



City of St. Helena
Regular City Council Meeting
Tuesday, April 13, 2021 @ 6:00 PM
Published: Monday, April 5, 2021 7:20 PM

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.

In accordance with Executive Order N-29-20, and guidance from the California Department of Public Health on gatherings, remote public participation is allowed. We will address the Order in the following ways: Members of the public may not physically attend meetings. The City Council meeting will be live-streamed on Comcast Channel 28 and on the City's website, barring technical difficulties. Those members of the public wishing to participate must do so remotely via Zoom electronic meetings in the following ways; by either logging onto the Zoom link located on the meeting agenda (please download the app to your computer or mobile device) and enter the meeting ID or by calling a listed number and enter the meeting ID. Public comment for City Council meetings will be accepted via email to publiccomment@cityofstheleena.org. All public comments must be emailed by 4:00 PM prior to the meeting. Emailed public comments will not be read out loud but will be publicly available and attached to the on-line City Council agenda.

In the event a quorum of the City Council loses electrical power or suffers an internet connection outage that is not corrected within 10 minutes, the meeting will automatically be adjourned. Any items noticed as public hearings will be continued to the next regularly scheduled evening meeting of the City Council. Any other items on the agenda that the Council has not taken action on will be placed on a future agenda.

Please see the end of the agenda for detailed PUBLIC PARTICIPATION instructions. Spanish translation for this meeting will be offered. To access Spanish translation, you will need to join the meeting using the Zoom app from a computer, iPad or Iphone. You will see an icon on the screen that will allow you to choose Spanish translation. To learn how to use Zoom, please see the instructions below..

Please click the link below to join the meeting:

<https://us02web.zoom.us/j/82138430191>

Or One tap mobile :

US: +16699006833,,82138430191# or +13462487799,,82138430191#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799

Meeting ID: 821 3843 0191

International numbers available: <https://us02web.zoom.us/j/kMCHNHeDF>

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Ciudad de Santa Helena Reunión Especial del Ayuntamiento 13 de abril de 2021

@ 6:00 PM De acuerdo con las órdenes ejecutivas N-29-20, y la orientación del Departamento de Salud Pública de California sobre reuniones, se permite la participación pública virtual. Seguiremos la Orden de la siguiente manera: Los miembros del público no pueden asistir físicamente a las reuniones. La reunión del Ayuntamiento de la Ciudad se transmitirá en vivo por el Canal 28 de Comcast y en el sitio web de la Ciudad, salvo dificultades técnicas. Aquellos miembros del público que deseen participar deben hacerlo de forma virtual a través de las reuniones electrónicas de Zoom de las siguientes maneras; iniciando sesión en el enlace Zoom ubicado en la agenda de la reunión (descargue la aplicación en su computadora o dispositivo móvil) e ingrese la ID de la reunión o llamando al número ubicado en la agenda e ingrese la ID de la reunión. Se aceptarán comentarios públicos para la reunión del Ayuntamiento por correo electrónico a [publiccomment@cityofsthelena.org](mailto:publiccomment@cityofsthelena.org). Todos los comentarios públicos se harán públicos y se adjuntarán a la agenda y no se leerán en voz alta. Todos los comentarios públicos que se reciban después de las 4:00 PM se adjuntarán a la agenda al día siguiente.

En el evento que el Ayuntamiento pierda la energía eléctrica o sufra un corte de conexión de internet que no pueda ser corregido en 10 minutos, la reunión se terminará automáticamente. Todos los artículos notificados como audiencias públicas continuarán a la próxima reunión regular programada del Concejo Municipal. Cualquier otro tema en la agenda sobre el que el Consejo no haya tomado acción se incluirá en una futura agenda.

Consulte el final de la agenda para obtener instrucciones detalladas de PARTICIPACIÓN PÚBLICA. Se ofrecerá traducción al español para esta reunión. Para acceder a la traducción al español, deberá unirse a la reunión utilizando la aplicación Zoom desde una computadora, iPad o iPhone. Verá un icono en la pantalla que le permitirá elegir la traducción al español. Para aprender a utilizar Zoom, consulte las instrucciones a continuación.

TENGA EN CUENTA: Cualquier persona que desee hablar sobre un tema en la agenda o hacer un comentario en la sección de "comentario público" de la agenda puede hacerlo, pero por favor observe el límite de tiempo de cuarto minutos.

Habrá traducción en español durante la junta

Haga clic en el enlace a continuación para participar en la reunión:

<https://us02web.zoom.us/j/82138430191>

O por iPhone one-tap:

US: +16699006833,,82138430191# or +13462487799,,82138430191#

O por Teléfono: Marque(para mejor calidad, marque número basado en su ubicación actual):

US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799

ID de la Reunión: ID: 821 3843 0191

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

Mayor: Geoff Ellsworth, Vice Mayor: Paul Dohring, City Council Members: Anna Chouteau, Eric Hall and Lester Hardy

4. ADOPTION OF THE AGENDA

5. 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 Council Members for clarifications may be posed and answered, and Council Members may make requests that items be placed on future agendas, but in accordance with state law, no substantive discussion or action may take place unless and until the matter properly appears on the agenda.

- 5.1. [Public Comment.Nancy Dervin - THE ABRIDGED HISTORY OF ADAMS STREET](#)  
[Public Comment.Nancy Dervin - COMPREHENSIVE HISTORY OF ADAMS STREET](#)  
[Public Comment.Christy Pestoni](#)

15 - 26

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

Reports by staff and/or Council Members on items of general interest. Brief questions for clarification may be posed and answered, and Council Members 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.

7. PRESENTATIONS AND PUBLIC RECOGNITIONS

- 7.1. PG&E Gas Main Project Presentation

8. STAFF BRIEFING

- 8.1. City Manager COVID Update

9. 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)

- 9.1. Consideration and proposed approval of Special Meeting Minutes of March 4, 2021 and March 15, 2021 and Regular Meeting Minutes of March 9, 2021 and March 23, 2021. (Minutes are forthcoming)

- 9.2. Consideration and approval of a resolution authorizing: (1) the lease-purchase of a 2021 Ford F-150 Full-Hybrid Pickup in an amount not-to-exceed \$41,679.6 financed over a five-year period with Enterprise Fleet Management; and (2) authorizing the City Manager to execute all documents necessary for the lease-purchase of the vehicle.

