



***AMENDED 2-22-19**
City of St. Helena
Regular City Council Meeting
Tuesday, February 26, 2019 @ 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: Geoff Ellsworth, Vice Mayor: Paul Dohring, City Council Members: Anna Chouteau, David Knudsen 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.

4.1. [Nimbus Arts Portico Project Presentation](#)
[Public Comment. Anthony Micheli](#)

11 - 19

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.

5.1. [RV to Paradise Flyer](#)
[Popular Annual Financial Report - PAFR](#)

21 - 37

6. PRESENTATIONS AND PUBLIC RECOGNITIONS

6.1. None

7. STAFF BRIEFING

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 Regular Meeting Minutes of: 39 - 82
1. Regular City Council Meeting October 9, 2018
 2. Regular City Council Meeting October 23, 2018
 3. Special City Council Meeting October 30, 2018
 4. Regular City Council Meeting November 13, 2018

CEQA Determination: Not a CEQA project

Prepared By: Cindy Tzaopoulos, City Clerk

Recommendation:

Staff recommends approving the minutes.

[10-09-18 Regular City Council Minutes](#)

[10-23-18 Regular City Council Minutes](#)

[10-30-18 Special City Council Minutes](#)

[11-13-18 Regular City Council Minutes](#)

- 8.2. Consideration and Proposed Approval of a Resolution Rescinding Resolution 2018-169 Rules of Procedure for the Conduct of Council Meetings and Re-establishing City Council Standards of Conduct, and Re-establishing Rules of Procedure for the Conduct of Council Meetings and Re-establishing City Council Standards of Conduct 83 - 125

CEQA Determination: Not a CEQA project

Prepared By: Cindy Tzaopoulos, City Clerk

Recommendation:

Staff recommends City Council approve a Resolution Rescinding Resolution 2018-169 Rules of Procedure for the Conduct of Council Meetings and Re-establishing City Council Standards of Conduct, and Re-establishing Rules of Procedure for the Conduct of Council Meetings and Re-establishing City Council Standards of Conduct.

[Staff Report - Pdf](#)

- 8.3. Consideration and proposed adoption of a Resolution accepting the work and final project construction costs of \$50,574.49 and directing the filing of the Notice of Completion for the Lyman Park Improvements, Project C19-01 127 - 132

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

Prepared By: Edrees Argand, Junior Assistant Engineer

Recommendation:

Adopt the attached resolution accepting the work and final project construction costs of \$50,574.49 and directing the filing of the Notice of Completion for the Lyman Park Improvements, Project C19-01.

[Staff Report - Pdf](#)

- 8.4. Consideration and approval of a resolution approving: (1) Contract Amendment #1 to STH Contract: 2018-0015 with CEQA consultant Dyett and Bhatia in the amount of \$15,000 for a total not-to-exceed amount of \$351,880 to address extensive public 133 - 140

comments received on the St. Helena 2040 General Plan Update Environmental Impact Report (EIR) and to assist with making minor updates to the 2040 General Plan itself; and (2) Authorize the City Manager to modify the contract, if necessary, to address other unanticipated minor tasks or unanticipated revisions up to an additional \$10,000 for a total not-to-exceed amount of \$361,800.

CEQA Determination: Not a CEQA project

Prepared By: Noah Housh, Planning & Community Improvement Director

Recommendation:

Staff recommends City Council adopt a resolution authorizing: (1) Contract Amendment #1 to STH Contract: 2018-0015 with CEQA consultant Dyett and Bhatia in the amount of \$15,000 for a total not-to-exceed amount of \$351,880 to address extensive public comments received on the St. Helena 2040 General Plan Update Environmental Impact Report (EIR) and to assist with making minor updates to the 2040 General Plan itself; and (2) Authorize the City Manager to modify the contract, if necessary, to address other unanticipated minor tasks or unanticipated revisions up to an additional \$10,000 for a total not-to-exceed amount of \$361,800.

[Staff Report - Pdf](#)

- 8.5. Consideration and proposed adoption of a Resolution accepting the work and final project construction costs of \$450,379.45 and directing the filing of the Notice of Completion for the 2018 Pavement Overlay, Project R18-79 141 - 147

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

Prepared By: Edrees Argand, Junior Assistant Engineer

Recommendation:

Adopt the attached Resolution accepting the work and final project construction costs of \$450,379.45 and directing the filing of the Notice of Completion for the 2018 Pavement Overlay, Project R18-79

[Staff Report - Pdf](#)

- 8.6. Consideration of a Resolution approving: 149 - 159
1. The City to accept the FY 2019 Tobacco Law Enforcement Program Grant in the amount of \$393,514;
 2. Authorize the City Manager to execute the Memorandum of Understanding (MOU);
 3. Authorize the addition of one limited-term Police Officer position;
 4. Authorize assignment of a Police Officer to the School Resource Officer to the tobacco enforcement program expiring on June 30, 2021;
 5. Authorize a budget expense increase to Fund 277 in the amount of \$72,738 and a budget revenue increase to Fund 277 in the amount of \$72,738.

CEQA Determination: Not a CEQA project
Prepared By: Mandy Kellogg, Admin Services Mgr
Recommendation:

City Staff recommends authorization of a resolution approving:

1. Authorize the City to accept the FY 2019 Tobacco Law Enforcement Program Grant in the amount of \$393,514;
2. Authorize the City Manager to execute the Memorandum of Understanding (MOU);
3. Authorize the addition of one limited-term Police Officer position;
4. Authorize assignment of a Police Officer to the School Resource Officer to the tobacco enforcement program expiring on June 30, 2021;
5. Authorize a budget expense increase to Fund 277 in the amount of \$72,738 and a budget revenue increase to Fund 277 in the amount of \$72,738.

[Staff Report - Pdf](#)

- 8.7. Second Reading and Adoption of an Ordinance Adding Sections 13.04.215 and 13.12.120 to the St. Helena Municipal Code ("SHMC") 161 - 203

CEQA Determination: Not a CEQA project
Prepared By: Cindy Tzafoopoulos, City Clerk
Recommendation:
Conduct the Second Reading Adopting the Ordinance Adding Sections 13.04.215 and 13.12.120 to the St. Helena Municipal Code ("SHMC") by title only and waive further reading.

[Staff Report - Pdf](#)

9. PUBLIC HEARINGS

- 9.1. Consideration of approval of a Resolution approving a request for an exemption from SHMC 13.04.055 which requires a connection to the public water system for the single family residence to be located at 500 Mills Lane (APN 009-070-019) 205 - 213

CEQA Determination: Not a CEQA project
Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer
Recommendation:
Adopt a Resolution approving a request for an exemption from SHMC 13.04.055 which requires a connection to the public water system for the single family residence to be located at 500 Mills Lane (APN 009-070-019).

[Staff Report - Pdf](#)

10. NEW BUSINESS

- 10.1. Consideration and Approval of a Resolution Authorizing: (1) the Refinancing of Outstanding Obligations of the Water System Via Entrance into Loan Agreement Secured by the Net Revenues of the 215 - 256

Water System, and (2) Execution of Said Loan Agreement and Related Documents.

CEQA Determination: Not a CEQA project

Prepared By: April Mitts, Finance Director

Recommendation:

Staff recommends the City Council approve a resolution Authorizing: (1) the Refinancing of Outstanding Obligations of the Water System Via Entrance into Loan Agreement Secured by the Net Revenues of the Water System, and (2) Execution of Said Loan Agreement and Related Documents.

[Staff Report - Pdf](#)

[Water Refunding Presentation 2-26-19](#)

- 10.2. Review and consideration of the 2018 St. Helena Housing Element Progress Report 257 - 285

CEQA Determination: Not a CEQA project

Prepared By: Noah Housh, Planning & Community Improvement Director

Recommendation:

It is recommended that the City Council review, consider and file this report and anticipate staff submittal of the information to HCD in keeping with the April 1, 2019 deadline to maintain grant eligibility.

[Staff Report - Pdf](#)

[Housing-Element-Annual-Progress-Report-Form-2018](#)

- 10.3. Discussion and Consideration of Spring Mountain Road Traffic Calming and Safety Improvements 287 - 293

CEQA Determination: Not a CEQA project

Prepared By: Timothy A. Foley, Chief of Police

Recommendation:

Discuss and provide direction.

[Staff Report - Pdf](#)

[Item 10.3 Public Comment.John Anderson](#)

[Item 10.3 Public Comment](#)

- 10.4. Consideration of approval of one or more of the following options: 295 - 309
1. Resolution rejecting all construction bids for the C-82 Downtown Restrooms Project;
 2. Recommend award of the construction contract to R.O. Construction and authorize a budget transfer in the amount of \$321,570 from the General Fund Reserves to the Civic CIP Fund to complete the project;
 3. Direct Staff to explore a building kit or modular building option and bring back to City Council/Planning Commission for review and approval;
 4. Place the project on hold and re-evaluate once other private venture public restrooms are online for 6 months.

CEQA Determination: 15303 New Construction or Conversion of Small Structures

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

Recommendation:

Discuss options and provide direction to City staff.

[Staff Report - Pdf](#)

- 10.5. Review and Approval of Three Year City Council Goals and 2019 Work Plan 311 - 322

CEQA Determination: Not a CEQA project

Prepared By: Mark T. Prestwich, City Manager

Recommendation:

It is recommended the City Council discuss and approve three-year organizational goals, 2019 work plan objectives, and identify Council liaisons for various policy initiatives. It is also recommended the matrix be reviewed and discussed at a City Council meeting quarterly.

[Staff Report - Pdf](#)

[2019 Work Plan v6](#)

- 10.6. ***This item is continued to the March 12, 2019 City Council Meeting** 323 - 447

Resolution Of The City Council Of The City Of St. Helena Determining That No Substantial Changes Requiring Preparation Of A Subsequent EIR Have Been Made To The Upper York Creek Habitat Restoration Project As A Result Of Proposed Modifications And Approving The Addendum Together With The Previously Certified Final EIR As The Appropriate Environmental Document For The Upper York Creek Habitat Restoration Project As Modified

CEQA Determination: Environmental Impact Report

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

Recommendation:

Adopt the Resolution certifying that no substantial changes have been made to the proposed Upper York Creek Habitat Restoration Project and that an Addendum to the Final EIR is the appropriate document under the requirements of the California Environmental Quality Act.

[Staff Report - Pdf](#)

- 10.7. ***NEW ITEM 2-22-19** 449 - 450
Discussion and Direction Regarding County of Napa Draft Water Quality and Tree Protection Ordinance

CEQA Determination: Not a CEQA project

Prepared By: Mark T. Prestwich, City Manager

Recommendation:

Provide direction to City staff.

[Staff Report - Pdf](#)

10.8. Consideration and adoption of a Resolution:

451 - 503

1. Calling a special election to be held on June 4, 2019;
2. Ordering the submission to the electors of the city a referendum pertaining to Ordinance 2018-9 (Mobile Home Rent Stabilization Ordinance);
3. Requesting that Napa County provide election services with full reimbursement by the City of St. Helena;
4. Authorizing the City Council or designee to file a written argument;
5. Directing the City Attorney to prepare an impartial analysis; and
6. Authorizing the filing of rebuttal arguments

CEQA Determination: Not a CEQA project

Prepared By: Thomas B. Brown, City Attorney

Recommendation:

Adopt the attached Resolution that does the following:

1. Calls a special election to be held on June 4, 2019;
2. Orders the submission to the electors of the city a referendum pertaining to Ordinance 2018-9 (Mobile Home Rent Stabilization Ordinance);
3. Requests that Napa County provide election services with full reimbursement by the City of St. Helena;
4. Authorizes the City Council or designee to file a written argument;
5. Directs the City Attorney to prepare an impartial analysis; and
6. Authorizes the filing of rebuttal arguments.

[Staff Report - Pdf](#)

[Public Comment.Ashlee Titus](#)

[DRAFT Measure F Ballot Questions](#)

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

11.1.

March City Council Meetings:

3/12 (staff reports due 2/22)

3/26 (staff reports due 3/8)

3/14 Special Meeting - Fire Department Informational Update

PROCLAMATIONS AND PUBLIC RECOGNITION:

Red Cross Month Proclamation

CONSENT:

3/12 Rally4Rianda Event

Fire Chief Contract

PH or NEW BUSINESS:

CIP Budget

Appeal to water back billing

P&R Work Plan

Pizzeria Tra Vigne Leak Adjustment

ATSC Work Plan
<u>April City Council Meetings:</u>
4/9 (staff reports due 3/22)
4/23 (staff reports due 4/5)
<u>PROCLAMATIONS AND PUBLIC RECOGNITION:</u>
4/9 April Arts Month Proclamation
4/23 Building Safety Month
4/9 National Library Week
4/9 National Volunteer Week
<u>CONSENT:</u>
4/9 Fireworks approval of vendor
Library Fines and Fees
<u>May City Council Meetings:</u>
5/14 (staff reports due 4/26)
5/28 (staff reports due 5/10)
<u>PROCLAMATIONS AND PUBLIC RECOGNITION:</u>
5/14 Police Department VIP Graduation
5/14 Bike to Work & School Day Friday, May 17th

12. ADJOURNMENT

The next Regular City Council meeting is scheduled for March 12, 2019, 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 ~~February 15, 2019~~ February 22, 2019.

Cindy Tzaopoulos, 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) 968-2742. 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.



Nimbus Arts Portico Project

Nimbus Arts is pleased to announce the Portico Project, established as its fifth Hundreds of Hands™ community art program, and using the theme of “home” as its central inspiration in response to a need to bring together community after the Valley Fires. This project consists of mosaic elements, inspired by millefiori and passacaglia quilting patterns that are handmade by community participants of all ages at both private and free community workshops and gatherings. These lovely mosaics will be combined and installed to adorn massive portico sculptures. The first two large-scale porticoes are planned for installation in downtown St. Helena, and on the Adventist Health Hospital grounds, both providing a thoughtful monument to and in celebration of our community connection.

Nimbus Arts “Hundreds of Hands tm” program brings together people from across Napa Valley to make art at free public events, and workshops. The artwork assembled into large-scale public installations, serves to beautify and enliven our community.

“The Portico project, like other Hundreds of Hands programs before it, has become a powerful and joyful way to bring community together. Each of these projects is so inspiring, and have been met with such enthusiasm and participation. People really connect and share through this kind of creativity... The resulting artwork becomes a community monument and visual testament to the bonds forged through the shared language of art. “ Jamie Graff, Executive Director of Nimbus Arts.

For more info on the Portico Project and scheduled workshops, go to www.nimbusarts.org

Contributing Construction Artist

Joseph Carl Close

Construction Team

Erin Walker

WALKER BUILDING CO.

2674 Stony Point Rd

Santa Rosa Ca. 95407

707.541.8568

Engineering Team

Kevin G. Zucco, SE, LEED AP Executive Principal

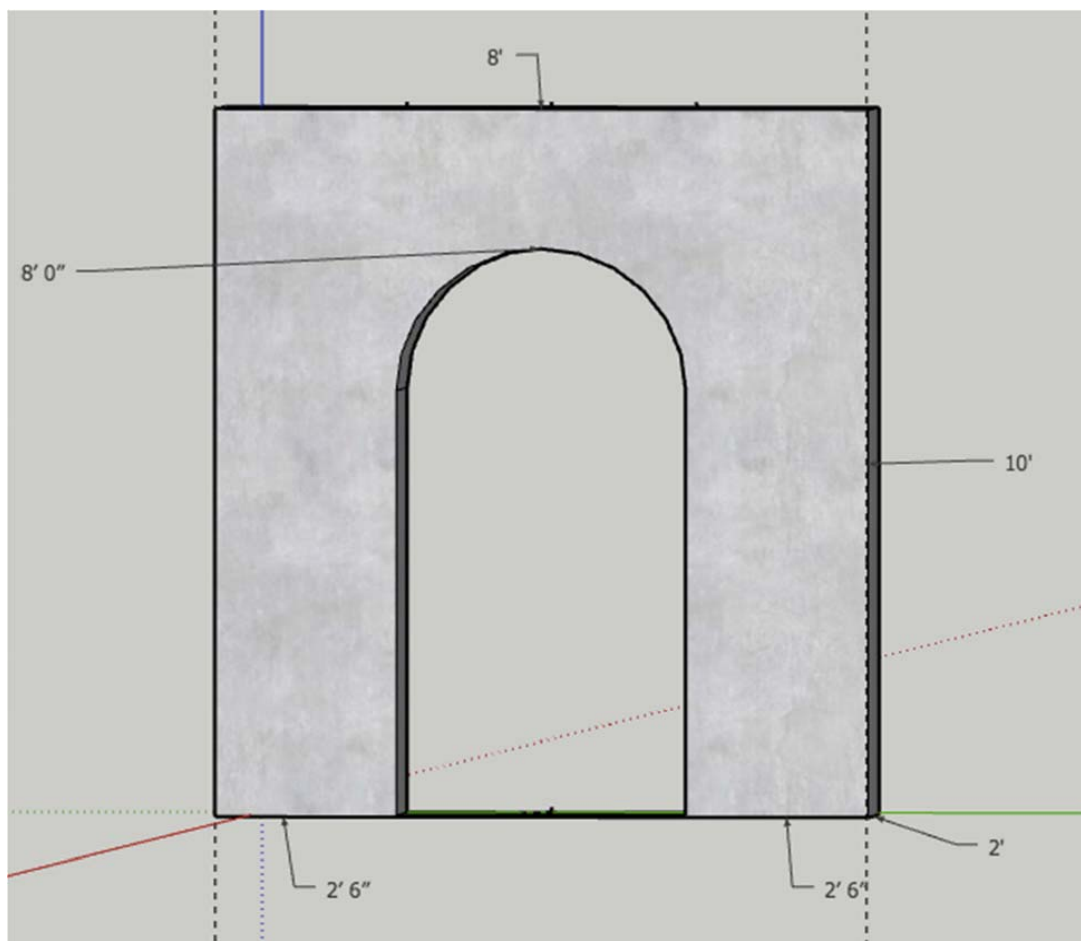
ZFA STRUCTURAL ENGINEERS

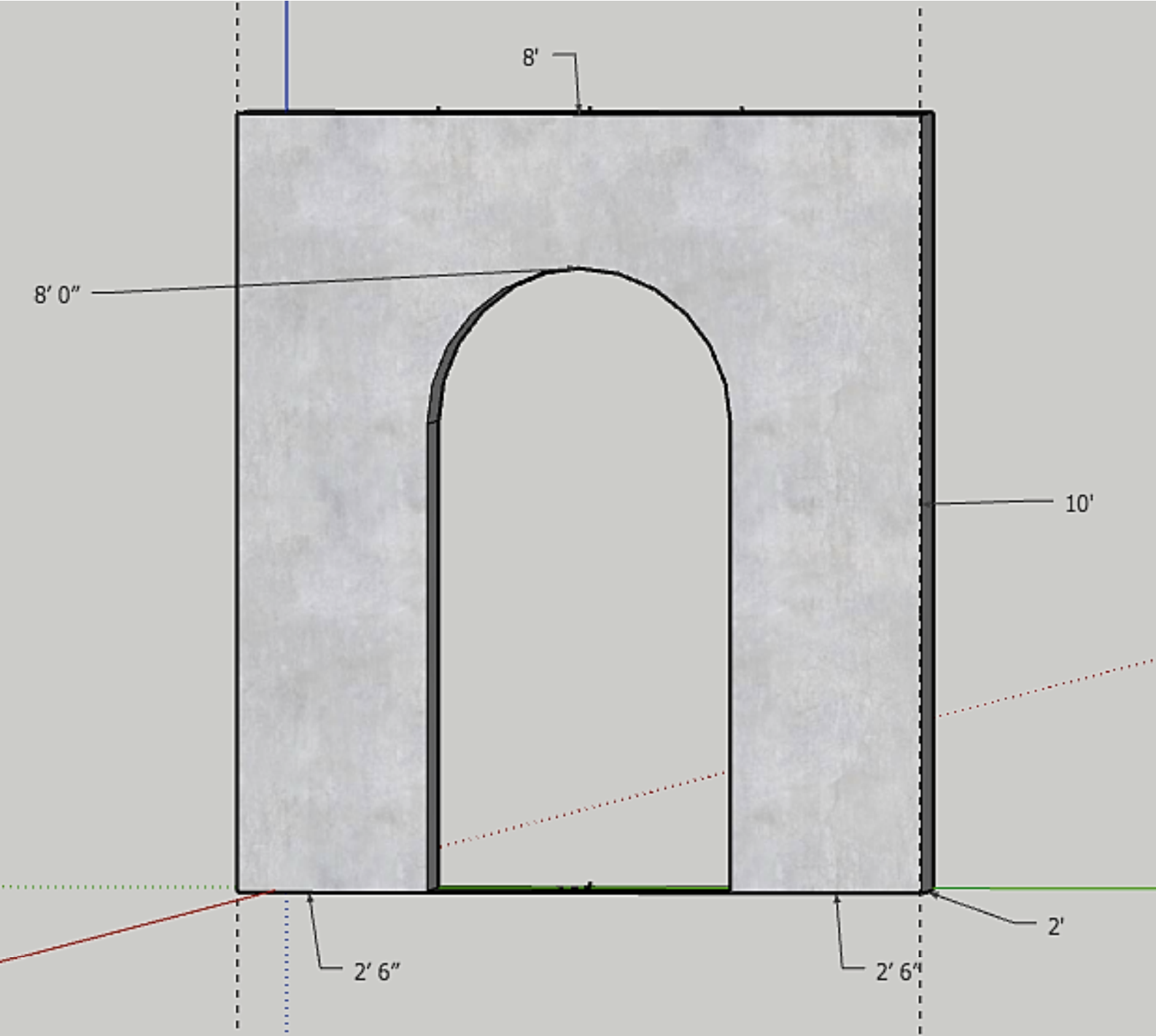
1212 Fourth St Suite Z

Santa Rosa Ca. 95404

707.526.0992













2/26/19

St. Helena City Council

At the end of March the County is going to enact new rules on wineries. They are also giving wineries that have violated their use permits until the end of March to come clean with their violations and the County will do their best to bring them into compliance.

Once the County has enacted new rules on wineries the City of St. Helena should follow suit with the wineries we have in our city limits. To my knowledge no winery has ever been audited by the City. I hope we don't have wineries operating outside their use permits, like in the County, but you never know. We should give violators 30 days to confess and then try to bring them into compliance. It is my understanding the County is going to require all wineries in the County to submit their TTB reports - Trade and Tobacco Bureau. Only the supervisors will be able to see these reports. The City of St. Helena should do the same. In addition due to our water issues we should require total amount of well water and City water used in their winery operation. Due to our traffic problems we should require information on amount of grapes grown onsite, grapes grown offsite that they own, grapes purchased from other vineyards, and do they custom crush any grapes for other entities.

Also due to traffic-wineres should give the City some idea as to how many visitors visit their facility in a year.

The wine business has changed dramatically from when it all started with the Ag Preserve. 1968

Originally only wineries could make wine on site. Now they throw lavish parties and sell trinkets. They are now called event centers. Now a winery property has a mega house, guest house, pool house, pool, garden, bocce court, tennis court, winery and some vineyard.

Whatever happened to protecting the vines in the Valley?

anthony meckeli



RV to Paradise

**Our community can help
with recovery**



RV to Paradise is a grass-roots effort of local citizens to help provide stable housing while the victims of recent fires work to rebuild their lives.

Donate money, vehicle, trailer, or RV to Butte County fire victims.



Make your tax-deductible donation:
www.fwunv.org & click on RV to Paradise

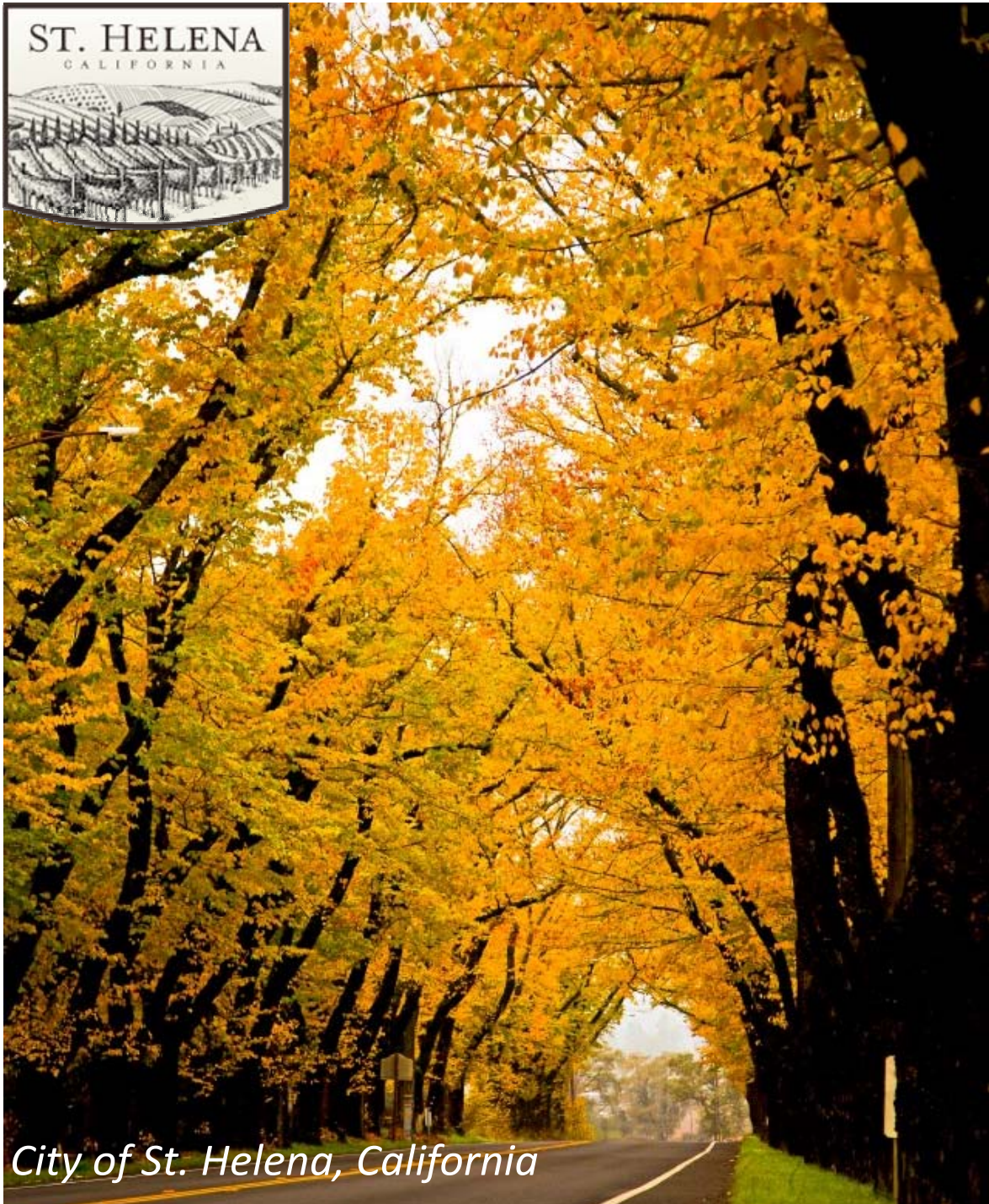
or

Send checks to:

FWUNV RV2P, P.O. Box 383, St Helena, CA 94574

Memo: RV to Paradise

**For additional information on your donation or our program, please contact
Anne Carr: acarriver@gmail.com**



City of St. Helena, California

Popular Annual Financial Report

For the Fiscal Year Ended June 30, 2018

Prepared By: Finance Department

About Our City

The **City of St. Helena** was incorporated as a City on March 24, 1876 and reincorporated on May 14, 1889.

From its inception, the City of St. Helena has served as a rural agricultural center. Over the years, with the growth and development of the wine industry, the City 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 main goal of the City is to maintain a small-town atmosphere and to provide quality services to its citizens.

The estimated population of the City of St. Helena is 6,196. St. Helena is a full service City and encompasses an area of four square miles.

The City of St. Helena is a General Law City and operates under the Council-City Manager form of government. The City Council is the governing body and has the power to make and enforce all laws and set policy related to municipal affairs. The City Manager is responsible for carrying out the policies of the City Council and for the proper and efficient management of municipal activities. The City Manager directs and manages the various departments and municipal services through appointed Department Heads who directly supervise and administer the various City programs, services, and activities.



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Photograph by Bob McClenahan

About This Report

The purpose of the Popular Annual Financial Report (PAFR) is to increase awareness throughout the community of the City's finances. The report provides a brief analysis of the City's revenue sources, where those dollars are spent, and an overview of the City's financial condition. It is our goal that this report is easy to read and understand.

This report contains condensed and simplified financial information from the City's Comprehensive Annual Financial Report (CAFR), which can be viewed at City Hall or on the City's website at www.cityofstheleena.org. The CAFR is a more complete, independently audited financial presentation prepared in accordance with Generally Accepted Accounting Principles (GAAP).

Cover Photograph by Carolyn Burgess

City of St. Helena, California

City Council

Alan Galbraith	Mayor
Peter White	Vice Mayor
Paul Dohring	Council Member
Geoff Ellsworth	Council Member
Mary Koberstein	Council Member



City Officials

Mark Prestwich	City Manager
Thomas Brown	City Attorney
Cindy Tzafoopoulos	City Clerk
Noah Housh	Community Improvement Director
April Mitts	Finance Director
John Sorenson	Fire Chief
Kathy Robinson	Human Resources & IT Director
Chris Kreiden	Library Director
William Imboden	Police Chief
Erica Ahmann Smithies	Public Works Director
André Pichly	Recreation Director

Photograph by Emily Byrski

City of St. Helena



Vision Statement

The City of St. Helena will strive to be economically sustainable, and continue to be a family-friendly, diverse and safe community which prudently manages its financial and human resources, continues to upkeep and improve its infrastructure, ensures its water security, provides a full range of housing, business, cultural and recreational opportunities and embraces and retains its historic, small-town character, beautiful natural environment and high quality of life.

Mission Statement

The City of St. Helena is dedicated to serving the needs and desires of our citizens by:

- *Maintaining and improving our short and long-term economic sustainability*
- *Offering excellent professional services to all customers*
- *Establishing, improving and maintaining City infrastructure*
- *Preserving and embracing the historic, small-town, rural character of St. Helena*
- *Expanding and improving recreational services and facilities and cultural opportunities*
- *Encouraging a wide range of innovative, well-designed housing available for residents of all ages and income levels*
- *Facilitating full civic participation and ongoing communication*
- *Strengthening partnerships and ongoing communications*

City Council 3-Year Goals

- *Improve and maintain safe and reliable City infrastructure with a commitment to environmental stewardship and public health*
- *Enhance organizational performance*
- *Ensure long-term economic sustainability while safeguarding St. Helena's unique culture and quality of life*
- *Commit to full participation, ongoing communication, and regional collaboration*
- *Stabilize, maintain, and improve access to housing*

Photograph by Bob McClenahan

Financial Report Message

To the Honorable Mayor, Members of the City Council,
and Citizens of St. Helena,

It is my pleasure to present to you the Popular Annual Financial Report (PAFR) for the fiscal year ended June 30, 2018. The PAFR is a condensed version of the Comprehensive Annual Financial Report (CAFR) and highlights key financial information. Following are some highlights of the report.



Net Position Overview

The Net Position at the end of the year is a useful indicator of the City's overall fiscal health. The City of St. Helena has experienced an increase in Net Position during the last three fiscal years, which indicates a positive trend in the City's financial health. At June 30, 2018, the City's combined Net Position was \$62.76 million, which is an increase of \$7.86 million from the prior year. More detailed information can be found on page 6 of this report.

Economic Indicators

The City is experiencing improved economic stability with all major revenues (property tax, sales tax, and transient occupancy tax). Approximately 83% of the City's General Fund revenues come from these three funding sources. In fiscal year 2018, General Fund revenues increased by approximately 21% when compared to the prior year. This was a result of the following: (1) opening of Las Alcobas Hotel in late Spring 2017, (2) increased property tax collections, and (3) increase in sales tax revenue due to the passage of a ½ cent sales tax (Measure D). The increase is despite losses in sales and TOT revenue due to the October 2017 wildfire event.

Napa County continues to experience low unemployment rates, which also remain low statewide. Historically, a trough in the unemployment rate tends to be a reliable predictor of a near-term recession. Therefore, the City continues to carefully monitor revenue growth in fiscal year 2019 and is prepared to adjust to changing economic conditions if necessary.

Long-Term Financial Planning

During fiscal year 2018, the City undertook several projects focused on continued evaluation and improvements to the City's fiscal health. This included a California Municipal Financial Health Diagnostic to evaluate the financial health of the City, an updated Long Range Financial Forecast, prefunding retiree medical expenses, an actuarial review of the City's CalPERS unfunded liabilities, a Facilities Condition Needs Assessment which documented and analyzed the City's existing built facilities, and a review of the City's water and wastewater rates.

We hope you enjoy reading this report and invite you to access our CAFR online for more detailed information on the City's finances. If you have any questions, comments and suggestions regarding the information of this report please contact us at the City of St. Helena Finance Department at Finance@cityofstheleena.org or (707) 968-2750.

Respectfully submitted,

Dr. April Mitts, Director of Finance

Net Position

(In Thousands)

	Governmental Activities		Business-type Activities		Total	
	FY 17/18	FY 16/17	FY 17/18	FY 16/17	FY 17/18	FY 16/17
Current and Other Assets	\$24,134	\$15,910	\$16,411	\$14,831	\$40,545	\$30,741
Capital Assets	34,807	35,891	17,132	18,100	51,939	53,991
Total Assets	58,941	51,801	33,543	32,931	92,484	84,732
Deferred Outflows of Resources	2,727	2,373	1,219	1,427	3,946	3,800
Long-term debt outstanding	15,083	14,686	16,296	16,630	31,379	31,316
Other liabilities	1,326	1,003	900	808,120	2,226	809,123
Total Liabilities	16,409	15,689	17,196	824,750	33,605	840,439
Deferred Inflows of Resources	5	296	86	216	91	512
Net Position						
Invested in capital assets	29,424	29,888	7,432	7,703	36,856	37,591
Restricted	14,090	8,819	-	-	14,090	8,819
Unrestricted	1,740	(518)	10,071	9,001	11,811	8,483
Total Net Position	\$ 45,254	\$ 38,189	\$ 17,503	\$ 16,704	\$ 62,757	\$ 54,893

As of June 30, 2018, the City of St. Helena's combined net position (governmental activities and business-type activities) was \$62.76 million, an increase of \$7.86 million from the prior year.

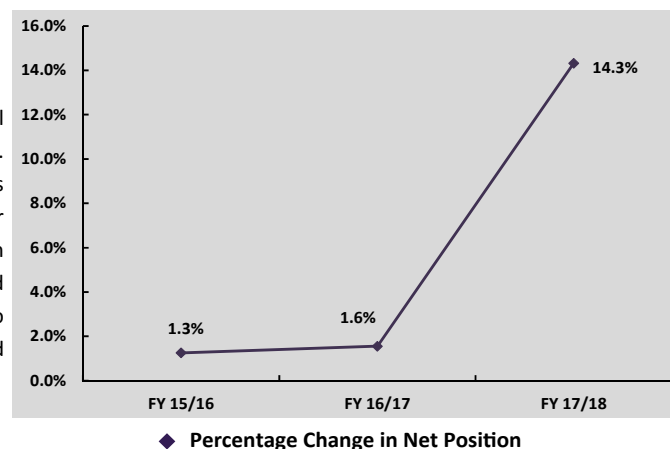
- Accounting for 58.73% of the City's combined net position are net investments in capital assets (e.g. land, buildings, machinery, equipment, vehicles, and infrastructure). The City uses these assets to provide services to citizens; consequently, these assets are not available for future spending.
- Restricted net position accounts for 22.45% of the total net position. These resources are subject to external restrictions on how they may be used.
- The remaining 18.82% is unrestricted net position which may be used to meet the City's ongoing obligations to citizens and creditors. The unrestricted net position related to business-type activities can only be used to finance the continuing operations of the water and wastewater utilities.



Net position, over time, may serve as a useful indicator of the government's financial position. The key consideration in analyzing net position is the direction and speed at which it is either increasing or decreasing, not the amount itself. In FY 2017-18, the City's overall net position increased by 14.3% from the prior year. This is attributed to increased collections in major revenue sources and receipt of the final Measure A payment.

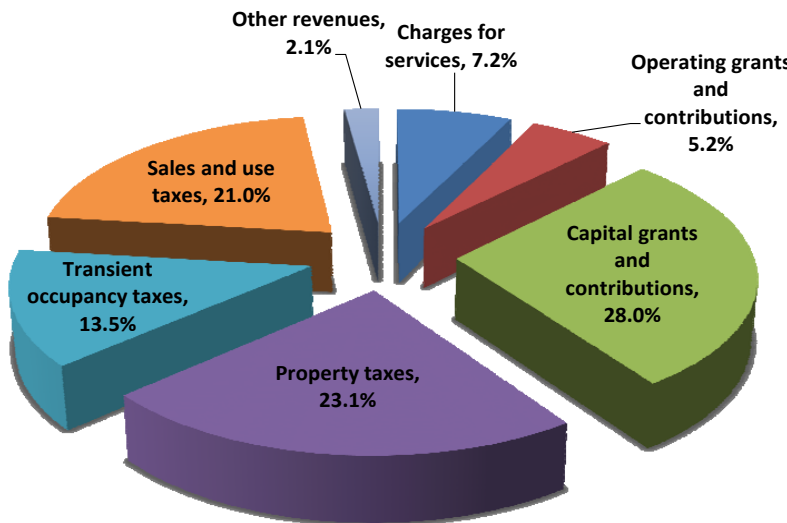
Change in Net Position

(Governmental and Business-type Activities)



Revenues

Where the money comes from...



Governmental Activities

Capital grants and contributions: Funding received for capital purposes, to purchase, construct, or renovate capital assets associated with a specific program.

Charges for Service: Revenues collected for services rendered to the public.

Operating grants and contributions: Funding received from other governments and organizations for the purpose of financing the day-to-day costs of a specific program.

Other revenue: Revenues that do not readily fit into one of the listed categories.

Property taxes: This is the largest source of operating revenues for the governmental funds. The assessed valuation of the property in the City is determined by the Napa County Assessor, which levies a base tax at the rate of 1% of assessed valuation.

Sales and use taxes: Sales and use taxes are imposed on retail transactions and are collected and administered by the state. The City receives 1% of all taxable sales within the City limits. Measure D revenues, an additional 0.5% transaction tax which went in to effect in 2017, are included in this category.

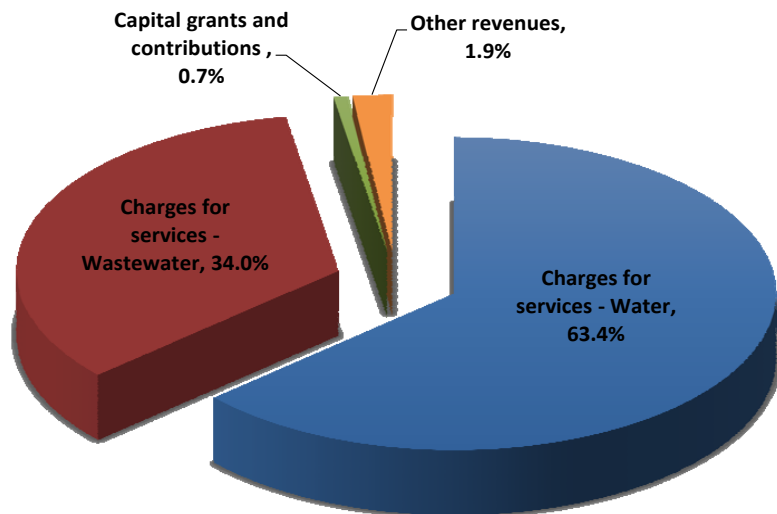
Transient occupancy taxes: This tax is levied for the privilege of occupying a room or rooms or other living space in a hotel, motel, inn, short-term rental, or other lodging for a period of 30 days or less. The imposed tax rate for accommodations at lodging facilities in the City is 12%.

Business-type Activities

Capital grants and contributions: Funding received for water and wastewater capital purposes, to purchase, construct, or renovate capital assets.

Other revenue: Revenues that do not readily fit into one of the listed categories.

Charges for services: Revenues received for charges to users of the municipal water and wastewater systems. Funds are used to pay for debt service payments, operations and maintenance, and capital projects.



Expenses

Where the money goes...

Business-type Activities: Expenses incurred for both the operational and capital costs of the enterprise funds. Activities in this category are financed in whole or part by fees charged to external parties for goods or services.

General Government: Expenditures incurred for the administrative costs of managing the City. The City Council, City Manager, City Attorney, City Clerk, Finance, Human Resources, and Information Technology are included in General Government.

Interest on Long-term Debt: Interest expenses incurred for outstanding debt obligations.

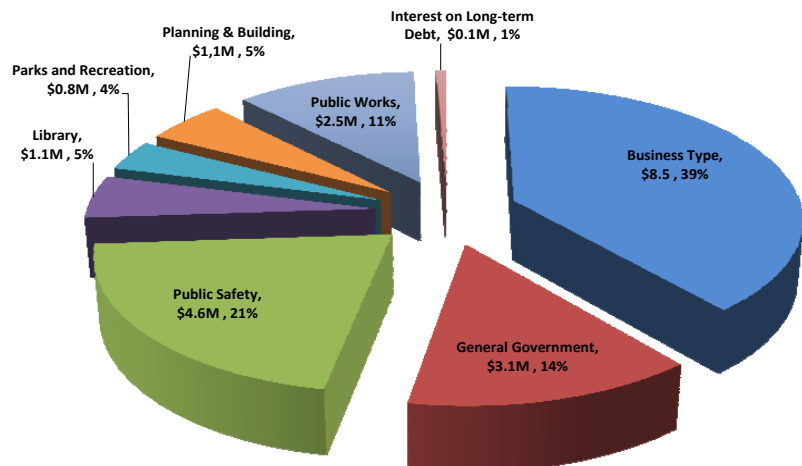
Library: Operating expenses incurred to provide a variety of educational resources, learning experiences through programming, and community engagement to library patrons.

Parks and Recreation: Operating expenses incurred to provide recreational activities, maintain parks, and support educationally enriching activities for the community.

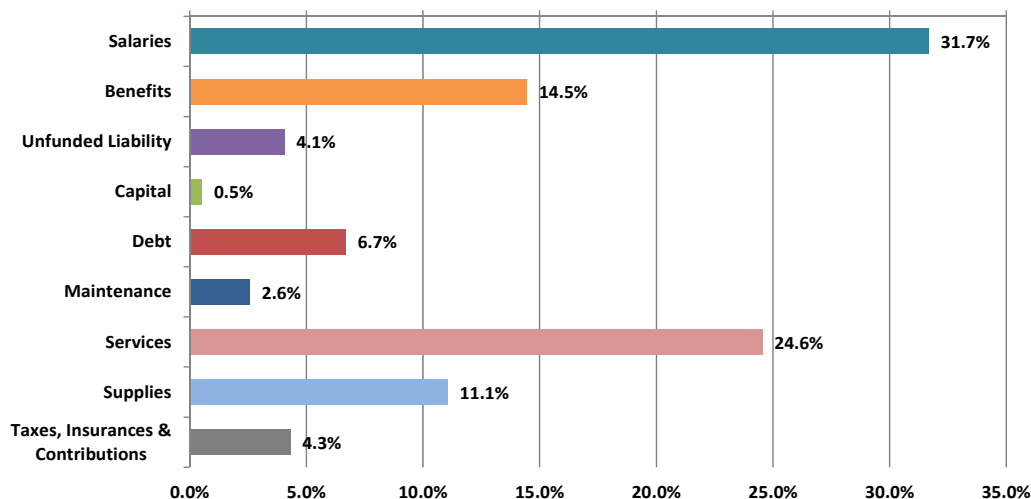
Planning and Building: Operating expenditures incurred for services provided to residents and businesses, which includes Planning, Building, and Code Enforcement.

Public Safety: Operating expenditures incurred for providing Police, Dispatch, and Fire services to residents, businesses, and visitors.

Public Works: Expenses for Public Works include those related to the design, construction, maintenance, and operation of public facilities and infrastructure within the City.



Fiscal Year 2017-18
Percentage of Total Expenses by Category



General Fund

The General Fund is used to account for all financial resources of the City traditionally associated with government operations which are not required legally or by sound financial management to be accounted for in another fund. As of June 30, 2018, the overall General Fund balance was \$7.64 million, an increase of \$2.07 million from the prior year.

Fund Balance Classifications

The General Fund Balance is divided into the following categories:

Assigned - This classification represents the portion of the fund balance that has been set aside by the City for a particular purpose. At June 30, 2018 the assigned fund balance for General Fund was **\$219,240** for Bocce, Harvest Festival, and Fire Equipment purposes.

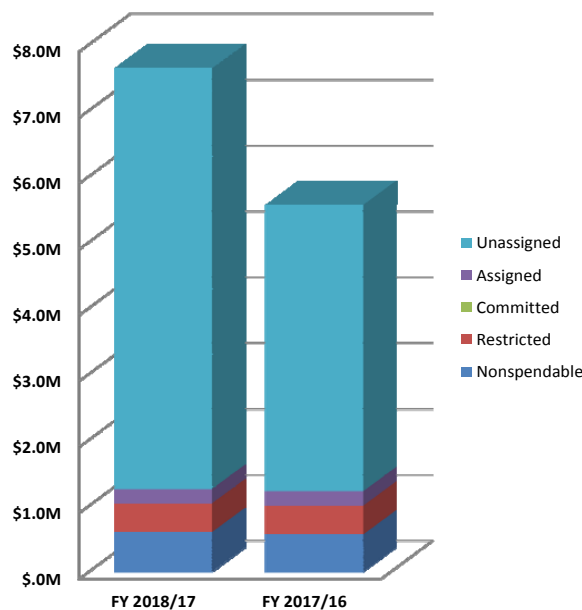
Committed - This classification includes amounts that can be used only for the specific purposes determined by a formal action of the City Council. At June 30, 2018, the City did not commit any portions of the General Fund balance.

Nonspendable - This portion of the fund balance cannot be spent either because the resources are not in spendable form or the City is legally or contractually required to maintain the resources in tact. At June 30 2018, **\$602,213** of the General Fund balance was committed for prepaid expenses and long-term loans owed to the City.

Restricted - This classification includes amounts that can be spent only for the specific purposes stipulated by constitution, external resource providers, or through enabling legislation. At June 30, 2018, the City had a restricted General Fund balance of **\$436,527**. These funds were restricted for Recreation and Tree City operations.

Unassigned - This portion of the fund balance is the residual classification for the City's General Fund and includes all spendable amounts not contained in the other classifications. The City's unassigned General Fund balance at June 30, 2018, was **\$6,384,307**.

General Fund Net Position

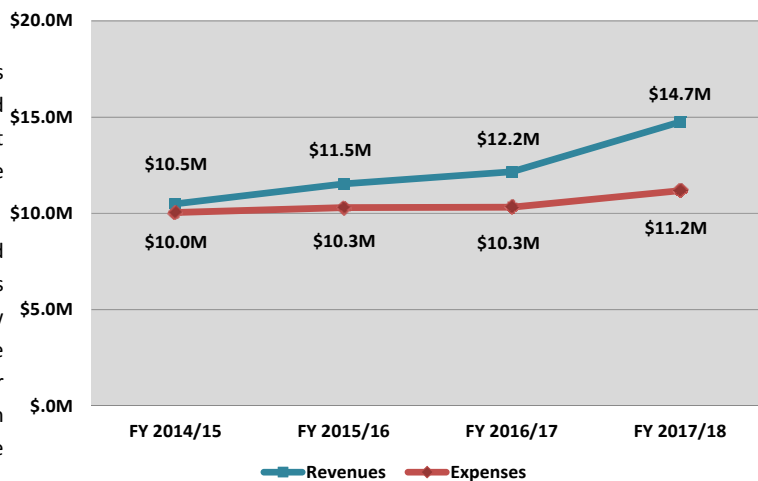


General Fund revenues have increased 21.2% from the prior year, whereas expenses have increased 8.2%.

The increase in revenues is due to increased sales tax collections from Measure D, increased property tax collections, and increased transient occupancy tax collections as a result of the opening of Los Alcobas Hotel in Spring 2017.

The increase in expenses is due to increased spending in Public Safety for overtime expenses related to the October 2017 wildfires and a new dispatcher position. In addition, there were additional expenses in Planning and Building for the addition of half of an administrative position and increased contract expenses for outside contract services and the General Plan Update.

Revenues and Expenses

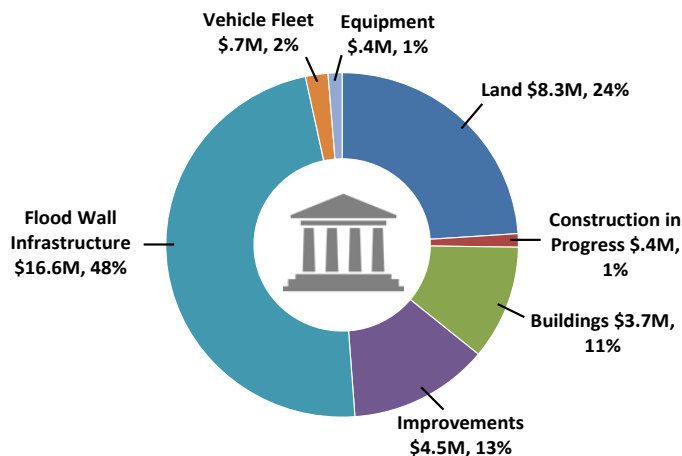


Capital Assets

As of June 30, 2018, the City's capital asset values, was \$51.94 million (net of accumulated depreciation), which was a decrease of \$2.05 million from the prior year. The overall net decrease in value from the prior year was primarily due to depreciation and removal of assets no longer in use.

Capital Asset Classifications

Governmental Activities



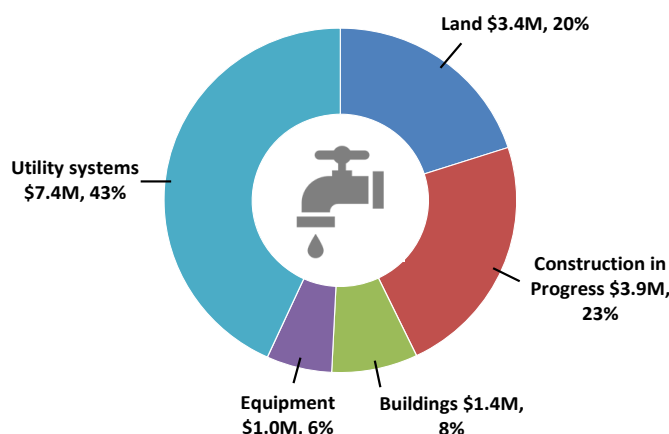
Buildings - This major class of capital assets is used for permanent structures. Buildings included in Governmental Activities are City Hall, Library, Police Station, Fire Station, Corporation Yard, 1572 Railroad Avenue, Scout Hall, Carnegie, and 1574 Railroad Avenue. Buildings included in Business-type Activities are Water Treatment Plant, Elmhurst Pump Station, Stonebridge Wells, and Wastewater Treatment Plant.

Construction in Progress - This class is related to a tangible asset that is not yet substantially ready to be placed in service. Some projects listed in this class for Governmental Activities are C-82 Downtown Restrooms and R18-80 ADA Transition Plan. Some projects listed in this class for Business-type Activities include W-109 Bell Canyon Intake Tower Replacement and S18-71 Crinella Pump Station Upgrade.

Equipment - Assets in this classification include machines, tools, computers, and office furniture. These assets must meet a \$10,000 threshold to be capitalized.

Infrastructure - These are long-lived capital assets that normally are stationary in nature and normally can be preserved for a significantly greater number of years than most capital assets. The Flood Wall is included in this classification.

Business-type Activities



Improvements - This major asset class is used for permanent improvements, other than buildings, that add value to land, but do not have an indefinite useful life. Some assets included in this category are Valley View Bike Lane and 2016 Pavement Overlay.

Land - This major asset classification is used for all non-depreciable land, regardless of how closely it is associated with some other capital asset.

Utility Systems - This classification is for pipelines and improvements related to Business-type Activities. Some assets included in this category are Charter Oak Main Replacement and Pond 1A Rehabilitation.

Vehicle Fleet - This classification includes all vehicles that are owned or leased by the City.

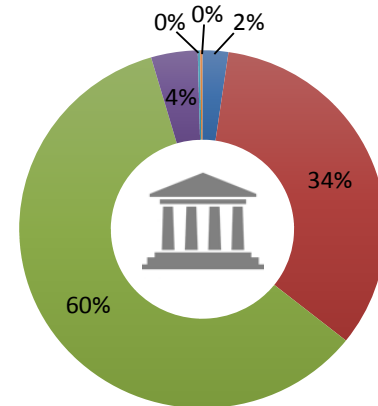
Long-Term Debt

The City's total debt as of June 30, 2018, was \$31.38 million, which was a slight increase from the prior year of 0.2%. The increase was due to difference between the debt service payments and an increase of \$1.2 million in Net Pension Liability recorded. The City did not issue any new long-term debt obligations in fiscal year 2017-18.

Governmental Activities

- **Capital Leases:** The City entered into three capital leases to finance acquisition of land parcel, fire station improvements, and an aerial fire truck. The remaining balance was **\$566,454**.
- **State Revolving Loan:** The City retained a loan from the State Water Resources Control Board to finance the acquisition of land parcels and construction costs related to the floodwall project. The remaining principal balance was **\$5,040,379**.
- **Net Pension Liability:** The difference between the present value of benefits earned by employees and resources accumulated to pay the benefits. The liability was **\$9,018,095**.
- **Compensated Absences:** Absences for which employees will be paid, such as vacation and sick leave. The liability was **\$619,713**.
- **Claims:** Outstanding liability for open claims during the fiscal year which have incurred expenses that have not yet been paid. The liability was **\$31,676**.
- **Reimbursement Agreement:** Payable to developers when building permit fees are collected for the construction of buildings on certain parcels of land located within specific building zones. The liability was **\$30,740**.

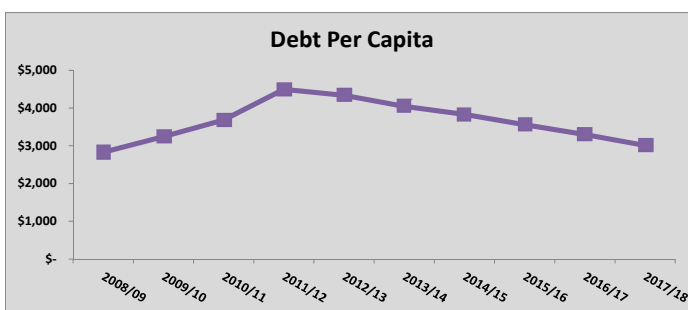
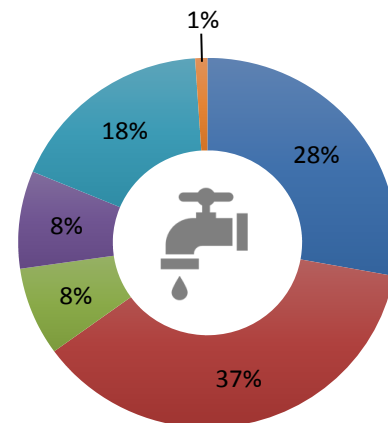
Governmental Activities



Business-Type Activities

- **Water - 2012B Installment Agreement:** The City entered into an installment agreement with CA Statewide Communities Development Authority to obtain funds to make water and wastewater system improvements. The remaining principal balance was **\$4,543,723**.
- **Wastewater - 2012B Installment Agreement:** The City allocated a portion of the 2012B Installment to the wastewater enterprise. The remaining principal balance was **\$1,261,277**.
- **Water - 2006A Installment Agreement:** The City entered into an installment agreement with CA Statewide Communities Development Authority to obtain funds to make system water improvements. The remaining principal balance was **\$6,050,000**.
- **Wastewater - 2005B Installment Agreement:** The City entered into an installment agreement with CA Statewide Communities Development Authority to obtain funds to make system wastewater improvements. The remaining principal balance was **\$1,390,000**.
- **Net Pension Liability:** The difference between the present value of benefits earned by employees and resources accumulated to pay the benefits. The liability was **\$2,880,013**.
- **Compensated Absences:** Absences for which employees will be paid, such as vacation and sick leave. The liability was **\$170,562**.

Business-Type Activities



Debt per capita is a measurement of the value of a government's debt expressed in terms of the amount attributable to each citizen under the government's jurisdiction. The level of debt per capita is an important factor to consider when analyzing a government's ability to continue to pay its debt service costs through its current levels of tax revenue.

Demographics

ST. HELENA

POPULATION
6,196
2.70% GROWTH

MEDIAN AGE
47.7

UNEMPLOYMENT RATE
4.7
14.63% GROWTH

NUMBER OF EMPLOYEES
2,744
-3.62% GROWTH

MEDIAN HOUSEHOLD INCOME
\$85,505

MEDIAN PROPERTY VALUE
\$864,900

NAPA COUNTY

POPULATION
142,808
0.40% GROWTH

MEDIAN AGE
40.7

UNEMPLOYMENT RATE
3.1
-13.89% GROWTH

NUMBER OF EMPLOYEES
69,893
2.63% GROWTH

MEDIAN HOUSEHOLD INCOME
\$74,609

MEDIAN PROPERTY VALUE
\$503,100

Source: Napa County Auditor Controller
St. Helena Finance Department
U.S Census Bureau
Data USA

Photograph by Bob McClenahan

Community Events Highlight



4th of July Fireworks Show



Fire Department Open House



Concerts in Lyman Park



Hometown Harvest Festival



Police Dept. National Night Out



St. Helena Farmers Market

Glossary



Current Assets: Liquid assets of the City such as cash or receivables; assets that can be liquidated within a short period of time, usually one year.

Non-current Assets: Assets that cannot be converted to cash or liquidated in a short period of time such as fixed/ Capital Assets, Inventory, Restricted Assets, Deferred Charges, and the like.

Capital Assets: The City's long-term investments in land, buildings, equipment, improvements, infrastructure, and construction in progress. The City uses these capital assets to provide services to citizens; consequently these assets are not available for future spending.

Current Liabilities: City's debt and obligations that are due within a year such as accounts payable, payroll taxes, matured principal payments, and the like.

Deferred Inflow of Resources: An acquisition of net position by the government that is applicable to a future reporting period.

Deferred Outflow of Resource: A consumption of net position by the government that is applicable to a future reporting period.

Enterprise Fund: Proprietary fund type used to report an activity for which a fee is charged to external users for goods or services.

Governmental Activities: Activities generally financed through taxes, intergovernmental revenues, and other non-exchange revenues. These activities are usually reported in governmental funds and internal service funds.

Long-term Debt/Non-current liabilities: Debt and obligations of the City that are long-term, usually more than one year such as bonds payable, claims payable, landfill post closure, and the like.

Net Investment in Capital Assets: Component of net position that consists of capital assets, net of accumulated depreciation, reduced by the outstanding balances of bonds, mortgages, notes, or other borrowing that are attributable to the acquisition, construction, or improvement of those assets. Deferred outflows of resources and deferred inflows of resources that are attributable to the acquisition, construction, or improvement of those assets or related debt also should be included in this component of net position

Net Position: The residual of all other financial statement elements presented in a statement of financial position.

Restricted Net Position: Component of net position reported in government-wide and proprietary fund financial statements. Net position should be restricted when: 1) externally imposed by creditors, grantors, contributors, or laws or regulations of other governments, or 2) imposed by law through constitutional provisions or enabling legislation.

Unrestricted Net Position: These are resources that are accessible to the City to provide services to the residents of St. Helena if there were no additional revenues or resources available.

City of St. Helena

Finance Department

1480 Main Street
St. Helena, CA 94574
(707) 968-2750

To access our Fiscal Year 2017/18 Audited Financials please visit our City website at www.cityofstheleena.org/finance/page/comprehensive-annual-financial-report-cafr.



MINUTES
City of St. Helena
Regular City Council Meeting
Tuesday, October 9, 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, Council Member Paul Dohring, Council Member Mary Koberstein, and Council Member Geoff Ellsworth

Absent:

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. PUBLIC FORUM:**
Louis Hortado, Lucero Hernandez, Tom Belt, Mike Griffin and Anthony Micheli addressed the City Council.
- 5. REPORTS BY STAFF AND CITY COUNCIL, FUTURE AGENDA ITEMS, and AB 1234 REPORTS:**

City Attorney Thomas Brown reported that at the October 9, 2018 special closed session meeting the City Council discussed whether to initiate litigation concerning substantial waste water revenue shortfalls the City discovered that are anticipated to continue over the term of the current rate structure, and errors by Hansford Economic Consulting, the City's waste water rate consultant, that the City believes caused a significant portion of the shortfalls.

City Attorney Thomas Brown further reported that although the City Council has authorized litigation, the City is currently engaged in discussions with counsel for the consultant and is considering mediation to see if this matter can be resolved without litigation. If and when the City does initiate litigation, it will provide a copy of the lawsuit to any member of the public who requests it.

City Manager Mark Prestwich noted it was the anniversary of the October 2017 firestorm and provided a City and County OES emergency preparedness update. Also, informational Measure E and County Measure I open houses are upcoming.

Regular City Council
October 9, 2018

Meet and greets for new Chief of Police Timothy Foley have been scheduled. The second annual Community Potluck is scheduled for next Thursday, November 18, 2018.

Council Member Koberstein encouraged everyone to attend the Community Potluck that will be celebrating past and current community members serving on City Boards, Committees and Commissions.

Mayor Galbraith reported that the St. Helena Public Cemetery was designated by the Department of Parks and Recreation Office of the Historic Preservation to be listed in the National Register of Historic Places.

6. PRESENTATIONS AND PUBLIC RECOGNITIONS

6.1 None

7. STAFF BRIEFING

7.1 None

Mayor Galbraith announced items 10.1 and 10.2 would be heard prior to consent.

10. NEW BUSINESS

10.1 *NEW ITEM ADDED 10/5/2018

Consideration and proposed approval of a resolution 2018-137 approving appointment of Interim Police Chief and approval of an Employment Agreement between the City of St. Helena and Timothy A. Foley; and in accordance with the requirement of California Code Section 54953(c)(3) the recommended final action for Interim Police Chief beginning October 10, 2018 provides for an annual base salary of \$167,520 with the following benefits, unmarked police vehicle to drive in lieu of a vehicle allowance, Deferred Compensation City match of up to \$200 per month, and will receive retirement benefits at a PEPRA member formula of 2.7% at age 57, based on a three year average program. The City Clerk will administer the oath of office.

CEQA Determination: Not a CEQA project

Prepared By: Kathy Robinson, Human Resources & IT Director

Recommendation:

Adopt a Resolution Authorizing an Employment Agreement with Timothy A. Foley for the Position of Interim Police Chief.

City Manager Mark Prestwich reported on this item.

No public comment was received.

Regular City Council
October 9, 2018

Vice Mayor Peter White moved to approve the appointment of the Interim Police Chief and approval of an Employment Agreement between the City of St. Helena and Timothy A. Foley; and in accordance with the requirement of California Code Section 54953(c)(3) the recommended final action for Interim Police Chief beginning October 10, 2018 provides for an annual base salary of \$167,520 with the following benefits, unmarked police vehicle to drive in lieu of a vehicle allowance, Deferred Compensation City match of up to \$200 per month, and will receive retirement benefits at a PEPRA member formula of 2.7% at age 57, based on a three year average program. The motion was seconded by Council Member Mary Koberstein and on roll call carried by the following vote:

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

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

The City Clerk administered the oath of office.

10.2 Overview of recycling market changes provided by Upper Valley Disposal Services

Upper Valley Disposal & Recycling Community Outreach Coordinator Christy Abreu provided a presentation.

No public comment was received.

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 adoption of a resolution authorizing the City Manager to execute a Professional Service Agreement with Waterways Consulting, Inc. in the amount of \$37,802.86 to design and prepare bid documents for Capital Improvement Project R19-03, Sulphur Creek Erosion Repair.

CEQA Determination: This project qualifies for a Class 6 Categorical Exemption 'Information Collection' under Section 15306 of CEQA. Any future project will require additional analysis and a formal determination regarding the environmental impacts of that project.

Prepared By: Edrees Argand, Junior Assistant Engineer

Regular City Council
October 9, 2018

Recommendation:

Adopt a resolution authorizing the City Manager to execute a Professional Service Agreement with Waterways Consulting, Inc. in the amount of \$37,802.86 to design and prepare bid documents for Capital Improvement Project R19-03, Sulphur Creek Erosion Repair.

- 8.2 The meeting minutes were not considered and will be heard at a later date.

~~Consideration and proposed approval for meeting minutes of: August 30, 2018 Special City Council Rent Stabilization Informational Workshop, September 17, 2018 Special City Council Next Steps related to the SHAPE Report/City Hall Meeting and September 25, 2018 Regular Meeting Minutes (To be provided prior to the meeting)~~

Prepared By: Cindy Tzaopoulos, City Clerk

Item 8.2 was removed from consent.

- 8.3 ~~*UPDATED ATTACHMENTS 10/3/2018~~

~~Second reading of an Ordinance 2018-5 amending and restating St. Helena Municipal Code (SHMC) Chapter 17.164 'Design Review', modifying the requirements and process for Design Review primarily as applied to single family residential projects; proposing to eliminate the requirement for Design Review for "Outdoor Seating" identified in SHMC Chapters 17.48.090 and 17.52.090; and proposing to eliminate the requirement for Design Review for the installation of "Awnings and Canopies", as identified in SHMC Chapter 17.112.070, citywide.~~

Item 8.3 was removed from consent.

- 8.4 ~~Second reading of an ordinance amending St. Helena Municipal Code ("SHMC") Title 17, Section 17.148, Signs, as deemed appropriate by the City Council.~~

- 8.5 Consideration and proposed approval of Resolutions:

1. 2018-130 Supporting Regional Ballot Measure "I"
2. 2018-131 Supporting Statewide "Proposition 1"
3. 2018-132 Supporting Statewide "Proposition 2"
4. 2018-133 Supporting Statewide "Proposition 3"
5. 2018-134 Opposing Statewide "Proposition 6"
6. No position on Statewide Propositions 4, 5, 7, 8, 10, 11, and 12

CEQA Determination: Not a CEQA project

Prepared By: Mark T. Prestwich, City Manager

Recommendation:

Staff recommends adopting the resolutions.

Vice Mayor Peter White moved to approve Consent item 8.4. The motion was seconded by Council Member Mary Koberstein and on roll call carried by the

Regular City Council
October 9, 2018

following vote:

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

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

8.2 *UPDATED ATTACHMENTS 10/3/2018

Second reading of an Ordinance 2018-5 amending and restating St. Helena Municipal Code (SHMC) Chapter 17.164 'Design Review', modifying the requirements and process for Design Review primarily as applied to single family residential projects; proposing to eliminate the requirement for Design Review for "Outdoor Seating" identified in SHMC Chapters 17.48.090 and 17.52.090; and proposing to eliminate the requirement for Design Review for the installation of "Awnings and Canopies", as identified in SHMC Chapter 17.112.070, citywide.

CEQA Determination: The action to adopt this Ordinance amending Chapters 17.164, 17.48.090, 17.52.090 and 17.112.070 of the St. Helena Municipal Code is exempt from the requirements of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) pursuant to Guidelines Sections 15301, 15302 and 15303 in that these modifications reduce the administrative process for modifications to and replacement of existing residential structures and further allow the construction or conversion of "Small Structures" as defined in the statute. Further the City Council finds that the proposed modifications to the City of St Helena Design Review procedures, Chapter 17.164 of the Municipal Code, are consistent with the environmental impact analysis of the 1993 General Plan and Zoning Code EIR. In addition, the Council finds that the proposed changes are exempt from the requirements of CEQA, under Section 15061(b)(3) the "general rule" in that it can be seen with certainty that there is no possibility

Prepared By: Noah Housh, Planning & Community Improvement Director

Recommendation:

It is recommended by the Planning Commission that the City Council:

1. Find that the proposed changes are exempt from the requirements of CEQA pursuant to Guidelines Sections 15301, 15302 and 15303 in that these modifications reduce the administrative process for modifications to and replacement of existing single family residential structures and further allow the construction or conversion of "Small Structures" as defined in the statute; that the proposed text amendments are consistent with the environmental impact analysis of the 1993 General Plan and Zoning Code EIR, and that the proposed changes are exempt from the requirements of CEQA, under Section

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October 9, 2018

15061(b)(3) in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and therefore, the activity is not subject to CEQA; and

2. Conduct the second reading of the ordinance, by title only and waive further reading of the text.

Senior Planner Aaron Hecock reported on this item.

Bobbi Monnette addressed the City Council.

Council Member Paul Dohring moved to adopt by title only and waive further reading, as amended, an Ordinance 2018-5 amending and restating St. Helena Municipal Code (SHMC) Chapter 17.164 'Design Review', modifying the requirements and process for Design Review primarily as applied to single family residential projects; proposing to eliminate the requirement for Design Review for "Outdoor Seating" identified in SHMC Chapters 17.48.090 and 17.52.090; and proposing to eliminate the requirement for Design Review for the installation of "Awnings and Canopies", as identified in SHMC Chapter 17.112.070, citywide. The motion was seconded by Council Member Geoff Ellsworth and on roll call carried by the following vote:

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

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

- 8.3 Second reading of an ordinance amending St. Helena Municipal Code ("SHMC") Title 17, Section 17.148, Signs, as deemed appropriate by the City Council.

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: 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 Sections 15061, 15301, 15302 and 10303; and
2. Conduct the second reading of the ordinance, by title only and waive

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October 9, 2018

further reading.

Senior Planner Aaron Hecock reported on this item.

Norm Manzer, Anthony Micheli, Debra Domen, Mike Griffen, Bobbi Monnette, Grace Kistner, citizen and Tracy Sweeney addressed the City Council.

Vice Mayor Peter White moved to direct staff to bring item 8.3 back for consideration at the October 23, 2018 City Council meeting as amended. The motion was seconded by Council Member Geoff Ellsworth and on roll call carried by the following vote:

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

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

9. PUBLIC HEARINGS

- 9.1 Consideration and proposed approval the Annexation of Territory into the St. Helena Municipal Sewer District No. 1 MSD Annexation No. 133, 499 Crane Avenue, St. Helena, CA. (APN) 009-350-001-000. Resolution 2018-135

CEQA Determination: Project is exempt from the requirements under Section 15061(b)(3) the "General Rule" in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, Section 15262 Acceptance of Feasibility and Planning Studies and Section 15306 Information Collection in that it is purely the recommendation to negotiate a contract and the acceptance of a feasibility study. Any and all future funding and/or construction activities resulting from this action will be separately reviewed for compliance with CEQA and a formal determination made.

Prepared By: Chrissy Cook, Administrative Assistant

Recommendation:

Staff recommends the City Council adopt a Resolution Approving the Annexation of Territory to the St. Helena Municipal Sewer District No. 1, MSD Annexation No. 133, 499 Crane Avenue, St. Helena, CA. (APN) 009-350-001-000.

Public Works Director Erica Ahmann Smithies reported on this item.

Mayor Galbraith opened the public hearing.

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No public comment was received.

Mayor Galbraith closed the public hearing.

Vice Mayor Peter White moved to approve the Annexation of Territory into the St. Helena Municipal Sewer District No. 1 MSD Annexation No. 133, 499 Crane Avenue, St. Helena, CA. (APN) 009-350-001-000. Resolution 2018-135. The motion was seconded by Council Member Geoff Ellsworth and on roll call carried by the following vote:

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

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

- 9.2 Consideration and proposed approval of the Annexation of Territory into the St. Helena Municipal Sewer District No. 1 MSD Annexation No. 135, 867 and 871 Dowdell Lane, St. Helena, CA. 94574 (APN) 009-580-009-000. Resolution 2018-136

CEQA Determination: Project is exempt from the requirements under Section 15061(b)(3) the "General Rule" in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, Section 15262 Acceptance of Feasibility and Planning Studies and Section 15306 Information Collection in that it is purely the recommendation to negotiate a contract and the acceptance of a feasibility study. Any and all future funding and/or construction activities resulting from this action will be separately reviewed for compliance with CEQA and a formal determination made.

Prepared By: Chrissy Cook, Administrative Assistant

Recommendation:

Staff recommends the City Council adopt a Resolution Approving the Annexation of Territory to the St. Helena Municipal Sewer District No. 1, MSD Annexation No.135, 867 and 871 Dowdell Lane, St. Helena, CA. 94574 (APN) 009-580-009-000.

Public Works Director Erica Ahmann Smithies reported on this item.

Mayor Galbraith opened the public hearing.

No public comment was received.

Mayor Galbraith closed the public hearing.

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Council Member Mary Koberstein moved to approve the Annexation of Territory into the St. Helena Municipal Sewer District No. 1 MSD Annexation No. 135, 867 and 871 Dowdell Lane, St. Helena, CA. 94574 (APN) 009-580-009-000. 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, Council Member Paul Dohring, Council Member Mary Koberstein, and Council Member Geoff Ellsworth
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

- 9.3 Introduction and first reading of an ordinance amending St. Helena Municipal Code ("SHMC") Title 17, Section 17.48 (Central Business District) and 17.52 (Service Commercial), to modify the list of permitted and conditional uses 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:

Staff recommends the City Council review the Draft Ordinance and proposed text amendments related to permitted and conditional uses in the CB and SC zoning districts and:

1. Determine that the proposed 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, Sections 17.48 (Central Business District) and 17.52 (Service Commercial), to modify the list of permitted and conditional uses; and
3. Introduce and conduct first reading of the ordinance, by title only and waive further reading.

Senior Planner Aaron Hecock reported on this item.

Mayor Galbraith opened the public hearing.

Jeff Feeney addressed the City Council.

Mayor Galbraith closed the public hearing.

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Vice Mayor Peter White moved to introduce by title only and waive further reading, as amended, of an ordinance amending St. Helena Municipal Code ("SHMC") Title 17, Section 17.48 (Central Business District) and 17.52 (Service Commercial), to modify the list of permitted and conditional uses as deemed appropriate by the City Council. The motion was seconded by Council Member Geoff Ellsworth and on roll call carried by the following vote:

AYES: Mayor Alan Galbraith, Vice Mayor Peter White, Council Member Paul Dohring, Council Member Mary Koberstein, and Council Member Geoff Ellsworth
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

10. NEW BUSINESS

10.1 Item 10.1 was heard prior to consent.

~~*NEW ITEM ADDED 10/5/2018~~

~~Consideration and proposed approval of a resolution approving appointment of Interim Police Chief and approval of an Employment Agreement between the City of St. Helena and Timothy A. Foley; and in accordance with the requirement of California Code Section 54953(c)(3) the recommended final action for Interim Police Chief beginning October 10, 2018 provides for an annual base salary of \$167,520 with the following benefits, unmarked police vehicle to drive in lieu of a vehicle allowance, Deferred Compensation City match of up to \$200 per month, and will receive retirement benefits at a PEPRA member formula of 2.7% at age 57, based on a three year average program. The City Clerk will administer the oath of office.~~

10.2 Item 10.2 was heard prior to consent.

~~Overview of recycling market changes provided by Upper Valley Disposal Services~~

Mayor Galbraith announced item 10.4 would be heard prior to item 10.3.

10.4 Discussion and Direction Regarding Policy Options Related to Possible Mobile Home Rent Stabilization Ordinance

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

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City Manager Mark Prestwich Burke, Williams & Sorensen Associate Deepa Sharma reported on this item.

Greg Reynolds, citizen, Doug Johnson, Michael Merriman, Pat Dell, Tom Vence and Grace Kistner addressed the City Council.

It was the direction by the majority of the City Council to agendaize the first reading of the ordinance at the November 13, 2018 City Council meeting.

Mayor Galbraith called for a recess at 9:10 pm.

Mayor Galbraith reconvened the meeting at 9:20 pm.

- 10.3 Appeal of the Planning Commission decision to approve a design review exemption to construct two storage sheds near an existing agricultural barn located at 1859 Hillview Place in the Twenty-acre Agriculture (A-20) district. Resolution 2018-138

CEQA Determination: 15303 New Construction or Conversion of Small Structures

Prepared By: Aaron Hecock, Senior Planner

Recommendation:

The Planning Commission recommends that the City Council:

1. Find that the project is exempt from the requirements of CEQA pursuant to Section 15303; and
2. Deny the appeal and uphold the Planning Commission decision to approve a design review exemption to construct two storage sheds on the property located at 1859 Hillview Place.

Senior Planner Aaron Hecock reported on this item.

Appellants Joy Roades Brown and Barry Brown addressed the City Council.

Appellee Don and Dana Gallagher addressed the City Council.

Public comment was received by Mike McPherson and Anthony Micheli.

Rebuttal statements were provided by Barry Brown and Dana Gallagher.

Vice Mayor Peter White moved to continue the meeting beyond 10:00 pm. The motion was seconded by Council Member Geoff Ellsworth and on roll call carried by the following vote:

AYES: Mayor Alan Galbraith, Vice Mayor Peter White, Council Member Paul Dohring, Council Member Mary Koberstein, and Council Member Geoff

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Ellsworth
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

Vice Mayor Peter White moved to deny the appeal with further conditions and uphold the Planning Commission decision to approve a design review exemption to construct two storage sheds on the property located at 1859 Hillview Place. 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, and Council Member Mary Koberstein
NOES: Council Member Paul Dohring and Council Member Geoff Ellsworth
ABSENT: None
ABSTAIN: None
RECUSE: None

- 10.5 Update and Presentation of Cost Allocation Plan Process and consideration and approval of a resolution 2018-139 approving Amendment #2 with Willdan for the Full Cost Services and Development Impact Fee Study in the amount of \$4,500 for a not-to-exceed amount of \$102,390 and use of fund balances and budget increases in the following amounts: General Fund - \$1,500, Water Fund - \$1,500, and Wastewater Fund - \$1,500.

CEQA Determination: Not a CEQA project
Prepared By: Mandy Kellogg, Admin Services Mgr
Recommendation:

1. Staff recommends City Council approve Amendment No. 2 for additional services to update the cost allocation in the amount of \$4,500.
2. Staff is requesting Council direction on the following:
 - a. Cost recovery goals and ideas for the user fee study
 - b. Development impact fee goals

Administrative Services Manager Mandy Kellogg reported on this item.

Wildan consultants Tony Thrasher and Carlos Villarreal provided a presentation.

No public comment was received.

Council Member Geoff Ellsworth moved to continue the meeting beyond 10:30 pm. The motion was seconded by Council Member Mary Koberstein and on roll

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call carried by the following vote:

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

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

Council Member Paul Dohring moved to approve resolution 2018-139, with direction, approving Amendment #2 with Willdan for the Full Cost Services and Development Impact Fee Study in the amount of \$4,500 for a not-to-exceed amount of \$102,390 and use of fund balances and budget increases in the following amounts: General Fund - \$1,500, Water Fund - \$1,500, and Wastewater Fund - \$1,500. 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, Council Member Paul Dohring, Council Member Mary Koberstein, and Council Member Geoff Ellsworth

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

Item 10.6 was not heard and continued to the next City Council meeting.

- 10.6 Disclosure Of Water Customer Usage Data To Verify Water Customers' Compliance With Obligations Imposed By Agreements And/Or Water Neutrality Or Other Conditions of Land Use Approvals

CEQA Determination: Not a CEQA project

Prepared By: Thomas B. Brown, City Attorney

Recommendation:

Staff recommends that the Council consider the issues discussed above, and provide direction as appropriate.

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

11.1	October City Council Meetings: 10/23 (staff reports due 10/5)
	PROCLAMATIONS AND PUBLIC RECOGNITION:
	10/23 Library Board Report Out Staff Briefing
	10/23 Staff Briefing Parks & Recreation Commission Chair Report Out

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10/23 Library Proclamation
10/23 Oath of office for new Dispatcher Robin Frost
CONSENT:
10/23 Amended Coop Agreement with Caltrans for Grayson Signal for electricity(Caltrans to attend)
10/23 City Employee Awards Program
10/23 Award contract to Waterways for Sulphur Creek repair project – Public Works
10/23 Purchase of Ditchwitch - PW
10/23 Railroad curb ramp final completion
10/23 Finance Policies
PH or NEW BUSINESS:
10/23 Flood control project conservation easement
Tennis Court Lighting and Resurfacing - Rec
10/23 Raw Water Use Charges - PW
10/23 1st Reading of Rent Stabilization Ordinance (RSO)
10/23 Calderon Settlement Update
10/23 Non Profit Grant Funding Process
10/23 1st Reading Temporary Use Permit Ordinance
10/23 PH Appeal of Short Term Rental denial at 1610 Kearney Street
10/23 Bimonthly Goals and Objectives Update – Admin
November City Council Meetings:
11/13 (staff reports due 10/26)
11/27 (staff reports due 11/9)
CONSENT:
11/13 Award of downtown restrooms
11/27 Award of downtown sidewalks
11/13 Investment policy - Finance
11/13 2nd Reading of Rent Stabilization Ordinance (RSO)
PH or NEW BUSINESS:
1st Reading Concept Review Ordinance - Planning
11/13 1st Qtr Grant Report
11/13 1st Qtr Finance Update
Draft Truck Ordinance Safety Exception Waiver Process
December City Council Meetings:
12/11 (staff reports due 11/21)
12/25 Cancelled
CONSENT:
12/11 Compensation schedule
PH or NEW BUSINESS:

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12/11 Bimonthly Goals and Objectives Update – Admin (Would go 2nd mtg but it's cancelled)
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12. ADJOURNMENT

The regular meeting minutes of October 9, 2018 was adopted at the February 26, 2019 regular meeting.

Mayor Galbraith adjourned the meeting at 10:51 p.m.

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzaopoulos, City Clerk

MINUTES
City of St. Helena
Regular City Council Meeting
Tuesday, October 23, 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, Council Member Paul Dohring, Council Member Mary Koberstein, and Council Member Geoff Ellsworth

Absent:

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. PUBLIC FORUM:

Joy Roedes Brown, Anthony Micheli and Barry Brown addressed the City Council.

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

Finance Director April Mitts thanked the community for participation at the recent Community Potluck and Harvest Festival.

Senior Planner Aaron Hecock announced that the draft General Plan and draft EIR is available for review.

Public Works Director Erica Ahmann Smithies noted the Pope Street Bridge was struck at the Silverado Trail by a large truck and is being evaluated, Lyman Park restrooms are under construction and the St. Helena High School homecoming parade will occur on Friday, October 26, 2018.

Council Member Geoff Ellsworth thanked the community for participation at the recent Community Potluck and Harvest Festival. He requested future items to be agendaized for curfew in town and programs for new homeowners.

Council Member Dohring requested a future item to be agendaized to address City

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Council code of conduct for private conversations and private communication.

Vice Mayor White thanked the volunteers involved with the Harvest Festival.

Mayor Galbraith thanked the community participation at the recent Community Potluck and Harvest Festival.

6. PRESENTATIONS AND PUBLIC RECOGNITIONS

- 6.1 Oath of Office for St. Helena Police Dispatcher Robin Frost
- 6.2 National Friends of Libraries Week Proclamation - Presented to Friends & Foundation Executive Director Maria Stel
- 6.3 Third Annual Saint Helena Movember Mens' Health Month Proclamation - Presented to Recreation Director Andre Pichly
- 6.4 Board of Library Trustees Report Out - Skip Lane, Chair
- 6.5 This item was removed.
~~Parks & Recreation Commission Report Out – Matthew Demchuk, Chair~~ Report Out will occur at the November 13, 2018 meeting.

7. STAFF BRIEFING

- 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 Regular Meeting Minutes of: August 30, 2018 Special City Council Rent Stabilization Informational Workshop, September 17, 2018 Special City Council Next Steps related to the SHAPE Report/City Hall Meeting, September 25, 2018 Regular Meeting and ~~October 9, 2018 Regular Meeting Minutes~~
(To be provided prior to the meeting)

The October 9, 2018 regular meeting minutes will be considered at the November 13, 2018 City Council meeting.

- 8.2 Consideration and proposed approval of a resolution 2018-140 authorizing the City Manager to grant up to eight (8) hours of paid administrative leave to an employee(s) that is(are) recognized for an extraordinary achievement or merit-based performance in accordance with the resolution recitals.

CEQA Determination: Not a CEQA project

Prepared By: Kathy Robinson, Human Resources & IT Director

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Recommendation:

Approve resolution granting the City Manager the authority to award up to eight (8) hours of paid administrative leave to an employee or employees that are recognized for extraordinary achievement or merit-based performance in any given fiscal year in accordance with the resolution recitals.

- 8.3 Approve Amendment No.1 to Memorandum of Understanding Between the City of St. Helena and the St. Helena Police Officers' Association. Resolution 2018-141

CEQA Determination: Exempt

Prepared By: Mandy Kellogg, Admin Services Mgr

Recommendation:

Approve a resolution authorizing the City Manager to execute Amendment No. 1 to the Memorandum of Understanding between the City of St. Helena and the Police Officers' Association and authorize the City to reimburse employees for the additional 3% contributions withheld during the time period of July 1, 2016 through July 29, 2018 for an amount not to exceed \$18,136.57.

- 8.4 Consideration of the adoption of a resolution 2018-142 rejecting all construction bids for the C-82 Downtown Restrooms Project.

CEQA Determination: 15303 New Construction or Conversion of Small Structures

Prepared By: Tobias Barr, Project Manager

Recommendation:

Adopt the attached resolution rejecting all construction bids for the C-82 Downtown Restrooms Project.

- 8.5 Consideration and proposed approval of a resolution 2018-143 authorizing the purchase of one 2018 McLaughlin VX50-800 Vacuum Excavator from Vermeer - RDO Equipment Co. in the amount of \$78,454.59 for the Public Works Department Water Distribution Division.

CEQA Determination: Not a CEQA project

Prepared By: Felix Hernandez III, Utilities Operations Manager

Recommendation:

Adopt a resolution, authorizing the purchase of one 2018 McLaughlin VX50-800 Vacuum Excavator from Vermeer - RDO Equipment Co. in the amount of \$78,454.59 for the Public Works Department Water Distribution Division.

- 8.6 Consideration and Proposed Approval of a Resolution 2018-144 Rescinding Resolution No. 2017-162 and Adopting Investment Policy P-FI-0002 - 2018 for the City of St. Helena

CEQA Determination: Not a CEQA project

Prepared By: April Mitts, Finance Director

Recommendation:

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Staff recommends the approval of a Resolution Rescinding Resolution No. 2017-162 and Adopting Investment Policy P-FI-0002 - 2018 for the City of St. Helena.

Item 8.7 was removed from consent.

- 8.7 ~~Consideration of proposed adoption of a Resolution rescinding Resolution 2017-101 and adding portions of Oak Avenue and Crane Avenue to the City's list of red zones (parking prohibitions)~~

Items 8.8 and 8.9 were removed from consent.

- 8.8 ~~Consideration and approval of a Resolution approving City of St. Helena City Council Policy P-FI-0014 Accounts Payable Payment Processing Policy.~~
- 8.9 ~~Consideration and approval of a Resolution approving City of St. Helena City Council Policy P-FI-0017 Cash Controls Policy.~~
- 8.10 Second reading of an ordinance 2018-6 amending St. Helena Municipal Code ("SHMC") Title 17, Section 17.148, Signs, as deemed appropriate by the City Council. (Staff report and attachments are forthcoming) Provided 10/19/2018

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: 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 Sections 15061, 15301, 15302 and 10303; and
2. Conduct the second reading of the ordinance, by title only and waive further reading.

- 8.11 This item is removed.

~~Second reading of an Ordinance amending and restating St. Helena Municipal Code (SHMC) Chapter 17.164 'Design Review', modifying the requirements and process for Design Review primarily as applied to single family residential projects; proposing to eliminate the requirement for Design Review for "Outdoor Seating" identified in SHMC Chapters 17.48.090 and 17.52.090; and proposing to eliminate the requirement for Design Review for the installation of "Awnings and Canopies", as identified in SHMC Chapter 17.112.070, citywide. This item was approved at the October 9, 2018 meeting and inadvertently agendized.~~

- 8.12 Second reading of an ordinance 2018-7 amending St. Helena Municipal Code ("SHMC") Title 17, Section 17.48 (Central Business District) and 17.52 (Service Commercial), to modify the list of permitted and conditional uses as deemed

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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:

Staff recommends the City Council review the Draft Ordinance and proposed text amendments related to permitted and conditional uses in the CB and SC zoning districts and:

1. Find that the proposed text amendments are exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15061; and
2. Conduct the second reading of the ordinance, by title only and waive further reading of the text.

8.13 *New Item 10/19/2018

Consideration and proposed approval of a resolution 2018-148 authorizing the City Manager to execute a Professional Services Agreement with Baker & Taylor, LLC for the supplying of library materials to the St. Helena Public Library not to exceed the amount annually budgeted for library materials by City Council for three years with the option of two one-year extensions.

Prepared By: Chris Kreiden, Library Director

Recommendation:

Staff recommends City Council approve a resolution authorizing the City Manager to execute an agreement for Library Materials Vendor with Baker & Taylor, LLC for a period of three years with an option for two one-year extensions.

Item 8.14 was removed from consent.

8.14 *New Item 10/19/2018

~~Consideration and adoption of a resolution converting the part-time, limited-term Senior Planner position to a full-time, limited term Senior/Associate/Assistant Planner position ending June 30, 2020.~~

Council Member Paul Dohring moved to approve Consent items 8.1 through 8.6, 8.10 and 8.12 through 8.13. The motion was seconded by Council Member Mary Koberstein and on roll call carried by the following vote:

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

NOES: None

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ABSENT: None
ABSTAIN: None
RECUSE: None

Items removed from consent:

- 8.7 Consideration of proposed adoption of a Resolution 2018-145 rescinding Resolution 2017-101 and adding portions of Oak Avenue and Crane Avenue to the City's list of red zones (parking prohibitions)

CEQA Determination: Exempt

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

Adopt the Resolution rescinding Resolution 2017-101 and adding portions of Oak Avenue and Crane Avenue to the City's list of red zones (parking prohibitions)

Public Works Director Erica Ahmann Smithies reported on this item.

No public comment was received.

Council Member Paul Dohring moved to approve item 8.7 as amended. 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, Council Member Paul Dohring, Council Member Mary Koberstein, and Council Member Geoff Ellsworth

NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

- 8.8 Consideration and approval of a Resolution 2018-146 approving City of St. Helena City Council Policy P-FI-0014 Accounts Payable Payment Processing Policy.

