Agency and with the prime contractor on the project as to all violations, inadequacies, or deficiencies for the prime contractor and any applicable subcontractor. CCMI shall create Monthly Audit Reports for each contractor/subcontractor on the project who has failed to submit correct LCP documentation and/or has failed to pay the applicable prevailing wage or comply with other LCP requirements.

CCMI on behalf of the Public Agency shall take reasonable, vigorous, and prompt action to (1) determine whether violations exist, and (2) enforce compliance, including through imposition of appropriate penalties and formal enforcement action, when violations are found. The Public Agency shall not avoid the use of its enforcement authority based on cost considerations nor use that authority in an unreasonable manner to gain leverage over a contractor or subcontractor. Unreasonable use of enforcement authority includes, but is not necessarily limited to, prolonged or excessive withholdings of contract payments without making a determination that a violation has occurred.

CCMI's monthly report to the Contractor shall include:

- Name of Project
- Prime Contractor
- Subcontractor with outstanding violation
- Weeks of Certified Payrolls reviewed
- Any deficiency in paperwork
Incorrect or Missing:

- Certified Payrolls
 - Fringe Benefit Statement
 - DAS 140
 - DAS 142
 - CAC 2
- Identify any wage deficiencies, classification issues, etc.
 - Direct Contractor to correct said deficiencies and provide documentation of corrective action.
 - Request verification of payment (cancelled check or proof of direct deposit) for randomly selected employee from the certified payroll.
 - Invoke 1776 documents request – as needed.

A. Withholding Contract Payments When Payroll Records are Delinquent or Inadequate

1. “Withhold” means to cease payments by the awarding body, or others who pay on its behalf, or agents, to the contractor. Where the violation is by a subcontractor, the contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729. A release bond under Civil Code Section 3196 may not be posted for the release of the funds being withheld for the violation of the prevailing wage law.
2. “Contracts,” except as otherwise provided by agreement, means only contracts under a single master contract, or contracts entered into as stages of a single project which may be the subject of withholding pursuant to Labor Code Sections 1720, 1720.2, 1720.3, 1720.4, 1771, and 1771.5;
3. “Delinquent payroll records” means those not submitted on the basis set forth in the Agency contract and the Labor Compliance Program;
4. “Inadequate payroll records” are any one of the following:
 - a. A record lacking the information required by Labor Code Section 1776;
 - b. A record which contains the required information but which is not certified, or certified by someone not an agent of the contractor or subcontractor;
 - c. A record remaining uncorrected for one (1) pay period, after the awarding body has given the contractor notice of inaccuracies/omissions detected by audit or record review; provided, however, that prompt correction will stop any duty to withhold if such inaccuracies/omissions do not amount to 1 percent of the entire certified weekly payroll in dollar value and do not affect more than half the persons listed as workers employed on that certified weekly payroll, as defined in Labor Code Section 1776 and Title 8 CCR Section 16401. Prompt correction will stop any duty to withhold if such inaccuracies are de minimus.

The withholding of contract payments when payroll records are delinquent or inadequate is required by Labor Code Section 1771.5(b)(5), and it does not require the prior approval of the Labor Commissioner. The Agency shall only withhold those payments due or estimated to be due to the contractor or subcontractor whose payroll records are delinquent or inadequate, plus any additional amount that the Labor Compliance Program has reasonable cause to believe may be needed to cover a back wage and penalty assessment against the contractor or subcontractor whose payroll records are delinquent or inadequate; provided that a contractor shall be required in turn to cease all payments to a subcontractor whose payroll records are delinquent or inadequate until the Public Agency/CCMI provides notice that the subcontractor has cured the delinquency or deficiency.

When contract payments are withheld under this section, the Public Agency/CCMI shall provide the contractor and subcontractor, if applicable, with immediate written notice that includes all of the following: (1) a statement that payments are being withheld due to delinquent or inadequate payroll records, and that identifies what records are missing or states why records that have been submitted are deemed inadequate; (2) specifies the amount being withheld; and (3) informs the contractor or subcontractor of the right to request an expedited hearing to review the withholding of contract payments under Labor Code Section 1742, limited to the issue of whether the records are delinquent or inadequate or the Labor Compliance Program has exceeded its authority under this section.

No contract payments shall be withheld solely on the basis of delinquent or inadequate payroll records after the required records have been produced.

In addition to withholding contract payments based on delinquent or inadequate payroll records, penalties shall be assessed under Labor Code Section 1776(g) for failure to timely comply with a written request for certified payroll records. The assessment of penalties under Labor Code Section 1776(g) does require the prior approval of the Labor Commissioner under section 16436 of these regulations.

Once the Public Agency/CCMI has determined that violations of the prevailing wage laws have resulted in the underpayment of wages and an audit has been prepared, notification shall be provided to the contractor and affected subcontractor of an opportunity to resolve the wage deficiency prior to a determination of the amount of forfeiture by the Labor Commissioner pursuant to these regulations. The contractor and affected subcontractor shall be provided at least 10 days following such notification to submit exculpatory information consistent with the "good faith mistake" factors set forth in Labor Code Section 1775(a)(2)(A)(i) and (ii). If, based upon the contractor's submission, the Labor Compliance Program reasonably concludes that the failure to pay the correct wages was a good faith mistake, and has no knowledge that the contractor and affected subcontractor have a prior record of failing to meet their prevailing wage obligations, the Labor Compliance Program shall not be required to request the Labor Commissioner for a determination of the amount of penalties to be assessed under Labor Code Section 1775 if the underpayment of wages to workers is promptly corrected and proof of such payment is submitted to the Labor Compliance Program

Where the violation is by a subcontractor, the general contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729. The withholding of contract payments when, after investigation, it is established that underpayment or other violations have occurred requires the prior approval of the Labor Commissioner under sections 16436 and 16437 of these regulations.

Apprenticeship Obligations:

The duties of a Labor Compliance Program with respect to apprenticeship standards are as follows:

- (1) Either the Awarding Body or the Labor Compliance Program acting on its behalf shall (A) inform contractors and subcontractors bidding public works about apprenticeship requirements, (B) send copies of awards and notices of discrepancies to the Division of Apprenticeship Standards as required under Section 1773.3 of the Labor Code, and (C) refer complaints and promptly report suspected violations of apprenticeship requirements to the Division of Apprenticeship Standards.
- (2) The Labor Compliance Program shall be responsible for enforcing prevailing wage pay requirements for apprentices consistent with the practice of the Labor Commissioner, including (A) that any contributions required pursuant to Labor Code Section 1777.5(m) are paid to the appropriate entity, (B) that apprentices are paid no less than the prevailing apprentice rate, (C) that workers listed and paid as apprentices on the certified payroll records are duly registered as apprentices with the Division of Apprenticeship Standards, and (D) requiring that the regular prevailing wage rate be paid (i) to any worker who is not a duly registered apprentice and (ii) for all hours in excess of the maximum ratio permitted under Labor Code Section 1777.5(g), as determined at the conclusion of the employing contractor or subcontractor's work on the public works contract.

Request for Forfeitures

"Forfeitures" means the amount of wages, penalties, and forfeitures assessed by the Public Agency and proposed to be withheld pursuant to Labor Code section 1771.6(a), and includes the following: (1) the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate by the contractor or subcontractor; and (2) penalties assessed under Labor Code Sections 1775, 1776 and 1813.

If the aggregate amount of forfeitures assessed as to a contractor or subcontractor is less than \$1000.00, the forfeitures shall be deemed approved by the Labor Commissioner upon service and the Labor Commissioner's receipt of copies of the following: (1) the Notice of Withholding of Contract Payments authorized by Labor Code Section 1771.6(a); (2) an Audit as defined in

section 16432(e) of these regulations, and (3) a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation, the basis of the underpayment, and the factors considered in determining the assessment of penalties, if any, under Labor Code Section 1775.

For all other forfeitures, approval by the Labor Commissioner shall be requested and obtained in accordance with Title 8 CCR Section 16437, set forth below:

Where the Labor Compliance Program requests a determination of the amount of forfeiture, the request shall include a file or report to the Labor Commissioner which contains at least the information specified in subparts (1) through (9) below. Appendix D is a suggested format for a Request for Approval of Forfeiture under this section.

(1) Whether the public work has been accepted by the awarding body and whether a valid notice of completion has been filed, the dates if any when those events occurred, and the amount of funds being held in retention by the Awarding Body;

(2) Any other deadline which if missed would impede collection;

(3) Evidence of violation, in narrative form;

(4) Evidence of violation obtained under section 16432 of these regulations and a copy of the Audit prepared in accordance with section 16432(e) setting forth the amounts of unpaid wages and applicable penalties;

(5) Evidence that before the forfeiture was sent to the Labor Commissioner (A) the contractor and subcontractor were given the opportunity to explain why there was no violation, or that any violation was caused by good faith mistake and promptly corrected when brought to the contractor or subcontractor's attention, and (B) the contractor and subcontractor either did not do so or failed to convince the Labor Compliance Program of its position;

(6) Where the Labor Compliance Program seeks not only wages but also a penalty as part of the forfeiture, and the contractor or subcontractor has unsuccessfully contended that the cause of violation was a good faith mistake that was promptly corrected when brought to the contractor or subcontractor's attention, a short statement should accompany the proposal for a forfeiture, with a recommended penalty amount pursuant to Labor Code Section 1775(a);

(7) Where the Labor Compliance Program seeks only wages or a penalty less than \$200 per day as part of the forfeiture because the contractor or subcontractor has successfully contended that the cause of the violation was a good faith mistake that was promptly corrected when brought to the contractor or subcontractor's attention, the file should include the evidence as to the contractor or subcontractor's knowledge of his or her obligation, including the program's communication to the contractor or subcontractor of the obligation in the bid invitations, at the prejob conference agenda and records, and any other notice given as part of the contracting process. With the file should be a statement, similar to that described in (6), and recommended penalty amounts, pursuant to Labor Code Section 1775(a);

(8) The previous record of the contractor and subcontractor in meeting their prevailing wage obligations; and

(9) Whether the Labor Compliance Program has been granted approval on only an interim or temporary basis under sections 16425 or 16426 above or whether it has been granted extended approval under section 16427 above.

(b) The file or report shall be served on the Labor Commissioner as soon as practicable after the violation has been discovered, and not less than 30 days before the final payment, but in no event not less than 30 days before the expiration of the limitations period set forth in Labor Code Section 1741.

(c) A copy of the recommended forfeiture and the file or report shall be served on the contractor and subcontractor at the same time as it is sent to the Labor Commissioner. The Labor Compliance Program may exclude from the documents served on the contractor and subcontractor copies of documents secured from the contractor or subcontractor during an audit, investigation, or meeting if those are clearly referenced in the file or report.

(d) The Labor Commissioner shall affirm, reject, or modify the forfeiture in whole or in part as to the wages and penalties due.