27 - 32

CEQA Determination: Not a CEQA project

Prepared By: Martin Beltran, Management Analyst

Recommendation:

Staff recommends City Council adopt the attached resolution.

[Staff Report - Pdf](#)

- 9.3. Appointment of Vice Mayor Paul Dohring to the 2023-2031 6th Cycle Housing Element Update Focus Group. 33 - 35

CEQA Determination: Not a CEQA project

Prepared By: Aaron Hecock, Senior Planner

Recommendation:

Staff recommends that the City Council:

1. Adopt a resolution appointing Vice Mayor Paul Dohring to the 6th Cycle 2023-2031 Housing Element Update Focus Group.

[Staff Report - Pdf](#)

- 9.4. Consideration of Second Reading and proposed adoption of an Ordinance Adding Chapter 10.40 "Electric Vehicles" and Sections 10.40.010 – 10.40.070 to Title 10, Vehicles and Traffic, of The St. Helena Municipal Code, Setting Forth Procedures for Expedited Permit Processing For Electric Vehicle Charging Stations 37 - 44

CEQA Determination: Not a CEQA project

Prepared By: Preya Nixon, Asst. to the City Manager

Recommendation:

1. Find that the proposed ordinance adding Chapter 10.40 "Electric Vehicles" and Sections 10.40.010 – 10.40.070 to Title 10, Vehicles and Traffic, of the St. Helena Municipal Code, Setting Forth Procedures For Expedited Permit Processing For Electric Vehicle Charging Stations is exempt from the requirements of CEQA pursuant to Sections 15060(c)(2) and 15060(c)(3) of Title 14 of the California Code of Regulations, and;
2. Staff recommends introducing and conducting the first reading by title only and waive further reading of an ordinance adding Chapter 10.40 "Electric Vehicles" and Sections 10.40.010 – 10.40.070 to Title 10, Vehicles and Traffic, of The St. Helena Municipal Code, Setting Forth Procedures For Expedited Permit Processing for Electric Vehicle Charging Stations.

[Staff Report - Pdf](#)

- 9.5. Consideration and proposed Resolution authorizing the City Manager to execute a Professional Services Agreement with Noll and Tam Architects in an amount not-to-exceed \$41,375 for space planning and Phase 1 tenant improvements at the Napa Valley College Upper Valley Campus 45 - 64

CEQA Determination: Not a CEQA project

Prepared By: April Mitts, Finance Director

Recommendation:

Staff recommends City Council adopt the attached resolution.

[Staff Report - Pdf](#)

- 9.6. Review and consideration of the 2020 St. Helena Annual Housing Element Progress Report 65 - 79

CEQA Determination: Not a CEQA project



Prepared By: Aaron Hecock, Senior Planner

Recommendation:

It is recommended that the City Council review, consider and file this report recognizing that staff submitted the information to HCD and OPR in keeping with the April 1, 2021 mandate.

[Staff Report - Pdf](#)

## 10. PUBLIC HEARINGS

- 10.1. Consideration and approval of a Resolution adopting a penalty structure for a violation of the City's Phase II and Phase III water regulations set forth in the St. Helena Municipal Code section 13.04.220 et seq. 81 - 127

CEQA Determination: Not a CEQA project

Prepared By: April Mitts, Finance Director

Recommendation:

Adopt the attached resolution.

[Staff Report - Pdf](#)

[Public Comment.Mariam Hansen](#)

[Public Comment.Mark Smithers](#)

[Public Comment.Mike Reynolds](#)

[Public Comment.Diana Ortiz](#)

[Public Comment.Kim Phinney](#)

[Public Comment.Lia Holden](#)

- 10.2. Consideration and proposed approval of the Annexation of Territory into the St Helena Municipal Sewer District No. 1 MSD Annexation No. 139, 2790 Spring Street, St Helena, CA. 94574 (APN) 009-391-034. 129 - 143

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: Martin Beltran, Management Analyst

Recommendation:

It is recommended the City Council adopt a Resolution approving the Annexation of Territory into the St Helena Municipal Sewer District No. 1 MSD Annexation No. 139, 2790 Spring Street, St. Helena, CA. 94574 (APN) 009-391-034.

[Staff Report - Pdf](#)

## 11. OLD BUSINESS

- 11.1. None

## 12. NEW BUSINESS

- 12.1. Consideration and proposed approval of a resolution appointing John Zimmerman to the Active Transportation & Sustainability Committee (ATSC) and keeping the recruitment open until vacant seats have been filled 145 - 151

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

It is recommended the Council adopt a resolution appointing John Zimmerman to the Active Transportation & Sustainability Committee to a regular seat with a term expiring June 30, 2021. Staff recommends leaving the recruitment open for the Active Transportation & Sustainability Committee's unfilled terms of office until filled.

[Staff Report - Pdf](#)

- 12.2. Consideration and Proposed Approval of a Resolution Authorizing the Fifth Amendment to the Napa County Agreement No. 3265 (Upper Valley Waste Management Agency Joint Powers Authority Agreement) 153 - 214

CEQA Determination: Not a CEQA project  
Prepared By: Preya Nixon, Asst. to the City Manager  
Recommendation:

Staff Recommends Approval of a Resolution Authorizing the Fifth Amendment to the Napa County Agreement No. 3265 (Upper Valley Waste Management Agency Joint Powers Authority Agreement)

[Staff Report - Pdf](#)

[Public Comment.Rob Anglin](#)

[Public Comment.Sandi Thompson](#)

[Public Comment.J. M. Hackett](#)

[Public Comment.John Milliken](#)

[Public Comment.Matt Smith](#)

- 12.3. Discussion and Direction Regarding the 2021 July 4th Firework Show 215 - 226

CEQA Determination: Not a CEQA project  
Prepared By: Andre Pichly, Parks & Recreation Director  
Recommendation:  
Provide direction to the City Manager.