CEQA Determination: Not a CEQA project

Prepared By: April Mitts, Finance Director

Recommendation:

Staff recommends City Council pass a Resolution approving City of St. Helena Policy P-FI-0014 Accounts Payable Payment Processing Policy.

- 8.9 Consideration and approval of a Resolution 2018-147 approving City of St. Helena City Council Policy P-FI-0017 Cash Controls Policy.

CEQA Determination: Not a CEQA project

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Prepared By: April Mitts, Finance Director

Recommendation:

Staff recommends City Council pass a Resolution approving City of St. Helena Policy P-FI-0017 Cash Controls Policy.

Finance Director April Mitts reported on this item.

No public comment was received

Vice Mayor Peter White moved to approve items 8.8 and 8.9. The motion was seconded by Council Member Geoff Ellsworth and on roll call carried by the following vote:

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

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

8.14 *New Item 10/19/2018

Consideration and adoption of a resolution converting the part-time, limited-term Senior Planner position to a full-time, limited term Senior/Associate/Assistant Planner position ending June 30, 2020.

Prepared By: Noah Housh, Planning & Community Improvement Director

Recommendation:

Staff recommends City Council adopt a resolution approving the conversion of the part-time, limited term Senior Planner position to a full-time, limited-term Senior Planner position ending June 30, 2020.

City Manager Mark Prestwich reported on this item.

No public comment was received.

Vice Mayor Peter White moved to approve item 8.14. The motion was seconded by Council Member Paul Dohring and on roll call carried by the following vote:

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

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

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9. PUBLIC HEARINGS

9.1 None

10. NEW BUSINESS

10.1 Napa Valley Vine Trail Update and City Council Discussion

CEQA Determination: Not a CEQA project

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

Recommendation:

Discussion and feedback to Napa Valley Vine Trail and City staff.

Chuck McMinn with the Napa Valley Vine Trail reported on this item

Anthony Micheli addressed the City Council.

The City Council expressed willingness to participate in a feasibility study.

10.2 Update on Kosmont Companies Workplan Tasks Related to Initial Phases of the Downtown Retail Strategy and Real Estate Analysis of Several City-Owned Properties

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.

Kosmont Executive Vice President Ken Hira provided a presentation.

Bobbi Monnette, Mark Smithers and Tracy Sweeney addressed the City Council.

10.3 Consideration and approval of a Resolution 2018-150 approving the Revised City of St. Helena City Council Policy P-FI-0003 Non-Profit Funding Policy and Related Program Application and Guidelines.

CEQA Determination: Not a CEQA project

Prepared By: Mandy Kellogg, Admin Services Mgr

Recommendation:

Staff recommends City Council pass a Resolution approving the Revised City of St. Helena City Council Policy P-FI-0003 Non-Profit Funding Policy and Related Program Application and Guidelines.

City Manager Mark Prestwich reported on this item.

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No public comment was received.

Vice Mayor Peter White moved to approve the revised City of St. Helena City Council Policy P-FI-0003 Non-Profit Funding Policy and related program application and guidelines. The motion was seconded by Council Member Paul Dohring and on roll call carried by the following vote:

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

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

- 10.4 Disclosure Of Water Customer Usage Data To Verify Water Customers' Compliance With Obligations Imposed By Agreements And/Or Water Neutrality Or Other Conditions of Land Use Approvals

CEQA Determination: Not a CEQA project

Prepared By: Thomas B. Brown, City Attorney

Recommendation:

Staff recommends that the Council consider the issues discussed above, and provide direction as appropriate.

City Attorney Thomas Brown reported on this item.

Anthony Micheli, Mark Smithers and Bobbie Monnette addressed the City Council.

The City Council appointed Council Members Dohring and Ellsworth as liaisons to work with the City Attorney to develop an ordinance that addresses water data usage.

- 10.5 Review of a draft Ordinance proposing to amend and restate St. Helena Municipal Code (SHMC) Chapter 17.136.050 'Temporary Uses', to create a Temporary Use Permit and an administrative review process for such permits, citywide.

CEQA Determination: The proposed Ordinance to amend St. Helena Municipal Code Title 17 is exempt from the requirements of CEQA pursuant to Guidelines Sections 15301, 15303, and 15304 as Class 1, Class 3 and Class 4 Categorical Exemptions in that these modifications create an administrative process for the temporary use, conversion or minor alteration of existing properties, which may include the construction, modification or conversion of "Small Structures" as defined in the statute, however only for temporary and

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set periods of time for the use of the land; that the proposed text amendments are consistent with the environmental impact analysis of the 1993 General Plan and Zoning Code EIR, given their intent to facilitate operation of temporary activities at existing facilities, and that the proposed changes are exempt from the requirements of CEQA, under Section 15061(b)(3) in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on t

Prepared By: Noah Housh, Planning & Community Improvement Director

Recommendation:

It is recommended by the Planning Commission that the City Council:

1. Find that the proposed Ordinance to amend St. Helena Municipal Code Title 17 is exempt from the requirements of CEQA pursuant to Guidelines Sections 15301, 15303, and 15304 as Class 1, Class 3 and Class 4 Categorical Exemptions in that these modifications create an administrative process for the temporary use, conversion or minor alteration of existing properties, which may include the construction, modification or conversion of "Small Structures" as defined in the statute, however only for temporary and set periods of time for the use of the land; that the proposed text amendments are consistent with the environmental impact analysis of the 1993 General Plan and Zoning Code EIR, given their intent to facilitate operation of temporary activities at existing facilities, and that the proposed changes are exempt from the requirements of CEQA, under Section 15061(b)(3) in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and therefore, the activity is not subject to CEQA; and

2. Review, comment on and make a recommendation to staff regarding preparing an Ordinance making changes to Chapter 17.136.050 of the St. Helena Municipal Code to create a Temporary Use Permit, the associated review process and the creation of a fee to cover the costs of such a permit, citywide.

Senior Planner Aaron Hecock reported on this item.

Julianne Coburst addressed the City Council.

The City Council provided direction and also directed staff to bring this item back at the November 13, 2018, City Council meeting as an urgency ordinance and bring back a permanent ordinance at a later date.

- 10.6 Review and provide direction on the Draft Conservation Easement between the City of St. Helena and the Land Trust of Napa Valley for the Comprehensive Flood Control Project

CEQA Determination: Not a CEQA project

Regular City Council
October 23, 2018

Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer
Recommendation:
Review, discuss, and provide direction to City staff.

Public Works Director Erica Ahmann Smithies reported on this item.

Mark Smithers addressed the City Council.

- 10.7 *Updated Attachment 10/19/2018
Consideration and approval of a Resolution approving City of St. Helena City Council Policy P-FI-0016 Financial Policy.

CEQA Determination: Not a CEQA project
Prepared By: April Mitts, Finance Director
Recommendation:
Staff recommends City Council pass a Resolution approving City of St. Helena Policy P-FI-0016 Financial Policy.

Finance Director April Mitts reported on this item.

Mark Smithers addressed the City Council.

The Council directed staff to increase the reserve level to 30%, review information that will be provided by Mark Smithers and bring this item back for consideration at a later date.

- 10.8 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 reported on this item.

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

11.1	October City Council Meetings: 10/23 (staff reports due 10/5)
PROCLAMATIONS AND PUBLIC RECOGNITION:	
10/23 Movember Resolution – P&R	
10/23 Library Board Report Out Staff Briefing	
10/23 Staff Briefing Parks & Recreation Commission Chair Report Out	
10/23 Library Proclamation	
10/23 Oath of office for new Dispatcher Robin Frost	

Regular City Council
October 23, 2018

CONSENT:
10/23 City Employee Awards Program
10/23 Purchase of Ditchwitch - PW
10/23 Railroad curb ramp final completion
10/23 Finance Policies
PH or NEW BUSINESS:
10/23 Flood control project conservation easement
10/23 Calderon Settlement Update
10/23 Non Profit Grant Funding Process
10/23 1st Reading Temporary Use Permit Ordinance
10/23 PH Appeal of Short Term Rental denial at 1610 Kearney Street
10/23 Bimonthly Goals and Objectives Update – Admin
<u>November City Council Meetings:</u>
11/13 (staff reports due 10/26)
11/27 (staff reports due 11/9)
PROCLAMATIONS AND PUBLIC RECOGNITION:
Tree City USA Proclamation – PW
CONSENT:
11/27 Award of downtown sidewalks
11/27 2nd Reading of Rent Stabilization Ordinance (RSO) - Depending on City Council direction
11/27 Award contract to Waterways for Sulphur Creek repair project – Public Works
11/13 Amended Coop Agreement with Caltrans for Grayson Signal for electricity(Caltrans to attend)
PH or NEW BUSINESS:
11/13 Council Discussion on Human Trafficking Awareness Signs in Public Bathrooms
1st Reading Concept Review Ordinance - Planning
11/13 1st Qtr Grant Report
11/13 1st Qtr Finance Update
11/27 Naveed Paydar, PhD, Local Government Liaison News & Outreach Office, Executive Division California Public Utilities Commission
11/27 Tennis Court Lighting and Resurfacing - Rec
11/13 Calderon Settlement update
11/13 Raw Water Use Charges - PW
11/13 1st Reading of Rent Stabilization Ordinance (RSO)
<u>December City Council Meetings:</u>
12/11 (staff reports due 11/21)
12/25 Cancelled

Regular City Council
October 23, 2018

CONSENT:
12/11 Compensation schedule
PH or NEW BUSINESS:
12/11 Bimonthly Goals and Objectives Update – Admin (Would go 2nd mtg but it's cancelled)

12. ADJOURNMENT

The October 23, 2018 regular meeting minutes were adopted at the February 26, 2019 regular meeting.

Mayor Galbraith adjourned the meeting at 8:47 p.m.

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzafoopoulos, City Clerk

MINUTES
City of St. Helena
Special City Council Meeting
Tuesday, October 30, 2018 @ 4:00 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, Council Member Paul Dohring, Council Member Geoff Ellsworth and Council Member Mary Koberstein

Absent:

1. CALL TO ORDER

2. ROLL CALL

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:

Parks and Recreation Commission

Parks and Recreation Commission has one vacancy for a term of office that will expire June 30, 2018.

Three applications were received from Robert Frescura, Jeff Feeney and Kevin Shallat.

Mayor Galbraith invited the applicants to address the City Council.

Robert Frescura and Jeff Feeney addressed the City Council.

Planning Commission

The Planning Commission has one vacant term for an office that will expire June 30, 2022.

Special City Council
October 30, 2018

Two applications were received from Daniel Hale and Patrick Raggio.

Mayor Galbraith invited the applicants to address the City Council.

Robert Frescura, Jeff Feeney, Daniel Hale and Patrick Raggio addressed the City Council and answered questions regarding their interest in serving the community.

5. ADJOURNMENT

The special meeting minutes of October 30, 2018 was adopted at the February 26, 2019 regular meeting.

Mayor Galbraith adjourned the meeting at 4:56 p.m.

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzaopoulos, City Clerk

MINUTES
City of St. Helena
Regular City Council Meeting
Tuesday, November 13, 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, Council Member Paul Dohring, Council Member Mary Koberstein, and Council Member Geoff Ellsworth

Absent:

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**

Mayor Galbraith called for a moment of silence in remembrance of Alaina Housley.

- 4. PUBLIC FORUM:**

Bobbi Monnette addressed the City Council.

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

City Attorney Thomas Brown noted that there was no reportable action taken during the November 13, 2018, special City Council closed session meeting.

City Manager Mark Prestwich reported on St. Helena Jingle all the Way.

Planning Director Noah Housh provided an update on the General Plan and EIR comment period.

Council Member Ellsworth noted where Camp Fire donations can be made and requested staff to provide a link on the City's website.

Council Member Dohring noted the recent Veterans Day holiday and thanked those that have served.

Regular City Council
November 13, 2018

Mayor Galbraith thanked the community for participating in the recent general municipal election and passing Napa County Measure I that increases Transient Occupancy Tax by one percent.

6. PRESENTATIONS AND PUBLIC RECOGNITIONS

- 6.1 Arbor Day Proclamation presented to Carlos Uribe, Maintenance Manager
- 6.2 Parks & Recreation Commission Report Out by Matthew Demchuk, Chair
- 6.3 Planning Commission Report Out by Lester Hardy, Chair

This item was continued to November 27, 2018.

7. STAFF BRIEFING

- 7.1 Informational Report on St. Helena Municipal Ordinance 9.12, Curfew, and Police Department Enforcement

CEQA Determination: Not a CEQA project
Prepared By: Timothy A. Foley, Chief of Police
Recommendation:
Receive and file.

Larkin Dwyer and Bobbi Monnette addressed the City Council.

Chief of Police Timothy Foley reported on this item.

The City Council directed staff to come back with an amended ordinance suspending curfew for six months.

- 7.2 County of Napa update on the Silverado Trail Slide Repair near Pratt Avenue by Napa County Representative(s)

CEQA Determination: Not a CEQA project
Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer
Recommendation:
Receive and file.

Napa County Public Works Director Steve Lederer reported on this item and noted July 2019 is the estimated project completion date.

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)

Regular City Council
November 13, 2018

- 8.1 ~~Consideration and proposed approval of Regular Meeting Minutes of October 9, 2018 and October 23, 2018 and Special Meeting Minutes of October 30, 2018. (Will be provided prior to the meeting)~~

The meeting minutes were removed and not heard.

- 8.2 Receive and File FY 18-19 Annual AB 1600 Report on Development Impact Fees

CEQA Determination: Not a CEQA project

Prepared By: April Mitts, Finance Director

Recommendation:

Receive and file Annual AB 1600 Development Fee Report for Fiscal Year Ending June 30, 2018.

- 8.3 Consideration of approval of a Resolution 2018-151 authorizing a budget increase and use of reserves/fund balances in FY 2018/19 totaling \$54,829 and broken down by fund as follows: (1) General Fund - \$19,388, (2) Water Fund - \$16,481, (3) Wastewater Fund - \$12,600, and (4) Civic Impact Fee Fund - \$6,360.

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: April Mitts, Finance Director

Recommendation:

Staff recommends City Council approve a resolution authorizing the following FY 2018/19 budget increases and use of reserves/balances: (1) General Fund - \$19,388, (2) Water Fund - \$16,481, (3) Wastewater Fund - \$12,600, and (4) Civic Impact Fee Fund - \$6,360.

- 8.4 Consideration and proposed adoption of the following resolutions accepting the work and filing the Notice of Completion of 1) Railroad Curb Ramp Upgrades R-77 and Resolution 2018-152 2) ADA Transition Plan - Curb Ramps R18-80 Resolution 2018-153

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

Prepared By: Tobias Barr, Project Manager

Recommendation:

Adopt the attached resolutions to accept the work and direct the filing of the Notice of Completion's for the R-77 Railroad Curb Ramps Upgrades and R18-80 ADA Transition Plan - Curb Ramp.

Item 8.5 was removed from consent.

- 8.5 ~~Consideration and Proposed Approval of a Resolution authorizing (1) the Director of Public Works to approve Change Orders up to \$16,223.55 with St.~~

Regular City Council
November 13, 2018

~~Helena Construction for the Lyman Park Restrooms, Project C19-01 for a total not to exceed contract amount of \$60,000.00, (2) Authorizing a budget increase of up to \$10,000 for a not to exceed amount of \$60,000 for the completion of the Lyman Park Restroom Improvements Project C19-01, and (3) Authorizing a transfer from Park Impact Fee Fund 734 to Civic CIP Fund 733 upon completion of Project C19-01 for the total project amount not to exceed \$60,000.~~

- 8.6 Consideration and proposed approval of a resolution 2018-155 approving the purchase of a KIP 800 Plotter wide format color printer, copier, and scanner for an amount not to exceed \$30,608.98 with an ongoing monthly maintenance fee of \$145 from KBA Docusys

CEQA Determination: Not a CEQA project

Prepared By: Cindy Tzaopoulos, City Clerk

Recommendation:

Staff recommends City Council approve the resolution authorizing the purchase of the KIP 800 Plotter from KBA Docusys for an amount not to exceed \$30,608.98 with an ongoing monthly maintenance fee of \$145.

- 8.7 Consideration and proposed approval of a resolution 2018-156: (1) approving temporary closure of Oak Avenue between Adams Street and Tainter Street for the November 30, 2018 Home for the Holidays City tree lighting festivities, (2) authorizing possession of open alcoholic beverages on this public street, and (3) approving the waiving of the encroachment fee.

CEQA Determination: Not a CEQA project

Prepared By: Andre Pichly, Recreation Director

Recommendation:

Staff recommends the City Council of the City of St. Helena adopt the attached resolution: (1) approving temporary closure of Oak Avenue between Adams Street and Tainter Street for the November 30, 2018 Home for the Holidays City tree lighting festivities, (2) authorizing possession of open alcoholic beverages on those public streets, and (3) approving the waiving of the encroachment fee.

Council Member Mary Koberstein moved to approve items 8.2 through 8.4, 8.6 and 8.7. The motion was seconded by Vice Mayor Peter White and on roll call carried by the following vote:

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

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

Regular City Council
November 13, 2018

- 8.5 Consideration and Proposed Approval of a Resolution 2018-154 authorizing (1) the Director of Public Works to approve Change Orders up to \$16,223.55 with St. Helena Construction for the Lyman Park Restrooms, Project C19-01 for a total not to exceed contract amount of \$60,000.00, (2) Authorizing a budget increase of up to \$10,000 for a not-to-exceed amount of \$60,000 for the completion of the Lyman Park Restroom Improvements Project C19-01, and (3) Authorizing a transfer from Park Impact Fee Fund 734 to Civic CIP Fund 733 upon completion of Project C19-01 for the total project amount not-to-exceed \$60,000.

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

Prepared By: Edrees Argand, Junior Assistant Engineer

Recommendation:

Adopt a Resolution authorizing (1) the Director of Public Works to approve Change Orders up to \$16,223.55 with St. Helena Construction for the Lyman Park Restrooms, Project C19-01 for a total not to exceed contract amount of \$60,000.00, (2) Authorizing a budget increase of up to \$10,000 for a not-to-exceed amount of \$60,000 for the completion of the Lyman Park Restroom Improvements Project C19-01, and (3) Authorizing a transfer from Park Impact Fee Fund 734 to Civic CIP Fund 733 upon completion of Project C19-01 for the total project amount not-to-exceed \$60,000.

Public Works Director Erica Ahmann Smithies reported on this item.

Matt Demchuk addressed the City Council.

Vice Mayor Peter White moved to approve item 8.5. The motion was seconded by Council Member Geoff Ellsworth and on roll call carried by the following vote:

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

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

9. PUBLIC HEARINGS

- 9.1 Review and adoption of an Urgency Ordinance 2018-8 to amend and restate St. Helena Municipal Code (SHMC) Chapter 17.136.050 'Temporary Uses', to create a Temporary Use Permit and an administrative review process for such permits, citywide. This ordinance is proposed to "sunset" on March 13, 2019

Regular City Council
November 13, 2018

(120-days after adoption).

CEQA Determination: The proposed Ordinance to amend St. Helena Municipal Code Title 17 is exempt from the requirements of CEQA pursuant to Guidelines Sections 15301, 15303, and 15304 as Class 1, Class 3 and Class 4 Categorical Exemptions in that these modifications create an administrative process for the temporary use, conversion or minor alteration of existing properties, which may include the construction, modification or conversion of "Small Structures" as defined in the statute, however only for temporary and set periods of time for the use of the land; that the proposed text amendments are consistent with the environmental impact analysis of the 1993 General Plan and Zoning Code EIR, given their intent to facilitate operation of temporary activities at existing facilities, and that the proposed changes are exempt from the requirements of CEQA, under Section 15061(b)(3) in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on t

Prepared By: Noah Housh, Planning & Community Improvement Director

Recommendation:

It is recommended that the City Council:

1. Find that the adoption of the proposed Urgency Ordinance proposing to amend St. Helena Municipal Code Section 17.136.050 is exempt from the requirements of CEQA pursuant to Guidelines Sections 15301, 15303, and 15304 as Class 1, Class 3 and Class 4 Categorical Exemptions in that these modifications create an administrative process for the temporary use, conversion or minor alteration of existing properties, which may include the construction, modification or conversion of "Small Structures" as defined in the statute, however only for temporary and set periods of time for the use of the land; that the proposed text amendments are consistent with the environmental impact analysis of the 1993 General Plan and Zoning Code EIR, given their intent to facilitate operation of temporary activities at existing facilities, and that the proposed changes are exempt from the requirements of CEQA, under Section 15061(b)(3) in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and therefore, the activity is not subject to CEQA; and

2. Introduce and adopt an Urgency Ordinance to amend and restate St. Helena Municipal Code (SHMC) Chapter 17.136.050 'Temporary Uses', to create a Temporary Use Permit and an administrative review process for such permits, citywide. This ordinance is proposed to "sunset" on March 13, 2019 (120-days after adoption).

Planning Director Noah Housh reported on this item.

No public comment was received.

Regular City Council
November 13, 2018

Council Member Paul Dohring moved to introduce and adopt an Urgency Ordinance to amend and restate St. Helena Municipal Code (SHMC) Chapter 17.136.050 'Temporary Uses', to create a Temporary Use Permit and an administrative review process for such permits, citywide. This ordinance is proposed to "sunset" on March 13, 2019 (120-days after adoption). 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, Council Member Paul Dohring, Council Member Mary Koberstein, and Council Member Geoff Ellsworth
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

Mayor Galbraith called for a recess at 7:20 pm and reconvened at 7:28 pm.

10. NEW BUSINESS

- 10.1 Consideration and proposed approval of a resolution 2018-157 appointing applicants to the Parks & Recreation and Planning Commissions and consideration to leave the recruitment open for the Active Transportation & Sustainability Committee unfilled terms of office until filled

CEQA Determination: Not a CEQA project
Prepared By: Cindy Tzaferopoulos, City Clerk
Recommendation:

Per resolution 2018-75 Council Rules of Procedure, appointments shall be made by interview and appoint by ballot process. 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 June 30, 2022.

Parks & Recreation Committee

- Appoint one applicant to a term expiring June 30, 2020.

Mayor Alan Galbraith moved to appoint Robert Frescura to the Parks and Recreation Committee and Daniel Hale to the Planning Commission. 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, Council Member Paul Dohring, Council Member Mary Koberstein, and Council Member Geoff Ellsworth
NOES: None

Regular City Council
November 13, 2018

ABSENT: None
ABSTAIN: None
RECUSE: None

10.2 Human Trafficking Awareness and City Council Discussion

CEQA Determination: Not a CEQA project
Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer
Recommendation:
City Council discussion and direction to staff.

Public Works Director Erica Ahmann Smithies reported on this item.

St. Helena Soroptimist Representative Edie Kausch addressed the City Council.

The City Council directed staff to work with the St. Helena Soroptimist Club on the human trafficking awareness sign language and placement of the signs in all public restrooms.

10.3 Introduction and First Reading of an Ordinance Adding St. Helena Municipal Code ('SHMC') Title 9, Section 9.24 to adopt Mobile Home Park Rent Stabilization

CEQA Determination: Not a CEQA project
Prepared By: Mark T. Prestwich, City Manager
Recommendation:
Introduce and conduct first reading of the ordinance, by title only and waive further reading.

City Manager Mark Prestwich reported on this item.

Nora Laird, Suzanne James, Doug Johnson and Greg Reynolds addressed the City Council.

Council Member Mary Koberstein moved to introduce and conduct first reading of the ordinance, by title only and waive further reading. The motion was seconded by Council Member Geoff Ellsworth and on roll call carried by the following vote:

AYES: Council Member Paul Dohring, Council Member Mary Koberstein, and Council Member Geoff Ellsworth

NOES: Mayor Alan Galbraith and Vice Mayor Peter White

ABSENT: None
ABSTAIN: None
RECUSE: None

Regular City Council
November 13, 2018

Mayor Galbraith called for a recess at 8:53 pm and reconvened the meeting at 8:59 pm.

- 10.4 Discussion and Direction regarding California Public Utilities Commission (CPUC) Request for Input on Utility Fire Mitigation Plans (Staff report provided 11-9-2018)

CEQA Determination: Not a CEQA project
Prepared By: Mark T. Prestwich, City Manager
Recommendation:
Discuss and provide direction to the City Manager.

City Manager Mark Prestwich reported on this item.

It was the consensus of the City Council to participate in the proceedings to provide guidance and review of wildfire plan components.

- 10.5 Elmhurst Raw Water Pump Station and City Council Discussion

CEQA Determination: Not a CEQA project
Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer
Recommendation:
City Council discussion and feedback to staff.

Public Works Director Erica Ahmann Smithies reported on this item.

Tom Belt addressed the City Council.

It was the consensus of the City Council to continue following Napa's system progress and once their system is online re-evaluate whether the City of St. Helena should program the project sooner than currently forecast in the budget.

- 10.6 Fiscal Year 2018/19 1st Quarter Finance Report and consideration of a resolution 2018-158 authorizing a budget increase of \$30,000 to the Wastewater Fund, Attorney budget.

CEQA Determination: Not a CEQA project
Prepared By: April Mitts, Finance Director
Recommendation:
Staff recommends City Council approve a resolution authorizing a budget increase of \$30,000 to 571-4400-2130 and receive and file the Q1 FY 2018/19 financial report.

Finance Director April Mitts reported on this item.

Regular City Council
November 13, 2018

No public comment was received.

Vice Mayor Peter White moved to approve a resolution authorizing a budget increase of \$30,000 to 571-4400-2130 and receive and file the Q1 FY 2018/19 financial report. The motion was seconded by Council Member Mary Koberstein and on roll call carried by the following vote:

AYES: Mayor Alan Galbraith, Vice Mayor Peter White, Council Member Paul Dohring, Council Member Mary Koberstein, and Council Member Geoff Ellsworth
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

- 10.7 Discussion and Direction Regarding Potential Amendment(s) to City of St. Helena Rules of Procedure for the Conduct of City Meetings and Standards of Conduct

CEQA Determination: Not a CEQA project
Prepared By: Mark T. Prestwich, City Manager
Recommendation:
Review, discuss and provide direction to City staff.

City Manager Mark Prestwich reported on this item.

No public comment was received.

Vice Mayor Peter White moved to direct staff to update section 3.3 Code of Ethics and Conduct of the City of St. Helena Rules of Procedure for the Conduct of City Meetings and Standards of Conduct. The motion was seconded by Council Member Geoff Ellsworth and on roll call carried by the following vote:

AYES: Mayor Alan Galbraith, Vice Mayor Peter White, Council Member Paul Dohring, Council Member Mary Koberstein, and Council Member Geoff Ellsworth
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

- 10.8 Consideration of proposed adoption of a Resolution 2018-159 rescinding Resolution 2018-145 and updating portions on Main Street to the City's list of red zones (parking prohibitions)

Regular City Council
November 13, 2018

CEQA Determination: Exempt

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

Consideration of proposed adoption of a Resolution rescinding Resolution 2018-145 and updating portions on Main Street to the City's list of red zones (parking prohibitions)

Public Works Director Erica Ahmann Smithies reported on this item.

No public comment was received.

Vice Mayor Peter White moved to adopt a resolution rescinding resolution 2018-145 and updating portions on Main Street to the City's list of red zones (parking prohibitions). The motion was seconded by Council Member Geoff Ellsworth and on roll call carried by the following vote:

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

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

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

11.1

<u>November City Council Meetings:</u>
11/27 (staff reports due 11/9)
<i>PROCLAMATIONS AND PUBLIC RECOGNITION:</i>
<i>CONSENT:</i>
11/27 Acceptance of Water Tender and Brush Type 6 Engine - Finance
11/27 Award contract to Waterways for Sulphur Creek repair project – PW
11/27 Amended Coop Agreement with Caltrans for Grayson Signal for electricity(Caltrans to attend) - PW
11/27 2525 Madrona Final Map - PW
11/27 HB1 Visa - HR
<i>PH or NEW BUSINESS:</i>
11/27 1st Qtr Grant Report
11/27 Calderon Settlement update
11/27 Naveed Paydar, PhD, Local Government Liaison News & Outreach Office, Executive Division California Public Utilities

Regular City Council
November 13, 2018

Commission – Admin
11/27 Tennis Court Lighting and Resurfacing - Rec
11/27 2nd Reading of Rent Stabilization Ordinance (RSO) (Depending on City Council direction)
11/27 RSA for parking mediation and striping at Pratt - PW
<u>December City Council Meetings:</u>
12/11 (staff reports due 11/21)
12/25 Cancelled
<i>PROCLAMATIONS AND PUBLIC RECOGNITION:</i>
<i>CONSENT:</i>
12/11 Compensation schedule
12/11 Award of RFP for downtown improvements - PW
<i>PH or NEW BUSINESS:</i>
12/11 Bimonthly Goals and Objectives Update – Admin (Would go 2nd mtg but it's cancelled)
Public Works Reorganization
Discussion - Concept Review Ordinance - Planning

12. ADJOURNMENT

The meeting minutes of November 13, 2018 was adopted at the February 26, 2019 regular City Council meeting.

Mayor Galbraith adjourned the meeting at 9:34 p.m.

APPROVED:

ATTEST:

Alan Galbraith, Mayor

Cindy Tzafopoulos, City Clerk



Report to the City Council
Council Meeting of February 26, 2019

Agenda Section: Consent

Subject: Consideration and Proposed Approval of a Resolution Rescinding Resolution 2018-169 Rules of Procedure for the Conduct of Council Meetings and Re-establishing City Council Standards of Conduct, and Re-establishing Rules of Procedure for the Conduct of Council Meetings and Re-establishing City Council Standards of Conduct

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

On December 11, 2018, the City Council adopted updates to its Rules of Procedure for the Conduct of City Meetings and Standards of Conduct. The purpose of these protocols is to provide an effective environment for the City Council to provide leadership. It is expected the document will be reviewed on a regular basis and amended from time to time.

DISCUSSION

At the Special City Council Governance meeting of January 31, 2019, direction was provided to consider language additions and/or amendments. The addition and/or amendments included: (1) adding "Old Business" to the City Council regular meeting agendas, and (2) amending the meeting conclusion time. Also, City Manager Mark Prestwich requested the ability to call for a special City Council meeting. The proposed amendments will include the following underlined language:

2.2 Special, Emergency, and Adjourned Meetings

(a) Special Meetings. The Mayor or the Vice Mayor in the Mayor's absence or a majority of the members of the Council or the City Manager may at any time call a Special Meeting. At least twenty-four hours before a Special Meeting, written notice of the meeting stating its time and place and the subjects to be considered shall be (a) delivered to the Mayor and each Councilmember personally or by any other means; (b) posted on the Council's principal bulletin board, City website and place of meeting; and (c) emailed to the agenda subscribers. Only those items of business specified in the notice may be considered at a Special Meeting called in this manner.

2.3 Regular Meeting Agenda

(d) Order of Agenda. The business of the Council shall be taken up for consideration in substantially the following order except as may be otherwise ordered:

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Public Forum
5. Reports by Staff and City Council, Future Agenda Items and AB 1234 Reports
6. Presentations and Public Recognitions
7. Staff Briefing
8. Consent Items and Items Removed from Consent
9. Public Hearings
10. Old Business
11. New Business
12. Items likely to be placed on the next or future meeting agenda.
13. Adjournment

2.8 Closing Time of Council Meetings

Council meetings shall adjourn by 9:00 p.m. However, the Council may by majority vote extend the meeting up to an additional thirty minutes (9:30 p.m.) if the Council deems such extension necessary. A unanimous Council vote shall be required to extend the meeting past 9:30 p.m. and adjourn by 10:00 p.m. Otherwise, the meeting shall be adjourned to another day acceptable to the Council, or unfinished business may be continued to the next regular meeting.

2.9 Old Business

"Old Business" will include uncompleted items carried over from a prior meeting agenda and placed under this agenda heading for consideration.

Staff recommends the City Council adopt the attached resolution memorializes the City Council's direction from the Special City Council Governance meeting of January 31, 2019.

FISCAL IMPACT

None.

RECOMMENDED ACTION

Staff recommends City Council approve a Resolution Rescinding Resolution 2018-169 Rules of Procedure for the Conduct of Council Meetings and Re-establishing City Council Standards of Conduct, and Re-establishing Rules of Procedure for the Conduct of Council Meetings and Re-establishing City Council Standards of Conduct.

ATTACHMENTS

[2019 Rules of Procedure and Conduct Resolution-2.26.19](#)

[2019 Rules of Procedure and Conduct-Final for 2.26.19 Exhibit A](#)

[Rosenberg's Rules of Order Simple Parliamentary Procedures for the 21st Century](#)

CITY OF ST. HELENA

RESOLUTION NO. 2019-

**RESCINDING RESOLUTION NO. 2018-169
ADOPTING RULES OF PROCEDURE FOR
THE CONDUCT OF COUNCIL MEETINGS
AND CITY COUNCIL STANDARDS OF
CONDUCT, AND RE-ESTABLISHING
RULES OF PROCEDURE FOR THE
CONDUCT OF COUNCIL MEETINGS AND
RE-ESTABLISHING CITY COUNCIL
STANDARDS OF CONDUCT**

RECITALS

- A. WHEREAS, City Council Rules of Procedure for the Conduct of Council Meetings are established to provide an effective environment for the City Council to provide leadership; and
- B. WHEREAS, City Council Standards of Conduct are established to provide guidance to Council Members to assist in fully understanding the role and scope of the responsibilities of office; and
- C. WHEREAS, City Council reviews City Council Rules of Procedure for the Conduct of Council Meetings and reviews City Council Standards of Conduct and revise as deemed necessary.

RESOLUTION

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

- 1. Resolution No. 2018-169 Adopting Rules of Procedure for the Conduct of Council Meetings is hereby rescinded; and
- 2. City Council Rules of Procedure and Standards of Conduct are adopted and hereby made part of this resolution. Attached hereby as Exhibit A.

Approved at a Regular Meeting of the St. Helena City Council on February 26, 2019, by the following vote:

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

APPROVED:

ATTEST:

Geoff Ellsworth , Mayor

Cindy Tzafoopoulos, City Clerk

Exhibit A - City Council Rules of Procedure and Standards of Conduct

Exhibit A



CITY COUNCIL

RULES OF PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

&

STANDARDS OF CONDUCT

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APPENDIX

Exhibit–*Rosenberg’s Rules of Order*: Simple Parliamentary Procedures for the 21st Century

1. PURPOSE

The purpose for establishing City Council Protocols is to provide an effective environment for the City Council to provide leadership. The protocols may be amended by resolution adopted by a majority vote of the Council Members and should be reviewed on a regular basis to ensure that the document remains helpful to the Council by providing a framework for effective leadership.

The protocols set forth herein are not intended to limit the inherent power and general legal authority of the City Council. Any of the protocols herein may be waived by a majority vote of the Council Members when it is deemed that there is good cause to do so based upon the particular facts and circumstances.

1.1 Council-Manager Form of Government

The City of St. Helena operates according to the Council-Manager form of government which vests authority in an elected City Council which, in turn, hires an appointed executive, the City Manager. The City Council is composed of five members elected from the City on a nonpartisan basis to serve overlapping four-year terms. The Mayor is elected at-large to serve a two-year term as presiding officer at City Council meetings and as the official head of the City for legislative and ceremonial purposes. The City Manager is appointed by the City Council and serves at the pleasure of that body.

The City Council is the City's legislative and policy-making body. Acting as a whole, the City Council is responsible for setting the direction of City policy and for adopting ordinances, resolutions and other orders as necessary for governing the City. The City Manager is responsible for the overall administration of the City, which includes implementation of the general policies set by the City Council in addition to the day-to-day operation of all City functions. The City Manager, with the help of the Staff, provides the City Council with the information needed to fulfill its policy-making role.

The Council-Manager form of government separates legislative and executive responsibilities in a manner similar to state and federal governments. This system provides "checks and balances" of both policy and administrative branches of government by limiting the power of each.

1.2 City Council Vision and Mission Statement

Vision Statement

The City of St. Helena will strive to be economically sustainable, and continue to be a family-friendly, diverse and safe community which prudently manages its financial and human resources, continues to upkeep and improve its infrastructure, ensures its water security, provides a full

range of housing, business, cultural and recreational opportunities and embraces and retains its historic, small-town character, beautiful natural environment and high quality of life.

Mission Statement

The City of St. Helena is dedicated to serving the needs and desires of our citizens by:

- Maintaining and improving our short and long-term economic sustainability
- Offering excellent professional services to all customers
- Establishing, improving and maintaining City infrastructure
- Maintaining and encouraging an environmentally sustainable community
- Preserving and embracing the historic, small-town, rural character of St Helena
- Expanding and improving recreational services and facilities and cultural opportunities
- Encouraging a wide range of innovative, well-designed housing available for residents of all ages and income levels
- Facilitating full civic participation and ongoing communication
- Strengthening partnerships with the private, non-profit and public sectors

(See Resolution Number 2016-47, dated April 12, 2016.)

2. RULES OF PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

2.1 Regular Meeting

The Council shall hold a Regular Meeting on the second and fourth Tuesday of each month, except that the Council may by motion at a Regular Meeting and with adequate public notice, either cancel that meeting or reschedule it to some other date.

Regular Meetings shall be held at the Vintage Hall Board Room, 465 Main Street, St. Helena, and shall begin at 6:00 p.m. If it is necessary to hold a closed session prior to the start of a Regular Meeting, the closed session may begin earlier than the normal starting time to allow the Regular Meeting to begin at 6:00 p.m. The closed session shall begin in an open meeting and the Council shall adjourn to closed session.

2.2 Special, Emergency, and Adjourned Meetings

(a) **Special Meetings.** The Mayor or the Vice Mayor in the Mayor's absence or a majority of the members of the Council or the City Manager

may at any time call a Special Meeting. At least twenty-four hours before a Special Meeting, written notice of the meeting stating its time and place and the subjects to be considered shall be (a) delivered to the Mayor and each Councilmember personally or by any other means; (b) posted on the Council's principal bulletin board, [City website](#) and place of meeting; and (c) emailed to the agenda subscribers. Only those items of business specified in the notice may be considered at a Special Meeting called in this manner.

(b) **Emergency Meeting.** The Council may hold an Emergency Meeting in emergency situations as set forth in the City's Municipal Code and State Law.

(c) **Adjourned Meeting.** A properly called Regular, Special, or Emergency Meeting may be adjourned to a time and place specified. A copy of the notice of adjournment shall be posted as specified on the door of the place where the meeting was held within twenty-four hours after the time of the adjournment. Further notice need not be given of an adjourned session of a properly called Regular, Special, or Emergency Meeting.

2.3 Regular Meeting Agenda

(a) **Setting and Posting of Agenda.** The agenda of business to come before the Council at a Regular Meeting shall normally be closed at the end of eighteen business days preceding the meeting. Under State Law the agenda for a Regular Meeting must be posted at least seventy-two (72) hours prior to the scheduled convening of the Regular Meeting, and no items may be added to the agenda fewer than seventy-two (72) hours prior to the meeting except as may be allowed by State Law. The City Council endeavors to publish the meeting agenda at least ten days prior to the meeting.

(b) **Placing Items on the Council Agenda.** Each City Council agenda shall specifically provide for a discussion of Future Agenda Items. Any Council Member may request that an item be considered on a future agenda during that portion of the City Council meeting and, upon agreement by a second Council Member concurring that Staff time and City resources should be expended on the item, the item shall be placed on the soonest practical regularly scheduled Council meeting as determined by the City Manager. A member of the public may request that an item be placed on a future agenda during Public Forum or through other communication with a Council Member. Staff reports may not be prepared on Council Member requested items until Council discussion has occurred and direction provided by the Council unless Staff otherwise determines. If Council action is contemplated, proposed action shall be included in the Staff report. The City Manager may also add any item of business to a future agenda in his or her sole discretion.

(c) **Agenda Packet Distribution.** Each Councilmember shall be furnished a copy of the agenda and the package of agenda material by 5:00 p.m., on the Friday eleven days preceding a Regular Meeting, and the agenda and agenda materials shall be available for public inspection and distribution or copying at that time. Each Councilmember may opt out from receiving a paper agenda and instead receive and review the agenda electronically on a City issued iPad. Any agenda materials not included in the agenda package by 5:00 p.m., that Friday shall be separately identified, and the Council may by majority vote continue such agenda item until the following meeting to allow for proper study of the materials.

(d) **Order of Agenda.** The business of the Council shall be taken up for consideration in substantially the following order except as may be otherwise ordered:

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Public Forum
5. Reports by Staff and City Council, Future Agenda Items and AB 1234 Reports
6. Presentations and Public Recognitions
7. Staff Briefing
8. Consent Items and Items Removed from Consent
9. Public Hearings
- 9-10. Old Business
- 10-11. New Business
- 11-12. Items likely to be placed on the next or future meeting agenda.
- 12-13. Adjournment

(e) A copy of the agenda and the package of agenda materials shall be made available for public inspection at City Hall and at the St. Helena Public Library at or near the time they are circulated to the City Council.

2.4 Public Testimony and Comments Before the Council

(a) **Addressing the Council Generally.** Each person addressing the Council may give his or her name and address (optional) in an audible tone of voice for the record. Each person's comments are limited to four minutes except as provided in section (b) regarding land use Public Hearings. In the further interest of time, speakers may be asked to limit their comments to new materials and not repeat what a prior speaker said.

Organized groups may choose a single spokesperson who may speak for the group. Speakers may not concede their allotted time to another speaker. The Mayor may extend time for the speaker.

(b) **Addressing Council at Land Use Public Hearings.** An applicant appellant at a land use Public Hearing shall be permitted to address the Council for 15 minutes following the Staff report. If there is a spokesperson for the opposition, the spokesperson shall be permitted to speak for 15 minutes. All other speakers are limited to four minutes each. Applicant shall first be permitted five minutes at close of public comments for rebuttal. If the applicant is the appellee the appellant shall have 15 minutes, the applicant appellee shall have 15 minutes, the appellant five minutes, and the applicant appellee five minutes.

(c) **Presentation by Spokesperson.** Whenever any group of persons wishes to address the Council on the same subject matter, it shall be proper for the Mayor to request that a spokesperson be chosen by the group to address the Council, and, in case additional matters are to be presented at the time by any other member of the group, to limit the number of persons so addressing the Council so as to avoid unnecessary repetition before the Council.

(d) **Irrelevant Testimony.** The Mayor shall rule out of order any testimony not relevant to the agenda item then under discussion.

(e) **Protocol.** The purpose of public testimony is for Councilmembers to benefit from the views of the public. Comments from the public should be directed towards the Council. Councilmembers and Staff should avoid entering into a dialogue with members of the public who may address the Council. Questions raised by members of the public may be referred to Staff.

(f) **Public Comment on Agendized Items.** Members of the public are entitled to speak on any item on the agenda during a Public Hearing on the subject matter opened by the Mayor. Each person is entitled to speak on any agenda item only once at any meeting, and the right to speak at the appropriate time waives any further right to address the Council on that item at that meeting. Participation in debate on any item before the Council shall be limited to members of the Council, although Councilmembers may ask members of the public for additional information.

(g) **Public Comment on Non-Agendized Items.** Members of the public are entitled to speak on matters of municipal concern not on the agenda, during consideration of that portion of the meeting agenda entitled "Public Forum" when that item is called by the Mayor. Each person is entitled to speak on non-agendized items 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

may take place unless and until the matter properly appears on the agenda.

2.5 Roll Call and Voice Votes

A roll call vote shall be taken on the approval of the Consent Calendar, the introduction of ordinances, and the adoption of ordinances, resolutions, and orders for the payment of money. Roll call votes shall be entered in the minutes of the Council showing those members voting yes, those voting no, and those abstaining or absent.

Any other motion may be passed by voice vote provided, however, that any Councilmember may request a roll call vote on any items to be voted on.

2.6 Consent Items

Those items on the agenda considered routine by the City Manager shall be grouped together under "Consent Items" and the recommended actions approved by a single vote of the Council. At the request of any Councilmember or any other person, a Consent Item shall be considered separately following approval of the remaining "Consent Items." Items approved under the heading "Consent Items" will appear in the Council minutes in their proper form, as if approved item by item.

2.7 Reports

Under the agenda heading "Reports" the City Manager, other City Staff, and Councilmembers may make reports on matters not on the agenda. Also at this time, Councilmembers or Staff may identify issues or agenda items that need to be addressed by the City Attorney during the meeting, and may propose future agenda items.

2.8 Closing Time of Council Meetings

Council meetings shall adjourn by 9:40:00 p.m. However, the Council may by majority vote extend the meeting up to an additional thirty minutes (9:40:30 p.m.) if the Council deems such extension necessary. A unanimous Council vote shall be required to extend the meeting past 9:40:30 p.m. and adjourn by 10:00 p.m. Otherwise, the meeting shall be adjourned to another day acceptable to the Council, or unfinished business may be continued to the next regular meeting.

2.9 Old Business

"Old Business" will include uncompleted items carried over from a prior meeting agenda and placed under this agenda heading for consideration.

2.109 New Business

The Council shall not consider any resolution, motion, or matter which does not affect the conduct of the business of the City of St. Helena or its corporate powers or duties as a municipal corporation nor shall the Council consider any resolution or motion supporting or disapproving any legislation or action pending in the Legislature of the State of California, the Congress of the United States or before any officer or agency of the State or Nation unless such proposed legislation or action, if adopted, will affect the conduct of the municipal business or the powers and duties of the City of St. Helena or its officers or employees as such.

2.110 Office of the Mayor

The Mayor shall preside at meetings of the Council, shall be entitled to vote on all matters, and shall be considered a Councilmember for all purposes, including the determination of whether a quorum is present. The Mayor will recognize members that wish to speak.

The Mayor shall have the following powers:

- a) To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
- b) To enforce the Council's rules regarding public testimony and to determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
- c) To ensure that the public has reasonable opportunity to be heard;
- d) To entertain and answer questions of parliamentary law or procedure;
- e) To call a brief recess at any time;
- f) To adjourn in an emergency;
- g) To appoint a Vice Mayor subject to Council approval who shall serve during the term of the Mayor, and becomes the Mayor Pro Tempore in the Mayor's absence.

2.124 Office of Mayor Pro Tempore

A Councilmember who serves as Mayor pro tempore shall be entitled to vote on all matters and shall be considered a Councilmember for all purposes, including the determination of whether a quorum is present. In the Mayor's absence, the Mayor pro tempore shall have the Mayor's powers and duties. If the Mayor should become physically or mentally unable to perform the duties of his or her office, the other Councilmembers may by unanimous vote declare the Mayor is

incapacitated and confer the Mayor's powers and duties on the Mayor pro tempore.

When the Mayor declares that he or she is no longer incapacitated, and a majority of the Council concurs, the Mayor shall resume the exercise of his or her powers and duties. If both the Mayor and the Mayor pro tempore are absent from a meeting, the Council may elect from among its members a temporary chair to preside at the meeting.

2.132 Action by the Council

Action by the Council shall be by motions made and voted upon. A motion shall require a second. The Mayor and any other Councilmember may make or second a motion. A substantive motion is out of order while another substantive motion is pending.

2.143 Adoption by Majority Vote

A motion shall be adopted by a majority of the votes cast, a quorum being present, unless otherwise required by these rules or the laws of California. Resolutions, orders for the payment of money, and all ordinances require at least three votes for passage.

2.154 Discussion

The City Council shall address an agenda item as follow:

- (a) Staff shall introduce the agenda item and present the Staff report.
- (b) City Council shall ask questions of Staff.
- (c) The Mayor will invite public comment on the item.
- (d) Having received all public testimony, the Council will deliberate on the matter.
- (e) If appropriate, the Mayor will entertain a motion, including any motion proposed by the Mayor.
- (f) If a motion has received a second, the Mayor shall state the motion and if any Council Member wishes for the discussion, open for additional Council discussion.
- (g) The Mayor shall preside over the discussion according to the following general principles:
 - 1. The maker of the motion is entitled to speak first;
 - 2. A person who has not spoken on the issue shall be recognized before someone who has already spoken;

3. To the extent possible, the discussion shall alternate between opponents and proponents of the measure.

2.165 Ratification of Actions

To the extent permitted by law, the Council may ratify actions taken on its behalf but without its prior approval. A motion to ratify is a substantive motion.

2.176 Procedural Motions

- (a) In addition to substantive proposals, the following procedural motions, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption.
- (b) To Adjourn. The motion may be made only at the conclusion of action of a pending substantive matter; it cannot interrupt deliberation of a pending matter.
- (c) To Take a Brief Recess.
- (d) Call to Follow the Agenda. The motion must be made at the first reasonable opportunity, or the right to make it is waived for the out-of-order item in question.
- (e) To Suspend the Rules. The motion requires for adoption a vote of a majority of the quorum of the Council. The Council may not suspend provisions of the rules that are state requirements imposed by law on the Council.
- (f) To Divide a Complex Motion and Consider It by Paragraph.
- (g) To Call the Previous Question. The motion is not in order until every member has had an opportunity to speak once.
- (h) To Continue an Item to a Future Meeting Certain.
- (i) To Refer to Staff for Action.
- (j) To Amend. An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if the amended motion has the same effect as rejection of the original motion. A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last amendment is disposed of by a vote.
- (k) To Reconsider. The motion must be made by a member who voted with the prevailing side, and only at the meeting during which the original vote was taken, including any continuation of that meeting through adjournment to a time and place certain, or at the next Regular Meeting unless intervening actions taken based on the original action make such reconsideration impracticable. The

motion cannot interrupt deliberation on a pending matter, but is in order at any time before final adjournment of the meeting.

- (l) To Rescind or Repeal a Previous Action. A motion to rescind or repeal a previous action is not in order if the rescission or repeal is forbidden by law or made inappropriate by virtue of actions taken in accordance with the previous action.
- (m) To call for a Straw Vote. The Mayor, at the Mayor's discretion, may call for a Straw Vote among members on any item prior to inviting public testimony or Council comment.

2.187 Withdrawal of Motion

A motion may be withdrawn by the introducer at any time before a vote, with or without the consent of any "seconder" of the motion. However, any other Councilmember may ask to be considered the introducer of the motion and, if again seconded, debate may continue without further interruption.

2.198 Duty to Vote

Every member must vote on every item unless prevented from doing so by virtue of an actual or potential conflict of interest under applicable State Law. Any member who believes he or she has a conflict or potential conflict of interest must announce such at the initiation of discussion or when such conflict or potential conflict becomes apparent, and shall refrain from any part in the debate, deliberations, or voting on that issue, except as allowed by State Law.

2.2019 Introduction and Passage of Ordinance

A proposed ordinance shall be deemed to be introduced on the date the subject matter is first voted on by the Council. The Mayor shall read the title of the ordinance, after which a roll call vote shall be taken to introduce the ordinance. The City Clerk shall then read the ordinance in its entirety unless such reading is waived by a separate motion adopted by unanimous vote of the Councilmembers present. An ordinance, other than an urgency, may not be passed within five days of its introduction or alteration. Corrections of typographical or clerical errors are not alterations.

2.210 Closed Sessions

- (a) The Council may hold closed sessions only as provided for by law and according to the provisions herein.
- (b) As part of any regular or special City Council meeting as appropriate, the City Council, the City Attorney, and relevant Staff may discuss and agree upon the need for any future closed sessions, including

the legal authority for the closed session and the nature of the matter to be discussed, in adequate detail to meaningfully inform the public while maintaining required confidentiality and any applicable attorney-client privilege. Where the City Manager and City Attorney agree that the nature of a matter requires consideration in closed session, the requirement for prior open session discussion shall not apply.

- (c) The City Council agenda for any regular or special Council meeting shall include general information about closed sessions as follows:

The City Council will convene in open session at the stated time, but will then adjourn to address any closed sessions items listed on the agenda. The public is invited to address the Council with comment on any listed closed session item immediately prior to Council's adjournment into closed session or consistent with any other provisions permitting public comment. The Council will reconvene in Public Session at 6:00 p.m. or at the first Council meeting following any closed session. At that time, if appropriate and as required under the Brown Act, any actions taken during the preceding closed session will be announced by the City Attorney or Mayor. If necessary, the Council may reconvene in closed session to continue discussion of listed items following the completion of open session business.

- (d) The City Council agenda for any regular or special Council meeting at which the Council will adjourn to closed session shall provide notice of that closed session as provided for under the Brown Act and shall include a narrative description of the legal authority for the closed session and the nature of the matter to be discussed in adequate detail to inform the public while maintaining required confidentiality or any applicable attorney-client privilege. Reporting out of closed session shall be consistent with the requirements of Brown Act, and may be of greater detail than required when the disclosure of such detail is not inconsistent with maintaining required confidentiality and any applicable attorney-client privilege.

2.224 Quorum

A majority of the actual membership of the Council, including the Mayor but excluding vacant seats, shall constitute a quorum. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

2.232 Telephonic Attendance Of Council Members At Council Meetings

- (a) The City Council Procedures provisions concerning Telephonic Attendance shall apply to all Boards and Commissions as well as the City Council. Requests by Council Members to attend a Council meeting via telephonic appearance are actively discouraged. Telephonic attendance shall only be permitted in the event of extraordinary events such as a medical, family or similar emergency requiring a Council Member's absence. In addition, at least a quorum of the Council must participate from a location within the City (Government Code Section 54953(b)(3)).
- (b) If these two threshold requirements are met, the Council Member who will be appearing telephonically must ensure that:
 - 1. The meeting agenda identifies the teleconference location and is posted at that location in an area that is accessible and visible 24 hours a day for at least 72 hours prior to the meeting.
 - 2. The teleconference location is open and fully accessible to the public, and fully accessible under the Americans with Disabilities Act, throughout the entire meeting. These requirements apply to private residences, hotel rooms, and similar facilities, all of which must remain fully open and accessible throughout the meeting, without requiring identification or registration.
 - 3. The teleconference technology used is open and fully accessible to all members of the public, including those with disabilities.
 - 4. Members of the public who attend the meeting at the teleconference location have the same opportunity to address the Council from the remote location that they would if they were present in Council Chambers.
 - 5. The teleconference location must not require an admission fee or any payment for attendance.
 - 6. If the Council Member determines that any or all of these requirements cannot be met, he or she shall not participate in the meeting via teleconference.
- (c) Approved Teleconference Guidelines for Council Members:
 - 1. One-week advance written notice must be given by the Council Member to the City Clerk's office; the notice must include the address at which the teleconferenced meeting will occur, the address the Council packet should be mailed to, who is to initiate the phone call to establish the teleconference connection, and the phone number of the teleconference location. Cellular telephones shall not be used to participate in teleconferenced meetings.

2. The Council Member is responsible for posting the Council agenda in the remote location, or having the agenda posted by somebody at the location and confirming that posting has occurred. The City Clerk will assist, if necessary, by faxing or mailing the agenda to whatever address or fax number the Council Member requests; however, it is the Council Member's responsibility to ensure that the agenda arrives and is posted. If the Council Member will need the assistance of the City Clerk in delivery of the agenda, the fax number or address must be included in the one-week advance written notice above.

3. The Council Member must ensure that the location will be publicly accessible while the meeting is in progress.

4. The Council Member must state at the beginning of the Council meeting that the 72-hour posting requirement was met at the location and that the location is publicly accessible. The Council Member also must describe the location. Furthermore, the City Clerk will provide Council with a quarterly report detailing the telephone charges associated with teleconferenced meetings.

2.243 Public Hearings

Public Hearings shall be scheduled and notice published without any action required by the City Council, excepting that the Council may, if it so desires, scheduled a Public Hearing on an item of interest for a date certain. In order to accommodate members of the public responding to a noticed Public Hearing, such Hearings will, to the extent practicable, begin at 6:00 p.m. At the time designated for the Public Hearing, or soon after as is practicable, the Mayor shall direct the attention of the Council Members to the Staff report and Staff may respond to questions from Council members, after which the Mayor shall formally open the Public Hearing and members of the public shall be allowed to speak in accordance with the rules set forth elsewhere in these Rules of Procedure. When the allotted time expires, or when no one wishes to speak who has not done so, the Mayor shall declare the hearing closed.

Following the close of the Public Hearing, the Council may discuss or take action on the matter in accordance with these rules. The Mayor may in his or her discretion allow questions and/or comments from the public after close of Public Hearing.

2.254 Appointments to Committees and Boards

The City Clerk posts a Notice of Vacancy in the City designated posting locations, the City's website and sends a Media Release to the St. Helena Star advertising vacancies to Commissions, Committees and Boards.

Applicants must submit a completed application to the City Clerk and shall be interviewed by the Council at a special meeting prior to a regular meeting. Applicants are requested to list references on their applications and individual Council Members may contact those references as part of the interview process. Council Members contacting references should disclose this information during the appointment process.

Council reviews applicants for appointments to Commissions, Committees and Boards based on interviews and qualifications. Council shall rank all applicants from highest to lowest and appoint by ballot process. Mayor shall nominate applicants and appointments are subject to approval by the majority of Council.

Depending on the qualifications of the applicants and the needs of the City, there may be times when the City Council does not appoint an applicant who has applied. If an applicant is not appointed, the City Clerk will automatically readvertise for the vacant position(s) to seek additional applicants.

2.265 Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century

All procedural matters not otherwise provided for in or controlled by state law or by any ordinance, resolution, rule or regulation of the City shall be governed by Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century (attached as Exhibit). However, no ordinance, resolution, or other action of the Council shall be invalidated or the legality thereof otherwise affected by the failure or omission of the Council to observe or follow such rules. Certain procedures relating to motions, agenda item discussion, debate, and courtesies contained in *Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century* are incorporated into this document, except to the extent they are modified by this Protocol document.

3. CITY COUNCIL STANDARDS OF CONDUCT

3.1 Policy Purpose

The St. Helena City Council adopts this Code of Ethics and Conduct to assure that all elected and appointed officials, while exercising their office, conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of St. Helena's City government.

3.2 Ethics

The citizens and businesses of St. Helena are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Are independent, impartial and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility.

Therefore, members of the City Council, City Treasurer, and City Clerk and of all Boards, Committees and Commissions shall conduct themselves in accordance with the following ethical standards:

(a) **Act in the Public Interest.** Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of St. Helena and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before them.

(b) **Comply with both the spirit and the letter of the Law and City Policy.** Members shall comply with the laws of the nation, the State of California and the City of St. Helena in the performance of their public duties.

(c) **Conduct of Members.** The professional and personal conduct of members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, Boards, Committees and Commissions, the Staff or public.

(d) **Respect for Process.** Members shall perform their duties in accordance with the processes and rules of order established by the City Council.

(e) **Conduct at Public Meetings.** Members shall prepare themselves for public issues, listen courteously and attentively to all public discussions before the body, and focus on the business at hand.

(f) **Decisions Based on Merit.** Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adjudicative decisions (those decisions where the member is called upon to determine and apply facts peculiar to an individual case), members shall maintain an open mind until the

conclusion of the hearing on the matter and shall base their decisions on the facts presented at the hearing and the law.

(g) **Communication.** Members shall publicly disclose substantive information that is relevant to a matter under consideration by the body which they may have received from sources outside of the public decision-making process.

(h) **Conflict of Interest.** In order to assure their independence and impartiality on behalf of the common good and compliance with conflict of interest laws, members shall use their best efforts to refrain from creating an appearance of impropriety in their actions and decisions. Members shall not use their official positions to influence government decisions in which they have (a) a material financial interest, (b) an organizational responsibility or personal relationship which may give the appearance of a conflict of interest, or (c) a strong personal bias.

A member who has a potential conflict of interest regarding a particular decision shall disclose the matter to the City Attorney and reasonably cooperate with the City Attorney to analyze the potential conflict. If advised by the City Attorney to seek advice from the Fair Political Practices Commission (FPPC) or other appropriate state agency, a member shall not participate in a decision unless and until he or she has requested and received advice allowing the member to participate. A member shall diligently pursue obtaining such advice. The member shall provide the Mayor and the City Attorney a copy of any written request or advice, and conform his or her participation to the advice given. In providing assistance to members, the City Attorney represents the City and not individual members.

In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and if they have a conflict of interest regarding a particular decision, shall not, once the conflict is ascertained, participate in the decision and shall not discuss or comment on the matter in any way to any person including other members unless otherwise permitted by law.

(i) **Gifts and Favors.** Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office that is not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.

(j) **Confidential Information.** Members must maintain the confidentiality of all written materials and verbal information provided to

members which is confidential or privileged. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

(k) **Use of Public Resources.** Members shall not use public resources which are not available to the public in general (e.g., City Staff time, equipment, supplies or facilities) for private gain or for personal purposes not otherwise authorized by law.

(l) **Representation of Private Interests.** In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any Board, Committee, Commission or proceeding of the City, nor shall members of Boards, Committees and Commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

(m) **Advocacy.** Members shall represent the official policies or positions of the City Council, Board, Committee or Commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of St. Helena, nor will they allow the inference that they do. Councilmembers and Board, Committee and Commission members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, or Board, Committee and Commission meetings, or other official City meetings.

(n) **Policy Role of Members.** Members shall respect and adhere to the council-manager structure of St. Helena City government as outlined in the St. Helena City Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City Staff, Boards, Committees and Commissions, and the public. Except as provided by the City Code, members shall not interfere with the administrative functions of the City or the professional duties of City Staff; nor shall they impair the ability of Staff to implement Council policy decisions.

(o) **Independence of Boards, Committees and Commissions.** Because of the value of the independent advice of Boards, Committees and Commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the

deliberations or outcomes of Board, Committee and Commission proceedings.

(p) **Positive Work Place Environment.** Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to Staff.

3.3 Code of Ethics and Conduct

The Code of Ethics and Conduct are designed to describe the manner in which elected and appointed officials should treat one another, City Staff, constituents, and others they come into contact with while representing the City of St. Helena.

(a) Elected and Appointed Officials' Conduct with Each Other in Public Meetings

Elected and appointed officials are individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even though individuals may not agree on every issue.

1. Honor the role of the chair in maintaining order

It is the responsibility of the chair to keep the comments of members on track during public meetings. Members should honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.

2. Practice civility and decorum in discussions and debate

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of debate by a free democracy in action. Free debate does not require nor justify, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments.

3. Avoid personal comments that could offend other members

If a member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.

4. *Demonstrate effective problem-solving approaches*

Members have a public stage and have the responsibility to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

(b) Elected and Appointed Officials' Conduct with the Public in Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

1. *Be welcoming to speakers and treat them with care and gentleness.*

- a. While questions of clarification may be asked, the official's primary role during public testimony is to listen.

2. *Be fair and equitable in allocating public hearing time to individual speakers.*

- a. The chair will determine and announce limits on speakers at the start of the public hearing process.

3. *Practice active listening*

- a. It is disconcerting to speakers to have members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time or gazing around the room gives the appearance of disinterest. Members shall try to be conscious of facial expressions, and avoid those that could be interpreted as "smirking," disbelief, anger or boredom.

4. *Maintain an open mind*

- a. Members of the public deserve an opportunity to influence the thinking of elected and appointed officials.

5. *Ask for clarification, but avoid debate and argument with the public*

- a. Only the chair – not individual members – can interrupt a speaker during a presentation. However, a member can ask the chair for a point of order if the speaker is off the

topic or exhibiting behavior or language the member finds disturbing.

(c) Elected and Appointed Officials' Conduct with City Staff

Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected, and City Staff who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

1. *Treat all Staff as professionals*

- a. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards Staff is not acceptable.

2. *Do not disrupt City Staff from their jobs*

- a. Elected and appointed officials should not disrupt City Staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City Staff meetings unless requested by Staff – even if the elected or appointed official does not say anything, his or her presence implies support, shows partiality, may intimidate Staff, and hampers Staff's ability to do their job objectively.

3. *Never publicly criticize an individual employee*

- a. Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about Staff performance should only be made to the City Manager through private correspondence or conversation. Appointed officials should make their comments regarding Staff to the City Manager or the Mayor.

4. *Do not get involved in administrative functions*

- a. Elected and appointed officials acting in their individual capacity must not attempt to influence City Staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.

5. *Do not solicit political support from Staff*

- a. Elected and appointed officials should not solicit any type of political support (financial contributions, display of

posters or lawn signs, name on support list, etc.) from City Staff. City Staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

6. No Attorney-Client Relationship

- a. Members shall not seek to establish an attorney-client relationship with the City Attorney, including his or her Staff and attorneys contracted to work on behalf of the City. The City Attorney represents the City and not individual members. Members who consult with the City Attorney cannot enjoy or establish an attorney-client relationship with the attorney.

(d) Council Conduct with Boards, Committees and Commissions

The City has established several Boards, Committees and Commissions as a means of gathering more community input. Citizens who serve on Boards, Committees and Commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

1. Respect Role of Liaison to City's Boards, Committees and Commissions

Several of the City's Boards, Committees and Commissions have a Council Member who serves as its Council liaison. The City Council will collectively review and approve liaison appointments annually. Council Members serving as liaisons should act as an advisor and resource to committee/board/commission members and the committee/board/commission's Staff liaison when issues regarding process, procedure, attendance, interpersonal or public relations arise.

2. Respect that Boards, Committees and Commissions serve the community, not individual Councilmembers

The City Council appoints individuals to serve on Boards, Committees and Commissions, and it is the responsibility of Boards, Committees and Commissions to follow policy established by the Council. But Board, Committee and Commission members do not report to individual Councilmembers (whether or not they are serving as liaisons), nor should Councilmembers feel they have the power or right to threaten Board, Committee and Commission members with removal if they disagree about an issue. Appointment and re-appointment to a Board, Committee or Commission should be

based on such criteria as expertise, ability to work with Staff and the public, and commitment to fulfilling official duties. A Board, Committee or Commission appointment should not be used as a political "reward."

3. *Be respectful of diverse opinions*

A primary role of Boards, Committees and Commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on Boards, Committees and Commissions, but must be fair and respectful of all citizens serving on Boards, Committees and Commissions.

4. *Keep political support away from public forums*

Board, Committee and Commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support Board, Committee and Commission members who are running for office, but not in an official forum in their capacity as a Councilmember.

(e) Elected and Appointed Officials' Conduct With Each Other and the Public in Private Encounters

1. *Continue Respectful Behavior in Private*

The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions, and set forth above in subsections (a) through (d), should be maintained in private conversations, including telephone calls, texts, e-mails or other forms of communication. Council Members and appointed officials shall refrain from abusive conduct, intimidation, bullying tactics, personal charges, or verbal attacks upon the character or motives of other members or the public.

2. *Be Aware of the Insecurity (Non-Confidentiality) of Written Notes, Texts, Voicemail and E-mail*

Technology allows words written or said without much forethought to be distributed wide and far. Would you feel comfortable to have this note faxed to others? How would you feel if this voicemail message was played on a speakerphone in a full office? What would happen if this E-mail or text message were forwarded to others? Written notes, voicemail messages, texts and E-mail should be treated as potentially "public" communication.

3. *Understand that Even Private Conversations can have Public Presence*

Elected and appointed officials are always on display — their actions, demeanor, fitness, mannerisms, language and timing and form of communication are monitored by people around them that they may not know. Lunch table conversations will be eavesdropped upon,

parking lot debates will be watched, late-night e-mails will be questioned and casual comments between individuals before and after public meetings noticed.

3.4 Enforcement and Sanctions

(a) Acknowledgement of Code of Ethics and Conduct

Upon assuming office each Councilmember, and each Board, Committee and Commission Member ("Member"), shall sign a statement affirming that he or she has been provided with and has read the Code of Ethics and Conduct. Each Councilmember, Board, Committee and Commission Member, shall adhere to the Code of Ethics and Conduct as well as the Council's Rules of Procedure. Councilmembers who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct shall be ineligible for intergovernmental assignments or Council subcommittees. Board, Committee and Commission members who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct are not eligible to hold office.

(b) Ethics Training for Local Officials

Councilmembers, City Treasurer, City Clerk, Board, Committee and Commission Members shall report annually to the City Clerk with respect to his or her compliance with State or City mandated requirements for ethics training. Councilmembers, City Treasurer, City Clerk, Board, Committee and Commission Members who are out of compliance with State or City mandated requirements for ethics training shall not represent the City on intergovernmental assignments or Council subcommittees and may be subject to sanctions.

(c) Behavior and Conduct

The St. Helena Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the St. Helena City Council, Boards, Committees and Commissions. Each Member him or herself has the primary responsibility to assure that he or she understands and satisfies the ethical standards, so that the public can continue to have full confidence in the integrity of government. The chairs of Boards, Committees and Commissions and the Mayor and Council have the additional responsibility to intervene when actions of Members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention. Without violating Brown Act serial meeting requirements, individual Members should point out to the offending Member perceived infractions of the Code of Ethics and Conduct. If the offenses continue, then the process under 3.4(e) 1-10 shall govern.

(d) Council Authority

Under California law, the Council does not have the legal authority to remove Members elected or appointed to the City Council or to otherwise deprive them of their office. However, as provided in Section 3.4(e) 9., a majority of the Councilmembers may remove a Councilmember from any or all Council honorary and/or ceremonial positions and ad-hoc and standing committees, as well as from positions with other governmental agencies or other organizations they hold by virtue of appointment by the City Council.

(e) Process to Address Alleged Violation of Code of Ethics and Conduct

1. *Complaint.* Where any person has substantial evidence that a Member has materially violated the Code of Ethics and Conduct, he or she may file a written statement with the City Clerk who will then provide it to the City Council, and the affected Member. The name of the complainant shall initially be redacted and kept confidential and not disclosed until it has been determined as provided in Section 3.4(e) 2 that there is substantial evidence that the Member has materially violated the Code of Ethics and Conduct.

“*Substantial evidence*” means evidence that reasonably supports a conclusion. It does not mean simply any evidence, nor does it include mere opinions. It must be reasonable in nature, credible, and of solid value.

2. *Hearing Officer.* Upon receipt of a Complaint as provided in Section 3.4(e) 1., or upon the direction of the City Council, the Mayor, in consultation with the City Manager, shall make a preliminary determination whether there is substantial evidence to support a conclusion that a Member has materially violated the Code of Ethics and Conduct, thereby warranting the further proceedings below. If the Mayor either submitted the Complaint or is the subject of the Complaint, the Vice Mayor (and who is not the subject of the complaint) shall make the preliminary determination as provided above.

If the Mayor (or, where the Mayor is disqualified as set forth above, the Vice Mayor) makes the initial determination that there is substantial evidence to support a conclusion that a Member has materially violated the Code of Ethics and Conduct, thereby warranting the further proceedings, he or she, in consultation with the City Manager, shall appoint an independent Hearing Officer to review and investigate the Complaint. If the Mayor either submitted the Complaint or is the subject of the Complaint, the Vice Mayor (and who is not the subject of the complaint) shall appoint the Hearing Officer as provided above.

In the event both the Mayor and Vice Mayor are disqualified as set forth above or otherwise unable to carry out the duties under this Section, the Council member with the longest tenure shall do so. If two or more Council members have equal tenure, the Council member (who is not the subject of the Complaint) shall be selected by a process of drawing straws supervised by the City Clerk.

3. *Investigation.* To the extent reasonably practicable, the Hearing Officer shall investigate and report, within not more than thirty (30) days, as to whether there is substantial evidence in support of an allegation that a Member has materially violated the Code of Ethics and Conduct. If the Hearing Officer concludes that there is not substantial evidence to support an alleged violation, or that the violation was not material, he or she shall so report to the Council and the matter shall be deemed dismissed unless the Council directs that a public hearing be held pursuant to Section 3.4(e) 5. If the Hearing Officer concludes that there is substantial evidence to support an alleged material violation of the Code of Ethics and Conduct, he or she shall issue a report ("Report") to the City Council and the Member. The Hearing Officer shall allow the affected Member a reasonable opportunity to provide any written comments, evidence and/or arguments which the Hearing Officer shall consider in the investigation and Report.
4. *Enforcement.* The City Council, in its sole discretion, shall enforce the Code of Ethics and Conduct against Members depending upon the extent and severity of the violation by means of either (i) a warning (ii) a written reprimand; (iii) censure; (iv) removal from assignments; or (v) other action as deemed appropriate to the City Council, including without limitation disavowal and/or disapproval of the Member's violation and/or other action and/or statement. The following procedure shall be utilized:
5. *Receipt of Report.* As reasonably practicable, within 30 days after receipt of the Report, the Council will hold a public hearing after which it will determine, among any other determination the Council may deem appropriate, whether the Complaint should be dismissed, a warning should be issued, a written reprimand should be issued, censure issued, or the Member should be removed from his or her office (only for Members other than Council members) or assignments. The City shall provide written notice of the public hearing and opportunity to be heard to the affected Member. The City Council determination shall be set forth in written findings that the Council may direct staff to prepare for subsequent Council approval.
6. *Dismissal.* Where the Council, based on the Report and any statement from the affected Member, determines that it is clear that no violation occurred or that only a trivial or de minimus violation occurred, or that the Complaint was motivated by revenge or other improper motive, the Council may dismiss the Complaint.
7. *Warning.* Where the Council, based on the Report and any statement from the affected Member, determines that there is some evidence that only a minor violation or a questionable practice has occurred, the Council may issue a written warning to the affected Member specifying the violation(s) and requesting corrective action.
8. *Reprimand.* Where the Council, based on the Report, any statement from the affected Member, and other evidence accepted, determines that there is

substantial evidence that the Member has materially violated one or more provisions of the Code of Ethics and Conduct, the Council may adopt a resolution reprimanding the affected Member for their conduct, stating that any violations shall cease, and requesting corrective action. The affected Member may file a rebuttal to the Reprimand with the City Clerk which will become a matter of public record.

9. *Censure.* Where the Council, based on the Report, any statement from the affected Member, and other evidence accepted at a public hearing of the matter, determines that there is substantial evidence that the Member has materially violated one or more provisions of the Code of Ethics and Conduct, and that such violation(s) impugn the integrity or dignity of the City or that such violations are egregious or chronic in nature, then the Council may adopt a resolution censuring the affected Member by condemning his or her actions, removing the Member from all appointive positions representing the City in front of other governments and agencies, demoting the affected Commissioner, Committee or Board member appointed by the City Council who holds a position of chairperson or vice chairperson, stating that the violations shall cease, and demanding corrective actions. The affected Member may file a rebuttal to the Censure with the City Clerk which will become a matter of public record.
10. *Removal from Office.* Notwithstanding any of the provisions in this Section 3.4, the City Council may remove any Commissioner, Committee or Board member appointed by the City Council at its pleasure, and nothing in the Code of Ethics and Conduct or these rules effects or diminishes such power nor vests such Commissioners or Board members with any additional rights.

3.5 Implementation

The Code of Ethics and Conduct is intended to be self-enforcing and is an expression of the standards of conduct for members expected by the City. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, this document shall be included in the regular orientations for candidates for City Council, City Treasurer, City Clerk, applicants to Board, Committee and Commissions, and newly elected and appointed officials. Members entering office shall sign a statement (example below) acknowledging they have read and understand the Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be periodically reviewed by the City Council, Boards, Committees and Commissions, and updated it as necessary.

Example:

I affirm that I have read and understand the City of St. Helena Code of Ethics and Conduct for Elected and Appointed Officials.

Signature

Date

Exhibit

Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century



MISSION:

To restore and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

VISION:

To be recognized and respected as the leading advocate for the common interests of California cities.



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"Rosenberg's Rules of Order" first appeared in *Western City* magazine in August and September 2003.

About the Author

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Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century

by Dave Rosenberg

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that hasn't always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules, *Robert's Rules of Order*, which are embodied in a small but complex book. Virtually no one I know has actually read this book cover to cover.

Worse yet, the book was written for another time and purpose. If you are running the British Parliament, *Robert's Rules of Order* is a dandy and quite useful handbook. On the other hand, if you're running a meeting of a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order. Hence, the birth of "Rosenberg's Rules of Order."

This publication covers the rules of parliamentary procedure based on my 20 years of experience chairing meetings in state and local government. These rules have been simplified and slimmed down for 21st century meetings, yet they retain the basic tenets of order to which we are accustomed.

"Rosenberg's Rules of Order" are supported by the following four principles:

1. **Rules should establish order.** The first purpose of the rules of parliamentary procedure is to establish a

framework for the orderly conduct of meetings.

2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate and those who do not fully understand and do not fully participate.
3. **Rules should be user-friendly.** That is, the rules must be simple enough that citizens feel they have been able to participate in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of the rules of procedure is to encourage discussion and to facilitate decision-making by the body. In a democracy, the majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself (but not dominate) and fully participate in the process.

The Chairperson Should Take a Back Seat During Discussions

While all members of the governing body should know and understand the rules of parliamentary procedure, it is the chairperson (chair) who is charged with applying the rules of conduct. The chair should be well versed in those

rules, because the chair, for all intents and purposes, makes the final ruling on the rules. In fact, all decisions by the chair are final unless overruled by the governing body itself.

Because the chair conducts the meeting, it is common courtesy for the chair to take a less active role than other members of the body in debates and discussions. This does *not* mean that the chair should not participate in the debate or discussion. On the contrary, as a member of the body, the chair has full rights to participate in debates, discussions and decision-making. The chair should, however, strive to be the last to speak at the discussion and debate stage, and should not make or second a motion unless he or she is convinced that no other member of the body will do so.

The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, published agenda; informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon road map for the meeting. And each agenda item can be handled by the chair in the following basic format.

First, the chair should clearly announce the agenda item number and should clearly state what the subject is. The chair should then announce the format that will be followed.

Second, following that agenda format, the chair should invite the appropriate people to report on the item, including any recommendation they might have. The appropriate person may be the chair, a member of the governing body,

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire to move on.

a staff person, or a committee chair charged with providing information about the agenda item.

Third, the chair should ask members of the body if they have any technical questions for clarification. At this point, members of the governing body may ask clarifying questions to the people who reported on the item, and they should be given time to respond.

Fourth, the chair should invite public comments or, if appropriate at a formal meeting, open the meeting to public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of each public speaker. At the conclusion of the public comments, the chair should announce that public input has concluded (or that the public hearing, as the case may be, is closed).

Fifth, the chair should invite a motion from the governing body members. The chair should announce the name of the member who makes the motion.

Sixth, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member who seconds the motion. It is normally good practice for a motion to require a second before proceeding with it, to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and a vote on the motion even when there is no second. This is a matter left to the discretion of the chair.

Seventh, if the motion is made and seconded, the chair should make sure everyone understands the motion. This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the chair should now invite discussion of the motion by the members of the governing body. If there is no desired discussion or the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or a very brief discussion, the vote should proceed immediately, and there is no need to repeat the motion. If there has been substantial discussion, it is normally best to make sure everyone understands the motion by repeating it.

Debate on policy is healthy; debate on personalities is not. The chair has the right to cut off discussion that is too personal, too loud or too crude.

Ninth, the chair takes a vote. Simply asking for the “ayes” and then the “nays” is normally sufficient. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise or unless a super-majority is required (as delineated later in these rules), a simple majority determines whether the motion passes or is defeated.

Tenth, the chair should announce the result of the vote and should announce what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring 10 days’ notice for all future meetings of this governing body.”

Motions in General

Motions are the vehicles for decision-making. It is usually best to have a motion before the governing body prior to discussing an agenda item, to help everyone focus on the motion before them.

Motions are made in a simple two-step process. First, the chair recognizes the member. Second, the member makes a motion by preceding the member’s desired approach with the words: “I move ...” A typical motion might be: “I move that we give 10 days’ notice in the future for all our meetings.”

The chair usually initiates the motion by:

1. Inviting the members to make a motion: “A motion at this time would be in order.”

2. Suggesting a motion to the members: “A motion would be in order that we give 10-days’ notice in the future for all our meetings.”
3. Making the motion.

As noted, the chair has every right as a member of the body to make a motion, but normally should do so only if he or she wishes a motion to be made but no other member seems willing to do so.

The Three Basic Motions

Three motions are the most common:

1. **The basic motion.** The basic motion is the one that puts forward a decision for consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”
2. **The motion to amend.** If a member wants to change a basic motion that is under discussion, he or she would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

3. The substitute motion. If a member wants to completely do away with the basic motion under discussion and put a new motion before the governing body, he or she would “move a substitute motion.” A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

Motions to amend and substitute motions are often confused. But they are quite different, and so is their effect, if passed.

A motion to amend seeks to retain the basic motion on the floor, but to modify it in some way.

A substitute motion seeks to throw out the basic motion on the floor and substitute a new and different motion for it.

The decision as to whether a motion is really a motion to amend or a substitute motion is left to the chair. So that if a member makes what that member calls a motion to amend, but the chair determines it is really a substitute motion, the chair's designation governs.

When Multiple Motions Are Before The Governing Body

Up to three motions may be on the floor simultaneously. The chair may reject a fourth motion until the three that are on the floor have been resolved.

When two or three motions are on the floor (after motions and seconds) at the same time, the *first* vote should be on the *last* motion made. So, for example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee, to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows.

First, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passes*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be complete. No vote would be taken on the first or second motions. On the other hand, if the substitute motion (the third motion) *failed*, the chair would proceed to consideration of the second (now the last) motion on the floor, the motion to amend.

If the substitute motion failed, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would now move to consider the main motion (the first motion) as *amended*. If the motion to amend failed, the chair would now move to consider the main motion (the first motion) in its original format, not amended.

The challenge for anyone chairing a public meeting is to accommodate public input in a timely and time-sensitive way, while maintaining steady progress through the agenda items.

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee) or, if amended, would be in its amended format (10-member committee). And the question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are *not* debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

A motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. This motion requires a simple majority vote.

A motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess, which may range from a few minutes to an hour. It requires a simple majority vote.

A motion to fix the time to adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

A motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to

be placed on "hold." The motion may contain a specific time in which the item can come back to the body: "I move we table this item until our regular meeting in October." Or the motion may contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

A motion to limit debate. The most common form of this motion is to say: "I move the previous question" or "I move the question" or "I call for the question." When a member of the body makes such a motion, the member is really saying: "I've had enough debate. Let's get on with the vote." When such a motion is made, the chair should ask for a second to the motion, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body. Note that a motion to limit debate could include a time limit. For example: "I move we limit debate on this agenda item to 15 minutes." Even in this format, the

the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions occur when the body is taking an action that effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super-majority) to pass:

Motion to limit debate. Whether a member says, "I move the previous question," "I move the question," "I call for the question" or "I move to limit debate," it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

Motion to close nominations. When choosing officers of the body, such as the chair, nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers, and it requires a two-thirds vote to pass.

pend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself: the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to reconsider is made.

A motion to reconsider requires a majority vote to pass, but there are two special rules that apply only to the motion to reconsider.

First is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon or at the very next meeting of the body. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted *in the majority* on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body may second the motion). If a member who voted *in the minority* seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of the minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If you are running the British Parliament, *Robert's Rules of Order* is a dandy and quite useful handbook.

motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

Majority and Super-Majority Votes

In a democracy, decisions are made with a simple majority vote. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means

Motion to object to the consideration of a question. Normally, such a motion is unnecessary, because the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to sus-

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. And at the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every

It is usually best to have a motion before the governing body prior to discussing an agenda item, to help everyone focus.

lege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person's ability to hear.

Order. The proper interruption would be: "Point of order." Again, the chair would ask the interrupter to "state your point." Appropriate points of order

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

Motions to amend and substitute motions are often confused. But they are quite different, and so is their effect, if passed.

Special Notes About Public Input

The rules outlined here help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

Rule Three: When the body has acted, tell the public what the body did.

Public input is essential to a healthy democracy, and community participation in public meetings is an important element of that input. The challenge for anyone chairing a public meeting is to accommodate public input in a timely and time-sensitive way, while maintaining steady progress through the agenda items. The rules presented here for conducting a meeting are offered as tools for effective leadership and as a means of developing sound public policy. ■

speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focus on the item and the policy in question, not on the personalities of the members of the body. Debate on policy is healthy; debate on personalities is not. The chair has the right to cut off discussion that is too personal, too loud or too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body. Can a member of the body interrupt the speaker? The general rule is no. There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege. The proper interruption would be: "Point of privilege." The chair would then ask the interrupter to "state your point." Appropriate points of privi-

relate to anything that would not be considered appropriate conduct of the meeting; for example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal. If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, "Let's return to the agenda." If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair's determination may be appealed.

SKU 1533

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Report to the City Council
Council Meeting of February 26, 2019

Agenda Section: Consent

Subject: Consideration and proposed adoption of a Resolution accepting the work and final project construction costs of \$50,574.49 and directing the filing of the Notice of Completion for the Lyman Park Improvements, Project C19-01

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

Prepared By: Edrees Argand, Junior Assistant Engineer

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

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On May 8, 2018, City Council adopted the FY 2018/19 five-year Capital Improvement Program which included the Lyman Park Improvements, Project C19-01. After soliciting informal proposals from multiple vendors in August 2018, the City entered into a Construction Services Agreement with St. Helena Construction (STH Contract: FY 2019-037) in an amount not to exceed \$43,776.45. Work on the bathroom project began the week of October 22, 2018.

On November 13, 2018, the City Council adopted Resolution 2018-154 authorizing the Director of Public Works to approve Change Orders up to \$16,233.55 with St. Helena Construction for the Lyman Park Improvements, Project C19-01 for a total not to exceed contract amount of \$60,000.

DISCUSSION

The project rehabilitated and upgraded two single occupancy restrooms in the City owned Lyman Park located immediately adjacent to City Hall between Pine Street and Adams Street, across from the United States Postal Service on the 1300 block of Main Street. The single change order for the project in the amount of \$6,798.04 was for

removing and replacing dry rot in the structure in various places. The work for the above change order was encountered during the beginning of the remodel and was not readily visible until demolition began on the structure.

The total construction cost including the change order for the C19-01 Lyman Park Improvements Project is \$50,574.49. The Public Works Department has inspected the work and found the work to be completed satisfactorily.

FISCAL IMPACT

The total approved budget for the C19-01 Lyman Park Improvements Project is \$60,000. Including the Change Order, the total construction cost of the project is within the allocated budget. The Project is summarized below.

C19-01 Lyman Park Improvements	
Construction Contract	\$43,776.45
Change Order No. 1	\$6,798.04
Total Cost	\$50,574.49

The project was completed below the allocated budget with a savings of \$9,425.51.

RECOMMENDED ACTION

Adopt the attached resolution accepting the work and final project construction costs of \$50,574.49 and directing the filing of the Notice of Completion for the Lyman Park Improvements, Project C19-01.

ATTACHMENTS

[Attachment 1: C19-01 Resolution](#)

[Attachment 2: C19-01 Notice of Completion](#)

CITY OF ST. HELENA

RESOLUTION NO. 2019-

Resolution accepting the work and final project construction costs of \$50,574.49 and directing the filing of the Notice of Completion for the Lyman Park Improvements, Project C19-01

RECITALS

A. On May 8, 2018, City Council adopted the FY 2018/19 five-year Capital Improvement Program which included the Lyman Park Improvements, Project C19-01; and

B. After soliciting informal proposals from multiple vendors, the City entered into a Construction Service Agreement with St. Helena Construction (STH Contract: FY 2019-037) in an amount not to exceed \$43,776.45; and

C. On November 13, 2018, the City Council adopted Resolution 2018-154 authorizing the Director of Public Works to approve change orders up to \$16,233.55 with St. Helena Construction for the Lyman Park Improvements, Project C19-01 for a not to exceed amount of \$60,000; and

D. The Public Works Director/City Engineer authorized one Contract Change Order during the project as follows:

Change Order

Number	Description	Amount
CCO#1	Remove and replace sole plate. Fix or replace framing where needed. Remove dry rotted mud sill and replace with new 4x6 pressure treated mud sill on back wall. Fix or replace dry rotted framing at ground level. Demo rotted plywood and roof rafters, including 2 skylights on south half of roof. Replace with 16 new 2x6 rafters, 2 new skylights curbs and 2 layers of plywood.	\$6,798.04

The final contract amount, as amended, including all change orders, is \$50,574.49; and

E. St. Helena Construction has completed the work in accordance with the contract documents for the project; and

F. If no liens or claims have been filled within 35 days of filing the Notice of Completion, the retained payment funds and any amount due will be released to St. Helena Construction.

RESOLUTION

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

1. The contract entitled Lyman Park Improvements, Project C19-01, with the final contract amount of \$50,574.49, is accepted as complete, subject to the Contractor, St. Helena Construction, completing the punch list work prior to the release of the retention, and the Contractor's continuing warranty and other obligations pursuant to the contract.
2. The Public Works Director/City Engineer is authorized to prepare a Notice of Completion and the City Clerk is directed to file a Notice of Completion with the Napa County Recorder.

Approved at a Regular Meeting of the St. Helena City Council on February 26, 2019 by the following vote:

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

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzafofopoulos, City Clerk

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St Helena, CA 94574

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City of St Helena
1480 Main Street
St Helena, CA 94574

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NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN THAT:

1 The undersigned is an owner of an interest of estate in the hereinafter described real property, the nature of which interest or estate is: fee simple.

2 The full name and address of the undersigned owner and of any and all co-owners are:

Name	Street and No.	City	State
City of St Helena	1480 Main Street	St Helena	CA

3 On the 31st Day of January, 2019 there was completed upon the hereinafter described real property a work of improvement as a whole and described as follows: **Lyman Park Improvements, C19-01.**

4 The name of the original contractor for the work of improvement as a whole was: **St. Helena Construction.**

5 The real property herein referred to is situated in the City of St Helena, County of Napa, State of California, and described as follows: **Lyman Park.**

6 The street address of the property is: **1498 Main St, St. Helena, CA 94574.**

By:

Owner's Authorized Agent's Signature

Erica Ahmann Smithies, PE Public Works Director/City
Engineer

VERIFICATION

I, the undersigned, say:

I am the person who signed the foregoing notice. I have read the above notice and know its contents, and the facts stated therein are true of my own knowledge.

I declare under the penalty of perjury that the above is true and correct.

Executed at St. Helena, California, this 27th day of February, 2019.

City of St. Helena

Erica Ahmann Smithies, Public Works Director



Report to the City Council
Council Meeting of February 26, 2019

Agenda Section: Consent

Subject: Consideration and approval of a resolution approving: (1) Contract Amendment #1 to STH Contract: 2018-0015 with CEQA consultant Dyett and Bhatia in the amount of \$15,000 for a total not-to-exceed amount of \$351,880 to address extensive public comments received on the St. Helena 2040 General Plan Update Environmental Impact Report (EIR) and to assist with making minor updates to the 2040 General Plan itself; and (2) Authorize the City Manager to modify the contract, if necessary, to address other unanticipated minor tasks or unanticipated revisions up to an additional \$10,000 for a total not-to-exceed amount of \$361,800.

CEQA Determination: Not a CEQA project

Prepared By: Noah Housh, Planning & Community Improvement Director

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On January 9, 2018, the City Council adopted a resolution authorizing the City Manager to execute an agreement with Dyett and Bhatia to complete the St. Helena 2040 General Plan Update and Environmental Impact Report (EIR) for a total contract amount not to exceed \$336,880. Since adoption of the resolution, the consultant has undertaken to draft an EIR analyzing the potential impacts of the draft St. Helena 2040 General Plan, in accordance with the requirements of CEQA.