(e) The Labor Commissioner's determination of the forfeiture is effective on one of the two following dates:

(1) For all programs other than those having extended authority under section 16427 of these regulations, on the date the Labor Commissioner serves by first class mail, on the Labor Compliance Program, on the Awarding Body if different, on the contractor and on the subcontractor, if any, an endorsed copy of the proposed forfeiture, or a newly drafted forfeiture statement which sets out the amount of forfeiture approved. Service on the contractor or subcontractor is effective if made on the last address supplied by the contractor or subcontractor in the record. The Labor Commissioner's approval, modification or disapproval of the proposed forfeiture shall be served within 30 days of receipt of the proposed forfeiture.

(2) For programs with extended authority under section 16427 above, approval is effective 20 days after the requested forfeitures are served upon the Labor Commissioner, unless the Labor Commissioner serves a notice upon the parties, within that time period, that this forfeiture request is subject to further review. For such programs, a notice that approval will follow such a procedure will be included in the transmittal of the forfeiture request to the contractor. If the Labor Commissioner notifies the parties of a decision to undertake further review, the Labor Commissioner's final approval, modification or disapproval of the proposed forfeiture shall be served within 30 days of the date of notice of further review.

SECTION VII.

THIRD PARTY REQUESTS AND ENFORCEMENT

1. Third Party Requests for Payroll

When the Agency receives a request for certified payrolls of a contractor /subcontractor from a third party pursuant to Labor Code Section 1776, any records which the Agency makes available to such a third party shall be appropriately redacted pursuant to Labor Code Section 1776 (e) to protect the privacy of the individual worker. Pursuant to Title 8 CCR 16403. Such requests are frequently forwarded from the Agency to CCMI. CCMI will comply with the provisions of 1776(e) whenever providing payrolls to any third party.

Records received from the employing contractor shall be kept on file in the office or entity that processed the request for at least 6 months following completion and acceptance of the project. Thereafter, they may be destroyed unless administrative, judicial or other pending litigation, including arbitration, mediation or other methods of dispute resolution, are in process. Copies on file shall not be obliterated in the manner prescribed below;

Copies provided to the public upon written request shall be marked, obliterated or provided in such a manner that the name, address and Social Security number, and other private information pertaining to each employee cannot be identified. All other information including identification of the contractor shall not be obliterated;

The Public Agency/CCMI may affirm or deny that a person(s) was or is employed on a public works contract (by a specific contractor) when asked, so long as the entity requires such information of an identifying nature which will reasonably preclude release of private or confidential information.

Requests for certified copies of payroll records pursuant to Section 1776 of the Labor Code may be made by any person. However, any such request shall be in writing and contain at least the following information:

- (1) The body awarding the contract;
- (2) The contract number and/or description;
- (3) The particular job location if more than one;
- (4) The name of the contractor;
- (5) The regular business address, if known.

Acknowledgment of Request. The public entity receiving a request for payroll records shall acknowledge receipt of such, and indicate the cost of providing the payroll records based on an

estimate by the contractor, subcontractor or public entity. The acknowledgment of the receipt of said request for payroll records may be accomplished by the public entity's furnishing a copy of its written correspondence requesting certified copies of the payroll records sent to the specific contractor pursuant to Section 16400(d) below, to the person who requested said records

Request to Contractor. The request for copies of payroll records by the requesting public entity shall be in any form and/or method which will assure and evidence receipt thereof. The request shall include the following:

- (1) Specify the records to be provided and the form upon which the information is to be provided;
- (2) Conspicuous notice of the following:
 - (A) that the person certifying the copies of the payroll records is, if not the contractor, considered as an agent acting on behalf of the contractor; and
 - (B) that failure to provide certified copies of the records to the requesting public entity within 10 working days of the receipt of the request will subject the contractor to a penalty of twenty-five (\$25.00) dollars per calendar day or portion thereof for each worker until strict compliance is effectuated;
- (3) Cost of preparation as provided in Section 16402; and
- (4) Provide for inspection.

Inspection of Payroll Records. Inspection of the original payroll records at the office of the contractor(s) pursuant to subdivision (b) of Section 1776 of the Labor Code shall be limited to the public entities upon reasonable written or oral notice.

Costs of Certified Payrolls: The cost of preparation to each contractor, subcontractor, or public entity when the request was made shall be provided in advance by the person seeking the payroll record. Such cost shall be \$1 for the first page of the payroll record and 25 cents for each page thereafter, plus \$10 to the contractor or subcontractor for handling costs. Payment in the form of cash, check or certified money order shall be made prior to release of the documents to cover the actual costs of preparation.

2. Third Party Complaints

Upon receipt of a written complaint from a third party alleging that a contractor or subcontractor has failed to pay prevailing wages as required by the Labor Code, CCMI will respond to the complaining party as follows:

- (1) Within 15 days after receipt of the complaint, send a written acknowledgment to the complaining party that the complaint has been received and identifying the name,

address, and telephone number of the investigator assigned to the complaint;

(2) Within 15 days after receipt of the complaint, provide the effected contractor with the notice required under Labor Code Section 1775(c) if the complaint is against a subcontractor;

(3) Notify the complaining party in writing of the resolution of the complaint within ten days after the complaint has been resolved by the Labor Compliance Program;

(4) Notify the complaining party in writing at least once every 30 days of the status of a complaint that has not been resolved by the Labor Compliance Program; and

and

(5) Notify the complaining party in writing at least once every 90 days of the status of a complaint that has not been resolved by the Labor Compliance Program but remains under review or in litigation before another entity.

SECTION VIII.

PROJECT CLOSE-OUT- FORFEITURES AND PENALTIES

IF NO WAGE VIOLATIONS HAVE OCCURRED during the course of the project, and nothing is outstanding, the CCMI shall issue a close out report See Appendix H to the Agency and keep this data to reference for the Agency's Annual Report.

CCMI is aware of its obligation to take prompt and vigorous enforcement of all violations of the LCP and is committed to doing so. Wage Violations which occur during the course of the project will be promptly corrected and the following penalties assessed: (after consultation with the Agency)

•**Wage Violation** – Labor Code 1775 - \$200 per day per worker per violation. The Agency now has discretion to reduce or waive penalties. Reductions or waivers will only be made if the contractor meets the requirements of Labor Code Section 1775, subparagraph (b) i.e. good faith or inadvertent error, prompt correction and no additional violations. No reduction or waiver shall be made if there are outstanding wages still due. Reasons for reduction of penalties will be documented and included in Notice of Request for Forfeitures to the Labor Commissioner.

•**Overtime Violation** – Labor Code Section 1813 - \$25.00 per day per worker. Mandated by statute with no discretion for reduction. Even if certain union agreements allow for employees to work four days of 10 hours each day without overtime, it is Labor Code Section 1813 which controls with overtime pay being mandated after 8 hours worked in a day. Labor Code Section 1811.

•**Failure to Provide Certified Payrolls** (including fringe benefit statements, timecards, canceled checks, etc.) within 10 days of Request - Labor Code 1776 (h). The penalty of \$100.00 per day per worker continues until strict compliance is met (all documents delivered). Before imposing 1776 penalties, the CCMI/Agency will ensure that any request for documentation includes:

- Identification of the specific documents requested
- Identification that the request is made pursuant to Section 1776(h) of the Labor Code and that penalties of \$100 per day per worker will be imposed until there is strict compliance
- Delivery of the notice must be by certified mail or other means where the contractor signed a receipt of the notice

•**Willful and/or Repeat Offenders** will be subject to maximum penalties as stated above and a recommendation of debarment from public works will be made to the DIR.

•**Liquidated Damages** – If prevailing wages remains unpaid 60 days after a Notice to Withhold is issued to the contractor, the contractor shall be assessed liquidated damages equal to the amount of any unpaid wages. CCMI will advise the Agency shall hold

appropriate funds at the conclusion of the project to cover all wages due, penalties and liquidated damages.

• **Apprenticeship Violation** - Labor Code Section 1777.7 \$100 - \$300 per calendar day of noncompliance and debarment up to 3 years. This may include failure to pay training contributions, employ apprentices at the ratio required, etc. The Agency does not have the authority to impose penalties for Apprenticeship Violations, but instead will have CCMI file a Public Works Complaint detailing the violation and submitting relevant documentation of the violations to the DLSE (who is now enforcing DAS violations).

• **Unlicensed Contractor** – Labor Code Section 1021. Any contractor working without a valid contractor license shall be subject to a penalty of \$200 per day per worker. This is not a penalty that LCPs enforce. Rather, the Agency may direct CCMI to file a complaint with the DIR, as well as with the Contractors State License Board (CSLB).

3. If the total wages and penalties outstanding and due are less than \$1,000, then the CCMI (with the direction and approval of the Agency) will proceed to issue a Notice to Withhold to the Contractor/and any applicable subcontractor. (See Notice to Withhold Appendix E).

4. If wages and penalties exceed \$1,000, CCMI will prepare and file (with the approval and direction of the Agency) the Request for Forfeiture form (see Appendix D) and send it with the appropriate documentation to the Labor Commissioner for review and decision. “LCP Request for Forfeitures” and “Penalty Worksheet” spreadsheet will be completed in full. Penalty worksheet will list dates of violation and include summary worksheet, including the following:

- a. Audit summary (Agency’s penalty worksheet summary and individual employee penalty worksheets).
- b. 1st Bid Advertisement Publication Notice of Completion (if filed).
- c. Scope of Work.
- d. Complaint forms and declarations, if any from third parties or employees.

The close out documents will be sent to the following:

General Contractor – certified and regular mail;
 Affected Subcontractor – certified and regular mail;
 Overnight delivery (with signature required) or certified mail to the Labor Commissioner

5. The Labor Commissioner then has 30 days to respond. (Once the Agency/CCMI has a response from the Labor Commissioner, a Notice to Withhold shall issue). In the event the Labor Commissioner does not respond within 30 days, the Agency/CCMI shall then issue a Notice to

Withhold based on the information provided in the Request for Forfeiture Notice. The Notice to Withhold shall be sent as follows:

General Contractor –certified and regular mail
 Effected Subcontractor – certified and regular mail

6. Allow 60 days for the contractor to contest the penalties. If the contractor contests the Notice to Withhold, then the Agency/CCMI (upon receipt of the written Request for Review) will promptly forward the Request for Review to the Agency's General Counsel.

****Potential Settlement Options** – CCMI will advise the Agency that it has the ability to engage in settlement discussions and will do so before the filing of a Request for Forfeiture. CCMI shall engage in these discussions as requested by the Agency. Specifically, once the Agency/CCMI has determined/confirmed an actual violation has occurred, notification will be provided to the effected contractor/subcontractor with an opportunity to correct the wage deficiency. The contractor/subcontractor shall have at least 10 days from such notification to submit information/documentation that such error was made in good faith and corrected promptly. If the correction is made promptly and a waiver of penalties is determined, no Request for Forfeiture will be made to the Labor Commissioner. However, the Agency will keep this information and include it with its Annual Report. When considering the compromise or waiver of penalties, the Agency will consider the nature of the violation, good faith error versus a knowing violation.

If, after a Notice to Withhold is issued, a contractor or subcontractor may request a settlement meeting pursuant to Labor Code Section 1742.1(b). CCMI will assist the Agency in exercising the same rights and responsibilities of the Enforcing Agency (as defined in Section 17202(f) of Title 8 of the California Code of Regulations), in responding to such a request for review, including but not limited to the obligations to serve notices, transmit the Request for Review to the hearing office, and provide an opportunity to review evidence in a timely manner, to participate through counsel in all hearing proceedings, and to meet the burden of establishing prima facie support for the Notice of Withholding of Contract Payments.