[2021 July 4th Firework Show Staff Report - Pdf](#)

- 12.4. Consideration and proposed approval of a resolution: (1) authorizing the Mayor to execute a Cooperative Joint Powers Agreement with Napa County, the Cities of Calistoga, Napa, American Canyon, and the Town of Yountville and (2) commit to fund the City's proportionate share of \$5,022 for the administration the Napa Countywide Climate Action Committee 227 - 247

CEQA Determination: Not a CEQA project  
Prepared By: Preya Nixon, Asst. to the City Manager  
Recommendation:  
Staff recommends adoption of the attached resolution.

[Staff Report - Pdf](#)

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

- 13.1. **April City Council Meetings:**

|                                                                                                             |
|-------------------------------------------------------------------------------------------------------------|
| <b>4/27 (Staff reports due 4/9)</b>                                                                         |
| <b>Presentation</b>                                                                                         |
| 4/27 Bike Month Proclamation presented to Patrick Band<br>Executive Director, Napa County Bicycle Coalition |
| 4/27 Monarch & Pollinator Conservation Proclamation                                                         |
| <b>STAFF BRIEFING:</b>                                                                                      |
| 4/27 Monthly Water Update                                                                                   |
| 4/27 City Manager COVID Update                                                                              |
| <b>CONSENT:</b>                                                                                             |
| TBD - Glass fire termination of emergency                                                                   |
| 4/27 Vine Trail alignment through St. Helena – John Wanger                                                  |
| 4/27 Ratification of SB 95 COVID-19 Supplemental Paid Sick<br>Leave Policy                                  |
| <b>PH or OLD / NEW BUSINESS:</b>                                                                            |
| 4/27 Update on HMGP funding                                                                                 |
| 4/27 Non Profit Grant awards                                                                                |
| 4/27 <b>OB</b> Parklet Update (tentative)                                                                   |
| <b>May City Council Meetings:</b>                                                                           |
| <b>5/11(Staff reports due 4/23)</b>                                                                         |
| <b>5/25 (Staff reports due 5/7)</b>                                                                         |
| <b>5/13 Budget Study Session 9-12</b>                                                                       |
| <b>5/27 Budget Study Session (if needed) 9-12</b>                                                           |
| <b>STAFF BRIEFING:</b>                                                                                      |
| 5/11 and 5/25 City Manager COVID Update                                                                     |
| Update on Waste Water Treatment Plant Upgrade Project (report<br>every other month)                         |
| <b>CONSENT:</b>                                                                                             |
| 5/25 FY22 SB1 Project List                                                                                  |
| 5/11 Vintage Hall Agreement Extension                                                                       |
| <b>PH or OLD / NEW BUSINESS:</b>                                                                            |
| TBD St. Helena Community Garden amendment                                                                   |
| 5/11 Quarterly Finance Report                                                                               |
| 5/11 Quarterly Grant Report                                                                                 |

14. **ADJOURNMENT**

The next Regular City Council meeting is scheduled for April 27, 2021 at 6:00 p.m.

I do hereby certify that a copy of the foregoing agenda was posted on the City website on April 5, 2021.

Cindy Tzaafopoulos, City Clerk

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

make reasonable arrangements to ensure accessibility to this meeting.

#### CHALLENGING DECISIONS OF CITY ENTITIES

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

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

#### SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA

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

#### THE CITY OF ST. HELENA ENCOURAGES ONLINE PUBLIC PARTICIPATION IN VIRTUAL CITY COUNCIL MEETINGS

St. Helena, CA– The City of St. Helena is committed to public participation in City government in a manner that is consistent with guidance provided by the Napa County Public Health Official and Governor Newsom's Executive Order N-25-20. These guidelines relate to social distancing, and are intended to protect everyone by limiting the spread of COVID-19 in our community. In adherence to these guidelines, the St. Helena City Council will host a Virtual Council Meeting on Zoom; a free teleconferencing tool that enables users to watch and/or call into the meeting from their computers or phones. This meeting will be open to public and allows for live public comment. The meeting will also be recorded, livestreamed, and posted on the City's website after the adjournment of the meeting if technical difficulties occur: <https://sthelena.civicweb.net/Portal/>

**The ZOOM web link, meeting ID, and phone number will be listed at the top of the City Council Meeting Agenda. You will be required to enter the meeting ID, but there will be no password or participant ID.**

**How to Watch or Listen to Council Meetings:**

1. Watch on Comcast Channel 28
2. Watch the livestreaming video on the City's website
3. Watch and Listen on Zoom.us by clicking on the link in the Council Agenda
4. Listen only by calling the Zoom number listed on the Council Agenda

#### **Watch Council Meeting by Joining the Zoom Meeting:**

##### **1. By Computer, Tablet, or Smart Phone:**

1. Before joining the virtual City Council Meeting, it is highly encouraged that you download the Zoom App. To sign up for your own free account, visit [zoom.us/signup](https://zoom.us/signup) and enter your email address. You will receive an email from Zoom (no-reply@zoom.us). In this email, click Activate Account.
2. If you are logged into your account, Enter the **Meeting ID** listed on the City Council Agenda. If you have not created an account go to: <https://zoom.us/join> and enter the **Meeting ID**
3. Select if you would like to connect audio and/or video and tap **Join Meeting**.
4. For specific instructions for your device, go to: <https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>

##### **1. Listen Only by Telephone:**

1. **Dial** the number listed on the Council Agenda.
2. At the prompt, enter the **Meeting ID** provided on the top of the City Council Meeting Agenda and **Press #. A participate ID is not required.**
3. To disconnect from the meeting, hang up the phone.