On October 23, 2018, the City published the draft EIR for public review and comment, providing a 72-day comment period (the legal requirement for an EIR comment period is 45-days) which ended January 2, 2019. The City received over 300 individual comments in response to the publication of the EIR.

DISCUSSION

The initial contract with Dyett and Bhatia anticipated 103 hours allocated to the comments which is equivalent to processing and responding to approximately 200 unique comments. When the comment period ended, the City received over 300 individual comments to the publication of the EIR. Due to the volume of comments received, and the City's desire to make aesthetic improvements to the format of the St. Helena 2040 General Plan, staff is recommending Contract Amendment #1 with Dyett and Bhatia to expand the scope of their adopted contract budget to cover these identified tasks. The cost of these tasks has been identified as approximately \$15,000 beyond the original approved \$336,880 budget.

Based on this identified need, staff recommends City Council authorize Amendment #1 to STH Contract: 2018-0015 increasing the total contract amount by \$15,000 for a not-to-exceed amount of \$351,880. Additionally, staff recommends City Council authorize the City Manager to modify the contract up to an additional \$10,000, if necessary, to address other unanticipated minor tasks or revisions beyond Amendment #1. Funds for Amendment #1 in the amount of \$15,000 and funds for an additional \$10,000, if necessary, are available in the adopted FY 19 budget.

FISCAL IMPACT

If approved, there would be no additional impacts to the General Fund, funds are available in the adopted FY 19 budget.

RECOMMENDED ACTION

Staff recommends City Council adopt a resolution authorizing: (1) Contract Amendment #1 to STH Contract: 2018-0015 with CEQA consultant Dyett and Bhatia in the amount of \$15,000 for a total not-to-exceed amount of \$351,880 to address extensive public comments received on the St. Helena 2040 General Plan Update Environmental Impact Report (EIR) and to assist with making minor updates to the 2040 General Plan itself; and (2) Authorize the City Manager to modify the contract, if necessary, to address other unanticipated minor tasks or unanticipated revisions up to an additional \$10,000 for a total not-to-exceed amount of \$361,800.

ATTACHMENTS

[Contract Amendment 1 Dyett and Bhatia](#)

[Contract Amendment Resolution](#)

AMENDMENT #1

TO PROFESSIONAL SERVICES AGREEMENT WITH DYETT & BHATIA; STH CONTRACT NO: 2018-0015 FOR GENERAL PLAN UPDATE & ENVIRONMENTAL IMPACT REPORT, SYNCHRO MODEL, VMT EIR THRESHOLDS, AND EXPANDED PLANNING AREA FOR AN ADDITIONAL \$15,000.00 FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$351,880.00.

This First Amendment to Professional Services Agreement STH Contract: 2018-0015 dated January 9, 2018 ("Agreement") is made as of this ____ day of _____, 2019 by and between the City of St. Helena, a municipal corporation ("City"), and Dyett & Bhatia. ("Consultant").

RECITALS

- A. On January 9, 2018, the City and Consultant entered into the Agreement for Consultant to provide professional 2040 General Plan Update & Environmental Impact Report, Synchro Model, VMT EIR Thresholds, and Expanded Planning Area services; and
- B. City Staff has determined an additional \$15,000.00 is necessary to complete the 2040 General Plan Update & Environmental Impact report; and
- C. The additional funding is necessary due to the number of unique comments received; and
- D. The initial contract anticipated 103 hours allocated to the comments which is equivalent to processing and responding to approximately 200 unique comments; and
- E. The number of unique comments received exceeds 350; and
- F. City and Consultant now desire to amend the Agreement with Consultant for the purpose of finalizing the response to comments, update and revise the General Plan Environmental Impact Report, and refresh the 2040 General Plan photos and exhibits.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and of the mutual covenants and agreements herein contained, for good and valuable consideration, the adequacy of which is hereby acknowledged, the parties agree to amend the Agreement as follows:

1. Section 4.A. Compensation and Method of Payment, is amended to read as follows:

"Total compensation shall not exceed \$351,880.00..."

3. Section 10. Conflicts of Interest

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,

Page 1 of 2

First Amendment to Professional Services Agreement STH Contract: 2018-0015
Consultant: Dyett & Bhatia

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

All other terms of the Agreement shall remain in full force and effect.

Entered as of the day and year first above stated.

CONSULTANT:

CITY OF ST. HELENA
a Municipal Corporation

Signatures of Authorized Persons:

By: 

Print Name: RAJEEV BHATIA

Title: PRESIDENT / CFO

By: _____

Print Name: Mark T. Prestwich
Title: City Manager

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Attachments:

Exhibit A-1, "Additional Services Request"

Page 2 of 2

First Amendment to Professional Services Agreement STH Contract: 2018-0015
Consultant: Dyett & Bhatia

DYETT & BHATIA
Urban and Regional Planners

Exhibit A-1

M E M O R A N D U M

To: Noah Housh, Planning & Community Improvement Director, City of St. Helena
 From: Andrew Hill, Associate Principal
 Re: General Plan Update and EIR – Additional Services Request
 Date: February 8, 2019

Dear Noah:

This memo summarizes additional services required to complete the 2040 General Plan Update & Environmental Impact Report, including the scope of work to be performed, the schedule for completion, and the associated budget.

SCOPE OF WORK

Task 1 – Additional Level of Effort for Responses to Public Comments on the Draft EIR

The original scope of work included time for D&B to process and respond to public comments on the Draft EIR. As the number of comments and the complexity of responses required cannot be known in advance, at the time of contract it was estimated that 104 hours of D&B time would be required, which is equivalent to processing and responding to about 200 unique comments. In response to the Draft EIR, however, in excess of 350 unique comments were received, some of which require nuanced, complex responses. As such, D&B respectfully requests additional budget to cover time and effort over and above that which was envisioned in the current scope of work. Based on an assessment of the actual comments received, we estimate that a level of effort equivalent to an additional 72 hours of D&B time will be required to complete the responses.

Task 2 - Graphic Formatting of the General Plan

This task includes time for D&B staff to refine the formatting of the Draft General Plan and replace or refresh photos prior to the adoption hearings before the Planning Commission and the City Council. Based on a punch list of edits approved by City staff, D&B will prepare a revised Draft General Plan and submit to City staff for confirmation. D&B will then respond to one round of consolidated comments from staff and finalize the revised Draft General Plan for circulation to decision-makers.

DYETT & BHATIA
Urban and Regional Planners

SCHEDULE

An Administrative Draft Response to Comments (ADRTC) on the Draft EIR will be submitted to City staff for review in the second week of February. D&B will respond to comments from staff and deliver a Final EIR including responses to comments within one week of receipt of comments on the ADRTC.

A revised Draft General Plan will be submitted to City staff in the third week of February.

BUDGET

<i>Task</i>	<i>Fee</i>
1. Additional Level of Effort for Responses to Public Draft EIR Comments	\$10,000
2. Graphic Formatting of the General Plan	\$5,000
TOTAL	\$15,000

- Contract sum: \$336,880
- Additional budget request: \$15,000
- Revised contract sum: \$351,880

CITY OF ST. HELENA

RESOLUTION No. 2019-

RESOLUTION OF THE COUNCIL OF THE CITY OF ST. HELENA AUTHORIZING: (1) AMENDMENT #1 IN THE AMOUNT OF \$15,000 TO THE PROFESSIONAL PLANNING SERVICES AGREEMENT STH CONTRACT: 2018-0015 WITH DYETT AND BHATIA FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$351,880; AND (2) AUTHORIZE THE CITY MANAGER TO FURTHER MODIFY THE CONTRACT, IF NECESSARY, TO ADDRESS OTHER UNANTICIPATED COSTS UP TO AN ADDITIONAL \$10,000 FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$361,800.

RECITALS

- A. The City desires to employ Consultant to continue to furnish professional services on a limited and “as needed” basis to complete the St. Helena 2040 General Plan Update and associated Environmental Impact Report (EIR); and
- B. In January 2018, the City entered into STH Contract 2018-0015 with Dyett and Bhatia for an amount totaling \$336,880 to complete the St. Helena 2040 General Plan, associated EIR, Synchro Model, VMT EIR Thresholds, and Expanded Planning Area services; and
- C. In October 2018, the Consultant completed the EIR analysis and this document was published for a 72-day public review and comment period; and
- D. On January 2, 2019, upon the closing of the comment period, the City had received over 300 individual comments on the 2040 General Plan EIR; and
- E. The initial contract anticipated 103 hours allocated to the comments which is equivalent to processing and responding to approximately 200 unique comments; and
- F. City Staff has determined an additional \$15,000 is necessary to complete the 2040 General Plan Update & Environmental Impact report due to the number of unique comments received; and
- G. City and Consultant now desire to amend the Agreement with Consultant for the purpose of finalizing the response to comments, update and revise the General Plan Environmental Impact Report, and refresh the 2040 General Plan photos and exhibit; and
- H. The total amended contract is for a not-to-exceed amount of \$351,880.

RESOLUTION

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

1. The City Council approves the STH Contract: 2018-0015 Amendment #1 with Dyett and Bhatia for an additional \$15,000, for a total contract amount not-to-exceed \$351,880; and
2. The City Council authorizes the City Manager to execute the agreement on behalf of the City; and
3. The City Council further authorizes the City Manager to modify the contract, if necessary, to address other unanticipated minor tasks or unanticipated revisions up to an additional \$10,000 so long as this amount is within the approved and adopted FY 2018/19 Planning and Community Improvement Department budget.

Approved at a Regular Meeting of the St. Helena City Council on February 26, 2019, by the following vote:

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

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzafopoulos, City Clerk



Report to the City Council
Council Meeting of February 26, 2019

Agenda Section: Consent

Subject: Consideration and proposed adoption of a Resolution accepting the work and final project construction costs of \$450,379.45 and directing the filing of the Notice of Completion for the 2018 Pavement Overlay, Project R18-79

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

Prepared By: Edrees Argand, Junior Assistant Engineer

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

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On April 24, 2018 the City of St. Helena City Council adopted a Resolution approving the plans, specifications, and authorizing City staff to advertise bids for the 2018 Pavement Overlay, Project R18-79. A notice inviting bids was posted on April 25, 2018 for the 2018 Pavement Overlay, Project R18-79. Six bids were received and evaluated by the Director of Public Works. The lowest responsive and responsible bidder for the project was Argonaut Constructors, of Santa Rosa, California.

On June 26, 2018, the City Council adopted Resolution 2018-87 awarding the R18-79 Pavement Overlay Project to Argonaut Constructors. The project work generally consisted of full depth asphalt concrete repairs, asphalt concrete overlay, Americans With Disabilities Act (ADA) curb ramp upgrades, sidewalk replacement, traffic striping, and other miscellaneous work.

DISCUSSION

Argonaut Constructors was awarded the R18-79 Pavement Overlay project in the amount of \$398,705. The Director of Public Works was authorized to approve change orders not to exceed 20% and authorized four contract change orders during the project. The change orders included:

Number	Description	Amount
CCO#1	Additional dig outs, sidewalk replacement, curb and gutter replacement, and raise additional valve boxes, as well as unit item reductions	\$17,769.40
CCO#2	Caltrans permit, La Quinta Way Drainage Modifications, and base stabilization at the Community Drive driveway	\$6,009.57
CCO#3	Remobilization for Charter Oak, sidewalk and curb ramp replacement at Charter Oak, additional dig out needed at El Bonita/Hwy 29 curb ramp	\$27,895.48
CCO#4	No cost balancing and correction change order	\$0.00
	Contract Change Order Total	\$51,674.45

The final, full construction contract amount as amended by contract change orders and final contract quantities is \$450,379.45. The 2018 Pavement Overlay project was completed within the allocated budgets. The Public Works Department has inspected the work and found the work to be completed satisfactorily.

FISCAL IMPACT

The total estimated project expenditures are summarized below:

R18-79 2018 Pavement Overlay project	
Design	\$10,322.50
Final Construction Contract	\$450,379.45
Construction Management	\$18,425.00
Total Cost	\$479,126.95

The total approved project budget for FY 2018/19 is \$665,000 and funding includes a combination of general fund, gas tax, and SB1. In addition, the City executed a \$70,000 reimbursement agreement with Caltrans for replacing sidewalk just north of Charter Oak Avenue along Highway 29 that was removed during the Highway 29 Channelization Project. The City is still waiting for a finalized breakdown from the design consultant, but the reimbursement for design, inspection, and construction costs for the sidewalk replacement is estimated to be \$23,063.25 which is well below the approved agreement amount. Once the eligible costs are finalized, an invoice will be submitted to Caltrans for reimbursement.

RECOMMENDED ACTION

Adopt the attached Resolution accepting the work and final project construction costs of \$450,379.45 and directing the filing of the Notice of Completion for the 2018 Pavement Overlay, Project R18-79

ATTACHMENTS

[Attachment 1: R18-79 Resolution](#)

[Attachment 2: R18-79 Notice of Completion](#)

CITY OF ST. HELENA

RESOLUTION NO. 2019-

Resolution accepting the work and final project construction costs of \$450,379.45 and directing the filing of the Notice of Completion for the 2018 Pavement Overlay, Project R18-79

RECITALS

A. On April 24, 2018 the City of St. Helena City Council adopted a Resolution approving the plans, specifications and authorizing City staff to advertise for bids the 2018 Pavement Overlay, Project R18-79; and

B. Pursuant to St. Helena Municipal Code Chapter 3.04; Article 3 Public Works Projects; Section 3.04.240 a notice inviting bids was posted on April 25, 2018 for the 2018 Pavement Overlay, Project R18-79; and

C. Six bids were received and evaluated by the Director of Public Works. The lowest responsive and responsible bidder for the Project was Argonaut Constructors, of Santa Rosa, California; and

D. On June 26, 2018, the City Council adopted Resolution 2018-87 awarding the 2018 Pavement Overlay, Project R18-79 to Argonaut Constructors in the amount of \$398,705 and authorizing the Director of Public Works to approve change order not to exceed 20% of the contract; and

E. The Public Works Director/City Engineer authorized four contract change orders (CCO) during the project as follows:

Change Order

Number	Description	Amount
CCO#1	Additional dig outs, sidewalk replacement, curb and gutter replacement, and raise additional valve boxes, as well as unit item reductions	\$17,769.40
CCO#2	Caltrans permit, La Quinta Way Drainage Modifications, and base stabilization at the Community Drive driveway	\$6,009.57
CCO#3	Remobilization for Charter Oak, sidewalk and curb ramp replacement at Charter Oak, additional dig out needed at El Bonita/Hwy 29 curb ramp	\$27,895.48

CCO#4	No cost balancing and correction change order	\$0.00
	Total Change Orders:	\$51,674.45

The final contract amount, as amended, including all change orders, is \$450,379.45; and

F. Argonaut Constructors has completed the work in accordance with the contract documents for the project; and

G. If no liens or claims have been filled within 35 days of filing the Notice of Completion, the retained payment funds and any amount due will be released to Argonaut Constructors.

RESOLUTION

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

1. The contract entitled 2018 Pavement Overlay, Project R18-79, with the final contract amount of \$450,379.45, is accepted as complete, subject to the Contractor, Argonaut Constructors, completing the punch list work prior to the release of the retention, and the Contractor's continuing warranty and other obligations pursuant to the contract.
2. The Public Works Director/City Engineer is authorized to prepare a Notice of Completion and the City Clerk is directed to file a Notice of Completion with the Napa County Recorder.

Approved at a Regular Meeting of the St. Helena City Council on February 26, 2019 by the following vote:

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

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzaopoulous, City Clerk

Recording Requested By:

City of St Helena
1480 Main Street
St Helena, CA 94574

**Exempt From Recording Fees Per
Government Code Sec. 27383**

When Recorded Mail To:

City Clerk
City of St Helena
1480 Main Street
St Helena, CA 94574

SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN THAT:

1 The undersigned is an owner of an interest of estate in the hereinafter described real property, the nature of which interest or estate is: fee simple.

2 The full name and address of the undersigned owner and of any and all co-owners are:

Name	Street and No.	City	State
City of St Helena	1480 Main Street	St Helena	CA

3 On the 31st Day of January, 2019 there was completed upon the hereinafter described real property a work of improvement as a whole and described as follows: **2018 Pavement Overlay, R18-79.**

4 The name of the original contractor for the work of improvement as a whole was: **Argonaut Constructors.**

5 The real property herein referred to is situated in the City of St Helena, County of Napa, State of California, and described as follows: El Bonita Avenue, La Quinta Way, and Kennedy Court.

By: _____

Owner's Authorized Agent's Signature

Erica Ahmann Smithies, PE Public Works Director/City Engineer

VERIFICATION

I, the undersigned, say:

I am the person who signed the foregoing notice. I have read the above notice and know its contents, and the facts stated therein are true of my own knowledge.

I declare under the penalty of perjury that the above is true and correct.

Executed at St. Helena, California, this 27th day of February, 2019.

City of St. Helena

Erica Ahmann Smithies, Public Works Director



Report to the City Council
Council Meeting of February 26, 2019

Agenda Section: Consent

Subject: Consideration of a Resolution approving:

1. The City to accept the FY 2019 Tobacco Law Enforcement Program Grant in the amount of \$393,514;
2. Authorize the City Manager to execute the Memorandum of Understanding (MOU);
3. Authorize the addition of one limited-term Police Officer position;
4. Authorize assignment of a Police Officer to the School Resource Officer to the tobacco enforcement program expiring on June 30, 2021;
5. Authorize a budget expense increase to Fund 277 in the amount of \$72,738 and a budget revenue increase to Fund 277 in the amount of \$72,738.

CEQA Not a CEQA project
Determination:

Prepared By: Mandy Kellogg, Admin Services Mgr

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

Approved by California voters in 2016, Proposition 56 (also known as the California Healthcare Research and Prevention Tobacco Tax Act of 2016) increased taxes on cigarettes and other tobacco products by \$2.00 starting in April 2017. The initiative specifically allocates \$30 million of annual revenue to the California Department of Justice. These funds will support local law enforcement investigations intended to reduce the illegal sale of tobacco products to minors. In accordance with the State Budget Act and Proposition 56, any local government or local government agency within the State of California that has authority to enforce tobacco-related state laws or local ordinances, is eligible to receive funds. The purpose of the grant project is to enable

local law enforcement agencies to expand their efforts in addressing tobacco-related problems, emphasizing enforcement efforts towards the illegal sales of tobacco products to minors and marketing of tobacco products to minors.

DISCUSSION

On October 5, 2018, the City of St. Helena applied for \$396,628 in Tobacco Law Enforcement Grant funding. On January 30, 2019, the City was notified via e-mail by the Office of the Attorney General, California Department of Justice that our grant application was approved for funding in the amount of \$393,514 with an award period beginning the date of the signed Memorandum of Understanding (MOU); the grant expires on June 30, 2021.

The City intends to use the grant funding to hire a School Resource Officer. The Officer will be assigned to implement the goals and objectives of the tobacco program, which are to achieve significant reductions in the percentage of students using tobacco related products. This will primarily be done on the St. Helena High School and Robert Louis Stevenson Middle School campuses. This will include educational efforts that focus on use of tobacco related products used by students and enforcement of the State laws regarding use and possession, as well as rules of the respective schools as they apply to e-cigarettes and other tobacco related products.

City Staff is recommending that the City Council accept the grant award in the amount of \$393,514; ratify and authorize the City Manager to execute the Memorandum of Understanding (MOU) for the period of February 26, 2019 through June 30, 2021 and related documents, in the not to exceed amount of \$393,514. City Staff also recommends authorization to add one limited-term Police Officer position and authorize assignment of a Police Officer as the School Resource Officer for the tobacco enforcement program with an ending date of June 30, 2021. Finally, City Staff recommends a budget expense increase to Fund 277 in the amount of \$72,738 and a budget revenue expense increase in the amount of \$72,738.

FISCAL IMPACT

Fiscal impact is estimated at \$76,238, of which \$72,738 is covered by the 2018-19 grant award, and the remaining \$3,500 can be absorbed in the current Police Department budget. The additional \$3,500 is for staff uniform and equipment. Staff is recommending a budget expense increase to Fund 277 in the amount of \$72,738 and a budget revenue increase to Fund 277 in the amount of \$72,738 for FY 2018-19. The remaining expenses and revenues will be accounted for in the FY 2019-20 and 2020-21 operating budgets.

RECOMMENDED ACTION

City Staff recommends authorization of a resolution approving:

1. Authorize the City to accept the FY 2019 Tobacco Law Enforcement Program Grant in the amount of \$393,514;

2. Authorize the City Manager to execute the Memorandum of Understanding (MOU);
3. Authorize the addition of one limited-term Police Officer position;
4. Authorize assignment of a Police Officer to the School Resource Officer to the tobacco enforcement program expiring on June 30, 2021;
5. Authorize a budget expense increase to Fund 277 in the amount of \$72,738 and a budget revenue increase to Fund 277 in the amount of \$72,738.

ATTACHMENTS

[Resolution No. 2019- Prop 56](#)

[City of St. Helena MOU with CA Dept of Justice](#)

CITY OF ST. HELENA

RESOLUTION NO. 2019-__

Resolution approving the following: 1) Authorize the City to accept the FY 2019 Tobacco Law Enforcement Program Grant in the amount of \$393,514; 2) Authorize the City Manager to execute the Memorandum of Understanding (MOU); 3) Authorize the addition of one limited-term Police Officer position; 4) Authorize assignment of a Police Officer to the School Resource Officer to the tobacco enforcement program expiring on June 30, 2021; 5) Authorize a budget expense increase to Fund 277 in the amount of \$72,738 and a budget revenue increase to Fund 277 in the amount of \$72,738.

RECITALS

- A. The California Department of Justice issued a request for proposals for grant funding to implement programs that include enforcement of tobacco-related state laws and local ordinances; and
- B. The City of St. Helena submitted a proposal to the Department of Justice on October 5, 2018, that sought to hire an officer to implement and manage programs educating and enforcing issues related to underage tobacco use in order to educate and reduce juvenile usage of these products; and
- C. The California Department of Justice selected the City of St. Helena for grant funding in the amount of \$393,514 with a grant period ending on June 30, 2021.

RESOLUTION

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

- 1. Authorize the City to accept the FY 2019 Tobacco Law Enforcement Program Grant in the amount of \$393,514; and
- 2. Authorize the City Manager to execute the Memorandum of Understanding (MOU); and
- 3. Authorize the addition of one limited-term Police Officer position;
- 4. Authorize assignment of a Police Officer to the School Resource Officer to the tobacco enforcement program expiring on June 30, 2021; and
- 5. Authorize a budget expense increase to Fund 277 in the amount of \$72,738 and a budget revenue increase to Fund 277 in the amount of \$72,738.

Approved at a Regular Meeting of the St. Helena City Council on February 26, 2019, by the following vote:

Mayor Ellsworth:

Vice Mayor Dohring:

Councilmember Koberstein:

Councilmember Chouteau:

Councilmember Knudsen:

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzaopoulos, City Clerk

City of St. Helena
Finance Department

Mandy Kellogg
1480 Main Street
(707) 968-2649
mkellogg@cityofsthelena.org

MEMORANDUM OF UNDERSTANDING

with the
California Department of Justice

December 1, 2018 – June 30, 2021

DOJ-PROP56-2018-19-1-032

I PURPOSE

This Memorandum of Understanding (the “MOU”) is entered into by the Department of Justice (“DOJ”) and the City of St. Helena Finance Department (hereinafter, “Grantee”), to provide grant funds to Grantee for expenditure. The Grantee will expend funds for the purposes identified in the approved Grant Application submitted by Grantee in response to the DOJ’s Request for Proposals for activities of Local Law Enforcement Agencies to be funded under the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 (the “Act”), approved by the voters as Proposition 56.

This MOU becomes effective upon completion of all signatures, and expires on June 30, 2021.

The DOJ, Tobacco Grant Unit, grants to Grantee \$393,514, (the “Grant Amount”) for expenditure in accordance with this MOU, including the Scope of Work included in the approved Grant Application.

The Request for Proposals, Grantee Handbook and Grant Application are incorporated by reference into this MOU.

II COMMUNICATION

All reports, notices, requests, and/or correspondence pertaining to this MOU shall be forwarded to the Tobacco Grant Unit at:

California Department of Justice
 Division of Law Enforcement
 Tobacco Grant Unit
 1300 I Street, Suite 1140
 Sacramento, CA 95814
Devin.Rodriguez@doj.ca.gov.

III BUDGET

Grantee agrees to expend the Grant Amount in accordance with the approved Budget (Attachment 1).

Grantee must submit any request for a change to a Budget item in writing or via e-mail to the DOJ and any changes to the Budget must be pre-approved in writing by the Tobacco Grant Unit at least thirty (30) days in advance of any change to the Budget item.

IV COST REIMBURSEMENT/INVOICING

DOJ agrees to reimburse Grantee, in arrears, for Grantee’s actual expenditures in performing the Scope of Work, upon receipt of invoices from Grantee and approval of the invoices by DOJ. Grantee will submit only one (1) invoice each month for items included in the Budget, included

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completed travel and training. The Grantee is required to ensure that all vendor deliverables are accepted and approved, equipment delivered, travel completed, and administrative activities performed. Invoiced amounts may not exceed the costs specified in the approved Budget.¹

Grantee will provide substantiation to DOJ pertaining to acceptance of hardware, software, services, and deliverables along with approved invoices for payment. Invoices paid by the Grantee and submitted to the DOJ for reimbursement must include the invoice number, invoice date, service period, agreement number, vendor name, vendor contact information, amounts, along with the approved Budget Template clearly identifying which expenditure the invoice is associated with. Grantee shall provide copies of packing slips substantiating delivery of purchased equipment. Grantee invoices and supporting documentation must be sent to the DOJ in hard copy format no later than the 15th calendar day following the month of expenditure. (Example, a purchase made on June 2nd would require invoice to be received by the DOJ no later than July 15th).

Invoices must be e-mailed or delivered via U.S. Mail addressed to:

California Department of Justice
Division of Law Enforcement
Tobacco Grant Unit
1300 I Street, Suite 1140
Sacramento, CA 95814
Devin.Rodriguez@doj.ca.gov

V BUDGET CONTINGENCY CLAUSE

It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under the agreement does not appropriate sufficient funds for this MOU, this MOU shall be of no further force and effect. In this event, the DOJ shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this MOU and Grantee shall not be obligated to continue performing any provisions of this agreement for which it would have been reimbursed.

If funding for any fiscal year is reduced or deleted in the Budget Act for purposes of this MOU, the DOJ shall have the option to either cancel this MOU with no liability occurring to the DOJ, or offer an amendment to the Grantee to reflect the reduced amount.

VI QUARTERLY REPORTING REQUIREMENTS

Grantee will submit quarterly progress reports to the DOJ. These reports, which will describe progress made on the recipient's Scope of Work, shall be submitted to DOJ according to the following schedule:

January 1 through March 31: Due April 15
April 1 through June 30: Due July 15

¹ Approved Budget included under Attachment 1.

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July 1 through September 30: Due October 15
 October 1 through December 31: Due January 15

Grantees shall submit any other reports and data as required by the DOJ.

VII ADMINISTRATION AND AUDIT

The DOJ is not liable for the Grantee's use of funds or any subsequent audit findings.

Grantee agrees that the DOJ and the California State Auditor, or their designated representatives shall have the right to review and copy any records and supporting documentation pertaining to the funds expended by Grantee and the Grantee's performance of the Scope of Work under this MOU. Grantee agrees to maintain all such records and reports for possible audit for a minimum of three (3) years after payment by DOJ of the final invoice submitted by Grantee. Grantee agrees to allow access to such records during normal business hours and to allow interviews with officers and employees who might reasonably have information related to such records. [Grantee agrees to include a similar right for DOJ and the California State Auditor to audit records and interview staff in any subcontract related to performance of the MOU.]

Should Grantee fail to comply with this MOU, including any expenditures for purposes not permitted under the MOU, DOJ may take one or more of the actions described under Remedies for Noncompliance in the Grant Handbook. Actions include but are not limited to requiring Grantee to return grant funds, and any other remedies available under law, and the Grantee may be disqualified from applying for or receiving future grant funds.

VIII GRANTEE CONTACT INFORMATION

Mandy Kellogg, Administrative Services Manager
 City of St. Helena, Finance Department
 1480 Main Street, St. Helena, CA 94574
 (707) 968-2649
 MKellogg@cityofsthelelena.org

Mark Prestwich, City Manager
 City of St. Helena, Administration
 1480 Main Street, St. Helena, CA 94574
 (707) 968-2744
 Mprestwich@cityofsthelelena.org

Tim Foley, Chief of Police
 City of St. Helena, Police Department
 1480 Main Street, St. Helena, CA 94574
 (707) 967-2855
 Tfoley@cityofsthelelena.org

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Chris Hartley, Lieutenant
City of St. Helena, Police Department
1480 Main Street
(707) 967-2856
Chartley@cityofstheleena.org

IX MISCELLANEOUS PROVISIONS

Amendment- No amendment or variation of the terms of this MOU is valid unless made in writing, and signed by the duly authorized representatives of the parties.

Assignment- This MOU is not assignable by Grantee in whole or in part.

Indemnification- Grantee agrees to indemnify and hold harmless the DOJ, its officers, agents and employees from all claims, liabilities, or losses in connection with the performance of this MOU.

Termination – The DOJ may terminate this MOU and be relieved of any obligation to provide grant funds to Grantee should Grantee fail to perform the Scope of Work at the time and in the manner provided in this MOU.

X AUTHORIZATION

The DOJ and Grantee, by their duly authorized officials, have executed this MOU on the respective dates indicated below. This MOU and any future amendments shall be forwarded to the Division of Law Enforcement, Office of the Chief, with all its attachments, and will become effective upon completion of signature from all parties.

Mark T. Prestwich, City Manager
City of St. Helena

Date

Tim Foley, Chief of Police
City of St. Helena Police Department

Date

SHANNON PATTERSON, GRANT MGR.
Office of the Chief
California Department of Justice

Date

DOJ-PROP56-2018-19-1-032

KEVIN GARDNER, Chief
Office of the Chief
California Department of Justice

Date

CHRIS RYAN, Chief
Division of Operations
California Department of Justice

Date



Report to the City Council
Council Meeting of February 26, 2019

Agenda Section: Consent

Subject: Second reading and adoption of an Ordinance adding sections 13.04.215 and 13.12.120 to the St. Helena Municipal Code ("SHMC") to allow City Council subcommittee Mayor Ellsworth and Vice Mayor Dohring will review the water usage data.

CEQA Determination: Not a CEQA project

Prepared By: Cindy Tzaopoulos, City Clerk

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The first reading was introduced at the February 12, 2019, regular City Council meeting.

DISCUSSION

At its October 23, 2018 City Council meeting, the Council considered the policy question whether, and how, to allow the City Council to access otherwise confidential water customer water usage data for the purpose of verifying customer's compliance with water use agreements and conditions imposed or representations made during the land use approval process. The Council received a staff report (**Attachment 1**) and input from the City Manager and City Attorney. The Council also received testimony and input from the public.

At the conclusion of the presentation from staff and the input from the community and, after Council deliberation, the Council directed staff to prepare an ordinance allowing the Council to access otherwise confidential customer water usage data to verify customer compliance. The Council's direction was that, pursuant to the new ordinance, the Council would form an "ad hoc" working group of two Council members to perform

the compliance review and report back to the full Council and public, without revealing confidential information, about users' compliance.

Staff presented the initial draft ordinance to the City Council on December 11, 2018 to provide that authority. The Council again received a staff report (**Attachment 2**) and input from the City Manager and City Attorney. The Council voted to introduce the ordinance by First Reading at the December 11, 2018 meeting.

The initial ordinance then was returned to the Council for a Second Reading at the Council's meeting on January 8, 2019. At that meeting, Council members asked that the ordinance be revised to:

- more broadly allow the Council to review water usage data not solely for customers with water use agreements or land use entitlements, but also for the City's larger water users without water use agreements or water-related conditions/representations in land use entitlements; and
- allow for disclosure where the City Council subcommittee recommends, and the Council finds, that a water customer has failed to comply with a water use agreement, condition or representation of land use approval or other city water policy.

The attached revised draft ordinance (**Attachment 3**) addresses the requests made by the Council at the January 8, 2019 meeting. The revisions required a new First Reading which was held on February 12, 2019.

Like the initial ordinance, this revised ordinance is intended as a companion to a second ordinance (**Attachment 4**) that would amend Section 17.08.060 of the City's zoning ordinance to authorize similar review and disclosure for water users for whom water-related conditions are imposed as a condition of land use approvals, and who make water-related promises or representations in the course of seeking land use approvals. That ordinance will go before the City's Planning Commission for its review and recommendation of the proposed zoning ordinance amendment.

Finally, once the ordinances have been approved and adopted following two City Council readings, the City Council subcommittee Mayor Ellsworth and Vice Mayor Dohring will review the water usage data.

FISCAL IMPACT

There will be no direct fiscal impact to the General Fund related to this report.

RECOMMENDED ACTION

Conduct the Second Reading Adopting the Ordinance Adding Sections 13.04.215 and 13.12.120 to the St. Helena Municipal Code ("SHMC") by title only and waive further reading.

ATTACHMENTS

[Attachment 1 October 23, 2019 Staff Report](#)

[Attachment 2 December 11, 2019 Staff Report](#)

[Attachment 3 City of St. Helena-Ordinance Amending Municipal Code to Add Sections 13.04.215 and 13.12.120 4818-2820-0582 v.1](#)

[Attachment 4 City of St. Helena-Ordinance Amending Municipal Code Section 17.08.060 4831-6094-0678 v.1](#)



Report to the City Council
Council Meeting of October 23, 2018

Agenda Section: New Business

Subject: Disclosure Of Water Customer Usage Data To Verify Water Customers' Compliance With Obligations Imposed By Agreements And/Or Water Neutrality Or Other Conditions of Land Use Approvals

CEQA Determination: Not a CEQA project

Prepared By: Thomas B. Brown, City Attorney

Reviewed By: Mark T. Prestwich, City Manager

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

This report is in response to the City Council's request at its regular meeting on September 11, 2018 to agendize a discussion concerning the possible disclosure of water customer usage data for purposes of verifying the customer's compliance with obligations imposed by contract or water neutrality or other conditions of land use project approval. Water neutrality is required of all new development pursuant to St. Helena Municipal Code (SHMC) section 13.12.030, and compliance with water neutrality is generally imposed on new development projects as a standard condition of all new development. Under the City's ordinance and practice, water neutrality is generally achieved by retrofitting/replacing existing high use toilets, faucets and other features.

As we discuss below, this report offers the following considerations:

- Under the PRA, Council members have no greater access to public records than the public;
- Under the PRA, documents containing water customers' water usage information are confidential;

- Section 6254.16(f) of the PRA authorizes the Council to disclose such information to the public generally upon the finding that the public interest in such disclosure clearly outweighs the interest in nondisclosure;
- Section 6254.16(f) does not authorize the Council to limit the disclosure to Council members;
- Apart from Section 6254.16 or the PRA, the Council has the constitutional police power to take appropriate action to vest itself with the ability to independently verify water customers' compliance with water use agreements and/or project conditions/representations concerning use of City water and/or water neutrality;
- Section 6252.5 of the PRA allows the Council the attendant right to inspect otherwise confidential documents containing water customers' water use data for the purpose of carrying out such duty to independently verify customers' compliance with water use agreements or project conditions/representations concerning water neutrality and/or water use; and
- Where Council members inspect such otherwise confidential documents, they have the obligation to maintain the confidentiality of those documents and the confidential information they contain.

DISCUSSION

A. Under The Public Records Act, City Council Members Have No Greater Right To Inspect Public Records Than Members Of The Public.

"Local agencies and their officials (i.e. City Council members) are entitled to access public records on the same basis as any other persons." (Government Code §6252.5.) Thus, Council members have no greater right of access to public records than does the public. (Los Angeles Unified School Dist. v.. Superior Ct. (2007) 151 Cal.App.4th 759, 773.) However, officials "might be authorized to access public records of their own agency that are otherwise exempt if such access is permitted by law as part of their official duties." (League of California Cities, The People's Business: A Guide to the Public Records Act (April 2017) ("People's Business"), p. 16; see also Government Code §6252.5.)

B. Government Code Section 6254.16 Makes Customers' Water Usage Data Confidential Unless One Of Its Exceptions Applies.

As the City Council has previously discussed at its meeting on August 8, 2017 (a copy of the staff report for that matter is attached as Exhibit 1), Government Code section 6254.16 generally makes "the disclosure of the name, credit history, utility usage data, home address, or telephone number of utility customers of local agencies" exempt from inspection under the PRA. However, Section 6254.16 recognizes an exception for the

“disclosure of name, utility usage data, and the home address of utility customers” under the following situations:

- (a) To an agent or authorized family member of the person to whom the information pertains.
- (b) To an officer or employee of another governmental agency when necessary for the performance of its official duties.
- (c) Upon court order or the request of a law enforcement agency relative to an ongoing investigation.
- (d) Upon determination by the local agency that the utility customer who is the subject of the request has used utility services in a manner inconsistent with applicable local utility usage policies.
- (e) Upon determination by the local agency that the utility customer who is the subject of the request is an elected or appointed official with authority to determine the utility usage policies of the local agency, provided that the home address of an appointed official shall not be disclosed without his or her consent.
- (f) Upon determination by the local agency that the public interest in disclosure of the information clearly outweighs the public interest in nondisclosure.”

Subsections (a), (b), (c), (d), and (e) do not appear to apply to the current scenario because the question does not involve the user, another agency, a court order, local utility usage policies, or a public official. Subsection (f), however, is applicable, and authorizes the Council to override the otherwise general confidentiality of water usage data by finding that the public interest in the disclosure of customers’ water usage data “clearly outweighs” the interest in nondisclosure. When the City Council previously addressed this question, the Council did not vote to make the determination under Section 6254.16(f). The staff report for that meeting sets forth some of the competing issues the Council considered in making its decision.

The language of the exception under Section 6254.16(f)--the information “shall be made available upon request”--would appear to envision a broad, general “override” for the public generally. That language does not explicitly state, nor does it appear to envision, that Section 6254.16(f) may be used to authorize a “limited” override for access only by all or part of the City Council. Thus, it is our view that Section 6254.16(f) may only be invoked by the Council to authorize the broader access for the public generally.

However, another section of the PRA, Section 6252.5, in our view authorizes the Council to grant such limited access by all or part of the Council. In our view, Section 6252.5 allows the Council to grant Council members limited access to otherwise confidential customer water usage data where the Council determines that its duties, or

the duties of a Council subcommittee, include and require the independent verification of customers' compliance with water use agreements or project conditions or representations.

C. The Council May Grant Its Members The Right And Duty To Inspect Otherwise Confidential Documents Containing Customers' Water Use Data For The Limited Purpose Of Independently Verifying Those Customers' Compliance With Water Use Agreements Or Project Conditions/Representations Under The "Administration of Official Duty" Exception.

Again, Council members generally have no greater right of access to public records than does the public generally. (PRA, §6252.5.) However, the PRA also provides that Council members may "access public records of their own agency that are otherwise exempt if such access is permitted by law as part of their official duties." (See People's Business, p.16; see also Government Code §§ 6252.5, 6252.7.) Currently, there is no explicit authority that establishes that Council members have either the duty or the authority to review, verify or audit water customers' compliance with water use agreements or water neutrality or other project conditions/representations. Both the St. Helena Municipal Code and the Government Code are silent on this matter. (See generally Government Code §§37100 et seq. (setting forth the powers of City Councils); St. Helena Municipal Code, Chapter 2.04.)

However, under the California Constitution, the City Council has broad police power authority "to make and enforce all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." (Cal. Const. art. XI, section 7.) We are aware of no state (general) law that would prohibit the City Council from granting itself, or a subcommittee, the authority and duty to take actions it deems necessary and appropriate to independently verify compliance with City laws, agreements and resolutions. The police power is deemed to encompass such actions.

Accordingly, if the City Council desires, it may vest the City Council as a whole with the duty to review documents necessary for purposes of independently verifying water customers' compliance with the terms of water use agreements or project water neutrality or other conditions/representations. Alternatively, the Council has similar authority to create a Council subcommittee by which appointed Council members would be charged with such a duty to review customers' compliance.

Such a subcommittee would be subject to the Brown Act unless it had only a limited duration and function. (See Government Code §54952.) The subcommittee would not be subject to the Brown Act only if it were "advisory" only, consisted only of two Council members, and was addressing a limited, "ad hoc" task only and was not "standing" (i.e. ongoing).

D. If The Council Does Not Make The Broad Determination Under Section 6254.16(f), But Instead Only Grants Council Members The Right And Duty To

Inspect Documents Containing Water Customers' Otherwise Confidential Water Usage Data, Council Members Must Maintain The Confidentiality Of The Documents And Data.

If the City Council authorizes some or all Council members to inspect customers' water usage data, such documents and information would remain confidential from disclosure to the public, in contrast with the Section 6254.16 exemption discussed above. This is because when Council members act within the scope of their office and administering their duty to verify water customers' compliance, they are not considered to be accessing such documents as a "member of the public." (See Government Code §6252(b) ("Member of the public' means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.")) As such, all Council members whom the Council may authorize to inspect such otherwise confidential records for the limited purpose of independently verifying customers' compliance with water use agreements or project conditions/representations would be prohibited from disclosing to any person the otherwise confidential documents and the confidential information they contain. Council members would be required to maintain the confidentiality of such documents and information to the same extent as staff.

E. Conclusions.

In short, the following considerations should help to inform the Council's consideration of these issues:

- Under the PRA, Council members have no greater access to public records than the public;
- Under the PRA, documents containing water customers water usage information is confidential;
- Section 6254.16(f) of the PRA authorizes the Council to establish policy for the City to disclose such information to the public generally upon the finding that the public interest in such disclosure clearly outweighs the interest in nondisclosure, but does not authorize the Council to limit the disclosure to Council members;
- The Council has the constitutional police power to vest itself with the right and duty to independently verify water customers' compliance with water use agreements and/or project conditions/representations concerning water neutrality and/or use of City water;
- Section 6252.5 of the PRA allows the Council the attendant right to inspect otherwise confidential documents containing water customers' water use data for the purpose of carrying out the duty to independently verify customers' compliance with water use agreements or project conditions/representations; and

- Where Council members inspect such otherwise confidential documents, they have the obligation to maintain the confidentiality of those documents and the confidential information they contain.

FISCAL IMPACT

There will be no Council action nor fiscal impact to the General Fund related to this item.

RECOMMENDED ACTION

Staff recommends that the Council consider the issues discussed above, and provide direction as appropriate.



Report to the City Council
Council Meeting of December 11, 2018

Agenda Section: New Business

Subject: Authorization Of The City Council To Review Otherwise Confidential Customer Water Usage Data For Purpose of Verifying Compliance With Water Use Agreements or Conditions of Project Approval By:

- (1) Introduce and Conduct the First Reading of the Ordinance Adding Sections 13.04.215 and 13.12.120 To The St. Helena Municipal Code ("SHMC");**
- (2) Direction To The Planning Commission To Review The Proposed Amendment Of SHMC Section 17.08.060; and**
- (3) Adoption of Draft Resolution Designating City Council Subcommittee To Review Water Customers' Usage Data, Effective Upon Effective Date of Ordinance**

CEQA Not a CEQA project
Determination:

Prepared By: Thomas B. Brown, City Attorney

Reviewed By: Mark T. Prestwich, City Manager

Approved By: Mark T. Prestwich, City Manager

DISCUSSION

At its October 23, 2018 City Council meeting, the Council considered the policy question whether, and how, to allow the City Council to access otherwise confidential water customer water usage data for the purpose of verifying customer's compliance with water use agreements and conditions imposed or representations made during the land use approval process. The Council received a staff report (**Attachment 1**) and input from the City Manager and City Attorney. The Council also received testimony and input from the public.

At the conclusion of the presentation from staff and the input from the community and, after Council deliberation, the Council directed staff to prepare an ordinance allowing the Council to access otherwise confidential customer water usage data to verify customer compliance. The Council's direction was that, pursuant to the new ordinance, the Council would form an "ad hoc" working group of two Council members to perform the compliance review and report back to the full Council and public, without revealing confidential information, about users' compliance.

The attached draft ordinance (**Attachment 2**) provides that authority, and the attached draft resolution (**Attachment 3**), which will be effective once the draft ordinance is in effect, would exercise that new authority by creating the Council working group.

In addition, the attached second draft ordinance (**Attachment 4**) would amend the City's Zoning Ordinance to provide similar authority to ensure and allow verification of project applicants' compliance with water and water neutrality conditions of approval imposed on land use entitlements such as Use Permits. The Planning Commission must consider and make a recommendation for the Council on any amendments to the Zoning Ordinance.

FISCAL IMPACT

There will be no direct fiscal impact to the General Fund related to this report.

RECOMMENDED ACTION

1. Introduce and conduct the first reading of the ordinance (**Attachment 2**) authorizing the City Council to access otherwise confidential water customer water usage data for the purpose of verifying customer compliance with water use agreements and water neutrality requirements by title only and waive further reading.
2. Consider, discuss and approve or provide other direction for the draft resolution (**Attachment 3**), which would be effective upon the effective date of the ordinance (**Attachment 2**), implementing the new ordinance by creating Council working group to access otherwise confidential water customer water usage data for the purpose of verifying customer compliance with water use agreements and conditions imposed or representations made during the land use approval process.
3. Direct Planning Commission to consider and make a recommendation concerning the draft ordinance amending the Zoning Ordinance, SHMC section 17.08.060.

ATTACHMENTS

[10-23-18 Staff Report - Pdf](#)

[St. Helena Ordinance Granting Council Authority To Review Water Use Compliance 4823-0010-4313 v.1](#)

[St. Helena Ordinance Amending SHMC Section 17.08.060 Authorizing Council Review Of Water Usage 4820-0950-9505 v.1](#)

[Resolution Designating Council Subcommittee To Review and Report On Water Customers Confidential Usage Data 4834-2413-9392 v.1](#)



Report to the City Council
Council Meeting of October 23, 2018

Agenda Section: New Business

Subject: Disclosure Of Water Customer Usage Data To Verify Water Customers' Compliance With Obligations Imposed By Agreements And/Or Water Neutrality Or Other Conditions of Land Use Approvals

CEQA Determination: Not a CEQA project

Prepared By: Thomas B. Brown, City Attorney

Reviewed By: Mark T. Prestwich, City Manager

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

This report is in response to the City Council's request at its regular meeting on September 11, 2018 to agendize a discussion concerning the possible disclosure of water customer usage data for purposes of verifying the customer's compliance with obligations imposed by contract or water neutrality or other conditions of land use project approval. Water neutrality is required of all new development pursuant to St. Helena Municipal Code (SHMC) section 13.12.030, and compliance with water neutrality is generally imposed on new development projects as a standard condition of all new development. Under the City's ordinance and practice, water neutrality is generally achieved by retrofitting/replacing existing high use toilets, faucets and other features.

As we discuss below, this report offers the following considerations:

- Under the PRA, Council members have no greater access to public records than the public;
- Under the PRA, documents containing water customers' water usage information are confidential;

- Section 6254.16(f) of the PRA authorizes the Council to disclose such information to the public generally upon the finding that the public interest in such disclosure clearly outweighs the interest in nondisclosure;
- Section 6254.16(f) does not authorize the Council to limit the disclosure to Council members;
- Apart from Section 6254.16 or the PRA, the Council has the constitutional police power to take appropriate action to vest itself with the ability to independently verify water customers' compliance with water use agreements and/or project conditions/representations concerning use of City water and/or water neutrality;
- Section 6252.5 of the PRA allows the Council the attendant right to inspect otherwise confidential documents containing water customers' water use data for the purpose of carrying out such duty to independently verify customers' compliance with water use agreements or project conditions/representations concerning water neutrality and/or water use; and
- Where Council members inspect such otherwise confidential documents, they have the obligation to maintain the confidentiality of those documents and the confidential information they contain.

DISCUSSION

A. Under The Public Records Act, City Council Members Have No Greater Right To Inspect Public Records Than Members Of The Public.

"Local agencies and their officials (i.e. City Council members) are entitled to access public records on the same basis as any other persons." (Government Code §6252.5.) Thus, Council members have no greater right of access to public records than does the public. (Los Angeles Unified School Dist. v.. Superior Ct. (2007) 151 Cal.App.4th 759, 773.) However, officials "might be authorized to access public records of their own agency that are otherwise exempt if such access is permitted by law as part of their official duties." (League of California Cities, The People's Business: A Guide to the Public Records Act (April 2017) ("People's Business"), p. 16; see also Government Code §6252.5.)

B. Government Code Section 6254.16 Makes Customers' Water Usage Data Confidential Unless One Of Its Exceptions Applies.

As the City Council has previously discussed at its meeting on August 8, 2017 (a copy of the staff report for that matter is attached as Exhibit 1), Government Code section 6254.16 generally makes "the disclosure of the name, credit history, utility usage data, home address, or telephone number of utility customers of local agencies" exempt from inspection under the PRA. However, Section 6254.16 recognizes an exception for the

“disclosure of name, utility usage data, and the home address of utility customers” under the following situations:

- (a) To an agent or authorized family member of the person to whom the information pertains.
- (b) To an officer or employee of another governmental agency when necessary for the performance of its official duties.
- (c) Upon court order or the request of a law enforcement agency relative to an ongoing investigation.
- (d) Upon determination by the local agency that the utility customer who is the subject of the request has used utility services in a manner inconsistent with applicable local utility usage policies.
- (e) Upon determination by the local agency that the utility customer who is the subject of the request is an elected or appointed official with authority to determine the utility usage policies of the local agency, provided that the home address of an appointed official shall not be disclosed without his or her consent.
- (f) Upon determination by the local agency that the public interest in disclosure of the information clearly outweighs the public interest in nondisclosure.”

Subsections (a), (b), (c), (d), and (e) do not appear to apply to the current scenario because the question does not involve the user, another agency, a court order, local utility usage policies, or a public official. Subsection (f), however, is applicable, and authorizes the Council to override the otherwise general confidentiality of water usage data by finding that the public interest in the disclosure of customers’ water usage data “clearly outweighs” the interest in nondisclosure. When the City Council previously addressed this question, the Council did not vote to make the determination under Section 6254.16(f). The staff report for that meeting sets forth some of the competing issues the Council considered in making its decision.

The language of the exception under Section 6254.16(f)--the information “shall be made available upon request”--would appear to envision a broad, general “override” for the public generally. That language does not explicitly state, nor does it appear to envision, that Section 6254.16(f) may be used to authorize a “limited” override for access only by all or part of the City Council. Thus, it is our view that Section 6254.16(f) may only be invoked by the Council to authorize the broader access for the public generally.

However, another section of the PRA, Section 6252.5, in our view authorizes the Council to grant such limited access by all or part of the Council. In our view, Section 6252.5 allows the Council to grant Council members limited access to otherwise confidential customer water usage data where the Council determines that its duties, or

the duties of a Council subcommittee, include and require the independent verification of customers' compliance with water use agreements or project conditions or representations.

C. The Council May Grant Its Members The Right And Duty To Inspect Otherwise Confidential Documents Containing Customers' Water Use Data For The Limited Purpose Of Independently Verifying Those Customers' Compliance With Water Use Agreements Or Project Conditions/Representations Under The "Administration of Official Duty" Exception.

Again, Council members generally have no greater right of access to public records than does the public generally. (PRA, §6252.5.) However, the PRA also provides that Council members may "access public records of their own agency that are otherwise exempt if such access is permitted by law as part of their official duties." (See People's Business, p.16; see also Government Code §§ 6252.5, 6252.7.) Currently, there is no explicit authority that establishes that Council members have either the duty or the authority to review, verify or audit water customers' compliance with water use agreements or water neutrality or other project conditions/representations. Both the St. Helena Municipal Code and the Government Code are silent on this matter. (See generally Government Code §§37100 et seq. (setting forth the powers of City Councils); St. Helena Municipal Code, Chapter 2.04.)

However, under the California Constitution, the City Council has broad police power authority "to make and enforce all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." (Cal. Const. art. XI, section 7.) We are aware of no state (general) law that would prohibit the City Council from granting itself, or a subcommittee, the authority and duty to take actions it deems necessary and appropriate to independently verify compliance with City laws, agreements and resolutions. The police power is deemed to encompass such actions.

Accordingly, if the City Council desires, it may vest the City Council as a whole with the duty to review documents necessary for purposes of independently verifying water customers' compliance with the terms of water use agreements or project water neutrality or other conditions/representations. Alternatively, the Council has similar authority to create a Council subcommittee by which appointed Council members would be charged with such a duty to review customers' compliance.

Such a subcommittee would be subject to the Brown Act unless it had only a limited duration and function. (See Government Code §54952.) The subcommittee would not be subject to the Brown Act only if it were "advisory" only, consisted only of two Council members, and was addressing a limited, "ad hoc" task only and was not "standing" (i.e. ongoing).

D. If The Council Does Not Make The Broad Determination Under Section 6254.16(f), But Instead Only Grants Council Members The Right And Duty To

Inspect Documents Containing Water Customers' Otherwise Confidential Water Usage Data, Council Members Must Maintain The Confidentiality Of The Documents And Data.

If the City Council authorizes some or all Council members to inspect customers' water usage data, such documents and information would remain confidential from disclosure to the public, in contrast with the Section 6254.16 exemption discussed above. This is because when Council members act within the scope of their office and administering their duty to verify water customers' compliance, they are not considered to be accessing such documents as a "member of the public." (See Government Code §6252(b) ("Member of the public' means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.")) As such, all Council members whom the Council may authorize to inspect such otherwise confidential records for the limited purpose of independently verifying customers' compliance with water use agreements or project conditions/representations would be prohibited from disclosing to any person the otherwise confidential documents and the confidential information they contain. Council members would be required to maintain the confidentiality of such documents and information to the same extent as staff.

E. Conclusions.

In short, the following considerations should help to inform the Council's consideration of these issues:

- Under the PRA, Council members have no greater access to public records than the public;
- Under the PRA, documents containing water customers water usage information is confidential;
- Section 6254.16(f) of the PRA authorizes the Council to establish policy for the City to disclose such information to the public generally upon the finding that the public interest in such disclosure clearly outweighs the interest in nondisclosure, but does not authorize the Council to limit the disclosure to Council members;
- The Council has the constitutional police power to vest itself with the right and duty to independently verify water customers' compliance with water use agreements and/or project conditions/representations concerning water neutrality and/or use of City water;
- Section 6252.5 of the PRA allows the Council the attendant right to inspect otherwise confidential documents containing water customers' water use data for the purpose of carrying out the duty to independently verify customers' compliance with water use agreements or project conditions/representations; and

- Where Council members inspect such otherwise confidential documents, they have the obligation to maintain the confidentiality of those documents and the confidential information they contain.

FISCAL IMPACT

There will be no Council action nor fiscal impact to the General Fund related to this item.

RECOMMENDED ACTION

Staff recommends that the Council consider the issues discussed above, and provide direction as appropriate.

CITY OF ST. HELENA

ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. HELENA,
CALIFORNIA, AMENDING THE ST. HELENA MUNICIPAL CODE TO ADD
SECTIONS 13.04.215 AND 13.12.120.**

The City Council of the City of the City of St. Helena ordains as follows:

SECTION 1. Findings.

The City Council finds as follows:

- A. The City of St. Helena has in the past treated water customers' usage data as confidential pursuant to the Public Records Act, Government Code section 6254.16. Recently, after members of the public expressed the view that the public interest would be served by allowing City Council members access to such water usage data for purposes of verifying customers' compliance with water use agreements and conditions imposed on, and representations made by applicants for land use approvals, the Council directed staff to place an item on the City Council agenda for the Council to consider the policy and legal issues associated with that view.
- B. On October 23, 2018, in response to the Council's direction, the City Council received a staff report from the City Attorney setting forth the law governing the issue. The report concluded that:
 - Under the PRA, Council members have no greater access to public records than the public;
 - Under the PRA, documents containing water customers' water usage information are confidential;
 - Section 6254.16(f) of the PRA authorizes the Council to disclose such information to the public generally upon the finding that the public interest in such disclosure clearly outweighs the interest in nondisclosure;
 - Section 6254.16(f) does not authorize the Council to limit the disclosure to Council members;
 - Apart from Section 6254.16 or the PRA, the Council has the constitutional police power to take appropriate action to vest itself with the ability to independently verify water customers' compliance with water use agreements and/or project conditions/representations concerning use of City water and/or water neutrality;
 - Section 6252.5 of the PRA allows the Council the attendant right to inspect otherwise confidential documents containing water customers' water use data for

the purpose of carrying out such duty to independently verify customers' compliance with water use agreements or project conditions/representations concerning water neutrality and/or water use; and

- Where Council members inspect such otherwise confidential documents, they have the obligation to maintain the confidentiality of those documents and the confidential information they contain.
- C. Having read and considered the staff report containing the City Attorney's conclusions, as well as input from the community, the City Council directed the staff to prepare an ordinance and resolution authorizing the City Council to designate a subcommittee of its members, as part of their duties under the St. Helena Municipal Code, to review water customers' otherwise confidential usage data for the purpose of independently verifying customers' compliance with water use agreements or project conditions/representations concerning water neutrality and/or water use.
- D. On December 11, 2018, the City Council considered this Ordinance at a public meeting, and all interested parties were given full opportunity to be heard and to present evidence and arguments about the Ordinance.

SECTION 2. Compliance with CEQA.

The City Council hereby finds that the action to adopt this Ordinance is not a project subject to the requirements of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.). Further the City Council finds that the proposed Ordinance is exempt from the requirements of CEQA, under Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment, and therefore, the Ordinance is not subject to CEQA.

SECTION 3. Adding Sections 13.04.215 and 13.12.120.

Sections 13.04.215 and 13.12.120 are hereby added to the St. Helena Municipal Code to read as set forth in the attached Exhibit A.

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. Effective Date.

This ordinance shall take effect and be in force 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.

SECTION 6. General Plan Consistency.

The Ordinance is consistent with the General Plan.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the ____ day of _____, _____ and was adopted at a regular meeting of the St. Helena City Council on the ____ day of _____, _____ by the following vote:

Mayor Ellsworth:	_____
Vice Mayor _____:	_____
Councilmember Chouteau:	_____
Councilmember Dohring:	_____
Councilmember Koberstein:	_____

APPROVED:

Geoff Ellsworth, 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 _____, _____. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, _____ by the following vote:

Mayor Ellsworth:	_____
Vice Mayor _____:	_____
Councilmember Chouteau:	_____
Councilmember Dohring:	_____
Councilmember Koberstein:	_____

Exhibit A

13.04.215 City Council authority and discretion to verify compliance.

The City Council shall have the authority and discretion take those actions it deems necessary and appropriate to verify and ensure compliance with agreements for the provision by the city of water, including without limitation the authority, consistent with requirements of state and federal law, to designate a City Council subcommittee to review customer water use data and documents. Council subcommittee members shall report their findings to the full City Council, and shall maintain the confidentiality of the water customers' usage data and information.

13.12.120 City Council authority and discretion to verify compliance.

The City Council shall have the authority and discretion take those actions it deems necessary and appropriate to verify and ensure compliance with the requirements of this chapter, including without limitation the authority, consistent with requirements of state and federal law, to designate a City Council subcommittee to review customer water use data and documents. Council subcommittee members shall report their findings to the full City Council, and shall maintain the confidentiality of the water customers' usage data and information.

CITY OF ST. HELENA

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. HELENA, CALIFORNIA, AMENDING ST. HELENA MUNICIPAL CODE SECTION 17.08.060.

The City Council of the City of the City of St. Helena ordains as follows:

SECTION 1. Findings.

The City Council finds as follows:

- A. The City of St. Helena has in the past treated water customers' usage data as confidential pursuant to the Public Records Act, Government Code section 6254.16. Recently, after members of the public expressed the view that the public interest would be served by allowing City Council members access to such water usage data for purposes of verifying customers' compliance with water use agreements and conditions imposed on, and representations made by applicants for land use approvals, the Council directed staff to place an item on the City Council agenda for the Council to consider the policy and legal issues associated with that view.
- B. On October 23, 2018, in response to the Council's direction, the City Council received a staff report from the City Attorney setting forth the law governing the issue. The report concluded that:
 - Under the PRA, Council members have no greater access to public records than the public;
 - Under the PRA, documents containing water customers' water usage information are confidential;
 - Section 6254.16(f) of the PRA authorizes the Council to disclose such information to the public generally upon the finding that the public interest in such disclosure clearly outweighs the interest in nondisclosure;
 - Section 6254.16(f) does not authorize the Council to limit the disclosure to Council members;
 - Apart from Section 6254.16 or the PRA, the Council has the constitutional police power to take appropriate action to vest itself with the ability to independently verify water customers' compliance with water use agreements and/or project conditions/representations concerning use of City water and/or water neutrality;
 - Section 6252.5 of the PRA allows the Council the attendant right to inspect otherwise confidential documents containing water customers' water use data for the purpose of carrying out such duty to independently verify customers'

compliance with water use agreements or project conditions/representations concerning water neutrality and/or water use; and

- Where Council members inspect such otherwise confidential documents, they have the obligation to maintain the confidentiality of those documents and the confidential information they contain.
- C. Having read and considered the staff report containing the City Attorney's conclusions, as well as input from the community, the City Council directed the staff to prepare an ordinance and resolution authorizing the City Council to designate a subcommittee of its members, as part of their duties under the St. Helena Municipal Code, to review water customers' otherwise confidential usage data for the purpose of independently verifying customers' compliance with water use agreements or project conditions/representations concerning water neutrality and/or water use.
- D. The City's Planning Commission reviewed the amendments proposed by this Ordinance at a duly noticed public hearing on _____. After all interested parties were given full opportunity to be heard, and to present evidence, the Planning Commission voted to recommend to the City Council that the Council adopt the amendments to Section 17.08.060 proposed by this Ordinance.
- E. On _____, the City Council conducted a duly noticed public hearing to consider this ordinance, and all interested parties were given full opportunity to be heard and to present evidence.
- F. The proposed amendments would further the public necessity, convenience, general welfare and good zoning practice by providing the city with enhanced ability to verify whether project applicants comply with representations and assurances they make during the project application review and approval process and with conditions of project approval, consistent with state and federal law.

SECTION 2. Compliance with CEQA.

The City Council hereby finds that the action to adopt this Ordinance to amend the St. Helena Municipal Code is exempt from the requirements of CEQA, under Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and therefore, the activity is not subject to CEQA.

SECTION 3. Amending Section 17.08.060.

Section 17.08.060 of the St. Helena Municipal Code is hereby amended to read as set forth in the attached Exhibit A.

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. Effective Date.

This ordinance shall take effect and be in force 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.

SECTION 6. General Plan Consistency.

The proposed amendments are consistent with the General Plan.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the ____ day of _____, ____ and was adopted at a regular meeting of the St. Helena City Council on the ____ day of _____, ____ by the following vote:

Mayor Ellsworth:	_____
Vice Mayor ____:	_____
Councilmember Chouteau:	_____
Councilmember Dohring:	_____
Councilmember Koberstein:	_____

APPROVED:

Geoff Ellsworth, 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 _____, _____. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, _____ by the following vote:

Mayor Ellsworth:	_____
Vice Mayor _____:	_____
Councilmember Chouteau:	_____
Councilmember Dohring:	_____
Councilmember Koberstein:	_____

Exhibit A

17.08.060 Authority of final decision-making body and verification of compliance with project representations and conditions.

- A. In considering an application for a permit or other discretionary approval authorized by this title, the final decision-making body may approve, deny or modify the application consistent with the evidence presented to it and the appropriate findings required by this title. Final decision-making bodies may require changes to applications and/or impose conditions of approval in order to effect the policies of the general plan and the purpose of this title. Such conditions include but are not limited to: dedication of land; installation of specific improvements; size, design and placement of buildings or structures; landscaping; conservation of water, limitations on use and/or hours of operation, and verification of representations made by and conditions imposed on project applicants. Such conditions shall be reasonably related to the use of the property for which the permit or other discretionary approval is requested.
- B. The City Council shall have the authority and discretion take those actions it deems necessary and appropriate to verify and ensure compliance with conditions imposed on and representations made by project applicants, including without limitation the authority, consistent with requirements of state and federal law, to designate a City Council subcommittee to review customer water use and other documents. Council subcommittee members shall report their findings to the full City Council, and shall maintain the confidentiality of the water customers' usage data and information.

Attachment 9

CITY OF ST. HELENA

RESOLUTION NO. 2018-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST. HELENA DESIGNATING A CITY COUNCIL SUBCOMMITTEE TO REVIEW OTHERWISE CONFIDENTIAL WATER CUSTOMER WATER USAGE DATA FOR PURPOSE OF VERIFYING CUSTOMERS' COMPLIANCE WITH WATER USE AGREEMENTS AND CONDITIONS IMPOSED ON AND REPRESENTATIONS MADE BY LAND USE PROJECT APPLICANTS

RECITALS

A. The City of St. Helena has in the past treated water customers' usage data as confidential pursuant to the Public Records Act, Government Code section 6254.16. Recently, after members of the public expressed the view that the public interest would be served by allowing City Council members access to such water usage data for purposes of verifying customers' compliance with water use agreements and conditions imposed on, and representations made by applicants for land use approvals, the Council directed staff to place an item on the City Council agenda for the Council to consider the policy and legal issues associated with that view.

B. On October 23, 2018, in response to the Council's direction, the City Council received a staff report from the City Attorney setting forth the law governing the issue. The report concluded that:

- Under the PRA, Council members have no greater access to public records than the public;
- Under the PRA, documents containing water customers' water usage information are confidential;
- Section 6254.16(f) of the PRA authorizes the Council to disclose such information to the public generally upon the finding that the public interest in such disclosure clearly outweighs the interest in nondisclosure;
- Section 6254.16(f) does not authorize the Council to limit the disclosure to Council members;
- Apart from Section 6254.16 or the PRA, the Council has the constitutional police power to take appropriate action to vest itself with the ability to independently

verify water customers' compliance with water use agreements and/or project conditions/representations concerning use of City water and/or water neutrality;

- Section 6252.5 of the PRA allows the Council the attendant right to inspect otherwise confidential documents containing water customers' water use data for the purpose of carrying out such duty to independently verify customers' compliance with water use agreements or project conditions/representations concerning water neutrality and/or water use; and
- Where Council members inspect such otherwise confidential documents, they have the obligation to maintain the confidentiality of those documents and the confidential information they contain.

C. Having read and considered the staff report containing the City Attorney's conclusions, as well as input from the community, the City Council adopted ordinances authorizing the City Council to designate a subcommittee of its members, as part of their duties under the St. Helena Municipal Code, to review water customers' otherwise confidential usage data for the purpose of independently verifying customers' compliance with water use agreements or project conditions/representations concerning water neutrality and/or water use.

RESOLUTION

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

1. The Council hereby appoints a subcommittee comprised of _____ and _____ to review water customers' otherwise confidential usage data for the purpose of independently verifying customers' compliance with water use agreements or project conditions/representations concerning water neutrality and/or water use.
2. Council subcommittee members shall report their findings to the full City Council, and shall maintain the confidentiality of the water customers' usage data and information.
3. This resolution shall be effective upon the effective date of the ordinance (No._____) authorizing it.

Approved at a Regular Meeting of the St. Helena City Council on January 10, 2017, by the following vote:

Mayor Ellsworth:	_____
Vice Mayor _____:	_____
Councilmember Chouteau:	_____
Councilmember Dohring:	_____

Councilmember Koberstein: _____

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzaopoulos, City Clerk

CITY OF ST. HELENA

ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. HELENA,
CALIFORNIA, AMENDING THE ST. HELENA MUNICIPAL CODE TO ADD
SECTIONS 13.04.215 AND 13.12.120.**

The City Council of the City of the City of St. Helena ordains as follows:

SECTION 1. Findings.

The City Council finds as follows:

- A. The City Council plays a vital role in the stewardship of the City's scarce water resources and in the management of the City's water utility enterprise. The City Council also exercises a legislative function in managing the City's water rate setting process and in setting water rates. In exercising these functions it is vital that the Council have access to information about how the City's water is used, in what amounts, and by what users. Similarly, it is important that the City Council know whether certain water customers comply with the requirements and limits of their water use agreements with the City and with representations and conditions of approval made and imposed in connection with the City's approval of land use entitlements;
- B. The City of St. Helena has in the past treated water customers' usage data as confidential pursuant to the Public Records Act, Government Code section 6254.16. Recently, after members of the public expressed the view that the public interest would be served by allowing City Council members access to such water usage data for purposes of verifying customers' compliance with water use agreements and conditions imposed on, and representations made by applicants for land use approvals, the Council directed staff to place an item on the City Council agenda for the Council to consider the policy and legal issues associated with that view;
- C. Under the PRA, documents containing water customers' water usage information are confidential;
- D. Section 6254.16(f) of the PRA authorizes the Council to disclose such information to the public generally upon the finding that the public interest in such disclosure clearly outweighs the interest in nondisclosure;
- E. Section 6254.16(f) does not authorize the Council to limit the disclosure to Council members;
- F. Section 6254.16(d) allows disclosure "Upon determination by the local agency that the utility customer who is the subject of the request has used utility services in a manner inconsistent with applicable local utility usage policies;"

- G. Apart from Section 6254.16 or the PRA, the Council has the constitutional police power to take appropriate action to vest itself with the ability to independently verify water customers' water usage, and compliance with water use agreements and/or project conditions/representations concerning use of City water and/or water neutrality;
- H. Section 6252.5 of the PRA allows the Council the attendant right to inspect and review otherwise confidential documents containing water customers' water use data for the purpose of carrying out such duty to independently determine how and how much City water is used, and by what users, and to verify customers' compliance with water use agreements or project conditions/representations concerning water neutrality and/or water use;
- I. Where Council members inspect such otherwise confidential documents, they have the obligation to maintain the confidentiality of those documents and the confidential information they contain, except as authorized by the PRA;
- J. Having read and considered the staff reports, as well as input from the community, the City Council directed the staff to prepare an ordinance and resolution authorizing the City Council to designate a subcommittee of its members, as part of their duties under the St. Helena Municipal Code, to review water customers' otherwise confidential usage data for the purposes of independently determining the amount of water used by the City's water customers, and verifying customers' compliance with water use agreements or project conditions/representations concerning water neutrality and/or water use;
- K. On December 11, 2018, January 9, 2019 and February 12, 2019, the City Council considered this Ordinance at public meetings, and all interested parties were given full opportunity to be heard and to present evidence and arguments about the Ordinance.

SECTION 2. Compliance with CEQA.

The City Council hereby finds that the action to adopt this Ordinance is not a project subject to the requirements of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.). Further the City Council finds that the proposed Ordinance is exempt from the requirements of CEQA, under Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment, and therefore, the Ordinance is not subject to CEQA.

SECTION 3. Adding Sections 13.04.215 and 13.12.120.

Sections 13.04.215 and 13.12.120 are hereby added to the St. Helena Municipal Code to read as set forth in the attached Exhibit A.

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. Effective Date.

This ordinance shall take effect and be in force 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.

SECTION 6. General Plan Consistency.

The Ordinance is consistent with the General Plan.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the 12th day of February, 2019, and was adopted at a regular meeting of the St. Helena City Council on the 26th day of February, 2019, by the following vote:

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

APPROVED:

Geoff Ellsworth, 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 _____, _____. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the day of _____, _____ by the following vote:

Mayor Ellsworth:	_____
Vice Mayor	_____
Councilmember Chouteau:	_____
Councilmember Dohring:	_____
Councilmember Koberstein:	_____

Exhibit A

13.04.215 City Council authority and discretion to verify compliance.

A. The City Council shall have the authority and discretion take those actions it deems necessary and appropriate to determine the amount of water used by the City's water users, and to verify and ensure compliance with agreements for the provision by the city of water, including without limitation the authority, consistent with requirements of state and federal law, to designate a City Council subcommittee to review customer water use data and documents. Council subcommittee members shall report their findings to the full City Council, and, except as set forth in subsection B, shall maintain the confidentiality of the water customers' usage data and information.

B. Notwithstanding any other provision in this code, upon the referral from the subcommittee that there has been a violation of or noncompliance with an agreement for the provision of water by the city, or a City water usage policy, the City Council may determine that a water customer has used services in a manner inconsistent with applicable local usage policies, and on that basis order disclosure of any water customer's water usage data and information.

13.12.120 City Council authority and discretion to verify compliance.

A. The City Council shall have the authority and discretion take those actions it deems necessary and appropriate to determine the amount of water used by the City's water users, and to verify and ensure compliance with the requirements of this chapter, including without limitation the authority, consistent with requirements of state and federal law, to designate a City Council subcommittee to review customer water use data and documents. Council subcommittee members shall report their findings to the full City Council, and, except as set forth in subsection B, shall maintain the confidentiality of the water customers' usage data and information.

B. Notwithstanding any other provision in this code, upon the referral from the subcommittee that there has been a violation of or noncompliance with an agreement for the provision of water by the city, or a City water usage policy, the City Council may determine that a water customer has used services in a manner inconsistent with applicable local usage policies, and on that basis order disclosure of any water customer's water usage data and information.

CITY OF ST. HELENA

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. HELENA, CALIFORNIA, AMENDING ST. HELENA MUNICIPAL CODE SECTION 17.08.060.

The City Council of the City of the City of St. Helena ordains as follows:

SECTION 1. Findings.

The City Council finds as follows:

- A. The City Council plays a vital role in the stewardship of the City's scarce water resources and in the management of the City's water utility enterprise. The City Council also exercises a legislative function in managing the City's water rate setting process and in setting water rates. In exercising these functions it is vital that the Council have access to information about how the City's water is used, in what amounts, and by what users. Similarly, it is important that the City Council know whether certain water customers comply with the requirements and limits of their water use agreements with the City and with representations and conditions of approval made and imposed in connection with the City's approval of land use entitlements;
- B. The City of St. Helena has in the past treated water customers' usage data as confidential pursuant to the Public Records Act, Government Code section 6254.16. Recently, after members of the public expressed the view that the public interest would be served by allowing City Council members access to such water usage data for purposes of verifying customers' compliance with water use agreements and conditions imposed on, and representations made by applicants for land use approvals, the Council directed staff to place an item on the City Council agenda for the Council to consider the policy and legal issues associated with that view;
- C. Under the PRA, documents containing water customers' water usage information are confidential;
- D. Section 6254.16(f) of the PRA authorizes the Council to disclose such information to the public generally upon the finding that the public interest in such disclosure clearly outweighs the interest in nondisclosure;
- E. Section 6254.16(f) does not authorize the Council to limit the disclosure to Council members;
- F. Section 6254.16(d) allows disclosure "Upon determination by the local agency that the utility customer who is the subject of the request has used utility services in a manner inconsistent with applicable local utility usage policies;"

- G. Apart from Section 6254.16 or the PRA, the Council has the constitutional police power to take appropriate action to vest itself with the ability to independently verify water customers' water usage, and compliance with water use agreements and/or project conditions/representations concerning use of City water and/or water neutrality;
- H. Section 6252.5 of the PRA allows the Council the attendant right to inspect and review otherwise confidential documents containing water customers' water use data for the purpose of carrying out such duty to independently determine how and how much City water is used, and by what users, and to verify customers' compliance with water use agreements or project conditions/representations concerning water neutrality and/or water use; and
- I. Where Council members inspect such otherwise confidential documents, they have the obligation to maintain the confidentiality of those documents and the confidential information they contain, except as authorized by the PRA;
- J. Having read and considered the staff reports, as well as input from the community, the City Council directed the staff to prepare an ordinance and resolution authorizing the City Council to designate a subcommittee of its members, as part of their duties under the St. Helena Municipal Code, to review water customers' otherwise confidential usage data for the purposes of independently determining the amount of water used by the City's water customers, and verifying customers' compliance with water use agreements or project conditions/representations concerning water neutrality and/or water use;
- K. On December 11, 2018, January 9, 2019 and February 12, 2019, the City Council considered this Ordinance at public meetings, and all interested parties were given full opportunity to be heard and to present evidence and arguments about the Ordinance;
- L. On February 12, 2019, the City Council referred the Ordinance proposing the amendment of the City's Zoning Ordinance, SHMC section 17.08.060, to the City's Planning Commission for its review and recommendation as required by law;
- M. The City's Planning Commission reviewed the amendments proposed by this Ordinance at a duly noticed public hearing on _____. After all interested parties were given full opportunity to be heard, and to present evidence, the Planning Commission voted to recommend to the City Council that the Council adopt the amendments to Section 17.08.060 proposed by this Ordinance;
- N. On _____, the City Council conducted a duly noticed public hearing to consider this ordinance, and all interested parties were given full opportunity to be heard and to present evidence;
- O. The proposed amendments would further the public necessity, convenience, general welfare and good zoning practice by providing the city with enhanced ability to verify whether project applicants comply with representations and assurances they make during

the project application review and approval process and with conditions of project approval, consistent with state and federal law.

SECTION 2. Compliance with CEQA.

The City Council hereby finds that the action to adopt this Ordinance to amend the St. Helena Municipal Code is exempt from the requirements of CEQA, under Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and therefore, the activity is not subject to CEQA.

SECTION 3. Amending Section 17.08.060.

Section 17.08.060 of the St. Helena Municipal Code is hereby amended to read as set forth in the attached Exhibit A.

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. Effective Date.

This ordinance shall take effect and be in force 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.

SECTION 6. General Plan Consistency.

The proposed amendments are consistent with the General Plan.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the day of _____, _____ and was adopted at a regular meeting of the St. Helena City Council on the day of _____, _____ by the following vote:

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

APPROVED:

Geoff Ellsworth, 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 _____, _____. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, _____ by the following vote:

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

Exhibit A

17.08.060 Authority of final decision-making body and verification of compliance with project representations and conditions.

- A. In considering an application for a permit or other discretionary approval authorized by this title, the final decision-making body may approve, deny or modify the application consistent with the evidence presented to it and the appropriate findings required by this title. Final decision-making bodies may require changes to applications and/or impose conditions of approval in order to effect the policies of the general plan and the purpose of this title. Such conditions include but are not limited to: dedication of land; installation of specific improvements; size, design and placement of buildings or structures; landscaping; conservation of water, limitations on use and/or hours of operation, and verification of representations made by and conditions imposed on project applicants. Such conditions shall be reasonably related to the use of the property for which the permit or other discretionary approval is requested.
- B. The City Council shall have the authority and discretion take those actions it deems necessary and appropriate to verify and ensure compliance with conditions imposed on and representations made by project applicants, including without limitation the authority, consistent with requirements of state and federal law, to designate a City Council subcommittee to review customer water use and other documents. Council subcommittee members shall report their findings to the full City Council, and, except as set forth in Subsection C, shall maintain the confidentiality of the water customers' usage data and information.
- C. Notwithstanding the foregoing, upon the referral from the City Council subcommittee that there has been a violation of or noncompliance with a representation made by and/or condition imposed on a project applicant relating to water usage and/or water neutrality, the City Council may determine that a water customer has used services in a manner inconsistent with applicable local usage policies, and on that basis order disclosure of any water customer's water usage data and information.



Report to the City Council
Council Meeting of February 26, 2019

Agenda Section: Public Hearing

Subject: Consideration of approval of a Resolution approving a request for an exemption from SHMC 13.04.055 which requires a connection to the public water system for the single family residence to be located at 500 Mills Lane (APN 009-070-019)

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

St. Helena Municipal Code (SHMC) 13.04.055 requires the owner of any structure located within the City in which plumbing is to be installed shall connect the plumbing of that structure directly to the proper public water main. The property owners of 500 Mills Lane, Mike and Debbie Preston, have submitted a development application (PL18-038) to build a single family residence on the property using an existing well to meet their water needs and not connect to the existing public water main.

There are provisions in SHMC 13.04.055 that allow the property owner to apply for an exception to the section that requires the property be connected to the City's water main. The owner has made such an application and the code requires the application be considered by the City Council prior to the determination of completeness of a development application for the property.

DISCUSSION

The parcel located at 500 Mills Lane (APN 009-070-019) is approximately 3.2 acres and is a site of an old vineyard with frontage on Mills Lane. The Preston family have an existing onsite well that was previously used to irrigate the vineyard and provide water

for an existing bathroom structure. The Preston family wish to utilize the existing well for the planned home development and have separately applied for a new agricultural well which is still under review.

The St. Helena Water Enterprise owns and operates a municipal water line along La Fata Street which is west of the property and approximately 1,800 feet away from the subject parcel. Therefore the opportunity exists for structures on the property to be connected to a proper public water main, but not without a significant section of public water main to be constructed as well as a financial burden to the applicant.

Per SHMC 13.04.055 D, the following criteria shall be considered by the City Council in the evaluation of applications for exceptions to the requirements of this section:

1. The proximity of existing public water mains to the subject lot;

The distance from the City's water main located on La Fata Street to the edge of the proposed parcel is approximately 1,800 linear feet, (1/3 mile). The City code requires the connection for "property" located within 1,000 linear feet of the public water main.

2. The ability to provide public water to the site at pressures adequate for domestic and emergency purposes by unmechanically augmented municipal systems;

Given the straight line to 500 Mills Lane with minimal elevation change, the City's water supply would most likely be able to supply adequate pressure for the property. However, there could be an issue with the volume of water delivered down this section which would require further design analysis.

3. The likelihood of adjoining lot(s) to develop, and the need for the extension of public water facilities to accommodate such development;

The adjacent properties all have existing wells that currently provide for domestic and/or vineyard water use therefore reducing the likelihood for future connections. The property is also located outside the urban limit line and in the A-20 Agricultural zoning district.

4. The potential environmental effects resulting from the installation of public facilities given the physical conditions and improvements present at the site including, but not limited to: slope, soil conditions, tree cover, existing features and structures, etc., which might present constraints to the extension of the public water facilities;

The installation of a public water main, should it be required, would take place within the existing public right of way of Mills Lane and would minimally affect vegetation and other natural features. There would be some impact during construction to local traffic, noise and other construction impacts, but otherwise minimal to no effect to the environment in the long term.

5. The physical conditions and improvements present at the site including, but not limited to: slope, soil conditions, tree cover, existing features and structures, etc. which might present significant ongoing costs for maintenance of the public facilities;

Extending the City water main would add a significant amount of City owned infrastructure for the service of one residence therefore an expense to the City rate payers in the long term. In addition, it would add a new dead end main which requires flushing of the lines on a regular basis to prevent sediment build-up.

6. The ability to provide public water service to the frontage of adjoining lots(s);

All four of the adjacent lots have existing homes, structures, and/or vineyards on them currently served by private wells.

7. The adequacy of the proposed private system to provide adequate water flow rates, pressure, and facilities to address domestic and emergency needs as determined by the director of public works and the fire chief;

The existing private well (#38357) is cased in concrete with a depth of approximately 165 feet and produces 12.5 gallons per minute. This amount of water is more than adequate to address both domestic and fire prevention requirements of the St. Helena Fire Department and Napa County CDF. 50 PSI will be the pressure coming from the required fire prevention water tanks to the required fire hydrants and fire sprinkler systems.

8. The adequacy of the proposed private system to satisfy the requirements of the Napa County Department of Environmental Management.

The existing well flows meet all requirement of the Napa County Department of Environmental Management.

Based on examination of the site, distance from the nearest water main and the limited ability to develop outside the urban limit line, staff supports the request for an exception and recommends that the City Council grant the exception for connection to the public water main.

The City Council may impose conditions or requirements upon the granting of an application for an exception to the requirements of this section. Staff recommends the following:

1. The property owner requesting the exception shall record a notice which shall run with the deed on the property, and all subsequent parcels resulting from a subdivision of the property, advising subsequent property owners of the lack of public facilities and of the potential for failure of the private system(s). The deed notice shall further advise

successor property owners that the city of St. Helena has no obligation to provide public facilities to the property even in the event of the failure of the private system(s).

2. The property owner requesting the exception shall execute and record a hold harmless agreement with the deed of the property, and all subsequent parcels resulting from a subdivision of the property. Said agreement shall relieve the city of St. Helena of any and all liability which might arise from the use and/or failure of the private system(s). Said hold harmless agreement shall be in a form acceptable to the City Attorney and shall be recorded prior to occupancy of any new development on the subject lot.

FISCAL IMPACT

The City's water impact fee will not be assessed to the development if this exception is granted.

RECOMMENDED ACTION

Adopt a Resolution approving a request for an exemption from SHMC 13.04.055 which requires a connection to the public water system for the single family residence to be located at 500 Mills Lane (APN 009-070-019).

ATTACHMENTS

[Attachment 1: Well Exception Resolution](#)

[Attachment 2: Quail Camp Domestic Well Letter](#)

[Attachment 3: Location Map](#)

CITY OF ST. HELENA

RESOLUTION No. 2019-

**Resolution approving a request for an exemption from
SHMC 13.04.055 which requires a connection to the
public water system for the single family residence to be
located at 500 Mills Lane (APN 009-070-019)**

RECITALS

- A. St. Helena Municipal Code (SHMC) 13.04.055 requires the owner of any structure located within the City in which plumbing is to be installed shall connect the plumbing of that structure directly to the proper public water main; and
- B. The property owner of 500 Mills Lane has submitted a development application (PL18-038) to build a single family residence on the property using an existing well to meet their water needs and not connect to the existing public water main; and
- C. There are provisions in SHMC 13.04.055 that allow the property owner to apply for an exception to the section that requires the property be connected to the City's water main; and
- D. Based on examination of the site and distance from the nearest water main, staff supports the request for an exception and recommends that the City Council grant the exception for connection to the public water main.

RESOLUTION

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

1. Based on the criteria and finds set forth in the staff report dated February 26, 2019, approve the request for an exemption from SHMC 13.04.055 and not require a connection to the public water system for the single family residence to be located at 500 Mills Lane.
2. The property owner requesting the exception shall record a notice which shall run with the deed on the property advising subsequent property owners of the lack of public facilities and of the potential for failure of the private system(s). The deed notice shall further advise successor property owners that the city of St. Helena has no obligation to provide public facilities to the property even in the event of the failure of the private system(s).
3. The property owner requesting the exception shall execute and record a hold harmless agreement with the deed of the property. Said agreement shall relieve

the city of St. Helena of any and all liability which might arise from the use and/or failure of the private system(s). Said hold harmless agreement shall be in a form acceptable to the city attorney and shall be recorded prior to occupancy of any new development on the subject lot.

4. This exception applies only to the proposed single family residence and ancillary structures located at 500 Mills Lane (APN 009-070-019).

Approved at a Regular Meeting of the St. Helena City Council on February 26, 2019 by the following vote:

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

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzaferopoulos, City Clerk



Erica Ahmann Smithies
Public Works Director
City of St. Helena
1480 Main Street
St. Helena, CA 94574

February 5, 2019

**Re: Residence and Vineyards at Quail Camp, 500 Mills Lane
Connection to public water main exception**

Dear Erica:

On behalf of Mike and Debbie Preston, owners of the above-referenced property, I am writing to request an exception to the Municipal Code 13.04.055. The Preston Family kindly requests an exemption to municipal code 13.04.055 based on the following criteria:

1. *"The proximity of existing public water mains to the subject lot;"*

The distance from the property to the closest public water main, which is located at the intersection of La Fata St. and Mills Lane is approximately 1,800 feet. The financial costs alone would prove to be an unfair hardship to the clients.

2. *"The ability to provide water to the site at pressures adequate for domestic and emergency purposes by un-mechanically augmented municipal systems;"*

This would be possible with a properly engineered system.

3. *"The likelihood of adjoining lot(s) to develop, and the need for the extension of public water facilities to accommodate such development;"*

All four of the adjacent properties have existing homes, structures and/or vineyards currently served by private wells that provide adequate domestic supply. Mills Lane is a dead end road with little to no room for future development, so the likelihood is minimal.

4. *"The potential environmental effects resulting from the installation of public facilities given the physical conditions and improvements present at the site including, but not limited to: slope, soil conditions, tree cover, existing features and structures, etc., which might present constraints to the extension of the public water facilities;"*

There would not be any environmental concerns to install the water main.

5. *"The physical conditions and improvements present at the site including, but not limited to: slope, soil conditions, tree cover, existing features and structures, etc. which might present significant ongoing costs for maintenance of the public facilities;"*

There are not any foreseeable physical conditions that would cause maintenance issues.

6. *"The ability to provide public water service to the frontage of adjoining lot(s);"*

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QUAIL CAMP, 500 Mills Lane, Page 2 of 2

Since all four adjacent properties are served by existing wells, there would not be any demand for public service. However, there would not be any major physical obstacles to hinder future service.

7. *“The adequacy of the proposed private system to provide adequate water flow rates, pressure, and facilities to address domestic and emergency needs as determined by the director of public works and the fire chief;”*

The existing private well (#38357) is cased in concrete with a depth of approximately 165 feet and produces 12.5 gallons per minute. This amount of water is more than adequate to address both domestic and fire prevention requirements of the St. Helena Fire Department and Napa County CDF. 50 PSI will be the pressure coming from the required fire prevention water tanks to the required fire hydrants and fire sprinkler systems.

8. *“The adequacy of the proposed private system to satisfy the requirements of the Napa County department of environmental management.”*

The existing well flows meet all requirement of the Napa County Department of Environmental Management.

We appreciate you taking the above into account. Please feel free to contact me with any comments you may have.