If a contractor or subcontractor seeks review of a Labor Compliance Program enforcement action, the Labor Commissioner may intervene to represent the Awarding Body, or to enforce relevant provisions of the Labor Code consistent with the practice of the Labor Commissioner, or both.

Except in cases where the Labor Commissioner has intervened pursuant to subpart (b) of CCR Title 8 Section 16439, the Agency shall have the authority to prosecute, settle, or seek the dismissal of any Notice of Withholding of Contract Payments issued pursuant to Labor Code Section 1771.6 and any review proceeding under Labor Code Section 1742, without any further need for approval by the Labor Commissioner. Whenever the Agency settles in whole or in part or seeks and obtains the dismissal of a Notice of Withholding of Contract Payments or a review proceeding under Labor Code Section 1742, the Agency/CCMI shall document the reasons for the settlement or request for dismissal and shall make that documentation available to the Labor Commissioner upon request.

7. If the 60-day time period expires and no request for review is filed, then the sums set forth in the Notice to Withhold are deemed forfeit to the Agency (except to the extent that any wages due, must be turned over by the Agency to the affected employees (if the employees cannot be

located after a diligent search, then those wage funds are turned over to the Labor Commissioner).

Close Out Completion Report:

For each project, CCMI shall prepare a Project Completion Report, deliver such report to the Agency and keep such report in the applicable project file. The Project Completion Report is attached hereto as Appendix H.

APPRENTICE/TRAINING VIOLATION:

- Unpaid training contribution for any trade
- No DAS 140 form submitted
- No DAS 142 form submitted and no apprentices on the project
- Electrician certification violation

For any violation relating to apprenticeship or training, the CCMI shall complete and file (on behalf of the Agency) a Public Works Complaint with the Division of Apprenticeship Standards and enclose the applicable documentation.

The Public Works Complaint and applicable documents shall be sent to:

- General Contractor – certified and regular mail;
- Effected Subcontractor – certified and regular mail;
- DLSE:

Southern California

Division of Labor Standards Enforcement
BOFE- Public Works (1777.5 and 1777.7)
Attention: Lorna Espiritu, Senior Deputy
300 Oceangate, Suite 850
Long Beach, California 90802

Northern California

Division of Labor Standards Enforcement
BOFE- Public Works (1777.5 and 1777.7)
Attention: Sherry Gentry, Senior Deputy
7718 Meaney Avenue
Bakersfield, California 93308

SECTION IX.

NOTIFICATION OF CONTRACTOR AND APPEAL RIGHTS OF PROGRAM ENFORCEMENT ACTION

Notice of Withholding of Contract Payments (NWCP)

After determination of the amount of forfeiture by the Labor Commissioner, the CCMI/Agency shall provide notice of withholding of contract payments to the contractor and subcontractor, if applicable. The notice shall be in writing and shall describe the nature of the violation and the amount of wages, penalties, and forfeitures withheld. Service of the notice shall be completed pursuant to Section 1013 of the Code of Civil Procedure by first-class and certified mail to the contractor and subcontractor, if applicable. Notice to Contractor shall be deemed notice to its performance bond surety. The notice shall advise the contractor and subcontractor, if applicable, of the procedure for obtaining review of the withholding of contract payments. CCMI/Agency shall also serve a copy of the notice by certified mail to any bonding company issuing a bond that secures the payment of wages covered by the notice and to any surety on such bond, if their identities are known to the awarding body. A copy of the Notice of Withholding of Contract Payments (NWCP) to be utilized by the Agency is found as Appendix E to this document.

A. Review of NWCP

1. An affected contractor or subcontractor may obtain review of a NWCP under this chapter by transmitting a written request to the Agency/CCMI that appears on the NCWP within 60 days after service of the NWCP. If no hearing is requested within 60 days after service of the NWCP, the NWCP shall become final.
2. Within ten days following the receipt of the Request for Review, the Agency/CCMI shall complete and serve a Notice of Transmittal on the DIR and the applicable contractor(s). Within 20 days of receipt of the Request for Review, the Agency/CCMI shall provide to the party requesting review and a copy of the Opportunity to Review Evidence. (A copy of the required Notice of Transmittal to be utilized is found as Appendix F to this document. A copy of a Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b) form is found as Appendix G to this document).
3. Upon receipt of a timely request, a hearing shall be commenced within 90 days before the Director, who shall appoint an impartial hearing officer possessing the qualifications of an administrative law judge pursuant to subdivision (b) of Section 11502 of the Government Code. The appointed hearing officer shall be an employee of the department, but shall not be an employee of the Division of Labor Standards Enforcement. The contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Agency at the hearing within 20 days of the receipt of the written request for a hearing. Any evidence obtained by the Agency subsequent to the 20-day cutoff shall be promptly disclosed to the contractor or subcontractor.

The contractor or subcontractor shall have the burden of proving that the basis for the NWCP is incorrect. The NWCP shall be sufficiently detailed to provide fair notice to the contractor or subcontractor of the issues at the hearing.

Pursuant to Labor Code Section 1742.1, there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties has been deposited by the contractor with the Department of Industrial Relations within 60 days following service of Notice to Withhold.

Within 45 days of the conclusion of the hearing, the Director shall issue a written decision affirming, modifying, or dismissing the assessment. The decision of the Director shall consist of a notice of findings, findings, and an order. This decision shall be served on all parties pursuant to Section 1013 of the Code of Civil Procedure by first-class mail at the last known address of the party on file with the Agency. Within 15 days of the issuance of the decision, the Director may reconsider or modify the decision to correct an error, except that a clerical error may be corrected at any time. The Director has adopted regulations setting forth procedures for hearings under this subdivision.

4. An affected contractor or subcontractor may obtain review of the decision of the Director by filing a petition for a writ of mandate to the appropriate superior court pursuant to Section 1094.5 of the Code of Civil Procedure within 45 days after service of the decision. If no petition for writ of mandate is filed within 45 days after service of the decision, the order shall become final. If it is claimed in a petition for writ of mandate that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.
5. A certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.
6. A judgment entered pursuant to this procedure shall bear the same rate of interest and shall have the same effect as other judgments and shall be given the same preference allowed by law on other judgments rendered for claims for taxes. The clerk shall not charge for the service performed by him or her pursuant to this section.
7. This procedure shall provide the exclusive method for review of a NWCP by the Agency to withhold contract payments pursuant to Section 1771.7.

SECTION X

PRIORITY DISTRIBUTION OF FORFEITED SUMS

A. Withholding of Forfeited Sums

CCMI shall assist the Agency in distributing any withheld sums in the following manner:

1. Before making payments to the contractor of money due under a contract for public work, the Agency shall withhold and retain from sums owing Contractor, if any, all amounts required to satisfy the NWCP. The amounts required to satisfy the NWCP shall not be disbursed by the Agency until receipt of a final order that is no longer subject to judicial review.
2. Pending a final order, or the expiration of the time period for seeking review of the Notice of the Withholding, the Agency shall not disburse any contract payments withheld.
3. From the amount recovered, the wage claim shall be satisfied prior to the amount being applied to penalties. If insufficient money is recovered to pay each worker in full, the money shall be prorated among all workers employed on the public works project who are paid less than the prevailing wage rate. Said wages due shall have **PRIORITY** over all Stop Notices filed against the prime contractor.
5. Wages for workers who cannot be located shall be placed in the Industrial Relations Unpaid Fund and held in trust for the workers pursuant to Section 96.7. Penalties shall be paid into the General Fund of the Agency that has enforced this chapter pursuant to Section 1771.7.
6. If insufficient funds are withheld, recovered, or both, to pay each underpaid worker in full, the money shall be prorated among all said underpaid workers.
7. Where the involvement of the Labor Commissioner has been limited to a determination of the actual amount of penalty, forfeiture or underpayment of wages, and the matter has been resolved without litigation by or against the Labor Commissioner, the Labor Compliance Program shall deposit penalties and forfeitures with the Agency.

Where collection of fines, penalties or forfeitures results from administrative proceedings or court action to which the Labor Commissioner and Agency or its Labor Compliance Program are both parties, the fines, penalties or forfeitures shall be divided between the general funds of the state and the Awarding Body, as the Hearing Officer or court may decide.

All penalties recovered in administrative proceedings or court action brought by or against the Labor Commissioner and to which the Agency or its Labor Compliance Program is not a party, shall be deposited in the general fund of the State.

SECTION XI.

ANNUAL REPORTS AND RECORDKEEPING

A. Annual Report on the Labor Compliance Program to the Director of the Department of Industrial Relations

CCMI shall assist the Agency in submitting to the Director of the Department of Industrial Relations an annual report (LCP-AR1) on the operation of its Labor Compliance Program on or before August 31 (60 days after the close of its fiscal year.). The annual report will contain, as a minimum, the following information:

1. Labor Code violations identified and reported to the Labor Commissioner;
2. The number of public works contracts awarded which require LCP compliance;
3. A summary of wages due to workers resulting from failure by contractors to pay prevailing wage rates; the total amount withheld from money due the contractors; and the total amount recovered by action in any court of competent jurisdiction;
4. A summary of apprenticeship violations;
5. And all other information required as part of the Annual Reporting requirements as required by CCR Title 8 Section 16431.

B. For each public work project subject to a Labor Compliance Program's enforcement of prevailing wage requirements, a separate, written summary of labor compliance activities and relevant facts pertaining to that particular project shall be maintained. That summary shall demonstrate that reasonable and sufficient efforts have been made to enforce prevailing wage requirements consistent with the practice of the Labor Commissioner. Appendix C following this section provides a suggested format for tracking and monitoring enforcement activities. Compliance records for a project shall be retained until the later of (1) at least one year after the acceptance of the public work or five years after the cessation of all labor on a public work that has not been accepted, or (2) one year after a final decision or judgment in any litigation under Labor Code Section 1742. For purposes of this section, a written summary or report includes information maintained electronically, provided that the summary or report can be printed out in hard copy form or is in an electronic format that (1) can be transmitted by e-mail or compact disk and (2) would be acceptable for the filing of documents in a federal or state court of record within this state.

Revised 01/12/2013

Appendix A

CHECKLIST OF LABOR LAW REQUIREMENTS FOR REVIEW AT JOB START MEETINGS

(In accordance with CCR Section 16430)

The state labor law requirements applicable to the contract are composed of, but not limited to, the following:

1. Payment of Prevailing Wage Rates

The award of a public works contract requires that all workers employed on the project be paid not less than the specified general prevailing wage rates by the contractor and its subcontractors. Prevailing wage determinations for this project can be obtained at: www.dir.ca.gov. This includes a total package including fringe benefits and training contributions which are paid to the employee or for the benefit of the employee to a bona fide ERISA approved or otherwise unconditionally paid for the benefit of the employee Trust Fund.