#### **Ways to Provide Public Comment:**

While attending the virtual City Council Meeting, the public will have the opportunity to provide live public comment during Public Forum and after each agenda item. When it is the appropriate time for public comment the Mayor will verbally open public comment. At this time each individual is permitted 4 minutes to speak.

##### **1. Send a Public Comment in by 4:00 PM Prior to the Meeting to:** [publiccomment@cityofsthelena.org](mailto:publiccomment@cityofsthelena.org)

The easiest way to provide public comment is to email your public comment. Public comments may be emailed to [publiccomment@cityofsthelena.org](mailto:publiccomment@cityofsthelena.org). Please include in the subject line "COMMENT TO COUNCIL and the AGENDA ITEM". Any public comment is required to be submitted no later than 2 hours before the scheduled meeting and will be included as an attachment to the agenda. All public comments will be made publicly available and attached to the agenda item and will not be read out loud. All public comments that are received after 4:00 PM will be attached to the agenda the following day.

##### **2. Provide Comment through Zoom meeting from a computer, tablet, or smart phone**

This option allows the public to virtually attend the meeting as a muted 'attendee' with no video or screen sharing capabilities. You will be able to see and hear those participating in the meeting, but they will not be able to hear you until the host unmutes you.

If you wish to provide public comment during a specific agenda item or during public forum, you can use the **"raise hand"** feature located in the control panel at the bottom of your screen. The icon is a small blue hand. In Windows you can also use the Alt+Y keyboard shortcut to raise or lower your hand. In Mac you can also use the Option+Y keyboard shortcut to raise or lower your hand.

The host will be notified that you've raised your hand and you will be placed in a queue with all

incoming requests.

When it is your turn to speak, you will be notified that the host has unmuted you. To be removed from the queue, just click the '**raise hand**' button again.

### **3. Call in to the ZOOM meeting from a cell phone or landline phone only**

This option allows the member of the public with the opportunity to verbally participate in public comment.

If you wish to speak during public comment time dial **\*9** on your telephone.

The host will be notified that you would like to speak and you will be placed in a queue with all incoming requests.

When it is your turn to speak, you will be notified that the host has unmuted you. You may press **\*9** again if you wish to be removed from the queue.

You will be notified at the end of your statement that you have been muted.

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En cumplimiento de la Ley de Estadounidenses con Discapacidades, si necesita asistencia especial para participar en esta reunión, llame a la Oficina del Secretaría de la Ciudad (707) 967-2792. La notificación 72 horas antes de la reunión, como lo requiere la Sección 202 de la Ley de Estadounidenses con Discapacidades, permitirá a la Ciudad hacer arreglos razonables para garantizar la accesibilidad a esta reunión.

LA CIUDAD DE ST. HELENA ALIENTA LA PARTICIPACIÓN PÚBLICA EN LÍNEA EN REUNIONES VIRTUALES DEL CONSEJO DE LA CIUDAD

St. Helena, CA— La Ciudad de St. Helena está comprometida con la participación pública en el gobierno de la Ciudad de manera que sea consistente con la guía proporcionada por el Oficial de Salud Pública del Condado de Napa y la Orden Ejecutiva N-25-20 del Gobernador Newsom. Estas pautas se relacionan con el distanciamiento social y están destinadas a proteger a todos al limitar la propagación de COVID-19 en nuestra comunidad. En cumplimiento de estas pautas, el Ayuntamiento de St. Helena organizará una Reunión del Consejo Virtual sobre Zoom; Una herramienta de teleconferencia gratuita que permite a los usuarios mirar y / o llamar a la reunión desde sus computadoras o teléfonos. Esta reunión estará abierta al público y permite comentarios públicos en vivo. La reunión también se grabará, se transmitirá en vivo y se publicará en el sitio web de la Ciudad después de la clausura de la reunión si se presentan dificultades técnicas: <https://sthelena.civicweb.net/Portal/>

El enlace web de ZOOM, la identificación de la reunión y el número de teléfono se enumerarán en la parte superior de la Agenda de la reunión del Ayuntamiento. Se le pedirá que ingrese la ID de la reunión, pero no habrá contraseña ni ID de participante.

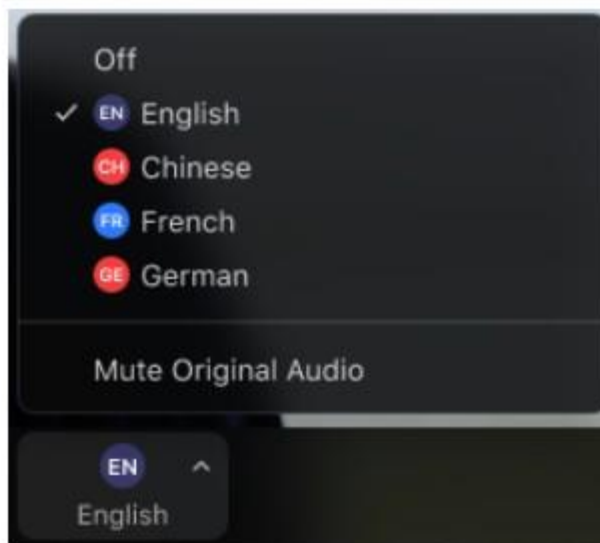
Cómo escuchar la interpretación de un idioma



1. En los controles de la reunión o el seminario web, haga clic en **Interpret**



2. Haga clic en el idioma que desee escuchar.



3. (Opcional) Para escuchar solo el idioma interpretado, haga clic en **Silenc**



1. En los controles de la reunión, toque ... Más.



2. Toque **Interpretación de idiomas**.

3. Toque el idioma que desee escuchar.



4. (Opcional) Toque el botón de alternancia **Silenciar audio original**.