Respectfully submitted,

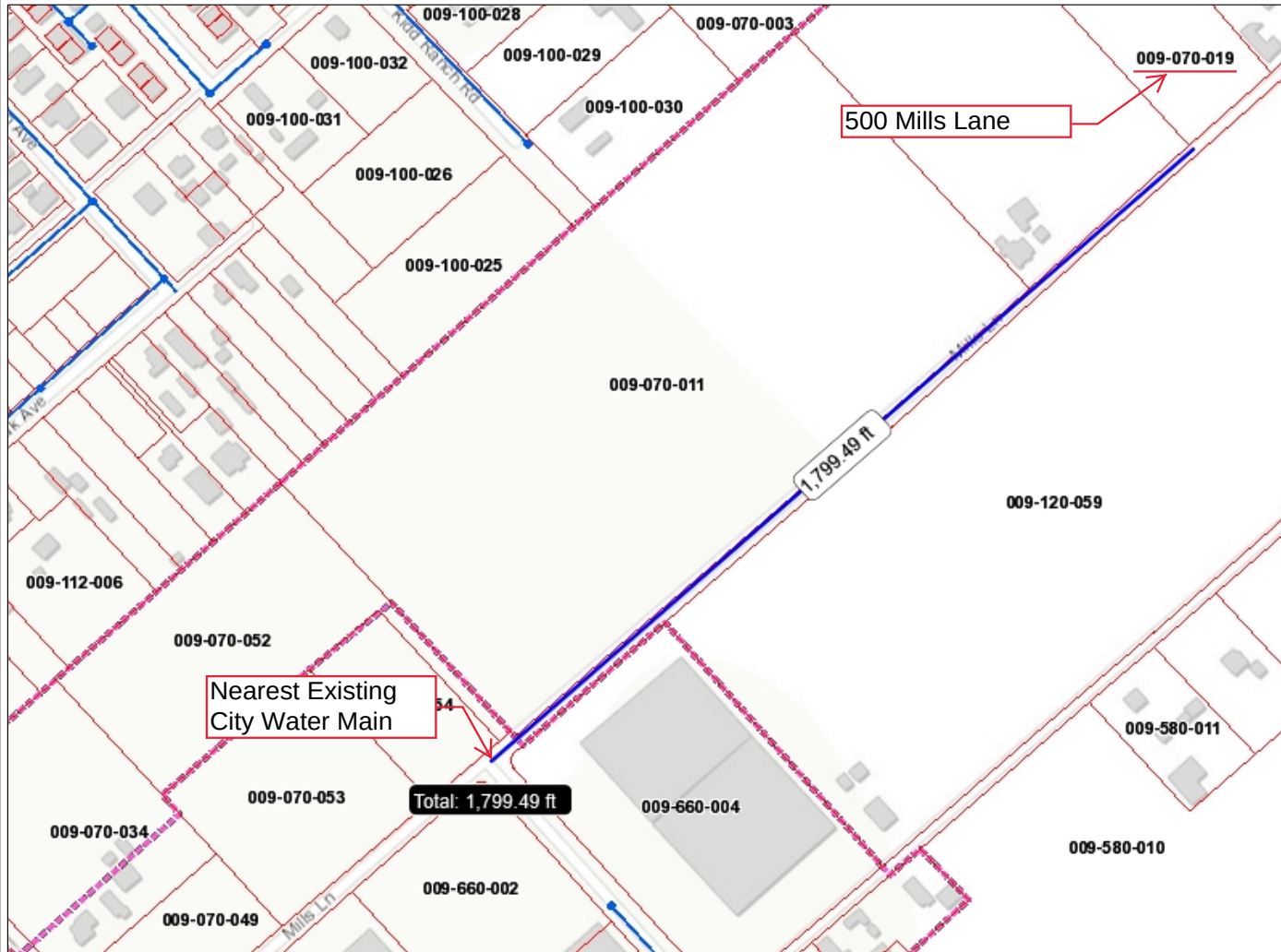
A handwritten signature in blue ink, appearing to read 'Gary Kohlsaad', with a stylized flourish at the end.

Gary Kohlsaad
Architect C19245

Cc: Mike and Debbie Preston, Owners



City of St. Helena



Legend

- Sanitary Sewer
- Downtown Parking
- Parcels St. Helena
- Urban Limit Boundary
- Parcels
- County Boundary

752.3 0 376.17 752.3 Feet

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

This map was printed on 1/17/2019

Notes

APN 009-070-020 (500 Mills Lane)



Report to the City Council
Council Meeting of February 26, 2019

Agenda Section: New Business

Subject: Consideration and Approval of a Resolution Authorizing: (1) the Refinancing of Outstanding Obligations of the Water System Via Entrance into Loan Agreement Secured by the Net Revenues of the Water System, and (2) Execution of Said Loan Agreement and Related Documents.

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

As a part of the City's ongoing effort to implement cost savings, the City identified outstanding bond issues that could be refunded for debt service savings for the Water and Wastewater Funds. Information for refunding bonds was presented to City Council on December 11, 2018, and City Council directed staff to initiate the process of issuing water and wastewater revenue refunding bonds and to engage professional services required to complete the refunding if it was financially beneficial to the City.

Following the December 11, 2018 City Council meeting, the City entered into Professional Services Agreements with Municipal Advisor Del Rio Advisors, LLC, Placement Agent Brandis Tallman LLC, and Bond Counsel Jones Hall, a Professional Law Corporation to facilitate the bond refunding process. After review of the financial benefits to refund each bond, it was decided to move forward with refunding only the 2006A Water Bonds. Chart 1 provides a summary of the 2006A Water bond.

Chart 1

Issue	Original Bond Amount	Outstanding Amount	Final Maturity	Remaining Interest Rate
2006A	\$8,885,000	\$5,730,000	October 1, 2031 (FY 2032)	4.125 - 5%

DISCUSSION

Staff, working with its Municipal Advisor and Placement Agent, determined that a private placement would offer the best cost savings and most efficient refunding alternative for the 2006A Bonds. On Tuesday, January 29, 2019, the bond refunding Request for Proposals (RFP) were circulated to nineteen (19) lenders with responses due on Friday, February 8, 2019. The City received six (6) term sheet responses. On Tuesday, February 12, 2019, JP Morgan Chase Bank, NA was selected as the lender. Based on their proposed term sheet, the interest rate offered is 2.62% compared to the current interest rate on the 2006A Bond being between 4.125% and 5%. The City accepted the terms of the JP Morgan Chase Bank, NA term sheet and the interest rate is locked through the proposed closing date of March 14, 2019. JP Morgan Chase Bank, NA offered three (3) call options in their proposal. The 2.62% rate is the lowest interest rate option with the loan agreement being non-callable. The bank also offered a ten (10) year call option with no prepayment penalty with an interest rate of 2.67% and a seven (7) year call option with no prepayment penalty with an interest rate of 2.72%. The no call option was selected since it provided the lowest interest rate and there are only twelve (12) years remaining on the loan.

The City will be required to provide audited financial statements to the lender within 270 days of the end of the fiscal year and will be required to provide annual certification of the debt service coverage. In addition, the lender is requesting that the debt service coverage ratio be increased to 1.25x vs. 1.20x as required under the current documents and that the ratio for the ability to issue additional bonds will be increased to 1.25x vs. 1.20x as required under the current documents. At the time of rate adoption, the direction from City Council was to try to maintain debt service coverage at a minimum 1.30x while maintaining cash in the system of at least ten (10) months of operating expenditures and amortize all new issues over a twenty (20) year term. It is projected that the City will maintain the directed coverage and cash requirements for the foreseeable future including the issuance of future additional obligations.

Savings

In evaluating the feasibility of refunding bonds, a Net Present Value Savings and Net Present Value Savings Percentage is calculated. Industry standard states that if the percentage savings is over 3%, it is worthwhile to pursue the refunding of debt. Chart 2 provides the annual and total debt service savings for the 2006A Water Bond based on the lender selected and the proposed non-call of the loan agreement.

Chart 2

Average Fiscal Year Debt Service Savings	\$57,701
Total Debt Service Savings	\$750,199
Net Present Value Savings %	11.02%

FISCAL IMPACT

The 2006A Bonds are currently outstanding in the amount of \$5,730,000, have a final maturity in FY 2032, and have existing interest rates of 4.125 to 5%. Based on the term sheet offered by JP Morgan Chase Bank, NA, the 2006A Bonds can be refunded to the same term at an interest rate of 2.62%. This would produce an annual savings to the Water Fund of approximately \$57,701 through FY 2032 with an overall savings of approximately \$750,119 over the term. The estimated cost of issuance is \$104,524.51 and is included in the refunding of the Bonds. Savings are net of, or after, paying the cost of issuance.

An additional benefit of the direct placement structure, not included in the above savings calculations, is that the City will no longer need to pay a trustee since the City will make payments directly to the lender. In addition, the City pays an annual administrative fee to the California State Communities Development Authority ("CSCDA") and will no longer be required to pay this annual amount.

In compliance with SB 450, the good faith estimates set forth herein are provided with respect to the loan. Such good faith estimates have been provided to the City by the Municipal Advisor. Each estimate is based on the City's financing plan and current market conditions, including the proposed interest rate prevailing at the time of preparation of the estimate.

- **Principal Amount.** The estimated aggregate principal amount of the loan is \$5,822,000.
- **True Interest Cost.** The estimated true interest cost of the loan, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the loan, is 2.619858%.
- **Finance Charge.** The estimated finance charge for the loan, which means the sum of all fees and charges paid to third parties (or costs associated with the loan), is \$104,524.51.
- **Amount of Proceeds to be Received.** The estimate of the amount of proceeds to be received by the City from the loan, less the finance charge of the loan as estimated above, is \$5,717,475.49.
- **Total Payment Amount.** The estimated total payment amount, which means the sum total of all payments the City will make to pay debt service on the loan, plus the finance charge for the loan not paid with the proceeds of the loan, calculated to the final maturity of the Bonds, is \$6,875,631.11.

The foregoing estimates are good faith estimates only. The actual figures may differ from the estimates owing to (a) differences between assumptions regarding the date of the closing of the loan, the principal amount of the loan, the amortization of the loan, the final interest rate of the loan and actual facts, (b) other market conditions, (c) changes in the City's financing plan, or (d) a combination of such factors.

RECOMMENDED ACTION

Staff recommends the City Council approve a resolution Authorizing: (1) the Refinancing of Outstanding Obligations of the Water System Via Entrance into Loan Agreement Secured by the Net Revenues of the Water System, and (2) Execution of Said Loan Agreement and Related Documents.

ATTACHMENTS

[Resolution No. 2019-____ Refunding Bonds](#)

[St Helena Ref Instructions -2.13.19](#)

[St. Helena Loan Agreement 2.13.19](#)

[Water Refunding Presentation 2-26-19](#)

CITY OF ST. HELENA

RESOLUTION NO. 2019-_____

Resolution Authorizing: (1) the Refinancing of Outstanding Obligations of the Water System Via Entrance into Loan Agreement Secured by the Net Revenues of the Water System, and (2) Execution of Said Loan Agreement and Related Documents

RECITALS

- A. WHEREAS, the City of St. Helena (the "City") owns and operates a system for the supply, treatment and distribution of water within the service area of the City (the "Water System"); and
- B. WHEREAS, to finance improvements to the Water System, the City previously entered into an installment purchase agreement, dated as of March 1, 2006, in the initial principal amount of \$8,885,000, with the California Statewide Communities Development Authority ("CSCDA") (the "Prior Obligation"); and
- C. WHEREAS, to provide funds to refinance the Prior Obligation, City staff and other members of the financing team have undertaken a request for proposals process to select a bank or other financial institution to enter into a loan agreement, on a private placement basis, with the City; and
- D. WHEREAS, the City is authorized to borrow amounts for the purpose of refinancing the Prior Obligation under the laws of the State of California, including the provisions of Article 10, Chapter 3, Part 1, Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code; and
- E. WHEREAS, the City Council has obtained and disclosed all of the information required to be obtained and disclosed related to the loan agreement with the Lender under Section 5852.1 of the California Government Code in the staff report accompanying this Resolution; and
- F. WHEREAS, the City Council desires to authorize and direct City staff to finalize the loan agreement and related financing documents to refinance the Prior Obligation.

RESOLUTION

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

Section 1. Approval of Loan Agreement. The City Council hereby approves the refinancing of the Prior Obligation with funds obtained from JPMorgan Chase Bank (the "Lender") pursuant to the Loan Agreement (defined below); provided, that the maximum principal amount of the Loan Agreement shall not exceed \$5,280,000, the net present value savings of the refinancing transaction shall be equal to at least 5% of the

outstanding principal amount of the Prior Obligation, and the final payment shall be no later than October 1, 2031 (which is the final maturity of the Prior Obligation); provided, further, that if for any reason the City and the Lender are unable to come to final terms on the Loan Agreement, City staff are authorized and directed to enter into the Loan Agreement with an alternative bank or financial institution so long as the parameters set forth in this Section 1 are complied with, and in such event, references in this Resolution to "Lender" shall be deemed to refer to such alternate bank or financial institution. The Loan Agreement shall be secured by the net revenues of the Water System, on a parity basis with the installment purchase agreement entered into by the City and CSCDA related to the Water System, dated as of June 1, 2012, as further detailed in the Loan Agreement.

In furtherance of the foregoing, the City Council hereby approves the form of the Loan Agreement (the "Loan Agreement") between the City and the Lender, in substantially the form on file with the City Council, together with any changes therein or additions thereto deemed advisable by the City Manager or Finance Director or the designee of either such officer (each, an "Authorized Officer"), in consultation with the City's special counsel, Jones Hall, A Professional Law Corporation, municipal advisor, Del Rio Advisors LLC, and placement agent, Brandis Tallman LLC. The City Council hereby authorizes and directs an Authorized Officer to execute the final form of the Loan Agreement for and in the name of the City.

Section 2. Refunding Instructions. The City Council hereby approves the Irrevocable Refunding Instructions to be given by the City to MUFG Union Bank, N.A., as trustee of the revenue bonds issued by CSCDA that are secured by the payments made by the City under the Prior Obligation, in substantially the form on file with the City Council, together with any changes therein or additions thereto deemed advisable by and Authorized Officer. The City Council hereby authorizes and directs an Authorized Officer to execute and deliver the final form of the Irrevocable Refunding Instructions for and in the name of the City.

Section 3. Official Actions. Each Authorized Officer is hereby authorized and directed to execute and deliver such additional certificates, consents and agreements as may be necessary to accomplish the refinancing of the Prior Obligation as contemplated by this Resolution. Any prior actions taken by an Authorized Officer in furtherance of the purposes of this Resolution are hereby ratified and confirmed. Whenever in this Resolution any officer of the City is directed to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

Section 4. Effective Date. This Resolution shall take effect immediately upon its passage and adoption.

Approved at a Regular Meeting of the St. Helena City Council on February 26, 2019, by the following vote:

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

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzaopoulos, City Clerk

Jones Hall, A Professional Law Corporation

Feb. 13, 2019

IRREVOCABLE REFUNDING INSTRUCTIONS

Relating to:

California Statewide Communities Development Authority
Water Revenue Bonds
Series 2006A

and

Installment Purchase Agreement dated March 1, 2006 between
California Statewide Communities Development Authority
and City of St. Helena

These IRREVOCABLE REFUNDING INSTRUCTIONS (these "Instructions"), dated _____, 2019, are given by the CITY OF ST. HELENA, a general law city and municipal corporation duly organized and existing under the laws of the State of California (the "City") and the CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY, a joint exercise of powers authority organized and existing under the Constitution and laws of the State of California (the "Authority"), to MUFG UNION BANK, N.A., a national banking association organized and existing under the laws of the United States of America, as Prior Trustee (defined below).

BACKGROUND:

WHEREAS, the City owns and operates a system for the supply, treatment and distribution of water within the service area of the City (the "**Water System**"); and

WHEREAS, in order to finance improvements to the Water System, the City previously entered into an installment purchase agreement, dated as of March 1, 2006, in the initial principal amount of \$8,885,000, with the Authority (the "**Prior Obligation**"); and

WHEREAS, pursuant to the Prior Obligation, the City agreed to make certain installment payments (the "**Prior Installment Payments**") for the purpose of financing certain improvements to the Water System, and in connection therewith the Authority issued its Water Revenue Bonds, Series 2006A (the "**Prior Bonds**"), pursuant to an Indenture, dated as of March 1, 2006 (the "**Prior Indenture**"), between the Authority and the Union Bank of California, N.A. (now known as MUFG Union Bank, N.A.), as trustee (the "**Prior Trustee**"); and

WHEREAS, the Prior Installment Payments and Prior Bonds may be prepaid on any date at a prepayment price equal to 100% of the principal amount of thereof to be prepaid, plus accrued interest to the date of prepayment, without premium; and

WHEREAS, in order to take advantage of prevailing bond market conditions, the City desires to refinance and prepay, in full, the Prior Installment Payments, which will, in turn, result in the partial redemption of a portion of the Prior Bonds; and

WHEREAS, in order to provide funds to accomplish the foregoing, the City is entering into a Loan Agreement with JPMorgan Chase Bank, dated as of _____, 2019 (the "**Refunding Loan Agreement**"); and

WHEREAS, the City and the Authority desire to provide these Instructions to the Prior Trustee for the purpose of using the Revenue Fund for the Prior Installment Payments to defease and prepay such payments and a corresponding amount of the Prior Bonds.

NOW, THEREFORE, the City and the Authority hereby irrevocably instruct the Prior Trustee as follows:

SECTION 1. *Administration of Revenue Fund.* The Prior Trustee has previously established a separate fund under the Prior Indenture, entitled the "City of St. Helena Water Revenue Fund" (the "**Revenue Fund**"), and the Revenue Fund shall continue to be held by the Prior Trustee for the purposes set forth in these Instructions. All amounts in the Revenue Fund are hereby irrevocably pledged as a special fund for the payment of the Prior Installment Payments and a corresponding amount of the Prior Bonds.

SECTION 2. *Deposit and Investment of Amounts in Revenue Fund.* On _____, 2019 (the "**Closing Date**"), the City will cause to be transferred to the Prior Trustee in immediately available funds, from amounts received from the City from the proceeds of the Refunding Loan Agreement for deposit into the Revenue Fund, the amount of \$_____. The Prior Trustee shall hold such amounts, together with all other amounts already on deposit in the Revenue Fund, in cash, uninvested.

SECTION 3. *Application of Amounts in Revenue Fund.*

(a) The total amount of cash deposited in the Revenue Fund pursuant to Section 2 shall be applied by the Prior Trustee for the sole purpose of prepaying the Prior Installment Payments and a corresponding amount of the Prior Bonds, on March 14, 2019 (the "**Redemption Date**"), as shown in Exhibit A attached hereto and by this reference incorporated herein.

(b) If at any time the Prior Trustee shall receive actual knowledge that the amounts in the Revenue Fund will not be sufficient to make any payment required by this Section 3, the Prior Trustee shall notify the Authority and the City of such fact and the City shall immediately cure such deficiency from any source of legally available funds. The Prior Trustee has no liability for any such insufficiency.

(c) Following the payment and prepayment of the Prior Installment Payments and a corresponding amount of the Prior Bonds, as set forth above in this Section 3, the Prior Trustee shall transfer any amounts remaining on deposit in the Revenue Fund or any other funds or accounts held by the Prior Trustee relating to the Prior Bonds corresponding to the Prior Installment Payments to the City, to be applied to pay interest next coming due and payable under the Refunding Loan Agreement.

SECTION 4. *Irrevocable Election to Prepay Prior Installment Payments and a Corresponding Amount of the Prior Bonds.* The City has irrevocably elected to pay and prepay all of the Prior Installment Payments, which will result in the redemption of a

corresponding amount of the Prior Bonds. The City has previously given notice of the prepayments to the Prior Trustee, which notice was acknowledged by the Authority.

The City and the Authority have previously directed the Prior Trustee to notify the holders of the Prior Bonds that said bonds will be redeemed, in the amount set forth on Exhibit A, on the Redemption Date, which notice the Prior Trustee hereby confirms has been timely sent.

SECTION 5. *Amendments.* These Instructions shall be irrevocable by the City and the Authority; provided, that they may be amended or supplemented by the City and the Authority, but only if the City shall file with the Prior Trustee (a) a certification of an independent accountant or independent financial adviser engaged by the City stating that such amendment or supplement will not affect the sufficiency of funds held hereunder to make the payments required by Section 3 and (b) the written consent of Assured Guaranty Ltd. (as successor to Financial Security Assurance Inc.), as insurer of the Prior Bonds.

SECTION 6. *Application of Certain Terms of the Prior Indenture.* All of the terms of the Prior Indenture relating to the payment of principal of and interest and repayment premium, if any, on the Prior Bonds and the redemption thereof, and the protections, immunities and limitations from liability afforded the Prior Trustee, are incorporated in these Instructions for the benefit of the Prior Trustee as if set forth in full herein.

* * * * *

SECTION 7. *Governing Law.* These Instructions shall be construed in accordance with and governed by the laws of the State of California.

CITY OF ST. HELENA

By: _____
Mark T. Prestwich
City Manager

**CALIFORNIA STATEWIDE COMMUNITIES
DEVELOPMENT AUTHORITY**

By: _____
Authorized Officer

MUFG UNION BANK, N.A.,
as Prior Trustee

By: _____
Authorized Officer

EXHIBIT A

\$21,560,000
CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY
WATER REVENUE BONDS
SERIES 2006A

**Identification of Prior Installment Payments to be Prepaid
By the City of St. Helena**

Payments to be Prepaid (October 1)	Amount Prepaid	Prepayment Date	Prepayment Price (% of Par Amount Prepaid)
2019	\$		100%
2020			100
2021			100
2022 - 2026			100
2027 - 2031			100
2032 - 2036			100
TOTAL	\$		

**Identification of Prior Bonds to be Partially Redeemed
Via Optional Redemption**

Bond Maturity (October 1)	Principal Amount Redeemed	Redemption Date	Redemption Price (% of Par Amount Redeemed)
2019	\$		100%
2020			100
2021			100
2026			100
2031			100
2036			100
TOTAL	\$		

Jones Hall, A Professional Law Corporation

Jones Hall Draft of Feb. 13, 2019

LOAN AGREEMENT

This LOAN AGREEMENT (this "Loan Agreement"), dated _____, 2019, is between JPMORGAN CHASE BANK, a national banking association duly organized and existing under the laws of the United States of America, as lender (the "Lender"), and the CITY OF ST. HELENA, a general law city and municipal corporation duly organized and existing under the Constitution and laws of the State of California, as borrower (the "City").

BACKGROUND :

1. The City owns and operates a system for the supply, treatment and distribution of water within the service area of the City (as further defined herein, the "System").

2. In order to finance improvements to the System, the City has previously entered into an installment purchase agreement, dated as of March 1, 2006, with the California Statewide Communities Development Authority (the "Prior Obligation").

3. In order to provide funds to refinance the Prior Obligation, the City has determined to borrow the amount of \$_____ from the Lender under this Loan Agreement and to make loan repayments (the "Loan Repayments") to the Lender, to be secured by a pledge of and lien on the System Net Revenues as set forth in this Loan Agreement, which pledge and lien shall be on a parity with the 2012 Installment Purchase Agreement (as such term is defined herein).

4. The City is authorized to enter into this Loan Agreement and to borrow amounts hereunder for the foregoing purposes under the laws of the State of California, including the provisions of Article 10, Chapter 3, Part 1, Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code.

AGREEMENT :

In consideration of the foregoing and the material covenants hereinafter contained, the City and the Lender formally covenant, agree and bind themselves as follows:

ARTICLE I DEFINITIONS AND APPENDICES

SECTION 1.1. *Definitions.* All terms defined in this Section 1.1 have the meanings herein specified for all purposes of this Loan Agreement.

"Annual Debt Service" means, for any Fiscal Year, the sum of (1) the interest accruing on all Parity Debt during such Fiscal Year, assuming that all Parity Debt is retired as scheduled, plus (2) the principal amount (including principal due as sinking fund installment payments) allocable to all Parity Debt in such Fiscal Year, calculated as if such

principal amounts were deemed to accrue daily during such Fiscal Year in equal amounts from, in each case, each payment date for principal or the date of delivery of such Parity Debt (provided that principal shall not be deemed to accrue for greater than a 365-day period prior to any payment date), as the case may be, to the next succeeding payment date for principal, *provided*, that the following adjustments shall be made to the foregoing amounts in the calculation of Annual Debt Service:

(A) with respect to any Parity Debt bearing or compromising interest at other than a fixed interest rate, the rate of interest used to calculate Annual Debt Service shall be (i) with respect to such Parity Debt then outstanding, on hundred ten per cent (110%) of the greater of (1) the daily average interest rate on such Parity Debt has borne interest) or (2) the most recent effective interest rate on such Parity Debt prior to the date of such calculation or (ii) with respect to such Parity Debt then proposed to be issued, 80% of the interest rate on actively traded 30-year United States Treasury obligations;

(B) with respect to any such Parity Debt having twenty-five per cent (25%) or more of the aggregate principal amount thereof due in any on Fiscal Year, Annual Debt Service shall be calculated for the Fiscal Year of determination as if the interest on and principal of such Parity Debt were being paid from the date of incurrence thereof in substantially equal annual amounts over a period of twenty (20) years from the date of such Parity Debt provided, however that the full amount of such Parity Debt shall be included in Annual Debt Service if date of calculation is within 24 months of the actual maturity of the payment;

(C) with respect to any such Parity Debt or portions thereof bearing no interest but which are sold at a discount and which discount accretes with respect to such Parity Debt or portions thereof, such accreted discount shall be treated as due when scheduled to be paid;

(D) Annual Debt Service shall not include interest on Parity Debt which is to be paid from amounts constituting capitalized interest; and

(E) if an interest rate swap agreement is in effect with respect to, and is payable on a parity with, any Parity Debt to which it relates, no amounts payable under such interest rate swap in excess of debt service payable under such Parity Debt agreement shall be included in the calculation of Annual Debt Service unless the sum of (i) the interest payable on such Parity Debt, plus (ii) the amounts payable by the City under such interest rate swap agreement, less (iii) the amounts receivable by the City under such interest rate swap agreement, are greater than the interest payable on such Parity Debt, in which case the amount of such payments to be made that exceed the interest to be paid on such Parity Debt shall be included in such calculation, and for this purpose, the variable amount under any such interest rate swap agreement shall be determined in accordance with the procedure set forth in subparagraph (A) of this definition.

"Authority" means California Statewide Communities Development Authority, a joint exercise of powers agency duly organized and existing under and by virtue of the laws of the State of California.

“City” means the City of St. Helena, a general law city and municipal corporation duly organized and existing under the Constitution and laws of the State of California.

“Closing Date” means the date of execution and delivery of this Loan Agreement by the City and the Lender, being March 14, 2019.

“Event of Default” means any of the events of default as defined in Section 5.1.

“Federal Securities” means any direct general non-callable obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), or obligations the timely payment of principal of and interest on which are directly guaranteed by the United States of America.

“Fiscal Year” means each twelve-month period during the Term of this Loan Agreement commencing on July 1 in any calendar year and ending on June 30 in the next succeeding calendar year, or any other twelve-month period selected by the City as its fiscal year period.

“Generally Accepted Accounting Principles” means the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

“Lender” means JPMORGAN CHASE BANK, a national banking association duly organized and existing under the laws of the United States of America, or its successors or assigns.

“Loan” means the loan made by the Lender to the City in the aggregate principal amount of \$_____ under Section 3.1.

“Loan Agreement” means this Loan Agreement dated as of _____, 2019, between the Lender and the City, as may be amended in accordance with the terms hereof.

“Loan Repayment Date” means October 1, 2019, and each succeeding April 1 and October 1 until repayment of the Loan in full.

“Loan Repayments” means all payments required to be paid by the City under Section 3.4, including any prepayment thereof under Section 6.1.

“Maximum Annual Debt Service” means, as if any date of calculation, the largest Annual Debt Service during the period from the date of such calculation through the final maturity date of all Parity Debt.

“Operation and Maintenance Costs” means the reasonable and necessary costs paid or incurred by the City for maintaining and operating the System, determined in accordance with Generally Accepted Accounting Principles, including all reasonable expenses of management and repair and all other expenses necessary to maintain and preserve the System in good repair and working order, and including all administrative

costs of the City that are charged directly or apportioned to the operation of the System, such as salaries and wages of employees, overhead, taxes (if any) and insurance premiums (including payments required to be paid into any self-insurance funds), and including all other reasonable and necessary costs of the City or charges required to be paid by it to comply with the terms hereof or of any resolution authorizing the execution of any Parity Debt, such as compensation, reimbursement and indemnification of any trustee or the Authority and fees and expenses of Independent Certified Public Accountants; but excluding in all cases (i) payment of Parity Debt and Subordinate Obligations, (ii) costs of capital additions, replacements, betterments, extensions or improvements which under Generally Accepted Accounting Principles are chargeable to a capital account, and (iii) depreciation, replacement and obsolescence charges or reserves therefor and amortization of intangibles.

"Parity Debt" means (a) the City's obligations under the 2012 Installment Purchase Agreement, and (b) any bonds, notes or other obligations of the City payable from and secured by a pledge of and lien of System Net Revenues on a parity with the Loan Repayments, which are issued or incurred by the City in accordance with Section 4.7.

"Parity Debt Instruments" means (a) the 2012 Installment Purchase Agreement, and (b) any other documents authorizing any Parity Debt hereafter issued or incurred by the City in accordance with Section 4.7.

"Prior Obligation" means the Installment Purchase Agreement, dated March 1, 2006, between the City and the Authority.

"Prior Trustee" means MUFG Union Bank, N.A., as trustee for the \$21,560,000 original principal amount of California Statewide Communities Development Authority Water Revenue Bonds, Series 2006A, a portion of which will be refunded in connection with the optional prepayment of the Prior Obligation.

"Subordinate Obligations" means the obligations of the City that are subordinate in payment to the Loan Repayments and the amounts payable under the 2012 Installment Purchase Agreement.

"System" has the same meaning as given it in the 2012 Installment Purchase Agreement. For clarity, "System" includes the entire water production, storage, treatment, transmission, distribution, and delivery system owned or operated by the City, including but not limited to all facilities, properties, works and improvements at any time owned, operated or determined to be part of the System by the City for the production, storage, treatment, transmission, distribution, and delivery of water within the service area of the City, together with all necessary lands, rights, entitlements and other property useful in connection therewith, together with all extensions thereof and improvements or additions thereto hereafter acquired, constructed or installed by the City.

"System Net Revenues" means for any period System Revenues less Operation and Maintenance Costs for such period; provided that certain adjustments in the amount of System Net Revenue deemed collected during a Fiscal Year may be made in connection with amounts deposited in the Rate Stabilization Fund as provided in Section 3.7.

“System Revenues” means all gross income and revenue received or receivable by the City from the ownership or operation of the System, determined in accordance with Generally Accepted Accounting Principles, including all fees (including connection fees), rates, charges and all amounts paid under any contracts received by or owed to the City in connection with the operation of the System and all proceeds of insurance relating to the System and investment income allocable to the System and all other income and revenue howsoever derived by the City from the ownership or operation of the System or arising from the System.

“System Revenue Fund” means the “System Revenue Fund” previously established and held by the City and in which all System Revenues are deposited and maintained by the City pursuant to the 2012 Installment Purchase Agreement and this Loan Agreement, and in which the Lender has a certain security interest pursuant to the terms of this Agreement.

“Tax Code” means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published thereunder.

“Term of this Loan Agreement” or “Term” means the time during which this Loan Agreement is in effect, as provided in Section 3.3.

“2012 Installment Purchase Agreement” means the Installment Purchase Agreement dated as of June 1, 2012 between California Statewide Communities Development Authority and City of St. Helena

SECTION 1.2. *Appendix A.* The following Appendix is attached to, and by reference made a part of, this Loan Agreement:

APPENDIX A: The schedule of Loan Repayments to be paid by the City during the Term.

ARTICLE II REPRESENTATIONS, WARRANTIES AND COVENANTS

The City represents, warrants and covenants to the Lender as follows:

- (a) Due Organization and Existence. The City is a general law city and municipal corporation duly organized and existing under the Constitution and laws of the State of California.
- (b) Authorization. The City is authorized under the laws of the State of California to enter into this Loan Agreement, to enter into the transactions contemplated hereby and to carry out its obligations hereunder, and the City Council of the City has duly adopted its resolution authorizing the execution and delivery of this Loan Agreement.

- (c) No Violations. Neither the execution and delivery of this Loan Agreement, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is now a party or by which the City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrances whatsoever upon any of the property or assets of the City, other than as set forth herein.
- (d) Prior Indebtedness. The City has not issued or incurred any obligations which are currently outstanding having any priority in payment out of the System Revenues or System Net Revenues over the payment of the Loan Repayments. The 2012 Installment Purchase Agreement is secured by a pledge of System Net Revenues on a parity basis with the pledge in favor of the Lender under this Loan Agreement.
- (e) Financial Condition. The financial statements of the City for the year ended June 30, 2018, supplied to the Lender (i) were prepared in accordance with generally accepted accounting principles, consistently applied, and (ii) fairly present the City's financial condition as of the date of the statements. Other than as described in such financial statements or otherwise disclosed to the Lender, there has been no material adverse change in the City's financial condition subsequent to June 30, 2018.
- (f) No Financial Advisory or Fiduciary Relationship. The City represents, warrants and covenants that: (i) the transaction contemplated herein is an arm's length commercial transaction among the City and the Lender and its affiliates, (ii) in connection with such transaction, the Lender and its affiliates are acting solely as a principal and not as an advisor including, without limitation, a "Municipal Advisor" as such term is defined in Section 15B of the Securities and Exchange Act of 1934, as amended, and the related final rules (the "Municipal Advisor Rules"), agent or a fiduciary of the City, (iii) the Lender and its affiliates are relying on the bank exemption in the Municipal Advisor Rules, (iv) the Lender and its affiliates have not provided any advice or assumed any advisory or fiduciary responsibility in favor of the City with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (whether or not the Lender, or any affiliate of the Lender, has provided other services or advised, or is currently providing other services or advising the City on other matters), (v) the Lender and its affiliates have financial and other interests that differ from those of the City, and (vi) the City has consulted with their own financial, legal, accounting, tax and other advisors, as applicable, to the extent it deemed appropriate.

ARTICLE III TERMS OF THE LOAN

SECTION 3.1. *Obligation to Make Loan; Amount of Loan.* The Lender hereby agrees to lend to the City, and the City hereby agrees to borrow from the Lender, the Loan in the amount of \$_____ under the terms and provisions set forth in this Loan Agreement.

SECTION 3.2. *Application of Loan Proceeds.*

(a) Transfers to Prior Trustee and Costs of Issuance. The Lender hereby agrees on the Closing Date to wire:

(i) \$_____ to the Prior Trustee, for the defeasance and optional prepayment of the Prior Obligation in accordance with the terms thereof; and

(ii) \$_____, constituting the remainder of the proceeds of the Loan, to the payees set forth in a written certificate signed by an authorized officer of the City and delivered to the Lender, as costs of issuance of the Loan Agreement.

(b) Payment of Fees. The fees and disbursements of counsel to the City, the fees and disbursements of the placement agent, fees of the California Debt and Investment Advisory Commission ("CDIAC"), fees of Lender's counsel, and other miscellaneous expenses of the City incurred in connection with this Loan Agreement (if any) shall all be the obligation of the City. The Lender shall have no responsibility for any expenses incurred by the City associated with this Loan Agreement, including, but not limited to, the expenses identified above as the obligation of the City.

SECTION 3.3. *Term.* The Term of this Loan Agreement commences on the Closing Date, and ends on the date on which the Loan is paid in full or provision for such payment is made as provided herein.

SECTION 3.4. *Loan Repayments.*

(a) Obligation to Pay. The City hereby agrees to repay the Loan to the Lender in the aggregate principal amount of \$_____, together with interest on the unpaid principal balance thereof.

(b) Payments. Interest on the unpaid principal balance of the Loan shall be calculated at a rate of interest of _____% on the basis of a 360-day year of twelve 30-day months, and the Loan Repayments shall be payable in semi-annual Loan Repayments on Loan Repayment Dates in the amounts set forth on Appendix A.

(c) Optional Prepayment. The Loan Repayments shall not be subject to optional prepayment.

SECTION 3.5. *Nature of City's Obligations.*

(a) Special Obligation. The City's obligation to pay the Loan Repayments is a special obligation of the City limited solely to the System Net Revenues. Under no circumstances is the City required to advance moneys derived from any source of income other than the System Net Revenues for the payment of the Loan Repayments, and no other funds or property of the City are liable for the payment of the Loan Repayments. Notwithstanding the foregoing provisions of this Section, however, nothing herein prohibits the City voluntarily from making any payment hereunder from any source of available funds of the City.

(b) Obligations Absolute. The obligation of the City to pay the Loan Repayments from the System Net Revenues and the obligation of the City to perform and observe the other agreements contained herein, are absolute and unconditional and are not subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach of the City or the Lender of any obligation to the City or otherwise with respect to the System, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the City by the Lender. Until such time as all of the Loan Repayments have been fully paid or prepaid, the City:

- (i) will not suspend or discontinue payment of any Loan Repayments,
- (ii) will perform and observe all other agreements contained in this Loan Agreement, and
- (iii) will not terminate this Loan Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the System, sale of the System, the taking by eminent domain of title to or temporary use of any component of the System, commercial frustration of purpose, any change in the tax or other laws of the United States of America or the State of California or any political subdivision of either thereof or any failure of the Lender to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Loan Agreement.

SECTION 3.6. *Pledge and Application of System Net Revenues.*

(a) Pledge. All of the System Net Revenues are hereby irrevocably pledged to the punctual payment of the Loan Repayments, on a parity with the pledge and lien which secures all Parity Debt. The System Net Revenues may not be used for any other purpose so long as the Loan Repayments remain unpaid; except that out of the System Net Revenues there may be apportioned such sums, for such purposes, as are expressly permitted by this Section 3.6.

Pursuant to Section 5451 of the Government Code of the State of California, the pledge of the System Net Revenues by the City for the repayment of the principal and interest components of the Loan Repayments constitutes a first lien and security interest which immediately attaches to the System Net Revenues, and is effective and binding

against the City and its successors and creditors and all others asserting rights therein irrespective of whether those parties have notice of the pledge, irrespective of whether such amounts are or may be deemed to be a fixture and without the need for physical delivery, recordation, filing or further act.

(b) Deposit of System Revenues; Transfers to Make Loan Repayments. The City has heretofore established a special fund designated the "System Revenue Fund," which the City agrees to continue to maintain so long as any Loan Repayments remain unpaid. The City shall continue to deposit all System Revenues in the System Revenue Fund promptly upon the receipt thereof. All System Revenues will be held by the City in the System Revenue Fund in trust for the benefit of the Lender and for the benefit of the holders of Parity Debt, subject to the prior application thereof for Operations and Maintenance Costs. The City shall apply amounts in the System Revenue Fund as set forth in this Loan Agreement, and in the Parity Debt Instruments. The City shall apply amounts on deposit in the System Revenue Fund to pay when due the following amounts in the following order of priority:

- (i) all Operations and Maintenance Costs;
- (ii) the Loan Repayments, and all payments of principal of and interest on any Parity Debt;
- (iii) any other payments required to comply with the provisions of this Loan Agreement, and the Parity Debt Instruments, including to replenish any reserve fund created thereunder; and
- (iv) any other purposes authorized under subsection (d) of this Section.

(c) No Preference or Priority. Payment of the Loan Repayments and the principal of and interest on any Parity Debt shall be made without preference or priority. If the amount of System Net Revenues on deposit in the System Revenue Fund is any time insufficient to enable the City to pay when due the Loan Repayments and the principal of and/or interest on any Parity Debt, such payments shall be made by the City on a pro rata basis.

(d) Other Uses Permitted. The City shall manage, conserve and apply the System Revenues in such a manner that all deposits required to be made under the preceding provisions of this Section 3.6 will be made at the times and in the amounts so required. Subject to the foregoing sentence and Section 4.7, so long as no Event of Default has occurred and is continuing hereunder, the City may at any time and from time to time use and apply the System Revenues for (i) the acquisition and construction of improvements to the System; (ii) the prepayment of any Parity Debt to the extent permitted by the applicable Parity Debt Instruments, or (iii) any other lawful purpose of the City.

SECTION 3.7. *Rate Stabilization Fund.* Pursuant to the 2012 Installment Purchase Agreement, the City has established, and is holding, a fund known as the "Rate Stabilization Fund." The City may, during or within 210 days after a Fiscal Year, deposit surplus System Net Revenues transferred from the System Revenue Fund attributable to such Fiscal Year (on the basis of Generally Accepted Accounting Principles) into the Rate Stabilization Fund. The City may at any time withdraw moneys from the Rate Stabilization Fund and deposit such amounts into the System Revenue Fund. Notwithstanding anything

to the contrary provided herein, System Net Revenues deposited into the Rate Stabilization Fund shall not be taken into account as System Net Revenues for purposes of the calculations in Sections 4.5 or 4.7 in the Fiscal Year to which such deposit is attributable, and amounts withdrawn from the Rate Stabilization Fund and deposited into the System Revenue Fund, during or within 210 days after a Fiscal Year, may be taken into account as System Revenues for purposes of the calculations required under Sections 4.5 or 4.7 in such Fiscal Year; provided that, for purposes of the calculation required under Section 4.7, the amount of System Net Revenues before any credits for withdrawals from the Rate Stabilization Fund may not be less than 100% of Maximum Annual Debt Service for outstanding Parity Debt and the proposed additional Parity Debt.

ARTICLE IV COVENANTS OF THE CITY

SECTION 4.1. *Release and Indemnification Covenants.* The City shall indemnify and hold the Lender and its officers, agents, successors and assigns harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of the following:

- (a) the use, maintenance, condition or management of, or from any work or thing done on or about the System by the City,
- (b) any breach or default on the part of the City in the performance of any of its obligations under this Loan Agreement,
- (c) any intentional misconduct or negligence of the City or of any of its agents, contractors, servants, employees, lessees or licensees with respect to the System.

No indemnification is made under this Section 4.1 or elsewhere in this Loan Agreement for willful misconduct, gross negligence, or breach of duty under this Loan Agreement by the Lender, its officers, agents, employees, successors or assigns. The provisions of this Section shall survive the termination of this Loan Agreement.

SECTION 4.2. *Sale or Eminent Domain of System.* Except as provided herein, the City covenants that the System will not be encumbered, sold, leased, pledged, any charge placed thereon, or otherwise disposed of, as a whole or substantially as a whole if such encumbrance, sale, lease, pledge, charge or other disposition would materially impair the ability of the City to pay the Loan Repayments or would materially adversely affect its ability to comply with the terms of this Loan Agreement and the Parity Debt Instruments. The City shall not enter into any agreement which impairs the operation of the System or any part of it necessary to secure adequate System Net Revenues to pay the Loan Repayments or any Parity Debt, or which otherwise would impair the rights of the Lender with respect to the System Net Revenues. If any substantial part of the System is sold, the payment therefor must either (a) be used for the acquisition or construction of improvements and extensions or replacement facilities or (b) be applied to prepay or fund a security deposit for the Loan Repayments and any Parity Debt.

Any amounts received as awards as a result of the taking of all or any part of the System by the lawful exercise of eminent domain, if and to the extent that such right can

be exercised against such property of the City, shall either (a) be used for the acquisition or construction of improvements and extension of the System, or (b) be applied to prepay or fund a security deposit for the Loan Repayments and any Parity Debt.

SECTION 4.3. *Insurance.* The City shall at all times maintain with responsible insurers all such insurance on the System as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to the System. If any useful part of the System is damaged or destroyed, such part shall be restored to usable condition. All amounts collected from insurance against accident to or destruction of any portion of the System shall be used to repair or rebuild such damaged or destroyed portion of the System, and to the extent not so applied, shall be applied to pay the Loan Repayments or any Parity Debt in the manner provided in this Loan Agreement and the Parity Debt Instruments. The City shall also maintain, with responsible insurers, worker's compensation insurance and insurance against public liability and property damage to the extent reasonably necessary to protect the City and the Lender. Any insurance required to be maintained hereunder may be maintained by the City in the form of self-insurance or in the form of participation by the City in a program of pooled insurance.

SECTION 4.4. *Records and Accounts; Audited Financials; Budget.* The City shall keep proper books of records and accounts of the System, separate from all other records and accounts, in which complete and correct entries are made of all transactions relating to the System. Said books shall, upon prior request, be subject to the reasonable inspection of the Lender. The City shall cause the books and accounts of the System to be audited annually by an independent certified public accountant or firm of certified public accountants, not more than 270 days after the close of each Fiscal Year, and shall furnish a copy of such report to the Lender; provided, that the audit of the accounts of the System may be included as part of a general City-wide audit. In addition, the City shall provide to the Lender in a reasonably timely manner, such other financial or operational information of the City as requested by the Lender from time-to-time (for example, long-term capital improvement plans).

The City shall provide Lender, within 270 days after the close of each Fiscal Year, a certificate signed by the Finance Director, City Manager or other authorized representative of the City as to the following information relating to the System:

(a) Demonstration of compliance with the coverage requirement set forth in Section 4.5; and

(a) Disclosure of any significant facility improvements or retirements during the Fiscal Year.

SECTION 4.5. *Rates and Charges.* The City shall, to the maximum extent permitted by law, fix, prescribe, and collect rates, fees and charges and manage the operation of the System for each Fiscal Year so as to yield System Net Revenues during such Fiscal Year equal to at least equal to 125% of the Annual Debt Service in such Fiscal Year; *provided*, an adjustment shall be made to the amount of System Net Revenues as provided in Section 3.7 (Rate Stabilization Fund).

The City may make or permit to be made adjustments from time to time in such rates, fees and charges and may make or permit to be made such classification thereof

as it deems necessary, but shall not reduce or permit to be reduced such rates, fees and charges below those then in effect unless the System Revenues from such reduced rates, fees and charges will at all times be sufficient to meet the requirements of this Section.

SECTION 4.6. *No Priority for Additional Obligations; Compliance with Parity Debt Instruments.* The City may not issue or incur any bonds or other obligations having any priority in payment of principal or interest out of the System Net Revenues over the Loan Repayments. The City shall observe and perform all of the covenants, agreements and conditions on its part required to be observed and performed under the Parity Debt Instruments. The City shall not take or omit to take any action within its control which would, or which if not corrected with the passage of time would, constitute an event of default under any Parity Debt Instruments.

SECTION 4.7. *No Senior Debt; Conditions for Parity Debt.* The City may not issue or incur any bonds or other obligations having any priority in payment of principal or interest out of the System Net Revenues over the Loan Repayments. The City may at any time enter into any Parity Debt; provided:

(a) The City shall be in compliance with all agreements, conditions, covenants and terms contained herein.

(b) The Parity Debt shall have been duly authorized pursuant to all applicable laws.

(c) The System Net Revenues for the last completed Fiscal Year or any 12 consecutive months within the last 18 months preceding the date of execution of such Parity Debt, as shown by a certificate of the City on file with the Lender, plus an allowance for increased System Net Revenues arising from any increase in the rates, fees and charges of the System which was duly adopted by the City Council of the City prior to the date of the execution of such Parity Debt but which, during all or any part of such 12 month period, was not in effect, in amount equal to the amount by which the System Net Revenues would have been increased if such increase in rates, fees and charges had been in effect during the whole of such 12 month period, as shown by a certificate of the City on file with the Lender, shall have produced a sum equal to at least 125% per cent of the Maximum Annual Debt Service as calculated after the execution of such Parity Debt; *provided*, that in the event that all or a portion of such Parity Debt is to be issued for the purpose of refunding and retiring any Parity Debt then outstanding, interest and principal payments on the Parity Debt to be so refunded and retired from the proceeds of such Parity Debt being issued shall be excluded from the foregoing computation of Maximum Annual Debt without compliance with the foregoing conditions if the Annual Debt Service for each Fiscal Year during which such Parity Debt is outstanding will not be increased by reason of the issuance of such Parity Debt; and *provide further*, an adjustment shall be made in the amount of System Net Revenues as provided in Section 3.7 (Rate Stabilization Fund).

Nothing contained in this Section shall limit the issuance of any Parity Debt payable from the System Net Revenues and secured by a lien and charge on the System Net Revenues if, after the issuance and delivery of such Parity Debt, none of the Loan Repayments shall be unpaid. Furthermore, nothing contained in this Section shall limit the issuance of any Subordinate Obligations.

SECTION 4.8. *Assignment by the Lender.* The Lender has the right to assign its interests herein, but no such assignment will be effective as against the City unless and until the Lender provides the City written notice thereof. The City shall pay all Loan Repayments hereunder under the written direction of the Lender named in the most recent assignment or notice of assignment provided to the City. During the Term of this Loan Agreement, the City shall keep a complete and accurate record of all such notices of assignment.

SECTION 4.9. *Assignment by the City.* Neither the Loan nor this Loan Agreement may be assigned by the City, other than to a public agency which succeeds to the interests of the City in and to the System and which (by operation of law, by contract or otherwise) becomes legally bound to all of the terms and provisions hereof.

SECTION 4.10. *Amendment of this Loan Agreement.* This Loan Agreement may be amended pursuant to a written amendment by and between the City and the Lender.

SECTION 4.11. *Tax Covenants.*

(a) Generally. The City shall not take any action or permit to be taken any action within its control which would cause or which, with the passage of time if not cured would cause, the interest components of the Loan Repayments to become includable in gross income for federal income tax purposes.

(b) Private Activity Bond Limitation. The City shall assure that the proceeds of the Loan are not so used as to cause the Loan to satisfy the private business tests of section 141(b) of the Tax Code or the private loan financing test of section 141(c) of the Tax Code.

(c) Federal Guarantee Prohibition. The City may not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Loan Repayments to be "federally guaranteed" within the meaning of Section 149(b) of the Tax Code.

(d) No Arbitrage. The City may not take, or permit or suffer to be taken, any action with respect to the proceeds of the Loan Repayments which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Loan Repayments to be "arbitrage bonds" within the meaning of Section 148(a) of the Tax Code.

(e) [Reserved]

(f) Arbitrage Rebate. The City shall take any and all actions necessary to assure compliance with section 148(f) of the Tax Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Loan.

(g) Acquisition, Disposition and Valuation of Investments. Except as otherwise provided in the following sentence, the City covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Loan Agreement, or otherwise containing gross proceeds of the Loan (within the meaning of section 148 of the Tax Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Loan Agreement or the Tax Code) at Fair Market Value. Investments in

funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Tax Code shall be valued at their present value (within the meaning of section 148 of the Tax Code).

For purposes of this subsection (g), the term "Fair Market Value" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Tax Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, (iii) the investment is a United States Treasury Security – State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the City and related parties do not own more than 10% beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

ARTICLE V

EVENTS OF DEFAULT AND REMEDIES

SECTION 5.1. *Events of Default Defined.* The following are Events of Default under this Loan Agreement:

- (a) Failure by the City to pay any Loan Repayment or other payment required hereunder when due; provided, that if received by the Lender within 5 business days of the due date, there shall be no Event of Default.
- (b) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, other than as referred to in the preceding clause (a) of this Section, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Lender.
- (c) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.

- (d) The occurrence of any event of default under and as defined in any of the Parity Debt Instruments.

SECTION 5.2. *Remedies on Default.* Upon the occurrence and during the continuation of an Event of Default, the Lender may, at its option and without any further demand or notice:

- (a) declare all principal components of the unpaid Loan Repayments, together with accrued interest thereon, to be immediately due and payable, whereupon the same will immediately become due and payable; and
- (b) take whatever action at law or in equity may appear necessary or desirable to collect the Loan Repayments then due or thereafter to become due during the Term of this Loan Agreement, or enforce performance and observance of any obligation, agreement or covenant of the City under this Loan Agreement.

The provisions of the preceding clause (a) are subject to the condition that if, at any time after the principal components of the unpaid Loan Repayments have been so declared due and payable under the preceding clause (a), and before any judgment or decree for the payment of the moneys due have been obtained or entered, the City deposits with the Lender a sum sufficient to pay all principal components of the Loan Repayments coming due prior to such declaration and all matured interest components (if any) of the Loan Repayments, with interest on such overdue principal and interest components calculated at the rate set forth in the applicable provisions of Section 3.4, and a sum sufficient to pay all reasonable costs and expenses incurred by the Lender in the exercise of its rights and remedies hereunder, and any and all other defaults known to the Lender (other than in the payment of the principal and interest components of the Loan Repayments due and payable solely by reason of such declaration) have been made good, then, and in every such case, the Lender shall, by written notice to the City, rescind and annul such declaration and its consequences. However, no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon.

SECTION 5.3. *No Remedy Exclusive.* No remedy herein conferred upon or reserved to the Lender is exclusive, and every such remedy is cumulative and in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default impairs any such right or power or operates as a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Lender to exercise any remedy reserved to it in this Article V it is not necessary to give any notice, other than such notice as may be required in this Article V or by law.

SECTION 5.4. *Agreement to Pay Attorneys' Fees and Expenses.* If either party to this Loan Agreement defaults under any of the provisions hereof and the nondefaulting party employs attorneys (including in-house counsel) or incurs other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys

(including those of in-house counsel) and such other expenses so incurred by the nondefaulting party.

SECTION 5.5. *No Additional Waiver Implied by One Waiver.* If any agreement contained in this Loan Agreement is breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE VI SECURITY DEPOSIT; DISCHARGE OF CITY'S OBLIGATIONS

SECTION 6.1. *Security Deposit; Discharge of City's Obligations.* Notwithstanding any other provision of this Loan Agreement, the City may (but is not required to) on any date secure the payment of Loan Repayments in whole or in part, by irrevocably depositing with a trustee, escrow agent or other fiduciary an amount of cash which, together with other available amounts, is invested in whole or in part in Federal Securities in such amount as will, in the opinion of an independent certified public accountant, together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient to pay all such Loan Repayments when due, as the City instructs at the time of the deposit.

In the event of a security deposit under this Section 6.1 for the payment in full of all remaining Loan Repayments, (i) the City hereby grants a first priority security interest in and lien on the security deposit and all proceeds thereof in favor of the Lender, and (ii) the pledge of System Net Revenues and all other security provided by this Loan Agreement for said obligations will cease and terminate, excepting only the obligation of the City to make, or cause to be made, all of Loan Repayments from such security deposit.

ARTICLE VII MISCELLANEOUS

SECTION 7.1. *Notices; Address for Loan Repayments.* Any notice, request, complaint, demand or other communication under this Loan Agreement shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopier or other form of telecommunication, at its number set forth below. Notice shall be effective either (a) upon transmission by telecopier or other form of telecommunication, (b) 48 hours after deposit in the United States of America first class mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Lender or the City may, by written notice to the other, from time to time modify the address or number to which communications are to be given hereunder.

If to the City:

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

If to the Lender:

JPMorgan Chase Bank

SECTION 7.2. *Jury and Judicial Reference.* To the fullest extent permitted by law, the City will agree to waive any right to trial by jury in any action, proceeding and/or hearing on any matter whatsoever arising out of, or in any way connected with, this Loan Agreement or any documents relating to this Loan Agreement, or the enforcement of any remedy under any law, statute, or regulation. To the extent such waiver is not enforceable, the City consents to the adjudication of any and all such matters pursuant to Judicial Reference as provided in Section 638 of the California Code of Civil Procedure, and the judicial referee shall be empowered to hear and determine any and all issues in such Judicial Reference whether fact or law. The City represents that it does not possess and will not invoke a claim of sovereign immunity for disputes arising out of contractual claims relating to this Loan Agreement or the related documents.

SECTION 7.3. *City Acknowledgement.* The City acknowledges and agrees that (i) the transaction contemplated herein is an arm's length commercial transaction between the City and the Lender and its affiliates, (ii) in connection with such transaction, the Lender and its affiliates are acting solely as a principal and not as an advisor including, without limitation, a "Municipal Advisor" as such term is defined in Section 15B of the Securities and Exchange Act of 1934, as amended, and the related final rules (the "Municipal Advisor Rules"), agent or a fiduciary of the City, (iii) the Lender and its affiliates are relying on the Bank exemption in the Municipal Advisor Rules, (iv) the Lender and its affiliates have not provided any advice or assumed any advisory or fiduciary responsibility in favor of the City with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (whether or not the Lender, or any affiliate of the Lender, has provided other services or advised, or is currently providing other services or advising the City on other matters), (v) the Lender and its affiliates have financial and other interests that differ from those of the City, and (vi) the City has consulted with its own financial, legal, accounting, tax and other advisors, as applicable to the extent it deemed appropriate.

SECTION 7.4. *Binding Effect.* This Loan Agreement inures to the benefit of and is binding upon the Lender and the City and their respective successors and assigns.

SECTION 7.5. *Severability.* If any provision of this Loan Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

SECTION 7.6. *Further Assurances and Corrective Instruments.* The Lender and the City shall, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Loan Agreement.

SECTION 7.7. *Execution in Counterparts.* This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 7.8. *Applicable Law.* This Loan Agreement shall be governed by and construed in accordance with the laws of the State of California.

SECTION 7.9. *Captions.* The captions or headings in this Loan Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Loan Agreement.

IN WITNESS WHEREOF, the Lender has caused this Loan Agreement to be executed in its name by its duly authorized officer and the City has caused this Loan Agreement to be executed in its name by its duly authorized officer, as of the date first above written.

JPMORGAN CHASE BANK,
as lender

By: _____

CITY OF ST. HELENA,
as borrower

By: _____
Mark T. Prestwich
City Manager

[Signature Page to Loan Agreement dated _____, 2019]

APPENDIX A
SCHEDULE OF LOAN REPAYMENTS

<u>Loan Repayment Date</u>	<u>Principal Payable</u>	<u>Interest Payable</u>	<u>Total Loan Repayment</u>
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CITY OF ST. HELENA

WATER REFUNDING PRESENTATION

CITY COUNCIL FEBRUARY 26, 2019

TERM SHEET PROCESS

- DECEMBER 11, 2018: TEAM APPROVED BY CITY COUNCIL ACTION
- JANUARY 29, 2018: TERM SHEETS SENT TO NINETEEN (19) LENDING INSTITUTIONS
- FEBRUARY 8, 2019: RECEIVED SIX (6) RESPONSES

Institution	Interest Rate(s)	Covenants
JP Morgan Chase	2.62%, 2.67%, 2.72%	1.25x, 1.25x
Opus Bank	2.96%	1.20x, 1.25x
Municipal Finance Corporation	3.03%	1.15x, NA
Pinnacle Public Finance	3.18%	1.20x, 1.20x
BB&T Government Finance	3.28%	1.25x, 1.25x
BBVA Compass	3.90%	1.25x, 1.25x

- FEBRUARY 12, 2019: JP MORGAN CHASE SELECTED AS LENDER, CHOSE THE 2.62% NON-CALL OPTION, RATE CURRENTLY LOCKED
- MARCH 14, 2019: PROPOSED CLOSING DATE / PRIOR BONDS CALLED

BONDS TO BE REFUNDED

\$21,560,000

CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY
WATER REVENUE BONDS
(POOLED FINANCING PROGRAM, SERIES 2006A)

ORIGINAL AMOUNT: \$8,885,000 (CITY PORTION)
AMOUNT REMAINING: \$5,730,000
FINAL MATURITY: OCTOBER 1, 2031
RESERVE FUND: SURETY
REDEMPTION: ANY DATE ON OR AFTER OCTOBER 1, 2016 @ 100%
INTEREST RATES: 4.125% - 5.000%
NOTES:
(1) REFUNDED 2004 LOAN AND PROVIDED \$5.4MM FOR CAPITAL IMPROVEMENTS (PIPELINES AND PRELIMINARY COST OF RECYCLED WATER PROJECT)
(2) RATE COVENANT REQUIRES 1.20X FISCAL YEAR DEBT SERVICE
(3) ADDITIONAL BONDS REQUIRES 1.20X MAXIMUM ANNUAL DEBT SERVICE

PROPOSED REFUNDING LOAN AGREEMENT

\$5,822,000^(*)

CITY OF ST. HELENA

2019 WATER REVENUE LOAN AGREEMENT

- | | |
|-----------------------|---|
| • CREDIT: | PARITY WITH OUTSTANDING SERIES 2012 |
| • SALE TYPE: | DIRECT PLACEMENT |
| • RESERVE FUND: | NONE |
| • FINAL MATURITY: | OCTOBER 1, 2031 (SAME TERM) |
| • INTEREST RATE: | 2.62% (LOCKED) |
| • CALL DATE: | NON-CALLABLE |
| • RATE COVENANT / ABT | 1.25X / 1.25X (MAXIMUM ANNUAL DEBT SERVICE) |

(*) ESTIMATED AMOUNT, SUBJECT TO CHANGE

ESTIMATED REFUNDING RESULTS

Proposed Issue Size	\$5,822,000
Total Debt Service Savings	\$750,199
Average Fiscal Year Debt Service Savings	\$57,701
Net Present Value Savings	\$631,711.72
Net Present Value Savings %	11.02%

ESTIMATED COSTS OF ISSUANCE

Role	Company	Total
Bond Counsel	Jones Hall	35,000.00
Municipal Advisor	Del Rio Advisors LLC	27,500.00
Municipal Advisor Expenses	Del Rio Advisors LLC	750.00
Bank Counsel	TBD	10,000.00
Placement Agent	Brandis Tallman LLC	25,000.00
Escrow Agent Fee	MUFG Union Bank, N.A.	1,250.00
COI Custodian	TBD	500.00
Regulatory	CDIAC	1,455.50
Rounding Adjustment / Contingency	Miscellaneous	3,069.01
Total Estimated Costs		104,524.51

DEBT SERVICE SAVINGS

Date	Prior Issue Debt Service	Prior Issue Receipts	Prior Issue Net Cash Flow	Refunding Issue Debt Service	Fiscal Year Savings	Present Value to 03/14/2019 @ 2.6198579%
4/1/2019	132,612.50	132,612.50				
4/1/2020	588,418.75		588,418.75	530,813.91	57,604.84	56,095.92
4/1/2021	589,281.25		589,281.25	531,523.80	57,757.45	54,828.20
4/1/2022	589,300.00		589,300.00	531,070.00	58,230.00	53,890.28
4/1/2023	587,275.00		587,275.00	529,367.30	57,907.70	52,258.56
4/1/2024	588,025.00		588,025.00	530,389.50	57,635.50	50,723.57
4/1/2025	587,775.00		587,775.00	530,110.40	57,664.60	49,497.72
4/1/2026	586,525.00		586,525.00	528,556.20	57,968.80	48,537.41
4/1/2027	584,275.00		584,275.00	526,740.00	57,535.00	46,991.30
4/1/2028	587,100.00		587,100.00	529,596.30	57,503.70	45,806.84
4/1/2029	585,050.00		585,050.00	527,125.10	57,924.90	45,008.37
4/1/2030	586,987.50		586,987.50	529,326.40	57,661.10	43,703.74
4/1/2031	582,912.50		582,912.50	525,213.30	57,699.20	42,663.15
4/1/2032	582,825.00		582,825.00	525,798.90	57,026.10	41,137.66
	7,758,362.50	132,612.50	7,625,750.00	6,875,631.11	750,118.89	631,142.72

Savings Summary

PV of savings from cash flow	631,142.71
Plus: Refunding funds on hand	569.01
Net PV Savings	631,711.72

FINANCING TEAM

- CITY STAFF
- BOND / DISCLOSURE COUNSEL: JONES HALL
- PLACEMENT AGENT: BRANDIS TALLMAN LLC
- MUNICIPAL ADVISOR: DEL RIO ADVISORS, LLC
- ESCROW AGENT: MUFG UNION BANK, N.A.

QUESTIONS / DISCUSSION



Report to the City Council
Council Meeting of February 26, 2019

Agenda Section: **New Business**

Subject: **Review and consideration of the 2018 St. Helena Housing Element Progress Report**

CEQA **Not a CEQA project**
Determination:

Prepared By: Noah Housh, Planning & Community Improvement Director

Reviewed By: Mark T. Prestwich, City Manager

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The State of California began mandating scheduled Housing Element updates in 1980. Pursuant to Government Code Section 65400, by April 1st of each year, General Law Cities are required to submit an annual report to the legislative body, the Office of Planning and Research (OPR), and the Department of Housing and Community Development (HCD) outlining the progress made towards implementing the City's General Plan Housing Element (HE). Specifically, the Progress Report is required to detail local efforts to remove governmental constraints to the maintenance, improvement, and development of housing. In addition, the Progress Report must detail the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its HE. The Annual Progress Report is to be considered at a public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

On August 25, 2009, the City Council adopted the 2009-2014 Housing Element, which was later certified by HCD on October 25, 2009. Under the 2007-2014 Regional Housing Needs Allocation (RHNA) the City was tasked with accommodating 121 new housing units during this HE cycle. Given the 66 units built or approved through December 2008 (previous cycle), the City needed to identify sites for at least 55

additional housing units. For the 2009-2014 HE cycle, the City issued 67 building permits for housing, and met 55% of the RHNA.

On May 26, 2015, the City of St. Helena adopted the fifth cycle of the state-mandated Housing Element update, spanning the years 2015-2023. This Housing Element details how the City plans to accommodate the Regional Housing Needs Allocation (RHNA) of 31 units within this time frame. The Planning Department is providing this annual update to inform the Council and public on the progress being made to implement the Housing Element policy priorities prior to submitting the report to HCD as required to maintain grant funding eligibility.

DISCUSSION

Like that of the previous Housing Element (HE), the current HE details goals, policies, quantified objectives, and implementing actions for the development, rehabilitation, and preservation of housing, based upon the findings of the Housing Needs Assessment and input received through the public outreach. The HE is divided into two elements, the Housing Needs Assessment and the Housing Element Update, which includes six goals, policies and an eight-year action plan. These six (6) overarching goals (listed below) endeavor to facilitate housing development.

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

The implementation of these goals is supported by a number of Policies, Implementing Actions and Quantified Objectives. During the 2015-2023 Housing Element cycle, the City has approved 62 units (not all have been issued building permits) for new housing within the Regional Housing Needs Assessment (RHNA) 2015-2022 cycle, which identifies a requirement of 31 total units. As reported in the 2018 HE Progress Report (attached), the City Council and staff have implemented and met several of the Housing Element goals and programs, including some of the quantified objectives and implementing actions of several goals of the City's adopted Housing Element.

While SB 35, AB 879 and the 2017 Housing Package each added new data requirements to the Housing Element reporting requirements, it is the Housing and Community Development (HCD) mandates that require the report to the City Council at a public meeting. Given this, staff has attached the HCD worksheet to supplement the information provided in this report. For an implementation progress update on the policies being implemented, or anticipated timeline for their implementation (from the staff perspective) the Council and community should refer to Table D to the attached HCD Reporting worksheet. This report will be submitted to HCD in keeping with the April 1, 2019, required timeline to maintain grant eligibility.

As identified in Table B of the HCD worksheet, the City has authorized up to 62 units and issued building permits for 44 new residential units (including ADUs) during this 2015-2023 RHNA Cycle, while the RHNA allocation from HCD was 31. However, the City has not yet met the individual affordable housing goals identified in the RHNA allocations.

Link to additional housing element and supporting information are provided below.

2015-2023 Housing Element Update Documents
<http://www.cityofsthelena.org/planning/page/2015-2023-housing-element>

Housing Element Annual Reporting Instructions <http://www.hcd.ca.gov/community-development/housing-element/docs/Housing-Element-Annual-Progress-Report-Instructions-2018.pdf>

Challenges

While the City's progress on HE implementation is substantial, there are a number of actions remaining, several of which are listed below. These include efforts such as:

1. Potentially modifying the City's Inclusionary Ordinance (Chapter 17.146) to adjust and expand the distribution of income levels;
2. Making modifications to the zoning code including density requirements, incorporate mixed use housing, and targeting sites for increased development potential;
3. Providing assistance with acquiring low interest loans for 10 first-time home buyers; and
4. Expanding the amount of senior housing units through mandated requirements.

While many of these actions naturally fit within efforts currently prioritized by the City Council (Comprehensive Zoning Code Update, Housing Strategy, Fee Schedule Update etc.), others such as establishing a full time (shared) Housing Coordinator (HE4.H), the pursuit of mortgage revenue bonds and/or credit certificates (HE4.E) and planning for road and utility improvements to facilitate development of housing opportunity sites (HE1.E) may prove to be challenging, given the limited resources available to support such initiatives.

FISCAL IMPACT

Given that the adopted Housing Element is an eight-year policy document, the fiscal impacts of implementing and meeting the goals of the 2015-2023 Housing Element are dependent on which of these goals are chosen to be addressed within a given budget year, and how the individual tasks are assigned (City staff vs consulting staff). As specific elements of the policy direction are brought forward, staff will provide individual costs and staff resources needed to accommodate each.

RECOMMENDED ACTION

It is recommended that the City Council review, consider and file this report and anticipate staff submittal of the information to HCD in keeping with the April 1, 2019 deadline to maintain grant eligibility.

ATTACHMENTS

[Housing-Element-Annual-Progress-Report-Form-2018](#)

Jurisdiction	St. Helena	
Reporting Year	2018	(Jan. 1 - Dec. 31)

Permitted Units Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	0
	Non-Deed Restricted	0
Moderate	Deed Restricted	0
	Non-Deed Restricted	0
Above Moderate		1
Total Units 44		1

Note: units serving extremely low-income households are included in the very low-income permitted units totals

Entitlement Summary	
Total Housing Applications Submitted:	0
Number of Proposed Units in All Applications Received:	7
Total Housing Units Approved:	1
Total Housing Units Disapproved:	0

Use of SB 35 Streamlining Provisions	
Number of Applications for Streamlining	0
Number of Streamlining Applications Approved	0
Total Developments Approved with Streamlining	0
Total Units Constructed with Streamlining	0

Units Constructed - SB 35 Streamlining Permits			
Income	Rental	Ownership	Total
Very Low	0	0	0
Low	0	0	0
Moderate	0	0	0
Above Moderate	0	0	0
Total	0	0	0

Cells in grey contain auto-calculation formulas

Please Start Here

General Information	
Jurisdiction Name	St. Helena
Reporting Calendar Year	2018
Contact Information	
First Name	Sophia
Last Name	Johnson
Title	Building Permit Technican I
Email	sjohnson@cityofsthelena.org
Phone	(707) 967-2779
Mailing Address	
Street Address	<u>1480 Main St</u>
City	St. Helena
Zipcode	94574

Submittal Instructions
Housing Element Annual Progress Reports (APRs) forms and tables must be submitted to HCD and the Governor's Office of Planning and Research (OPR) on or before April 1 of each year for the prior calendar year; submit separate reports directly to both HCD and OPR pursuant to Government Code section 65400. There are two options for submitting APRs:
1. Online Annual Progress Reporting System (Preferred) - This enters your information directly into HCD's database limiting the risk of errors. If you would like to use the online system, email APR@hcd.ca.gov and HCD will send you the login information for your jurisdiction. <i>Please note: Using the online system only provides the information to HCD. The APR must still be submitted to OPR. Their email address is opr.apr@opr.ca.gov.</i>
2. Email - If you prefer to submit via email, you can complete the excel Annual Progress Report forms and submit to HCD at APR@hcd.ca.gov and to OPR at opr.apr@opr.ca.gov . Please send the Excel workbook, not a scanned or PDF copy of the tables.

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

(CCR Title 25 §6202)

Jurisdiction	St. Helena	
Reporting Year	2018	(Jan. 1 - Dec. 31)

Note: + Optional field

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ANNUAL ELEMENT PROGRESS REPORT																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																													
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Project APN*	Current APN	Street Address	Project Name*	Local Jurisdiction Tracking ID*	Unit Category (SFD, SFD+D, or A-S/AOUM)	Tenure R/Renter/O/Owner	Very Low-income Deed Restricted	Very Low-income Non-Deed Restricted	Low-income Deed Restricted	Low-income Non-Deed Restricted	Moderate-income Deed Restricted	Moderate-income Non-Deed Restricted	Above-Moderate Income	Entitlement Date Approved	# of Units Issued Entitlements	Very Low-income Deed Restricted	Very Low-income Non-Deed Restricted	Low-income Deed Restricted	Low-income Non-Deed Restricted	Moderate-income Deed Restricted	Moderate-income Non-Deed Restricted	Above-Moderate Income	Building Permits Date Issued	# of Units Issued Building Permits	Very Low-income Deed Restricted	Very Low-income Non-Deed Restricted	Low-income Deed Restricted	Low-income Non-Deed Restricted	Moderate-income Deed Restricted	Moderate-income Non-Deed Restricted	Above-Moderate Income	Certificate of Occupancy or other form of readiness (see instructions) Date Issued	# of Units Issued Certificates of Occupancy or other forms of readiness	How many of the units were Extremely Low Income?	Was Project APPROVED using GC 59131.5(b)? (SB 35 Streamlining) Y/N	Infill Units? Y/N	Assistance Programs for Each Development (see instructions)	Deed Restriction Type (see instructions)	For units affordable without financial assistance or deed restrictions, explain how the locality determined the units were affordable (see instructions)	Term of Affordability or Deed Restriction (years) (if affordable in perpetuity enter 1,000)*	Number of Demolished/Destroyed Units*	Demolished or Destroyed Units*	Demolished or Destroyed Units - Owner or Renter*	Notes*																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																	
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ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title)

Jurisdiction	St. Helena	
Reporting Year	2018	(Jan. 1 - Dec. 31)

Note: + Optional field

Cells in grey contain auto-calculation formulas

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ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation

(CCR Title 25 §6202)

Jurisdiction	St. Helena	
Reporting Year	2018	(Jan. 1 - Dec. 31)

This table is auto-populated once you enter your jurisdiction name and current year data.
Past year information comes from previous APRs.
Please contact HCD if your data is different than the material supplied here

Table B													
Regional Housing Needs Allocation Progress													
Permitted Units Issued by Affordability													
		1	2									3	4
Income Level		RHNA Allocation by Income Level	2015	2016	2017	2018	2019	2020	2021	2022	2023	Total Units to Date (all years)	Total Remaining RHNA by Income Level
Very Low	Deed Restricted	8											8
	Non-Deed Restricted												
Low	Deed Restricted	5			8							8	
	Non-Deed Restricted												
Moderate	Deed Restricted	5										4	1
	Non-Deed Restricted		4										
Above Moderate		13	23	6	11	10						50	
Total RHNA		31											
Total Units 44			27	6	19	10						62	9

Note: units serving extremely low-income households are included in the very low-income permitted units totals
Cells in grey contain auto-calculation formulas

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction	St. Helena
Reporting Year	2018 (Jan. 1 - Dec. 31)

Note: + Optional field

Cells in grey contain auto-calculation formulas

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ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation

(CCR Title 25 §6202)

Jurisdiction	St. Helena
Reporting Year	2018 (Jan. 1 - Dec. 31)

Table D			
Program Implementation Status pursuant to GC Section 65583			
Housing Programs Progress Report			
Describe progress of all programs including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing as identified in the housing element.			
1	2	3	4
Name of Program	Objective	Timeframe in H.E	Status of Program Implementation
	HE1.A Continue to exempt permits for regulated affordable units as well as second units from Growth Management System	Ongoing	The City currently exempts affordable housing units and Accessory Dwelling Units from the Growth Management system. In addition, un-used allotments are "banked" from previous years and are available to be issued within a single calendar year to projects which provide a minimum of 40% of their total unit count as affordable. The draft St Helena 2040 General Plan provides direction to continue to do so.
	HE1.F Fast-track housing developments that meet lower income and special housing needs.	Ongoing	The City is committed to expediting any affordable housing applications that are submitted for review and action. Eight owner-occupied affordable housing units were approved by the City in Dec. 2016 (Self-Help Affordable Housing Project called Brenkle Ct Project from Our Town St. Helena (OTSH)). The Building Permit Master Plans for the project was conceptually approved in early 2019 and individual building permits for each unit are expected to be issued in mid-2019.
	HE2.A Provide incentives for higher density housing. Explore possible incentives for building attached market rate housing units for rent and for sale.	2019	In an effort to implement this Goal, the City has removed the Use Permit requirement for multi-family housing in the High Density Residential land use designation and all of the Housing Opportunity Sites located within other land use designations (Medium Density Residenital). In addition, the City anticipates adoption of a SB 35 Checklist in 2019 to further streamline the design and approval of by-right multi-family units within the community.
	HE3.E Review housing needs, achievements and challenges as part of the City's regular General Plan review. As required by State law, submit a progress report to the State Department of Housing and Community Development and Governor's Office of Planning and Research by April 1st of each year.	Annually	This report is being done as a part of this Goal and as of 2017 reporting year, the City of St. Helena is up to date on its reporting requirements regarding Housing Element implementation with the Office of HCD.

	HE4.C Reduce, defer, or waive fees for affordable housing developments. The City will establish a set of criteria for project eligibility to have fees reduced, deferred or waived. The City will explore and adopt as appropriate higher incentives for affordable housing developments with units affordable to extremely low and very low income households.	Ongoing	Since 2010, the City has made significant efforts to provide financial incentives, including reducing the application and impact fees for affordable housing projects and will continue to do so into the foreseeable future. Since 2016, the City committed substantial amounts of Affordable Housing Trust Fund monies (approximately \$2,000,000) to two different affordable housing projects, anticipated to result in the construction and/or occupancy of 16 new affordable housing units in St Helena in 2019. Since 2015, the City has fully funded all funding requests made by an affordable housing developers to assist with the design and construction of affordable housing units within St. Helena.
	HE4.F Pursue additional funding for affordable housing. Explore other options for affordable housing funding, including a real property transfer tax and Housing Trust Fund contributions from the wine and hospitality industry in Napa Valley.	2018 and ongoing	Since 2010, the City has made significant efforts to provide financial incentives, including reducing the application and impact fees for affordable housing projects and will continue to do so into the foreseeable future. In 2018, the City joined with all municipalities in Napa County, put Measure I on the ballot, requesting voter approval of a special tax to increase Transit Occupancy Taxes on hotels by one-percent, with these additional funds being for the sole purpose of housing. This measure was approved and went into effect January 1, 2019.
	HE4.G Continue Section 8 rent subsidy certificates. Work with the City of Napa Housing Authority to provide continued rental assistance to low, very low and extremely low income households.	Ongoing	The City continues to contract with the City of Napa for Housing Authority services, including Section 8.
	HE4.L Explore the potential of using Housing Trust Fund money to purchase existing housing for conversion to restricted affordable housing and commit funding as appropriate. Priority use of Housing Trust Fund monies will be given to the creation of housing affordable to extremely low income households.	2019	Since 2010, the City has made significant efforts to utilize Affordable Housing Trust Fund monies to support the development and preservation of affordable housing projects and will continue to do so into the foreseeable future.
	HE5.B Encourage use of alternative energy technologies. Create incentives for the use of solar energy in new and rehabilitated housing. Incentives to adopt as appropriate include, but are not restricted to, ensuring a streamlined review process for applications, deferred fees, and reduced applicable city standards.	Ongoing	The City currently issues building permits for solar panel installation, backup battery installation, and electric vehicle charging infrastructure under the "Rapid Permit" category and will continue to do so into the foreseeable future. The City has extended services for Solar Permits to be submitted via email and paid over the phone to expedite further the process and reduce the number of trips into City Hall to get the permit.
	HE5.F Provide public information on alternative energy technologies for residential developers, contractors, and property owners. The City will provide information on its website and/or City Hall regarding alternative energy technology options, possible sources of financing, and any applicable information regarding necessary local permits.	Ongoing	The City currently provides Green Building Code information upon request and has recently updated the City website, allowing additional information to be provided on an ongoing basis. In 2018 the City added information regarding solar panel installation, backup battery installation, and electric vehicle charging infrastructure to the City's website to ease access to the requirements and incentives available.

	HE5.D Require cost-effective energy conservation measures in all new and rehabilitated housing to promote long-term affordability for occupants. The City will adopt the State's new Energy Efficiency Standards as part of any update to the California Building Standards Code and ensure that all new housing units constructed in the City meet or exceed these standards.	Tri-Annually	The City continues to work toward concurrent building code adoption along with standard building code updates. Next expected update will be January 1, 2020 with the 2019 Code Standards and City staff has begun preparation to make this transition.
	HE5.H Continue to apply Municipal Code provisions pertaining to water resources. 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.	Ongoing	The City has adopted a "Water Neutral" policy for all new development (Municipal Code Chapter 13.12) and continues to implement a Water Efficient Landscape Ordinance (MWELO) in keeping with anticipated State requirements.
	HE1.J Encourage development of co-housing, ecohousing, 'green' manufactured homes and other 'nontraditional' forms of housing. Ensure these housing types are addressed in the development of design guidelines to streamline to approval process.	Ongoing	The City Council has expressed an interest in reviewing housing needs Citywide and this is expected to occur after the adoption of the 2040 St Helena General Plan. In addition, staff and the City Council are committed to creation and adoption of Design Guidelines, consistent with the adoption of the 2015 Housing Element and 2040 General Plan. Both policy documents are anticipated to be adopted in 2019.
	HE2.D Modify section 17.100 of the Zoning Ordinance to rename the Mobilehome Park Overlay District to "Manufactured Housing Overlay District". Develop policies to streamline the review process for this overlay district on residential land for projects that create land-ownership opportunities for residents. Support giving residents the right of first refusal if an existing park is to be sold.	2020	No revisions to the current zoning code have been made as of yet as the comprehensive zoning code update is expected to occur after adoption of the St Helena 2040 General Plan. However, all City actions are made in keeping with California State law and any request to implement a Manufactured Housing Overlay District would be reviewed as such.
	HE2.I Review and revise development standards pertaining to second units. Ensure that the development of second units is physically and financially feasible in targeted areas. Give particular attention to parking standards, setbacks, and impact fees.	2017-2019	In 2017, the City adopted updated ADU regulations which streamlined the review process for ADU construction and conversion, in keeping with the requirements of State law. The St Helena 2040 General Plan update is expected to be adopted in Spring 2019. A comprehensive zoning code update will follow and will include additional direction regarding the development of Accessory Dwelling Units.
	HE2.J Provide financial assistance for second unit development. Incentives might include low interest loans or fee waivers.	2020	The St Helena 2040 General Plan update is expected to be adopted Spring 2019. A comprehensive zoning code update will follow and will include additional direction regarding the development of Accessory Dwelling Units (ADU). A component of this review will include the ability of the City to provide financial assistance for ADU development. In the mean time, City staff has been working with non-profit organizations and grant providers to find other mechanisms to encourage ADU development.

	HE2.K Target specific areas for second unit incentives. Create incentives to construct second units in the medium density areas near downtown. Incentives to adopt as appropriate include, but are not restricted to, fast tracking development applications, deferred development fees, and reduced parking and/or other city standards.	2017-2020	In 2017, the City incentivised ADU development in all residenital areas of the community. The St Helena 2040 General Plan update is expected to be adopted in Spring 2019. A comprehensive zoning code update will follow and will include additional direction regarding the development of Accessory Dwelling Units.
	HE2.M Link financial incentives and development standard variances to affordability requirements for second units. Require that either the main house or the second unit is used as a rental unit that is affordable to moderate or below moderate households whenever the City assists in development through financial incentives or by granting a variance	Ongoing	The City Council has expressed an interest in reviewing housing needs Citywide and this is expected to occur after the adoption of the 2040 St Helena General Plan (expected Spring 2019). Financial incentives and potential variance from development standards will be included as a part of this review.
	HE2. N Respond to complaints regarding illegal units. The City will work with the property owners to help bring illegal units up to code and to abate the use of non-habitable buildings as living units	Ongoing	While the City does not have a dedicated Code Enforcement Department, Planning and Community Improvement Department staff is responsible for responding to Code Enforcement complaints and prioritize life and safety issues, such as substandard housing, in these efforts. Additional Code Enforcement improvements have been identified as an element of the adopted City Council goals.
	HE2.O Identify appropriate 'target' areas for conversion of single family homes to multi-unit dwellings, Identify areas, zoning districts, or specific sites where conversion would be appropriate or desirable.	2019	The City Council has expressed an interest in reviewing housing needs Citywide and this is expected to occur after the adoption of the 2040 St Helena General Plan (expected Sprin 2019). Financial incentives and potential variance from development standards will be included as a part of this review. Further, a majority of the City's residential land is designated as Medium Density Residential, allowing conversion of existing SFD to MFD at a density of 5.1-16 units per acre.
	HE2.P Develop a program to encourage affordable housing in clusters of 4-6 units on Infill parcels on west side of town. The City will post an inventory of available sites on the City's website. City will explore and adopt as appropriate incentives to encourage affordable housing clusters, including, but not limited to priority permitting processing, reduced or waived development fees, reduced parking and/or other city standards, and an additional density bonus.	2019-2020	The City Council has expressed an interest in reviewing housing needs Citywide and have prioritized creation of a Citywide Housing Strategy as one of the Council Goals. This is expected to occur concurrently with and after the adoption of the 2040 St Helena General Plan (expected in Sprin 2019). incentives for the development of these units will be included as a part of this review. Further, a majority of the City's residential land is designated as Medium Density Residential, allowing conversion of existing SFD to MFD at a density of 5.1-16 units per acre.

	HE3.A Restrict conversion of rental units to condominiums. Current policy allows conversion to condominiums under certain circumstances when the vacancy rate is high. The presence of second homes results in an inflated vacancy rate. The policy should be further studied to reflect a general guiding principle of preserving the affordable housing stock while eliminating the current linkage to vacancy rates.	2019-2020	The City Council has expressed an interest in reviewing housing needs Citywide and have prioritized creation of a Citywide Housing Strategy as one of the Council Goals. This is expected to occur concurrently with and after the adoption of the 2040 St Helena General Plan (expected in Spring 2019). Restrictions on condominium conversions of existing apartment units will be included as a part of this review.
	HE3.B Charge an affordable housing impact fee whenever housing units are converted to other uses. Exempt conversion projects that create affordable for-sale housing from this impact fee.	Ongoing	The city currently charges an Housing Impact Fee. Further, the City Council has expressed an interest in reviewing housing needs Citywide and have prioritized creation of a Citywide Housing Strategy as one of the Council Goals. This is expected to occur concurrently with and after the adoption of the 2040 St Helena General Plan (expected in Spring 2019). Restrictions on conversions of existing housing units to non-housing uses will be included as a part of this review.
	HE3.D. Continue to limit the conversion of market rate housing to vacation rentals. Abate the use of illegal vacation rentals, including time shares and fractional interests.	Ongoing	The City strictly limits the use of residential units for short-term rental (STR) use to a maximum of 25 STR units within the City. Funds collected from these units are utilized to assist with active and aggressive enforcement of these limitations. This enforcement continued to be a priority in 2018.
	Review and possibly amend the inclusionary housing ordinance to: (1) adjust the inclusionary housing ordinance to require further distribution of affordable units with the various income categories. (2) Balance collecting housing impact fees with the requirement to construct affordable housing, either on or off site depending on the size of the site and other site conditions, for larger commercial developments. Evaluate increasing the housing impact fees to reflect the increasing cost of housing in the community. Collect housing impact fees for small commercial development where requiring residential construction would not be feasible. (3) Increase appropriate residential construction in-lieu fees and/or create a sliding scale for larger homes. (4) Add an above moderate-income workforce housing component to the Inclusionary Housing Ordinance requirements	Unstated however City staff anticipates progress to begin in 2019.	The City Council has expressed an interest in reviewing housing needs Citywide and have prioritized creation of a Citywide Housing Strategy as one of the Council Goals. This is expected to occur concurrently with and after the adoption of the 2040 St Helena General Plan (expected in Spring 2019). Potential revisions to the inclusionary housing requirements will be included as a part of this review. In preparing for this process, the City commissioned a "White Paper" on housing issues to further highlight the housing needs and opportunities available within the community.

(CCR Title 25 §6202)

Note: + Optional field

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Annual Progress Report

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ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction	St. Helena	
Reporting Period	2018	(Jan. 1 - Dec. 31)

Note: + Optional field
Cells in grey contain auto-calculation formulas

Table F									
Units Rehabilitated, Preserved and Acquired for Alternative Adequate Sites pursuant to Government Code section 65583.1(c)(2)									
This table is optional. Jurisdictions may list (for informational purposes only) units that do not count toward RHNA, but were substantially rehabilitated, acquired or preserved. To enter units in this table as progress toward RHNA, please contact HCD at APR@hcd.ca.gov. HCD will provide a password to unlock the grey fields. Units may only be credited to the table below when a jurisdiction has included a program in its housing element to rehabilitate, preserve or acquire units to accommodate a portion of its RHNA which meet the specific criteria as outlined in Government Code section 65583.1(c)(2).									
Activity Type	Units that Do Not Count Towards RHNA ⁺ Listed for Informational Purposes Only				Units that Count Towards RHNA ⁺ Note - Because the statutory requirements severely limit what can be counted, please contact HCD to receive the password that will enable you to populate these fields.				The description should adequately document how each unit complies with subsection (c)(7) of Government Code Section 65583.1 ⁺
	Extremely Low-Income ⁺	Very Low-Income ⁺	Low-Income ⁺	TOTAL UNITS ⁺	Extremely Low-Income ⁺	Very Low-Income ⁺	Low-Income ⁺	TOTAL UNITS ⁺	
Rehabilitation Activity									
Preservation of Units At-Risk									
Acquisition of Units									
Total Units by Income									

Jurisdiction	St. Helena	
Reporting Year	2018	(Jan. 1 - Dec. 31)

Permitted Units Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	0
	Non-Deed Restricted	0
Moderate	Deed Restricted	0
	Non-Deed Restricted	0
Above Moderate		1
Total Units 44		1

Note: units serving extremely low-income households are included in the very low-income permitted units totals

Entitlement Summary	
Total Housing Applications Submitted:	0
Number of Proposed Units in All Applications Received:	7
Total Housing Units Approved:	1
Total Housing Units Disapproved:	0

Use of SB 35 Streamlining Provisions	
Number of Applications for Streamlining	0
Number of Streamlining Applications Approved	0
Total Developments Approved with Streamlining	0
Total Units Constructed with Streamlining	0

Units Constructed - SB 35 Streamlining Permits			
Income	Rental	Ownership	Total
Very Low	0	0	0
Low	0	0	0
Moderate	0	0	0
Above Moderate	0	0	0
Total	0	0	0

Cells in grey contain auto-calculation formulas

Annual Progress Report



Report to the City Council
Council Meeting of February 26, 2019

Agenda Section: New Business

**Subject: Discussion and Consideration of Spring Mountain Road
Traffic Calming and Safety Improvements**

**CEQA Not a CEQA project
Determination:**

Prepared By: Timothy A. Foley, Chief of Police

Reviewed By: Mark T. Prestwich, City Manager

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

A group of residents have expressed safety concerns for pedestrians, cyclists and students due to vehicles traveling at excessive speed on Spring Mountain Road. This has been an ongoing concern and previous enforcement only efforts had a temporary effect.

DISCUSSION

On October 15, 2018, the St. Helena Police Department and Public Works Department were contacted by a concerned citizen regarding the ongoing problem of vehicles traveling at excessive speed primarily during commute hours along Spring Mountain Road from the City limits and by Robert Louis Stevenson Middle School. In early 2018, the Police Department conducted an enforcement campaign along Spring Mountain Road. Fifty vehicles were stopped, 34 citations issued and 6 individuals arrested. This effort had only a temporary impact on driving habits and citizen concern was again heightened.