The contractor is responsible for obtaining and complying with all applicable general prevailing wage rates for trades workers and any rate changes, which may occur during the term of the contract. Prevailing wage rates and rate changes are to be posted at the job site for workers to view. Or the contractor may post a notice stating where the prevailing wage determinations are available on the jobsite and the contractor shall provide access to such information upon reasonable notice.

2. All individuals or companies performing prevailing wage work on this project must be registered as a public works contractor and pay an annual fee of \$300 to the Department of Industrial Relations (DIR). This includes all work covered by prevailing wage such as trucking, surveying, building inspection and so on.

3. Apprentices

It is the duty of the contractor and subcontractors to employ registered apprentices on public works projects per Labor Code Section 1777.5; Contractors and subcontractors must submit proof of Public Works Contract Award Information (DAS140) or other documentation for Division of Apprenticeship Standards approved apprenticeship programs. Apprentices are to be employed in all crafts and in all trades with approved training programs. Contractors are to employ apprentices on a ratio of 1 apprentice hour for every 5 journeymen hours or as otherwise approved by the DAS approved Apprenticeship Training Committee. Contractors and subcontractors who do not meet this ratio must submit documentation that apprentices were requested and were not provided and/or not available in sufficient number to meet this ratio. The submission of an accurate DAS142(s) meets this requirement. Additional documentation may be required to verify the apprenticeship status of employees.

4. Penalties

Penalties, including forfeitures and debarment, shall be imposed for contractor/subcontractor failure to pay prevailing wages, failure to maintain and submit accurate certified payroll records upon request, failure to employ apprentices, and for failure to pay employees for all hours worked at the correct prevailing wage rate, in accordance with Labor Code Sections 1775, 1776, 1777.7, and 1813. Monetary penalties of \$200 per day per worker shall be imposed for failure to pay correct prevailing wage; \$25 per day per worker shall be imposed for overtime violated; \$100 per day per worker for failure to provide certified payroll information; \$100-\$300 per calendar day for noncompliance of Apprenticeship issues.

5. Certified Payroll Records

Per Labor Code Section 1776, contractors and subcontractors are required to keep accurate payroll records which reflect the name, address, social security number, and work classification of each employee; the straight time and overtime hours worked each day and each week; the fringe benefits; and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee hired in connection with a public works project. A listing of all current prevailing wage determinations can be

obtained from the Agency's main office or by accessing the Department of Industrial Relation's website at: www.dir.ca.gov

Employee payroll records shall be certified (signed under penalty of perjury by someone in authority at the company) and shall be made available for inspection at all reasonable hours at the principal office of the contractor/subcontractor, or shall be furnished to any employee, or to his or her authorized representative on request. Disclosure of certified payroll information to anyone other than the Awarding Body, its agent, or the Department of Industrial Relations requires that personal information about the employees (name, address and social security number) listed on the forms be redacted (omitted) to protect employee privacy.

Contractors and subcontractors shall maintain their certified payrolls on a weekly basis and shall submit said payrolls on a monthly basis in conjunction with contractor's requests progress or final payment. In the event that there has been no work performed during a given week, the Certified Payroll Record shall be annotated "No Work" for that week. The Agency or its authorized representative is also authorized to request and review all related payroll records such as time cards, cancelled checks, etc. the contractor must also submit electronic certified payroll to the Department of Industrial Relations through its eCPR portal for ALL work performed after August 1, 2016.

While the DIR accepts electronic versions of your certified payroll, the DIR and this agency may also request copies of the original certified payroll and supporting documentation at any time.

6. Nondiscrimination in Employment

Prohibitions against employment discrimination are contained in Labor Code Sections 1735 and 1777.6; the Government Code; the Public Contracts Code; and Title VII of the Civil Rights Act of 1964, as amended. All contractors and subcontractors are required to implement equal employment opportunities as delineated below:

a. Equal Employment Poster

The equal employment poster shall be posted at the job site in a conspicuous place visible to employees and employment applicants for the duration of the project. All other labor and employment related posters are also to be properly displayed on the jobsite.

7. Kickback Prohibited

Per Labor Code Section 1778, contractors and subcontractors are prohibited from accepting, taking wages illegally, or extracting "kickback" from employee wages;

8. Acceptance of Fees Prohibited

Contractors and subcontractors are prohibited from exacting any type of fee for registering individuals for public work (Labor Code Section 1779); or for filling work orders on public works contracts (Labor Code Section 1780);

9. Listing of Subcontractors

Contractors are required to list all subcontractors hired to perform work on a public works project when that work is equivalent to more than one-half of one percent of the total contract amount or \$10,000 whichever is greater. (Public Contract Code Section 4100, et seq.);

10. Proper Licensing

Contractors and subcontractors are required to be properly licensed. Penalties will be imposed for employing workers while unlicensed (Labor Code Section 1021 and Business and Professions Code Section 7000, et seq. under California Contractors License Law);

11. Unfair Competition Prohibited

Contractors and subcontractors are prohibited from engaging in unfair competition (Business and Professions Code Sections 17200-17208);

12. Workers' Compensation Insurance

All contractors and subcontractors are required to be insured against liability for workers' compensation, or to undertake self-insurance in accordance with the provisions of Labor Code Section 3700 (Labor Code Section 1861);

13. OSHA

Contractors and subcontractors are required to comply with the Occupational, Safety and Health laws and regulations applicable to the particular public works project.

14. Prompt Payment of Subcontractors and Suppliers

Contractors are required by law to promptly pay their subcontractors and suppliers within seven (7) days of receipt of any progress or final payment from the Public Agency. Likewise the subcontractor and supplier are required to pay their respective subcontractors and suppliers within seven (7) days of receipt of payment from the general contractor. When the payment to the contractor is a release of final retention on the project, those funds must be paid within seven (7) days of receipt.

15. IRCA

Pursuant to the Immigration Reform and Control Act of 1986, employers are required to verify that all employees working on public works contracts are legally able to work in the United States. Employers shall keep on file appropriate I-9 forms and documentation for all workers employed on the jobsite and make such forms available to inspection and review by the LCO upon request.

16. Jobsite Interviews

Jobsite interviews are required on a regular basis on this project, CCMI may conduct random jobsite interviews as necessary to meet labor compliance obligations.

17. Certification of Electricians

Those employing electricians must comply with employment testing and certification requirements for electricians. Additional information may be required to verify the certification status of those employed.

18. Employee Wage Statements - It is required to provide itemized wage statements (pay stubs) to Employees under Labor Code Section 226.19. Posting of Labor Compliance – Notice of Labor Compliance Approval is required to be posted at the job site in accordance with section 16429, listing a telephone number to call for inquiries, questions, or assistance with regard to the Labor Compliance Program. (Sample attached in handout).20. Confirmation of Payroll Records – Confirmation of payment to employees for each contractor and subcontractor shall be undertaken randomly for at least one worker for at least one weekly period within that month. This will entail a monthly request of the front and back of a canceled check and employee pay stub for each contractor/subcontractor. Per Title 8 of the California Code Regulations section 16432(c).21. Public Works Contractor Registration – Only those businesses who have registered and paid the applicable fee to the Department of Industrial Relations as a Public Works Contractor will be allowed to work on the project.

In accordance with federal and state laws, and with the Public Agency's policy and contract documents, the undersigned contractor herein certifies that they will comply with the foregoing labor law requirements; and fully understands that failure to comply with these requirements will subject them to the penalties cited herein.

The contractor also herein certifies that it has been provided with a copy of the Labor Compliance Program Package for Contractors with includes:

1. Labor Law Requirements Checklist (included herein)
2. The Location of Applicable General Prevailing Wage Rate Determinations
3. Blank Certified Payroll Record form
4. Fringe Benefit Statements
5. State apprenticeship contribution form (CAC2)
6. State apprenticeship requirements and form to register apprentices (DAS-140)
7. Request for apprentices (DAS-142)
8. Copy of the Labor Code relating to Public Works and Public Agencies (Part 7, Chapter 1, Sections 1720-1816 can be found at www.dir.ca.gov).

IT IS THE CONTRACTOR'S RESPONSIBILITY TO PROVIDE COPIES OF THE LABOR COMPLIANCE PROGRAM PACKAGE TO ALL LISTED SUBCONTRACTORS AND TO ANY SUBSTITUTED SUBCONTRACTORS.

Project Name and Number: _____

Public Agency: _____

Contractor: Name _____

Contractor Address: _____

Contractor Phone: _____ Fax: _____

License Number: _____ Date: _____

I acknowledge that I have been informed and am aware of the foregoing requirements and that I am authorized to make this certification on behalf of _____
(Name of Contractor)

Signature/Name/Title of Contractor Authorized Representative

Additional Explanation And Instructions Relating To Required

LCP Forms and Information

Certified payroll or non performance documentation - is required for each week from the beginning of the contractor's /subcontractor's work on the project until completion of that contractor's/subcontractor's work. These documents need to reflect a consistent 7 day work week for the entirety of the project. The certified payroll forms need to be complete, listing the employee's correct name, address, social security number, hours worked per day, total hours worked per week, wages, deductions and check number. It is critical that the employee's craft classification be listed correctly. Just listing "Journeyman" or "Laborer" is not sufficient. Many trades have sub-classifications and it is the contractor's obligation to correctly classify the employees. Employees must be classified and paid based on what type of work they are performing, not merely by title. It is acceptable for an employee to work in more than one trade category per day, but it is the employer's obligation to keep accurate records of the different type of work performed by the employee.

Please be aware non performance statements must be submitted for weeks in which no work is performed. More information about trade classifications and wage rates can be found at www.dir.ca.gov.

Fringe Benefit Statement - In order to complete a payroll audit, we need a copy of the fringe benefit statement listing the fringes being paid to each employee or employees on each trade. You are not required to use the worksheet in the packet, however all the information on that worksheet needs to be included in the documentation we receive. This should show an hourly breakdown of the specific contributions (health, pension, etc.) for each trade and the addresses of the plans being paid into. For contractors who pay medical benefits directly to a medical plan, such as Kaiser or Blue Shield, the monthly payment for each employee must be amortized into an hourly rate. (For example: Joe's health premium is \$300 a month, that rate multiplied by 12 (months) divided by 2080 (hours) yields an hourly rate of \$1.72 per hour). Similar amortization is allowed for vacation and holiday time paid. Training contributions paid to an approved apprenticeship committee needs to be listed as a separate item on this form (i.e. not just training/other together).

Apprenticeship

Submit contract award information- DAS-140

Submit the contract award information in writing to each of the apprenticeship program sponsors in the area of your public works project within 10 days of the prime execution of the contract or subcontract, but in no event later than the first day in which the contractor has workers employed on the public work. This is simply a notification of award, it is not automatically a request for dispatch of a registered apprentice.

If you are not already approved to train apprentices with an approved apprenticeship committee and you are not willing to abide by the terms of and conditions of an apprenticeship program for this project, then (check Box 3) you must send a copy of the DAS-140 form to ALL approved apprenticeship Training Committee for that craft in the County in which the work is being performed.

Request to employ registered apprentices- DAS-142

A contractor on a public works project must employ one (1) hour of apprentice work for every five (5) hours performed by a journeyman.