5. Haga clic en **Finalizado**.

Cómo ver o escuchar las reuniones del Consejo:

1. Veala a través del canal 28 de Comcast
2. Vea el video de transmisión en vivo en el sitio web de la ciudad
3. Mire y escuche en Zoom.us haciendo clic en el enlace en la Agenda del Consejo
4. Escuche llamando al número de Zoom listado en la Agenda del Consejo

Vea la reunión del Consejo uniéndose a la reunión Zoom:

1. **Por computadora, tableta o teléfono:**
 - a. Antes de unirse a la reunión virtual del Ayuntamiento, le recomendamos que descargue la aplicación Zoom. Para registrarse en su propia cuenta gratuita, visite zoom.us/signup e ingrese su dirección de correo electrónico. Recibirá un correo electrónico de Zoom (no-reply@zoom.us) . En este correo electrónico, haga clic en Activar cuenta.
 - b. Si ha iniciado sesión en su cuenta, ingrese la ID de la reunión que figura en la Agenda del Ayuntamiento. Si no ha creado una cuenta, vaya a: <https://zoom.us/join> e ingrese la ID de la reunión
 - c. Seleccione si desea conectar audio y / o video y toque Unirse a la reunión. re. Para

obtener instrucciones específicas para su dispositivo, vaya a:
<https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>

2. Escuche solo por teléfono:

- a. **Marque** el número que figura en la Agenda del Consejo.
- b. Cuando se le solicite, ingrese la **ID de la reunión** provista en la parte superior de la Agenda de la reunión del Concejo Municipal **y presione #. No se requiere una identificación de participación.**
- c. Para desconectarse de la reunión, cuelgue el teléfono

Formas de proporcionar comentarios públicos:

Mientras asiste a la reunión virtual del Ayuntamiento, el público tendrá la oportunidad de proporcionar comentarios públicos en vivo durante el Foro Público y después de cada tema de la agenda. Cuando sea el momento apropiado para comentarios públicos, el Alcalde abrirá verbalmente los comentarios públicos. En este momento, cada individuo tiene permitido 4 minutos parahablar.

1. Envíe un comentario público por adelantado a publiccomment@cityofsthelena.org

La forma más fácil de proporcionar comentarios públicos es enviar su comentario público por correo electrónico. Los comentarios públicos pueden enviarse por correo electrónico a publiccomment@cityofsthelena.org. Incluya en la línea de asunto "COMENTARIO AL CONSEJO y el PUNTO DEL PROGRAMA". Cualquier comentario público debe presentarse a más tardar 2 horas antes de la reunión programada y se incluirá como un archivo adjunto a la agenda. Todos los comentarios públicos se harán públicos y se adjuntarán al artículo de la agenda y no se leerán en voz alta. Todos los comentarios públicos que se reciban después de las 4:00 PM se adjuntarán a la agenda al día siguiente.

- 2. Proporcione comentarios a través de la reunión Zoom desde una computadora, tableta o teléfono inteligente

Esta opción permite que el público asista virtualmente a la reunión como un "asistente" silenciado sin capacidades de video o pantalla compartida. Podrá ver y escuchar a los participantes en la reunión, pero no podrán escucharlo hasta que el anfitrión de permiso.

Si desea proporcionar comentarios públicos durante un elemento específico de la agenda o durante un foro público, puede usar la función "levantar la mano" ubicada en el panel de control en la parte inferior de la pantalla. El icono es una pequeña mano azul. En Windows también puede usar el atajo de teclado Alt + Y para subir o bajar la mano. En Mac también puedes usar el atajo de teclado Alt + Y para subir o bajar la mano.

Se le notificará al anfitrión que ha levantado la mano y se lo colocará en fila con todas las solicitudes entrantes

Cuando sea su turno de hablar, se le notificará que el anfitrión le ha dado permiso de hablar. Para ser retirado de la fila, simplemente haga clic de nuevo el botón "levantar la mano".

3. Llame a la reunión de ZOOM desde un teléfono fijo o móvil solamente

Esta opción le permite al miembro del público la oportunidad de participar verbalmente en comentarios públicos.

Si desea hablar durante el tiempo de comentarios públicos, marque * 9 en su teléfono.

Se le notificará al anfitrión que le gustaría hablar y se colocará en fila con todas las solicitudes entrantes.

Cuando sea su turno de hablar, se le notificará que el anfitrión le ha dado permiso de hablar. Puede presionar * 9 nuevamente si desea ser eliminado de la fila.

THE ABRIDGED HISTORY OF ADAMS STREET

April 13th, 2021

Dear City Council and City Manager,

Given the history of the Adams Street property I was stunned on April 1st during your goal setting meeting to hear council member Dohring suggest pursuing RFPs for the property which could include hotel development, particularly considering more than half the town just voted to PREVENT hotel/motel development there for at least twenty years.

I do not know how familiar each of you are with the Adams Street property so here is the abridged history.

October 26th, 2000, the purchase of the property was discussed by City Council, Chamber of Commerce, and School District Board of Trustees. The only uses for the land entertained at that time were “city hall, community center, park and open space.” **A hotel was not included in any of the potential uses for the land.**

January 29, 2001, City Council conducted a special TOWN MEETING. Here is the exhaustive list of items identified as possible use of the property: “Community Center, ball field, Boys and Girls Club, day care/Montessori, multistory parking, City Hall and Police Department offices, non-profits, farmer’s market, picnic area, Senior Center, Wine Library expansion, Library expansion, community garden, performing arts, Media Center, Tech Center, space for art shows and performances, gym, affordable housing, Family Resource Center, organizations that serve the under-served, Assembly Hall, public agency uses (i.e. DMV), Transit Center for Pak-a-Ride type transportation, and open space.” **A hotel was not included in any of the input given.**

In summary the meeting facilitator suggested that **“whatever is developed be maintained for community use and urged that it not be developed in such a way to attract tourists.** Another member of the public stated that it is important to keep in mind what presently exists in the area, namely, a library and a vineyard.”

The group then created a shortened “Vision” for the property. The following “hopes” for the Adams Street property were held by most of the group.

- There should be multiple uses of the property.
- The property should benefit the community and the citizens of St. Helena.
- Open space and preserving the beauty of the Valley should be major considerations.
- The property should address needs that are not currently met; a needs assessment should be done so that there is no duplication; make sure other facilities are fully utilized/shared before adding additional projects; encourage organizations to collaborate and look at ways of sharing the property/space.