On October 30, 2018, representatives of the Police Department, Chief Tim Foley, Lt. Chris Hartley, and Public Works Director, Erica Ahmann Smithies met with a group of community members who reside along or near Spring Mountain Road to develop a plan to calm traffic flow, provide enhanced safety and educate all involved parties. During the meeting several strategies were developed to improve safety along Spring Mountain

Road. The following recommendations are being considered for implementation to improve safety along Spring Mountain Road:

1. At the intersection of Spring Mountain Road and Spring Mountain Court add an additional stop sign making the intersection an all way stops (currently just 2 of the 3 directions of travel are required to stop). This would provide a safe option for pedestrians to cross Spring Mountain Road. Per St. Helena Municipal Code (SHMC) 10.04.020. the City Council must authorize stop sign implementation.
2. Install signage indicating "Slow School Zone" in area of RLS Middle School
 - 1 R2-5A to be installed southbound just before Dean York Lane, indicating reduced speed ahead due to the school zone
 - 1 SW24-3 to be installed southbound just after Dean York Lane, indicating a school zone
 - Changing the current SR4-1 (20 mph) to SR4-1 (15 mph) which is the new standard. This is only when children are present.
3. On Spring Mountain Road install signage westbound past Spring Mountain Court and eastbound at the City limits indicating "curves ahead reduce speed".
4. Purchase and install radar speed detection monitors in each direction between Spring Mountain Court and the City limits. These monitors would track speeds and times. (two at \$6000 each to be budgeted FY19/20)
5. Install visual lane narrowing stripping at various locations between Spring Mountain Court and the City limits using painted lines and arrows. Public Works is ordering a new paint stripe machine. Tentative stripe date would be in April 2019. (raised lane bumps and/or rumble strips are future considerations)
6. Improve public awareness regarding pedestrian, cyclist and driver safety and responsibilities through community meetings, and informational articles.
7. Continued directed enforcement primarily during commute hours

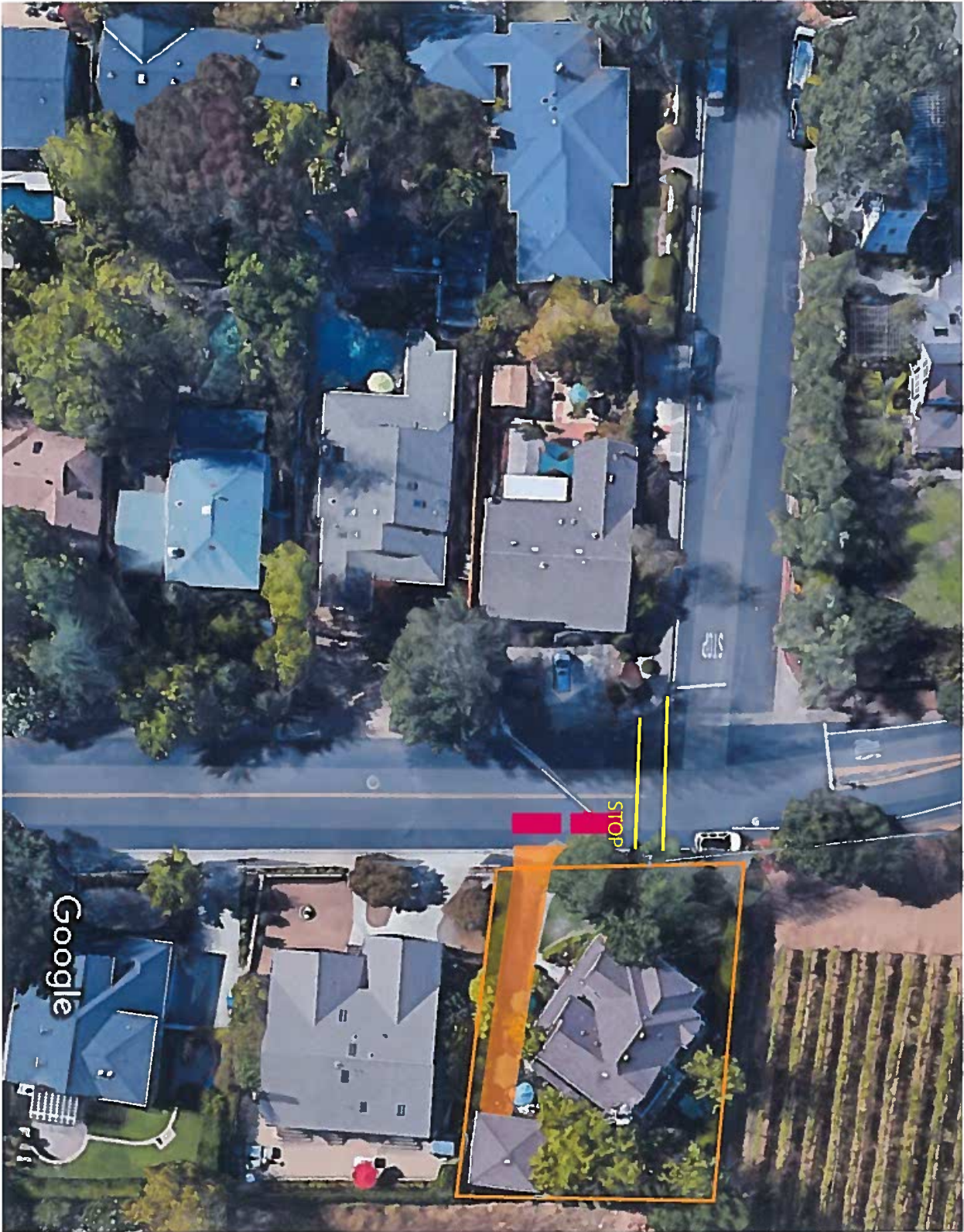
City staff will be working with local community partners regarding the locations for installation of any signage. Installation of the traffic calming recommendations and the public awareness/education efforts are expected to result in an overall safety improvement in the area.

FISCAL IMPACT

The expected costs to purchase two portable radar devices total \$12,000 and can be added to the FY19/20 budget.

RECOMMENDED ACTION

Discuss and provide direction.



In reference to the Discussion and Consideration of Spring Mountain Road Traffic Calming and Safety Improvements, the homeowners on Spring Mountain Court appreciate the need to address safety concerns for pedestrians, cyclists and and walkers along the street and agree in general with the 7 points that have been listed and are being considered for implementation to improve safety. There are other traffic calming measures that could be considered if the traffic heading up the hill is actually speeding up as it passes Spring Mountain Ct., which for those of us who live on the cul-de-sac, doesn't seem to be the case. We would like to see the other measures ^{considered and} tried first.

Jane Wallace 1531 Spring Mt Ct.
 Clea Wyff 1824 Spring Mtn. Ct.
 JBT 1810 Spring Mtn. Ct.
 J. B. 1843 Spring Mtn. Ct.
 W. B. 1565 Spring Mt. Rd.
 Susan W. Anderson 1880 Spring Mt. Rd.
 1806 Spring Mountain Ct.
 Nina G. Hemmings 1819 Spring Mt Ct.
 Susan Allen 1825 Spring Mt. Ct.
 Tap A. P. 2010 Spring Mtn Rd.



Report to the City Council
Council Meeting of February 26, 2019

Agenda Section: New Business

Subject: Consideration of approval of one or more of the following options:

1. Resolution rejecting all construction bids for the C-82 Downtown Restrooms Project;
2. Recommend award of the construction contract to R.O. Construction and authorize a budget transfer in the amount of \$321,570 from the General Fund Reserves to the Civic CIP Fund to complete the project;
3. Direct Staff to explore a building kit or modular building option and bring back to City Council/Planning Commission for review and approval;
4. Place the project on hold and re-evaluate once other private venture public restrooms are online for 6 months.

**CEQA 15303 New Construction or Conversion of Small Structures
Determination:**

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

Since 2015, the City's Capital Improvement Plan and Annual Budget has included plans for the construction of a Downtown Restrooms project (C-82). The project site is located directly off Main Street where Telegraph Way meets Money Way, adjacent to the City owned parking lot on Oak Street. The proposed project would add two single stall Americans With Disabilities Act (ADA) compliant bathrooms, additional lighting, and water fountains, without removing any parking spaces.

On June 26, 2018 the City Council adopted a resolution finding the project exempt from CEQA, approving the project manual, and authorizing the bid request for the C-82 Downtown Restrooms project. On September 28, 2018, four bids were received and

evaluated by the Director of Public Works; and the lowest responsive and responsible bidder for the Project was CWS Construction, of Novato, CA in the amount of \$497,000. On October 23, 2018, City Council rejected all bids due to the estimated costs being over budget by \$328,037 with the Public Works Director recommending that the project be re-advertised at a later date.

DISCUSSION

On December 17, 2018, revised bid documents were published online and sent to the builders exchanges. The bid notice was also published twice in the St. Helena Star and the Napa Valley Register with a bid opening scheduled for January 16, 2019.

The City Clerk received six bids on Wednesday, January 16, 2019 as follows:

Contractor Name	Bid Amount
R.O. Construction, Lower Lake	\$488,700.00
St. Helena Construction, St. Helena	\$497,394.50
JPB Designs, Inc., Sacramento	\$514,200.00
T. Amaral's Done Right Construction, Brentwood	\$546,300.00
Alta, San Francisco	\$567,470.00
GCCI, Inc., Santa Rosa	\$774,000.00

The engineers estimate for this project was \$250,000.

R and C Construction doing business as R.O. Construction holds a valid Class A and B Contractors License No.585254 in the State of California, with no enforcement actions listed. Their license expires January 31, 2020. R.O. Construction had the lowest, responsible, and responsive bid at \$488,700..

R.O. Construction's bid price would increase the total construction project costs, including contingency from \$296,000 to \$617,570. This is \$321,570 over the approved project budget. Further analysis by the Public Works Director suggests that the high bids are attributed to extensive site improvements (i.e. additional lighting and utilities) in addition to materials specified on the restroom structure. The roof and breezeway material were quoted at \$60,000 with an additional \$40,000-60,000 in installation costs by the contractor. Additionally, the multiple styles and patterns in the specified block wall were deemed labor intensive and complex by the contractor. Contractor supply and demand (due to fire rebuild effort) is also an ongoing contributor to higher bid prices in the area, but the materials and amount of work effort to the site are more likely the cause in the price spike.

In light of the two high bid openings with similar results, the following options are being provided to City Council for discussion and direction to staff:

Option 1: Reject all construction bids

In light of the high material costs and bids exceeding the total project budget by \$321,570, the Public Works Director recommends rejecting all bids and have City

Council provide direction to staff on Options 3 or 4 below. A resolution has been attached to this staff report for this purpose.

Option 2: Award the construction contract

Should City Council prefer to move forward with the project as it currently is designed, the Public Works Director will review the available budget with the Finance Director and bring a proposed budget transfer with a resolution to award at the next available Council meeting. The low bid of \$488,700 is approximately \$321,570 over the FY 18/19 authorized budget.

Option 3: Review project design and options

Shortly after the bid opening, the Public Works Director reached out to a couple of different companies that provide kits and modular bathrooms for municipalities. A customized kit bathroom from a firm, such as Romtec, is estimated to cost \$75,000 which includes sealed and stamped design plans for meeting local building permit requirements. The facilities are concrete masonry unit block structures, which can have exterior finish upgrades applied to meet different location applications. The kit would be assembled, packaged, and shipped to the site for installation by a contractor. Romtec estimates construction costs would be an additional 1.5 to 2 times the kit purchase. The design of the Romtec building is similar in nature to the current design provided by Valley Architect (block structure).

Another alternative would be an Exeloo style bathroom that comes pre-fabricated to the site upon purchase and would require some site work and connections to utilities. The Exeloo bathroom version is estimated to cost between \$116,000 to \$160,000 for the structure with an additional \$20,000-\$40,000 for installation, which are similar to the installation costs for the Public Works Corporation Yard modular buildings. The Exeloo style bathroom is a modular building that can be relocated to other sites.

Information for both building types as well as images have been attached to this staff report. If City Council were to choose either of these options, City staff would bring a design to Planning Commission and ultimately City Council for approval. Due to the pre-designed nature of the buildings, it's anticipated this new review process could take place fairly quickly and be brought back to City Council in 4 to 6 months, if not sooner.

In addition to Option 3, Public Works staff would provide the utility tie-ins (water, sewer, and storm water) to either facility which would result in approximately \$40,000 in sitework cost savings. Four proposed parking lights were also a cost contributing factor ranging from \$24,000 to 60,000. It is possible that these items could be bid separately and installed prior to a structure going onsite.

Option 4: Place the project on hold

There have been recent discussions that a City owned restroom may no longer be necessary with other businesses having public restrooms available now and/or in the very near term. The Public Works Director reached out to both the Chamber of

Commerce and Joel Gott regarding the availability of public restrooms at their downtown locations. At the time of agenda publishing the Chamber had not provided an update; however, in the recent past they had stated their restrooms were available during business hours. Joel Gott was able to respond with regard to his new gas station/convenience store at the corner of Spring and Main Street. Gott's plan is to open by late April or May 2019 with one ADA restroom available to the public during business hours, which is 6:00 am to 4:00 pm. While the bathroom is being built with public use in mind, Gott will be monitoring the operational costs with respect to maintenance and vandalism in the long term.

Value Engineering was also discussed as a potential option to award, but not recommended at this time. Per Public Contract Code Section 7101, 50% of any costs savings through value engineering would go to the awarded contractor. In other words, if there was a \$100,000 cost savings through value engineering, \$50,000 of that would go to the contractor.

FISCAL IMPACT

The estimated project expenditures is dependent on the option chosen. Each option is provided below.

Option 2: Award the construction contract

Description	FY 18/19 Budget	Projected
Preliminary Engineering	\$59,000	\$60,000
Construction Management & Inspection	\$20,000	\$20,000
Construction Contract	\$217,000	\$488,700
Contingency (10%)		\$48,870
Total	\$296,000	\$617,570

Based on the lowest responsible and responsive bid, the project cost would exceed the adopted budget by \$321,570 and use of General Fund Reserves would be necessary.

Option 3: Review project design and options

cost for option 3 are estimated between \$200,000 and \$225,000. These costs would fit within the approved budget.

Option 4: Place the project on hold

There are no fiscal impacts for placing the project on hold.

RECOMMENDED ACTION

Discuss options and provide direction to City staff.

ATTACHMENTS

[Attachment 1: Bid Rejection Resolution](#)

[Attachment 2: Bid Tabulation](#)

[Attachment 3: Romtec Plan](#)

[Attachment 4: Romtec Building Exterior Options](#)

[Attachment 5: Exeloo Jupiter Floorplan](#)

CITY OF ST. HELENA

RESOLUTION No. 2019-

**Resolution rejecting all construction bids for the C-82
Downtown Restrooms Project**

RECITALS

A. On June 26, 2018 the City Council adopted a resolution finding the project exempt from CEQA, approving the project manual and authorizing the bid request for the C-82 Downtown Restrooms project; and

B. On October 23, 2018, City Council rejected all bids for the September 28, 2018 bid opening due to high bid results with the Public Works Director recommending to re-advertise the project at a later date; and

C. Pursuant to St. Helena Municipal Code Chapter 3.04; Article 3 Public Works Projects; Section 3.04.240 a notice inviting bids was posted on December 17, 2018 for the C-82 Downtown Restrooms project; and

D. On January 16, 2019, six bids were received and evaluated by the Director of Public Works; and

D. The lowest responsive and responsible bidder for the Project was R and C Construction doing business as R.O. Construction, of Lower Lake, CA in the amount of \$488,700; and

E. The lowest bid would increase the total construction project costs, including contingency from \$296,000 to \$617,570 which is \$321,570 over the approved project budget; and

F. California Public Contract code Section 20166 allows a legislative body to reject any bids presented; and

G. The Public Works Director recommends all bids be rejected based on the significant increase over the approved project budget.

RESOLUTION

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

1. Reject all the construction bids for the C-82 Downtown Restroom Project.

Approved at a Regular Meeting of the St. Helena City Council on February 26, 2019 by the following vote:

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

APPROVED:

ATTEST:

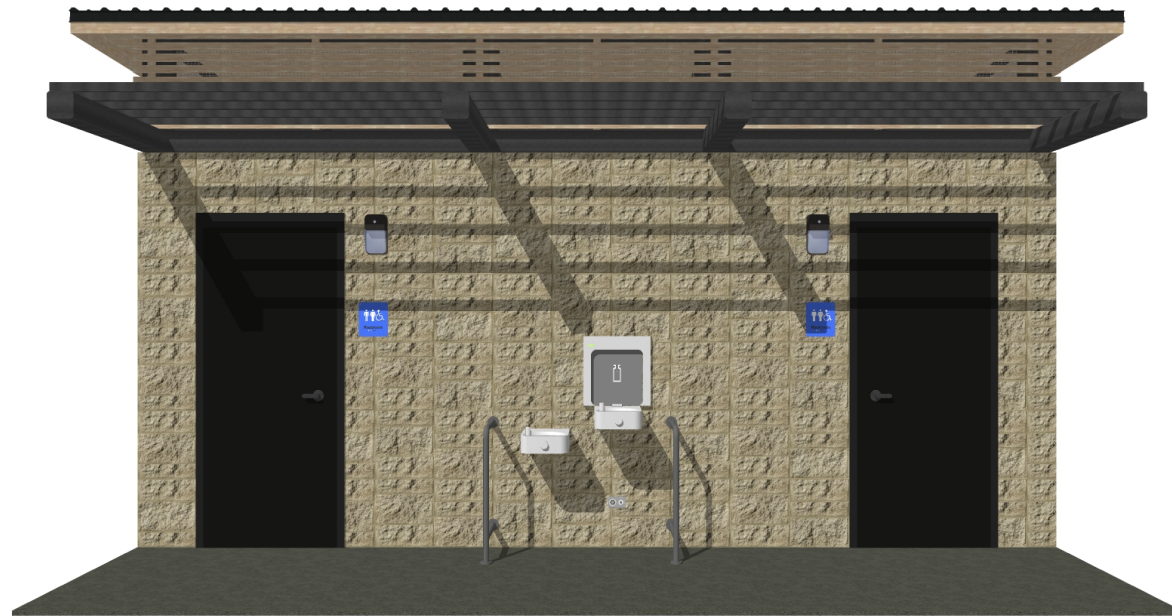
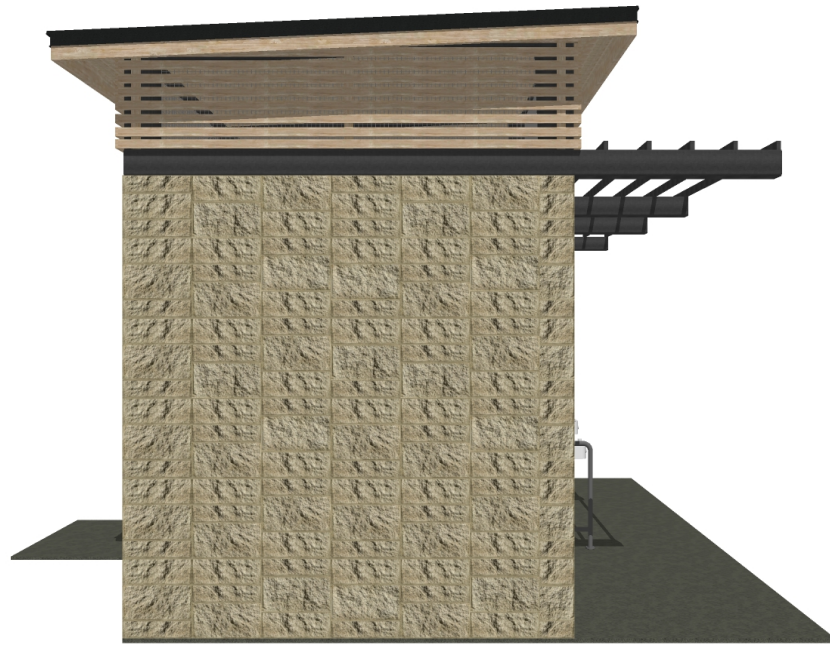
Geoff Ellsworth, Mayor

Cindy Tzafofopoulos, City Clerk

Bid Results
City of St. Helena
R18-79 2018 Pavement Overlay

C-82 Downtown Restroom Bid Opening January 16, 2019 at 2:00 PM

Item No.	Bid Item	Quantity	Units	Engineers Estimate		RO Construction		St. Helena Construction Co.		JBP Designs		T. Amaral's Done Right Const.	
				Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost
1	Traffic Control	1	LS	7,500.00	7,500.00	\$6,000.00	\$6,000.00	\$5,840.00	\$5,840.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00
2	Water Pollution Control	1	LS	2,500.00	2,500.00	\$3,000.00	\$3,000.00	\$3,500.00	\$3,500.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00
3	Clearing and Grubbing	1	LS	15,000.00	15,000.00	\$15,000.00	\$15,000.00	\$10,881.00	\$10,881.00	\$5,000.00	\$5,000.00	\$10,000.00	\$10,000.00
4	PCC Curb	82	LF	40.00	3,280.00	\$110.00	\$9,020.00	\$67.56	\$5,540.00	\$85.37	\$7,000.00	\$150.00	\$12,300.00
5	PCC Sidewalk	540	SF	20.00	10,800.00	\$19.50	\$10,530.00	\$17.70	\$9,560.00	\$30.00	\$16,200.00	\$50.00	\$27,000.00
6	Detectable Warning Surface	1	EA	750.00	750.00	\$1,500.00	\$1,500.00	\$0.00	\$0.00	\$2,000.00	\$2,000.00	\$5,000.00	\$5,000.00
7	Furnish & Install 18" x 18" Drop Inlet	1	EA	2,000.00	2,000.00	\$3,000.00	\$3,000.00	\$2,200.00	\$2,200.00	\$3,000.00	\$3,000.00	\$10,000.00	\$10,000.00
8	Furnith & Install Bio Retention Facility	1	LS	8,500.00	8,500.00	\$12,000.00	\$12,000.00	\$10,488.00	\$10,488.00	\$15,000.00	\$15,000.00	\$20,000.00	\$20,000.00
9	18" x 18" Field Drain with 8" SD	1	EA	2,500.00	2,500.00	\$5,000.00	\$5,000.00	\$2,000.00	\$2,000.00	\$4,000.00	\$4,000.00	\$5,000.00	\$5,000.00
10	6" PVC Sewer Lateral with Cleanouts	1	EA	8,000.00	8,000.00	\$15,000.00	\$15,000.00	\$25,378.00	\$25,378.00	\$10,000.00	\$10,000.00	\$15,000.00	\$15,000.00
11	2" water service	1	EA	3,500.00	3,500.00	\$9,000.00	\$9,000.00	\$10,854.00	\$10,854.00	\$8,000.00	\$8,000.00	\$10,000.00	\$10,000.00
12	Hot Tap 2" Water Service on 6" Main	1	EA	2,000.00	2,000.00	\$3,000.00	\$3,000.00	\$600.00	\$600.00	\$3,000.00	\$3,000.00	\$15,000.00	\$15,000.00
13	Parking Lot Lights	4	EA	8,125.00	32,500.00	\$12,500.00	\$50,000.00	\$5,144.25	\$20,577.00	\$9,000.00	\$36,000.00	\$7,500.00	\$30,000.00
14	Construct Public Restroom and Drinking Fountain	1	LS	150,000.00	150,000.00	\$346,650.00	\$346,650.00	\$389,876.50	\$389,876.50	\$395,000.00	\$395,000.00	\$377,000.00	\$377,000.00
				Totals	248,830.00		\$488,700.00		\$497,294.50		\$514,200.00		\$546,300.00



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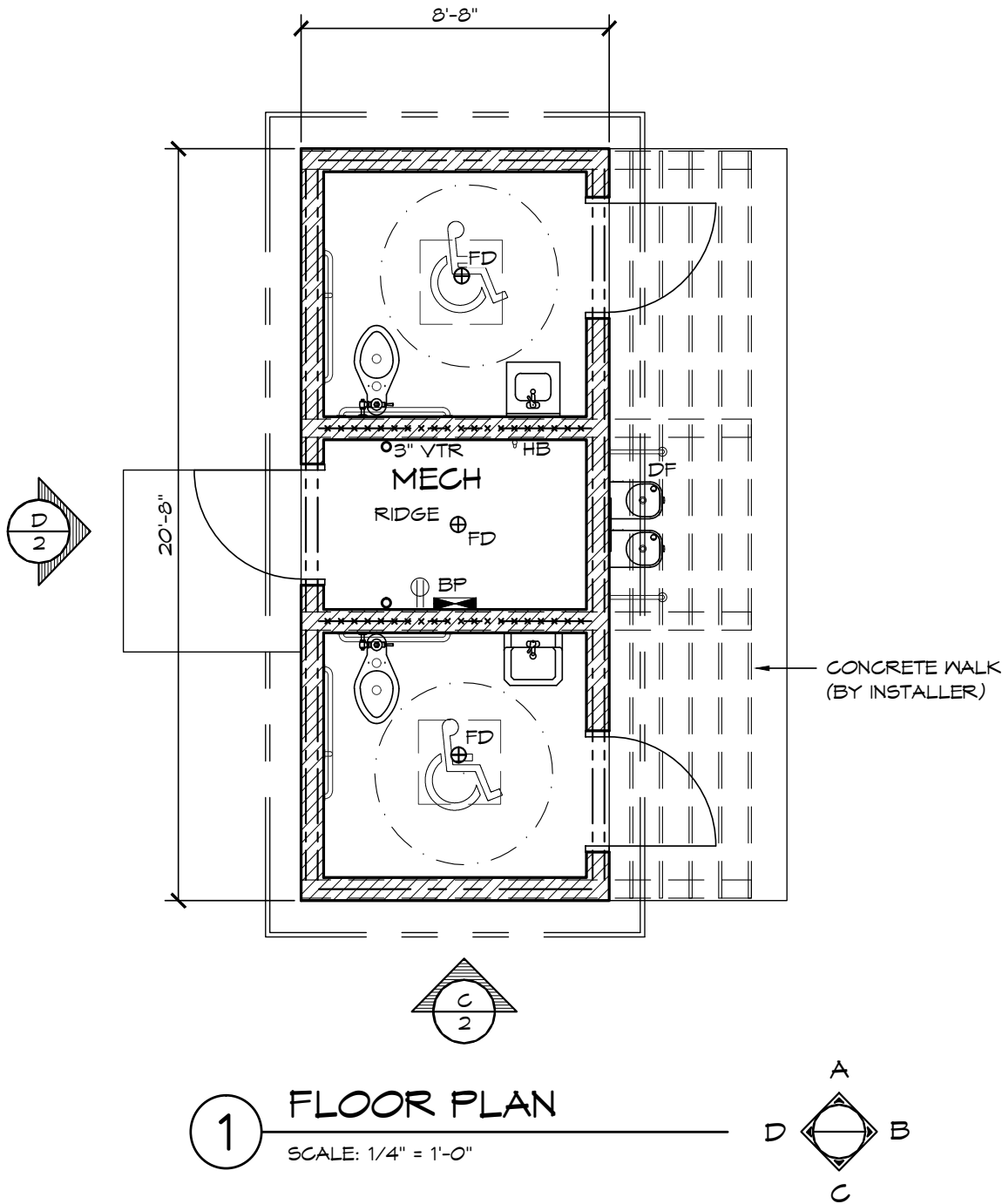
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MODEL#: 2022C		
DATE: 1/30/2019		
REVISIONS		
REV.	DATE:	BY
DRAWN BY: JS		

SHEET NO.

(RENDER)



1 FLOOR PLAN
SCALE: 1/4" = 1'-0"

WALL TYPE SCHEDULE

8" REINFORCED CONCRETE MASONRY
BLOCK WALL WITH MORTAR JOINTS,
GROUTED SOLID ALL CELLS RUNNING
BOND PATTERN.

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LEGEND		
SYMBOL	DESCRIPTION	AREA/ QUANTITY
----	GABLE VENT	2
*****	LOUVERED GABLE VENT	2
==::==	HIGH PEAK VENT	3
==::==	LOW PEAK VENT	3
	EXTERIOR WALL LIGHTS	3
	INTERIOR CEILING LIGHTS	3
⊗	FLOOR DRAIN	3
⦿	ELECTRICAL OUTLET	1

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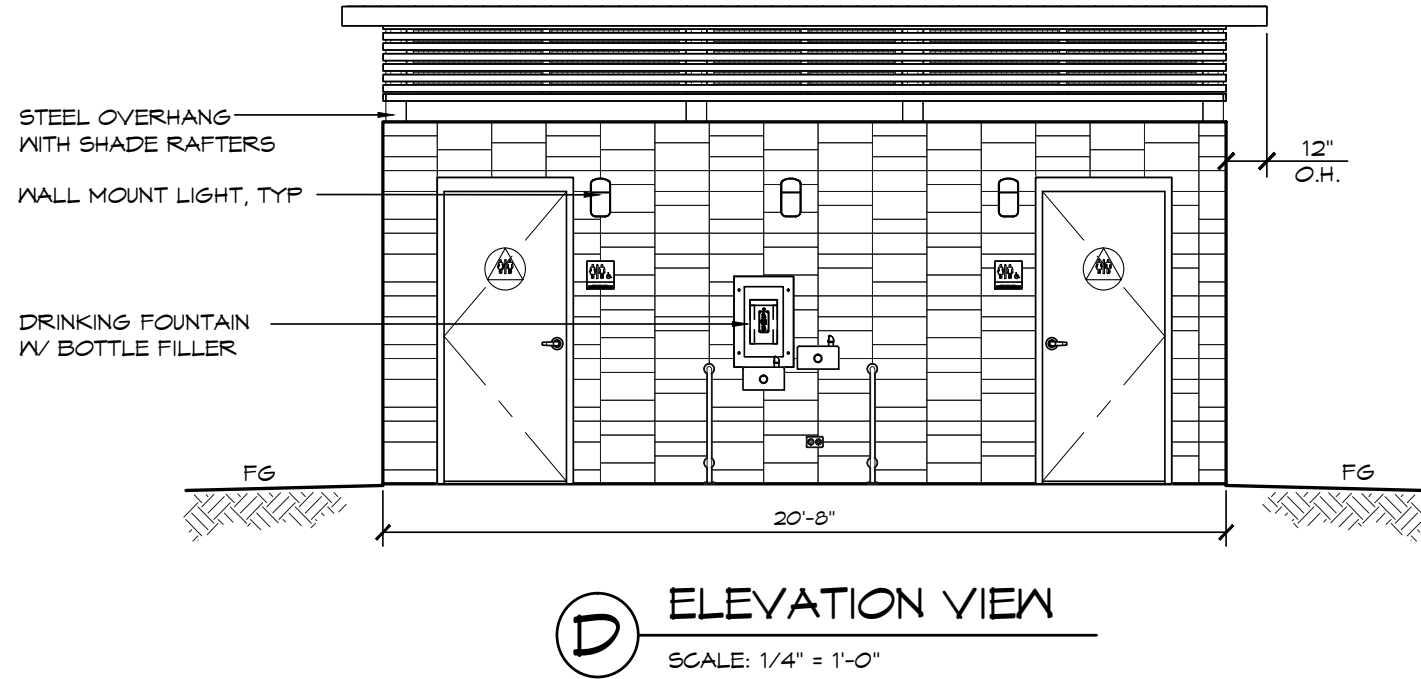
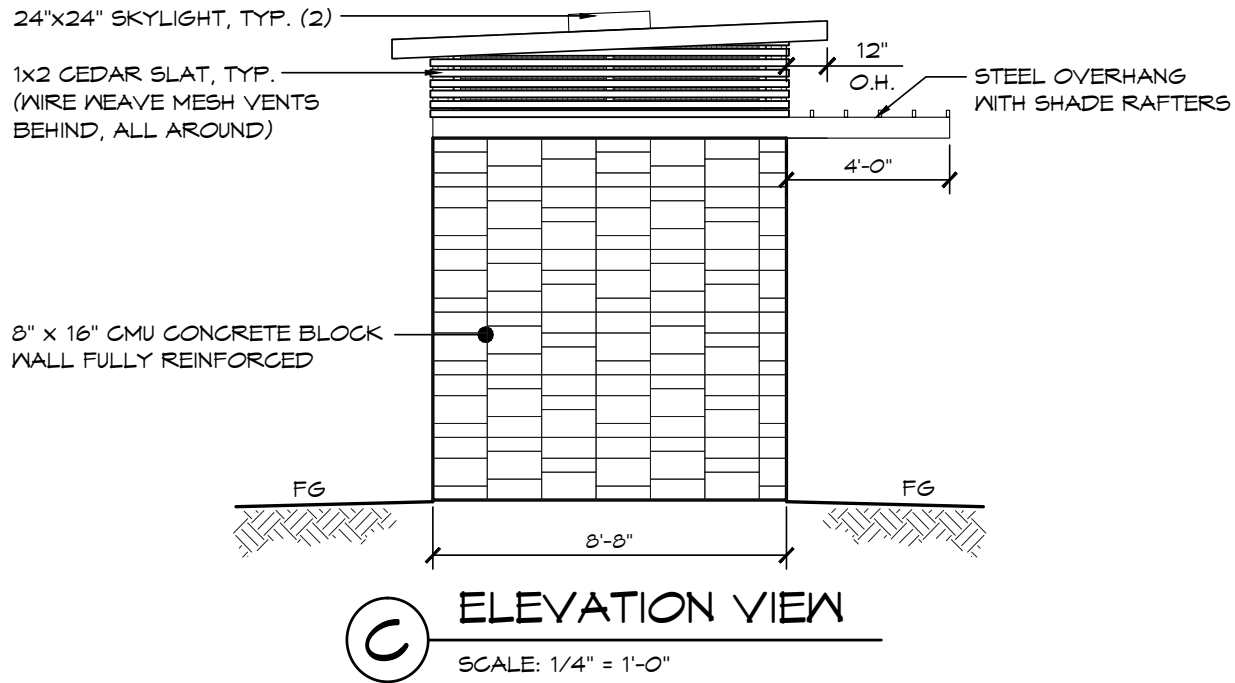
PROJECT: 2022 SIERRA II COMPACT
CITY OF ST. HELENA
CITY OF ST. HELENA DOWNTOWN RESTROOM PROJECT
CITY OF ST. HELENA, CALIFORNIA

PROJECT#:		
1041		
MODEL#:		
2022C		
DATE:		
01/17/2019		
REVISIONS		
REV.	DATE:	BY
1	01-30-2019	JS
DRAWN BY:		
JS		

SHEET TITLE: FLOOR PLAN

SHEET NO.

1



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PROJECT: 2022 SIERRA II COMPACT
CITY OF ST. HELENA
CITY OF ST. HELENA DOWNTOWN RESTROOM PROJECT
CITY OF ST. HELENA, CALIFORNIA

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MODEL#:		
2022C		
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ROMTEC EXTERIOR BUILDING FINISHES



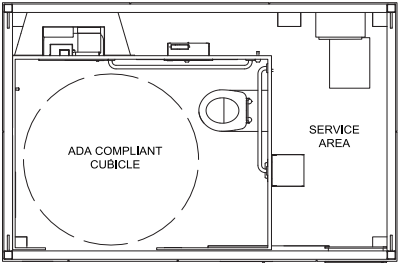
ROMTEC EXTERIOR BUILDING FINISHES





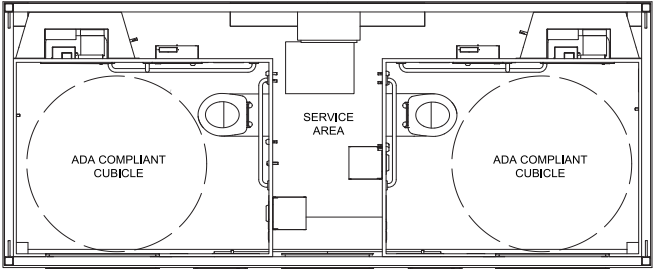
JUPITER SINGLE

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DEPTH: 7' 7"



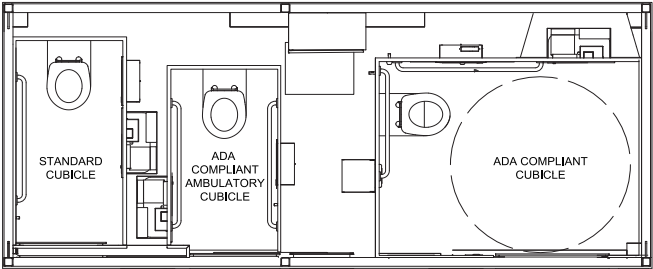
JUPITER TWIN

WIDTH: 18' 1"
DEPTH: 7' 7"



JUPITER TRIPLE

WIDTH: 18' 1"
DEPTH: 7' 7"





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00102 Sales - 11th Ann Base Unit Floor Plan Sheet - Jupiter - Issue 1 - Feb 2018



Report to the City Council
Council Meeting of February 26, 2019

Agenda Section: **New Business**

Subject: **Review and Approval of Three Year City Council Goals and 2019 Work Plan**

CEQA **Not a CEQA project**
Determination:

Prepared By: Mark T. Prestwich, City Manager

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

In late 2017, the City Council developed three-year broad organizational goals and 12-month strategic objectives to accomplish the goals. Bimonthly status reports have been provided to the City Council on regular meetings. As a result of the November 2018 City Council Election, the City Council as a new Mayor Geoff Ellsworth and a new Council Member (Anna Chouteau). Paul Dorhing was also re-elected and appointed to serve as Vice Mayor. David Knudsen was appointed to serve the vacant Council seat created with the election of Mayor Ellsworth.

On January 31, 2019, the new City Council held a Special Meeting on Governance related topics as a prelude to formal goal setting. In addition to working on strengthening the effectiveness of the City Council/staff team, the Council discussed norms for working together, opportunities and challenges on the horizon, and the planned process for setting Council priorities.

On February 4, 2019, the City Council held a Priority Setting Workshop to reaffirm and/or identify broad three year City organizational goals, establish priorities for the coming year, and discuss how the priorities fit with the organization's capacity. A summary of projects/tasks in motion along with carryover tasks from prior year goals was provided to the City Council in advance to facilitate the prioritization discussion.

DISCUSSION

The workshop resulted in the combination of two previous broad organizational goals and the addition of one new broad organizational goal related to youth and families. The draft five three-year broad organizational goals include:

1. Improve and Maintain Safe and Reliable City Infrastructure with a Commitment to Environmental Stewardship and Public Health
2. Stabilize, Maintain, and Improve Access to Housing
3. Enhance Organizational Performance and Commit to Full Public Participation, Ongoing Communication, and Regional Collaboration
4. Ensure Long Term Economic Sustainability While Safeguarding St. Helena's Unique Culture and Quality of Life
5. Support Thriving Families and Enhance the Safety, Well-Being and Healthy Development of our Youth

Additionally, the City Council held a discussion of various work plan objectives/tasks to assist in the accomplishment of organizational goals. The resulting goals and draft work plan matrix will provide a summary of:

- Who is responsible for working on each objective,
- A projected completion date for accountability purposes,
- A "status" column to facilitate periodic City Council review of progress; and
- A color coding prioritization framework to guide policy focus.

FISCAL IMPACT

Not applicable.

RECOMMENDED ACTION

It is recommended the City Council discuss and approve three-year organizational goals, 2019 work plan objectives, and identify Council liaisons for various policy initiatives. It is also recommended the matrix be reviewed and discussed at a City Council meeting quarterly.

DRAFT 3-YEAR GOALS & 2019 WORK PLAN

LEGEND

GREEN	Work Plan Items Previously Approved/Directed by City Council and in Motion
BLUE	New Work Plan Items
YELLOW	Work Plan Items may not be completed in 2019 due to focus on GREEN and BLUE Work Plan priorities
RED	Work Plan Items that are important but are recommended for the 2020 Work Plan due to competing priorities

GOAL 1: Improve and Maintain Safe and Reliable City Infrastructure with a Commitment to Environmental Stewardship & Public Health

DUE DATE		WHO	WHAT	STATUS			COMMENTS
				Complete	On Schedule	Revised Date	
A.	August 31, 2019	City Manager (Lead) + Recreation & Library Stakeholders + Council Member(s)	Complete Evaluating Library, City Hall, and Conceptual Rec Facility				Vice Mayor Dohring and Council Member Koberstein were designated Council liaisons in 2018.
B.	September 20, 2019	City Engineer + Council Member(s)	Prepare Pratt/Main intersection realignment design and study, including review with Caltrans to reevaluate intersection				Study authorized by City Council in August 2018. Vice Mayor Dohring and Former Vice Mayor Peter White were designated Council liaisons in 2018.
C.	September 1, 2019	City Engineer	Initiate construction of the Upper York Creek Dam removal project.				Water Board permit and US Army Corps permit secured in 2018.
D.	December 31, 2019	City Engineer	Complete initial draft of Integrated Utility Master Plan for review				Contract awarded by City Council on August 14, 2018.

E.	October 31, 2019	Finance Director + City Engineer (Lead) + Finance Director + City Manager + Council Member(s) + Black & Veatch	Complete engineering analysis to support consideration of modified water rate structure for improved rate equity among users and ratepayers (Ad Hoc Utility Rate Committee recommendation)				Contract awarded by City Council on August 14, 2018. Mayor Ellsworth and Vice Mayor Dohring were designated Council liaisons in 2018.
F.	October 31, 2019	City Engineer + Council Member(s)	Initiate public engagement process and complete design of Downtown Streetscape Project				Vice Mayor Dohring and Council Member Koberstein were designated Council liaisons in 2018.
G.	October 31, 2019	City Attorney + City Engineer + + Council Member(s)	Evaluate feasibility of modifications to existing agreements with large water users to establish firm caps in order to safeguard water supply.				Mayor Ellsworth and Vice Mayor Dohring were designated Council liaisons in 2018.
H.	March 31, 2019	City Engineer	Complete Dam Inundation Mapping & Emergency Action Plan				
I.	April 30, 2019	City Engineer	Initiate design of Phase 1 Upgrades at Waste Water Treatment Plant				
J.	December 31, 2019	City Engineer (Lead) + Finance Director	Develop approved stormwater program to position City for use of Measure T Funds if emergency related				
K.	August 1, 2019	City Engineer + Napa County Flood Control District	Obtain permits for Dredging Sulphur Creek				
L.	TBD	Planning & Community Improvement Director (Lead) + Recreation Director + Mayor and Vice Mayor + Two Parks & Recreation Commissioners + Landscape Architect	Develop a community supported plan and funding strategy to renovate Lyman Park post submittal of SHAPE Committee recommendations.				Meeting held March 15, 2018 to establish and brief members of the Steering Committee for this initiative. Council has postponed planning of improvements until a decision is made on regarding the current City Hall property.

M.	TBD	City Engineer (Lead)	Install wastewater meters for wineries and other users with unique characteristics to improve cost of service/fee nexus (Ad Hoc Utility Rate Committee recommendation)				
N.	TBD	City Engineer (Lead) + Finance Director	Assess baseline condition of sidewalks and develop approved program for long term maintenance and repair of City sidewalks.				

Related CIP Planning/Projects

- Library Roof Replacement
- Complete Design of Paving Projects for 2018-2020
- Repaint Firehouse
- Complete Annual ADA Facilities/Curb Ramps Upgrades
- Complete 2019 Paving Projects
- Hunt Avenue Sidewalk Gap Closure Project
- Complete Guardrail Design on Silverado Trail
- Complete Tennis Court Lighting Upgrade and Resurface Project

GOAL 2: Stabilize, Maintain and Improve Access to Housing

DUE DATE		WHO	WHAT	STATUS			COMMENTS
				Complete	On Schedule	Revised Date	
A.	May 31, 2019	City Manager + Housing Consultant + Council Member(s)	Develop and implement Public Engagement Strategy for prioritization of Housing White Paper recommendations.				Council Member Koberstein and Vice Mayor White were designated Council liaisons in 2018.
B.	October 15, 2019	Finance Director + Planning Director + Consultant	Update Housing Impact Fees for inclusionary housing.				.
C.	After adoption of General Plan	Planning Director + Planning Commission	Initiate Planning Commission review of White Paper regulatory options, housing element implementing actions, and existing residential district regulations that leads to recommended zoning ordinance text and map amendments to facilitate achievement of housing goals.				
D.	December 31, 2019	Planning Director + Consultant + Housing Stakeholders + Planning Commission + Council Member(s)	Begin to quantify housing need and target goals across age and income segments of the community and identify public and private opportunities to address them.				

GOAL 3: Enhance Organizational Performance and Commit to Full Public Participation, Ongoing Communication and Regional Collaboration

	DUE DATE	WHO	WHAT	STATUS			COMMENTS
				Complete	On Schedule	Revised Date	
A.	July 31, 2019	Planning Director	Complete City General Plan and present to City Council for Adoption				Council awarded EIR contract in 2018.
B.	August 31, 2019	Planning Director (Lead) + Council Member(s)	Draft and present citywide design guidelines to the City Council for adoption and provide recommended improvements to design review process.				Design Guidelines workshops and community survey complete. Staff is currently compiling data from the meetings and survey and will then review Draft Guidelines with design professionals for feedback. Vice Mayor Dohring and Council Member Koberstein were designated Council liaisons in 2018.
C.	August 1, 2019	HR/IT Director + Consulting Attorney	Complete update to Employee Handbook and present to the City Council recommended updates to City Policies.				Council directed goal from 2018. Comprehensive update in draft form and will be distributed to bargaining units by March 2019. Document has not been updated since 2005.
D.	June 30, 2019	HR/IT Director	Prepare/present to the City Council an employee succession plan and/or strategy to help retain employees and minimize turnover costs.				Council directed goal from 2018. Draft plan prepared for internal review by City Manager.
E.	April 30, 2019	City Manager + HR/IT Director	Complete Compensation and Classification Study				Required by MOU

F.	September 30, 2019	Planning Director (Lead) + Council Member(s)	Hold City Council Study Session to analyze options related to developing a robust Code Enforcement Program that is efficient, readily understandable, and predictable.				Council authorized additional resources to assist with Code Enforcement.
G.	March 31, 2019	Police Chief (Lead) + City Manager	Develop shared services agreement with City of Calistoga for Police/Dispatch services				
H.	April 30, 2019	Finance Director (Lead) + City Engineer	Develop Leak Adjustment Policy for Commercial Businesses				
I.	April 30, 2019	City Clerk	Launch Laserfiche records portal on website				Council authorized digitizing records in 2018.
J.	April 30, 2019	Police Chief + SHUSD	Implement Proposition 56 Tobacco Cessation Grant to fund School Resource Officer				
K.	June 30, 2019	City Manager + Council Member(s) + LAFCO Executive Officer	Liaison with existing regional dialogue and/or identify options for a regional dialogue on approaches to housing, transportation, environmental impacts, water, etc.				Mayor Ellsworth served as liaison in 2018.
L.	December 31, 2019	Planning Director + City Engineer + City Manager	Participate in LAFCO Municipal Services Review				
M.	June 30, 2019	HR/IT Director	Implement online performance review software solution				
N.	December 31, 2019	City Engineer + Police Chief	Conduct a public workshop to solicit community feedback on the concept of a comprehensive approach to improving traffic and pedestrian safety.				
O.	December 31, 2019	Planning Director	Review and document status and scale of three large existing non-conforming businesses within the community.				
P.	December 31, 2019	Planning Director (Lead) + Council Member(s) + Member of Planning Commission	Introduce pre-application conferences for Planning Applicants				Vice Mayor Dohring and Council Member Koberstein were designated Council liaisons in 2018.
Q.	TBD	HR/IT Director	Re-skin City website				

GOAL 4: Ensure Long Term Economic Sustainability While Safeguarding St. Helena's Unique Culture & Quality of Life

	DUE DATE	WHO	WHAT	STATUS			COMMENTS
				Complete	On Schedule	Revised Date	
A.	December 31, 2019	Finance Director (Lead) + City Engineer + Planning Director + Recreation Director + Willdan	Complete and present for City Council adoption Impact Fee Study and cost allocation plan including inclusionary fees and updating housing fees.				Preliminary City Council discussion held October 9, 2018.
B.	December 31, 2019	Finance Director (Lead) + Mayor Ellsworth	Present for City Council consideration a policy and procedure to receive charitable gifts and endowments on behalf of the City.				
C.	September 30, 2019	Finance Director (Lead) + City Manager	Evaluate and present options to increase City revenue for City Council consideration.				
D.	September 30, 2019	City Manager (Lead) + Council Member(s) + Chamber of Commerce	Intervene to assist in securing tenants for vacant buildings;				Vice Mayor Dohring and Council Member Koberstein were designated Council liaisons in 2018.
E.	April 30, 2019	Planning Director	Develop Pop-Up Retail (Temporarily Uses) Permanent Ordinance				
F.	November 30, 2019	City Manager + Chamber of Commerce + Council Member(s)	Refresh branding and reputation of Downtown				
G.	July 31, 2019	City Manager + Consultant + Council Member(s)	Investigate feasibility and potential of Enhanced Infrastructure Financing District (EIFD) and recommended steps..				

H.	August 31, 2019	City Manager + Recreation Director + Council Member(s) + Chamber of Commerce	Enhance community event programming in partnership with Chamber of Commerce				
I.	May 31, 2019	City Manager	Create online marketing portal for vacant commercial space and priority investments				
J.	June 30, 2019	Planning Director + Council Member(s)	Develop and Recommend Downtown Façade and Tenant Improvement Program Policy Options for City Council				
K.	November 30, 2019	City Manager + Council Member(s)	Initiate conversation with existing hotels to discuss opportunities to grow/improve their business (e.g. hotel incentive program)				
L.	TBD	Planning Director	Develop and Recommend Parklet's Program and Policy				

GOAL 5: Support Thriving Families and Enhance the Safety, Well-Being and Healthy Development of Our Youth

	DUE DATE	WHO	WHAT	STATUS			COMMENTS
				Complete	On Schedule	Revised Date	
A.	April 30, 2019	City Clerk + Council Member(s)	Analyze Institute for Local Government resources and prepare options for consideration of establishing a Youth Commission				
B.	May 31, 2019	Recreation Director + Council Member(s)	Provide recommendations to enhance participation and engagement of youth and families in St. Helena.				
C.	June 30, 2019	Consultant + Assistant to the City Manager + Council Member(s)	Prepare needs assessment of community youth issues/challenges, opportunities to connect with existing youth organizations/school-based efforts, and provide recommendations for actionable strategies to address issues/challenges.				
D.	September 30, 2019	Planning Director	Update Zoning Standards for Daycare and Senior Housing (Residential) for compliance with State law and to improve access.				

Other Topics/Items Discussed at February 4, 2019 Goal Setting Workshop

- Investigate Fire District Feasibility
- Hold City Financial Workshop
- Cannabis Ordinance
- City Vine Trail Connection
- Enhance walkability of intersections
- Accessible walking trails/open space



Item No:

Report to the City Council
Council Meeting of February 26, 2019

Agenda Section: New Business

Subject: Resolution Of The City Council Of The City Of St. Helena Determining That No Substantial Changes Requiring Preparation Of A Subsequent EIR Have Been Made To The Upper York Creek Habitat Restoration Project As A Result Of Proposed Modifications And Approving The Addendum Together With The Previously Certified Final EIR As The Appropriate Environmental Document For The Upper York Creek Habitat Restoration Project As Modified

CEQA Status: Environmental Impact Report (SCH. No. 2006092096)

Prepared By: Erica Ahmann Smithies, PE, Director of Public Works/City Engineer

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The City has been working for several years to remove the Upper York Creek Dam (UYCD) and restore the riparian habitat of the York Creek watershed. The dam was originally constructed in 1900, and gravel and fine sediments produced by the watershed above UYCD that become trapped behind the dam have reduced the storage capacity of the reservoir. Sediment accumulates in the reservoir at a rate of 1,000 to 5,000 cubic yards per year depending on the magnitude of winter storm events, which necessitates regular maintenance, including annual debris removal and periodic removal of accumulated sediment. Four documented incidents of accidental, catastrophic releases of fine sediment have occurred during maintenance activities. These low-flow sediment discharges have resulted in mortality of fish and other aquatic organisms over the entire stretch of York Creek below the dam.

In 2006, the City entered into a settlement agreement with the Department of Commerce National Oceanic and Atmospheric Administration (NOAA) to remove the Upper York Creek Dam. The terms of this agreement state that the City must pay to NOAA \$70 per day for each day beyond October 31, 2012 that the dam continues to block fish passage to Upper York Creek.

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DISCUSSION**The Project**

The Project scope as originally conceived includes removal of a portion of the existing earthen dam to allow for the re-establishment of a natural fish-passage channel. The project also includes specific habitat restoration and protection components that include removal of invasive plants and revegetation of approximately 2 acres as riparian forest. The Project proposes to modify the upper dam to allow for fish passage and habitat connectivity, reduce potential for downstream habitat degradation and fish kills, and restore the local ecology of York Creek. The Project will provide access to spawning and rearing habitat for steelhead trout and habitat connectivity for both anadromous and resident fish and other aquatic and riparian species. Potentially detrimental sediment releases during summer low-flow conditions will be prevented, and the Project will provide a permanent solution to prevent short-term aquatic habitat impairment associated with possible dam breach/failure.

The Project will restore approximately 3.5 acres of degraded riparian and aquatic habitat within the existing upper dam and reservoir area. Two (2) acres of this will be native riparian forest. The Project will also provide access to 1.5 miles of high-quality in-stream habitat. Restoration of natural sediment transport processes will occur through the Project site, with potential habitat improvements occurring in downstream reaches of York Creek and the Napa River. Disturbed areas in the Project site will be revegetated with a palette of multi-story native plants to provide diverse habitats for aquatic, riparian, and terrestrial species.

CEQA Analysis

The Notice of Preparation (NOP) for the Draft Environmental Impact Report (Draft EIR), which initiated the environmental review process for the Project (State Clearinghouse #2006092096) under the requirements of the California Environmental Quality Act (CEQA), was distributed to responsible agencies, interested parties, and the public on September 19, 2006. The 30-day Draft EIR scoping comment period initiated by the NOP was from September 19, 2006 to October 18, 2006.

The Draft EIR was subsequently prepared and circulated for public review from April 19, 2007 to November 14, 2007. The initial public review period was set to close on June 4, 2007. In order to obtain more public participation, the City extended the public comment period four times to November 14, 2007. The Final Environmental Impact Report (FEIR) was then prepared, which includes a summary of the Draft EIR, response to comments received during this extended Draft EIR public review period, as well as minor technical revisions and appendices prepared and added to address the comments.

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A total of four publicly noticed meetings were held by the U.S. Army Corps of Engineers and/or the City at either the City of St. Helena public library or the City's fire department public meeting room. The Corps Civil Branch hosted a public scoping meeting in September of 2006, and the City held three public meetings in 2007. The City's first meeting was held on the evening of June 4, 2007 at the St. Helena Fire Department; no members of the public or agency staff attended the meeting, and no comments were received in response to the initial notice.

In preparing the Draft EIR, the City considered three action alternatives and a No Project Alternative that would require on-going dredging of materials from behind the dam. A No Project Alternative that would have allowed no maintenance or sediment removal was considered infeasible due to regulatory requirements imposed on the City by California Department of Fish and Wildlife (CDFW), as well as the City's acknowledgement that no maintenance could result in future sediment spills and impacts on sensitive downstream aquatic habitat. Table 1 below is a comparison of the objectives and constraints associated with each alternative that was considered in the DEIR.

Table 1. Comparison of Objectives Met in Relation to Each Alternative

Alternative	Objectives				Constraint
	Improve aquatic passage	Provide natural sediment transport	Reduce future downstream fish kills and habitat degradation	Habitat restoration	Slope stability
No Project	No	No	Somewhat	No	No change
Small Notch	Yes. Equivalent to natural up- and downstream conditions	Yes	Eliminates threat of sediment spill	2.0 acres of restored riparian habitat and 1.5 miles of restored creek in historic channel	Requires road reinforcement measures
Full Removal	Yes. Equivalent to natural up- and downstream conditions	Yes	Eliminates threat of sediment spill	2.2 acres of restored riparian habitat and 1.5 miles of restored creek in historic channel	Requires highest level of road reinforcement
Fish Ladder	Yes for 65%-95% of adults when sufficient flow is present	Limited, ladder function is dependent on	Eliminates threat of sediment spill	2.0 acres of restored riparian habitat & 1.9 miles of	No change

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Alternative	Objectives				Constraint
	Improve aquatic passage	Provide natural sediment transport	Reduce future downstream fish kills and habitat degradation	Habitat restoration	Slope stability
	but would continue to be complete barrier for juveniles and other aquatic organisms	regular maintenance		reconstructed channel 10-12 feet above original channel upstream of dam	

The Small Notch Alternative was determined to be environmentally superior because it would result in the highest levels of ecosystem restoration and protection, while providing greater stability for Spring Mountain Road. Spring Mountain Road is an important transportation link between Sonoma County and the Napa Valley that is sited on a landslide immediately adjacent to the dam and spillway. Currently, the existing spillway structure and dam embankment help support the road and stabilize the adjacent landslide. Maintaining the stability of Spring Mountain Road at this location is a mandatory design constraint.

A Mitigation Monitoring and Reporting Plan (MMRP) was prepared, which included the mitigation measures from the FEIR and is intended to avoid and minimize environmental impacts to the extent feasible during Project construction and operation. Despite the implementation of the measures set forth in the MMRP, approval of and proceeding with the Small Notch Alternative will result in four significant and unavoidable impacts even after implementation of the mitigation measures developed in the FEIR and incorporated into the MMRP. These significant and unavoidable impacts and the associated mitigation measures are summarized and listed below:

1. Aesthetics: Placement of materials along the shore of the lower reservoir may result in a change in water surface area as viewed from above. (Impact AES-NP4). In order to mitigate for this impact, the Project proposes to install native vegetation in the disturbed areas. (Mitigation AES-NP4).
2. Cultural Resources: Removal of the Upper York Creek Dam and associated structures would have a significant adverse impact on the historic feeling, design, and association of a resource considered eligible for listing in the National Register of Historic Places and the California Register of Historic Resources. (Impact CUL-PA1). As mitigation, the Project will provide graphic and written documentation of the dam's significance on the City's website and displayed in a City building. (Mitigation CUL-PA1).

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3. Hydrology & Hydraulics: Sediment aggradation in Lower York Creek may increase the frequency and severity of flooding. (Impact H&H-PA1). Proposed mitigation is implementation of a channel monitoring program, causative factors analysis, and a mitigation program to improve channel capacity and promote sediment transport. (Mitigation H&H-PA1).
4. Noise: Maintenance or construction activities would temporarily increase noise at the dam and disposal sites. (Impact NOI-NP2). Mitigation proposed is to work during daylight hours, and make efforts to efficiently schedule construction activities to limit impacts on neighbors. (Mitigation NOI-NP2).

On April 28, 2015, the City Council of the City of St. Helena, by resolution, certified the FEIR for the Upper York Creek Ecosystem Restoration Project, which included the DEIR, specific findings, a statement of overriding considerations, and the adopted mitigation and monitoring plan. According to Section 15090(a) of the CEQA Guidelines, prior to approval of a project, the Lead Agency must certify that:

1. The final EIR has been completed in compliance with CEQA;
2. The final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the final EIR prior to approving the project; and
3. The final EIR reflects the lead agency's independent judgment and analysis.

Proposed Changes to the Approved Project

Subsequent to the certification of the FEIR for the Project, additional effort regarding the development of Project specifics was conducted, which resulted in consideration of changes to the Project elements. In particular, the Project scope is proposed to be modified to include construction of a series of sediment traps (up to 30) within York Creek below the existing dam to capture some of the sediment that will be released through removal of the dam. The installation of the sediment traps had been included as a contingent component of Mitigation H&H-PA1 that was adopted to address significant and unavoidable Impact H&H-PA1. Impact H&H-PA1 indicates that sediment aggradation in lower York Creek may increase the frequency and severity of flooding. Mitigation H&H-PA1 provides, in part, that the City is to establish a mitigation plan should channel aggradation reach a point that it significantly impacts channel capacity and flooding. That mitigation plan could include sediment management practices, such as installation of sediment traps or retention basins.

Subsequent to the certification of the FEIR, regulatory permitting agencies made it clear that rather than wait to see if flooding became an issue before sediment management measures were implemented, installation of the sediment traps at the outset of the Project

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would be required. Indeed, as set forth in the Addendum To The Upper York Creek Restoration Project EIR For Modifications To The Upper York Creek Ecosystem Restoration Project (March 14, 2018; Michael Baker International)(the "Addendum")(Attachment 2), the Project will be conducted in two phases, with the first phase involving the construction of the sediment traps in York Creek and the second phase the removal of a portion of the dam to facilitate gradual sediment movement. More detail regarding the Project and the two phases of the Project can be found in the draft Basis Of Design Report (February 2019; Michael Baker International)(Attachment 3).

The Upper York Creek Ecosystem Restoration Project proposes to restore the ecological connectivity between habitats upstream and downstream of UYCD and provide for natural sediment transport. Steelhead migration would be restored to the level provided by the natural channels above and below the dam. The project would completely remove the inactive spillway and dam embankment to the approximate bedrock elevation. This project proposes the removal of the constructed dam and selected excavation of approximately 14,000 cubic yards of sediment to facilitate the natural movement of currently impounded sediment material to a 1-mile stretch of currently sediment-starved creek below the dam.

Phase 1

Phase 1 of the project includes construction of up to 30¹ sediment trap locations downstream of the dam to capture the impounded sediment from upstream of the dam. These large wood structures would be expected to capture a maximum of 25 to 50 cubic yards of sediment per structure. They are proposed to be installed in an incised reach of York Creek where no flooding to adjacent infrastructure would result from increased sediment deposition. The structures consist of timber material recovered from off-site areas and would be placed on top of the channel bed and banks with minimal excavation. The structures are not intended to provide grade control for the channel thalweg at low to moderate flows. They are intended to provide hydraulic control at high flow during periods of active bedload sediment transport, thereby slowing flow velocities and generating depositional conditions upstream from the structure, primarily along the channel margins.

Phase 2

For Phase 2, a temporary low-flow pilot channel would be excavated through the dam project site to facilitate movement of sediment from the impounded material upstream of the dam. The pilot channel would facilitate a first flush removal of fine sediments downstream of UYCD. This first flush approach would allow limited exposure of fine sediments and turbidity to existing wildlife in the creek's downstream reaches. Boulders recovered during excavation and from an existing pile approximately 600 linear feet above

¹ The second full paragraph on Page 3 of the Addendum (Attachment 2) states that "Phase 1 of the project includes construction of up to 38 sediment trap locations". The correct number of sediment trap locations is 30 and thus the Addendum is to be corrected appropriately.

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the dam will be placed along the channel to promote natural movement and creation of structure through the project reach.

Upstream of the dam, the project would include restoration of approximately 0.5 acre of aquatic and riparian habitat through the removal of invasive species. Spawning and rearing habitat would be naturally created for steelhead through natural processes over a 5- to 10-year interval.

Additional on-site grading activities may be employed where necessary to augment natural processes in establishing habitat structures. A mitigation and monitoring plan will be established to identify the corrective actions necessary to facilitate fish passage where natural processes have created impediments to their passage. These corrective actions will include grading, sediment removal, erosion control, and bank stabilization.

Included as attachments to this report are draft plans for each of these steps in the Project: Phase 1 – Sediment Traps (Attachment 4), Phase 2 – Dam Removal (Attachment 5), and Phase 2 - Foothill Yellow Legged Frog habitat restoration (Attachment 6) required for the Incidental Take Permit (ITP) to be issued by CDFW.

The Addendum to FEIR

As a result of this modification to the Project, the City undertook an analysis, which is set forth in the Addendum, regarding whether the information contained in the FEIR was still relevant and the conclusions presented in the documents were still correct and supported by the available evidence.

Specifically, Section 15162(a) of the CEQA Guidelines states that when an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:

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- a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
- b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Section 15162(b) states that if changes to a project or its circumstances occur or new information becomes available after certification of the FEIR, the lead agency shall prepare a subsequent EIR if the above conditions are present. Otherwise, the Lead Agency needs to make a determination that an Addendum to the EIR is sufficient, or that no further documentation is required.

As noted, the City engaged Michael Baker International (Michael Baker), the consultant for the Project, to review the proposed modifications to the Project, as well as the certified FEIR, under the requirements listed above to determine the appropriate level of environmental review required under CEQA. Michael Baker concluded that the proposed modifications did not require the preparation of a Subsequent EIR, and documented this information in the Addendum to the FEIR, as allowed under Section 15164 of the CEQA Guidelines, which states:

- a. The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.
- b. An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.
- c. An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration.
- d. The decision-making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.

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- e. A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

Here is the statement included in the Introduction to the Addendum:

"Michael Baker International reviewed the Upper York Creek Ecosystem Restoration Project Environmental Impact Report (EIR) (SCH# 2006092096) to determine the appropriate level of environmental review required under the California Environmental Quality Act (CEQA) for the modification to the dam removal option. As documented below, we have determined that additional environmental review (in the form of a new CEQA document) is not required. This review satisfies the scope for an EIR Addendum for the subject project."

As noted above, Michael Baker's review concluded that the analysis considered in the certified FEIR was sufficient based on the requirements under Section 15162, and that the proposed modification to the Project do not require additional environmental review. The Addendum (Attachment 2) prepared by Michael Baker satisfies the scope for an Addendum to an EIR as described under Section 15164 of the CEQA Guidelines. As allowed under Section 15164(c), an Addendum does not need to be circulated for public review but can be included in or attached to the FEIR.

RECOMMENDATION

Staff recommends that the Council make the following findings:

1. The City Council has independently reviewed, analyzed and considered the Addendum (as corrected to refer to 30 instead of 38 sediment trap locations in the second full paragraph of page 3 thereof), this staff report and all attachments hereto, as well as all written documentation and public comments thereto.
2. The Addendum to the Final EIR, as corrected, was prepared and reviewed in compliance with the provisions of CEQA and the CEQA Guidelines.
3. The information and analysis contained in the Addendum, as corrected, reflects the City's independent judgment as to the environmental consequences of the proposed modifications to the Upper York Creek Habitat Restoration Project.
4. That, based upon the evidence submitted and as demonstrated by the analysis included in the Addendum, as corrected, none of the conditions described in Sections 15162 or 15163 of the CEQA Guidelines calling for the preparation of a subsequent or supplemental EIR or negative declaration have occurred.
5. That, based on the above findings, the City Council determines that the previously-certified Final EIR, together with the Addendum, as corrected, are adequate

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to serve as the required environmental documentation for the Upper York Creek Habitat Restoration Project as modified and thus approves and adopts the Addendum.

6. That the City Council shall consider the previously-certified Final EIR, together with the Addendum, as corrected, prior to making a decision on the Upper York Creek Habitat Restoration Project as modified.

ATTACHMENTS:

1. Resolution Of The City Council Of The City Of St. Helena Determining That No Substantial Changes Requiring Preparation Of A Subsequent EIR Have Been Made To The Upper York Creek Habitat Restoration Project As A Result Of Proposed Modifications And Approving The Addendum Together With The Previously Certified Final EIR As The Appropriate Environmental Document For The Upper York Creek Habitat Restoration Project As Modified
2. Addendum To The Upper York Creek Restoration Project EIR For Modifications To The Upper York Creek Ecosystem Restoration Project (March 14, 2018; Michael Baker International)
 - a. Technical Memorandum to Addendum: Upper York Creek Dam Removal Sediment Transport Modeling
 - b. Technical Memorandum to Addendum: Potential Effects of Sediment Release To Steelhead Following York Creek Dam Removal
3. Draft Basis Of Design Report (February 2019; Michael Baker International)
4. Plans: Phase 1 - York Creek Sediment Traps
5. Plans: Phase 2 – Dam Removal
6. Plans: Phase 2 - Foothill Yellow Legged Frog Habitat Restoration

CITY OF ST. HELENA

RESOLUTION NO. 2019-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST. HELENA DETERMINING THAT NO SUBSTANTIAL CHANGES REQUIRING PREPARATION OF A SUBSEQUENT EIR HAVE BEEN MADE TO THE UPPER YORK CREEK HABITAT RESTORATION PROJECT AS A RESULT OF PROPOSED MODIFICATIONS AND APPROVING THE ADDENDUM TOGETHER WITH THE PREVIOUSLY CERTIFIED FINAL EIR AS THE APPROPRIATE ENVIRONMENTAL DOCUMENT FOR THE UPPER YORK CREEK HABITAT RESTORATION PROJECT AS MODIFIED

RECITALS

WHEREAS, in 2006, the City entered into a settlement agreement with the Department of Commerce National Oceanic and Atmospheric Administration (NOAA) to remove the Upper York Creek Dam; and

WHEREAS, a Notice of Preparation (NOP) for the Draft Environmental Impact Report (EIR), which initiated the environmental review process for the Upper York Creek Habitat Restoration Project (State Clearinghouse #2006092096) under the requirements of the California Environmental Quality Act (CEQA), was distributed to responsible agencies, interested parties, and the public on September 19, 2006, and the 30-day Draft EIR scoping comment period concluded in October 18, 2006; and

WHEREAS, the Draft EIR was prepared and circulated for public review from April 19, 2007 to November 14, 2007, and on April 28, 2015, the City Council of the City of St. Helena, by resolution, certified the Final Environmental Impact Report (FEIR) for the Project, which included the DEIR, specific findings, a statement of overriding considerations, and the adopted mitigation and monitoring plan; and

WHEREAS, subsequent to the certification of the FEIR, additional effort regarding the development of Project specifics was conducted, which resulted in consideration of changes to the Project elements, specifically including the construction of a series of sediment traps (up to 30) within York Creek below the existing dam, as the first phase of the Project, that will serve to capture some of the sediment that will be released through removal of the dam, in the second phase of the Project; and

WHEREAS, Section 15162(a) of the CEQA Guidelines states that when an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of

new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.; and

WHEREAS, Section 15162(b) of the CEQA Guidelines states that if changes to a project or its circumstances occur or new information becomes available after certification of the FEIR, the lead agency shall either prepare a subsequent EIR if the above conditions are present or make a determination that an Addendum to the EIR is sufficient; and

WHEREAS, the City engaged Michael Baker International (Michael Baker) to provide a recommendation as to the appropriate level of environmental review required for the proposed Project modification under CEQA; and

WHEREAS, based on the analysis in the **ADDENDUM TO THE UPPER YORK CREEK RESTORATION PROJECT EIR FOR MODIFICATION TO THE UPPER YORK CREEK**

ECOSYSTEM RESTORATION PROJECT, dated March 14, 2018 (the “Addendum”), attached hereto as **Exhibit A** and incorporated herein by this reference, Michael Baker concluded that the proposed modifications to the Project did not require the preparation of a Subsequent EIR and documented this information in the Addendum to the FEIR, as allowed under Section 15164 of the CEQA Guidelines, now, therefore, be it.

RESOLVED, that the City Council of the City of St. Helena hereby determines as follows:

1. The City Council has independently reviewed, analyzed and considered the Addendum (as corrected to refer to 30 instead of 38 sediment trap locations in the second full paragraph of page 3 thereof), the staff report and all attachments thereto, as well as all written documentation and public comments thereto; and

2. The Addendum to the Final EIR, as corrected, was prepared and reviewed in compliance with the provisions of CEQA and the CEQA Guidelines; and

3. The information and analysis contained in the Addendum, as corrected, which is attached hereto as **Exhibit A**, reflects the City's independent judgment as to the environmental consequences of the proposed modifications to the Upper York Creek Habitat Restoration Project; and

4. That, based upon the evidence submitted and as demonstrated by the analysis included in the Addendum, as corrected, none of the conditions described in Sections 15162 or 15163 of the CEQA Guidelines calling for the preparation of a subsequent or supplemental EIR or negative declaration have occurred; specifically:

a. There have not been any substantial changes in the Project that require major revisions of the Final EIR because of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

b. There have not been any substantial changes with respect to the circumstances under which the Project is undertaken that require major revisions of the Final EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

c. There is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Final EIR was certified, that shows any of the following: (a) the Project will have one or more significant effects not discussed in the Final EIR; (b) significant effects previously examined will be substantially more severe than shown in the Final EIR; (c) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the project proponents decline to adopt the mitigation measure or alternative; or (d) mitigation measures or alternatives which are considerably different from those analyzed in the Final EIR would substantially reduce one or more significant effects on

the environment, but the Project proponents decline to adopt the mitigation measure or alternative.

BE IT FURTHER RESOLVED, that, pursuant to the above findings, the City Council of the City of St. Helena determines that the previously-certified Final EIR, together with the Addendum, as corrected, are adequate to serve as the required environmental documentation for the proposed Upper York Creek Habitat Restoration Project, as modified, and thus hereby approves and adopts the Addendum, as corrected; and

BE IT FURTHER RESOLVED, that the City Council of the City of St. Helena shall consider the previously-certified Final EIR, together with the Addendum, as corrected, prior to making a decision on the proposed Upper York Creek Habitat Restoration Project, as modified.

APPROVED AND ADOPTED, by the City Council of the City of St. Helena at a Regular Meeting held on February 26, 2019 by the following vote:

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

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzafofopoulos, City Clerk



We Make a Difference

March 14, 2018

Erica Ahmann Smithies
CITY OF ST. HELENA
 1480 Main Street
 St. Helena, CA 94574

**RE: ADDENDUM TO THE UPPER YORK CREEK RESTORATION PROJECT EIR FOR
 MODIFICATIONS TO THE UPPER YORK CREEK ECOSYSTEM RESTORATION PROJECT**

Dear Ms. Smithies,

Michael Baker International reviewed the Upper York Creek Ecosystem Restoration Project Environmental Impact Report (EIR) (SCH# 2006092096) to determine the appropriate level of environmental review required under the California Environmental Quality Act (CEQA) for the modification to the dam removal option. As documented below, we have determined that additional environmental review (in the form of a new CEQA document) is not required. This review satisfies the scope for an EIR Addendum for the subject project.

PROJECT BACKGROUND

Upper St. Helena Dam (UYCD) is located approximately 1.5 miles upstream of St. Helena on Spring Mountain Road. The reservoir traps the annual supply of gravel and fine sediments produced by the watershed above UYCD. Sediment accumulates in the reservoir at a rate of 1,000 to 5,000 cubic yards per year depending on the magnitude of winter storm events, which necessitates regular maintenance, including annual debris removal and periodic removal of accumulated sediment. Four documented incidents of accidental, catastrophic releases of fine sediment have occurred during maintenance activities. These low-flow sediment discharges have resulted in mortality of fish and other aquatic organisms over the entire stretch of York Creek below the dam. In addition, the EIR disclosed that portions of Lower York Creek through the city have existing flood hazards, with limited areas downstream of Highway 29 regularly experiencing overbank flooding, including a 2005 storm that caused extensive flood damage to wineries, vineyards, and the Culinary Institute of America's dormitories.

The Upper York Creek Ecosystem Restoration Project (project) is sponsored by the City of St. Helena (City). The project involves removal of Upper St. Helena Dam with the overarching goal to restore fish passage for steelhead (*Oncorhynchus mykiss*), reduce potential for future downstream low-flow fine sediment releases and their associated fish kills, and allow for the restoration of approximately 3 acres of degraded riparian and aquatic habitat surrounding the dam and reservoir. Specific project objectives identified in the EIR include:

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- **Improved fish passage and habitat connectivity.** The project will provide upstream passage to 1.7 miles of spawning and rearing habitat for steelhead and habitat connectivity for both anadromous and resident fish and for other aquatic and riparian species.
- **Reduced future downstream habitat degradation and fish kills.** The project will prevent potentially detrimental sediment releases during summer low-flow conditions that have caused fish and aquatic organism kills in the past. It will provide a permanent solution to prevent short-term aquatic habitat impairment associated with possible dam breach/failure.
- **Habitat restoration.** The project will restore approximately 3 acres of degraded riparian and aquatic habitat in the existing upper dam and reservoir area. Restoration of natural sediment transport processes will occur through the project site, with potential habitat improvement occurring in downstream reaches of York Creek and the Napa River. Disturbed areas of the project site will be revegetated with a palette of multistory native plants. A diversity of habitats for aquatic, riparian, and terrestrial animals will be enhanced.

In 2006, the USACE conducted a feasibility study for the removal and/or modification of UYCD, in which several approaches to project design were analyzed at a conceptual level. Three alternatives were selected by the USACE and the City for further development during the feasibility analysis:

- Alternative 1: Remove the dam completely to create hydrologic connectivity and build a support structure for slope stability.
- Alternative 2: Modify (notch) the dam to streambed level to create hydrologic connectivity.
- Alternative 3: Modify (notch) the dam partway and build a fish ladder.

Alternative 2 was subsequently split into two possibilities: Alternative 2A, a large notch in the dam that allowed for some floodplain through the dam area; and Alternative 2B, a small notch in the dam that contained a 23-foot-wide channel without a floodplain. After subsequent investigation, Alternative 2A was dropped from additional analysis because it cost more than Alternative 2B and offered no additional ecological benefit.

The small-notch alternative analyzed in the EIR included removal of 100 percent of the dam material and sediment accumulated behind the dam, which was estimated to be 45,000 cubic yards of materials: 1,000 from downstream, 16,000 from the dam area, and 28,000 from reservoir sediments.

PROPOSED CHANGES TO THE APPROVED PROJECT

The Upper York Creek Ecosystem Restoration Project proposes to restore the ecological connectivity between habitats upstream and downstream of UYCD and provide for natural

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sediment transport. Steelhead migration would be restored to the level provided by the natural channels above and below the dam. The project would completely remove the inactive spillway and dam embankment to the approximate bedrock elevation.

This project proposes the removal of the constructed dam and selected excavation of approximately 14,000 cubic yards of sediment to facilitate the natural movement of currently impounded sediment material to a 1-mile stretch of currently sediment-starved creek below the dam.

Phase 1 of the project includes construction of up to 38 sediment trap locations downstream of the dam to capture the impounded sediment from upstream of the dam. These large wood structures would be expected to capture a maximum of 25 to 50 cubic yards of sediment per structure. They are proposed to be installed in an incised reach of York Creek where no flooding to adjacent infrastructure would result from increased sediment deposition. The structures consist of timber material recovered from off-site areas and would be placed on top of the channel bed and banks with minimal excavation. The structures are not intended to provide grade control for the channel thalweg at low to moderate flows. They are intended to provide hydraulic control at high flow during periods of active bedload sediment transport, thereby slowing flow velocities and generating depositional conditions upstream from the structure, primarily along the channel margins.

For Phase 2, a temporary low-flow pilot channel would be excavated through the project site to facilitate movement of sediment from the impounded material upstream of the dam. The pilot channel would facilitate a first flush removal of fine sediments downstream of UYCD. This first flush approach would allow limited exposure of fine sediments and turbidity to existing wildlife in the creek's downstream reaches. Boulders recovered during excavation and from an existing pile approximately 600 linear feet above the dam will be placed along the channel to promote natural movement and creation of structure through the project reach.

Upstream of the dam, the project would include restoration of approximately 0.5 acre of aquatic and riparian habitat through the removal of invasive species. Spawning and rearing habitat would be naturally created for steelhead through natural processes over a 5- to 10-year interval.

Additional on-site grading activities may be employed where necessary to augment natural processes in establishing habitat structures. A mitigation and monitoring plan will be established to identify the corrective actions necessary to facilitate fish passage where natural processes have created impediments to their passage. These corrective actions will include grading, sediment removal, erosion control, and bank stabilization.

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LEGAL STANDARDS

CEQA Guidelines Section 15162 specifies the type of documentation required when changes are proposed to a project. CEQA Guidelines Section 15162 states:

- (a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:
 - (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
 - (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
 - (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.
- (b) If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if required under subdivision (a). Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.
- (c) Once a project has been approved, the lead agency's role in project approval is completed, unless further discretionary approval on that project is required. Information appearing after

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an approval does not require reopening of that approval. If after the project is approved, any of the conditions described in subdivision (a) occurs, a subsequent EIR or negative declaration shall only be prepared by the public agency which grants the next discretionary approval for the project, if any. In this situation no other responsible agency shall grant an approval for the project until the subsequent EIR has been certified or subsequent negative declaration adopted.

- (d) A subsequent EIR or subsequent negative declaration shall be given the same notice and public review as required under Section 15087 or Section 15072. A subsequent EIR or negative declaration shall state where the previous document is available and can be reviewed.

Section 15164 of the CEQA Guidelines includes situations when a subsequent or supplemental EIR is not required. The section states:

- (a) The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.
- (b) An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.
- (c) An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration.
- (d) The decision making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.
- (e) A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

CEQA Guidelines Section 15162 requires a subsequent environmental document when a project would result in new significant environmental effects or a substantial increase in the severity of significant effects identified in the original environmental document or when substantial changes occur with respect to the circumstances under which the project is undertaken. The analysis below evaluates the potential for changes to the project or its circumstances that result in new significant environmental effects or a substantial increase in the severity of significant effects identified in the EIR.

ANALYSIS OF EFFECTS

CONSTRUCTION IMPACTS

The EIR addressed the construction-related impacts of dam removal and included mitigation measures to reduce these impacts to the extent feasible. The project as proposed would be

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required to comply with all applicable mitigation measures adopted as part of certification of the EIR. Construction of proposed improvements would occur upstream of the dam, as well as improvements and future maintenance downstream of the dam, which is consistent with the assumptions in the EIR. For that reason, construction impacts of the both phases of the project as currently proposed would be the same as those assumed in the EIR, except that because less sediment would be removed from upstream of the dam, there would be less construction activity. Less sediment would be hauled from the site, with less excavation, so there would be a corresponding decrease in construction air emissions. In addition, because construction activities would occur in the same areas analyzed in the EIR, footprint-related impacts of construction would not substantially differ from those assumed in the EIR.

OPERATIONAL IMPACTS

Operational changes to the project are related to the reduction of sediment proposed to be removed upstream of the dam and the transport of that sediment downstream during storm events. The additional sediment transported downstream following dam removal could result in sediment accumulation in the lower reaches of York Creek, which could reduce channel capacity and increase local flood hazards downstream. In addition, the additional sediment could increase the concentration of suspended sediment downstream of the dam, which could negatively affect special-status species, specifically steelhead.

Potential Flood Effects

Stillwater Sciences (2017) performed DREAM-2 sediment transport modeling for York Creek using a range of potential sediment transport scenarios. Modeling results indicated that sediment deposition downstream of Highway 29 is a short-term, transient phenomenon that generally lasts for a few weeks under a condition where there is reasonably high flow in the creek (approximately 250 cubic feet per second, corresponding to approximately a 1.5-year event). For extremely high flow events, such as 50-year or 100-year flows, it can be expected that the sediment pulse resulting from dam removal would have been flushed out of the system by the time the flood reaches its peak. In either of these scenarios, however, there could be some channel aggradation that could increase water surface levels. However, dam removal would not result in long-term channel aggradation downstream. Dam removal would only affect the flood stage immediately following dam removal, because impounded sediment upstream of the dam would be completely removed from a period of a few weeks in a wet year to approximately one year for a dry year. Ultimately, because of the extremely short duration of the channel aggradation and flood peak, sediment transport following dam removal could potentially add an inundation event that would last for a short duration (Stillwater Sciences 2017).

The EIR disclosed that portions of Lower York Creek through the city have existing flood hazards, with limited areas downstream of Highway 29 regularly experiencing overbank flooding, including a 2005 storm that caused extensive flood damage to wineries, vineyards, and the Culinary Institute

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of America's dormitories. The EIR also acknowledged the potential for sediment aggradation in York Creek that could increase the frequency and severity of flooding (Impact H&H PA-1). The EIR determined that temporary, localized changes in existing flood heights and locations may occur and that this impact was significant and unavoidable. While the proposed project would result in the potential for channel aggradation that could increase water surface levels downstream of the dam, it would likely be a single event of short duration. Therefore, because the potential for future sediment aggradation in lower York Creek that could affect flooding was considered in the EIR and the project would not result in long-term changes related to aggradation and flooding, there would be no new significant environmental effects, nor would there be a substantial increase in the severity of previously identified significant effects. No additional analysis related to sediment aggradation or flooding is required.

Potential Effects on Steelhead

Steelhead can exhibit anadromous life history strategies, where juveniles rear in freshwater rivers and creeks, smolts migrate to the ocean where they mature to adults, and adults return to freshwater rivers and creeks to spawn. Steelhead can also exhibit a resident life history, where rearing, maturing, and spawning all occur in fresh water. Both anadromous and resident life histories may be expressed in the same watershed, as is the case in York Creek. Current evidence suggests that the two forms are capable of interbreeding. Upper Creek York Dam forms a barrier to upstream fish migration, which has resulted in a distinct resident population in the upper portion of the watershed and an anadromous and resident population downstream of the dam (Stillwater Sciences 2018).

Stillwater Sciences conducted suspended sediment modeling to simulate sediment transport and concentration scenarios following dam removal. Because the concentration of suspended sediment varies with hydrology, varying hydrologic scenarios, including dry, median, and wet water years, were analyzed to determine the effects on each life stage of steelhead, including adults, juveniles, and eggs/alevins (Stillwater Sciences 2018).

Stillwater Sciences found that steelhead in the Napa River watershed are adapted to periods of high suspended sediment, and the wide spatial distribution of steelhead in the watershed means that most of the population will avoid any impacts of suspended sediment concentrations by remaining in York Creek upstream of the dam, in other tributaries to the Napa River, or within the mainstem where suspended sediment concentrations are anticipated to be less. Thus, while the mobile life history stages of steelhead could be affected by increased suspended sediment, by migrating to areas of lesser concentrations, the fish would be able to avoid peak suspended sediment concentration exposure and the effects would be sublethal. While Stillwater Sciences (2018) identified the potential for nearly complete mortality for eggs and alevins, as noted above, incidents of accidental, catastrophic releases of fine sediment have occurred during maintenance activities under existing conditions, which have resulted in mortality of fish and other aquatic organisms over the entire stretch of York Creek below the dam. The EIR disclosed the potential

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for incidental take of aquatic species, including steelhead, through direct disturbance, displacement, and/or mortality, which was identified in the EIR (Impact BIO-PA2) as an adverse short-term effect. These findings from the EIR are consistent with the potential impact of the project as currently proposed.

As discussed above, the project would include installation of 38 sediment traps that are expected to capture from 25 to 50 cubic yards of impounded sediment from upstream of the dam, which, in the long term, would provide improved fish spawning and rearing habitat in the creek. Further, based on observations following a fish ladder installation project and another dam removal project, Stillwater Sciences found that steelhead recolonization throughout York Creek, including upstream of the dam, would occur rapidly (within months) after dam removal. Stillwater Sciences estimated that initial recolonization upstream of the dam could occur within months of dam removal, and recolonization of anadromous adults would be anticipated within no more than a year—either during the year of cofferdam breaching or the following migration season. For these reasons, Stillwater Sciences (2018) concluded there would not be a substantial adverse effect on steelhead in the short and long term. This is consistent with the findings in the EIR, and no further analysis related to steelhead is required.

Potential Effects on Foothill Yellow-Legged Frog

Stillwater Sciences, Inc conducted a habitat assessment and focused survey for FYLF on November 29, 2017, and while there is suitable habitat in the survey area, FYLF was not detected during the survey. Because there is FYLF habitat present on the project site, the presence of FYLF is assumed. To minimize potential impacts on FYLF, project construction activities will occur only during the summer dry season where flows are low or streams are dry. Consistent with mitigation requirements in the EIR, the project also requires that a qualified biologist conduct a pre-construction survey for FYLF 48 hours prior to construction activities. The biologist will survey for all applicable life stage (eggs, larvae, adults) and document survey results in a letter report that will be submitted to CDFW. In addition, a qualified biological monitor will be on-site during all construction activities work in York Creek and associated riparian habitat to ensure that no individuals of FYLF are harmed during the construction. With these requirements incorporated into project construction procedures, impacts on FYLF would be less than significant and consistent with the conclusions in the EIR.

Potential Effects on Northern Spotted Owl

Based on general biological resources surveys conducted by Michael Baker International on May 15, 2017, for the upstream of the dam portion of the project, and on November 28 and 29, 2017, for the project downstream of the dam, the project site primarily consists of mixed evergreen forest with a canopy dominated by Douglas fir (*Pseudotsuga menziesii*), a subcanopy including tanoak (*Notholithocarpus densiflorus*), big leaf maple (*Acer macrophyllum*), madrone (*Arbutus menziesii*), coast live oak (*Quercus agrifolia*), California black oak (*Q. kelloggii*), and California bay

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laurel (*Umbellularia californica*), and a mixed understory of shrubs, ferns, and forbs. Redwood forest vegetation is prevalent on the surrounding steep slopes. These forests, particularly the old-growth redwood forest, are suitable to support nesting, roosting, and foraging NSO. However, no NSO nests are currently known to occur on the project site and the nearest known activity center (frequently returned nesting or roosting location) recorded in 2008 just over 1 mile to the west upstream of the same York Creek drainage system, with the nearest multiple positive sightings from 2000 to 2005 approximately 0.5 mile to the west. NSO may forage in the area in or surrounding the project site, although they have not been known to do so. The project involves the removal established individuals of coast redwood, which is considered suitable habitat for NSO. To ensure that no individuals are negatively affected by tree removal, the project would be required to implement EIR mitigation measure BIO-NP8, which encourages construction activities to occur outside of the critical breeding period, but if activities must occur during the normal breeding season, work areas must be surveyed by a qualified biologist prior to construction activities (which would include tree removal). If active nests or behavior indicative of nesting birds are encountered, a 250-foot buffer designated by the biologist would be required and on-going construction monitoring will occur to monitor nesting activity within the project area. With regard to long-term effects on NSO habitat, because old-growth redwood forest habitat is prevalent along the hillsides and throughout the project area, the loss of a limited number of individuals of coast redwood would not adversely affect local populations of this species. With implementation of the mitigation identified in the EIR, impacts would remain less than significant, consistent with the findings in the EIR.

CONCLUSION

Based on the above analysis, the project would not result in new significant environmental effects or a substantial increase in the severity of significant effects previously identified in the EIR. No additional environmental analysis is necessary. Please contact me at (916) 361-8384 or phindmarsh@mbakerintl.com with any questions regarding the level of analysis for the project.

Sincerely,



Patrick Hindmarsh
Project Manager

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———. 2018. *Potential Effects of Sediment Release to Steelhead Following York Creek Dam Removal*.

TECHNICAL MEMORANDUM • FEBRUARY 2018

Upper York Creek Dam Removal Sediment Transport Modeling



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Suggested citation:

Stillwater Sciences. 2018. Upper York Creek dam removal sediment transport modeling. Final Technical Memorandum. Prepared by Stillwater Sciences, Berkeley, California for Michael Baker International, Inc., Rancho Cordova, California.

Cover photos: Upper York Creek Dam spillway near St Helena, California, looking downstream. Photograph was taken on March 16, 2010.

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1 INTRODUCTION

Upper York Creek Dam is a 50-ft tall 140-ft wide earthen dam, which was constructed in 1900 in York Creek, approximately 2.7 river miles (RM) upstream from its confluence with the Napa River near the City of St. Helena, Napa County, California (City of St. Helena 2015) (Figure 1). Michael Baker International, Inc., who is currently working for the City of St. Helena on the engineering design for the removal of the dam, retained Stillwater Sciences to model sediment transport and analyze the impact to fisheries resources due to the release of fine and coarse sediment upon dam removal. This technical memorandum provides the findings of the sediment transport modeling; the analysis of associated impacts to fisheries resources is provided in a separate technical memorandum (Stillwater Sciences 2018) accompanying this document.