All contractors must request for dispatch of an apprentice from an apprenticeship program (for each

apprenticeable craft or trade) by giving the program actual notice of the request at least 72 hours (business days only) before the date on which apprentices are required. Contractors who do not receive sufficient number of apprentices from their initial request must continue to request apprentices from all other approved apprenticeship committees in the county, if more than one exists, until the proper ratio of apprentices is reached or until all apprenticeship committees (for that trade) have been contacted at least once.

When an apprentice is dispatched, the employer is required to employ the apprentice for at least one full day of work (8 hours) or 20% of the total apprenticeship hours calculated for the project- unless the total number of journeyman hours total under 40 hours for that craft.

Make training fund contributions – CAC 2

Contractors who are awarded public works jobs must make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices. This nominal fee contributes to the assurance that new apprentices coming into the craft will be guaranteed the highest level of training and as those skilled craftsmen retire, the trade will survive.

Contractors who contribute to an apprenticeship program are entitled to a full credit in the amount of those contributions for each apprentice working on the project and to not more than the specified training contribution amount for journeyman.. Contractors who do not contribute to an apprenticeship program must submit their contributions to the California Apprenticeship Council, PO Box 511283, Los Angeles, CA 90051-7838.

Training fund contributions to the Council are due and payable on the 15th day of the month for work performed during the preceding month. The contribution should be paid by check and be accompanied by a computer generated training fund contribution form (CAC – 2) or a letter containing the following information:

1. The name, address and telephone number of the contractor making the contribution.
2. The contractor's license number.
3. The name and address of the public agency that awarded the contract.
4. The jobsite location, including the county where the work was performed.
5. The contract or project number.
6. The time period covered by the enclosed contributions.
7. The contribution rate and total hours worked by apprenticeable occupation.
8. The name of the program(s) that provide apprentices if any.
9. The number if apprentice hours worked, by apprenticeable occupations and by program.

Comments, suggestions and questions welcome. Email to daspublicworks@dir.ca.gov or call your local district office.

* * * * *

* DAS-140 and DAS-142 forms are not required when the general contract is less than \$30,000 or when the company performing the work is a sole proprietor and is the only worker employed by that company on the project.

PUBLIC WORKS CONTRACT AWARD INFORMATION

Contract award information must be sent to your Apprenticeship Committee if you are approved to train. If you are not approved to train, you must send the information (which may be this form) to ALL applicable Apprenticeship Committees in your craft or trade in the area of the site of the public work. Go to: <http://www.dir.ca.gov/das/PublicWorksForms.htm> for information about programs in your area and trade. You may also consult your local Division of Apprenticeship Standards (DAS) office whose telephone number may be found in your local directory under California, State of, Industrial Relations, Division of Apprenticeship Standards.

Do not send this form to the Division of Apprenticeship Standards.

NAME OF YOUR COMPANY	CONTRACTOR'S STATE LICENSE NO.
MAILING ADDRESS- NUMBER & STREET, CITY, ZIP CODE	AREA CODE & TELEPHONE NO.
NAME & ADDRESS OF PUBLIC WORKS PROJECT	DATE YOUR CONTRACT EXECUTED
	DATE OF EXPECTED OR ACTUAL START OF PROJECT
NAME & ADDRESS OF PUBLIC AGENCY AWARDED CONTRACT	ESTIMATED NUMBER OF JOURNEYMEN HOURS
	OCCUPATION OF APPRENTICE
THIS FORM IS BEING SENT TO: (NAME & ADDRESS OF APPRENTICESHIP PROGRAM(S))	ESTIMATED NUMBER OF APPRENTICE HOURS
	APPROXIMATE DATES TO BE EMPLOYED

This is not a request for dispatch of apprentices.

Contractors must make a separate request for actual dispatch, in accordance with Section 230.1(a) California Code of Regulations

Check One Of The Boxes Below

1. ☐ We are already approved to train apprentices by the _____
Apprenticeship Committee. We will employ and train under their Standards. Enter name of the Committee
2. ☐ We will comply with the standards of _____
Apprenticeship Committee for the duration of this job only. Enter name of the Committee
3. ☐ We will employ and train apprentices in accordance with the California Apprenticeship Council regulations, including § 230.1 (c) which requires that apprentices employed on public projects can only be assigned to perform work of the craft or trade to which the apprentice is registered and that the apprentices must at all times work with or under the direct supervision of journeyman/men.

Signature _____ Date _____

Typed Name _____

Title _____

State of California - Department of Industrial Relations DIVISION
OF APPRENTICESHIP STANDARDS

DAS 140 (REV. 1/04)

REQUEST FOR DISPATCH OF AN APPRENTICE – DAS 142 FORM DO NOT SEND THIS FORM TO DAS	
You may use this form to request dispatch of an apprentice from the Apprenticeship Committee in the craft or trade in the area of the public work. Go to: http://www.dir.ca.gov/DAS/PublicWorksForms.htm for information about programs in your area and trade. You may also consult your local Division Apprenticeship Standards (DAS) office whose telephone number may be found in your local directory under California, State of, Industrial Relations, Division of Apprenticeship Standards. <u>Except for projects with less than 40 hours of journeyman work, you must request and employ apprentices in no less than 8 hour increments.</u>	
Date: _____ To Applicable Apprenticeship Committee: Name: _____ Address: _____ _____ Tel. No. _____ Fax No. _____	Contractor Requesting Dispatch: Name: _____ Address: _____ _____ License No. _____ Tel. No. _____ Fax No. _____
Project Information: Contract No. _____ Name of the Project: _____ Address: _____	
Dispatch Request Information: Number of Apprentice(s) Needed: _____ Craft or Trade: _____ Date Apprentice(s) to Report: _____ (72 hrs. notice required) Time to Report: _____ Name of Person to Report to: _____ Address to Report to: _____	
<i>You may use this form to make your written request for the dispatch of an apprentice. Requests for dispatch must be in writing and submitted at least 72 hours in advance (excluding weekends and holidays) via either first class mail, fax or email. Proof of submission may be required. Please take note of California Code of Regulations, Title 8, § 230.1 (a) for all applicable requirements regarding apprenticeship requests and/or visit http://www.dir.ca.gov/DAS/DASApprenticesOnPublicWorksSummaryOfRequirements.htm</i> <i>DAS 142 (Revised 12/11)</i>	

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1

FOR COMMERCIAL, BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

CRAFT: # CEMENT MASON

DETERMINATION: NC-23-203-1-2014-2

ISSUE DATE: August 22, 2014

EXPIRATION DATE OF DETERMINATION: June 28, 2015** The rate to be paid for work performed after this date has been determined. If work will extend past this date, the new rate must be paid and should be incorporated in contracts entered into now. Contact the Office of the Director – Research Unit for specific rates at (415) 703-4774.

LOCALITY: All localities within Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba counties.

CLASSIFICATION (JOURNEYPERSON)	Employer Payments					Straight-Time		Overtime Hourly Rate		
	Basic Hourly Rate	Health and Welfare	Pension	Vacation and Holiday	Training	Hours ^d	Total Hourly Rate	Daily 1 1/2X	Saturday ^a 1 1/2X	Sunday and Holiday
Cement Mason	\$30.00	8.15	9.80	5.24 ^b	0.47	8	53.66	68.660	68.660 ^c	83.66
Mastic Magnesite Gypsum, Epoxy, Polyester, Resin and all composition masons, swing or slip form scaffolds	\$30.75	8.15	9.80	5.24 ^b	0.47	8	54.41	69.785	69.785 ^c	85.16

Indicates an apprenticeable craft. The current apprentice wage rates are available on the Internet @ <http://www.dir.ca.gov/OPRL/PWAppWage/PWAppWageStart.asp>. To obtain any apprentice wage rates as of July 1, 2008 and prior to September 27, 2012, please contact the Division of Apprenticeship Standards or refer to the Division of Apprenticeship Standards' website at <http://www.dir.ca.gov/das/das.html>.

^a Saturdays in the same work week may be worked at straight time if a job is shut down during the normal work week due to inclement weather or major mechanical breakdown (limited to curb and gutter machine, concrete pump, and concrete plant).

^b Includes an amount for supplemental dues.

^c Rate applies to the first 8 hours of work on Saturday. All other hours worked on Saturday are paid at the Sunday/Holiday rate.

^d Where multiple shifts are worked, the day shift shall work eight (8) hours and for such work they shall be paid the regular straight time rate for eight (8) hours; the second (2nd) shift shall work seven and one-half (7 1/2) hours, and for such work they shall be paid the regular straight time rate for eight (8) hours; if a third (3rd) shift is worked, they shall work seven (7) hours and for such work they shall be paid eight (8) hours regular straight time pay. No multiple shift shall be started for less than five (5) consecutive days.

RECOGNIZED HOLIDAYS: Holidays upon which the general prevailing hourly wage rate for Holiday work shall be paid, shall be all holidays in the collective bargaining agreement, applicable to the particular craft, classification, or type of worker employed on the project, which is on file with the Director of Industrial Relations. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code. You may obtain the holiday provisions for the current determinations on the Internet at <http://www.dir.ca.gov/OPRL/PWD>. Holiday provisions for current or superseded determinations may be obtained by contacting the Office of the Director – Research Unit at (415) 703-4774.

TRAVEL AND/OR SUBSISTENCE PAYMENT: In accordance with Labor Code Sections 1773.1 and 1773.9, contractors shall make travel and/or subsistence payments to each worker to execute the work. You may obtain the travel and/or subsistence provisions for the current determinations on the Internet at <http://www.dir.ca.gov/OPRL/PWD>. Travel and/or subsistence requirements for current or superseded determinations may be obtained by contacting the Office of the Director – Research Unit at (415) 703-4774.

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SAMPLE

California Apprenticeship Council - Training Fund Contributions

1. Go to this web link: <https://www.dir.ca.gov/DAS/tf/cac2.asp> and add it to your favorites.
2. Fill out the New Easy Web App with the necessary information.
3. Please use your Contractor's License Number without the alpha digit. This number can also be used to look up your contributions on the website at:
<http://www.dir.ca.gov/CA/trainingfund/Tfsearch.html>
4. Select the County and Occupation, then fill in the hours and rate and when you hit "tab" the amount is calculated for you.
5. Once you are done filling out the form and verified your information, print out your invoice.
6. **VERY IMPORTANT:** Mail **both** the **invoice** and your **check** payable to:
California Apprenticeship Council to:

***Remit to: CALIFORNIA APPRENTICESHIP COUNCIL
PO BOX 511283
Los Angeles, CA 90051-7838***

CONTRACTOR FRINGE BENEFIT STATEMENT

Contract Number / Name:	Contract Location:	Today's Date:
Contractor / Subcontractor Name:		Business Address:

In order that the proper Fringe Benefit rates can be verified when checking payrolls on the above contract, the hourly rates for fringe benefits, subsistence and/or travel allowance payment made for employees on the various classes of work are tabulated below.