A hotel was not included in any of the options under consideration.

THE ABRIDGED HISTORY OF ADAMS STREET

May 21, 2001, another SPECIAL MEETING to discuss the development of Adams Street. The previously identified options were reviewed but this time the idea of for-profit development was introduced. **The question posed was, “Should a portion of the site be leased or sold to a for-profit developer?” By a show of hands 5 were in favor and 16 were opposed.**

December 11, 2001, The City had entered into an agreement with Collaborative Design Architects, Inc (CDA) for professional services for a conceptual development of Adams Street. A very comprehensive presentation was given by Mr. Burns (CDA). He then “reviewed that four alternatives were preliminarily derived and were subsequently modified as follows:

Alternative 1: Recreational Softball Field/Play Field and a Community Center shared with non-profit users (Boys and Girls Club, Family Resources Center, etc.).

Alternative 2: Mixed Use/Affordable Housing with a small amount of office space and a Community Center shared with non-profit users (Boys and Girls Club, Family Resources Center, etc.).

Alternative 3: Women Center/Hospital and a Community Center shared with non-profit users (Boys and Girls Club, Family Resources Center, etc.).

Alternative 4: Women Center/Hospital, Affordable Housing without Offices and a Community Center shared with non-profit users (Boys and Girls Club, Family Resources Center, etc.).

A hotel was not included in any of the alternatives under consideration.

January 25, 2011, “As a component of the General Plan Update Planning staff and consultants from MIG developed and implemented a **Community Visioning process from November 2008 through January 2009**. The results of this process resulted in a “Preferred Land Use Scenario” and a “Design Portfolio” which were presented to the Planning Commission and City Council in the Spring of 2009.” **A hotel was not included in the preferred scenario of the design portfolio.**

June 21, 2016. The City issued RFPs for the development of Adams Street. Several proposals for hotel development were received and presented to the community at a Town Hall that was standing room only with over 100 people in attendance. The proposals had it all: mixed use, office buildings, five Star boutique hotel, event center, retail shops, luxury apartments, even a 1+ acre plaza, City Hall and Police Station! **A hotel WAS considered in all the proposals. All the proposals were fervently rejected by the community.**

For Mr. Dohring to claim we need to be more “open minded” and avoid “binary thinking” to help inform decisions on Adams Street is ludicrous. The problem is the closed ears and minds of elected persons, some who are apparently single-minded, who will not accept what has been repeatedly stated for over twenty years now. The people of Saint Helena do not want a hotel on Adams Street!

Nancy Dervin

COMPREHENSIVE HISTORY OF ADAMS STREET

April 13, 2021

Dear City Council and City Manager,

Given the history of the Adams Street property I was stunned on April 1st during your goal setting meeting to hear council member Dohring suggest pursuing RFPs for the property which could include hotel development, particularly considering more than half the town just voted to PREVENT hotel/motel development there for at least twenty years. In my view that suggestion shows either a serious lack of knowledge regarding the history of Adams Street, or a willful disregard for what the citizens of St Helena have made perfectly clear they do not want.

I do not know how familiar each of you are with the actual history of the 5.6 acres of public land located at the corner of Library Lane and Adams Street (parcel #009-150-006), so I am presenting it here. I know this is long, but I want these historical details consolidated and on the record.

October 24, 2000. City Council Meeting wherein approval for lease financing for the purchase of what was then the Daly property, now referred to as Adams Street, occurred. "Ms. Haas (finance director) stated that the lender originally suggested that City Hall be used as the collateral (for a loan). However, staff prefers to not encumber City Hall because the Council may want to borrow funds for the future remodel of City Hall or to sell the property to finance a new City Hall on the Daly property. The lender appears to be agreeable to using the Carnegie Building and Crane Park as collateral."

October 26th, 2000. The purchase of the property was discussed by City Council, Chamber of Commerce, and School District Board of Trustees. The only uses for the land entertained at that time were "city hall, community center, park and open space."

November 14, 2000. At the City Council meeting the Planning Director presented an outline for going forward on the Adams Street property that included: "identifying stakeholders, utilization of a Project Planning Task Force to review development options, development of conceptual site plans, site development plan/specific plan, hiring of an architect to prepare architectural plans, determining the budget, establishing a public review period and environmental assessment, preparation of final working drawings, securing funding, selecting a contractor, and obtaining a building permit."

November 28, 2000. The process for development having been approved, City Council directed staff to schedule a Council Study Session/Community Meeting in the beginning of 2001.

January 29, 2001. City Council conducted a special TOWN MEETING at the fire station for the sole purpose of receiving community input on how the community would like to see the Adams Street property utilized. After a comprehensive overview and much discussion, here is the exhaustive list of items identified as possible use of the property: "Community Center, ball field, Boys and Girls Club, day care/Montessori, multistory parking, City Hall and Police Department offices, non-profits, farmer's market, picnic area, Senior Center, Wine Library expansion, Library expansion, community garden, performing arts, Media Center, Tech Center, space for art shows and performances, gym, affordable housing, Family Resource Center, organizations that serve the under-served, Assembly Hall, public agency uses (i.e. DMV), Transit Center for Pak-a-Ride type transportation, and open space."

In summary the meeting facilitator suggested that "whatever is developed be maintained for community use and urged that it not be developed in such a way to attract tourists. Another member of the public

COMPREHENSIVE HISTORY OF ADAMS STREET

stated that it is important to keep in mind what presently exists in the area, namely, a library and a vineyard.”

The group then created a shortened “Vision” for the property. The following “hopes” for the Adams Street property were held by most of the group:

- There should be multiple uses of the property.
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- The property should address needs that are not currently met; a needs assessment should be done so that there is no duplication; make sure other facilities are fully utilized/shared before adding additional projects; encourage organizations to collaborate and look at ways of sharing the property/space.