Figure 1. Map of the project area, with the arrow pointing to the Upper York Creek Dam. Map courtesy of USACE & City of St. Helena (2006).

2 HYDROLOGY

Typical of Mediterranean climates, York Creek experiences the dry season during the summer months and wet/rainy season during the winter months. Multiple studies had been conducted to assess peak flows in York Creek (e.g., PCI 2007, USACE 2005) (Table 1). Note the large variation of assessed peak flow values are partially the result of a catchment area that doubles from just downstream of the York Creek Dam to the Napa River confluence (PCI 2007).

Table 1. The range of peak flow values in York Creek assessed by DWR, USACE and PCI. Data obtained from USACE (2005) and PCI (2007).

Return period	2-yr	10-yr	25-yr	50-yr	100-yr
Assessed peak flow ^a (cfs)	115–380	420–960	700–1,440	960–1,850	1,280–2,310

^a One reason for the large range of estimate is that catchment area doubles from just downstream of the Upper York Creek Dam to the Napa River confluence, resulting in significantly increased discharge downstream.

To predict sediment transport following dam removal, it is preferable to have a continuous daily average discharge record in the study reach. The Napa Valley Regional Rainfall and Stream Monitoring System has been monitoring discharge in York Creek at Highway 29 since November 2, 2015 (https://napa.onerain.com/site.php?site_id=14183&view_id=61). The 2-years of continuous discharge data collected on York Creek, is inadequate to assess sediment transport following dam removal under a wide range of flow scenarios. To expand the discharge record, we searched for nearby watersheds similar in size to York Creek. The best match was Sonoma Creek at Agua (USGS 11458500), which has approximately 42 years of record between WY 1956 and 2017. We then correlated the Sonoma Creek at Agua data with the two-year discharge record in York Creek to expand the York Creek record (Figure 2). The recorded and extended daily average discharges at Highway 29 are plotted in Figure 3, showing that our correlation captures the peak discharges well, but is somewhat less accurate at predicting summer low flow. This approach therefore provides reasonable comparisons for sediment transport modeling, because major sediment transport occurs only during high flows.

The statistics of annual runoff and annual maximum daily average discharge for the 42 years of extended record is provided in Table 2, where we selected WY 1972, 1975, and 2017 to represent the dry, median, and wet years, respectively, to serve as input to the sediment transport model. These three years were selected so that their exceedance probabilities for annual runoff and annual maximum daily average discharge are close to 0.9 for a dry year, 0.5 for a median year, and 0.1 for a wet year.

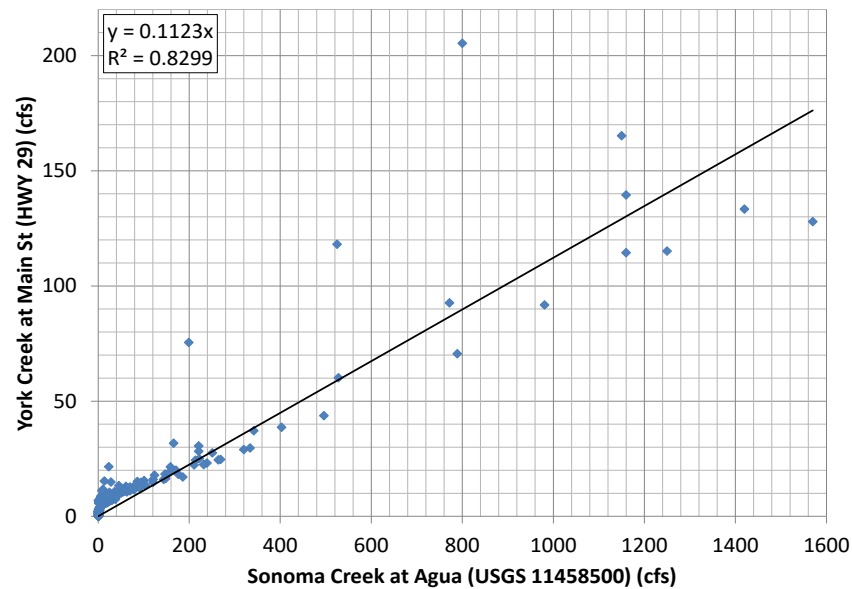


Figure 2. Linear regression establishing daily average discharge relation between York Creek at Highway 29 and Sonoma Creek at Agua (USGS 11458500).

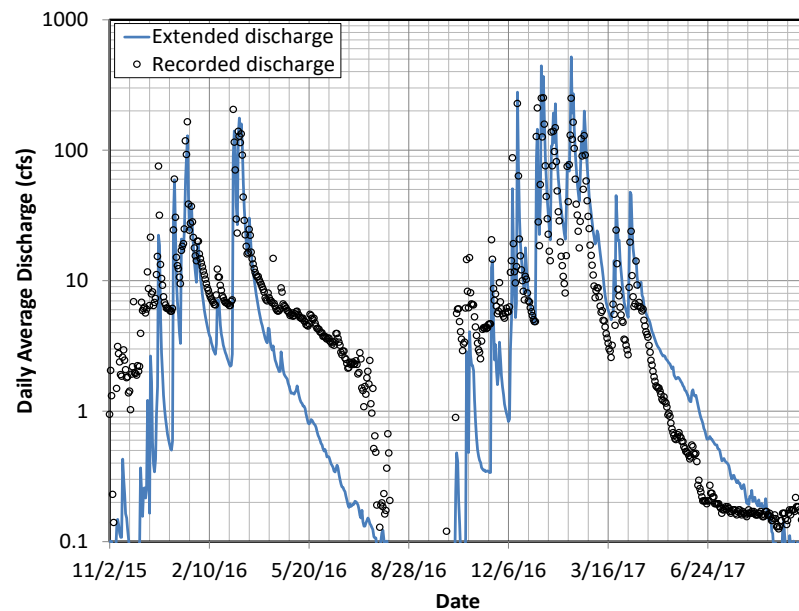


Figure 3. Comparison of recorded York Creek daily average discharge at Highway 29 and discharge extended using Sonoma Creek data.

Table 2. Statistics of estimated annual runoff and annual maximum daily average discharge at Highway 29 based extended discharge record.

Water year	Annual runoff		Max discharge ^a		Water year	Annual runoff		Max discharge ^a	
	Acre-ft	Ex. P. ^b	cfs	Ex. P. ^b		Acre-ft	Ex. P. ^b	cfs	Ex. P. ^b
1956	12780	0.07	563	0.07	1977	110	0.98	6	0.98
1957	2190	0.79	113	0.86	1978	8990	0.21	385	0.23
1958	11830	0.09	319	0.47	1979	3760	0.65	329	0.40
1959	2150	0.81	171	0.77	1980	8750	0.23	314	0.49
1960	3650	0.67	354	0.30	1981	2260	0.77	143	0.81
1961	2120	0.84	96	0.91	2002	6030	0.42	340	0.35
1962	4670	0.56	293	0.56	2003	6380	0.37	410	0.19
1963	7030	0.33	374	0.28	2004	5610	0.49	382	0.26
1964	1480	0.91	135	0.84	2005	7140	0.30	321	0.44
1965	6390	0.35	313	0.51	2006	13820	0.05	919	0.02
1966	4910	0.53	557	0.09	2007	2030	0.86	110	0.88
1967	10270	0.12	695	0.05	2008	4360	0.58	338	0.37
1968	3760	0.63	168	0.79	2009	2520	0.74	181	0.72
1969	9710	0.14	298	0.53	2010	5830	0.47	250	0.63
1970	8550	0.26	464	0.14	2011	8350	0.28	291	0.58
1971	6130	0.40	346	0.33	2012	3140	0.72	189	0.70
1972 ^b	1130	0.93	27	0.93	2013	4090	0.60	327	0.42
1973	9440	0.16	423	0.16	2014	1920	0.88	213	0.67
1974	9210	0.19	228	0.65	2015	3460	0.70	393	0.21
1975 ^c	5980	0.44	267	0.60	2016	5000	0.51	176	0.74
1976	370	0.95	20	0.95	2017 ^d	14930	0.02	520	0.12

^a Annual maximum daily average discharge in the extended discharge record.^b Ex. P. = exceedance probability.^c Selected to represent the dry year.^d Selected to represent the medium year.^e Selected to represent the wet year.

3 CHANNEL MORPHOLOGY

York Creek is a small mountain stream with a coarse bed and steep gradient. Partially due to the trapping of coarse sediment upstream of the Upper York Creek Dam, the channel surface is armored by sediment ranging from coarse gravel to small boulder particles (Figure 4). The bed downstream of the dam is largely immobile and can be considered as non-erodible for sediment transport modeling purposes.

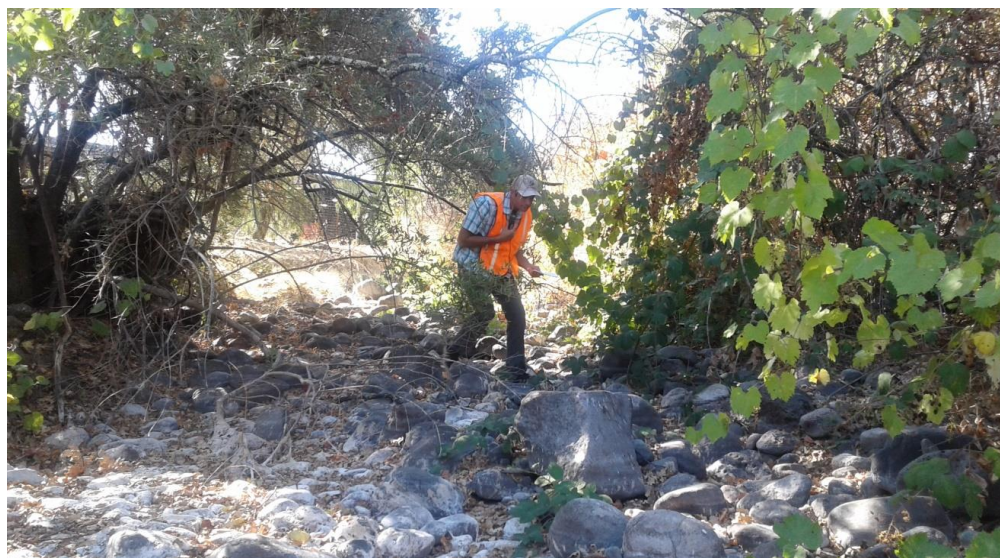


Figure 4. Photograph of York Creek channel bed, showing the armored surface. Photograph was taken on September 26, 2017 approximately 4,000 ft of the Napa River confluence. Photograph was taken facing upstream.

York Creek exhibits typical concave longitudinal profile (Figure 5), with channel gradient decreasing from approximately 4% just downstream of the Upper York Creek Dam, to approximately 1.3% close to Napa River confluence. Associated with the decreasing channel gradient is a generally decreasing bankfull depth. In a short reach approximately 3,000 ft upstream of the Napa River, the bankfull depth is only approximately 3 ft (Figure 6), and it is expected that inundation of the floodplain is rather frequent. Farther downstream, a gravel/boulder berm was placed at the right bank to limit floodplain inundation (Figure 7), although the floodplain is likely inundated during higher discharges.

Note that York Creek channel gradient is the steepest creek that we have modeled sediment transport following dam removal where the reservoir deposit is primarily gravel (Table 3). Because sediment transport capacity is highly non-linearly proportional to channel gradient, sediment transport capacity in York Creek is likely extremely high, and sediment left in the impoundment after dam removal can be expected to be rapidly transported out of the relatively short York Creek.

Table 3. Comparison of channel gradient of this project to some of the other dam removal projects where reservoir deposits are primarily gravel-sized sediment.

Dam	River	Location	Channel gradient ^a
Upper York Creek Dam	York Creek	California	~ 4%
Matilija Dam	Matilija Creek	California	~ 2.3%
Harvey Diversion Structure	Santa Paula Creek	California	~ 1.5%
Marmot Dam	Sandy River	Oregon	~ 0.7%
Iron Gate Dam	Klamath River	California	~ 0.26%
Daguerre Point Dam	Yuba River	California	~ 0.16%

^a Channel gradient immediately downstream of the dam to be removed.

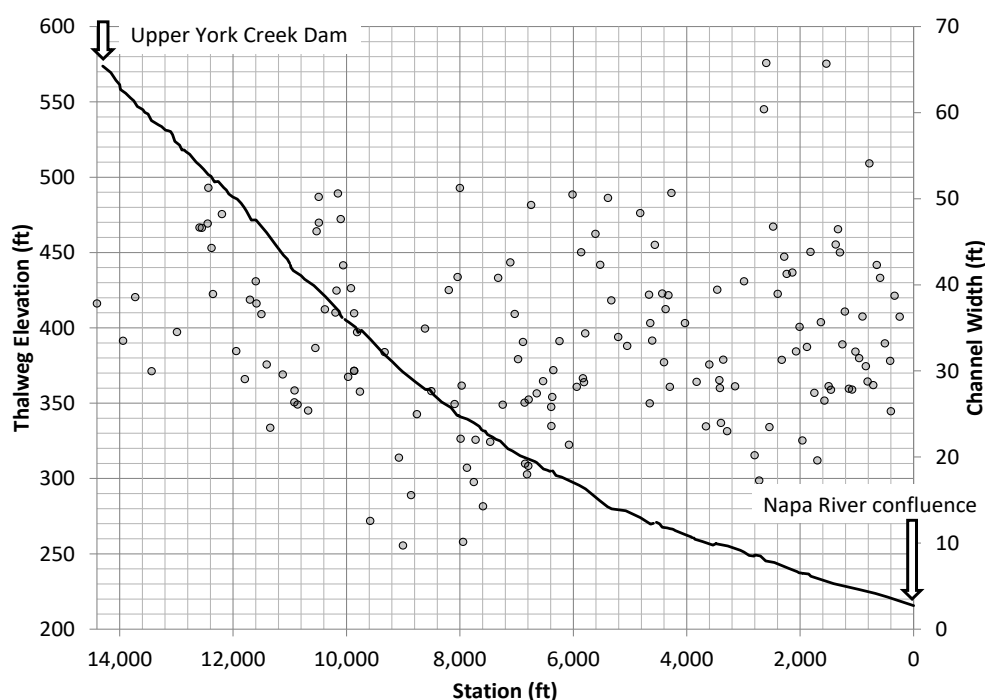


Figure 5. Longitudinal profile (solid line) and channel width (circles) of York Creek downstream of the Upper York Creek Dam, showing decreasing channel gradient in the downstream direction. Diagram was developed based on HEC-RAS model provided by Michael Baker International, Inc. (David Muller, per. comm., Sept. 2017), channel width is calculated as the distance between the left and right bank stations in HEC-RAS file.



Figure 6. Photograph of the York Creek approximately 3,000 ft upstream of the Napa River Confluence, showing the low right bank. Photograph was taken on September 26, 2017, facing downstream.



Figure 7. Photograph of gravel/boulder berm placed at the right bank of York Creek near the Napa River confluence. Photograph was taken on September 26, 2017.

4 IMPOUNDMENT DEPOSIT

PCI (2014) estimated that the Upper York Creek Dam embankment contains 14,000 cubic yards (CY) of material, while the volume of the sediment deposit upstream of the dam is approximately

18,500 CY (Figure 8). An early estimate by USACE and City of St. Helena (2006) put the deposit volume at approximately 28,000 CY. In addition, the City of St. Helena had removed an estimated 10,000 CY of sediment removal between 1992 and 1993 (USACE & City of St. Helena 2006).

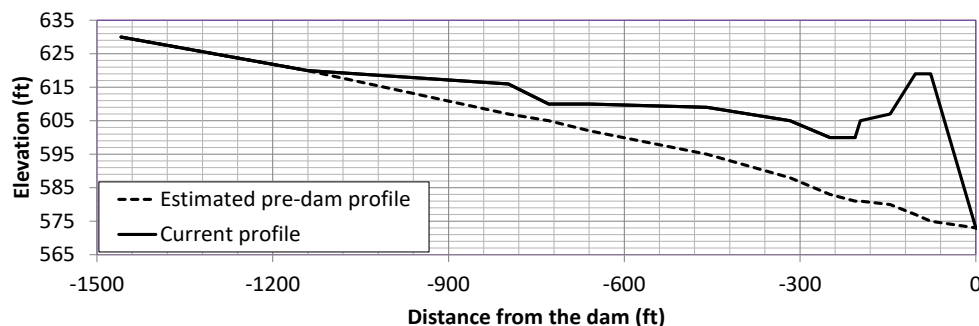


Figure 8. Longitudinal profile of the sediment deposit upstream of the Upper York Creek Dam. Diagram developed based on survey data presented in PCI (2014).

Observations of the impoundment deposits indicate that they are significantly finer than what was observed on the surface of the channel downstream of the dam, as expected (Figure 9). Figure 10 provides the grain size distribution of the three samples collected within the impoundment area by Michael Baker International, Inc. (D. Muller, pers. comm., September 2017), indicating that approximately 60% of the material is gravel (> 2 mm) and 40% is sand (0.0625 – 2 mm) and silt (<0.0625 mm). Note in Figure 10 that the actual fraction of silt-sized sediment is very small ($<10\%$ of the total sediment). This is likely due to the conditions of the impoundment where silt-sized sediments may accumulate during high flow when the pool level is high, but they would be subsequently released downstream through the outlet pipe as the pool level drops during the receding limb of the flood events.



Figure 9. Photographs of the sediment deposits upstream of the Upper York Creek Dam. Both photographs were taken on September 26, 2017 less than 1,000 ft upstream of the dam.

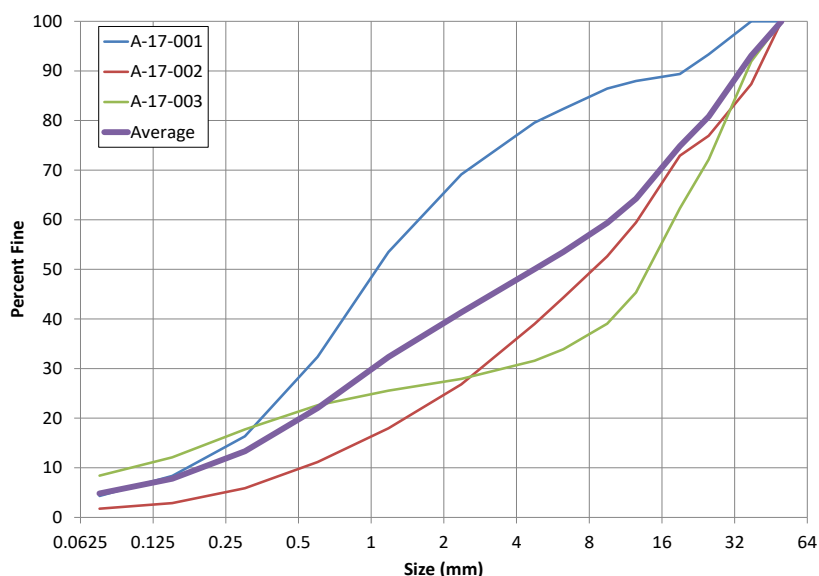


Figure 10. Grain size distributions of the sediment deposit upstream of the Upper York Creek Dam. The three samples were taken by Michael Baker International, Inc. in the summer of 2017 (D. Muller, pers. comm., September 2017).

5 SEDIMENT TRANSPORT FOLLOWING DAM REMOVAL

5.1 Sediment Transport Model and Model Input

We applied Stillwater Sciences' DREAM-2 model (Cui et al. 2006 a,b) to simulate the sediment transport dynamics following the removal of Upper York Creek Dam. DREAM-2 was developed specifically for simulation of sediment transport following dam removal under the condition that most of the top layer of the impoundment deposit is composed of gravel and coarser sediment, a condition met for this study. The model, its predecessors, and sister models have been applied in large (with ~ 2 billion tons of sediment involved) or small (with ~ 100,000 CY of sediment involved) sedimentation projects. The model had been examined with field data, where available, and experimental data and proven to produce satisfactory results (e.g., Sutherland et al. 2002, Cui and Parker 2005, Cui et al. 2008, Cui et al. 2017).

DREAM-2 model input parameters include a longitudinal profile and active channel width downstream of the dam, assumed pre-dam longitudinal profile upstream of the dam, thickness of impoundment sediment deposit, grain size distribution of the impoundment deposit at different locations and depths, a continuous series of daily average discharge, long-term average annual sand and gravel supply and associated grain size distribution, and general channel shape in the impoundment area after dam removal. A brief description of these parameters is provided below in Table 4. Note that "reach average" has applied to channel longitudinal profile and active channel width (Table 4), because 1D sediment transport modeling is accurate only on a reach-averaged basis (e.g., Cui et al. 2008). As a result, we simulate the sediment transport dynamics on a reach-averaged basis and do not attempt to simulate the scour and deposition at any particular

location. A comparison of HEC-RAS channel width and reach averaged channel width used in DREAM-2 model is provided in Figure 11.

Table 4. A brief description of input parameters for York Creek sediment transport DREAM-2 modeling

Parameter	Brief description
Longitudinal profile downstream of the dam	Reach averaged, based on HEC-RAS model cross sections. See Figure 5.
Active channel width downstream of the dam	Reach averaged, based on HEC-RAS model cross sections. Reach average width at a node point was obtained by a double averaging of the 5 neighboring node points (i.e., the node point, plus two upstream and two downstream nodes). That is, $\overline{w}_i = \frac{1}{5} (w_{i-2} + w_{i-1} + w_i + w_{i+1} + w_{i+2})$, and $\overline{\overline{w}}_i = \frac{1}{5} (\overline{w}_{i-2} + \overline{w}_{i-1} + \overline{w}_i + \overline{w}_{i+1} + \overline{w}_{i+2})$, where w_i is channel width obtained from HEC-RAS at node i, and $\overline{w}_i$ is the reach averaged channel width at node i used in DREAM-2 model.
Pre-dam longitudinal profile upstream of the dam	PCI (2014) estimate, as shown in Figure 8.
Thickness of impoundment sediment deposit	PCI (2014) survey/estimate, as shown in Figure 8.
Grain size distribution of the impoundment deposit	The average of the three Michael Baker International, Inc. samples, as shown in Figure 10, applied to the entire deposit.
Continuous series of daily average water discharge	Extended by correlating with Sonoma Creek daily discharge record, as discussed in Section Error! Reference source not found. , then adjusted for catchment area difference along the creek, as discussed below.
Long-term average annual sand and gravel supply and associated grain size distribution	Maximum and minimum values were estimated based on available information as detailed below, and the maximum estimate was applied for model input just to be on the safe side.
General shape formed in the impoundment area following post-dam removal erosion	Trapezoidal channel, with 20 ft base and 35° bank angle, as discussed below.

Two estimates of long-term average annual sand and gravel supply were obtained based on available information. The first estimate assumed that all the sand and gravel is trapped in the reservoir since the dam was constructed in 1900. There is currently 18,500–28,000 CY of sediment trapped in the reservoir, and there was an estimated 10,000 CY of sediment removal between 1992 and 1993. That is, there was approximately a total of 28,500–38,000 CY of gravel and sand accumulation over a 117-year period, resulting in a long-term average gravel and sand supply rate of approximately 244–325 CY/yr. The second estimate comes from USACE & City of St. Helena (2006), where it was estimated that there had been approximately 16,000 CY of sediment accumulation over a 12-year period following the 1992/1993 sediment removal. This would result in a much larger estimate of 1,333 CY/yr of sand and gravel supply. The 244 CY/yr and 1,333 CY/yr estimates likely represent the lowest and highest possible values for the long-term average gravel and sand supply rate. For the purpose of modeling, the high end of 1,333 CY/yr is used for model input because it provides more conservative modeling results (i.e., it provides a higher magnitude of sediment deposition that will last longer than the lower supply estimate).

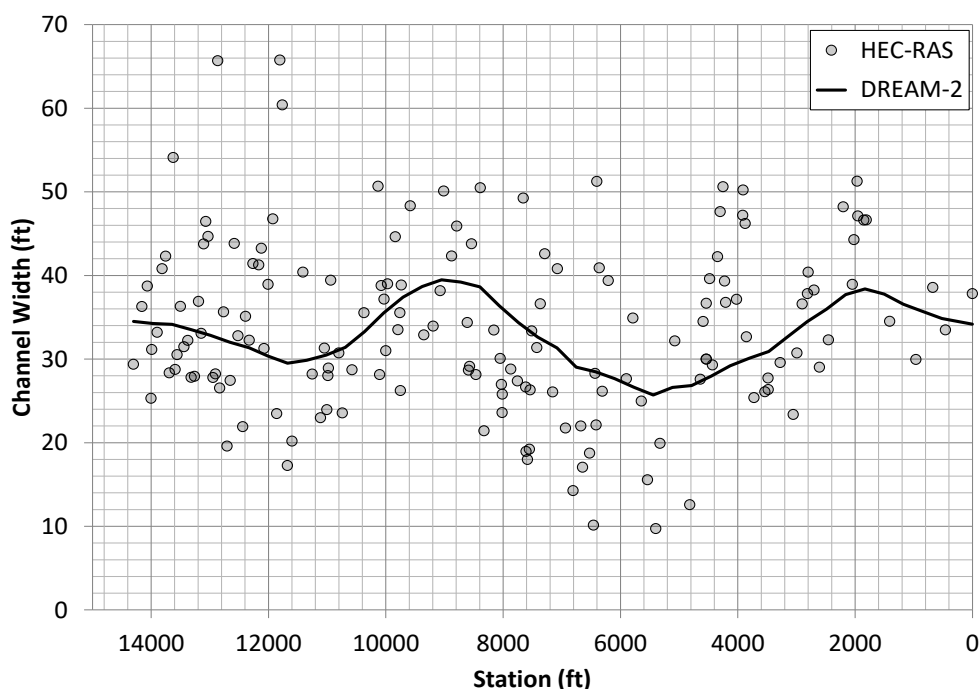


Figure 11. Comparison of HEC-RAS channel width with reach averaged channel width used in DREAM-2 model. Here HEC-RAS channel width is the distance between left and right bank stations directly obtained from the HEC-RAS file provided by Michael Baker International.

The shape of the self-formed channel in the impounded area following dam removal cannot be predicted by current theory. Therefore, the simulation assumed that a trapezoidal channel will form within the impoundment area following dam removal. Based on cross section surveys downstream of the dam, the base of the trapezoidal channel is assumed to be 20 ft wide, and the two banks are assumed to stand at the angle of repose, or roughly 35°. Figure 12 below compares the assumed trapezoidal channel with the surveyed cross sections (which are assumed to be a stable form) within a short distance downstream of the dam. It is likely that the model predicts greater sediment release than the real case after dam removal, at least in the short term. The steep gradient is likely to lead to rapid erosion near the dam site following the removal of the dam. This rapid erosion is likely to promote a narrower and steeper channel than the stable channel form suggested by the downstream cross sections in the short term. The channel may subsequently widen, however, due to future large flood events. Figure 13 shows the steep ($> 60^\circ$) right bank (on the left side of the photograph) many years after the collapse of a dam on Town Creek near Covelo, California. Although we expect the banks of the channel in the Upper York Creek Dam impoundment area to be similar to the right bank in Figure 13 in the short term following dam removal, we assume that the channel is wider to provide more conservative modeling results.

The continuous flow discharge series obtained through correlation with Sonoma Creek discharge record represents York Creek discharge at Highway 29, which is about 2/3 of the distance from the dam to the confluence with the Napa River. The catchment area, however, approximately

doubles from just downstream of the Upper York Creek Dam to the Napa River confluence (PCI 2007). To accommodate the increased catchment area in the downstream direction, we have assumed that water discharge increases linearly along the creek in the downstream direction so that water discharge doubles from just downstream of the Upper York Creek Dam to the Napa River confluence (Figure 14).

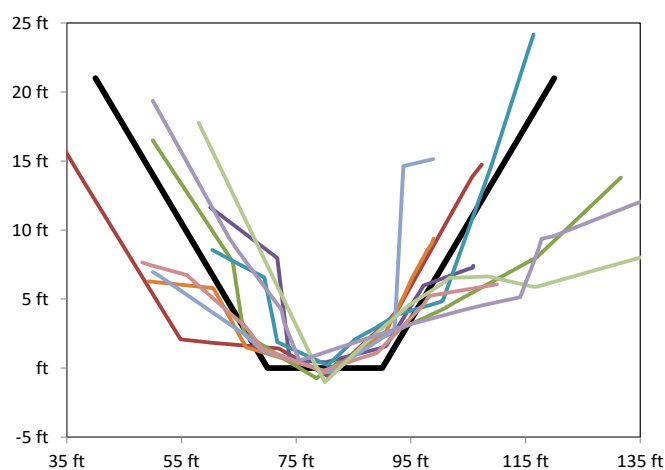


Figure 12. Assumed channel cross section to be formed in the impoundment area after dam removal (the thick black line), in comparison with surveyed cross sections within 1,700 ft downstream of the dam (all colored lines).



Figure 13. Photograph of the impoundment area of Town Creek near Covelo, California, showing the steep right bank (left of the picture) formed following dam collapse. Photograph was taken on February 6, 2002, standing at the dam site looking upstream.

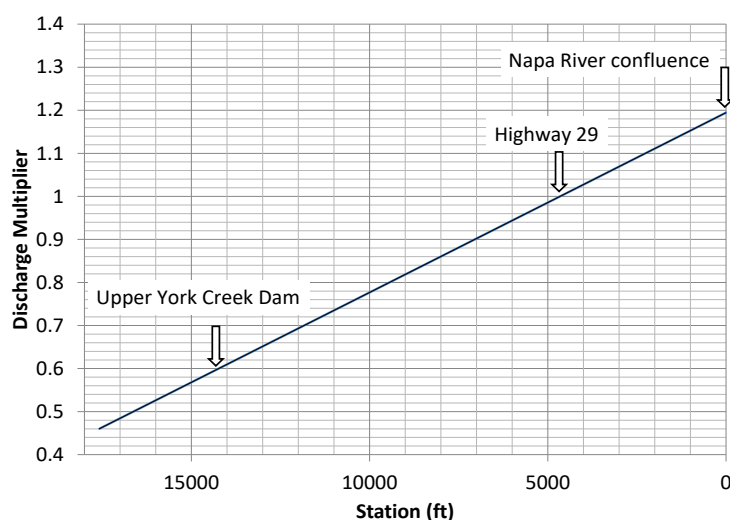


Figure 14. Discharge multiplier applied to water discharge at Highway 29 during DREAM-2 simulation.

5.2 Brief Description of Model Runs

A total of 9 runs were conducted, simulating dam removal in 3 different hydrologic conditions under 3 sediment management scenarios (Table 5). Each simulation continued for three years, but results are presented for up to 1 year, because the sediment pulse from dam removal would have moved out of the system after that. The assumed York Creek daily average discharge at Highway 29 for the three typical years representing dry, median and wet conditions are presented in Figure 15. For sediment management, the first scenario of simulation (Runs 1, 2, and 3) assumed embankment removal while leaving all the impoundment deposit in place for natural erosion; the second scenario (Runs 4, 5, and 6) assumes embankment removal and mechanical removal of 5,000 CY of the impoundment deposit prior to initiation of natural sediment erosion; and the third scenario (Runs 7, 8, and 9) assumes embankment removal and mechanical removal of 8,000 CY of the impoundment deposit prior to initiation of natural sediment erosion. For scenarios 2 and 3, it is assumed that the impoundment deposit will be removed from the downstream, forming a trapezoidal channel 20 ft wide at its base with 35° bank slopes¹. The first scenario of sediment management (no mechanical removal of the impoundment deposit) would result in the erosion of approximately 13,500 CY of sediment, or 48–73% of the 18,500–28,000 CY of the impoundment deposit. Mechanically removing 5,000 CY and 8,000 CY sediment would reduce the natural erosion to 8,500 CY and 5,500 CY, respectively. The effect of construction of sediment traps downstream of the dam rather than directly removing the sediment would have similar results to

¹ A channel gradient is also set following sediment removal for modeling purposes. This channel gradient, however, is not a recommendation for construction to follow. Instead, it is recommended that adaptive management method be applied during construction so that sediment is removed along the pre-dam channel bed that is likely distinguishable by the sediment composition, where the reservoir deposit is relatively fine sediment while the pre-dam channel bed is likely composed of boulders or bedrock outcrops.

mechanical sediment removal, although it cannot be directly simulated due to the limitations of the sediment transport model.

Table 5. Summary of DREAM-2 model runs following Upper York Creek Dam removal.

Run ID	Water year	Q_{w0} (cfs) ^a	Sediment management
Run 1	Dry (WY 1972)	8.1	Remove embankment, leaving all sediment for natural erosion.
Run 2	Median (WY 1975)	33.1	
Run 3	Wet (WY 2017)	25.5	
Run 4	Dry (WY 1972)	8.1	Remove embankment and 5,000 CY sediment to form a trapezoidal channel with 20 ft wide base and 35° bank angle. ^b
Run 5	Median (WY 1975)	33.1	
Run 6	Wet (WY 2017)	25.5	
Run 7	Dry (WY 1972)	8.1	Remove embankment and 8,000 CY sediment to form a trapezoidal channel with 20 ft wide base and 35° bank angle. ^b
Run 8	Median (WY 1975)	33.1	
Run 9	Wet (WY 2017)	25.5	

^a Q_{w0} is daily average discharge at Highway 29 on the day sediment transport is initiated following dam removal.

^b Constructing sediment traps downstream of the dam would have similar effect as sediment removal, but it cannot be directly simulated due to limitations of the sediment transport model.

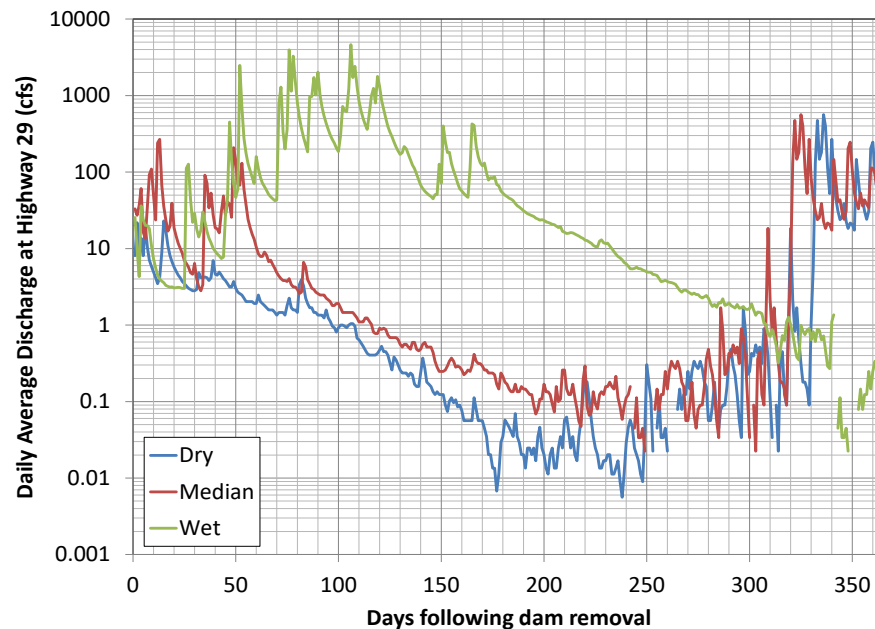


Figure 15. Assumed York Creek daily average discharge for the 1st 365 days at Highway 29 for dry, median and wet years used for DREAM-2 simulation.

5.3 Model Results

A summary of modeling results for the 9 runs listed in Table 5 is presented in Table 6 and in Figure 16 through Figure 20 (Runs 1, 2, 3, 5, and 8, respectively). Each figure includes: (a) the simulated bed elevation from the impoundment reach to approximately 2,200 ft downstream of the dam, (b) the incremental elevation in the downstream-most 22,000 ft of York Creek, and (c) the suspended sediment concentration through time.

Modeling results indicate that, unless the dam is removed in a dry year, the impoundment will be eroded rather quickly (i.e., within two weeks for Run 2, and about a month and a half for Run 3). Following the erosion of the impoundment deposit, sediment deposition occurs in a short reach downstream of the dam (approximately Station 13,500–14,300 ft) as well as the lower reach of the creek (i.e., downstream of Station 9,000 ft) that persists for about 2 weeks for Run 2 and a month and a half for Run 3. Note that water discharge during the period of sediment erosion and deposition is actually higher for Run 2 compared to Run 3 (Table 6), although Run 3 is a wetter year compared to Run 2. Focusing on the reach downstream of Highway 29, where increased floodplain inundation is a concern, the maximum thickness of sediment deposition is less than 1 ft for Run 1, less than 2 ft for Run 2, and less than 3.5 ft for Run 3. In the case where dam removal occurs in a dry year, it will take a longer time to erode the impoundment deposit, and the duration for sediment deposition will also be longer, as shown in Table 6 and Figure 16 for Run 1, and it may need to wait until the next year's high flow to return the channel to the pre-removal condition. Under such a scenario the thickness of sediment deposition is less than if dam removal occurs in a wetter year.

Modeling result for mechanical sediment removal prior to dam removal generally produced less sediment deposition in the lower reach (Table 6). Mechanically removing 5,000 CY of sediment prior to dam removal, for example, would reduce the maximum thickness of sediment deposition in the reach downstream of Hwy 29 to within 2 ft for all the runs (Table 6).

In all the runs dam removal produced increased suspended sediment concentration, with the maximum value on the order of 10^4 mg/L. The elevated suspended sediment concentration generally lasts only for a few days (e.g., 8 days for Runs 1 and 2, and 11 days for Run 3) (Table 6). Also note that removing 5,000 or 8,000 CY of sediment prior to dam removal would not significantly affect the suspended sediment concentration following dam removal, and trapping any amount of sediment should not affect suspended sediment dynamics because only coarse sediment can be trapped in a high gradient stream like the York Creek.

Modeling results indicate that sediment deposition in York Creek following the removal of Upper York Creek Dam is a transient phenomenon, and the deposition will only last for a few weeks as long as there is reasonably high flow (e.g., approximately 250 cfs for Run 2, or even smaller if it last longer) in the creek; and additional channel aggradation due to the reestablishment of upstream sediment supply is unlikely once the sediment pulse as a result of dam removal moves out of the system.

Table 6. Summary of important DREAM-2 modeling results. See **Table 5** for description of model runs.

<i>Run ID</i>	<i>Run 1^c</i>	<i>Run 2^c</i>	<i>Run 3^c</i>	<i>Run 4^c</i>	<i>Run 5^c</i>	<i>Run 6^c</i>	<i>Run 7^c</i>	<i>Run 8^c</i>	<i>Run 9^c</i>
Approximate duration final grade is reached in the impoundment area	~ 1 yr	12 days	47 days	~ 1 yr	11 days	47 days	~ 1 yr	9 days	47 days
Maximum thickness of deposition downstream of Hwy 29	< 1 ft	< 2 ft	<3.5	< 0.5 ft	< 2 ft	< 1 ft	< 1 ft	< 2 ft	< 1 ft
Duration of sediment deposition	~ 1 yr	13 days	47 days	~ 1 yr	12 days	47 days	~ 1 yr	12 days	47 days
Maximum daily average discharge at Highway 29 prior to the clearance of sediment deposition (cfs)	562 ^b	257	451	562 ^b	240	451	562 ^b	240	451
Maximum suspended sediment concentration (mg/L)	28,400	8,250	26,000	27,200	5,350	9,550	25,500	3,740	14,100
Approximate duration when suspended sediment concentration is significantly higher than background conditions ^a	8 days	8 days	11 days	3 days	7 days	9 days	3 days	7 days	7 days
Daily average discharge at Highway 29 during the day of highest suspended sediment concentration (cfs)	10.3	13.6	5.6	7.5	13.6	10.0	7.5	33.1	10.0

^a Here the duration is defined as the day after which the increase in suspended sediment concentration drops to significantly lower than 1,000 mg/L.

^b This maximum flow occurred toward early in the next water year following dam removal.

^c Color coding: runs with same background color have identical discharge as model input.

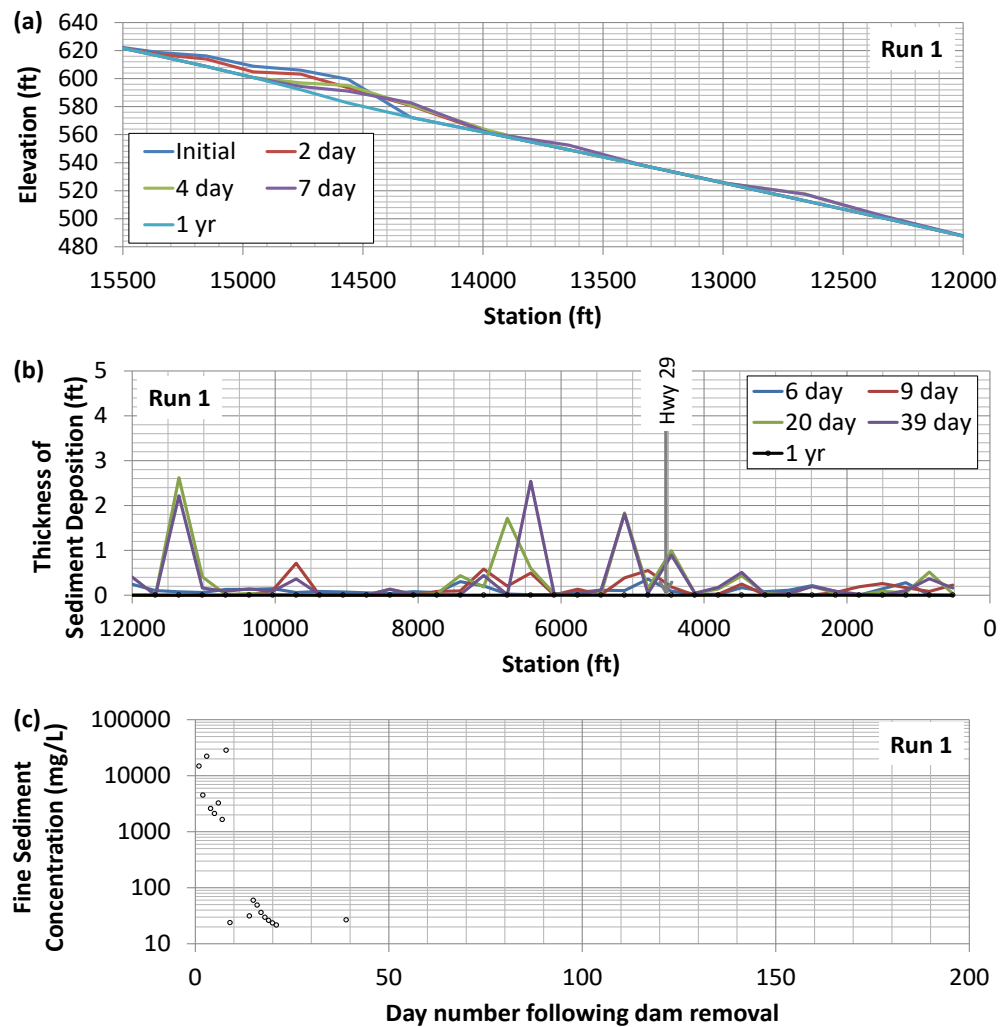


Figure 16. DREAM-2 modeling results for Run 1, showing (a) evolution of bed elevation in the impoundment area and a short distance downstream, (b) incremental bed elevation in the lower reach, and (c) increased suspended sediment concentration due to dam removal.

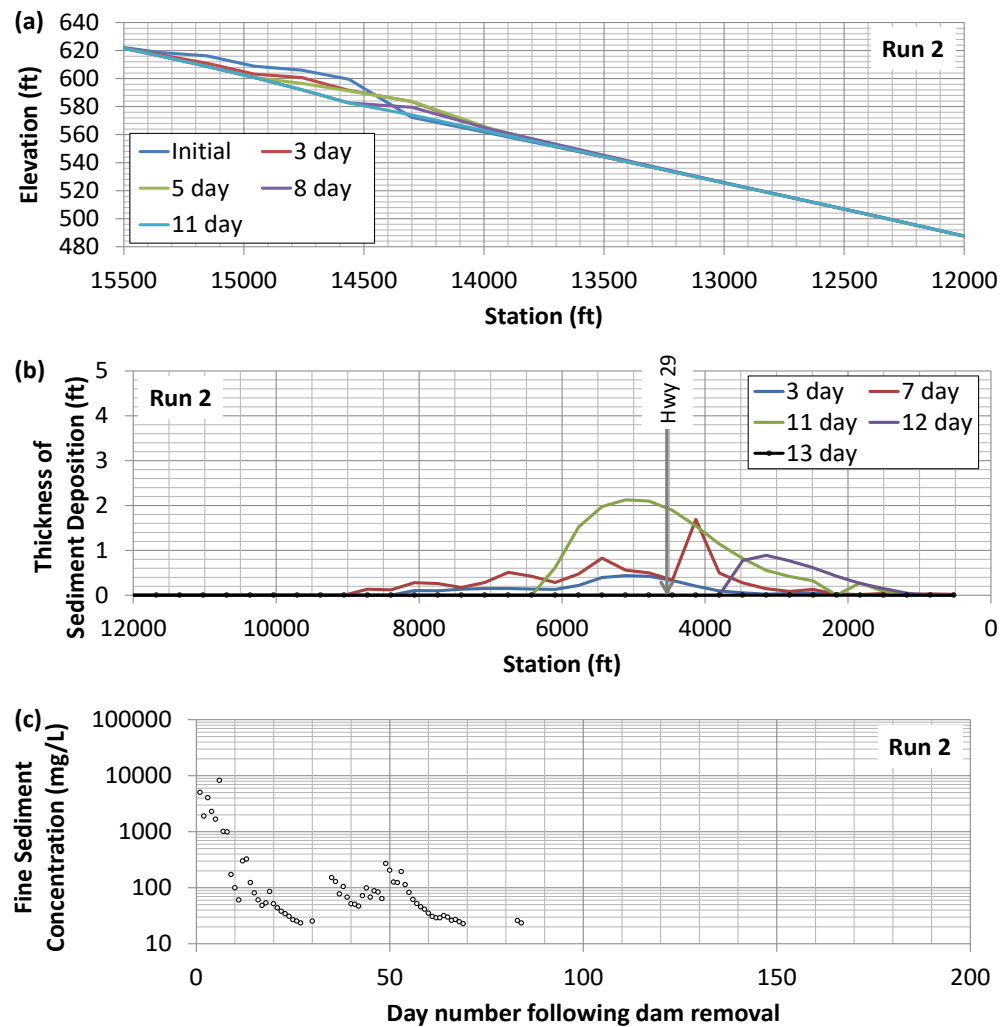


Figure 17. DREAM-2 modeling results for Run 2, showing (a) evolution of bed elevation in the impoundment area and a short distance downstream, (b) incremental bed elevation in the lower reach; and (c) increased suspended sediment concentration due to dam removal.

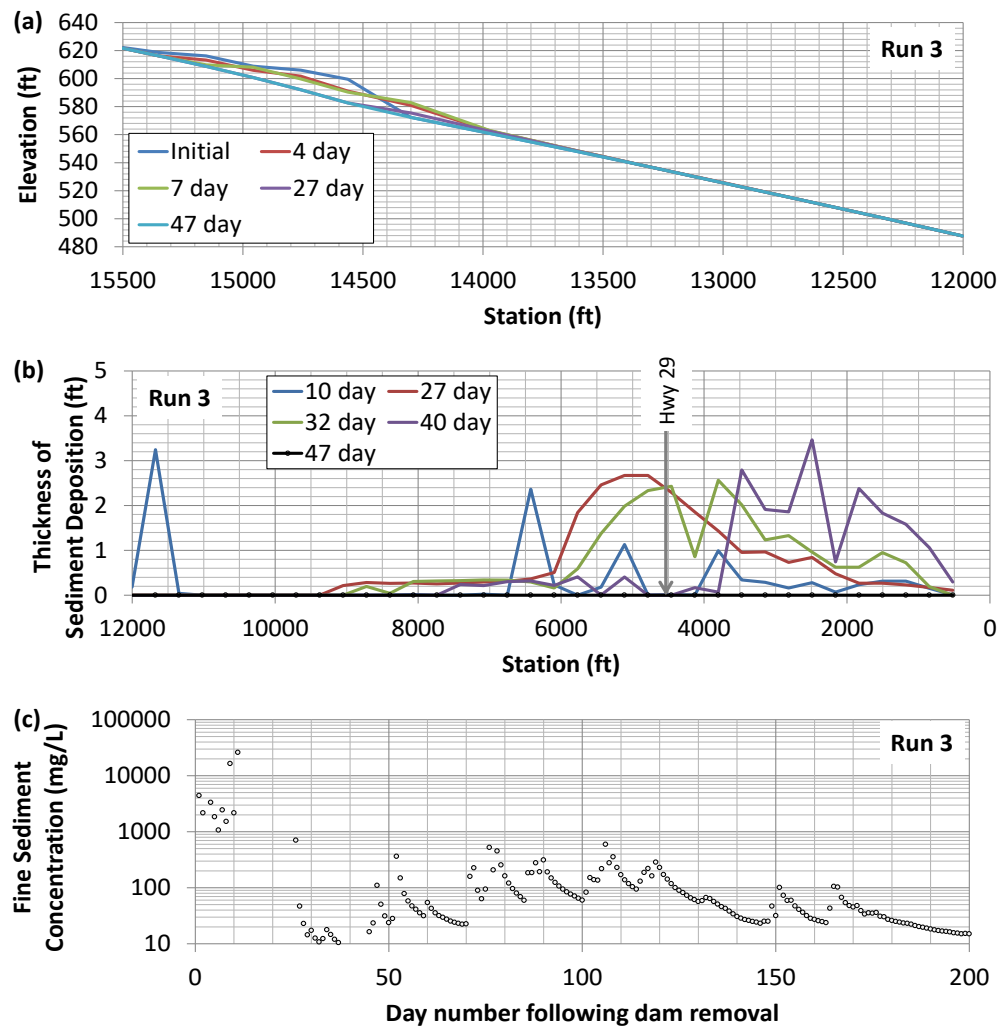


Figure 18. DREAM-2 modeling results for Run 3, showing (a) evolution of bed elevation in the impoundment area and a short distance downstream, (b) incremental bed elevation in the lower reach, and (c) increased suspended sediment concentration due to dam removal.

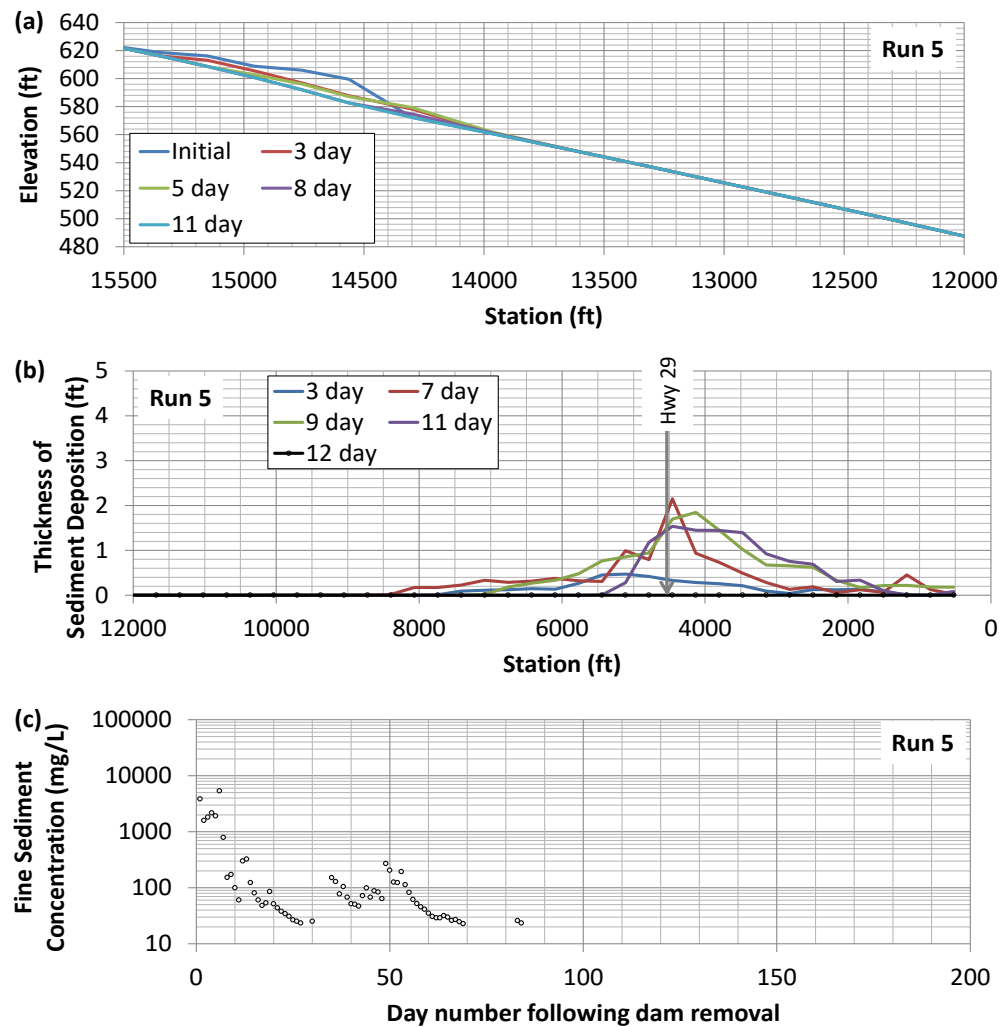


Figure 19. DREAM-2 modeling results for Run 5, showing (a) evolution of bed elevation in the impoundment area and a short distance downstream, (b) incremental bed elevation in the lower reach, and (c) increased suspended sediment concentration due to dam removal.

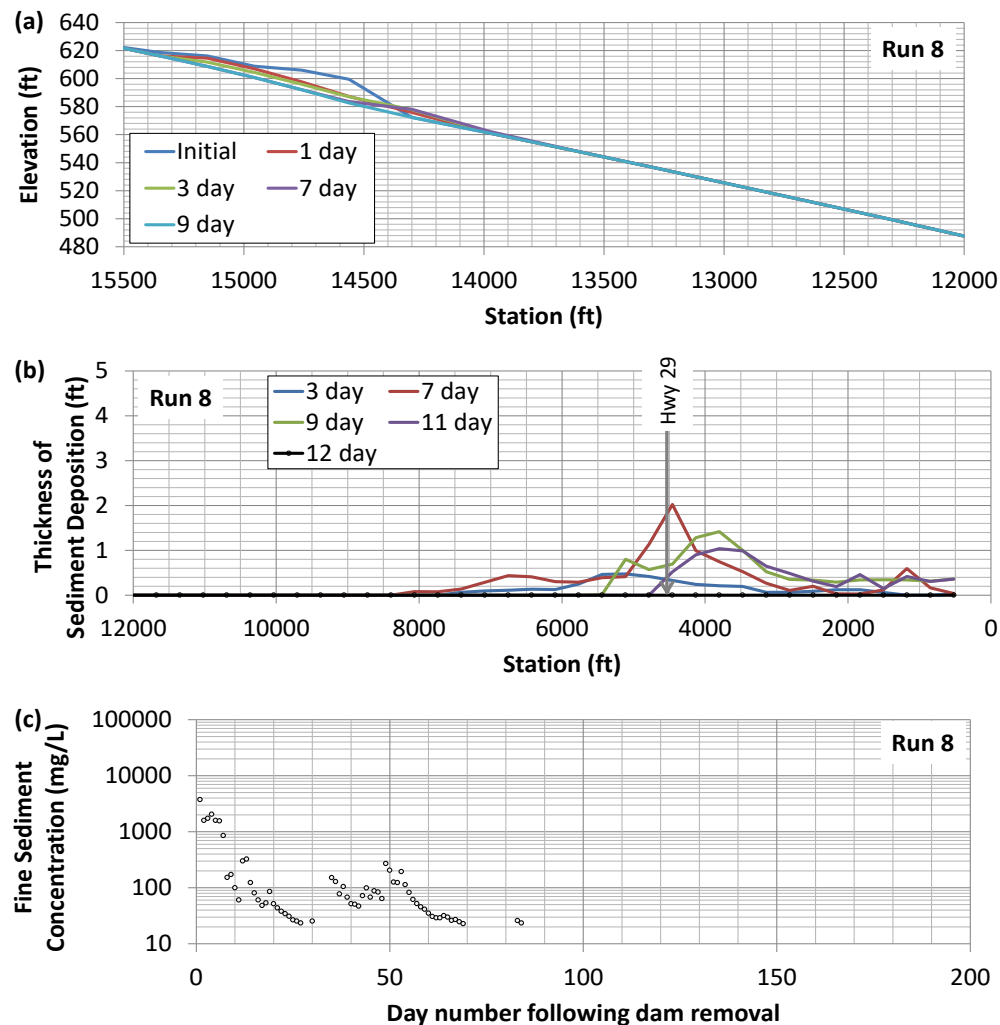


Figure 20. DREAM-2 modeling results for Run 8, showing (a) evolution of bed elevation in the impoundment area and a short distance downstream, (b) incremental bed elevation in the lower reach, and (c) increased suspended sediment concentration due to dam removal.

6 FLOOD STAGE FOLLOWING DAM REMOVAL

DREAM-2 modeling results presented in Section **Error! Reference source not found.** indicate that sediment deposition downstream of Hwy 29, where increased flood inundation has been a concern, is a short-term, transient phenomenon that generally lasts for a few weeks under the condition that there is reasonably high flow (e.g., ~250 cfs for Run 2, or even lower if it lasts longer) in the creek. For extremely high flow events such as 50-yr or 100-yr flows, it can be

expected that the sediment pulse resulting from dam removal would have been flushed out of the system by the time the flood reaches its peak. As a result, we focus our flood stage evaluations on the more frequent 2-yr and 10-yr event (assumed to be 335 cfs and 740 cfs, respectively, Table 1). Note the high flow events evaluated in the DREAM-2 model runs generally fell into this range (Table 6). The evaluation employs the HEC-RAS model prepared by Michael Baker International (D. Muller, pers. comm., September 2017): flood stage profiles following dam removal are simulated by incorporating the DREAM-2 simulated sediment deposition into the cross sections (Figure 21), and the results are compared to the flood stage profile under current conditions to reach useful conclusions.

We explored five DREAM-2 simulated profiles for each of the three sediment management scenarios that would likely result in the highest water stage in the reach downstream of Hwy 29. Note that we have assumed the sediment deposit would fill the cross section bottom up so that the decreased channel cross section area equals to the area of sediment deposition (Figure 21). The actual pattern of sediment deposition over a cross section will likely be different from our assumption, but the distribution of sediment within the cross section does not affect the HEC-RAS modeling results because HEC-RAS is also a 1-dimensional model.

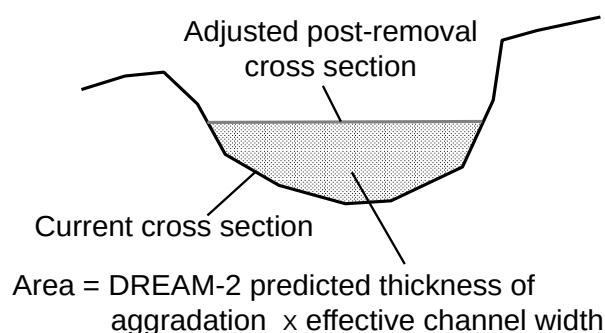


Figure 21. Sketch demonstrating how DREAM-2 predicted channel aggradation is transferred to HEC-RAS cross sections.

Figure 22 and Figure 23 present the simulated maximum increase in water surface elevation following the removal of the Upper York Creek Dam under three sediment management scenarios at 335 and 740 cfs, respectively. As already examined by PWA (2008), the bridges shown in Figure 22 and Figure 23 are all under capacity, resulting in an elevated upstream water surface during floods. The elevated water surface corresponds to reduced flow velocity and shear stress, which leads to increased deposition relative to other reaches. This deposition further reduces the discharge capacity of the channel, causing additionally elevated water surface in the reach. This positive feed is evidenced by the observation that the maximum increase in water surface elevation following dam removal peaks just upstream of the bridges (Figure 22 and Figure 23).

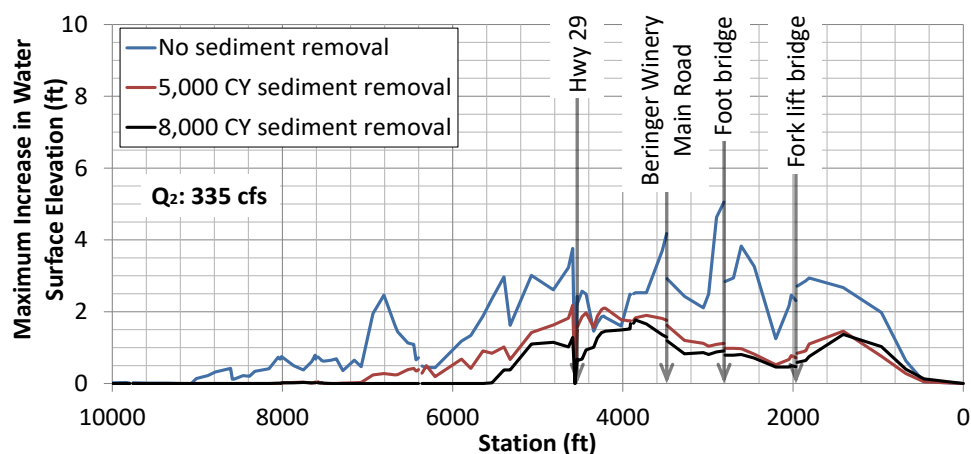


Figure 22. Predicted maximum increase in water surface elevation following dam removal under three sediment management scenarios at 335 cfs, which corresponds to a 2-yr flow event.

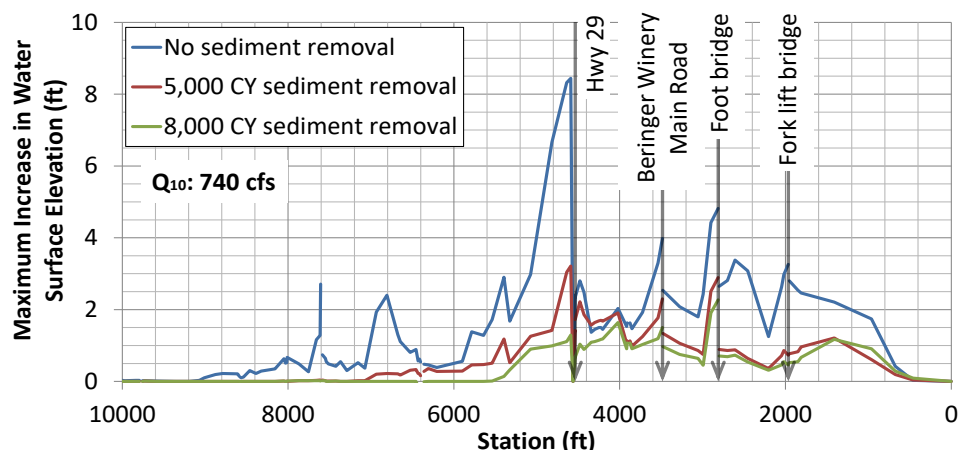


Figure 23. Predicted maximum increase in water surface elevation following dam removal under three sediment management scenarios at 740 cfs, which corresponds to a 10-yr flow event.

Results shown in Figure 22 and Figure 23 indicate that flood stage can potentially increase by up to approximately 5 ft downstream of Hwy 29 following dam removal under the scenario of no sediment management for the flood events examined. Removing or trapping 5,000 CY or 8,000 CY of sediment prior to dam removal would reduce the potential increase in flood stage downstream. For the more frequent 335 cfs flood (a 2-yr event), for example, removing/trapping either 5,000 or 8,000 CY of sediment would reduce the maximum increase in flood stage to within 2 ft in the reach downstream of Hwy 29, and for the rarer 740 cfs (a 10-yr event) removing/trapping 5,000 or 8,000 CY of sediment would reduce the maximum increase in flood stage to within 3 ft in the reach downstream of Hwy 29.

Dam removal will not affect the long-term flood stage, only the flood stage immediately following dam removal, because sediment deposition is a short-term transient phenomenon, and the reestablishment of sediment continuity at the Upper York Creek Dam site does not result in long-term channel aggradation downstream.

7 CONCLUSIONS AND RECOMMENDATIONS

Below is a summary of our conclusions and recommendations from sediment transport modeling and hydraulic analyses:

1. Short-term sediment deposition would occur downstream of the dam following the Upper York Creek Dam removal. Depending on the hydrologic condition following dam removal, sediment deposition could potentially last for a couple of weeks for a wet year to more than a year for a dry year. The sediment pulse from dam removal passes through the system relatively quickly, and there is no long-term channel aggradation as a result of the reestablishment of sediment continuity at the Upper York Creek Dam site.
2. Dam removal will result a short-term (generally less than 2 weeks) increase in suspended sediment concentration in the creek regardless of whether part of the sediment is removed prior to dam removal or trapped in the canyon reach.
3. Up to 3.5 ft of sediment deposition can be expected in the reach downstream of Hwy 29 if no sediment management is applied prior to dam removal, resulting up to 5 ft of increase in flood stage upstream of bridges at certain flow conditions. Removing 5,000 to 8,000 CY of sediment prior to dam removal or trapping the same amount of sediment in the canyon reach would lower the thickness of sediment deposition to within 2 ft of the existing bed elevation downstream of Hwy 29, and limit the corresponding increase in high flow event water surface elevations to within 3 ft of the current level.
4. Downstream of Hwy 29, the highest thickness of sediment deposition and increase in water surface elevation appear to be just upstream of the three bridges (i.e., the main access road to Beringer Winery, the foot bridge, and the fork lift bridge, Figure 22 and Figure 23). Replacing the three under-sized bridges, as recommended by PWA (2008), will likely further reduce the magnitude of sediment deposition and increases in water surface elevation.
5. Replacing the bridges alone would not completely eliminate the increase in water surface elevation during the short time following dam removal. Constructing rock berms or permanent floodwalls will help confine the flow within the main channel, which in turn, will help to move the sediment downstream more quickly. The elevated bank elevation after the construction of rock berms or floodwalls can potentially compensate the increase in water surface elevation shortly after dam removal and reduce the frequency of floodplain inundation thereafter. It is our opinion that rock berm or floodwall construction is the most effective measure in an attempt to relieve the flood inundation pressure to the Beringer Winery property either short- or long-term.
6. Removing some of the fossilized bars in the creek, as recommended by PWA (2008) will likely result in additional lowering of water surface elevation during the short-period following dam removal, although some or all of those bars may grow back in the future if no other measures are taken to change the flow conditions. Even if these bars grow back in the future, their composition will likely change to finer-sized particles due to the reconnection with upstream sediment supply, that may potentially provide fish spawning habitats under certain conditions. Because of the potential benefits, we recommend using

bar removal as a method for material gathering if rock berm or floodwall construction is implemented as the method to combat increased flooding risks following dam removal.

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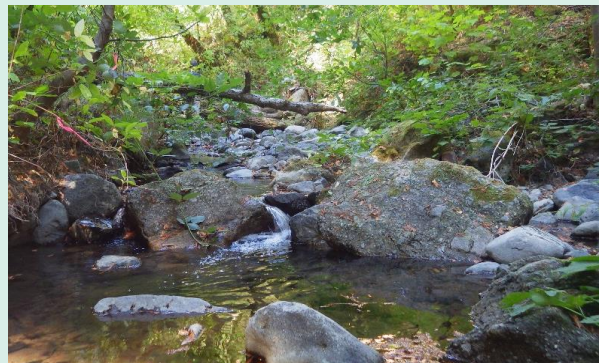
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TECHNICAL MEMORANDUM • FEBRUARY 2018

Potential Effects of Sediment Release to Steelhead Following York Creek Dam Removal



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Technical Memorandum

*Potential Effects of Sediment Release to Steelhead From
York Creek Dam Removal*

Suggested citation:

Stillwater Sciences. 2018. Potential effects of sediment release to steelhead following York Creek dam removal. Prepared by Stillwater Sciences, Berkeley, California for Michael Baker International, Rancho Cordova, California.

Cover photos (clockwise from upper left): Electrofishing York Creek in 2006; York Creek Dam reach during summer low flow; upper York Creek during summer low flows; York Creek Dam spillway.

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1 INTRODUCTION

1.1 Background

The 2.1-acre project site is located at Upper York Creek Dam (“the dam”) and Upper Reservoir, in York Creek Canyon, around 1.25 miles northwest of the city of St. Helena (Figure 1). The 50-foot-high, 140-foot-long structure once impounded water to form the 3-acre upper reservoir and was used for municipal water supply. However, use of the reservoir has since been abandoned due to sedimentation. The dam features two concrete spillways, one built simultaneously with the dam, and the other constructed in 1933.

Numerous native aquatic species occur in York Creek, including Brook Lamprey (*Lampetra richardsoni*), California Roach (*Hesperoleucus symmetricus*), Prickly Sculpin (*Cottus asper*), Three-spine Stickleback, and steelhead (*Oncorhynchus mykiss*) (Koehler, unpublished data from fyke netting on York Creek). This study focuses on the federally threatened Central California Coast (CCC) Steelhead Distinct Population Segment (DPS) (hereafter referred to as “steelhead”), which occur throughout York Creek watershed. The dam is a complete barrier to passage for steelhead, and its removal would provide steelhead access to approximately 1.5 miles of suitable habitat upstream of the dam (City of St. Helena 2015a).

1.2 Project Description

During planning phases, several different alternatives to dam modification/removal were explored, including full dam removal, notching the dam down to the streambed, or creating a shallower notch in the dam and constructing a fish ladder for fish passage upstream. The preferred alternative presented in the EIR (City of St. Helena 2015a) and the CEQA review (City of St. Helena 2015b) was referred to as scenario 2B. Under scenario 2B:

- Approximately 72% of the earthen dam structure would be removed (“notched”) down to the level of the existing streambed;
- The spillway would be backfilled;
- 95% of the accumulated sediment behind the dam would be removed with heavy equipment and deposited in three potential disposal areas;
- The downstream effects of dam removal will occur following the breaching of a temporary cofferdam during the first substantial flow event of the season;
- York Creek would be restored from just below the dam to just above the former reservoir; and
- Two acres of aquatic and riparian habitat would be restored with native vegetation.

PCI (2014) estimated that the volume of the sediment deposit upstream of the dam is approximately 18,500 CY. As stated above, one of the proposed actions under 2B is to remove 95% of the accumulated sediments (17,575 CY) prior to dam breach. However, in numerous previous dam removal projects, sediment has not first been removed, and the subsequent release has not been shown to have lasting deleterious effects to downstream fish populations. Hence, following the selection of the preferred alternative, questions arose about the need to remove the accumulated sediment from behind the dam prior to dam breach. The study presented herein assesses the potential impact to steelhead from increased suspended sediment, if 8,000 CY of sediment are removed and trucked off site prior to dam breaching, and the remainder is left in place.

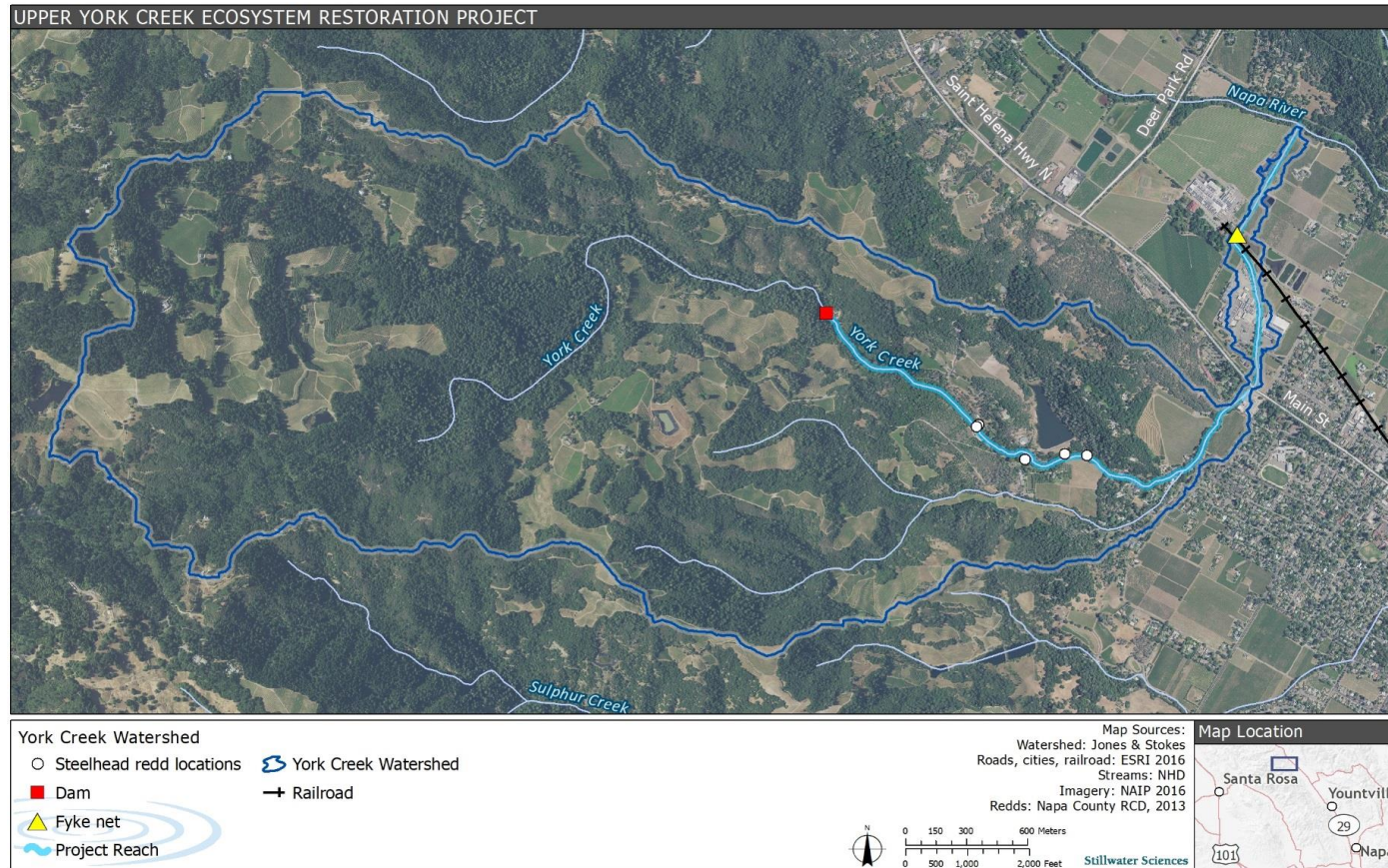


Figure 1. Project location.

1.3 Steelhead in York Creek

O. mykiss can exhibit different life history strategies, including anadromous, where juveniles rear in freshwater rivers and creeks, smolts migrate to the ocean where they mature to adults, and adults return to freshwater rivers and creeks to spawn – usually in their fourth or fifth year of life. They can also exhibit a resident life history, where rearing, maturing, and spawning all occur within freshwater. Steelhead is the term commonly used for the anadromous life history, and rainbow trout is the term for the resident life history. Both anadromous and resident life histories may be expressed in the same watershed, although detailed information on the relative proportion of each life history form is rarely available. The relationship between these two life history forms is the subject of ongoing research. Current evidence suggests that the two forms are capable of interbreeding and that, under some conditions, either life history form can produce offspring that exhibit the alternate form (i.e., resident can produce anadromous progeny and vice-versa) (Courter et al. 2013).

Both anadromous and resident life histories of steelhead occur in the York Creek watershed. The dam forms a barrier to upstream fish migration, which has resulted in a distinct resident population in the upper portion of the watershed and an anadromous and resident population downstream of the dam (USACE 2006). It is unknown if the *O. mykiss* upstream of the dam are genetically similar to the steelhead that occur downstream from the dam (USACE 2006).

Steelhead in York Creek belong to the CCC DPS and were federally listed as threatened in 1997 (NMFS 1997). The designation includes all naturally spawning populations in coastal drainages from the Russian River to Aptos Creek, the drainages of San Francisco Bay, San Pablo Bay, and Suisun Bay to Chips Island. In the greater San Francisco Estuary, the upstream extent of habitat for Central California Coast steelhead is San Pablo Bay and the Napa River (NMFS 2015). Designated critical habitat for CCC steelhead includes the Napa River and York Creek up to the dam. Presumably NOAA Fisheries Service will consider whether to designate the newly available habitat as critical habitat as part of a future status review, or as a separate reconsideration of the critical habitat designation for the species.

CCC steelhead populations have declined substantially in recent years, and have been nearly eliminated from streams tributary to San Pablo and San Francisco bays (Moyle 2002, McEwan and Jackson 1996). Napa River steelhead populations are also much lower than they were historically. Within the last approximately 100 years, the Napa River steelhead population has been reduced from approximately 8,000 adult steelhead to a fraction of that. Comprehensive local data is lacking, but, recent basin wide surveys estimate the population to be between 200 to 1,000 adult fish (Stillwater Sciences 2002, Ecotrust 2001). Nonetheless, the Napa River watershed is considered one of the most significant anadromous fish streams within San Francisco Bay, and York Creek contains some of the best steelhead habitat in the tributaries of the Napa River (Koehler 2005).

2 METHODS

2.1 Species and Life Stage Selection

The approach to the biological analysis was to assess the effects of increased sediments on steelhead downstream of the dam following removal. We have analyzed the effects on each life stage, including adults, eggs/alevins, and juveniles¹. Because it is known that juveniles up to the age of 2+ rear in York

¹ In this report, juvenile steelhead refers to both young-of-the-year (YOY) and age 1+/2+, unless indicated separately. YOY are age 0+ individuals less than one year old that hatched the previous spring or early-summer and are the offspring of adults that spawned the previous winter or early-spring. Age 1+/2+ refers to all pre-smolt juveniles one year old or older. YOY are likely to be between 3 and 6 months old, and age 1+/2+ are likely between 1.25 and 2.5 years old.

Creek (Stillwater 2002), steelhead presence has been assumed to be year-round. There is no documented steelhead rearing in any tributary in York Creek downstream of the dam. All juveniles that would potentially outmigrate as smolts² from York Creek were evaluated as juveniles, and therefore the smolt life stage was not evaluated separately.

2.2 Suspended Sediment Modeling

Stillwater Sciences used DREAM-2 to simulate sediment transport and concentration scenarios following the initiation of impoundment erosion (i.e., cofferdam breaching) following dam removal under varying hydrologic scenarios. Details of the sediment transport modeling and modeling results are described in Stillwater Sciences (2017); a brief summary is provided below.

DREAM-2 is one of the two **Dam Removal Express Assessment Models** developed for simulation of sediment transport following dam removal (Cui et al. 2006a, 2006b). DREAM-2 was developed specifically for simulation of sediment transport following dam removal under the condition that most of the top layer of the impoundment deposit is composed of gravel and coarser sediment, a condition met for this study.

Because the concentration of suspended sediment varies with hydrology, dry, median, and wet water years were analyzed for impacts to steelhead. Water years 1972, 1975, and 2017 were chosen to represent the dry, median, and wet years, respectively, to serve as input to the sediment transport model. These three years were selected because their exceedance probabilities for annual runoff and annual maximum daily average discharge are close to 0.9 for a dry year (90 percent of all years have higher discharge), 0.5 for a median year, and 0.1 for a wet year (90 percent of all years have lower discharge). Figure 2 illustrates the modeled discharges for the three representative water years. After input of required sediment, stream morphology and discharge data, the final sediment transport model predicts suspended sediment concentration (SSC) as a continuous time series following dam removal.

² Smolts are juvenile steelhead migrating to the ocean (i.e., smolting) that exhibit silver coloration and have no parr marks.

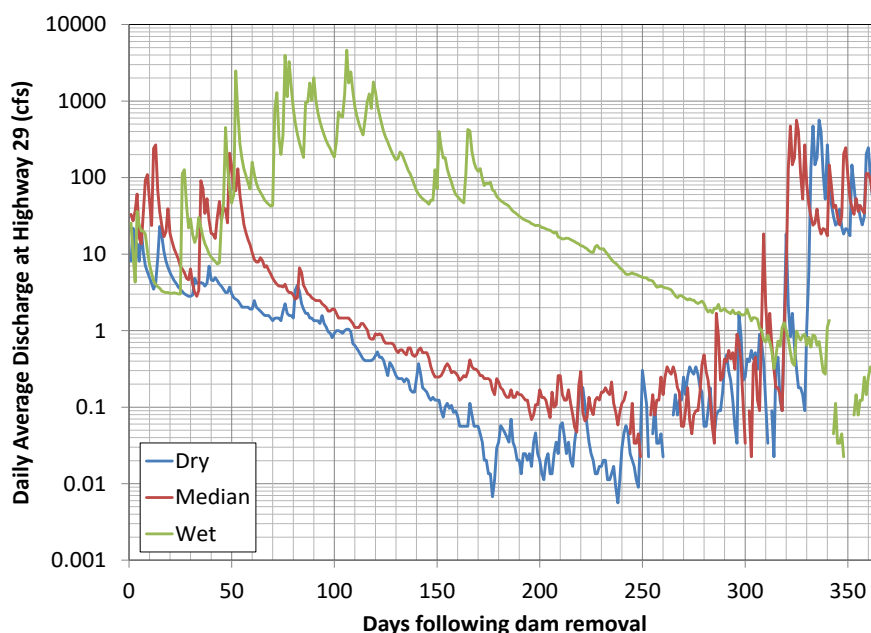


Figure 2. Assumed York Creek daily average discharge for the first 365 days at Highway 29 for dry, median and wet years used for DREAM-2 simulation.

In addition to hydrology, the timing of cofferdam breaching will affect the steelhead population in varying degrees. For example, if cofferdam breaches early in the winter, and some steelhead spawning occurs during late winter, the impacts would be far less for spawning than if cofferdam breach occurred in late winter coincident with spawning. Although the initiation of cofferdam breaching is reliant on the first high flow of the season, the timing of the first high flow appears independent of water year type (Figure 2). Therefore, three potential cofferdam breaching dates were evaluated, including early winter (December 1st), mid-winter (January 15th), and late winter (March 1st).

The model outputs were used to predict the magnitude and duration of suspended sediment concentrations (SSCs) for discrete calendar-year periods corresponding to steelhead life history stages for each water year type and cofferdam breaching, as described below.

2.3 Effects Analysis

Based on review of the scientific literature, the most commonly observed effects of suspended sediment on salmonids include the following: (1) avoidance of turbid waters in homing adult anadromous salmonids, (2) avoidance or alarm reactions by juvenile salmonids, (3) displacement of juvenile salmonids, (4) reduced feeding and growth, (5) physiological stress and respiratory impairment, (6) damage to gills, (7) reduced tolerance to disease and toxicants, (8) reduced survival, and (9) direct mortality (Newcombe and Jensen 1996). Information on both concentration and duration of suspended sediment is important for understanding the potential severity of its effects on salmonids (Newcombe and MacDonald 1991). Herbert and Merckens (1961) stated that “there is no doubt that many species of fresh-water fish can withstand extremely high concentrations of suspended solids for short periods, but this does not mean that much lower concentrations are harmless to fish which remain in contact with them for

a very long time.” Effects of suspended sediment on fish may be increased if toxics or other stressors (e.g., water temperature, disease) are present as well. Turbidity can function as cover to reduce predation at some life stages, not only in riverine, but also in estuary and nearshore marine environments (Gregory and Levings 1998, Wilber and Clarke 2001, Gadowski and Parsley 2005). Some species have been shown to be attracted to turbid water over clear water, which may reflect its use as cover (Gradall and Swenson 1982, Cyrus and Blaber 1992, both as cited in Wilber and Clarke 2001). This analysis will consider these other factors qualitatively, but not quantitatively, in assessing the effects of a sediment pulse to the population.

Determining the concentrations that cause direct lethal effects in salmonids has generally been based on laboratory studies experimenting with exposures to concentrations of suspended sediment over 1,000 ppm and usually much higher. According to Sigler et al. (1984), “yearling and older salmonids can survive high concentrations of suspended sediment for considerable periods, and acute lethal effects generally occur only if concentrations exceed 20,000 ppm (see reviews by Cordone and Kelly 1961, Sorenson et al. 1977).” For 36-hour exposures using juvenile Chinook (*Oncorhynchus tshawytscha*) and Sockeye Salmon (*Oncorhynchus nerka*), Newcombe and Flagg (1983) reported 10% mortality at concentrations of 1,400 ppm, 50% mortality at 9,400 ppm, and 90% mortality at 39,400 ppm. Concentrations of 82,000 ppm resulted in 60% mortality after 6 hours exposure. Estimated concentrations of 207,000 ppm resulted in 100% mortality in one hour. Stober et al. (1981) reported mortality rates of 50% for juvenile Chinook and Coho Salmon exposed to 500–1,000 ppm for 96 hours; however. From the results of these and other studies, it appears that relatively short-term exposures to increases in SSC under 500–600 ppm would not likely result in substantial direct mortality to either juvenile or adult anadromous salmonids in York Creek. If the duration of exposure is extended, however, some direct mortality may be expected. Exposures of 19 days to SSC of 90–270 ppm and higher have been reported as resulting in mortality to juvenile rainbow trout by Herbert and Merckens (1961). Less information is available on the effects of suspended sediment or turbidity on newly emerged salmonid fry (Sigler et al. 1984).

Potential population-level effects of suspended sediment released from dam removal activities for a given species not only depend on their abundance, distribution, and life stages present, but also on the timing, duration, and concentration of suspended sediment released. In this analysis, the results of Newcombe and Jensen (1996) were used to assess impacts of SSC on steelhead. Newcombe and Jensen (1996) reviewed and synthesized 80 published reports of fish responses to suspended sediment in streams and estuaries and established a set of equations to calculate “severity of ill effect (SEV)” indices (Table 1) for various species and life stages based on the duration of exposure and concentration of suspended sediment present. The SEV provides a ranking of the effects of SSC on salmonid species, as calculated by any of six equations that address various taxonomic groups of fishes, life stages of species within those groups, and particle sizes of suspended sediments. Newcombe and Jensen (1996) collected data on fish effects (on the SEV scale), suspended-sediment concentration (C , mg/L), and suspended-sediment exposure time (D , hr), from a large number of papers dealing with many salmonid fishes at various life stages. They fit models of the form $SEV = b_0 + b_1 \log C + b_2 \log D$ to these data for adults, juveniles, and eggs/alevins life stages, where “ b ” are terms for regression coefficients based on selection of the best performing model. These data all consider constant concentration values. However, for this application the effects of concentration levels which change over the exposure period are evaluated. Following Newcombe and MacDonald (1991), models of the form $SEV = b_0 + b_1 \log(CD)$ are applied to varying concentrations by replacing the term CD with the integral of concentration over time.

Table 1. Scale of the severity of ill effects associated with excess suspended sediment (based on Newcombe and Jensen 1996).

Category of effect	Severity	Description
Null effect	0	No behavioral effects
Behavioral effects	1	Alarm reaction
	2	Abandonment of cover
	3	Avoidance response
Sublethal effects	4	Short-term reduction in feeding rates Short-term reduction in feeding success
	5	Minor physiological stress: • Increase in rate of coughing • Increased respiration rate
	6	Moderate physiological stress
	7	Moderate habitat degradation Impaired homing
	8	Indications of major physiological stress: • Long-term reduction in feeding rate • Long-term reduction in feeding success • Poor condition
Lethal effects	9	Reduced growth rate: • Delayed hatching • Reduced fish density
	10	Increased predation of effected fish 0–20% mortality
	11	>20–40% mortality
	12	>40–60% mortality
	13	>60–80% mortality
	14	>80–100% mortality

The result of this approach is a life-stage specific prediction of the severity of ill effects on steelhead in York Creek for each of the water years, and each of the dam initiation start dates evaluated, using the SSC predictions of Stillwater Sciences (2017). In addition, for the time-period each life stage was assessed, it was assumed that steelhead would encounter either the lowest, highest, or median SSC concentration during that period. For example, it was assumed that adults migrating to York Creek to spawn will delay migration in response to the predicted spike in SSC concentration, and thus will be exposed to median SSC concentrations during the period, whereas steelhead that have already spawned in the mainstem will be unable to avoid the highest concentrations during the period.

The indices used by Newcombe and Jensen (1996) have become a standard for selecting management-related turbidity and suspended sediment criteria (e.g., Walters et al. 2001), and their report remains the best available source for determining effects of SSC on salmonids (Berry et al. 2003). However, there are inherent sources of uncertainty in this application of the model. Newcombe and Jensen (1996) base much of their analysis on laboratory studies that were conducted in controlled environments over short-durations, mostly examining acute lethal impacts of non-fluctuating concentrations of suspended sediment. This analysis is a relatively complex application of the Newcombe and Jensen (1996) model, in that temporal variation in SSC within periods is captured by summing continuous days of exposure in various concentration categories of suspended sediment. This means that three occurrences of exposure to extreme sediment each lasting for two days can be, for example, equivalent to a severity of ill effect predicted for 6 continuous days. How the actual outcome will vary from predictions is uncertain. In addition, Newcombe and Jensen (1996) do not explicitly address the translation of sublethal severity

levels into population-level effects. As Gregory et al. (1993) note in their criticism of Newcombe and Jensen (1996), the approach simplifies the effects of suspended sediment and in doing so assumes all effects of suspended sediment are negative, despite literature to the contrary. This exaggerates the effects of suspended sediment, particularly for lower concentrations and durations of exposure. Although the predictions of mortality at high concentrations and durations of exposure are considered more certain than the predictions of sublethal effects, in this application sublethal effects resulting from exposure to lower concentrations are included because of the concern that sublethal impacts of suspended sediment could be adverse in conjunction with high water temperature (Bozek and Young 1994) for some life stages.

3 RESULTS

3.1 Sediment Model Results

The modeling results of Stillwater Sciences (2017) indicate that, unless the dam is removed in a dry year, the impoundment will be eroded rather quickly (i.e., between about one week and six weeks depending on discharge). Following the erosion of the impoundment deposit, sediment deposition occurs in a short reach downstream of the dam as well as the lower reach of the creek downstream of Highway 29 (Figure 1). This deposition persists from about two to six weeks (Table 2), and is highest near Highway 29 bridge, and the reach downstream. In the case where cofferdam breaching occurs in a dry year, it will take a longer time to erode the impoundment deposit, and the duration for sediment deposition will also be longer, as shown in Table 2. In a dry year, the channel may not return to pre-removal condition until the next sufficiently high flow (likely during the next wet season). Under such a scenario the thickness of sediment deposition is less than if cofferdam breaching occurs in a wetter year.