Classification:		Effective Date:	Subsistence or Travel Pay: \$ _____
FRINGE BENEFITS	Health & Welfare	\$ _____	PAID TO: Name: _____ Address: _____
	Pension	\$ _____	PAID TO: Name: _____ Address: _____
	Vacation/ Holiday	\$ _____	PAID TO: Name: _____ Address: _____
	Training Other	\$ _____ \$ _____	PAID TO: Name: _____ Address: _____
Classification:		Effective Date:	Subsistence or Travel Pay: \$ _____
FRINGE BENEFITS	Health & Welfare	\$ _____	PAID TO: Name: _____ Address: _____
	Pension	\$ _____	PAID TO: Name: _____ Address: _____
	Vacation/ Holiday	\$ _____	PAID TO: Name: _____ Address: _____
	Training Other	\$ _____ \$ _____	PAID TO: Name: _____ Address: _____
Classification:		Effective Date:	Subsistence or Travel Pay: \$ _____
FRINGE BENEFITS	Health & Welfare	\$ _____	PAID TO: Name: _____ Address: _____
	Pension	\$ _____	PAID TO: Name: _____ Address: _____
	Vacation/ Holiday	\$ _____	PAID TO: Name: _____ Address: _____
	Training Other	\$ _____ \$ _____	PAID TO: Name: _____ Address: _____

Submitted: Contractor / Subcontractor	By: Name / Title
---------------------------------------	------------------

Supplemental statements must be submitted during the progress of work should a change in rate of any of the classifications be made.



(Reduced by Antioch Unified Public Agency)

PUBLIC WORKS PAYROLL REPORTING FORM

Page of

NAME OF CONTRACTOR OR SUB CONTRACTOR		CONTRACTORS LICENSE #		SPECIALTY LICENSE #		ADDRESS			
PAYROLL NO.		FOR WEEK ENDING		SELF-INSURED CERTIFICATE #		PROJECT OR CONTRACT NO.			
WORKERS' COMPENSATION POLICY #		PROJECT AND LOCATION							
(1) NAME, ADDRESS AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(2) N H E I O O X I L E I O P M F W N T J IT G O I H N I S	(3) WORK CLASSIFICATION	(4) Day M T W T F S S Date	(5) TOTAL HOURS	(6) HOURLY RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS, CONTRIBUTIONS AND PAYMENTS	(9) NET WGS PAID FOR WEEK	CHECK NO.
						THIS PROJECT	FED TAX FICA (SOC SEC) STATE TAX SDI VAC/ HOL HEALTH & WELF PENSION TRAINING FUND ADMIN DUES TRV/ SUBS SAVINGS OTHER* TOTAL DED- UCTIONS		
						THIS PROJECT	FED TAX FICA (SOC SEC) STATE TAX SDI VAC/ HOL HEALTH & WELF PENSION TRAINING FUND ADMIN DUES TRV/ SUBS SAVINGS OTHER* TOTAL DED- UCTIONS		
						THIS PROJECT	FED TAX FICA (SOC SEC) STATE TAX SDI VAC/ HOL HEALTH & WELF PENSION TRAINING FUND ADMIN DUES TRV/ SUBS SAVINGS OTHER* TOTAL DED- UCTIONS		
						THIS PROJECT	FED TAX FICA (SOC SEC) STATE TAX SDI VAC/ HOL HEALTH & WELF PENSION TRAINING FUND ADMIN DUES TRV/ SUBS SAVINGS OTHER* TOTAL DED- UCTIONS		

Form A 1-131 (New 2-80) S = Straight Time O = Overtime SDI = State Disability Insurance

*OTHER - Any other deductions, contributions and/or payment whether or not included or required by prevailing wage determinations must be separately listed. Use extra sheet if necessary

CERTIFICATION must be completed

I, _____, the undersigned, am _____ with the authority to act for and on behalf of _____ (name of business and/or contractor)

certify under penalty of perjury that the records or copies thereof submitted and consisting of _____ are the originals or true, full and correct copies of the originals which depict the payroll record(s) of the actual disbursements by way of cash, check or whatever form to the individual or individuals named.

Date: _____ Signature: _____

A public entity may require a more strict and/or more extensive form of certification.

Title 8 of the California Code and Regulations Section 16429, please be advised that this project falls under Labor Compliance Regulations. The Labor Compliance Program contact information for this project is:

CONTACT INFORMATION FOR CCMI

This project is subject to the payment of prevailing wage. The prevailing wage rates for this project fall under determination **XXXXX**. To obtain information regarding the wages due for the project, please go to www.dir.ca.gov.

In accordance with federal and state laws, and with the Public Agency's policy and contract documents, the undersigned contractor herein certifies that they will comply with the foregoing labor law requirements; and fully understands that failure to comply with these requirements will subject them to the penalties cited herein.

The contractor also herein certifies that it has been provided with a copy of the Labor Compliance Program Package for Contractors with includes:

1. Labor Law Requirements Checklist (included herein)
2. The Location of Applicable General Prevailing Wage Rate Determinations
3. Blank Certified Payroll Record form
4. Fringe Benefit Statements
5. State apprenticeship contribution form (CAC2)
6. State apprenticeship requirements and form to register apprentices (DAS-140)
7. Request for apprentices (DAS-142)
8. Copy of the Labor Code relating to Public Works and Public Agencies (Part 7, Chapter 1, Sections 1720-1816 can be found at www.dir.ca.gov).

IT IS THE CONTRACTOR'S RESPONSIBILITY TO PROVIDE COPIES OF THE LABOR COMPLIANCE PROGRAM PACKAGE TO ALL LISTED SUBCONTRACTORS AND TO ANY SUBSTITUTED SUBCONTRACTORS.

Project Name and Number: _____

Public Agency: _____

Contractor: Name _____

Contractor Address: _____

Contractor Phone: _____ Fax: _____

License Number: _____ Date: _____

I acknowledge that I have been informed and am aware of the foregoing requirements and that I am authorized to make this certification on behalf of _____
(Name of Contractor)

Signature/Name/Title of Contractor Authorized Representative

Appendix B
LABOR COMPLIANCE SITE VISIT INTERVIEW FORM

Job Site-General Contractor- Project ☐

Job Site-General Contractor- Project ☐

Job Site-General Contractor- Project ☐

Contractor/Subcontractor: _____

Time of Interviews: _____ Weather Conditions: _____

Prevailing Wage info Posted LCP information Posted

Craft: ☐ ☐

Carpenter ☐ Laborer ☐ Cement ☐ Operator ☐ Drywall ☐ Electrician ☐ Tile Setter ☐ Plumber ☐

Glazier ☐ Painter ☐ Taper ☐ Plasterer ☐ Roofer ☐ Sheet Metal ☐ Tile Finisher ☐ Pipe Tradesman ☐

Other _____

Trade Level: Journeyman ☐ Apprentice ☐

Apprentice Level and Program: _____

Person Interviewed: _____

SS#: _____ Hourly Pay Rate: _____ Benefits: _____

Have you performed overtime, Saturday or Sunday work? _____ Have you worked nights? _____

Total number of workers observed on the visit: _____

Type of work observed: _____

Was the worker believable? Yes ☐ No ☐

Observations and other work being performed on site: _____

Comments: _____

Did the superintendent or foreman accompany you on the site? Yes ☐ No ☐

Interview Conducted by: _____

Signed: _____ Date: _____

APPENDIX C

[Name and Contact Information for person issuing Notice]	
Date:	Case or Contract No.:

**NOTICE OF TEMPORARY WITHHOLDING OF CONTRACT PAYMENTS DUE TO
DELINQUENT OR INADEQUATE PAYROLL RECORDS (8 CCR §16435)**

Awarding Body:	Work performed in County of:
Project Name and Number (if any):	
Prime Contractor:	
Subcontractor:	

Pursuant to Labor Code §1771.5(b)(5) and 8 CCR §16435, contract payments are being withheld due to delinquent or inadequate payroll records.

Contractor or subcontractor whose payroll records are delinquent or inadequate:

☐ The following payroll records are delinquent (specify weeks and due dates):

☐ The following payroll records are inadequate (specify weeks and ways in which records are deemed inadequate under 8 CCR §16435(d)):

Estimated amount of contract payments due to contractor or subcontractor that are being withheld pursuant to this Notice:

See page 2 for additional information, including appeal rights.

Labor Compliance Officer

Prime Contractor Obligations: If contract payments are being withheld due to the delinquency or inadequacy of your subcontractor's payroll records, you are required to cease all payments to that subcontractor until the Labor Compliance Program provides notice that the subcontractor has cured the delinquency or deficiency.

Notice of Right to Obtain Review -- Expedited Hearing

An affected contractor or subcontractor may request review an expedited hearing to review this Notice of Withholding of Contract Payments under Labor Code §1742. *The only issue in any such review proceeding is whether the specified payroll records are in fact delinquent or inadequate within the meaning of 8 CCR §16435 or whether the Labor Compliance Program has exceeded its authority under 8 CCR §16435.* **To obtain an expedited hearing, a written request must be transmitted to the both the Labor Compliance Program and to the Lead Hearing Officer for the Director of the Department of Industrial Relations, as follows:**

(On behalf of the Public Agency)

CCMI

635 Mariners Island Blvd, Suite 200

San Mateo, CA 94404

650-522-4403/ fax: 650-522-4402

Attn Deborah Wilder

dwilder@ccmi-tpa.com

Office of the Director – Legal Unit

Attention: Lead Hearing Officer

Expedited Hearing Request

Fax to: (415) 703-4277

The request for expedited hearing should specify the basis for challenging this Notice and include a copy of this Notice as an attachment. The request should also identify and provide contact information for the person who will represent the contractor or subcontractor at the hearing.

Important Additional Information: This is a Notice of Temporary Withholding of Contract Payments for Delinquent or Inadequate Payroll Records *only*. This is *not* a determination of liability for wages or penalties under Labor Code §§1775 and 1776 or any other statute. *Contract payments cannot continue to be withheld pursuant to this notice, once the required records have been produced.* However, the contractor and subcontractor may still be subject to the assessment of back wages and penalties and the withholding of contract payments if, upon investigation, a determination is made that the contractor or subcontractor violated the public works requirements of the Labor Code.

This Notice only addresses rights and responsibilities under state law. Awarding bodies, labor compliance programs, and contractors may have other rights or responsibilities under federal or local law, where applicable, and may also have additional rights or remedies under the public works contract.

Enclosure – text of 8 CCR §16435

§16435. Withholding Contract Payments When Payroll Records are Delinquent or Inadequate.

(a) "Withhold" means to cease payments by the Awarding Body, or others who pay on its behalf, or agents, to the general contractor. Where the violation is by a subcontractor, the general contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729.

(b) "Contracts." Except as otherwise provided by agreement, only contracts under a single master contract, including a Design-Build contract, or contracts entered into as stages of a single project, may be the subject of withholding.

(c) "Delinquent payroll records" means those not submitted on the date set in the contract.

(d) "Inadequate payroll records" are any one of the following:

(1) A record lacking any of the information required by Labor Code Section 1776;

(2) A record which contains all of the required information but is not certified, or is certified by someone who is not an agent of the contractor or subcontractor;

(3) A record remaining uncorrected for one payroll period after the Labor Compliance Program has given the contractor or subcontractor notice of inaccuracies detected by audit or record review. However, prompt correction will stop any duty to withhold if such inaccuracies do not amount to one (1) percent of the entire Certified Weekly Payroll in dollar value and do not affect more than half the persons listed as workers employed on that Certified Weekly Payroll, as defined in Labor Code Section 1776 and section 16401 of Title 8 of the California Code of Regulations.