May 21, 2001. Another SPECIAL MEETING to discuss the development of Adams Street. The previously identified options were reviewed but this time the idea of for-profit development was introduced. The question posed was, “Should a portion of the site be leased or sold to a for-profit developer?” By a show of hands 5 were in favor and 16 were opposed.

December 11, 2001. Review, and direction Re: Conceptual Development Program for Adams Street Property took place. The City Manager summarized that the city had entered into an agreement with Collaborative Design Architects, Inc. (CDA) for professional services for a conceptual development of Adams Street. A very comprehensive presentation was given by Mr. Burns (CDA). He then “reviewed that four alternatives were preliminarily derived and were subsequently modified as follows:

Alternative 1: Recreational Softball Field/Play Field and a Community Center shared with non-profit users (Boys and Girls Club, Family Resources Center, etc.).

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Alternative 3: Women’s Center/Hospital and a Community Center shared with non-profit users (Boys and Girls Club, Family Resources Center, etc.).

Alternative 4: Women’s Center/Hospital, Affordable Housing without Offices and a Community Center shared with non-profit users (Boys and Girls Club, Family Resources Center, etc.).

January 25, 2011. City Council meeting Adams Street was reviewed and discussed again. Senior Planner Desmond stated that, “In **2005** the Council solicited proposals for planning, design, and construction of a mixed-use development on Adams Street that included affordable housing, office and/or retail on the project site. In **2006**, the city solicited proposals for community visioning and consensus building for the project site. The project was abandoned when members of the public expressed the opinion that the project should be defined during the General Plan Update Process.”

“As a component of the General Plan Update, Planning staff and consultants from MIG developed and implemented a **Community Visioning process from November 2008 through January 2009**. The results

COMPREHENSIVE HISTORY OF ADAMS STREET

of this process resulted in a “Preferred Land Use Scenario” and a “Design Portfolio” which were presented to the Planning Commission and City Council in the Spring of 2009.”

Mr. Goldfarb was at that meeting and addressed the Council, stating “that it was his understanding that Council wanted to address what they wanted to do with the Adams Street property before considering the housing issues. He commented that if it is the Council’s intent to throw out the city visioning plan and prepare their own it needed to be stated.” Nothing was stated by the city other than putting the matter off to be discussed at a future meeting.

June 21, 2016. The City issued RFPs for the development of Adams Street. Several proposals were received and all of them included hotel development. They were presented to the community at a Town Hall that was standing room only with over 100 people in attendance. The proposals had it all: mixed use, office buildings, five Star boutique hotel, event center, retail shops, luxury apartments, even a 1+ acre plaza, City Hall and Police Station! Every proposal was fervently rejected by the community. Had any of them proposed uses that didn’t include a hotel there may have been a different outcome.

For Mr. Dohring to claim we need to be more “open minded” and avoid “binary thinking”, so the people of St Helena have an opportunity to see a variety of options to help inform decisions regarding Adams Street is ludicrous, as proven in the documented history of what we do and do not want on the Adams Street property.

Sincerely,

Nancy Dervin

Cindy Tzaopoulos

From: Christy Pestoni <Christy@uvds.com>
Sent: Tuesday, April 13, 2021 2:34 PM
To: Cindy Tzaopoulos; Mark Prestwich
Subject: [External] Public Comment
Attachments: FedEx Scan 2019-07-26_14-22-44.pdf

Letter for Public Comment and attached declaration for non-agenized issues:
 SH City Council Meeting Tuesday April 13th
 I will have my hand raised.

My name is Christy Pestoni, I'm the new chief operating officer at UVDS and Clover Flat Landfill.

I assumed this role two years ago when ownership brought in a new management team to correct serious operating deficiencies.

The prior sole manager and operator was a world-renowned leader in reuse and sustainability. His ideas were decades ahead of their time and provided the State of California with much of its current regulatory requirements.

That man was my father, Bob Pestoni. In 2017, age and illness wore him down, and he began to behave differently. He became singularly focused on his own personal interests. He lost connection with his core operational duties. He ignored regulatory issues. He ignored complaints. He stopped listening to professionals because he didn't like what they had to say. He just wanted to focus on his things.

Through a difficult process, my father was forced into retirement, and a new management team assumed full operating responsibility. This was two years ago.

Today, UVDS and Clover Flat landfill are primarily female-owned and managed. Of our 100 employees who live locally, 70% are minorities, mostly Hispanic, all earning more than minimum wage with medical and pension benefits. The new management team has been led by a team of waste management professionals recruited from the best operators in the nation. Most of all, we have a perfect safety and operations record, without a single county or water board violation since the transition two years ago.

I'm proud of our staff, and proud of my mother for making the difficult decision that enabled us to put this new team into place. Our new policies and procedures, make us today one of the best operating waste management companies in the state. And we're working hard each day to reclaim our leadership role in reuse and sustainability.

I am grateful to Geoff for his help in bringing this new management team and now woman managed and controlled business to our community two years ago. It was Geoff's personal testimony under oath back then that allowed us to remove my father and make this change to a new management team. We were able to once again provide state of the art, safe, waste management services to our community and a safe working environment for our employees. I've attached Geoff's signed affidavit for reference.

The UVDS crisis ended two years ago, and we owe Geoff gratitude for that. That's over and done.

But now our community faces a series of other crises today – water, revenue, infrastructure and housing. We’ve never faced these sorts of challenges. What’s most frightening to me, however, is that Geoff doesn’t seem to care. He is singularly focused on his own personal interests. He is not listening to professionals around him. He is ignoring complaints. He has lost connection with his core responsibilities. Does this sound familiar?

A recent example: On Friday, March 26, my husband helped city staff determine we will likely be out of water in October unless we make big changes right now. Geoff was notified immediately on Monday, March 29, about the severity of the crisis and an emergency meeting of the council was arranged. The very next day, March 30, instead of working with the crisis council and staff at that time, Geoff drove his van to Davis and met secretly with waste management operator Recology to see if they were interested in replacing UVDS.