In all the model runs, cofferdam breaching produced increased suspended sediment concentration, with the maximum value on the order of 10^4 mg/L (Table 2 and Figure 3). The elevated suspended sediment concentration generally lasts only for a few days under all scenarios (Table 2 and Figure 3). During this time, the suspended sediment concentration in the Napa River will also be elevated, but to a lesser degree due to the dilution from much larger discharge in the Napa River.

Table 2. Summary of important DREAM-2 modeling results for removing 8,000 CY of deposited reservoir sediment prior to dam removal (Stillwater Sciences 2017).

Model outcomes	Water year type		
	Dry	Median	Wet
Maximum thickness of deposition downstream of Hwy 29	< 1 ft	< 2 ft	< 1 ft
Duration of sediment deposition	~ 1 yr	12 days	47 days
Maximum daily average discharge at Highway 29 prior to the clearance of sediment deposition (cfs)	562 ^a	240	451
Maximum suspended sediment concentration (mg/L)	25,500	3,740	14,100
Approximate duration when suspended sediment concentration is significantly higher than background conditions ^b	3 days	7 days	7 days
Daily average discharge at Highway 29 during the day of highest suspended sediment concentration (cfs)	7.5	33.1	10.0

^a This maximum flow occurred toward early in the next water year following cofferdam breaching

^b Here the duration is defined as the day after which the increase in suspended sediment concentration drops to significantly lower than 1,000 mg/L.

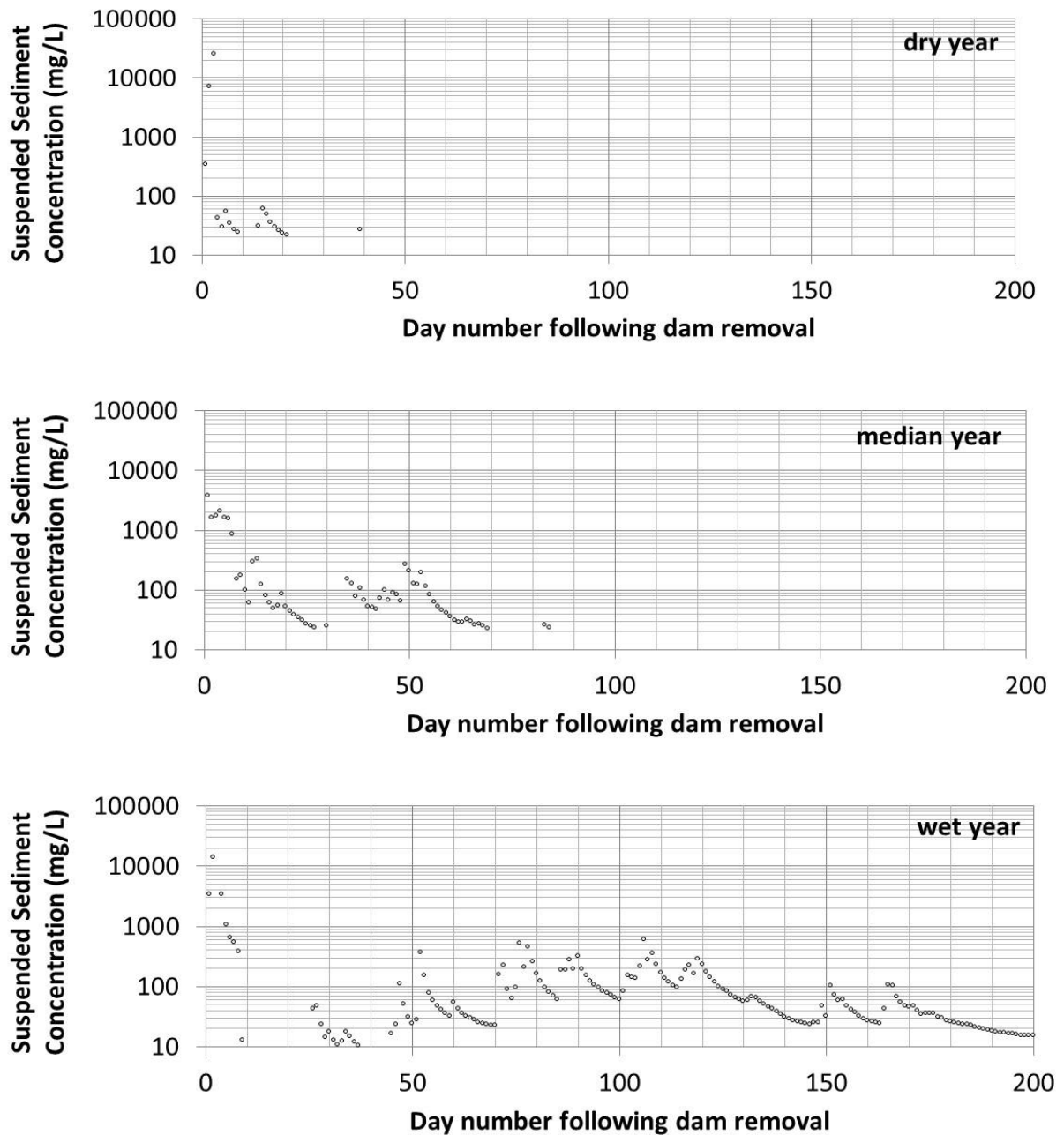


Figure 3. Predicted increase in suspended sediment concentrations by day following cofferdam breaching for dry, median and wet water years.

Figure 3 illustrates that the increased SSC will occur in pulses that quickly dissipate following rainfall events, and that the highest SSC will occur over only a very brief period following the first significant storm of the season. Only during a wet year are there multiple high peaks in the increased SSC that are likely well below the background conditions during these storm events. The hydrograph for each year will be unique and thus these modeled conditions are predictions of what will occur following cofferdam breaching.

Existing SSC in York Creek and the larger Napa River watershed have not been thoroughly investigated. Stillwater (2002) states that “Previous studies indicate that land use activities have increased the supply of fine sediment to channels in the Napa River watershed (e.g., WET, Inc. 1990, USDA-SCS 1994). The USGS gage on the Napa River (USGS 11458000) began recording (and reporting) turbidity on 08 January 2018, but this is too short a period of record to make any general statements on existing turbidity conditions. Between 2001 and 2011 the NCRCD periodically collected grab samples for SSC analysis throughout the Napa River watershed, generally after high water events. Samples were collected on York Creek at least once per year between 2006 and 2011, when stream discharge ranged from 3.4 to 292 cfs. The SSC results ranged from 30 mg/L to 890 mg/L, with the highest concentration being recorded 4 January 2008 at a stream discharge of 292 cfs (Napa County RCD, unpublished data). The highest SSC recorded in the Napa watershed was 7,900 mg/L on Napa Creek on 30 December 2005. Maximum predicted SSCs in York Creek following dam removal range from 3,740 to 25,500 depending on water year type (Table 2). The result from the RCD sampling suggest that at least the lower predicted maximum SSC is well within the range currently experienced by steelhead in the Napa River system.

3.2 Predicted Population Response

The vast majority of existing information in the York Creek watershed addresses steelhead rather than resident rainbow trout. This section primarily addresses steelhead, but it is reasonable to assume that effects of suspended sediment on resident *O. mykiss* would be similar to those found for juvenile steelhead.

3.2.1 Adult migration

Steelhead return to spawn in their natal freshwater stream, usually in their third or fourth year of life, with males typically returning to freshwater earlier than females (Shapovalov and Taft 1954). The timing of upstream migration is correlated with higher flow events, such as freshets, and associated lower water temperatures. Steelhead in California generally enter spawning streams from fall through spring as sexually mature adults, and spawn a few months later in late winter or spring. Based on available data, steelhead adults potentially migrate into York Creek as far upstream as the dam, from December 1 to May 1 (Table 3). We have assumed that adult steelhead hold in the Napa River prior to spawning and are in York Creek for a relatively short period of time (<14 days, Shapovalov and Taft 1954) for spawning (Table 3). When adults are exposed to increasing levels of SSC, they tend to delay migration, and avoid tributaries with increased SSC; For example, Leider (1989) reported steelhead stray rates increasing from 16% to 45% in response to increased SSC following the Mt. Saint Helens eruption. Therefore, this analysis assumes that adults will be exposed to median SSC, and will avoid the highest spike in SSC that occurs during the period (Table 3).

Sediment deposition in association with cofferdam breaching is predicted to be transient and of insufficient depth to affect fish passage, or fish migration. There will be direct impacts from increased SSC for those adults that migrate into York Creek following cofferdam breaching; albeit sublethal in all scenarios (Table 4). If breaching occurs during a dry year, impacts could be nearly indistinguishable from

existing conditions, since the spike in SSC although very high, is very short in duration (Table 4). The most severe impacts would occur if cofferdam breaching occurs during late winter of a median or wet water year, since SSC will be elevated for longer, and thus adults entering York Creek will not be able to avoid impacts. The effect would still be sublethal, with impaired homing, and major physiological stress (Table 5). However, adult steelhead commonly migrate during high flows and are thus adapted to naturally high suspended sediment. Adults that avoid York Creek during cofferdam breaching are anticipated to locate spawning habitat in other suitable tributaries to the upper Napa River. Other Napa River tributaries with available steelhead spawning and rearing habitat include Heath Canyon, Ritchey, Redwood, and Pickle Creeks (Stillwater 2007).

3.2.2 Adult runbacks

After spawning, a proportion of adult steelhead survive and “runback,” downstream in the spring to return to the sea. Runbacks were assumed to be exposed to median SSC for up to seven days from the end of spawning (mid-January) to May 1st (Table 3). As for upstream migration, sediment deposition is not anticipated to affect downstream fish passage. Runbacks could be directly affected by increased SSC during cofferdam breaching, but those impacts are expected to be similar to upstream migrants (Table 5). The most severe effects would be experienced from increased SSC during a median year or wet year with a late winter cofferdam breaching, since the resulting period of increased SSC is longer in duration and thus less likely to be avoided (Table 4 and Figure 3). The effects during a median or wet year are predicted to remain sublethal (Table 5), and consist of major physiological stress. There are little data on downstream-migrating steelhead in the Napa River with which to understand potential consequences of exposure to suspended sediment during this life history phase.

3.2.3 Spawning

Steelhead spawning in York Creek occurs primarily from January 1 through March 30 (Napa RCD 2017), within habitat from the dam downstream to Highway 29 (Koehler 2013, Figure 1). The timing of incubation and emergence is dependent on water temperature (Velson 1987). Based on typical water temperatures at the time of spawning (Napa RCD 2008), it is assumed for this analysis that incubation through emergence would occur for approximately 60 days (Table 3) between January 1st and May 1st (Napa RCD 2008, Table 4). As described above, depending on the timing of dam removal, it is likely that fewer returning adults will spawn in York Creek (more will stray into other, less turbid areas) immediately following dam removal due to high suspended sediment loads. Therefore, there will likely be fewer eggs and alevins present (than there would be otherwise) to be impacted by the resultant high SSC.

Eggs and alevins are unable to migrate in response to elevated SSC, and thus would be subjected to the highest exposure of SSC during this period. Extended exposures to suspended sediment have been reported to result in significant mortality to eggs of salmonids at concentrations of less than 200 ppm (Newcombe and Jensen 1996). The SSC modeling analysis does not account for potential effects that might result from infiltration of fine sediment into the channel bed because no suitable measurements or models were available with which to calculate this component; however, suspended sediment resulting from cofferdam breaching is predicted to result in up to 100% mortality of eggs and fry from all spawning during cofferdam breaching (Table 5), except during a dry year if the cofferdam breaching occurs in early winter, allowing later migrating steelhead to spawn successfully, after the highest SSC concentrations have dissipated (Figure 3). The sediments released during cofferdam breaching would likely be primarily conveyed as wash load and would not fall out of suspension; however, the fraction deposited on spawning gravels would carry high concentrations of very fine sediment. These sediments may smother the eggs by adhering to the chorion³ (Greig et al. 2005, Levasseur et al. 2006). Based on spawning surveys in York

³ The egg envelope of a salmon egg.

Creek (Napa RCD 2008), the complete production from as many as five redds could be lost as a result of cofferdam breaching (Table 5). If adults avoid York Creek from increased SSC, the loss to the Napa River population from egg and alevin mortality would be less significant than predicted.

The loss of incubating eggs during cofferdam breaching is expected to reduce seeding of habitat by fry in the year of cofferdam breaching. However, resident *O. mykiss* spawning upstream of the dam location will not be affected by cofferdam breaching, and thus a proportion of newly emerged fry from upstream are anticipated to migrate downstream of seed habitat following cofferdam breaching. Since the majority of sediment is predicted to be released within the first year following cofferdam breaching (Stillwater Sciences 2017), the effect of fine sediment from the cofferdam breaching on spawning success is unlikely to persist beyond the first year. Furthermore, the deposited sediments are not expected to be of a sufficient depth that late-spawning steelhead would be unable to clear them from spawning gravels during redd construction. In the long-term, steelhead spawning in York Creek will benefit from access to newly available suitable spawning habitat upstream of the dam. In addition, increased deposition of coarse sediment (Stillwater Sciences 2017) in the reach downstream of the dam to Highway 29 is anticipated to improve spawning habitat suitability, ameliorating the current condition of limited suitable spawning habitat (City of St. Helena 2015a).

3.2.4 Juvenile rearing

Upon emergence from the gravel, steelhead fry usually live in small schools in shallow waters along stream banks. Juvenile steelhead in central California typically spend two years in freshwater prior to smolting (Shapovalov and Taft 1954, Table 2). Snorkel surveys of York Creek in 2004 found high to moderate densities of juvenile steelhead, including YOY, age 1+, age 2+, and larger resident rainbow trout throughout York Creek upstream of Highway 29 (Koehler 2005, Figure 1). Therefore, this analysis assumes the presence of all juvenile life stages year-round in the reach downstream of the dam (Table 3).

Sediment deposition resulting from cofferdam breaching may result in temporary (< 30 days) filling of pool habitat used by rearing juvenile steelhead (Stillwater Sciences 2017). This is predicted to be most pronounced for York Creek in the vicinity of Highway 29 and downstream. Since predicted pool filling is short in duration and limited to the downstream portion of York Creek which is not typically occupied by rearing steelhead (Koehler 2005, Figure 1), the overall impact of sediment deposition is not anticipated to be substantial. In the long-term the habitat suitability for steelhead rearing is anticipated to improve from additional coarse sediment supply from areas of upstream of the dam, including improved winter habitat from cobble/boulder habitat (Ligon et al. 2016), and improved food availability from increased cobble/gravel riffle habitat.

Juveniles rearing in York Creek during cofferdam breaching are anticipated to be directly affected. Numerous field and laboratory studies have shown that juvenile salmonids actively avoid exposure to high (> 150 mg/l) SSC, including migrating downstream to seek lower turbidity (Carlson et al. 2001, Kemp et al. 2011, Kjelland et al. 2015). Because rearing juveniles would be able to migrate downstream from the high SSCs in York Creek during cofferdam breaching to more benign conditions in the Napa River, this analysis assumes that juvenile steelhead will respond to increased SSC by migrating downstream out of York Creek after 14 days of exposure to highest SSC during cofferdam breaching (Table 3). If cofferdam breaching occurs during a dry year, impacts from the short duration of increased SSC is anticipated to be sublethal and mostly benign (Table 4). If cofferdam breaching occurs during an average or wet year, the slightly longer duration of increased SSC is anticipated to result in major physiological stress, reduced feeding, and cause migration downstream into the mainstem Napa River; but will remain largely sublethal regardless of breaching timing (Table 5). Due to the “spiky” nature of the SSC peaks during median and wet years (Figures 4 and 5) it may be possible for juvenile steelhead to shelter in place and weather the peaks, returning to active feeding after high SSC have passed. However,

it is also possible (and perhaps likely) that despite the “sublethal” modeling results, a few juvenile steelhead will likely be killed by the high SSC concentrations and associated effects of dam removal. It is anticipated that some mortality will result for juveniles that do not migrate to avoid these peaks in SSC. Although suitable habitat for juvenile rearing occurs in the mainstem Napa River, conditions are not as suitable as within York Creek, and survival and growth may be lower there. If a large proportion of rearing juveniles migrate from York Creek, it may take a few years for rearing densities within the creek to recover to pre-dam removal levels. However, resident *O. mykiss* rearing upstream of the dam (with reported high densities, (USACE 2006) will not be affected by cofferdam breaching, and will have unimpeded access to habitat downstream of the dam following cofferdam breaching, providing opportunities for rapid recolonization.

Table 3. Modeled scenarios for each steelhead life stage.

Life-history Stage	Period	Days of exposure	Level of exposure	Notes
Adult upstream migrants	12/1 to 05/01	14	Median	Adults will hold in Napa River, and run upstream into York Creek to spawn for up to 14 days.
Adult run-backs	1/15 to 05/01	7	Median	Runback begins after spawning, and are likely present in York Creek for less than 7 days after spawning
Spawning through emergence	01/01 to 05/01	60	Highest	Eggs and alevins are immobile and unable to avoid peak SSC exposure.
Juvenile rearing	Year-round	14	Highest	It is assumed that juveniles will respond to increased SSC by migrating downstream out of York Creek after 14 days of exposure to highest SSC during the period.

Table 4. Newcombe and Jensen severity of ill effects for each modeled life stage by water year type and cofferdam breaching date.

Life stage	Coffer Dam Breaching Date Water Year Type								
	Dry			Median			Wet		
	1-Dec	15-Jan	1-Mar	1-Dec	15-Jan	1-Mar	1-Dec	15-Jan	1-Mar
Adults	0.0	0.0	6.0	6.4	7.8	8.4	8.2	8.2	7.4
Runbacks	0.0	0.0	2.9	0.0	7.3	7.8	8.0	7.7	7.0
Eggs and alevins	0.0	11.1	11.2	11.9	12.2	12.3	12.6	12.6	12.5
Juveniles	5.5	6.6	7.0	8.1	8.1	8.2	8.5	8.5	8.5

Table 5. Most severe effects experienced by life stage based on the modeling.

Life-history Stage	Worst-case severity	Expected responses
Adult upstream migrants	8.4	Major physiological stress Impaired homing Long-term reduction in feeding rate Poor condition
Adult run-backs	8.0	Same as for adult upstream migrants
Eggs and alevins	12.6	up to 100% mortality
Juvenile rearing	8.5	Avoidance response Major physiological stress Long-term reduction in feeding rate Poor condition

3.3 Summary

Removal of the dam is predicted to result in minor sediment deposition, which is unlikely to substantially impact rearing juveniles in the short-term, and is likely to benefit spawning and rearing habitat in York Creek in the long-term. Increased SSC following cofferdam breaching is predicted to have a direct impact on adult and runback steelhead, eggs and alevins, and juveniles. Impacts are predicted to be sublethal, with the exception of nearly complete mortality for eggs and alevins. Steelhead in the Napa River watershed are adapted to periods of high suspended sediment (Stillwater Sciences 2002), and the wide spatial distribution of steelhead in the Napa River watershed means that most of the population will avoid any impacts of SSC by remaining in York Creek upstream of the dam, in other tributaries to the Napa River, or within the mainstem where SSC concentrations are anticipated to be more dilute. Following cofferdam breaching, it is anticipated that steelhead recolonization throughout York Creek, including upstream of the dam, would occur rapidly (within months), as was observed for steelhead following fish ladder installation at Landsburg Dam on the Cedar River, Washington (Kiffney et al. 2009), and following removal of Condit Dam on the White Salmon River, Washington (Allen et al. 2016). Initial recolonization from *O. mykiss* upstream of York Creek Dam could occur within months on cofferdam breaching, and recolonization of anadromous adults would be anticipated within no more than a year of breaching (either during the year of cofferdam breaching, or the following migration season).

Overall, the steelhead population is anticipated to be affected by dam removal in the short-term, but has life history characteristics that will support a strong recovery within two years of dam removal. Therefore, there will be no substantial adverse effect on steelhead in the short- and long term. In addition, the removal of Upper York Dam will result in beneficial environmental effects including restored access to 1.5 miles of high-quality habitat for steelhead trout (City of St. Helena 2015a), restored habitat connectivity and unimpeded migration for aquatic and terrestrial organisms, and reestablished natural sediment transport processes to improve in-stream habitat in York Creek and the Napa River.

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UPPER YORK CREEK ECOSYSTEM RESTORATION PROJECT DAM REMOVAL, CHANNEL RESTORATION, AQUATIC HABITAT ENHANCEMENT PROJECT

City of St. Helena, Napa County, California

BASIS OF DESIGN REPORT

February 2019

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Appendix A – Draft Geotechnical Engineering Study

Appendix B – Hydraulic Analysis

Appendix C – Upper York Creek Dam Removal Sediment Transport Modeling Report (Stillwater Sciences)

Appendix D – Phase 1 Basis of Design Report (Stillwater Sciences)

Appendix E – Phase 1 Design Plans (Michael Baker International)

Appendix F – Phase 2 Concept Plans

1 Introduction

The following report represents the basis of design for the development of the Upper York Creek Ecosystem Restoration Project prepared for the City of St. Helena. The project site is located within the Outer North Coast Ranges in unincorporated Napa County, west of the City of St. Helena, California. It is centered near 38°30'50" N, 122°30'10" W, and depicted in the southwest ¼ of Section 26, Range 6 West, Township 8 North, of the U.S. Geological Survey (USGS) Calistoga, California 7.5-minute topographic quadrangle map.

Specifically, the project site is located immediately adjacent to Spring Mountain Road, approximately 0.7-mile southwest of State Route 29 (SR 29) and approximately 0.7-mile northwest of the City of St. Helena limits, which is immediately surrounded by undeveloped, forested land and several vineyards within a few hundred feet in all directions. Napa River runs north to south on the east side of the City, and several of its tributaries flow through the City eastward from the hills of the Mayacamas Mountains. The primary project site is on York Creek, which is one of these tributaries. The proposed project location is shown on Figure 1-1.

The purpose of this report is to develop a comprehensive and technically-based design for the Upper York Creek Dam (UYCD, also known as the Upper St. Helena Dam) Removal. The report will assess the conditions of the existing natural channel including; hydrology, hydraulics, and support the design of the recommended channel restoration improvements.

The project will be implemented in accordance with the permit approvals and input provided from the California Department of Fish and Wildlife (CDFW), US Fish and Wildlife Service (USFWS), Regional Water Quality Control Board and the U.S. Army Corps of Engineers (Corps).

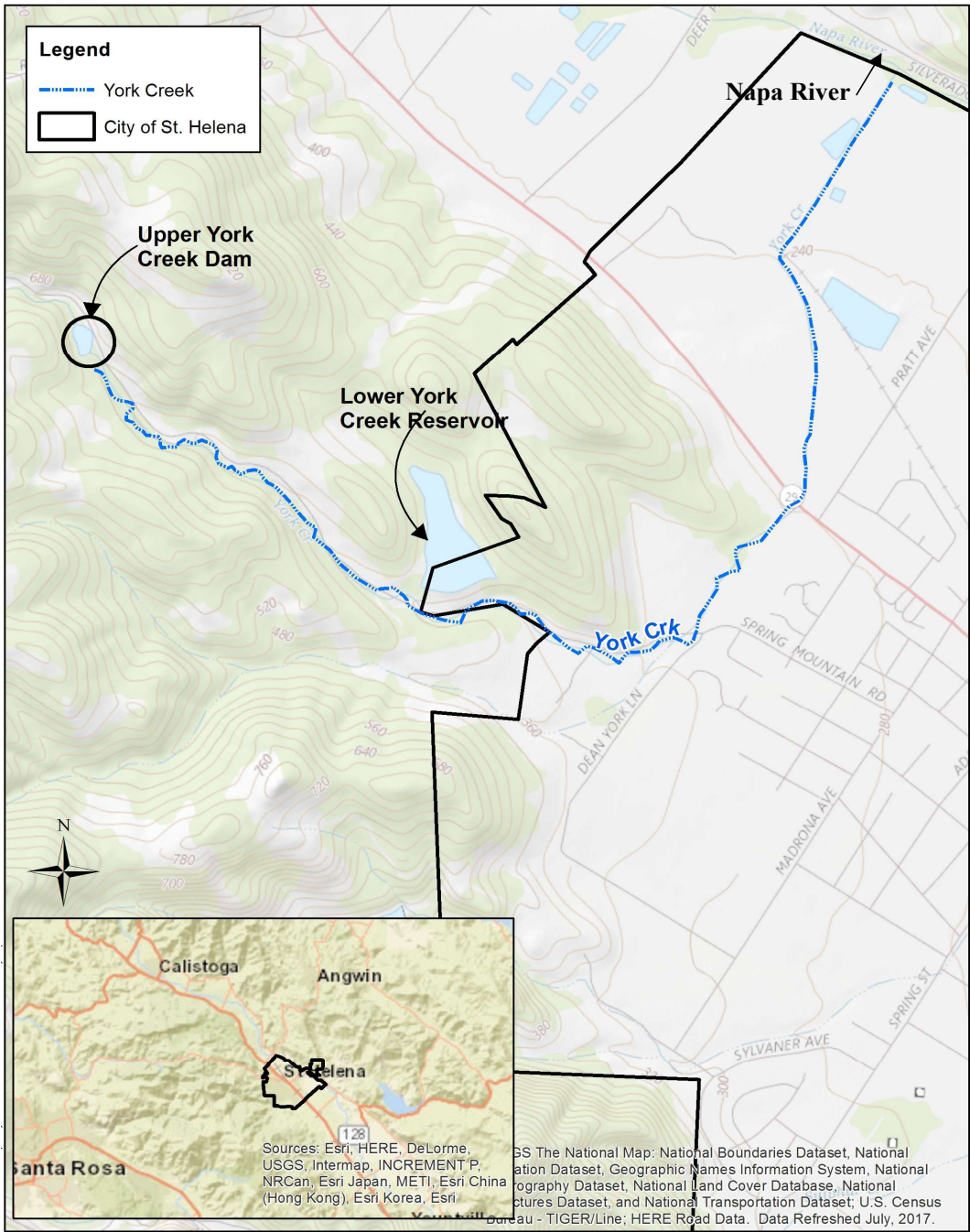


Figure 1-1: Project Location

1.1 Background

York Creek extends approximately 7.24 miles from its headwaters to its confluence with the Napa River (Corps 2006b). It descends steeply over the first portion of its range then flattens out as it crosses the floodplain of the Napa River. It drains a watershed of approximately 4.4 square miles. At the site of the upper dam and reservoir, York Creek traverses a steep valley cut from serpentinite and sheared shale. Vegetation is a mixture of redwood forest, mixed evergreen forest, riparian woodland, foothill pine-oak woodland, freshwater wetland, non-native grassland, vineyards, and ruderal areas. Figure 1-2 shows a picture of the existing creek downstream of the dam. According to the Napa County Resource Conservation District (NCRCD), York Creek is one of the most significant spawning and rearing streams in the Napa River watershed for Central California Coast ESU steelhead, which are listed as threatened under the federal Endangered Species Act. The creek has been designated as critical habitat for steelhead by NOAA Fisheries Service. The Napa River watershed is considered one of the key anadromous fish streams within the San Francisco Bay (NCRCD 2005).



Figure 1-2: York Creek below the Upper York Creek Dam (Date: 5/4/17)

York Creek was first dammed in 1871. The Upper York Creek dam was built upstream of the original reservoir in 1900 to extend the City's water delivery system to match its expanding development (Eastman 2003). In 1933, a new concrete overflow spillway was added along the eastern edge of the reservoir and dam immediately adjacent to Spring Mountain Road, the standpipe outlet was installed, and other incidental modifications were made.

The dam is a total barrier to fish passage. The reservoir behind the dam is full of sediment (approximately 28,000 cubic yards, essentially eliminating any water storage capacity) and is no longer used to provide water for the City's needs. The dam itself contains approximately 12,000 cubic yards of material. (Corps 2006a). Figure 1-3 shows the sediment accumulation behind the dam.



Figure 1-3: Sediment Accumulation from just Upstream of the Existing Spillway (Date: 2/27/17)

On July 28, 1992, during routine maintenance of the reservoir outlet, there was an accidental sediment discharge downstream of the dam. This significant release resulted in a silt discharge within the streambed from the face of the dam to York Creek's confluence with the Napa River.

The depth of the silt varied from heavy deposits (up to 18 inches) just below the dam and continuing downstream for about 0.5 miles, gradually thinning until only a light covering of fine silt was deposited at the confluence with the Napa River. According to a CDFG letter dated July 30, 1992, this sediment release was the fourth since 1965. In each incidence, "dense anaerobic sediments, high in toxic hydrogen sulfide, were released from the dam and deposited in pools and riffle areas downstream, quickly suffocating and burying all fish and aquatic invertebrates within a mile or more of the dam."

After this discharge, CDFG filed a complaint with the Napa County District Attorney. In September of 1992, CDFG and the City concluded that the City should remove the existing earthen dam structure on York Creek. An agreement was signed obligating the City to remove the dam, stabilize silt, remove silt that had filtered downstream, and take certain precautions to preserve the stability and natural character of the area.

Figure 1-4 shows the downside slope of the existing dam with the outlet pipe. Figure 1-5 shows the top of the Upper York Creek Dam and spillway with the access bridge.



Figure 1-4: Downslope Side of the Upper York Creek Dam Showing the Outlet at the Base of the Dam (Date: 10/9/18)



Figure 1-5: The Existing Condition of the Top of Upper York Creek Dam and Spillway with the Access Bridge Shown (Date: 10/9/18)

1.2 Project Description

The overall York Creek Ecosystem Restoration Project proposes to restore the ecological connectivity between habitats upstream and downstream of the Upper York Creek Dam (UYCD) and provide for natural sediment transport. Steelhead migration would be restored to the level provided by the natural channels above and below the dam. The project will be accomplished in two Phases: Phase 1 includes installation of the sediment traps downstream of the existing dam (Figure 1-6); Phase 2 includes the notching of the dam and the restoration of the habitat upstream of the existing dam.

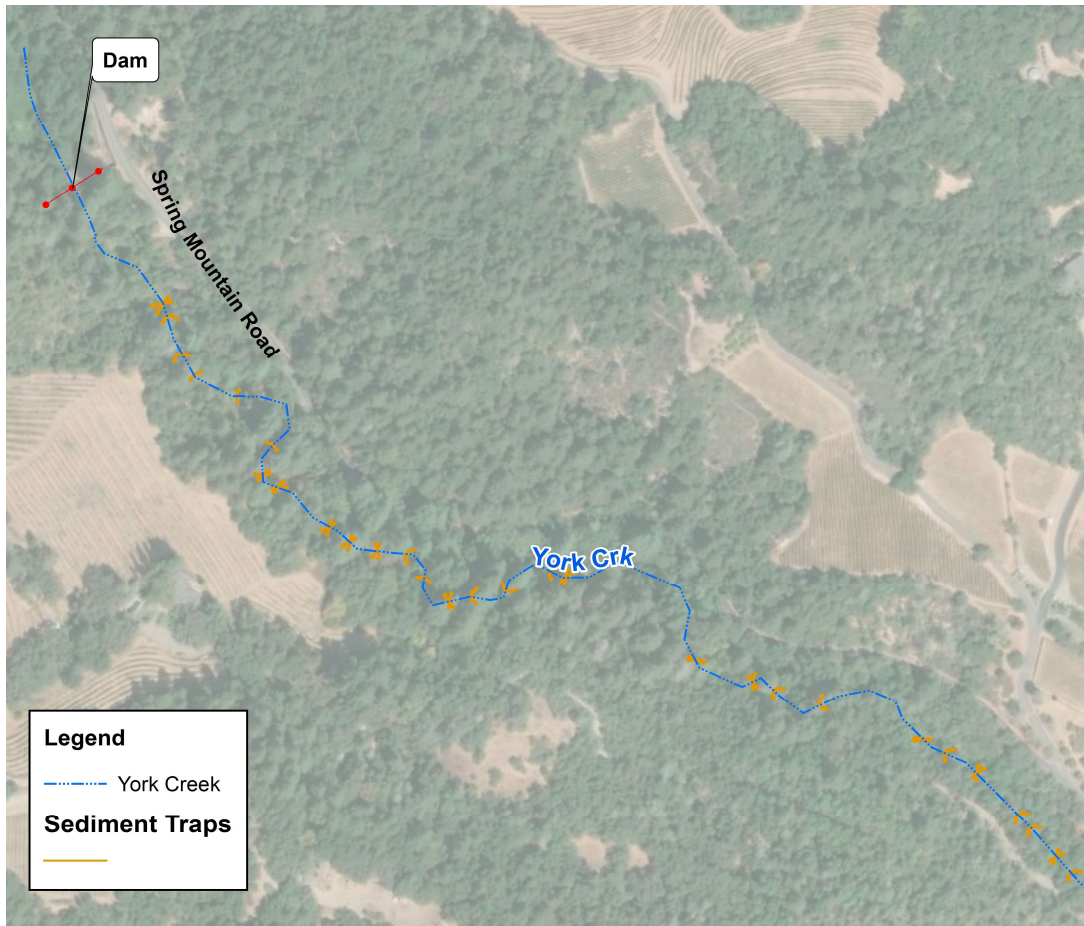
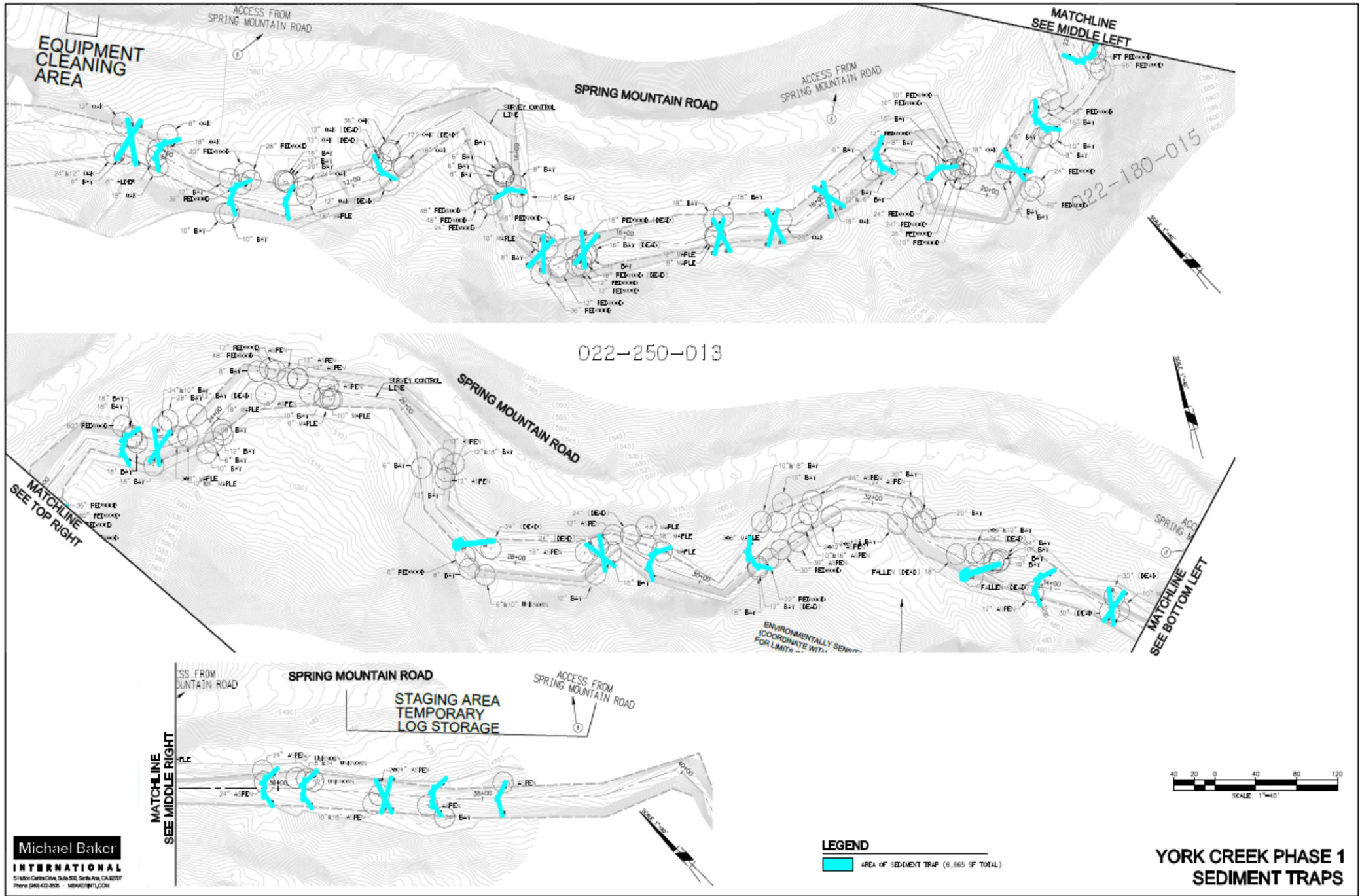


Figure 1-6: Phase 1 Location

1.2.1 Phase 1 Elements

Phase 1 of the project includes construction of up to 30 sediment trap locations downstream of the dam to capture the impounded sediment from upstream of the dam (Figure 1-7). These large wood structures would be expected to capture a maximum of 25 to 50 cubic yards of sediment per structure. They are proposed to be installed in an incised reach of York Creek where no flooding to adjacent infrastructure would result from increased sediment deposition. The structures consist of timber material recovered from off-site areas and would be placed on top of the channel bed and banks with minimal excavation.

There are three (3) types of sediment traps being proposed. These traps are intended to provide hydraulic control at high flow during periods of active bedload sediment transport, thereby slowing flow velocities and generating depositional conditions up-stream from the structure, primarily along the channel margins. Equipment used during construction include rubber-tired Caterpillar 518 Skidder and Caterpillar 416 backhoe. Figure 1-7 shows the extent and components of Phase 1 project.



1.2.2 Phase 2 Elements

Phase 2 of the Project would include: fill of the inactive spillway, construction of a 20-ft notch through the dam embankment to the approximate bedrock elevation, removal of approximately 8,000 cy of sediment behind the dam, channel grading, and stabilization and protection of Spring Mountain Road. The dam notch will consist of a 20-foot wide channel excavated to bedrock and would extend 300-ft upstream (Figure 1-8). The height of the dam will be approximately 46-ft at the dam embankment. A rock wall will be constructed on each side of the channel so that the side slopes can be supported. The stream bank (rock wall) will be placed at the 10-year channel depth. Figure 1-9 shows the location of the Phase 2 project elements at the dam.

A maximum 6% longitudinal channel slope will be maintained through the dam notch which extends 300-ft upstream. If the existing bedrock at the natural creek bottom is greater than a 6% slope, then a rock weir will be constructed downstream of the dam and engineered fill will be placed upstream of the weir to obtain a slope of 5%, +/- 1%. The project proposes no sinuosity through the dam notch reach as the amount of material to be removed upstream of the dam may cause stress on the sides of the channel. The dam reservoir area will be cleared and grubbed, so that root material and larger trees will not prevent the impounded material from being washed away during large storm events.

A temporary low flow “pilot” channel will be excavated through the Project Site to facilitate movement of sediment from the impounded material upstream of the dam (Figure 1-9). The pilot channel will facilitate a first flush removal of fine sediments downstream of the dam. This first flush approach will allow for a limited exposure of fine sediments and turbidity to existing wildlife within downstream reaches of the creek. Boulders recovered during excavation and from an existing pile approximately 600 linear feet above the dam will be placed along the channel to promote natural movement and creation of structure through the project reach. The total amount of material impounded upstream of the dam between existing grade and bedrock and is approximately 28,000 cubic yards (cy), with 8,000 cy removed as part of Phase 2.

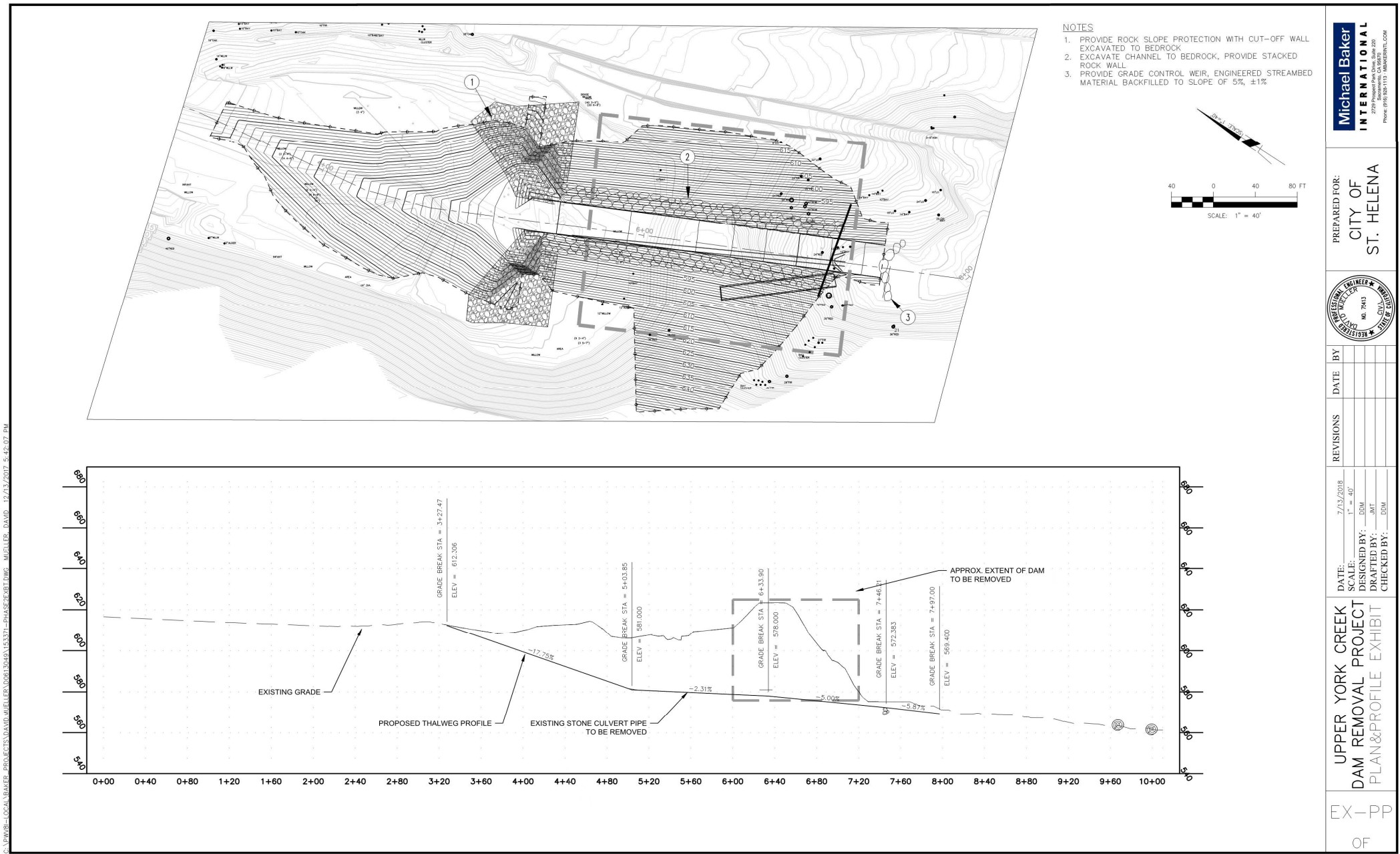


Figure 1-8: Phase 2 Project Location

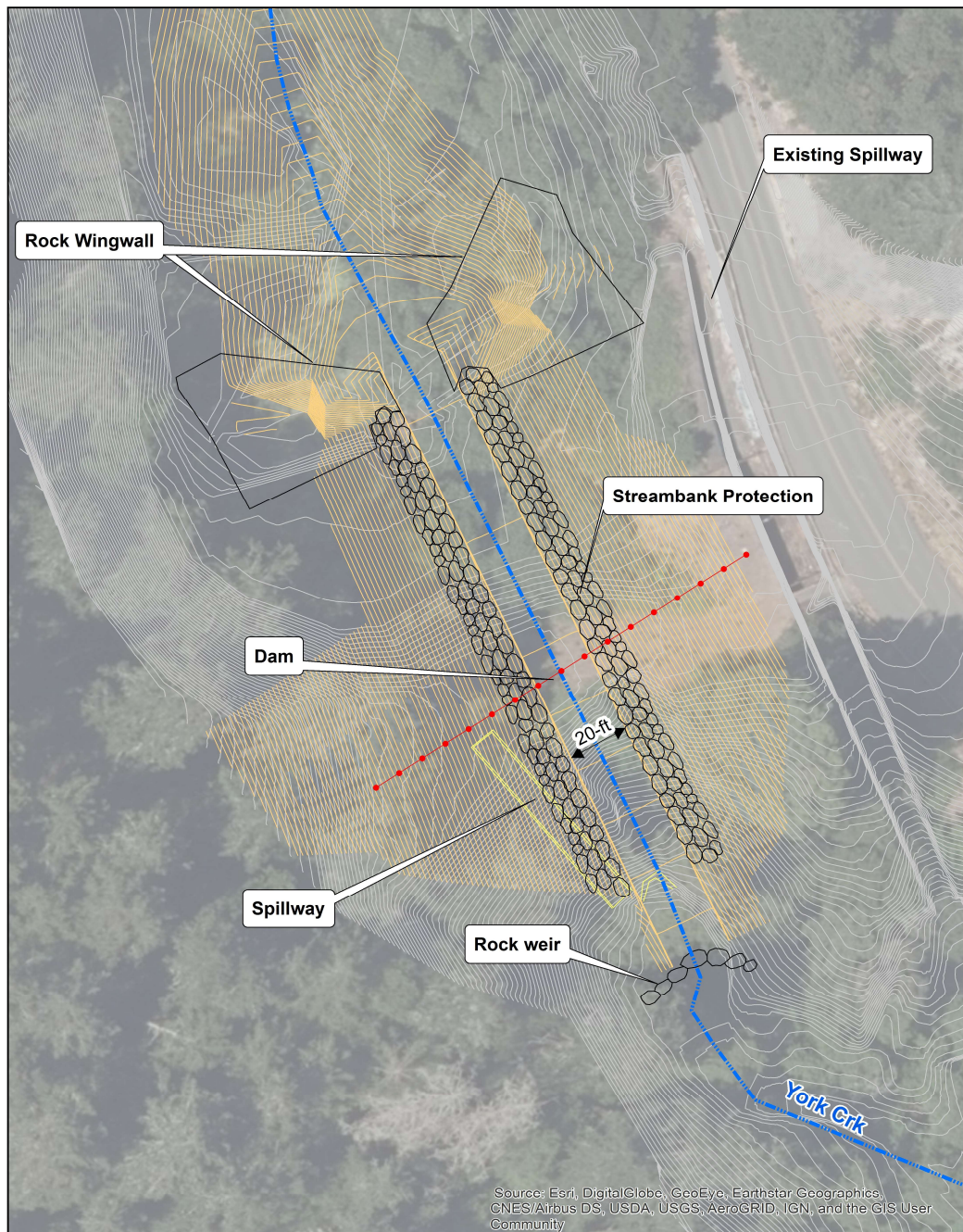


Figure 1-9: Phase 2 Project Elements

1.2.3 Upstream Habitat Restoration

Upstream of the dam, Phase 2 will include restoration of approximately 0.5 acre of aquatic and riparian habitat by removal of invasive species as shown in Figure 1-10. Spawning and rearing habitat would be naturally created for CCC steelhead through natural processes over a 5- to 10-year interval.

Additional grading activities may be employed where necessary to augment natural processes in establishing habitat structures. A mitigation and monitoring plan will be established to identify corrective actions necessary to facilitate fish passage where natural processes have created impediments to fish passage. These corrective actions will include grading, sediment removal, erosion control, and bank stabilization. A detailed discussion of the habitat restoration is included in the *Phase 2 – Upper York Creek Ecosystem Restoration Project Biological Assessment* (October 2018, Revised February 2019).

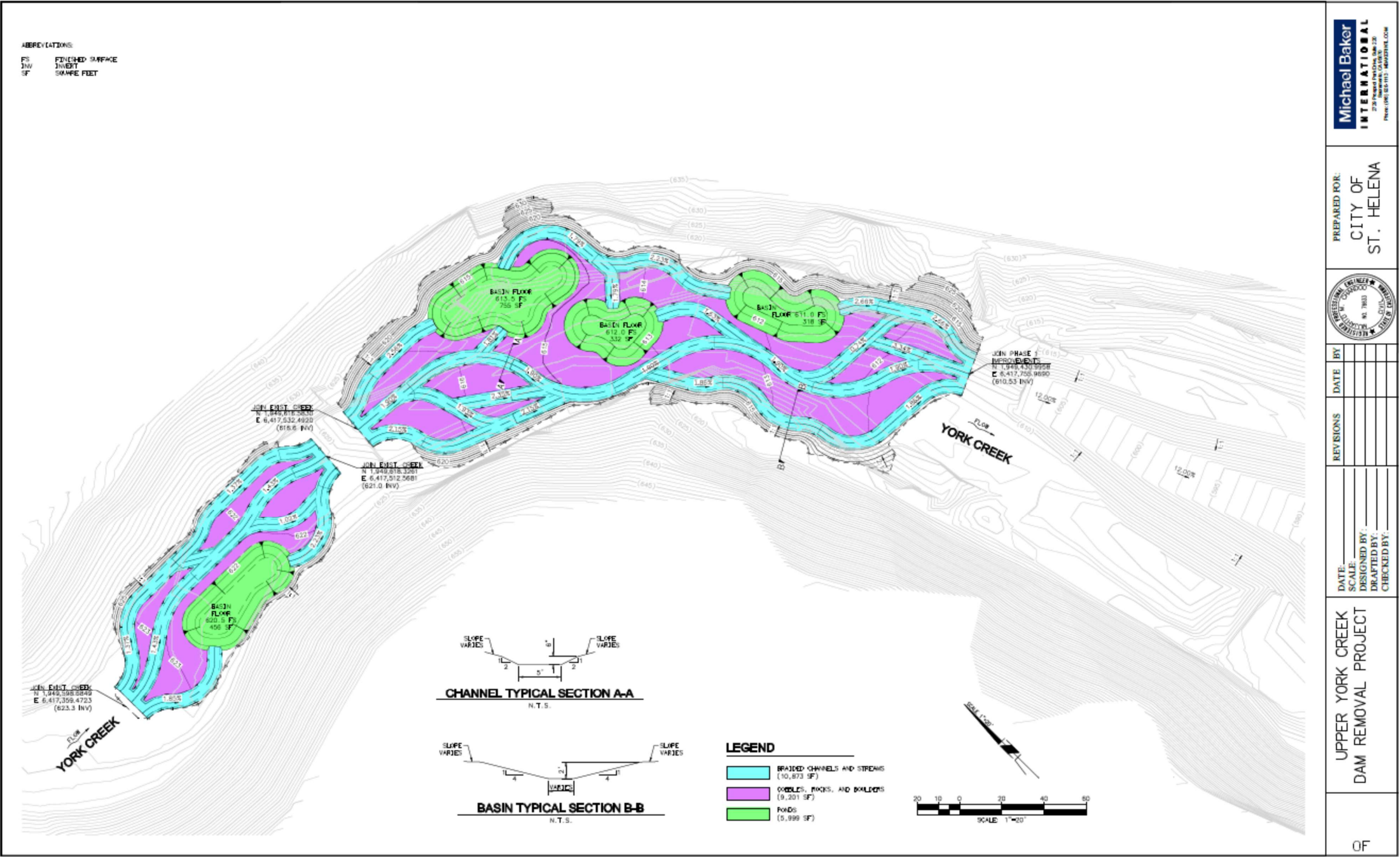


Figure 1-10: Phase 2 Conceptual Habitat Restoration Site

1.3 Goals and Objectives

The primary goals of this Basis of Design Report is to create detailed engineering drawings, cost estimates, and specifications to enable the City to bid and construct the Upper York Creek Ecosystem Restoration Project.

The primary goals of this design study are:

- Modifying Upper York Creek Dam
- Provide hydraulic analysis for the proposed alternative
- Maintain stability of Spring Mountain Road
- Concept plans and final detailed engineering drawings, cost estimate and specifications for the construction of the Upper York Creek Ecosystem Restoration Project.

The objectives of this project are identified below:

1. Restore natural transport of sediment.
2. Restore the ecological connectivity between habitats upstream and downstream of the Upper York Creek Dam.
3. Restore steelhead migration to the level provided by the natural channels above and below the dam.
4. Restore the movements and migration of fish and other aquatic organisms.

1.4 Background/Previous Studies

The following past studies were conducted and served as the foundation for this report:

1. *Final Environmental Impact Report Upper York Creek Ecosystem Restoration Project*, Napa County, California, April 28, 2015.
2. *Upper York Creek Dam Removal Project Basis of Design Report - Draft*, Prunuske Chatham, Inc., March 15, 2014
3. *Draft Environmental Impact Report Upper York Creek Ecosystem Restoration Project*, Napa County, California, April 20, 2007.
4. *Draft Detailed Project Report Upper York Creek Ecosystem Restoration Project (Corps)*, Napa County, California, September 1, 2006.

2 Geotechnical Investigation (WRECO, 2019)

Michael Baker International's subconsultant, WRECO, prepared the "*Draft Geotechnical Engineering Study*" dated January 2019 and is summarized below. This report is included in **Appendix A**.

WRECO performed site reconnaissance on September 12, 2016 and completed one test boring in the vicinity of the proposed retaining wall structure to better evaluate the subsurface conditions at the Project site.

2.1 Surface Conditions

Spring Mountain Road appears founded in cut on the inboard edge with fill along the outboard in the vicinity of the Project site. The subject spillway runs parallel to the roadway along the outboard side and the inboard spillway wall retains the roadway fill along its length. Figure 2-1 shows the existing spillway and the Spring Mountain Road.



Figure 2-1: Existing Spillway and Spring Mountain Road

The existing roadway has a several sets of cracks. Cracks that roughly parallel the spillway wall were observed mainly near the wheel tracks of each lane with the most prominent cracks extending along the inboard edge of the eastbound lane. The cracks in the eastbound lane appeared wider and more extensive east of the end of the displaced wall segment to the access bridge. A crack crosses the road roughly perpendicular to the spillway terminating near the end of the displaced portion of the spillway wall.

Numerous other cracks were observed running perpendicular to the spillway wall, but were short in length.

2.2 Subsurface Conditions

Review of borings made for this and previous studies indicates that the site is variously underlain by fill placed for dam and spillway construction, weathered rock, and by apparent rockfall debris. The distribution of these units varies greatly across the site and was affected by the two stages of dam construction.

2.3 Discussion and Conclusions

- WRECO conducted an evaluation for the presence of Naturally occurring asbestos (NOA) within the alluvial sediment that has accumulated upstream of the existing dam. Four borings to approximately 5 feet in depth were advanced and samples were sent for laboratory testing using the CARB 435 method. The NOA test results indicated no asbestos was detected in all four samples.
- The Project site does not lie within or adjacent to an Alquist-Priolo Earthquake Fault Zone. Active faulting has not been mapped as occurring across or adjacent to the Project site. The closest active fault is the Maacama Fault, which is located at a distance of 8.9 miles west of the Project site. Surface rupture due to faulting within the Project site is not expected to occur unless an unknown or previously un-mapped fault were to rupture.
- The site is generally steeply sloping above and below the roadway. Near vertical cliffs exist above the roadway and rockfall/landslides have been observed directly above the subject section of roadway, have been interpreted to extend below portions of the Project site, and within a short distance to the Project site on both sides of the creek channel. A portion of the existing spillway inboard wall has been rotated with top of wall moved to the outboard, though the cause of this movement has not been determined. Based on the above, the potential for rockfall/landslides is considered high.
- The alluvium, fill, and decomposed rock along and adjacent to the channel are considered scour prone. The base of the proposed cut is indicated to include large boulders/rip-rap, which is expected to limit scour in these areas. The existing spillway will be well above the restored channel and will not experience flow in the future. The potential for scour appears to be minimal along the spillway. The potential for scour along the restored creek channel should be evaluated, including a hydraulic study.
- There are several potential methods to abandon the existing spillway. These include backfilling with compacted fill or controlled low strength materials (CLSM), anchoring the existing spillway wall to act as a retaining wall, and replacing the spillway with a retaining wall. Each of these options have benefits and risks which are discussed below.
 - **Backfill Spillway** - Backfilling the existing spillway with compacted fill, rip-rap, or CLSM is the most straightforward alternative. Placing fill within the spillway would provide lateral support of the roadway and would tend to be the least costly alternative.
 - **Anchoring Spillway Liner** - The spillway could be left in place and the liner strengthened using tiebacks or soil nails. Wailers or a reinforced concrete facing would be needed to distribute the forces from the anchors and stabilize the partially damaged spillway wall. The limited room within the spillway may limit the ability to install anchors without modification of the outboard spillway wall.
 - **Retaining Wall** - The spillway could be completely removed and the roadway reconstructed using a retaining wall. Potential wall types include soldier pile, MSE, crib, and cantilever concrete retaining walls. The roadway would need to be closed during construction and likely completely rebuilt during construction.

*Upper York Creek Ecosystem Restoration Project
Basis of Design Report*

Based on the above, it is recommended that the spillway be backfilled. This option requires the least design effort, has few risks, and is generally easy to construct. Rip-rap backfill would likely be the easiest to construct and would provide natural drainage of any water that accumulates within the abandoned spillway.

3 Hydrology and Hydraulic Analysis

3.1 Regional Hydrology

Hydrology discharges were obtained from *Lower York Creek Hydrologic and Hydraulic Assessment* dated July 5, 2007 prepared by Prunuske Chatham, Inc. The hydrology information included, 2-, 10-, 25-, 50- and 100-year storm events. The calculated peak discharges and hydrographs for this project were used as the inputs to the hydraulic model.

The peak discharges are the same for the existing and proposed conditions where the creek is modified. Table 3-1 summarizes the peak hydrograph discharges for each storm return period.

Table 3-1: Regional Hydrology Summary

Location	Area (sq. miles)	Peak Flows (cfs)				
		2-yr	10-yr	25-yr	50-yr	100-yr
Below Upper Reservoir	2.48	235	605	860	1,220	1,550
@ Springs Mountain Rd	-	380	890	1,250	1,660	2,090
@ Napa River	5.01	440	1,030	1,440	1,915	2,400

3.2 Hydraulics

The hydraulic model for York Creek was developed using the Hydraulic Engineering Center – River Analysis System (HEC-RAS 5.05) from the U.S. Army Corps of Engineers. HEC-RAS is a one dimensional, rigid boundary model that assumes that the channel bed does not move. The program is intended for calculating the water surface profile for steady and gradually varied flow in natural and manmade channels.

A hydraulic analysis was performed in order to determine the floodplain and hydraulic characteristics and impacts of the channel under existing and proposed conditions (Phase 1 and Phase 2).

3.2.1 Existing Condition

The hydraulic model was evaluated from the existing Upper York Creek dam to the confluence with Napa River. The HEC-RAS analysis used the following parameters to evaluate the existing and proposed channel hydraulics.

- **Channel Cross Section Data:** The channel geometry information was extracted using existing aerial topography (provided by the County) and field survey. The proposed grading assumes the 20-ft wide embankment notch and channel grading upstream and downstream of the notch.
- **Bridge Geometry** – The Bridge geometry was obtained from field survey and site visit measurements. There are 13 bridges/culvert included in the model from road crossings, railroad and pedestrian bridges.
- **Manning's "n" Value:** The values varied depending on the associated terrain/ground cover
 - Overbank/Floodplain with scattered trees/vineyard: 0.040 – 0.050
 - Channel bed with gravel/cobble substrate: 0.030 – 0.040
 - Channel Banks with dense vegetation: 0.06 – 0.1
- **Design Flowrates:** The discharges are discussed in Section 4.1.

3.2.1.1 Existing Condition Results/Discussion

The results of the HEC-RAS hydraulic analysis were used to evaluate the existing channel hydraulics and the level of flood protection provided by York Creek through the City of St. Helena. The results of these analyses were then used to develop and evaluate potential adaptive measures to improve the level of flood protection provided to the City of St. Helena.

Based on the results of the existing hydraulic analysis, the water surface overtops the banks of the channel at the bridges during the 100-yr frequency storm. There are thirteen private bridges from the downslope side of the Upper York Creek Dam to the confluence with Napa River. The channel overtopping is a combination of undersized crossings (culverts) causing backwater effects, channel capacity and longitudinal slope. The channel is flat (approximate 1%) from SR-29 to Napa River. In the upstream reaches the slope ranges from 2% to 4% (at the Dam).

Figure 3-1 shows the existing water surface elevation (WSE) for York Creek. The summary results of the HEC-RAS baseline condition models are included in **Appendix B**. The HEC-RAS modeling results can only be used to pinpoint areas along the channel reach where flows will overtop the banks. Determining the depth and lateral extent of flooding from York Creek for a given flow would require additional data (such as unsteady flow data) and development of a more detailed 2D hydraulic model, which are beyond the scope of this project.

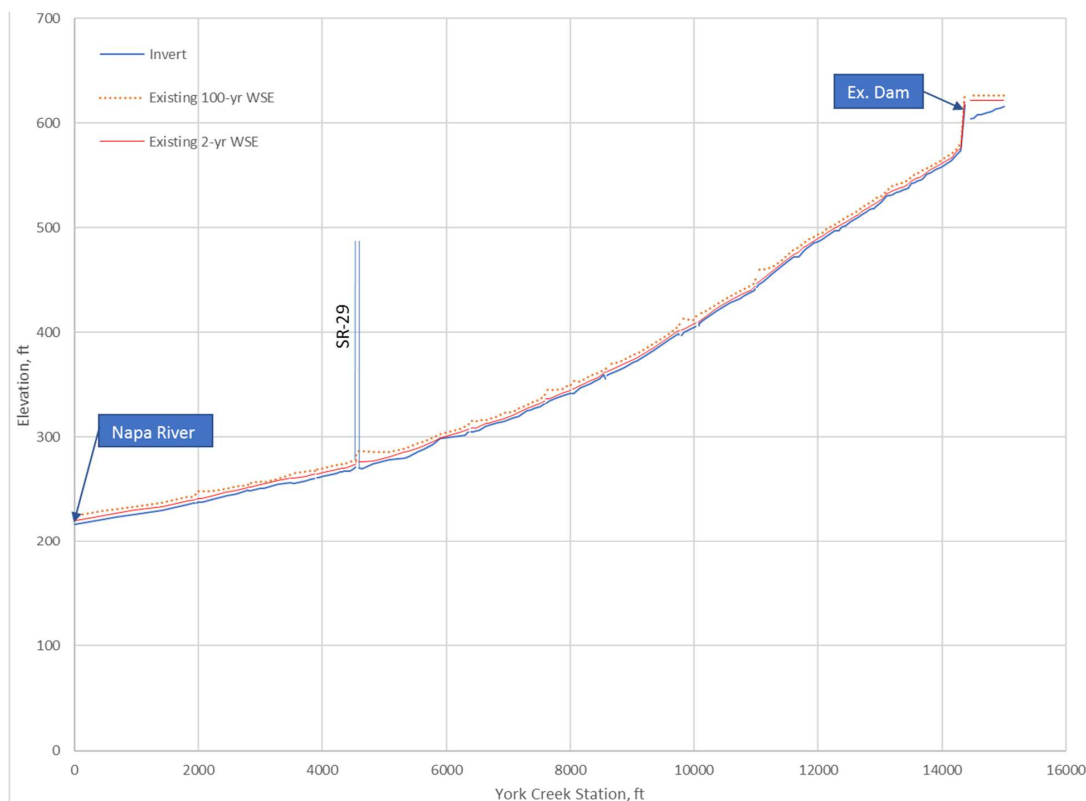


Figure 3-1: York Creek Existing Hydraulic Analysis

Sediment Transport (Existing)

Stillwater Sciences prepared the *Upper York Creek Dam Removal Sediment Transport Modeling* report and is summarized below. This report is included in **Appendix C**.

York Creek is a small mountain stream with a coarse bed and steep gradient. Partially due to the trapping of coarse sediment upstream of the Upper York Creek Dam, the channel surface is armored by sediment ranging from coarse gravel to small boulder particles. The bed downstream of the dam is largely immobile and can be considered as non-erodible for sediment transport modeling purposes. In a short reach approximately 3,000 ft upstream of the Napa River, the bankfull depth is approximately 3 ft (100-year storm) and it is expected that inundation of the floodplain is rather frequent.

York Creek exhibits typical concave longitudinal profile (Figure 3-2) with channel gradient decreasing from approximately 4% just downstream of the Upper York Creek Dam, to approximately 1.3% close to Napa River confluence.

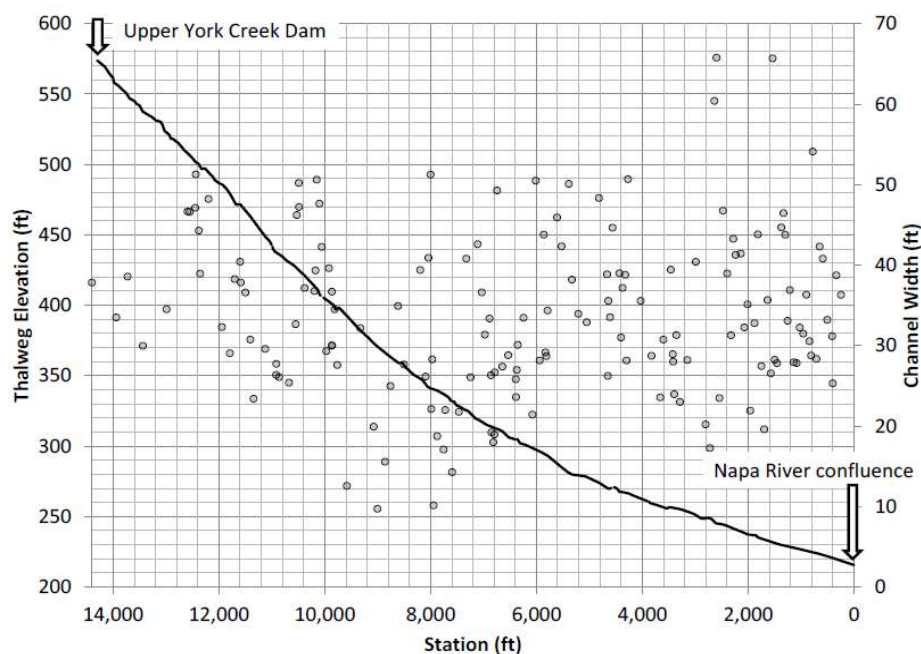


Figure 3-2: York Creek Longitudinal Profile

According to previous studies for the York Creek watershed, the area above the dam represents 55% of the total watershed and 63% of the steep, sediment source zone. The existing dam/reservoir captures the entire coarse bedload and a portion of the suspended load produced in its 4.4 square mile drainage area – approximately 1,000-5,000 cubic yards of material annually depending on the rainfall and runoff patterns. An average hydrologic year with no unusual storm events delivers roughly 1,250 cubic yards of sediment to the reservoir behind the dam. The winter of 2005-2006, an above-average year with the largest storm in recent history, deposited approximately 3,000 cubic yards of material behind the dam.

Because sediment transport capacity is highly non-linearly proportional to channel gradient, sediment transport capacity in York Creek is likely extremely high, and sediment left in the impoundment after dam removal can be expected to be rapidly transported along the relatively short York Creek to the confluence with the Napa River.

3.2.2 Proposed Condition

3.2.2.1 Phase 1 - Sediment Traps

Phase 1 of the project includes construction of up to 30 sediment trap locations downstream of the existing dam (Figure 3-3) to capture the impounded sediment from upstream of the dam. These large wood structures would be expected to capture a maximum of 25 to 50 cubic yards of sediment per structure. They are proposed to be installed in an incised reach of York Creek where no flooding to adjacent infrastructure would result from increased sediment deposition. The structures consist of timber material recovered from off-site areas and would be placed on top of the channel bed and banks with minimal excavation.

The structures would be placed on top of the channel bed and banks as shown on the cross-sections on Figure 3-4 with minimal proposed excavation. The structures are not intended to provide grade control for the channel thalweg at low to moderate flows. They are intended to provide hydraulic control at high flow during periods of active bedload sediment transport, thereby slowing flow velocities and generating depositional conditions upstream from the structure primarily along the channel margins.

Three main types of structures include:

1. Type 1 - Multiple log structure anchored to existing trees
2. Type 2 - One large anchored log
3. Type 3 - Multiple log structure anchored to boulders
4. Combination of Type 1 and Type 3

Exact placement would be based on field conditions with the following guidelines:

- Structures must be anchored and/or composed of large enough wood and wedged into a position such that they will stay in place during high flow events. Anchoring details are described on the top of construction drawings.
- Structures should be placed 6 inches to 1 foot above the thalweg to allow underflow for fish passage, but not so high off the channel bed that they do not provide hydraulic control at high flows.

One significant area of uncertainty that will govern the functionality of the large wood sediment trap structures is the type of storm events that occur immediately following dam removal:

- Moderate intensity/intermittent flow events would have a relatively lower Froude number, allowing sediment to build up higher and over a longer distance behind the sediment traps and thereby capture more sediment.
- High intensity flow events would have a relatively higher Froude number, pushing the hydraulic jump farther downstream and thus reducing the length and depth of captured sediment deposits. During the receding limb of the storm events, however, the incoming sediment will most likely fill the structures with sediment.

In summary, sediment deposition dynamics will be governed by the specific storm flow hydrograph that occurs immediately following dam removal with key drivers including: 1) peak flow magnitude, 2) peak flow duration, and 3) descending limb duration.

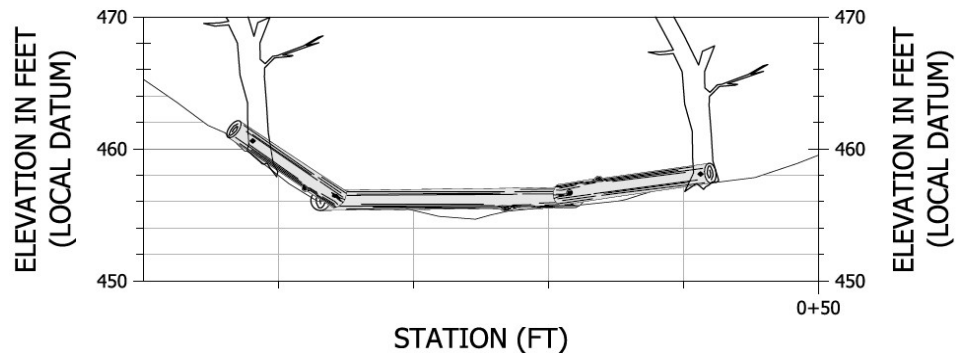
The original Basis of Design report for Phase 1 was prepared by Stillwater Sciences and is included in **Appendix D**. The design Plans are included in **Appendix E**.

The sediment traps were modeled in HEC-RAS as obstructions within the cross-section geometry. The modeling results show a hydraulic jump at each of these sediment traps location where the water surface elevation (WSE) is 1-3 ft higher than the existing condition. The Phase1 WSE normalizes similar to existing condition downstream of the last sediment trap location.

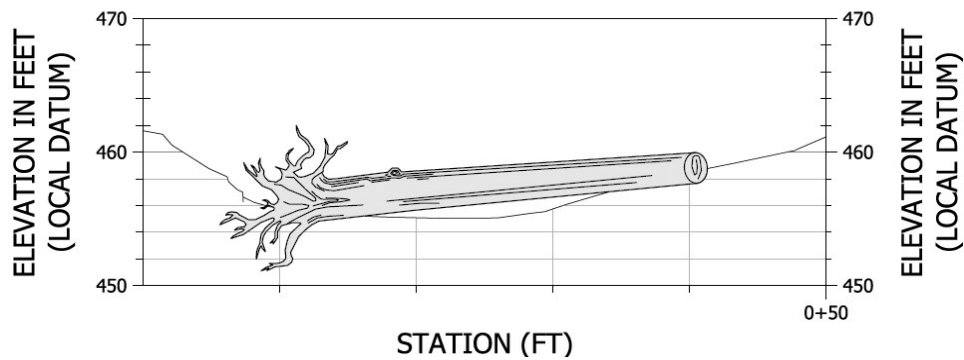


Figure 3-3: York Creek Downstream of the Existing Dam

TYPE 1 CROSS SECTION



TYPE 2 CROSS SECTION



TYPE 3 CROSS SECTION

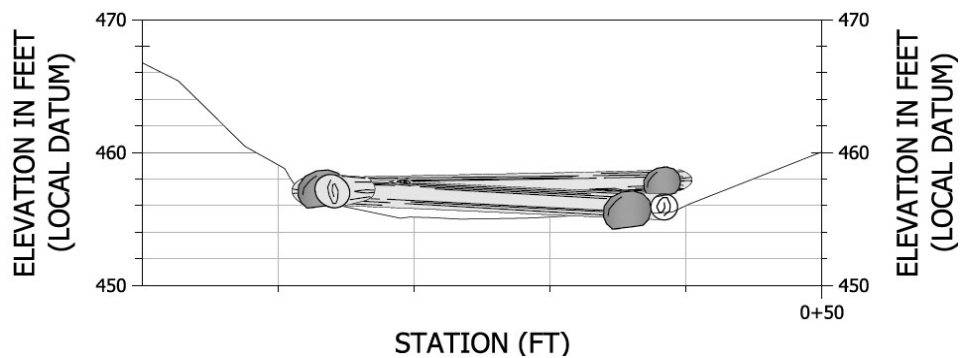


Figure 3-4: Types of Sediment Traps

3.2.2.2 Phase 2 - Dam Removal/Modification

The Phase 2 of the Project would be to fill the inactive spillway and construct a notch through the existing dam embankment to the approximate bedrock elevation. The existing spillway will be filled with material from the excavation. The dam notch will consist of a 20-foot wide channel excavated to bedrock. The longitudinal slope along these channel improvements will be graded to obtain a 5% +/-1% longitudinal slope. A rock wall will be constructed on each side of the channel so that the side slopes can be supported. The rock wall will be at the 10-year water depth. This will be in addition to the Phase 1 project. Phase 2 project will allow for fish passage and habitat connectivity above and below the dam.

Sediment removed (approximate 8,000 cy) from the dam and reservoir may be used as construction material (if suitable) and the excess material will be hauled offsite. The design/Concept Plans are included in **Appendix F**.

3.2.2.2.1 Hydraulics Modeling Results

The Phase 1 HEC-RAS model was used to update to the cross-section geometry to represent the proposed Phase 2 improvements. These include:

- Adding the proposed channel grading (approximately 300 linear feet) thru the existing dam as shown on Figure 3-5.
- Adjusting channel geometry to represent sediment aggradation along the streambed (due to dam removal) as shown on Figure 3-6.

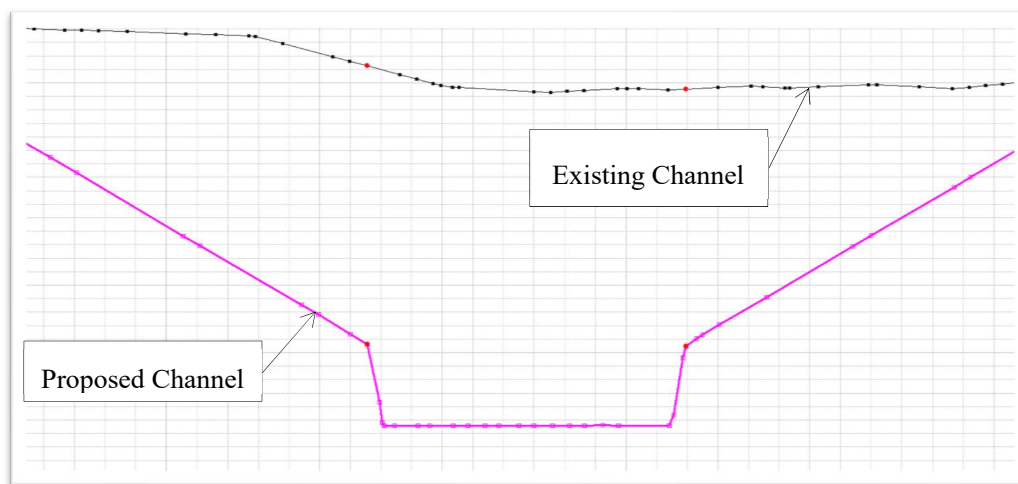


Figure 3-5: Channel Cross-Section

Four (4) alternatives were evaluated to understand the hydraulic impacts along York Creek due to the dam removal. The alternatives include:

1. Alternative 1 – Dam Removal and Channel Improvements
2. Alternative 2 – Alternative 1 + 1-ft sediment aggraded along the entire channel.
3. Alternative 3 – Alternative 1 + 2-ft sediment aggraded along the entire channel.
4. Alternative 4 – Alternative 1 + 3-ft sediment aggraded along the entire channel.

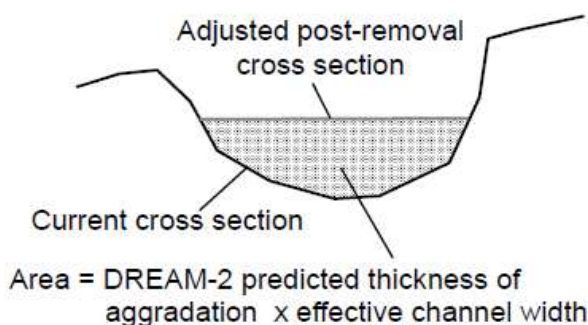


Figure 3-6: Sketch Demonstrating How DREAM-2 Predicted Channel Aggradation is Transferred to HEC-RAS Cross Sections (Source: Stillwater Science)

Alternative 1

The results of the proposed hydraulics along York Creek for Alternative 1 are similar to existing conditions except for the reach along the dam where a 20-ft notch and channel grading is proposed. The velocities at this reach for the 100-year storm event is approximately 14 ft/s and in the 2-year is 8 ft/s. The average flow depth in the 100-year event is 5.9-ft and 3.4-ft in the 10-year storm. The 10-year depth will be used for streambank protection. These velocities are considered erosive.

To mitigate these erosive channel velocities and provide streambed stability, rock protection has been sized along the channel bed and banks as shown in Figure 3-7. During the 100-year storm event, the water surface overtops the banks of the channel at the upstream and downstream end of several private bridges. As shown in Figure 3-8, the water surface overtops the banks of the channel from upstream of SR-29/Main Street (River Station 4563.015) to the confluence with Napa River. The locations where the water surface overtops the bridges are shown in Table 3-2. The backwater effects, channel capacity and longitudinal slope are caused by undersized crossings (culverts) at the bridges as shown in Figure 3-9.

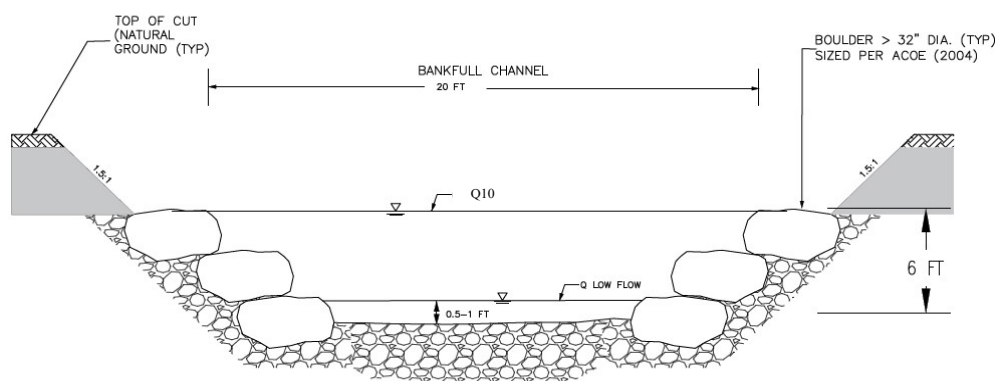


Figure 3-7: Streambed and Bank Protection Along the Proposed Channel

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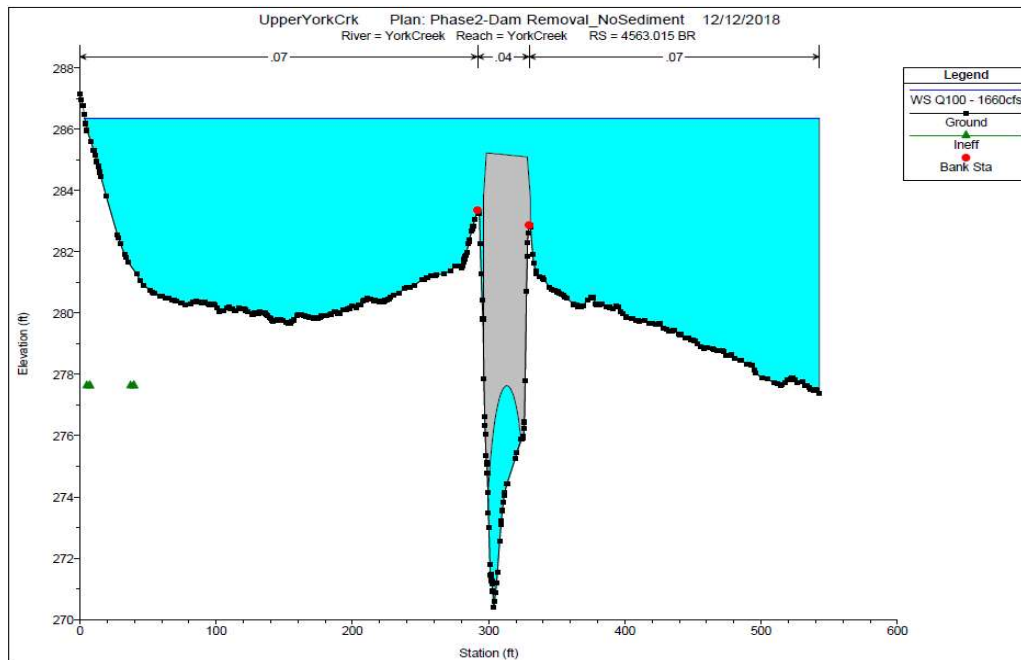


Figure 3-8: SR-29/Main Street Bridge Cross-Section

Table 3-2: Alternative 1 Bridge and Water Surface Elevation for 100-YR Storm Event

Bridge River Station/Location	Deck of Bridge Elevation (ft)	Water Surface Elevation (ft)
10995.32 Downstream	455.50	455.81
9775.449 Upstream	409.34	411.85
7596.431 Upstream	339.96	345.12
7596.431 Downstream	339.83	342.38
4563.015 Upstream	285.23	286.35

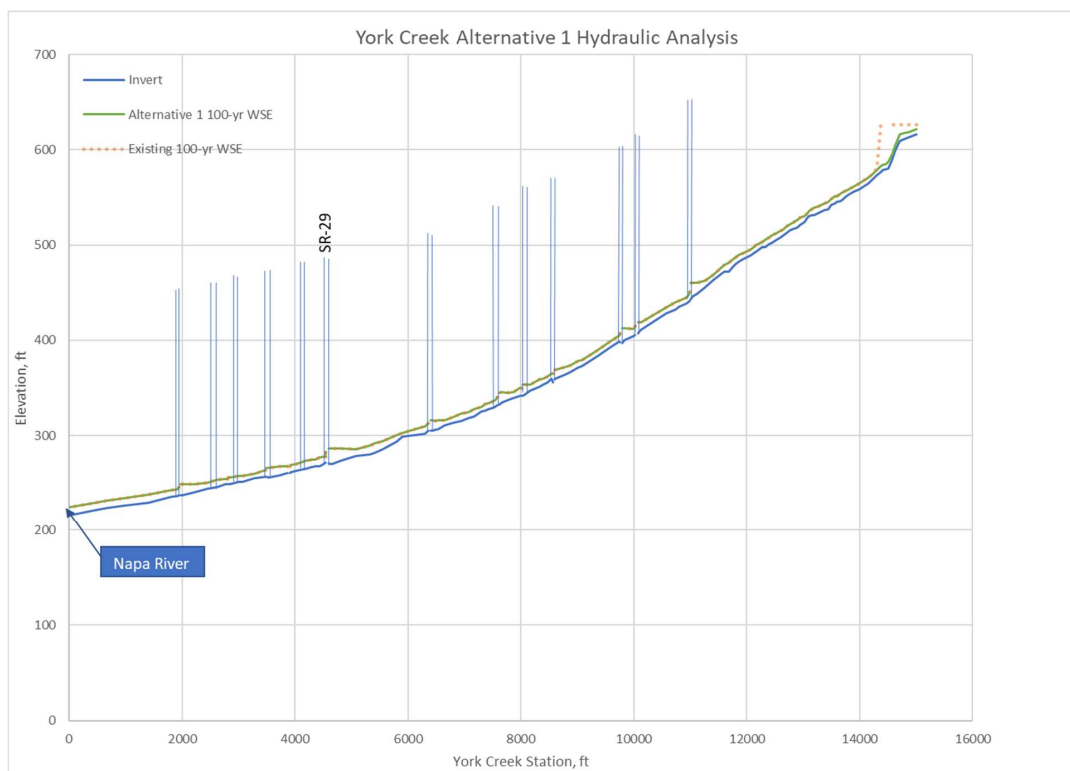


Figure 3-9: York Creek Proposed Alternative 1 (No Sediment) Hydraulic Analysis

Alternative 2

Alternative 2 proposed similar conditions to Alternative 1 except for the addition of a foot of sediment aggraded along the entire channel using Stillwater Sciences' **Dam Removal Express Assessment Models** (DREAM-2, Cui et al. 2006 a,b) as shown in Figure 3-10. DREAM-2 was developed specifically for simulation of sediment transport following dam removal under the condition that most of the top layer of the impoundment deposit is composed of gravel and coarser sediment, a condition met for this study.

The results of the proposed hydraulics along York Creek for Alternative 2 are slightly different to Alternative 1 with the addition of sediment fill. Alternative 2 would result in a 100-yr storm average water surface elevation increase of 0.27-ft. The maximum increase is 2.64-ft downstream of the SR-29 bridge. In the 2-year the maximum increase is 2.32-ft. The velocity increases minimally from Alternative 1. The increase in water surface elevation would result in additional overtopping bridges during the 100-yr storm event. The locations where the water surface overtops the bridges are shown in Table 3-3. The backwater effects, channel capacity and longitudinal slope are caused by undersized crossings (culverts) at the bridges as shown in Figure 3-11.

Upper York Creek Ecosystem Restoration Project
Basis of Design Report

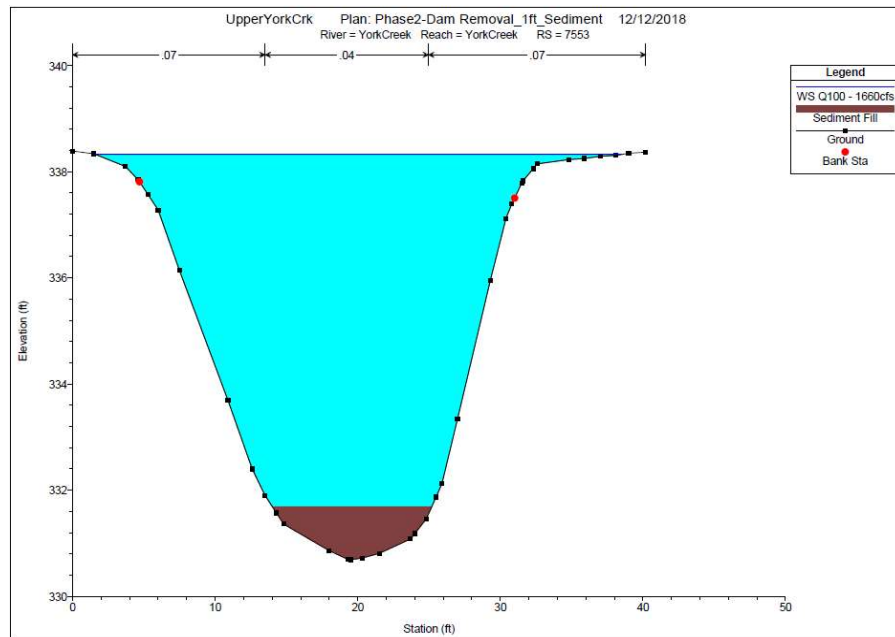


Figure 3-10: Typical York Creek Cross-Section with Sediment Aggraded

Table 3-3: Alternative 2 Bridge and Water Surface Elevation for 100-YR Storm Event

Bridge River Station	Deck of Bridge Elevation (ft)	Water Surface Elevation (ft)
10995.32 Downstream	455.50	456.51
9775.449 Upstream	409.34	413.23
7596.431 Upstream	339.96	345.28
7596.431 Downstream	339.83	342.53
4563.015 Upstream	285.23	286.86
3482.386 Upstream	265.05	266.52
3482.386 Downstream	265.05	266.51

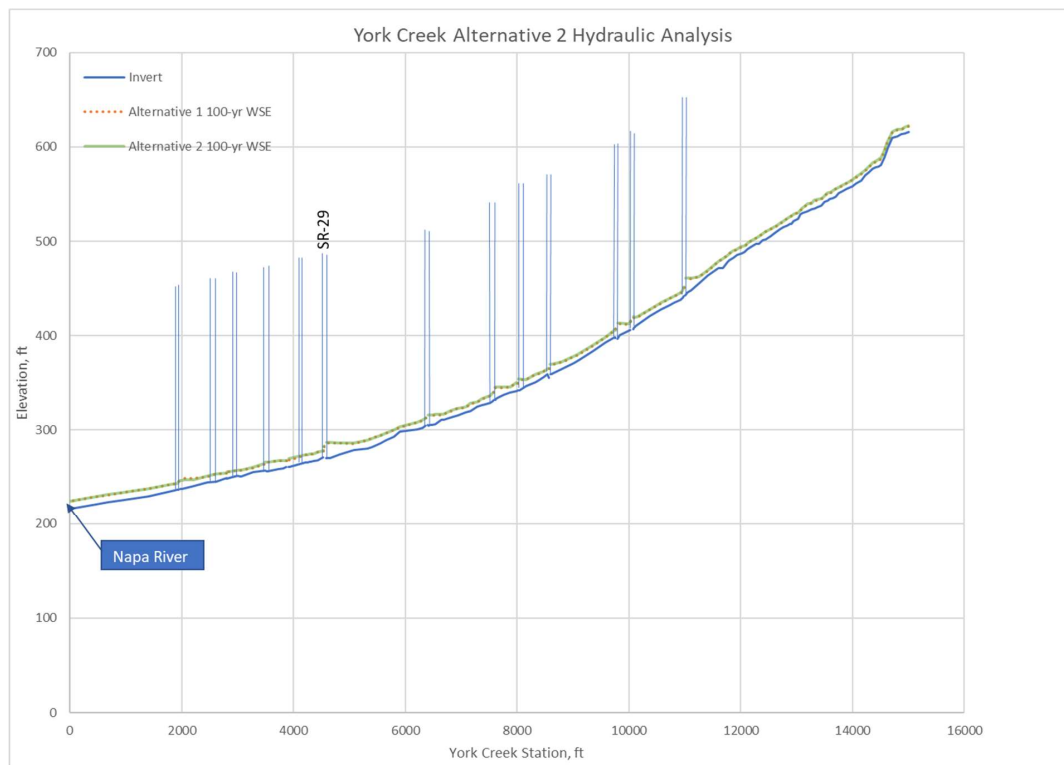


Figure 3-11: York Creek Proposed Alternative 2 (1-ft Sediment Aggraded) Hydraulic Analysis

Alternative 3

Alternative 3 proposed similar conditions to Alternative 1 except for the addition of 2-feet of sediment aggraded along the entire channel using DREAM-2. The results of the proposed hydraulics along York Creek for Alternative 3 are higher than Alternative 1 in terms of water surface elevation. Alternative 3 would result in a 100-yr storm average water surface elevation increase of 0.59-ft. The maximum increase is 4.1-ft at SR-29. In the 2-year the maximum increase is 3.12-ft. The velocity is similar to Alternative 2. The increase in water surface elevation would result in additional overtopping bridges during the 100-yr storm event. The locations where the water surface overtops the bridges are shown in

Table 3-4. The backwater effects, channel capacity and longitudinal slope are caused by undersized crossings (culverts) at the bridges as shown in Figure 3-12.