(e) The withholding of contract payments when payroll records are delinquent or inadequate is required by Labor Code Section 1771.5(b)(5), and it does not require the prior approval of the Labor Commissioner. The Awarding Body shall only withhold those payments due or estimated to be due to the contractor or subcontractor whose payroll records are delinquent or inadequate, plus any additional amount that the Labor Compliance Program has reasonable cause to believe may be needed to cover a back wage and penalty assessment against the contractor or subcontractor whose payroll records are delinquent or inadequate; *provided that* a contractor shall be required in turn to cease all payments to a subcontractor whose payroll records are delinquent or inadequate until the Labor Compliance Program provides notice that the subcontractor has cured the delinquency or deficiency.

(f) When contract payments are withheld under this section, the Labor Compliance Program shall provide the contractor and subcontractor, if applicable, with immediate written notice that includes all of the following: (1) a statement that payments are being withheld due to delinquent or inadequate payroll records, and that identifies what records are missing or states why records that have been submitted are deemed inadequate; (2) specifies the amount being withheld; and (3) informs the contractor or subcontractor of the right to request an expedited hearing to review the withholding of contract payments under Labor Code Section 1742, limited to the issue of whether the records are delinquent or inadequate or the Labor Compliance Program has exceeded its authority under this section.

(g) No contract payments shall be withheld solely on the basis of delinquent or inadequate payroll records after the required records have been produced.

(h) In addition to withholding contract payments based on delinquent or inadequate payroll records, penalties shall be assessed under Labor Code Section 1776(g) for failure to timely comply with a written request for certified payroll records. The assessment of penalties under Labor Code Section 1776(g) does require the prior approval of the Labor Commissioner under section 16436 of these regulations.

Labor Compliance Program Regulations – APPENDIX D

REQUEST FOR APPROVAL OF FORFEITURE -- Suggested format**1. AWARDING BODY / THIRD PARTY LCP:**

Name and Contact Information:	Date of Request:
Name and Contact Information for Awarding Body if different from LCP:	LCP Approval Status (specify if either interim or temporary or if LCP has extended authority):

2. PROJECT INFORMATION:

Project Name:	Contract Number:
Project Location:	
Bid Advertisement Dates:	Estimated Date Project is to be completed:
Acceptance Date of Project by the Awarding Body:	Notice of Completion/Date Recorded with County Recorder:
Other Relevant Deadline (specify):	Amount being held in Retention:

3. CONTRACTOR INFORMATION:

Name and address of Affected Contractor:	Name and address of Affected Subcontractor:
General Description of Scope of Work of the Entire Project:	
General Description of Scope of Work covered in the proposed Forfeiture (describe and attach relevant portions of contract or subcontract):	

4. LABOR COMPLIANCE PROGRAM INVESTIGATION AND FINDINGS:

Total Amount of Request for Notice of Withholding of Contract Payments:			
Wages Due:	Training Funds Due:	Total Penalties Due:	Potential Liquidated Damages [Wages + Training Funds]:
LC 1775 Penalties Due:	LC 1813 Penalties Due:	LC 1776 Penalties Due:	Other:

[Provide narrative summaries covering the following]:

A. *Statement of Issues.*

B. *Investigative Report (detailed narrative including but not limited to how the investigation was conducted including worker declarations, reviewing certified payroll records, verification of employer payment contributions, etc.).*

C. *Audit Report (detailed explanation of how audit was completed addressing each of the issues above).*

D. *Affected contractor and subcontractor information (how affected contractor and subcontractor were informed of potential violations; summary of their response with respect to violations and penalty issues; and any other information considered in determining recommended penalties).*

E. *Recommended penalties under Labor Code Section 1775(a) and basis for recommendation, including how factors in subsection (a)(2) of Section 1775 were applied to arrive at the recommended amount(s).*

ATTACHMENTS

1. Audit Summary (Appendix B)
2. 1st Bid Advertisement Publication
3. Notice of Completion
4. Scope of Work
5. Complaint form(s) and Declarations, if any

Send the Request and all Attachments to:

Division of Labor Standards Enforcement
 Bureau of Field Enforcement
 Attn.: Regional Manager
 300 Oceangate Blvd., No. 850
 Long Beach, CA 90802

COPIES OF THIS REQUEST, INCLUDING ALL ATTACHMENTS, SHALL BE SERVED ON THE AFFECTED CONTRACTOR AND AFFECTED SUBCONTRACTOR AT THE SAME TIME THAT IT IS SENT TO THE DIVISION OF LABOR STANDARDS ENFORCEMENT.

Appendix E

(On behalf of the Public Agency) CCMi 635 Mariners Island Blvd, Suite 200 San Mateo, CA 94404 650-522-4403 / fax: 650-522-4402 Attn: XXXXXXXX Email: XXXXXXXX	
	Date:

Notice of Withholding of Contract Payments

Awarding Body:	Work Performed in County of
Project Name	Project No.
Prime Contractor:	
subcontractor	

After an investigation concerning the payment of wages to workers employed in the execution of the contract for the above-named public works project, the Labor Compliance Program for XXXXXXXX has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code sections 1771.5 and 1771.6, the Labor Compliance Program hereby issues this Notice of Withholding of Contract Payments.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

- ☐ Failure to pay correct prevailing wage rate Section 1775
☐ Failure to pay correct overtime Section 1813
☐ Failure to submit certified payrolls and other requested documents within timeframe set forth by statute Section 1776

Explanation:

The Labor Compliance Program has determined that the total amount of wages due is: \$0.00

The Labor Compliance Program has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: \$

The Labor Compliance Program has determined that the amount of penalties assessed under Labor Code section 1776 is: \$ -0-

The Labor Compliance Program has determined that the amount of penalties assessed under Labor Code section 1777.5 is: \$ -0-

LABOR COMPLIANCE PROGRAM

By: _____
Analyst

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code sections 1742 and 1771.6, an affected contractor or subcontractor may obtain review of this Notice of Withholding of Contract Payments by transmitting a written request to the office of the Labor Compliance Program that appears below within 60 days after service of the notice. **To obtain a hearing, a written Request for Review must be transmitted to the following address:**

(On behalf of the Public Agency)
CCMI
635 Mariners Island Blvd, Suite 200
San Mateo, CA 94404
650-522-4403/ fax: 650-522-4402
Attn Deborah Wilder
dwilder@ccmi-tpa.com

A **Request for Review** either shall clearly identify the Notice of Withholding of Contract Payments from which review is sought, including the date of the notice, or it shall include a copy of the notice as an attachment, and shall also set forth the basis upon which the notice is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing within 20 days of the Labor Compliance Program's receipt of the written **Request for Review**.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

Opportunity for Settlement Meeting

In accordance with Labor Code Section 1742.1 (b), the Labor Compliance Program shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Notice of Withholding of Contract Payments, afford the contractor or subcontractor the opportunity to meet with the Labor Compliance Program's designee **to attempt to settle a dispute regarding the notice**. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. No writing prepared for the purpose of, in the course of, or pursuant to, the settlement meeting, other than a final settlement agreement, is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is **in addition** to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written **Request for Review** has already been made. Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Compliance Program's designee to attempt to settle a dispute regarding this notice must be transmitted to:

(On behalf of the Public Agency)
CCMI
635 Mariners Island Blvd, Suite 200
San Mateo, CA 94404
650-522-4403/ fax: 650-522-4402
Attn Deborah Wilder
dwilder@ccmi-tpa.com

Liquidated Damages

In accordance with Labor Code section 1742.1, after 60 days following the service of this Notice of Withholding of Contract Payments, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the notice shall be liable for liquidated damages in an amount equal to the wages, or portion thereof that still remain unpaid. If the notice subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

The Amount of Liquidated Damages Available Under this Notice is \$ -0-.

Distribution:

General Contractor - certified and regular mail

Subcontractor - certified and regular mail

Public Agency - regular mail only

Appendix F

LABOR COMPLIANCE PROGRAM On behalf of XXXX (Public Entity CCMi 635 Mariners Island Blvd, Suite 200 San Mateo, CA 94404 650-522-4403 / fax: 650-522-4402 Attn: XXXXXXXX Email: xxxxxxxx	(SEAL)
Date:	In Reply Refer to Case No.:

Notice of Transmittal

Public Entity
 Address

Project Identification:

General Contractor:

Subcontractor:

To: Department of Industrial Relations
 Office of the Director-Legal Unit
 Attention: Lead Hearing Officer
 P. O. Box 420603
 San Francisco, CA 94142-0603

Enclosed herewith please find a Request for Review, dated and received by this office on or about
 Also enclosed please find the following:

_____ Copy of Notice of Withholding of Contract Payments

_____ Copy of Audit Summary

LABOR COMPLIANCE PROGRAM

By: _____

cc: *General Contractor:*

Subcontractor:

STATE OF CALIFORNIA – DEPARTMENT OF INDUSTRIAL RELATIONS

TO: California Department of Industrial Relations
Division of Apprenticeship Standards
P.O. Box 420603
San Francisco, CA 94142

AWARDING AGENCY ID NUMBER

If you do not have an ID number please contact DAS

FROM:

EXTRACT OF
PUBLIC WORKS CONTRACT AWARD

A CONTRACT TO PERFORM PUBLIC WORKS UNDER LABOR CODE SECTION 1777.5 HAS BEEN AWARDED TO:

1. NAME OF GENERAL CONTRACTOR			2. CONTRACTOR'S LICENSE NO		
3. MAILING ADDRESS (STREET NUMBER OR P.O. BOX)			4. CITY		
			5. ZIP CODE	6. TELEPHONE NUMBER	
7. GENERAL CONTRACTOR'S CONTACT EMAIL ADDRESS			8. ADDRESS/LOCATION OF PUBLIC WORKS SITE (INCLUDE CITY AND COUNTY):		
9. NAME OF PROJECT					
10. CONTRACT NUMBER		11. PROJECT NUMBER		12. DOLLAR AMOUNT OF CONTRACT AWARD	
13. FIRST ADVERTISED BID DATE MONTH DAY YEAR		14. CONTRACT AWARD DATE MONTH DAY YEAR		12a. ESTIMATED TOTAL PROJECT COSTS, IF DIFFERENT FROM ITEM 12 (see instructions).	
15. WHICH STATUTE, IF ANY, APPLIES TO THIS PROJECT?					
16. STATE CONSTRUCTION BONDS If YES, List the Sources and Dollar Amount of Bonds: SOURCES			17. WILL YOU OPBBATE A DIR-APPROVED LABOR COMPLIANCE PROGRAM (LCP) FOR THIS PROJECT? YES NO		
19. STARTING DATE (ESTIMATED OR ACTUAL) (MM/DD/YYYY)			20. COMPLETION DATE (ESTIMATED OR ACTUAL) (MM/DD/YYYY)		
21. BRIEF DESCRIPTION OF WORK TO BE PERFORMED					
22. NEW CONSTRUCTION REMODELING ALTERATION, DEMOLITION, REPAIR OR MAINTENANCE					
23. CLASSIFICATION OR TYPE OF WORKER (CARPENTER, PLUMBER, ETC.) THAT WILL BE EMPLOYED BY THE CONTRACTOR(S)					
24. Is language included in the Contract Award to effectuate the requirements of sections 1771, 1772, 1775, 1776, 1813, and 1815 of the Labor Code? YES NO					
25. SIGNATURE		26. TITLE		27. DATE	
28. PRINTED OR TYPED NAME		29. E-MAIL ADDRESS		30. TELEPHONE NUMBERS	
If different from above, name, title, and contact information of person responsible for carrying out Awarding Body's LCP or CMU responsibilities.					
31. NAME		32. TITLE		33. E-MAIL ADDRESS	
				34. TELEPHONE NUMBER	

Duplication of this form is permissible

DIR-PWC 100 (rev. 10/11) successor to the DAS 13 form

EXTRACT OF PUBLIC WORKS CONTRACT AWARD (Continued)

Listing of Sub Contractors

[illegible]

Provided for Reference Only.
Please use the Web Application
to submit your Contract Award information.
<https://www.dir.ca.gov/PWC100>

Appendix G

LABOR COMPLIANCE PROGRAM Review Office - Notice of Withholding of Contract Payments Name and Address of Public Agency	(SEAL)
Date:	In Reply Refer to Case No.:

Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b)

To: Prime Contractor

Subcontractor

Please be advised that this office has received your **Request for Review**, dated _____, and pertaining to the Notice of Withholding of Contract Payments issued by the Labor Compliance Program in Case No. _____.

In accordance with Labor Code section 1742(b), this notice provides you with an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing on the Request for Review, and the procedures for reviewing such evidence.

Rule 17224 of the Prevailing Wage Hearing Regulations provides as follows:

(a) Within ten (10) days following its receipt of a Request for Review, the Enforcing Agency shall also notify the affected contractor or subcontractor of its opportunity and the procedures for reviewing evidence to be utilized by the Enforcing Agency at the hearing of the Request for Review.

(b) An Enforcing Agency shall be deemed to have provided the opportunity to review evidence required by this Rule if it (1) gives the affected contractor or subcontractor the option at said party's own expense to either (i) obtain copies of all such evidence through a commercial copying service or (ii) inspect and copy such evidence at the office of the Enforcing Agency during normal business hours; or if (2) the Enforcing Agency at its own expense forwards copies of all

Appendix G

such evidence to the affected contractor or subcontractor.

(c) The evidence required to be provided under this Rule shall include the identity of witnesses whose testimony the Enforcing Agency intends to present, either in person at the hearing or by declaration or affidavit. This provision shall not be construed as requiring the Enforcing Agency to prepare or provide any separate listing of witnesses whose identities are disclosed within the written materials made available under subpart (a).

(d) The Enforcing Agency shall make evidence available for review as specified in subparts (a) through (c) within 20 days of its receipt of the Request for Review; *provided that*, this deadline may be extended by written request or agreement of the affected contractor or subcontractor. The Enforcing Agency's failure to make evidence available for review as required by Labor Code section 1742(b) and this Rule, shall preclude the enforcing agency from introducing such evidence in proceedings before the Hearing officer or the Director.

(e) This Rule shall not preclude the Enforcing Agency from relying upon or presenting any evidence first obtained after the initial disclosure of evidence under subparts (a) through (d), *provided that*, such evidence is promptly disclosed to the affected contractor or subcontractor. This Rule also shall not preclude the Enforcing Agency from presenting previously undisclosed evidence to rebut new or collateral claims raised by another party in the proceeding.

In accordance with the above Rule, please be advised that the Labor Compliance Program's procedure for you to exercise your opportunity to review evidence is as follows:

Within five calendar days of the date of this notice, please transmit the attached Request to Review Evidence to the following address:

Name and Address phone and fax of public entity

Appendix G

Request to Review Evidence

To: _____

From: _____

Regarding Notice of Withholding of Contract Payments Dated _____

Our Case No.: _____

The undersigned hereby requests an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing on the Request for Review.

Phone No.: _____

Fax No.: _____

Appendix H
Suggested Single Project Labor Compliance Review and Enforcement Report Form
 [Appendix C following 8 CCR §16434]

Awarding Body: _____

Project Name: _____

Name of Approved Labor Compliance Program: _____

Bid Advertisement Date: _____

Acceptance Date: _____

Notice of Completion Recordation Date: _____

Summary of Labor Compliance Activities

1. Contract Documents Containing Prevailing Wage Requirements (Identify)

2. Prejob Conference(s) -- Attach list(s) of attendees and dates

3. Notification to Project Workers of Labor Compliance Program's Contact Person. (Explain Manner of Notification for each project work site.)

4. Certified Payroll Record Review
 - a. CPRs Received From:

<u>Contractor/Subcontractor</u>	<u>For weeks ending ("w/e") through w/e</u>
_____	_____
_____	_____
_____	_____
_____	_____

b. Classifications identified in CPRs and applicable Prevailing Wage Determinations

<u>Classification</u>	<u>Determination No.</u>
_____	_____
_____	_____
_____	_____
_____	_____

5. Further investigation or audit due to CPR review, information or complaint from worker or other interested person, or other reason:

a. Independent Confirmation of CPR Data

<u>Contractor/Subcontractor</u>	<u>Worker Interviews (Yes/No)</u>	<u>Reconciled CPRs with Pay- checks or Stubs (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

b. Employer Payments (Health & Welfare, Pension, Vacation/Holiday) Confirmation

<u>Contractor/Subcontractor</u>	<u>Recipients of Employer Payments</u>	<u>Written confirmation Obtained (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

c. Contributions to California Apprenticeship Council or Other Approved Apprenticeship Program

<u>Contractor/Subcontractor</u>	<u>Recipients of Contributions</u>	<u>Written confirmation Obtained (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

d. Additional Wage Payments or Training Fund Contributions Resulting from Review of CPRs

<u>Contractor/Subcontractor</u>	<u>Additional amounts Paid to Workers</u>	<u>Additional Training Fund</u>	<u>Explan- ation</u>
_____	_____	_____	*
_____	_____	_____	*
_____	_____	_____	*
_____	_____	_____	*

* Use separate page(s) for explanation

6. Complaints Received Alleging Noncompliance with Prevailing Wage Requirements.

<u>Name of Complainant</u>	<u>Date Received</u>	<u>Resolution or Current Status</u>
_____	_____	*
_____	_____	*
_____	_____	*
_____	_____	*

*Use separate page(s) to explain resolution or current status

7. Requests for Approval of Forfeiture to Labor Commissioner

<u>Contractor/Subcontractor</u>	<u>Date of Request</u>	<u>Approved/Modified/Denied</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Litigation Pending Under Labor Code Section 1742

<u>Contractor/Subcontractor</u>	<u>DIR Case Number</u>
_____	_____
_____	_____
_____	_____

9. (Check one): _____ Final report this project _____ Annual report this project

Authorized Representative for Labor Compliance Program

Appendix I

Labor Compliance Program Regulations – Appendix B

Audit Record Worksheets [8 Cal. Code Reg. §16432]

- Public Works Investigation Worksheet
- Public Works Audit Worksheet
- Prevailing Wage Determination Summary

PUBLIC WORKS AUDIT WORKSHEET

[illegible]

Summary

Page 1

PREVAILING WAGE DETERMINATION SUMMARY											
CODE NO.	CLASSIFICATION	Effective Date	HOURLY RATE	Contributions	TRAINING	TIME 1/2	HOLIDAY / TRAVEL & SUNDAY SUBSISTENCE	Other hourly Requirements	CODE NO.	CLASSIFICATION	WAGE DETERMINATION NO.
1									1		
2									2		
3									3		
4									4		
5									5		
6									6		
7									7		
8									8		
9									9		
10									10		
11									11		
12									12		

[illegible]

NOTICE TO PUBLIC ENTITY

For Privacy Considerations

Fold back along dotted line prior to copying for release to general public (private persons).

(Paper Size then 8-1/2 x 11 inches)

I, _____, the undersigned, am the
(Name – print)

_____ with the authority to act for and on behalf of
(Position in business)

_____, certify under penalty of perjury
(Name of business and/or contractor)

that the records or copies thereof submitted and consisting of _____
(Description, number of pages)

are the originals or true, full, and correct copies of the originals which depict the payroll record(s)
of the actual disbursements by way of cash, check, or whatever form to the individual or
individuals named.

Date: _____ Signature: _____

A public entity may require a stricter and/or more extensive form of certification.

LCP-ARI

LABOR COMPLIANCE PROGRAM ANNUAL REPORT

Format for Awarding Body that enforces its own Labor Compliance Program, for some but not all projects

Report for the reporting period _____ to _____
(mm/dd/yyyy) (mm/dd/yyyy)

1. Name of Labor Compliance Program (LCP) :		
2. LCP I.D. Number (assigned by DIR):	3. Date of Initial Approval:	
4. Contact person (include name, title, address, telephone, fax, and e-mail, if available):		
5. Did LCP perform any LC § 1771.5 enforcement activities during the 12 months in the reporting period?		
Please check one: ☐ Yes If Yes, proceed to item 6 on the next page		
☐ No If No, complete the information below, sign the form and submit to DIR, Office of the Director, Attn: LCP Special Assistant,		
455 Golden Gate Avenue, 10th Floor, San Francisco CA 94102		
What suggestions do you have for the Department of Industrial Relations to better assist you with your program in the coming year? (attach additional sheets if necessary)		
SUBMITTED BY:		
Signature _____	Name and Title _____	Date _____

LCP-ARI

6. LC § 1771.5 enforcement activities (provide all information requested, attaching as many sheets as necessary).

A. List projects handled by LCP within the past 12 months.

Project Name	Bid Advertisement Date	Prime Contractor	Contract Amount
Total			

B. Summary of all wages and penalties assessed and/or recovered.

Project Name	Affected Contractor (who directly employed the worker)	Amount Assessed	Amount Recovered	Approval of Forfeiture Requested from Labor Commissioner?	Description of Violation
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
Total				☐ Yes ☐ No	

LCP-ARI

C. For any amount identified in item B for which approval of forfeiture not requested from the Labor Commissioner, please explain below.

Project Name	Amount Assessed	Amount Recovered	Explanation
Total			

D. For any amount identified in item B for which approval of forfeiture was requested from the Labor Commissioner, please provide the following:

[illegible]

E. Identify cases that are or were the subject of LC § 1742 proceedings.

Project Name	Contractor	Nature of Violation	ODL Case #	Current Status

F. Did you refer any contractor to the Labor Commissioner for debarment per LC § 1777.1?

Please check one: ☐ Yes ☐ No

「No」

If yes, identify affected contractor(s) or subcontractor(s) and date(s) of referral: _____

G. Did you refer any apprenticeship violation to the Division of Apprenticeship Standards (DAS)?

Please check one: ☐ Yes ☐ No

 Γ_{NO}

If yes, identify affected contractor(s) or subcontractor(s) and date(s) of referral: _____