Table 3-4: Alternative 3 Bridge and Water Surface Elevation for 100-YR Storm Event

Bridge River Station	Deck of Bridge Elevation (ft)	Water Surface Elevation (ft)
10995.32 Upstream	455.50	457.04
10995.32 Downstream	455.50	457.54
9775.449 Downstream	409.34	409.63
8579.139 Upstream	367.35	368.73
8022.208 Upstream	352.34	353.94
8022.208 Downstream	352.34	353.99
7596.431 Upstream	339.96	345.56
7596.431 Downstream	339.96	342.80
4563.015 Upstream	285.23	287.31
3482.386 Upstream	265.05	266.23
3482.386 Downstream	265.05	266.21

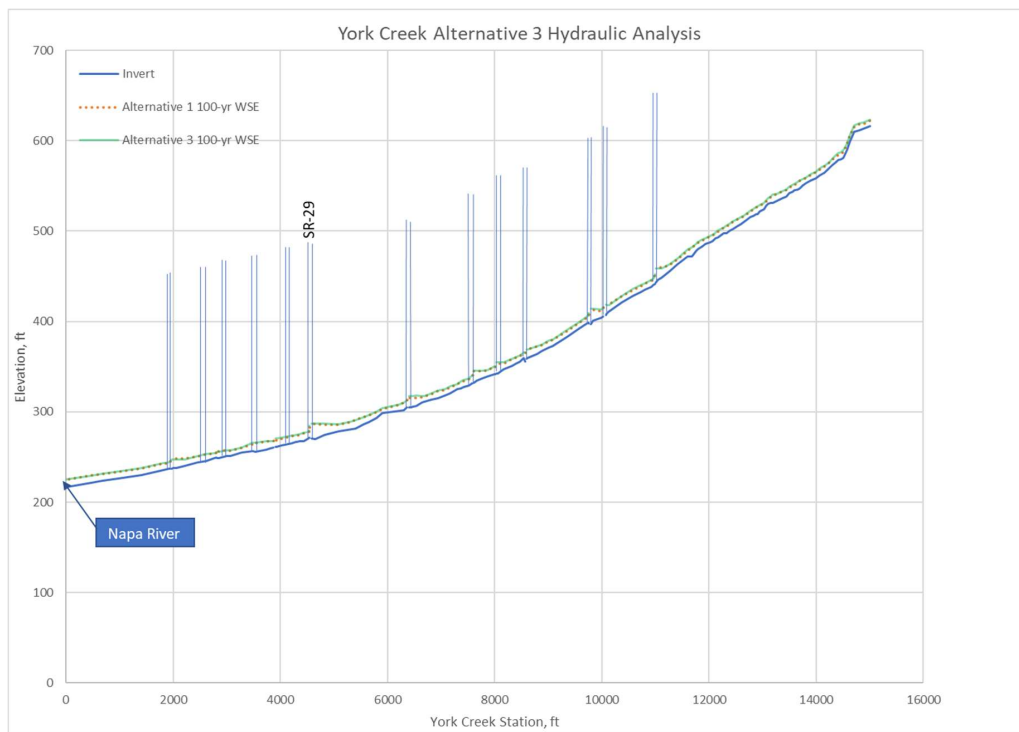


Figure 3-12: York Creek Proposed Alternative 3 (2-ft Sediment Aggraded) Hydraulic Analysis

Alternative 4

Alternative 4 proposed similar conditions to Alternative 1 except for the addition of 3-feet of sediment aggraded along the entire channel using DREAM-2. The results of the proposed hydraulics along York Creek for Alternative 3 are higher to Alternative 1 in terms of water surface elevation. Alternative 4 would result in a 100-yr storm average water surface elevation increase of 0.98-ft. The maximum increase is 5.64-ft at SR-29. In the 2-year the maximum increase is 3.89-ft. The velocity is similar to Alternative 3. The increase in water surface elevation would result in additional overtopping bridges during the 100-yr storm event. The locations where the water surface overtops the bridges are shown in Table 3-5. The backwater effects, channel capacity and longitudinal slope are caused by undersized crossings (culverts) at the bridges as shown in Figure 3-13.

Table 3-5: Alternative 4 Bridge and Water Surface Elevation for 100-YR Storm Event

Bridge River Station	Deck of Bridge Elevation (ft)	Water Surface Elevation (ft)
10995.32 Upstream	455.50	458.38
10995.32 Downstream	455.50	458.59
9775.449 Upstream	409.34	411.15
9775.449 Downstream	409.34	409.78
8579.139 Upstream	367.35	368.84
8022.208 Upstream	352.34	353.12
8022.208 Downstream	352.34	352.97
7596.431 Upstream	339.96	345.86
7596.431 Downstream	339.96	343.09
4563.015 Upstream	285.23	287.64
4563.015 Downstream	285.23	285.35
3482.386 Upstream	265.05	266.32
3482.386 Downstream	265.05	266.30

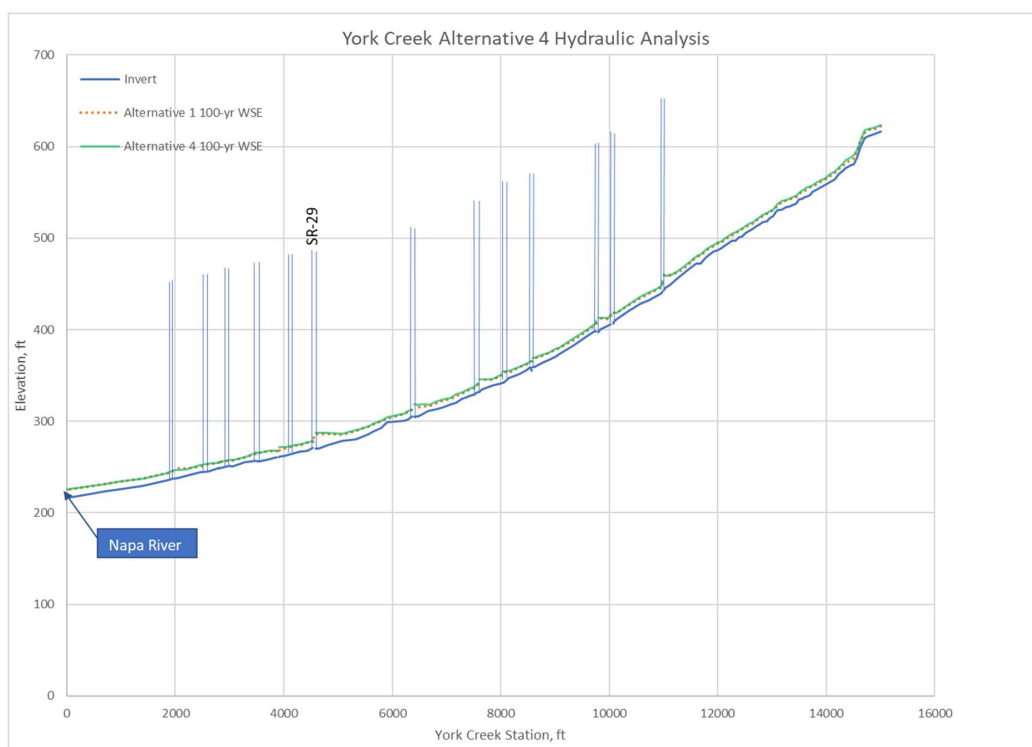


Figure 3-13: York Creek Proposed Alternative 4 (3-ft Sediment Aggraded) Hydraulic Analysis

3.3 Flood Risk

The Upper York Creek Dam and the entire channel reach to the confluence with Napa River is mapped as Zone X as shown on the Federal Emergency Management Agency flood insurance study maps effective 09/26/2008. Areas in Zone X have minimal flood hazard. The only mapped source of flooding affecting St. Helena is the Napa River.

The minimum and maximum inundation depth was mapped using HEC-RAS Mapper for all Alternatives to pinpoint the major inundation areas due to the removal of the dam. The major inundation areas are mainly located at the private bridges. The flood will mainly propagate along the areas parallel to the bridge where ground is lower. With the addition of sediment fill, the areas with major inundations are similar to Alternative 1 except for the inundation depth. The maximum inundation depth shows an increasing difference due to the addition of a foot of sediment fill.

3.3.2 Sediment Transport

Stillwater Sciences' **Dam Removal Express Assessment Models** (DREAM-2, Cui et al. 2006 a,b) was used to simulate the sediment transport dynamics following the removal of Upper York Creek Dam (UYCD). DREAM-2 was developed specifically for simulation of sediment transport following dam removal under the condition that most of the top layer of the impoundment deposit is composed of gravel and coarser sediment, a condition met for this study. The model, its predecessors, and sister models have been applied in large (with ~ 2 billion tons of sediment involved) or small (with ~ 100,000 CY of sediment involved) sedimentation projects. The model had been examined with field data, where available, and experimental data and proven to produce satisfactory results (e.g., Sutherland et al. 2002, Cui and Parker 2005, Cui et al. 2008, Cui et al. 2017).

Increased sediment deposition and resulting increased flooding downstream of Highway 29 due to the removal of the dam is a concern. The model indicates that the deposition is a transient phenomenon, and the deposition will only last for a few weeks as long as there is reasonably high flow (e.g., approximately 250 cfs, or even smaller if it last longer) in the creek. Additional channel aggradation due to the reestablishment of upstream sediment supply is unlikely once the sediment pulse as a result of dam removal moves out of the system. For extremely high flow events such as 50-yr or 100-yr flows, it can be expected that the sediment pulse resulting from dam removal would have been flushed out of the system by the time the flood reaches its peak. As a result, the modeling flood stage is evaluated on the more frequent 2-yr and 10-yr event. Figure 3-14 and Figure 3-15 present the simulated maximum increase in water surface elevation following the removal of the Upper York Creek Dam under three sediment management scenarios at 335 and 740 cfs, respectively. As already examined by PWA (2008), the bridges shown in Figure 3-14 and Figure 3-15 are all under-capacity, resulting in an elevated upstream water surface during floods.

The elevated water surface corresponds to reduced flow velocity and shear stress, which leads to increased deposition relative to other reaches at downstream bridges. This deposition further reduces the discharge capacity of the channel, causing additionally elevated water surface in the reach adjacent to Highway 29 and downstream thru the vineyard facility. This trend is evidenced by the observation that the maximum increase in water surface elevation following dam removal peaks just upstream of the bridges (Figure 3-14 and Figure 3-15).

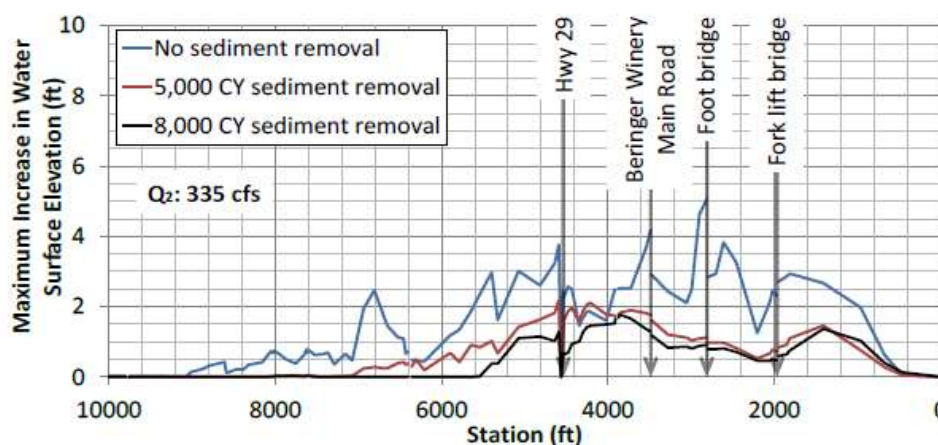


Figure 3-14: Predicted Maximum Increase in WSE Following Dam Removal Under Three Sediment Management Scenarios at 335 cfs, which Corresponds to a 2-yr Flow Event

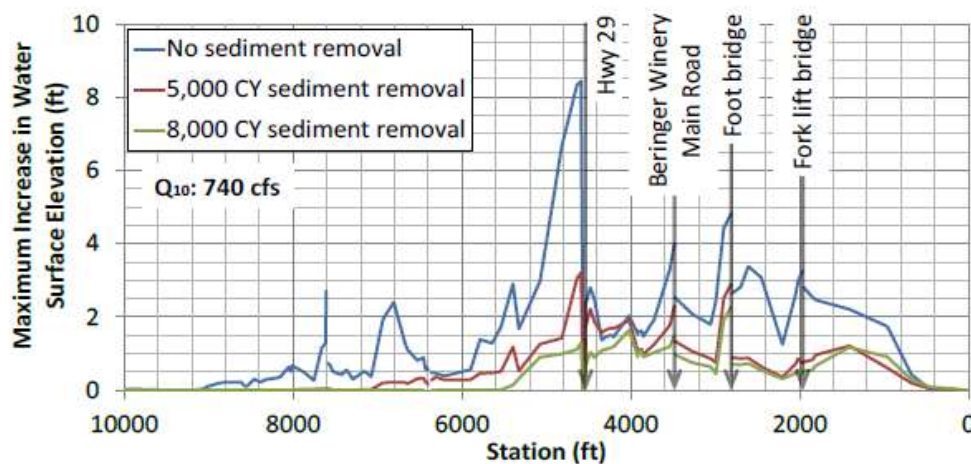


Figure 3-15: Predicted Maximum Increase in Water Surface Elevation Following Dam Removal Under Three Sediment Management Scenarios at 740 cfs, which Corresponds to a 10-yr Flow

Results shown in Figure 3-14 and Figure 3-15 indicate that flood stage (in the 10-year event) can potentially increase by up to approximately 5 ft downstream of Hwy 29 following dam removal under the scenario of no sediment management for the flood events examined. Removing or trapping 5,000 CY or 8,000 CY of sediment prior to dam removal would reduce the potential increase in flood stage downstream. For the more frequent 335 cfs flood (a 2-yr event), for example, removing/trapping either 5,000 or 8,000 CY of sediment would reduce the maximum increase in flood stage to within 2 ft in the reach downstream of Hwy 29, and for the rarer 740 cfs (a 10-yr event) removing/trapping 5,000 or 8,000 CY of sediment would reduce the maximum increase in flood stage to within 3 ft in the reach downstream of Hwy 29. It is recommended to remove 8,000 cubic yards of sediment to minimize the flooding in the lower reaches of York Creek.

Dam removal will not affect the long-term flood stage, only the flood stage immediately following dam removal, because sediment deposition is a short-term transient phenomenon, and the reestablishment of sediment continuity at the Upper York Creek Dam site does not result in long-term channel aggradation downstream.

Streambank Material

The methods listed in the *Fish Passage Evaluation at Stream Crossings* was used to design the rock along the proposed reach of York Creek. The CalTrans Stream Bank Rock Slope Protection (RSP) Design Guidelines (CalTrans 2006) was developed to design rock slope protection along stream banks. The rocks are sized to resist scour and provide additional channel roughness.

$$W_{50} = \frac{0.00002V_b^6 SG}{\sin^3(\beta - \alpha)(SG - 1)^3} \quad \text{Equation XII- 4}$$

Where:

W_{50} weight of the D_{50} rock (lbs)

V_b channel velocity to which bank is exposed (ft/s)

$= V_c \times 0.67$ for parallel flows

$= V_c \times 1.33$ for impinging flows (bends, flow convergence, divergence)

V_c Average cross sectional velocity (ft/s)

SG Specific gravity of rock (Typically 2.65)

b Shape factor constant equal to 70° for broken rock

a Bank angle of RSP slope from horizontal (1.5H:1V slope = 33.7°)

Based on these calculations, the weight of rock is 37.56 lbs. The gradation class is ½ ton rock. This placement will be for the channel bank and bottom (invert) through the dam (20-ft notch, 5% slope, approximately 300-ft).

Rock Weir Sizing

$$D_{75\text{-riprap}} = \frac{3.5wDS}{CK} \quad \text{Equation XII- 8}$$

Where

$D_{75\text{-riprap}}$	D_{75} riprap size in inches
w	channel top width at the design flow (feet)
D	maximum depth of flow in channel (feet)
S	channel slope (feet/feet)
C	coefficient for channel curvature. Ranges from 0.6 to 1 with a value of 1 for straight channels.
K	side slope coefficient. Typically ranges from 0.53 to 0.87 for installed rock slope revetments of 1.5H:1V to 3H:1V, respectively.

$$D_{75\text{-Riprap}} = 1.2D_{50\text{-Riprap}}$$

A half ton rock will be used for the rock weirs downstream of the existing dam embankment.

3.4 Adaptive Management

The Project's Monitoring and Adaptive Management Plan (MAMP) will develop corrective actions in case the sediment trap structures do not initially function as intended. The MAMP will include a schedule for inspection of the structure and potential adaptive management approaches, including notching the logs and/or installing additional large wood structures downstream to reduce fish jump heights at the structures. Therefore, access to the structures will be required for a period of up to 10 years, depending on the monitoring requirements of the various regulatory agencies. The existing condition of York Creek downstream of the Upper York Creek dam is shown in Figure 3-16.



Figure 3-16: Existing Conditions on York Creek Downstream of the Upper York Creek Dam Site

4 Cost Estimate

Engineers construction material quantity and cost estimates were created for the Upper York Creek Dam (UYCD) removal project that includes sediment traps, excavation, channel grading, streambank protection and monitoring program. The total cost estimates are summarized for Phase 1 and Phase 2 in Table 4-1 and Table 4-2, respectively.

Table 4-1: Cost Estimate - Phase 1*

TBD

* Monitoring costs are not included in the cost estimates.

Table 4-2: Cost Estimate - Phase 2*

TBD

* Monitoring costs are not included in the cost estimates.

5 Conclusion

The Upper York Creek Ecosystem Restoration project will be accomplished in two phases. Based on the hydrology, hydraulics and sediment transport analysis, the project components include:

Phase 1

- Construct 30 sediment traps downstream of the Upper York Creek Dam.
- Project Cost: \$XXXXXX.

Phase 2

- Remove embankment and excavate 8,000 cubic yards of sediment behind the dam.
- Construct a 20-ft notch within the existing dam embankment to bedrock elevation. Approximate length is 300-ft.
- Fill or remove existing spillway.
- Grade a rock-lined channel from upstream of the dam to tie-in (daylight) with the existing creek downstream of the dam embankment. Channel length is approximately 200-ft
- The channel will be roughly 5% longitudinal slope.
- Prepare a Monitoring and Adaptive Management Plan (MAMP)
- Project Cost: \$XXXXXX.

5.1 Observations and Recommendations

Based on the hydraulic analyses and sediment transport model, the following are observation and recommendations:

- Short-term sediment deposition would occur downstream of the dam following the Upper York Creek Dam removal. Depending on the hydrologic condition following dam removal, sediment deposition could potentially last for a couple of weeks for a wet year to more than a year for a dry year. The sediment pulse from dam removal passes through the system relatively quickly, and there is no long-term channel aggradation as a result of the reestablishment of sediment continuity at the Upper York Creek Dam site.
- The sediment deposition in York Creek (especially in the lower reaches) has the potential to increase water surface elevation (flooding) by approximately 3-ft at SR 29 and downstream reaches.
- Replacing the bridges alone would not completely eliminate the increase in water surface elevation during the short time following dam removal. Constructing rock berms or permanent floodwalls will help confine the flow within the main channel, which in turn, will help to move the sediment downstream more quickly. The elevated bank elevation after the construction of rock berms or floodwalls can potentially compensate the increase in water surface elevation shortly after dam removal and reduce the frequency of floodplain inundation thereafter. It is our opinion that rock berm or floodwall construction is the most effective measure in an attempt to relieve the flood inundation pressure to the Beringer Winery property either short- or long-term.

- Removing some of the fossilized bars in the creek, as recommended by PWA (2008) will likely result in additional lowering of water surface elevation during the short-period following dam removal, although some or all of those bars may grow back in the future if no other measures are taken to change the flow conditions. Even if these bars grow back in the future, their composition will likely change to finer-sized particles due to the reconnection with upstream sediment supply, that may potentially provide fish spawning habitats under certain conditions. Because of the potential benefits, we recommend using bar removal as a method for material gathering if rock berm or floodwall construction is implemented as the method to combat increased flooding risks following dam removal.

6 References

City of St. Helena, *Final Environmental Impact Report Upper York Creek Ecosystem Restoration Project*, April 28, 2015.

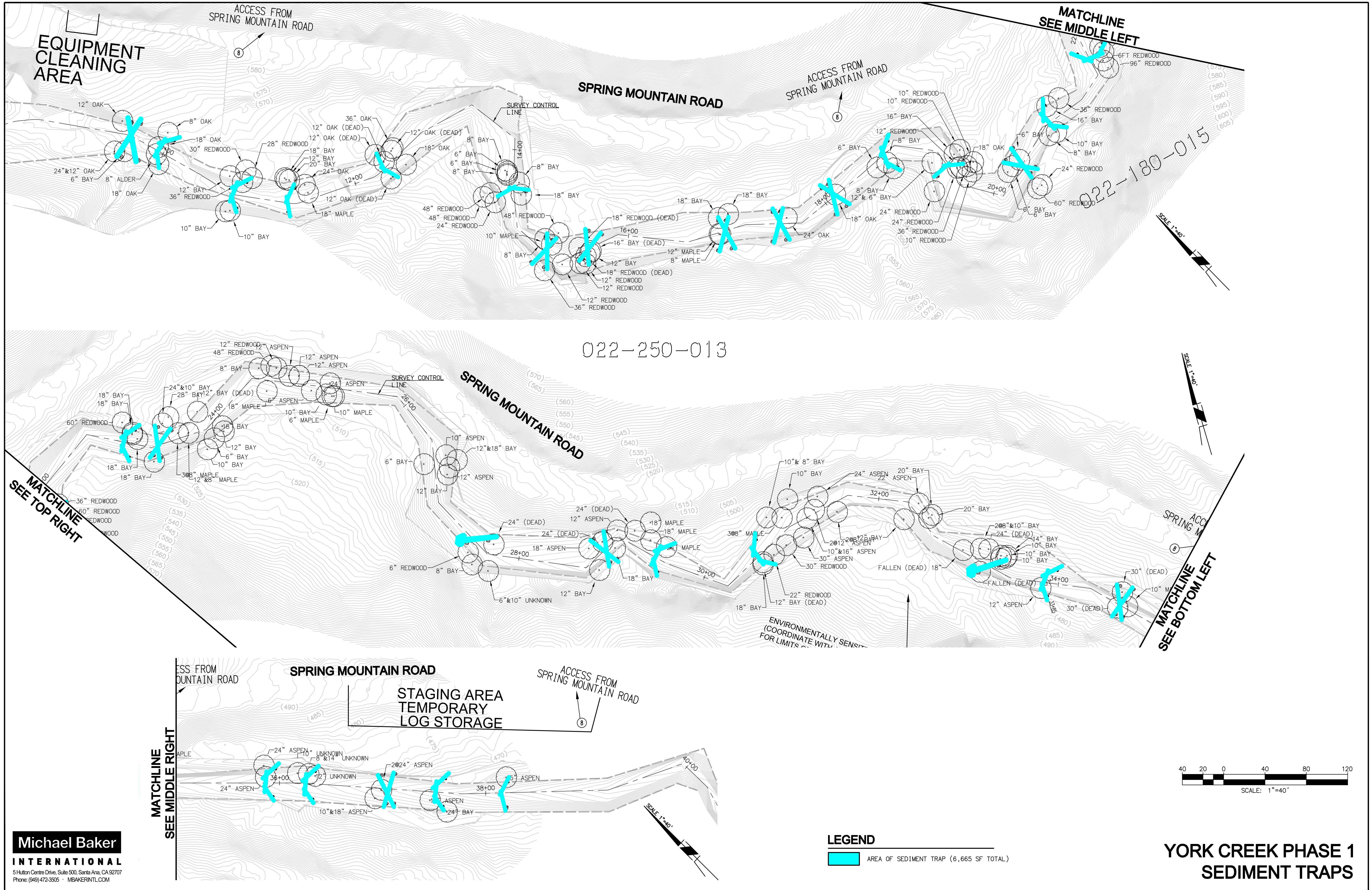
Corps and City of St. Helena, *Draft Detailed Project Report Upper York Creek Ecosystem Restoration Project*, September 1, 2006.

Corps and City of St. Helena, *Draft Environmental Impact Report Upper York Creek Ecosystem Restoration Project*, April 20, 2007.

Fish Passage Evaluation at Stream Crossings, March 2004.

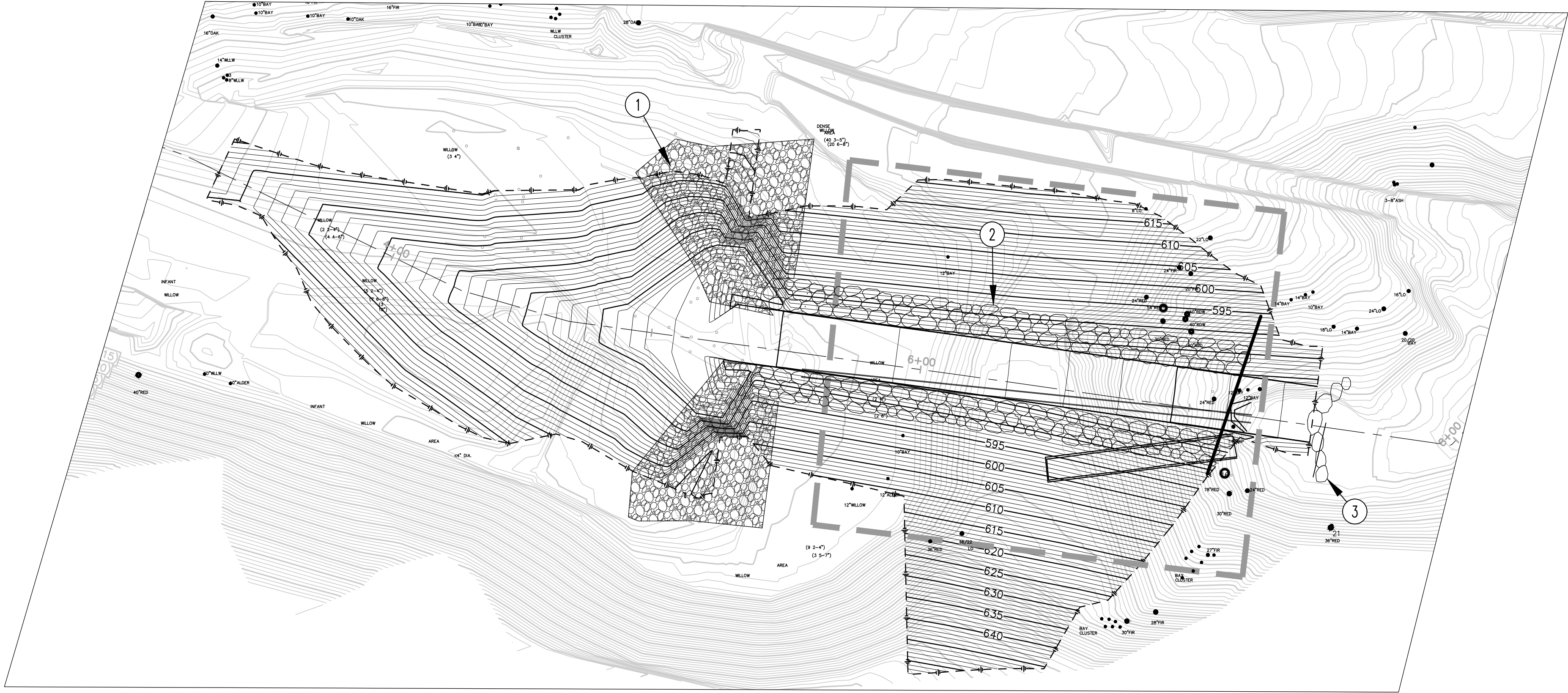
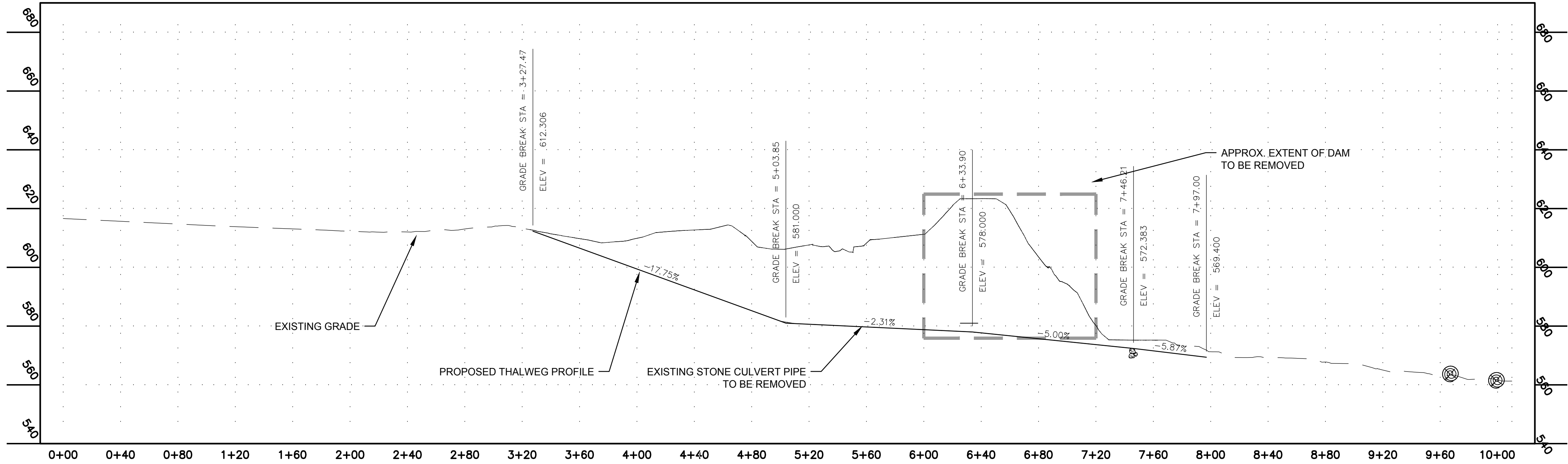
Prunuske Chatham, Inc., *Lower York Creek Hydrologic and Hydraulic Assessment Summary Report*, July 5, 2007.

Prunuske Chatham, Inc., *Upper York Creek Dam Removal Project Basis of Design Report – Draft*, March 15, 2014.

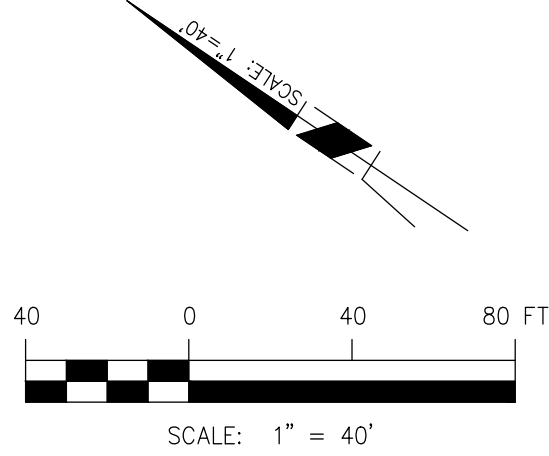


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- NOTES
1. PROVIDE ROCK SLOPE PROTECTION WITH CUT-OFF WALL EXCAVATED TO BEDROCK
 2. EXCAVATE CHANNEL TO BEDROCK, PROVIDE STACKED ROCK WALL
 3. PROVIDE GRADE CONTROL WEIR, ENGINEERED STREAMBED MATERIAL BACKFILLED TO SLOPE OF 5%, $\pm 1\%$



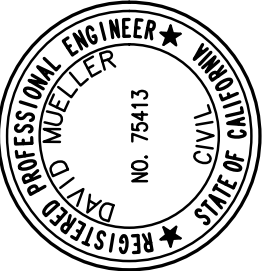
OF

EX-PP

UPPER YORK CREEK
DAM REMOVAL PROJECT
PLAN&PROFILE EXHIBIT

DATE:	7/13/2018
SCALE:	1" = 40'
DESIGNED BY:	DDM
DRAFTED BY:	JMT
CHECKED BY:	DDM

REVISIONS	DATE	BY



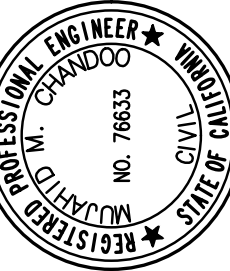
PREPARED FOR:
CITY OF
ST. HELENA

**Michael Baker
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2729 Prospect Park Drive, Suite 220
Sacramento, CA 95870
Phone: (916) 938-1113 • MB@BENTL.COM

FS	FINISHED SURFACE
INV	INVERT
SF	SQUARE FEET

Michael Baker
INTERNATIONAL
2729 Prospect Park Drive, Suite 220
Sacramento, CA 95870
Phone: (916) 928-1113 • MBAKERINTL.COM

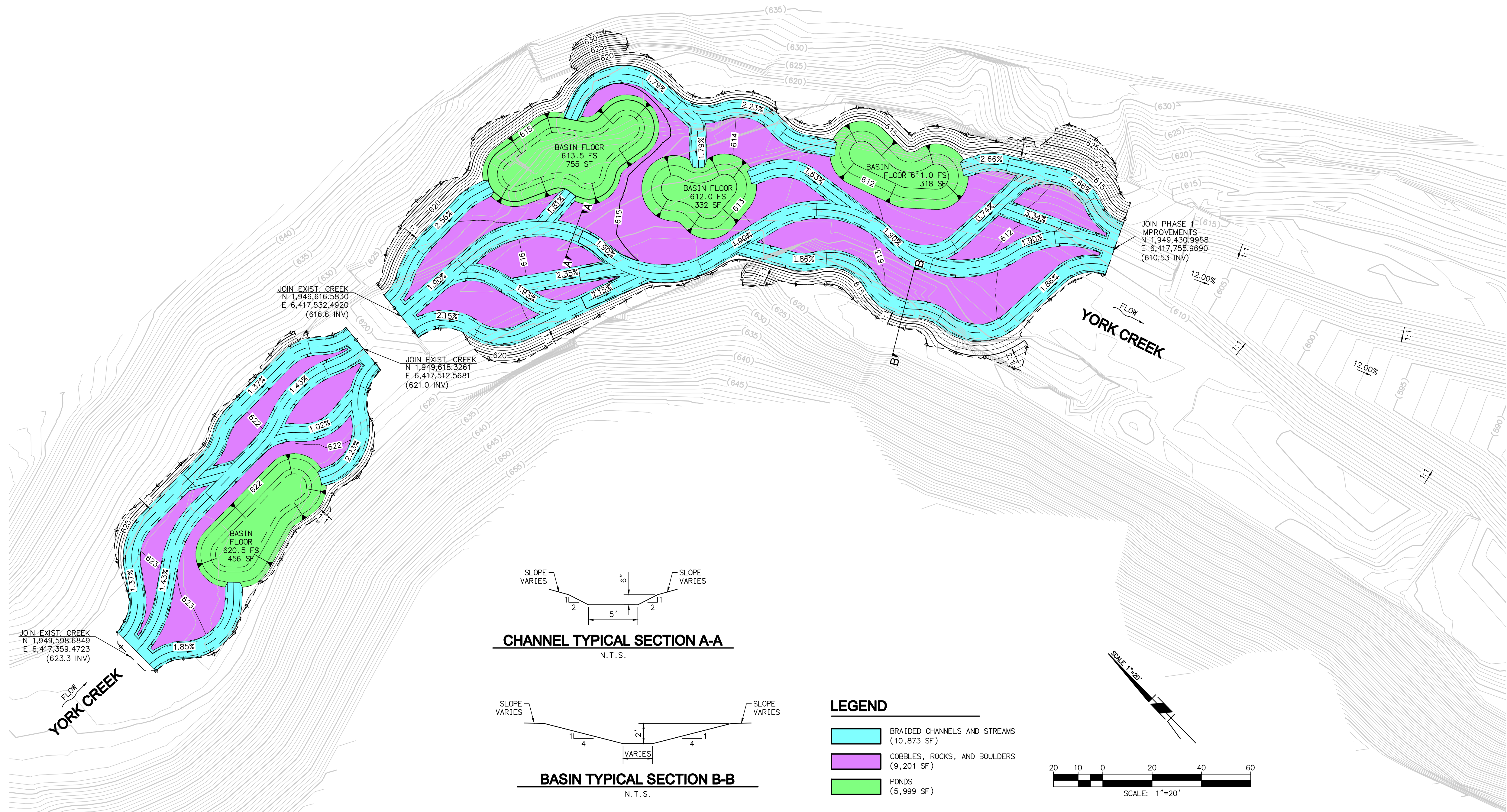
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CITY OF
ST. HELENA



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UPPER YORK CREEK DAM REMOVAL PROJECT

OF





Report to the City Council
Council Meeting of February 26, 2019

Agenda Section: New Business

Subject: Discussion and Direction Regarding County of Napa Draft Water Quality and Tree Protection Ordinance

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

On January 29, 2019, Napa County Board of Supervisors held a workshop to discuss stream and wetland setbacks, buffers for municipal reservoirs, tree protections and other amendments to their Conservation Regulations. There has been much discussion and interest in these regulations in recent years, with the public considering two initiatives and a referendum in the past 15 years. The Napa County Board of Supervisors will soon be considering adoption of a Water Quality and Tree Protection Ordinance that will promulgate regulations on property in the watershed of the City of St. Helena's Bell Canyon Reservoir. This ordinance was also discussed at the Napa County Planning Commission meeting of February 20, 2019. Please visit the following link to access the County Planning Commission's February 20, 2019 agenda and supporting documents:

<http://services.countyofnapa.org/AgendaNet/GranicusMeetingDocuments.aspx?id=5721>

DISCUSSION

This issue has been placed on the City Council agenda for discussion and direction given the public interest in this topic and its potential impact on the City of St. Helena. The Council may also desire to designate one or two members to work with City staff to provide recommendations to the City Council and/or prepare and submit comments on the proposed County of Napa Water Quality and Tree Protection Ordinance to the County on behalf of the City.

FISCAL IMPACT

Not applicable.

RECOMMENDED ACTION

Provide direction to City staff.



Report to the City Council
Council Meeting of February 26, 2019

Agenda Section: New Business

Subject: Consideration and adoption of a Resolution:

1. **Calling a special election to be held on June 4, 2019;**
2. **Ordering the submission to the electors of the city a referendum pertaining to Ordinance 2018-9 (Mobile Home Rent Stabilization Ordinance);**
3. **Requesting that Napa County provide election services with full reimbursement by the City of St. Helena;**
4. **Authorizing the City Council or designee to file a written argument;**
5. **Directing the City Attorney to prepare an impartial analysis; and**
6. **Authorizing the filing of rebuttal arguments**

CEQA Not a CEQA project
Determination:

Prepared By: Thomas B. Brown, City Attorney

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On November 27, 2018, the City Council of the City of St. Helena adopted Ordinance No. 2018-9, adding Chapter 9.24 to the St. Helena Municipal Code to establish a mobile home rental stabilization program within the City of St. Helena. On Wednesday, December 19, 2018, petitioners submitted a referendum petition to the City Clerk. The City Clerk determined that the petitions met the prima facie check for the requisite number of potentially valid signatures, as well as the form and format of the petition itself. The County Registrar of Voters validated signatures on the petition and the City Clerk certified the results of the examination of the petition, thus requiring the City Council to take action on the referendum petition pursuant to Elections Code section

9241, which requires the Council to either repeal Ordinance No. 2018-9, submit it to the voters at the next regular municipal election, or submit it to the voters at a special election called for the purpose. On February 12, 2019, the City Council provided direction to staff to prepare a resolution calling a special election on June 4, 2019 and placing Ordinance No. 2018-9 on the ballot. A copy of the staff report for the February 12, 2019 meeting is **Attachment 1**.

DISCUSSION

Staff has prepared a draft resolution (**Attachment 2**) to formally call a special election and place the referendum on the June 4, 2018 ballot. The attached draft resolution calls a special election and provides for the submission to the St. Helena electorate of Ordinance No. 2018-9 (Mobile Home Rent Stabilization Ordinance). The question that is included within this resolution will be the question that is presented to the voters. The format of the ballot question is prescribed by Elections Code 13120, and must be in the form of ““Shall the statute (or ordinance) (stating the nature thereof, including any identifying number or title) be adopted?” Pursuant to Elections Code section 13119, the language of the question must provide an impartial synopsis of the measure and use language that is “neither argumentative nor likely to create prejudice for or against the measure.” Additionally, the ballot question may not exceed 75 words.

In addition to calling the special election, the City Council’s resolution needs to address the manner of submitting ballot arguments and whether to authorize rebuttal arguments.

The draft resolution authorizes the City Council to author a ballot argument. Presuming the City Council wishes to authorize a ballot argument, the main issue to be resolved is whether the Council will author a ballot argument as a body or whether it will be drafted by certain individual Councilmember(s) as selected by the Council. The draft resolution indicates that the argument shall be drafted by the City Council or its designee(s) as selected at the meeting. If the Council designates more than a quorum of its members to draft the ballot argument, then the ballot argument must be drafted at a public meeting in accordance with the Brown Act. Regardless of whether the Council decides to draft a ballot argument collectively as a body or decides to allow submission by individual Council member(s), Elections Code Section 9287 provides that the Council’s argument will automatically receive priority for printing in the pamphlet that is distributed to voters.

Additionally, the draft resolution also authorizes a rebuttal argument. The City Council does not have to authorize rebuttal argument on the ballot. If more than a quorum of the City Council is designated to work on the rebuttal argument, then the work of preparing the rebuttal argument must be done at a public meeting. Note that a resolution authorizing rebuttal argument must be adopted at the same time of adoption of the resolution submitting the measure to the voters.

FISCAL IMPACT

The County Registrar of Voters has advised the City that the costs of the special election are presently estimated to be approximately \$30,000, a budget increase of \$30,000 will be necessary from General Fund Reserves.

RECOMMENDED ACTION

Adopt the attached Resolution that does the following:

1. Calls a special election to be held on June 4, 2019;
2. Orders the submission to the electors of the city a referendum pertaining to Ordinance 2018-9 (Mobile Home Rent Stabilization Ordinance);
3. Requests that Napa County provide election services with full reimbursement by the City of St. Helena;
4. Authorizes the City Council or designee to file a written argument;
5. Directs the City Attorney to prepare an impartial analysis; and
6. Authorizes the filing of rebuttal arguments.

ATTACHMENTS

[2-12-19 Staff Report](#)

[St Helena Resolution Calling Special Election RSO 4850-7646-1704 v.6](#)



Report to the City Council
Council Meeting of February 12, 2019

Agenda Section: New Business

Subject: *2/8/19 AMENDED TITLE

~~Questions Relating To The Rent Stabilization Ordinance Referendum~~

Discussion and direction to staff concerning questions raised about City response to Mobile Home Rent Stabilization Ordinance ("RSO") referendum; including (1) limits on City advocacy; (2) City/community participation in mediation/facilitation; (3) repeal of RSO; and/or (4) scheduling of election on RSO referendum

CEQA Not a CEQA project
Determination:

Prepared By: Thomas B. Brown, City Attorney

Reviewed By: Mark T. Prestwich, City Manager

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

At the City Council meeting on January 8, 2019, the City Council was presented with a referendum challenging the Mobile Home Rent Stabilization Ordinance adopted by the City Council in November 2018. A copy of the staff report for that agenda item is attached as **Attachment 1**.

At the conclusion of the Council's discussion of that agenda item, Council members asked staff to research and report back on the following questions bearing on the Council's decision on the referendum:

1. Timeline requirements
2. Cost/budget issues
3. What rules apply to the Mayor and Council members with respect to advocacy for or against the referendum?

4. May the City engage a facilitator or mediator to facilitate/mediate discussions among stakeholders given those advocacy rules, or under the Brown Act and/or other legal principles/limitations?
5. What rules apply with respect to requests of staff?
6. Once the Council has placed the referendum on the ballot, may the measure be pulled from the ballot if progress is made on a negotiated agreement through stakeholder mediation?

This report undertakes to answer those questions.

DISCUSSION

1. Timeline requirements

As noted in the January 8, 2019 staff report, Elections Code Section 9241 provides that if the Council does not entirely repeal the ordinance against which the petition is filed, the Council shall submit the ordinance to the voters in one of two ways:

- either at the next regular municipal election occurring not less than 88 days after the order of the City Council (November 2020); or
- at a special election called for the purpose, not less than 88 days after the order of the Council.

At the January 8 meeting, Council members offered comments to the effect that holding the election within the next (approximately) three months would be too soon, especially given that Council members also discussed possible interest in a mediation process involving stakeholders. Council members also expressed that waiting until the November 2020 regular municipal election would be too long.

One alternative option that would satisfy Elections Code Section 9241 would be to call the election for the state primary election of March 3, 2020.

2. Cost/budget issues

Napa County Registrar of Voters John Tuteur has estimated the following costs of the various election options:

- March 3, 2020 primary: \$10,000 to 15,000;
- November 2020 general municipal election: \$7,500 to \$12,000;
- Other special election: \$25,000 for hand counts; \$35,000-40,000 to use our County election system.

Should the Council decide to pursue mediation and/or facilitation with stakeholders, additional costs associated with mediation, legal interpretation and staff costs will be need to be allocated.

3. What rules apply to the Mayor and Council members with respect to advocacy for or against the referendum?

City resources may NOT be used to support or oppose ballot measures. Stated another way, cities may not spend money or use public staff or resources to support or oppose ballot measures.

It is permissible, however, for a city to expend public funds for informational purposes to provide the public with a "fair presentation" of the facts relating to a ballot measure. Cities also may formally adopt a position on a ballot measure and educate the public on the measure, its impacts on the city, and the basis for the city's position. If public funds, equipment or facilities are used to provide information regarding a ballot measure, that information provided by the city must be accurate and balanced.

Even otherwise appropriate use of public resources or expenditures of public funds to provide factual, unbiased information to the public may be found to be improper when the "style, tenor or timing" of distribution of the information were found to be inappropriate. Because there is often no "bright line" for applying this rule, it is a good idea to ask the City Attorney to review any documents in advance of their release to the public or use in a presentation.

The improper use of City resources for campaign purposes may result in personal liability. The use of City resources to advocate for or against a measure may also result in a finding that campaign reporting requirements as required by law have been violated and thereby subject the individual or the City to civil and criminal fines and penalties.

Thus, public resources and funds MAY NOT be used to pay for or provide the following:

- "Promotional material" that is not impartial and has a primary purpose of assisting one side.
- Campaign material prepared by measure's backers or opponents.
- Radio, TV, newspaper, billboard, and other mass media advertising.
- Door-to-door canvassing.
- Bumper stickers and posters.
- Advertising "floats."

Public communications about a measure may NOT:

- "Expressly advocate" for or against a ballot measure.
- Unambiguously urge a particular result in an election.
- Use words or phrases, such as: "Vote For" or "Vote Against"; "Elect" or "Defeat"; "Support" or "Reject"; "Cast Your Ballot" or "Sign Petitions For".

City officials and employees MAY NOT:

- Direct City staff to use City time, effort or resources for campaign or advocacy purposes.
- Distribute campaign literature through the City's internal mail system.
- Place campaign literature on employee bulletin boards, on the City's web page, or elsewhere on City government premises.
- Make public appearances speaking in favor of the ballot measure during compensated work hours.
- Make telephone calls about the campaign during compensated work hours.
- Walk precincts, draft campaign ads, or perform other campaign tasks during compensated work hours, or assign subordinates to do same.
- Add a link from the City website to a campaign website.
- Send or receive campaign-related emails on city computers.
- Urge other City employees to vote for or against the measure during compensated work hours.
- Use City copy machines, telephones, fax machines, computers, stationery, etc. for campaign purposes.

However, these rules do not “trump” the First Amendment rights of City officials and employees. City officials and City employees thus MAY:

- Advocate for or against a ballot measure using personal time and resources.
- Work on the campaign during personal time, i.e. lunch hours, coffee breaks, vacations.
- Make campaign contributions to a ballot measure campaign using personal funds, and/or attend a campaign fundraiser during personal time.
- Create and distribute materials that provide a “fair presentation of the facts.”
- Study a ballot measure and distribute factual reports about its impacts.
- Make public presentations on staff recommendations in the event the measure passes or fails.
- Post any fair/balanced informational reports prepared about the measure on the agency's website.
- Take formal action to support or oppose a measure.
- Allow public comment—for and against—at a public meeting, including alternatives.
- Produce public mailers that describe the measure and approved actions in the event of approval or failure.
- Include articles regarding measure in agency's regular newsletter and send to public.
- Adopt a resolution that officially endorses the ballot measure.

4. May the City engage a facilitator or mediator to facilitate/mediate discussions among stakeholders given those advocacy rules, or under the Brown Act and/or other legal principles/limitations?

As explained above, cities may not use public resources, staff time or funds to advocate for or against a measure. One question that was raised at the Council's January 8 meeting is whether the City may, consistent with those principles, use City staff, resources and funds to pay the costs of, and assist with a mediation effort involving both the proponents and the opponents of the RSO. The answer is "yes," subject to some caveats.

First, the advocacy rules outlined above generally only apply after a measure has actually been placed on a ballot. (There are possible exceptions to that rule we do not address here.) Thus, to the extent the City Council defers its decision whether to call a referendum election for a reasonable period of time pending possible mediation/facilitation efforts (see No. 6 below), the City has much greater latitude in its use of City resources, since there is no actual ballot measure to advocate for or against.

Second, even if the City wishes to assist mediation efforts after the Council places the RSO referendum measure on the ballot, as long as no City resources, funds or staff time are used to advocate for or against the referendum measure in connection with the mediation proceedings, and the City's role in the mediation proceedings are neutral, fair and balanced toward both the proponents and the opponents of the RSO, then City resources, funds and/or staff time may be devoted to such "neutral" mediation efforts.

5. What rules apply with respect to requests of staff?

This issue has been addressed above. City officials (i.e. Council members) and employees may not direct City staff to use City time, effort or resources for campaign or advocacy purposes. The Council may direct staff to prepare fair and balanced, purely informational reports and provide such information to the public, and also may direct staff to assist in a fair/balanced/neutral manner with a mediation/facilitation.

6. Once the Council has placed the referendum on the ballot, may the measure be pulled from the ballot if progress is made on a negotiated agreement through stakeholder mediation?

No. Elections Code Section 9604 allows referendum proponents, but not cities, to "withdraw the measure at any time **before filing the petition** with the appropriate elections official." (Emphasis added.) Section 9604 does not, however, allow a city to withdraw a referendum from the ballot after the Council has voted to place the referendum on the ballot.

Thus, once the Council has placed the referendum on the ballot, it may not remove it. The exclusive and limited means for removing measures from the ballot are those for judicial proceedings set forth under the Elections Code.

Given that, and recognizing that the Elections Code imposes a mandatory duty on the Council to place the referendum on the ballot within a reasonable time, if the Council is

interested in pursuing a mediation or facilitation among RSO stakeholders, and believes that such an effort could lead to a negotiated agreement that might make a referendum vote undesirable, the most cautious approach would be to defer calling the election for a reasonable period of time to permit the mediation/facilitation to take place.

FISCAL IMPACT

The cost of an election will range from approximately \$10,000 to \$40,000, depending on dates and means of conducting the election. Additional staff time, and attendant staff and mediation cost, including possible expenses related to legal questions, will be required if the City is involved in a mediation/facilitation effort.

RECOMMENDED ACTION

Receive the report and provide direction.

ATTACHMENTS

[Attachment 1 - 1-8-19 Staff Report](#)



Report to the City Council
Council Meeting of January 8, 2019

Agenda Section: Discussion

Subject: Referendum Petition Pertaining to Ordinance 2018-9 (Mobile Home Rent Stabilization Ordinance)

CEQA **Not a CEQA project**
Determination:

Prepared By: Mark T. Prestwich, City Manager

Reviewed By: Thomas B. Brown, City Attorney

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On Wednesday, December 19, 2018, petitioners submitted a referendum petition to the City Clerk. The submission pertains to the City Council's adoption on November 26, 2018, of Ordinance 2018-9 approving regulations related to Mobile Home Rent Stabilization.

The California Elections Code requires the petitioner to submit potentially valid signatures from at least 10 percent of the registered voters in the last update from the County of Napa Registrar of Voters to the Secretary of State. The certified voter registration at the time the Ordinance was adopted was 3,441 which requires 344 signatures to qualify for the ballot. The City Clerk determined that the petitions met the prima facie check for the requisite number of potentially valid signatures, as well as the form and format of the petition itself. Subsequently, the petition was delivered to the County Registrar of Voters to validate the signatures.

On December 27, 2018, the Registrar of Voters advised:

1. Referendum against Ordinance 2018-09 (Mobile Home Rent Stabilization) contained 579 signatures. The Registrar reviewed 364 signatures, of which 345 were found to be valid (94.8%).

The City Clerk has certified the results of the examination of the petition (see attached).

DISCUSSION

After being presented with the Clerk's certification, Elections Code Section 9241 provides that if the Council does not entirely repeal the ordinance against which the petition is filed, the Council shall submit the ordinance to the voters, either at the next regular municipal election occurring not less than 88 days after the order of the City Council (November 2020), or at a special election called for the purpose, not less than 88 days after the order of the Council.

Accordingly, the Council must decide to either repeal the challenged ordinance or submit the ordinance to the voters. If the Council repeals the ordinance subject to referendum, or if placed on the ballot, the voters disapprove the ordinance at an election, the Council may not for a period of one year after the date of its repeal by Council or disapproval by the voters enact another ordinance in all essential features like the repealed ordinance. The Elections Code does not dictate when the Council must act to repeal the ordinance or place it on the ballot. However, there is an mandatory duty to act in a timely fashion, and the Council thus may not indefinitely defer making the decision required by the Elections Code.

This ordinance is automatically suspended once it qualifies. Therefore, even where the City Council does not immediately discharge its duty to either repeal the ordinance or call an election, the ordinance remains suspended.

If a referendum is placed on the ballot, the generally applicable rules for holding an election apply (e.g. impartial analysis by the City Attorney, ballot arguments, etc.). The ordinance cannot go into effect unless a majority of the voters vote in favor of it.

Options:

1. Introduce an ordinance repealing Ordinance 2018-9 (Mobile Home Rent Stabilization)
2. Direct staff to draft a resolution placing the ordinance on the November 2020 General Election ballot or a Special Election.
3. Refer to staff for additional information

FISCAL IMPACT

It is estimated a Special Election would cost \$15,000 to \$20,000. It is estimated the November 2020 General Election would cost approximately \$5,000.

RECOMMENDED ACTION

1. Introduce an ordinance repealing Ordinance 2018-9 (Mobile Home Rent Stabilization); or
2. Direct staff to draft a resolution placing the ordinance on the November 2020 General Election ballot or a Special Election; or
3. Refer to staff for additional information

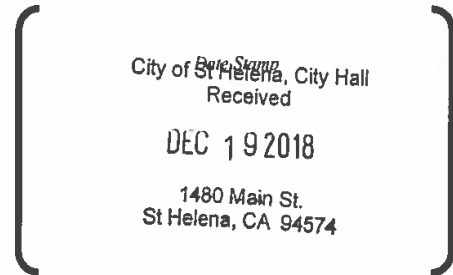
ATTACHMENTS

[Referendum of Ordinance 2018-9](#)

[City Clerk Referendum Certification](#)

[St. Helena Ordinance Repealing Mobile Home RSO 4821-3691-7636 v.1](#)

Date: 12/19/2018



HAND DELIVERED

Office of the City Clerk
City of St. Helena
1480 Main Street
St. Helena, CA 94574

Re: Referendum of Ordinance No. 2018-9

Dear City Clerk:

The referendum petition enclosed with this transmittal letter is submitted to you pursuant to Elections Code section 9235 et seq. on behalf of each registered voter of the City of St. Helena that signed the petition.

The petition consists of 46 sections. It contains 579 signatures, which greatly exceeds the requirement of section 9237. Consequently, the ordinance shall be suspended pending your verification of the signatures presented. Further, in accordance with sections 103 and 9602, no written requests to withdraw a name from the referendum petition shall be accepted on or after the day the petition is filed.

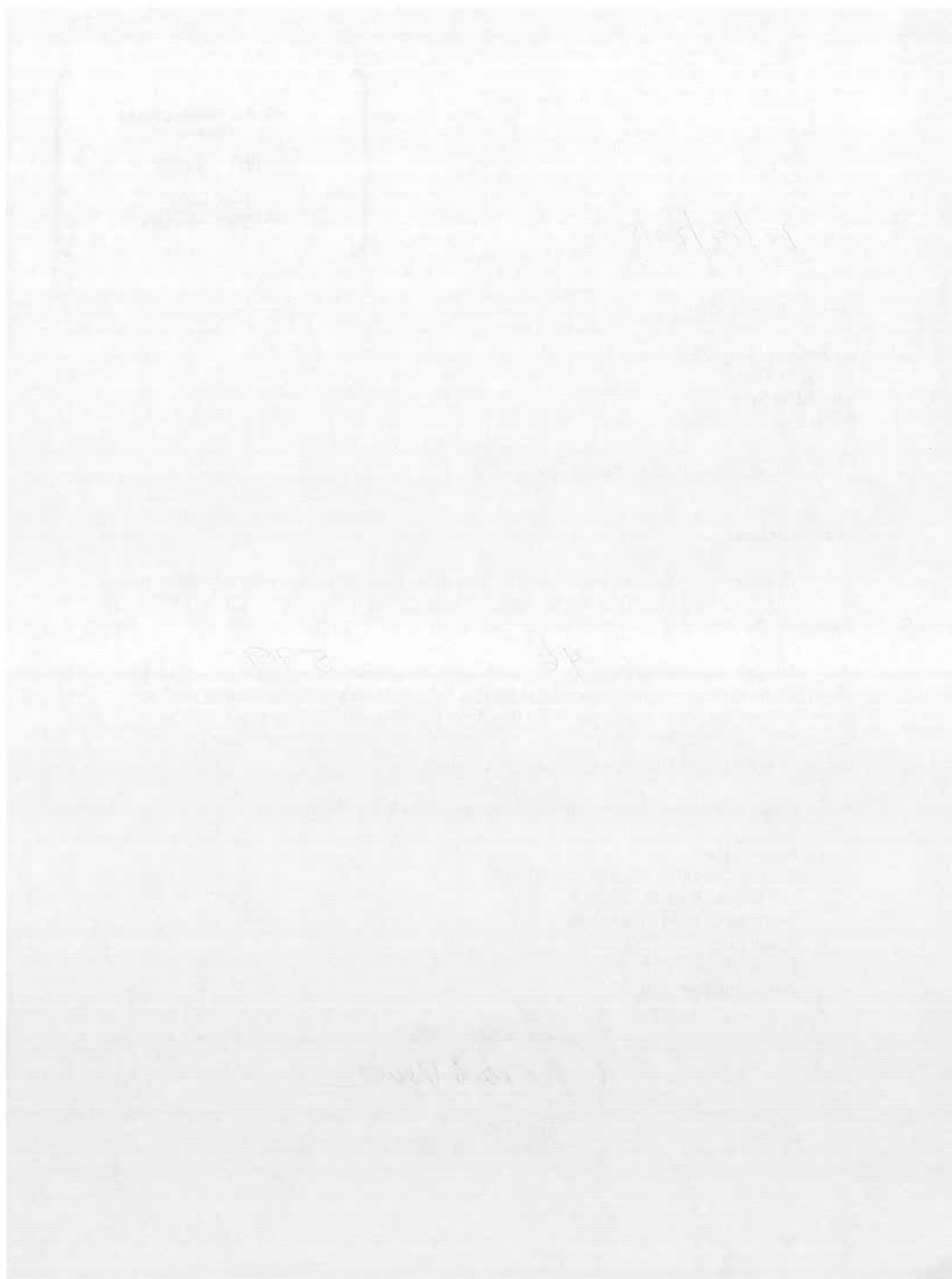
Please address any future correspondence regarding this petition to:

Ashlee Titus
BELL, MCANDREWS & HILTACHK, LLP
455 Capitol Mall, Suite 600
Sacramento, California 95814
Phone (916) 442-7757
Fax (916) 442-7759
atitus@bmhlaw.com

Respectfully submitted,

A handwritten signature in blue ink that reads "Tom Vence".

Tom Vence
22 San Lucas
St. Helena, CA 94574



REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL

ORDINANCE NO. 2018-9. ADDING CHAPTER 9.24 TO THE ST. HELENA MUNICIPAL CODE TO ESTABLISH A MOBILE HOME RENT STABILIZATION PROGRAM WITHIN THE CITY OF ST. HELENA

We, the undersigned, are duly registered and qualified voters of the City of St. Helena, California. We hereby protest the adoption of Ordinance Number 2018-9, adopted by the City Council on November 27, 2018 and request that Ordinance Number 2018-9 set forth in this petition be reconsidered and repealed by the City Council or that it be submitted to a vote of the People of the City of St. Helena at the next regular election or at a special election called for that purpose pursuant to Cal. Elec. Code section 9241.

<<<Complete text of Ordinance Number 2018-9 subject to this Referendum follows this page>>>

NOTICE TO THE PUBLIC: THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE THE RIGHT TO ASK.

All signers of this petition must be registered to vote in the City of St. Helena.		This column for official use only
1.	Print Your Name: _____ Residence Address ONLY: _____	
	Signature as Registered to Vote: _____ City _____ Zip _____	
2.	Print Your Name: _____ Residence Address ONLY: _____	
	Signature as Registered to Vote: _____ City _____ Zip _____	
3.	Print Your Name: _____ Residence Address ONLY: _____	
	Signature as Registered to Vote: _____ City _____ Zip _____	
4.	Print Your Name: _____ Residence Address ONLY: _____	
	Signature as Registered to Vote: _____ City _____ Zip _____	
5.	Print Your Name: _____ Residence Address ONLY: _____	
	Signature as Registered to Vote: _____ City _____ Zip _____	
6.	Print Your Name: _____ Residence Address ONLY: _____	
	Signature as Registered to Vote: _____ City _____ Zip _____	
7.	Print Your Name: _____ Residence Address ONLY: _____	
	Signature as Registered to Vote: _____ City _____ Zip _____	

REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL

**CITY OF
ST. HELENA
DEC 5 2018**

CITY OF ST. HELENA

**OFFICE OF
CITY CLERK**

ORDINANCE NO. 2018-9

**ADDING CHAPTER 9.24 TO THE ST. HELENA MUNICIPAL CODE TO ESTABLISH
A MOBILE HOME RENT STABILIZATION PROGRAM WITHIN THE CITY OF ST.
HELENA**

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

SECTION 1. Chapter 9.24 Added. Chapter 9.24 of the St. Helena Municipal Code is hereby added, 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 add Chapter 9.24 and the implementation of this Chapter 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.

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, clause 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 6. Ordinance Applicability. The City Council finds and intends that this ordinance shall apply to disputes and matters currently active as of the effective date of the ordinance.

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.

**REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL
EXHIBIT A**

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. Based on the most recent available data, within St. Helena City limits there is one mobile home park with a total of 214 spaces, and 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 remain 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 the potential for rising rents citywide, including mobile home rents,

REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL
and their potential to leave St. Helena residents vulnerable to displacement from the community;
and

12. On November 14, 2017, the City Council adopted Three Year Goals and 12-Month Strategic Objectives to accomplish those goals, and one objective included an evaluation of a mobile home rent stabilization ordinance to preserve mobile home parks as an affordable housing option; and

13. On June 26, 2018, the City Council received the Housing White Paper, which identified the problem of rising housing costs and a critical shortage of housing in St. Helena, and included a recommendation for establishing rent stabilization regulations; and

14. On July 24, 2018, at a regular meeting of the City Council, the issue of mobile home rent stabilization was placed on the agenda, and the City Council formally deliberated the issue for the first time, and directed staff to conduct a community workshop on a mobile home rent stabilization ordinance to solicit additional public input; and

15. On August 30, 2018, the City Council held a special meeting where further discussion and public input occurred regarding mobile home rent stabilization and the possible adoption of a mobile home rent stabilization ordinance; and

16. On October 9, 2018, at a regular meeting of the City Council, the Council provided direction on key policy considerations for a mobile home rent stabilization ordinance; and

17. Commencing on October 9, 2018, it was highly foreseeable that mobile home rent regulations were under consideration by the City of St. Helena, thus making it reasonable to conclude that Mobile Home Park Owners would increase rents to the levels they otherwise would not have in anticipation of imminent regulation; and

18. 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

19. 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.

REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL

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, replacements, upgrades, or remodeling, which directly and primarily benefit and serve Mobile Home Park Homeowners by materially adding to the value of the property and appreciably prolonging its useful life or adapting it to new uses, consisting 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.

REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL

G. “Comparable Space” shall refer to a Mobile Home Space that is suitable for comparison, taking into account such characteristics as the location and size of the space, as well as available views.

H. “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.

I. “Gross Income” shall have the meaning set forth in Section 9.24.130.

J. “Homeowner” shall mean an existing Mobile Homeowner.

K. “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.

L. “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.

M. “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 or JAMS, 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.

REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL

N. "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.

O. "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.

P. "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.

Q. "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.

R. "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.

S. "Net Operating Income" shall have the meaning set forth in Section 9.24.120.

T. "Operating Expenses" shall have the meaning set forth in Section 9.24.140.

U. "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.

V. "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 February, or the closest preceding month for which an index is published in the event that an index for the month of February is not released.

W. "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.

REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL

X. "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.

Y. "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.

Z. "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.

AA. "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;

REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL

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 October 9, 2018. In the event that a Mobile Home Space was not occupied on October 9, 2018, 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 October 9, 2018, 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

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Home Park Owner for a Comparable Space in the Mobile Home Park on October 9, 2018, 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 closure of an in-place sale, transfer, or other conveyance 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, and this amount shall be considered the new Base Rent for a Mobile Home Space. 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;

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; or

3. A vacancy occurring because of the abandonment of a Mobile Home pursuant to California Civil Code section 798.61.

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

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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. Three percent of the Base Rent.

B. A Mobile Home Park Owner shall not implement any additional Rent Increase within a 12-month period above the authorized amount pursuant to 9.24.070(A), 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

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B. Whenever the Mobile Home Park Owner serves a notice of a proposed Rent Increase, except a notice of proposed 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 written 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 proposed 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

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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 an 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 proposed Rent Increase. The mediation meeting shall be held within 20 days from the service of the notice of proposed 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 written 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

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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

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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.

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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:

$$\text{Fair NOI} = \text{Base Year NOI} \times (1 + .75) \% \text{ change in CPI}$$

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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.

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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 water, sewer, refuse collection, gas, and electricity to Homeowners where such utilities or services are billed individually to the Homeowners by the Mobile Home Park Owner. Such revenue shall equal the total cost of the utilities or services to the Homeowners minus the amount paid by the Mobile Home Park Owner for such utilities or services to the utility or service 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.

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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:

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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 October 9, 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 October 9, 2018.

c. In the event that the Mobile Home Park is financed as part of a multi-asset portfolio, the allowable increase in interest costs shall be limited to the amount reasonably attributable to the Mobile Home Park or Mobile Home Parks located in the City, based on the percentage of total asset value or such allocation established in loan documents.

d. 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

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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 Mobile Home Park Owner 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.

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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.

REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL

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. The City shall be reimbursed by the imposition of a Rent Stabilization Administration Fee ("Fee") chargeable against each Mobile Home Space in the City subject to this Ordinance upon the finding that at least fifty (50) percent of leases within the City are not exempt pursuant to Section 9.24.200 of this Chapter.

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 this Ordinance pursuant to Section 9.24.250.

C. Within sixty (60) days of the adoption of this Ordinance, regardless of whether at least fifty (50) percent of leases are not exempt each Mobile Home Park Owner in the City shall register with the City. The Mobile Home Park Owner shall provide the name and address of the Mobile Home Park Owner, the current rent roll for all spaces which shall identify: 1) the length of the lease term for each space; 2) the expiration of the lease term for each space; 3) current rents and other fees or charges that are received by the Mobile Home Park Owner itemized per Mobile Home Space; 4) the number of Mobile Home Spaces, including both occupied and unoccupied spaces, contained in that Mobile Home Park Owner's Mobile Home Park; and 5) The Mobile Home Park Owner's determination of Comparable Spaces in the Mobile Home Park, along with a description of how the spaces are comparable. The provision of the information required by this Section 9.24.190(C) must also be made immediately 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 July 31st of each and every 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), and except as provided in this Section 9.24.190(A).

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

REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL
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 January 1, 1990; 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

REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL
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

REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL

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

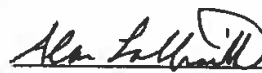
REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL

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 every two 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.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the 13th day of November 2018, and was adopted at a regular meeting of the St. Helena City Council on the 27th day of November, 2018, by the following vote:

Mayor Galbraith:	No
Vice Mayor White:	No
Councilmember Dohring:	Yes
Councilmember Koberstein:	Yes
Councilmember Ellsworth:	Yes


Alan Galbraith, Mayor

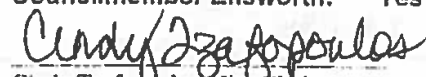
ATTEST:

CITY OF ST. HELENA

Cindy Tzafoopoulos, City Clerk

I, CINDY TZAFPOPOULOS, CITY CLERK of the City of St. Helena, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 13th day of November, 2018. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 27th day of November, 2018 by the following vote:

Mayor Galbraith:	No
Vice Mayor White:	No
Councilmember Dohring:	Yes
Councilmember Koberstein:	Yes
Councilmember Ellsworth:	Yes


Cindy Tzafoopoulos, City Clerk



REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL

ORDINANCE NO. 2018-9. ADDING CHAPTER 9.24 TO THE ST. HELENA MUNICIPAL CODE TO ESTABLISH A MOBILE HOME RENT STABILIZATION PROGRAM WITHIN THE CITY OF ST. HELENA

NOTICE TO THE PUBLIC: THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE THE RIGHT TO ASK.

All signers of this petition must be registered to vote in the City of St. Helena.			This column for official use only
8.	Print Your Name:	Residence Address ONLY:	
	Signature as Registered to Vote:	City Zip	
9.	Print Your Name:	Residence Address ONLY:	
	Signature as Registered to Vote:	City Zip	
10.	Print Your Name:	Residence Address ONLY:	
	Signature as Registered to Vote:	City Zip	
11.	Print Your Name:	Residence Address ONLY:	
	Signature as Registered to Vote:	City Zip	
12.	Print Your Name:	Residence Address ONLY:	
	Signature as Registered to Vote:	City Zip	
13.	Print Your Name:	Residence Address ONLY:	
	Signature as Registered to Vote:	City Zip	
14.	Print Your Name:	Residence Address ONLY:	
	Signature as Registered to Vote:	City Zip	

DECLARATION OF CIRCULATOR: (To be handwritten by the circulator after above signatures have been obtained)

I, _____, am 18 years of age or older. I reside at the following address:

(printed name)

(residence address, including street and number)

I circulated this section of the petition and witnessed each of the appended signatures being written. Each signature on this petition section is, to the best of my information and belief, the genuine signature of the person whose name it purports to be. All signatures on this document were obtained between the dates of _____ and _____.

(month, day, year)

(month, day, year)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signed _____ of _____, at _____, CA. SIGNATURE: _____

(month, day)

(year)

(city)



**CITY CLERK'S CERTIFICATION
THAT THERE ARE SUFFICIENT SIGNATURES
ON A REFERENDUM PETITION**

I, Cindy Tzaopoulos, City Clerk of the City of St. Helena, do hereby certify pursuant to Section 9240 of the Elections Code of the State of California, to the following facts relating to Referendum Against An Ordinance Passed By The City Council - Ordinance No. 2018-9, An Ordinance of the City of St. Helena Adding Chapter 9.24 to the St. Helena Municipal Code to Establish a Mobile Home Rent Stabilization Program Within the City of St. Helena

On December 19, 2018, a Referendum Petition was filed with the City Clerk's Office of the City of St. Helena by Tom Vence. Further, on December 4, 2018, the last report filed from the Napa County Registrar of Voters Office confirmed to the Secretary of State that there are 3,441 registered voters in the City of St. Helena. The petition must have a minimum of 344 signatures (10% of the registered voters in the City) to qualify for filing.

Pursuant to Section 9240 of the Elections Code of the State of California, the Napa County Registrar of Voters, at the request of the St. Helena City Clerk, examined the petition and determined that the petition was signed by 10 percent of the registered voters of the City. Based on the Napa County Registrar of Voters Signature Verification Certificate, attached hereto, I have determined the following facts regarding this petition:

- | | |
|---|------------|
| 1. Total number of sections: | <u>46</u> |
| 2. Number of unverified signatures files (raw count): | <u>579</u> |
| 3. Number of signatures verified: | <u>364</u> |
| a. Number of signatures found sufficient: | <u>345</u> |
| b. Number of signatures found not sufficient: | <u>19</u> |
| c. Number of duplicate signatures: | <u>0</u> |

Based on the above, I certify that the number of valid signatures on the petition is 345 which is 10% of the registered voters and therefore the petition is deemed sufficient. Accordingly, the results of the examination are hereby certified.

Dated: December 28, 2018

Cindy Tzaopoulos

Cindy Tzaopoulos, City Clerk
City of St. Helena

CLERKS CERTIFICATE TO REFERENDUM PETITION

I John Tuteur, Registrar of Voters of the County of Napa, State of California, hereby certify:

that the Referendum Against An Ordinance Passed By St Helena City Council(Ordinance No. 2018-9) has been filed with this office on December 21, 2018.

That each section contains signatures purporting to be the signatures of qualified electors of this county.

That attached to this petition at the time it was filed was an affidavit of the person who solicited the signatures, and also containing the dates between which the purported qualified electors signed this petition;

That the affiant stated his or her own qualifications, that he or she had solicited the signatures upon that section, that all of the signatures were made in his or her presence and that to the best of his or her knowledge and belief each signature to that section was the genuine signature of the person;

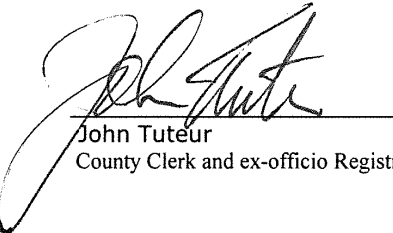
That upon the request of the City Clerk of the City of St Helena, with whom the proponent filed this petition, we tabulated the number of valid signatures by examining the records of registration in the City of St Helena, current and in effect at the respective dates of such signing, to determine what number of qualified electors signed the petition, and from that examination it has been determined;

1. Number of sections	<u>46</u>
2. Number of unverified signatures filed (raw count)	<u>579</u>
3. Number of signatures verified	<u>364</u>
a. Number of signatures found sufficient	<u>345</u>
b. Number of signatures found not sufficient	<u>19</u>
c. Number of duplicate signatures	<u>0</u>

USING THE GUIDELINES SET FORTH BY THE CALIFORNIA SECRETARY OF STATE FOR CALCULATING SUFFICIENT SIGNATURES WHEN USING A RANDOM SAMPLE, I HAVE DETERMINED THAT THE PETITION HAS SUFFICIENT SIGNATURES TO QUALIFY FOR FURTHER ACTION BY THE CITY COUNCIL OF THE CITY OF ST HELENA PURSUANT TO CALIFORNIA ELECTION CODE 9237

In witness whereof, I have hereunto set my hand and affixed by official seal this 27 day of December, 2018.

(seal)


 John Tuteur
 County Clerk and ex-officio Registrar of Voters



Petition Result Breakdown

Referendum Against An Ordinance Passed by St Helena City Council(Ordinance I
Ordinance No. 2018-9. Adding Chapter 9.24 to the St Helena Munipal Code to Establish a Mobile Home Rent Stabilizati

Signatures Required	344		
Raw Count	579		
Sample Size	579	Percent of Sigs Checked	Percent of Sample Size
Sigs Checked	364		
Sigs Not Checked	215		37.1 %
Sigs Valid	345	94.8 %	59.6 %
Sigs Invalid	19	5.2 %	3.3 %
Duplicated	0	0.0 %	0.0 %
Non-duplicate Invalids	19	5.0 %	3.3 %

RESULT ABBR	RESULT DESCRIPTION		
Approved	Approved	345	94.8 %
NotReg	Not Registered	5	1.4 %
OutOfDist	Out of District	1	0.3 %
RegDiffAdd	Registered at a Different Address	5	1.4 %
CantIdentfy	Cannot Identify	1	0.3 %
SigNoMatch	Signatures Don't Match	4	1.1 %
Incomplete	Incomplete voter information	1	0.3 %
100-all petitions	Not completed by voter	2	0.5 %

STATISTICS SUMMARY	Value	% Raw	% Req	
Pages Processed	46	100.0 %		
Total Checked	364	62.9 %	105.8 %	
Uncorrected Valid	345	59.6 %	100.3 %	
Duplicate Adjustment	0			Min Required (95%): 326.8
Estimated Valid	345	59.6 %	100.3 %	Min Required to pass Based on Sample (110%): 378.4

CITY OF ST. HELENA

ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. HELENA,
CALIFORNIA, REPEALING ORDINANCE NO. 2018-9, ADDING ST. HELENA
MUNICIPAL CODE CHAPTER 9.24.**

The City Council of the City of the City of St. Helena ordains as follows:

SECTION 1. Repealing Ordinance No. 2018-9, Which Added St. Helena Municipal Code Chapter 9.24.

Ordinance No. 2018-9, which added Chapter 9.24 to the St. Helena Municipal Code ("SHMC"), is hereby repealed.

SECTION 2. Compliance with CEQA.

The City Council hereby finds that the action to adopt this Ordinance is not a "project" subject to the requirements of CEQA. Even if it were a project, the Council finds it is exempt from the requirements of CEQA, under Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that this Ordinance may have a significant effect on the environment.

SECTION 3. Severability.

The City Council hereby declares every section, paragraph, sentence, cause and phrase of this Ordinance 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 4. Effective Date.

This Ordinance shall take effect and be in force 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.

SECTION 5. General Plan Consistency.

This Ordinance is consistent with the General Plan.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the ____ day of _____, _____ and was adopted at a regular meeting of the St. Helena City Council on the ____ day of _____, _____ by the following vote:

Mayor Ellsworth:	_____	
Vice Mayor Dohring:	_____	_____
Councilmember Koberstein:	_____	_____
Councilmember Chouteau:	_____	
Councilmember _____:	_____	_____

APPROVED:

Geoff Ellsworth, Mayor

RESOLUTION NO 2019-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST. HELENA CALLING A SPECIAL ELECTION TO BE HELD ON JUNE 4, 2019; ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF ST. HELENA OF A REFERENDUM PERTAINING TO ORDINANCE 2018-9 (MOBILE HOME RENT STABILIZATION ORDINANCE); REQUESTING THAT NAPA COUNTY PROVIDE ELECTION SERVICES WITH FULL REIMBURSEMENT BY THE CITY OF ST. HELENA; AUTHORIZING CITY COUNCIL OR DESIGNEE TO FILE WRITTEN ARGUMENT; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS; AND AUTHORIZING THE FILING OF REBUTTAL ARGUMENTS

WHEREAS, on November 27, 2018, the City Council of the City of St. Helena adopted Ordinance No. 2018-9, adding Chapter 9.24 to the St. Helena Municipal Code to establish a mobile home rental stabilization program within the City of St. Helena; and

WHEREAS, on December 19, 2018, the City Clerk received a referendum petition opposing the adoption of Ordinance No. 2018-9; and

WHEREAS, after a prima facie review by the City Clerk, and verification of signatures by the Registrar of Voters, the City Clerk issued a Certificate of Sufficiency for the referendum petition as required under Elections Code section 9114; and

WHEREAS, in accordance with Elections Code 9241, the City Council has determined to submit Ordinance No. 2018-9 to City voters.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of St. Helena does hereby declare, determine and order as follows:

There is called and ordered to be held in the City of St. Helena, on Tuesday, June 4, 2019 a Special Election for the purpose of submitting a ballot measure to the City voters; and

BE IT FURTHER RESOLVED, that pursuant to Elections Code Section 9241, the City Council hereby submits Ordinance No. 2018-9 to the voters at the special election. The ballot measure shall be designated as Measure F. The ballot question to be submitted to the voters for consideration shall be as follows:

F Shall Ordinance No. 2018-9 be adopted to 1) establish a voluntary rent stabilization process for St. Helena mobile home park residents who choose to participate; 2) provide mobile home park owners a just and reasonable return on investment; and 3) create a dispute resolution process for the park owner and residents in the event the owner proposes an annual rent increase that is above the permissible limit?	YES
	NO

The full text of the ordinance submitted to the voters is attached as Exhibit A. The full text of the measure shall be printed in the Voter Information Pamphlet.

If this ordinance is approved by the City of St. Helena electorate as outlined above, then this ordinance shall become effective ten (10) days following the date the vote is declared by the City Council in accordance with Elections Code sections 9243 and 9217; and

BE IT FURTHER RESOLVED, the City of St. Helena requests the services of Napa County to conduct said special election and the Board of Supervisors is requested to issue instructions to the County staff to take any and all steps necessary for the holding of the special election; Napa County and its staff are authorized and instructed to procure and furnish any and all official ballots, notices, printed matter and all supplies and equipment and other necessary items in order to properly and lawfully conduct the election; Napa County is authorized to canvass the returns of the election, including the counting of ballots by hand; and the City of St. Helena agrees to reimburse Napa County for any costs; and

BE IT FURTHER RESOLVED, that in accordance with California Elections Code section 9280, the City Council directs the City Clerk to transmit a copy of the ordinance to the City Attorney, who shall prepare an impartial analysis of Measure F; the City Attorney's impartial analysis may not exceed 500 words and shall be filed with the City Clerk no later than **5:00 p.m. on March 8, 2019**; and

BE IT FURTHER RESOLVED, that in accordance with California Elections Code §9282, the City Council of the City of St. Helena or its designee(s) as assigned at the City Council meeting, is authorized to file a written argument in favor of Measure F as specified above, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and to change the argument until and including the date fixed by the City Clerk after which no arguments for or against Measure F may be submitted to the City Clerk; and

BE IT FURTHER RESOLVED, that in accordance with California Elections Code §9282, arguments in favor and against, not exceeding 300 words, shall be filed with the City Clerk no later than **5:00 p.m. on Friday, March 15, 2019**, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. The arguments shall be accompanied by the *Form of Statement to Be Filed By Author(s) of Argument*, which can be obtained from the Office of the City Clerk; and

BE IT FURTHER RESOLVED, if arguments for and against are filed, the City Council wishes to authorize rebuttal argument in the manner prescribed under Elections Code section 9285, and that rebuttal arguments not exceeding 250 words may be filed no later than **5:00 p.m. on March 22, 2019**, accompanied by the printed names and signatures of the persons submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its

principal officers. In accordance with Elections Code section 9285, rebuttal arguments submitted on behalf of the City Council shall be prepared by the City Council of the City of St. Helena or its designee(s) as assigned at the City Council meeting. The rebuttal arguments shall be accompanied by the *Form of Statement To Be Filed By Author(s) of Argument*, which can be obtained from the Office of the City Clerk. Rebuttal arguments shall be printed in the same manner as the direct arguments, and rebuttal arguments shall immediately follow the direct argument which it seeks to rebut; and

BE IT FURTHER RESOLVED, should any section, subsection, clause or provision of this resolution for any reason be held to be invalid, then the remainder of the resolution shall be deemed valid, it being expressly declared that this resolution, and each and every section, subsection, clause and phrase hereof would have been prepared, proposed, approved, adopted and/or ratified even if any other section, subsection, sentence, clause or phrase of this resolution were declared invalid; and

BE IT FURTHER RESOLVED, in all particulars not recited in the Resolution, the election shall be held and conducted as provided by law for holding municipal elections; and

BE IT FURTHER RESOLVED, the City Clerk is directed to give notice of the election and notice of the measure to be voted on in the time, form, and manner as required by law; and

BE IT FURTHER RESOLVED, the City Council hereby finds that this action to place the Ordinance No. 2018-9 on the ballot is exempt from the California Environmental Quality Act under section 15378(b)(3) of the CEQA Guidelines, and alternatively under section 15061(b)(3) of the CEQA Guidelines, in that there is no possibility that the implementation of the Ordinance may have a significant effect on the environment.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council of the City of St. Helena held on the 26th of February, 2019 by the following vote:

YOU MAY WANT TO UPDATE THE COUNCIL ROSTER

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

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzafopoulos, City Clerk

BELL, McANDREWS & HILTACHK, LLP

ATTORNEYS AND COUNSELORS AT LAW

455 CAPITOL MALL, SUITE 600
SACRAMENTO, CA 95814

(916) 442-7757
FAX (916) 442-7759

February 25, 2019

VIA EMAIL

Hon. Mayor & City Council [citycouncil@cityofsthelena.org]
Mark Prestwich, City Manager [mprestwich@cityofsthelena.org]
Thomas B. Brown, City Attorney [tbrown@bwslaw.com]
Cindy Tzafopoulos, City Clerk [ctzafopoulos@cityofsthelena.org]
City of St. Helena
1480 Main Street
St. Helena, CA 94574

Re: February 26, 2019 City Council Meeting Agenda Item No. 10.8
Proposed Ballot Question for Referendum of Ordinance No. 2018-9

Dear Hon. Mayor, Councilmembers, City Manager, City Attorney, and City Clerk:

This law firm represents Mr. Tom Vence, a registered voter in the City of St. Helena, and proponent of the referendum of Ordinance No. 2018-9, otherwise known as the “City of Saint Helena Mobilehome Park Rent Stabilization Ordinance” (respectively, the “Referendum” and the “Ordinance”). At the February 26, 2019 meeting, the City Council will consider adoption of a resolution to order the duly qualified Referendum for submission to the voters of the City at a special election to be held on June 4, 2019. The proposed “ballot question” is the subject of this letter. **For the reasons stated below, the proposed ballot question is false, unlawfully argumentative, and is likely to mislead the voters, and must be revised prior to adoption and presentation to voters. This is an attempt to resolve this matter with you administratively and to avoid the need for litigation.**

The state Elections Code prescribes the format and content of a “ballot question” for a qualified local referendum. The ballot question must be **true, impartial, and not be an argument for or against the referendum**. (Elections Code section 13119(c) [“The statement of the measure shall be a true and impartial synopsis of the purpose of the proposed measure, and shall be in language that is neither argumentative nor likely to create prejudice for or against the measure.”].) Courts strictly enforce this requirement to ensure that the voters have true and accurate information. (*Zaremborg v. Superior Court* (2004) 115 Cal.App.4th 111, 116 [“the statutes designed to protect the elector from confusing or misleading information should be enforced so as to guarantee the integrity of the process”]; *Horneff v. City and County of San Francisco* (2003) 110 Cal.App.4th 814, 820 [“The main purpose of these requirements is to avoid misleading the public with inaccurate information”].)

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The Measure F (Referendum) ballot question proposed by staff for adoption by the City Council at the February 26, 2019 meeting reads as follows:

F Shall Ordinance No. 2018-9 be adopted to 1) establish a voluntary rent stabilization process for St. Helena mobile home park residents who choose to participate; 2) provide mobile home park owners a just and reasonable return on investment; and 3) create a dispute resolution process for the park owner and residents in the event the owner proposes an annual rent increase that is above the permissible limit?	YES
	NO

As proposed, the ballot question is false, misleading, and argumentative in violation of Section 13119(c). The Ordinance places mandatory rent increase controls on all mobilehome park spaces located within the City. These controls on space rent increases are **not “voluntary”** as the proposed Measure F ballot question suggests, nor can mobilehome park residents and mobilehome parkowners “**choose**” to participate or not. In the absence of a long-term rental agreement in excess of twelve months and compliant with state law, their participation in the City’s rent control scheme is compulsory. In fact, Section 9.24.030 (B) of the ordinance states that when a long-term rental agreement expires or is terminated, the state law exemption to local rent control expires as well and “all provisions of the Chapter shall immediately be applicable to the Mobile Home Space.” The use of modifying words such as “voluntary” that portray an action in a positive or negative light runs afoul of the Elections Code, and in the context of the Ordinance is false – it is the opposite of the operation of the ordinance. (See *McDonough v. Superior Court* (2012) 204 Cal.App.4th 1169, 1174 [use of “reform” in ballot title of municipal pension measure held improperly argumentative].)

The language of the proposed ballot question is false, misleading, and prejudices voters to vote against the Referendum and for the Ordinance. It must be revised to comply with the mandates of the Elections Code and relevant case law. Should the Council fail to appropriately revise the ballot question prior to adoption of the resolution, we intend to seek a writ of mandate compelling such action for which the City may be liable for attorney fees pursuant to Code of Civil Procedure section 1021.5.

Respectfully submitted,



Ashlee Titus

DRAFT Measure F Ballot Questions

Published Staff Report Version

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Alternative Provided by Vice Mayor Dohring & Council Member Koberstein

Shall Ordinance No. 2018-9 be adopted to 1) establish a rent stabilization program for St. Helena mobile home park residents who opt into the program by signing a lease of twelve months or less; 2) provide mobile home park owners a just and reasonable return on investment; and 3) create a dispute resolution process for the park owner and residents if the owner proposes an annual rent increase that is above the permissible limit?