It seems bizarre but it’s true. The CEO of Recology called me and explained it himself.

Geoff doesn’t care about water or the penalties all of us are going to pay in this town. He doesn’t care about Vineyard Valley residents on fixed incomes, or the underprivileged in our community. He doesn’t care what these penalties will mean to our wineries or our Main St. Geoff cares about Geoff. He always has. He is wasting valuable time and money twisting public forums to his own personal use instead of assisting our community.

I’m here tonight to thank the council for its thankless work on behalf of our community. But unless this community removes Geoff from office, I don’t see how the council can adequately address this unprecedented series of crises. Just like I saw at UVDS three years ago.

Geoff, I’ll be the first to say it publicly, for the sake of our town, I’m calling on you to resign.

Thank you Council, and good luck.

Christy

Christy Pestoni
Chief Operating Officer
Upper Valley Disposal & Recycling
Clover Flat Resource Recovery Park
South Lake Refuse, Recycling & Compost
Christy@uvds.com
Cell 707-227-4695
Office 707-200-9317



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LAW OFFICES OF
BLEY AND BLEY
555 MONTGOMERY STREET, SUITE 1205
SAN FRANCISCO, CALIFORNIA 94111-2543
(415) 982-7311

STEPHEN BRUCE BLEY, CSB no. 40028
JULIANA YANAZ, CSB no. 315366
ATTORNEYS FOR

Petitioner SYLVIA PESTONI

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF NAPA

In Re Matter Of:	)	Case No. 19 FL 000542
	)	
	)	DECLARATION OF GEOFF ELLSWORTH
SYLVIA PESTONI,	)	SUBMITTED IN CONNECTION WITH
	)	PETITIONER'S REQUEST FOR ORDER
Petitioner,	)	TO VOID VOTING TRUST AGREEMENTS
and	)	
	)	DATE:
ROBERT PESTONI,	)	TIME:
	)	DEPT: C
Respondent.	)	Hon. _____
	)	
	)	
	)	

I, GEOFF ELLSWORTH, declare as follows:

1. I submit this declaration in connection with what I understand to be a dispute between Sylvia Pestoni and Robert Pestoni (herein collectively "the Pestonis") concerning certain business interests they own. I have personal knowledge of the facts that I state herein, and if called as a witness in this matter, I could and would testify competently to such facts.

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- 1 2. I have held public office and served the City of St. Helena for the last two years
- 2 and eight months. I was elected to serve as the Mayor of St. Helena, beginning eight months
- 3 ago. I served on the St. Helena City Council for two years before that.
- 4
- 5 3. In addition, I hold the position of alternate member on the board of directors of
- 6 the Upper Valley Waste Management Agency ("UVA") (alternate to Councilperson Mary
- 7 Kobertstein). The UVA is a Joint Powers Authority (JPA) in conjunction with the County of
- 8 Napa for the contract that governs Upper Valley Disposal Service and Clover Flat Landfill.
- 9
- 10 4. I have known the Pestoni family for 50 years, since I was a child, and as a young
- 11 man worked for Upper Valley Disposal Service, as well as attending school with the Pestoni
- 12 children. I understand that Mr. Bob Pestoni has personally overseen and managed the company
- 13 and contracts throughout my lifetime, while growing up in St Helena and now during my time in
- 14 politics here.
- 15 5. I have become increasingly concerned of late with Mr. Pestoni's ability to safely
- 16 manage and operate the landfill and the related facilities and businesses that serve our
- 17 community.
- 18
- 19 6. I have attended recent JPA board meetings and have spoken on public record
- 20 regarding the contamination leaks and other violations at Clover Flat Landfill.
- 21 7. In the past three to five years, there have been an alarming number of landfill
- 22 fires. In particular, there were fires in the summer of 2017 and the summer of 2018 that put the
- 23 landfill and surrounding community at risk and required Calfire, the County LEA and other
- 24 agencies to investigate.
- 25 8. Clover Flat Landfill was closed to the public for 22 days during this period.
- 26

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1 9. In addition to the fires, other concerning matters include large scale leachate
 2 chemical contamination of public waterways, a chemical explosion, the presence of radioactivity
 3 in used fracking tanks brought in by Mr. Pestoni, and expansion activity around the landfill
 4 during the same period violations were not being addressed.

5
 6 10. This all points to a pattern of inadequate overall oversight, including inadequate
 7 fire protection measures and inadequate mitigation measures regarding leachate and chemical
 8 intake.

9 11. As mayor of St. Helena I have a duty to the health, safety and well-being of the
 10 residents of St. Helena.

11 12. There is simply no margin for error in protecting our communities, particularly
 12 relating to issues of fire and public health.

13 13. While giving respect to Mr. Pestoni's many years of providing waste management
 14 services to our community, the inability or failure over time to implement the proper safeguards
 15 and oversight make it clear a leadership change in the company should happen as soon as
 16 possible, completely and permanently into the future.

17 14. I have also known Sylvia Pestoni, Linda Sereni, Christy Pestoni, Greg Pestoni and
 18 Andy Pestoni my entire life and as an elected official serving in St Helena.

19 15. I have seen in recent months and weeks how these members of the Pestoni family
 20 have stepped in and engaged a competent management team that is working to restore and repair
 21 the damages and is working diligently with all state agencies and the county LEA.

22 16. I believe with strongest conviction and for the good of the community that these
 23 members of the Pestoni family, and not Mr. Bob Pestoni, should have control of operations
 24 regarding the landfill and the related businesses of Upper Valley Disposal Company.
 25
 26

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I declare, under penalty of perjury, that the foregoing is true and correct and that this Declaration was signed this 26 day of July, 2019, at St. Helena, California.


 Geoff Ellsworth



Report to the City Council
Regular City Council - 13 Apr 2021

Agenda Section: CONSENT ITEMS

Subject: Consideration and approval of a resolution authorizing: (1) the lease-purchase of a 2021 Ford F-150 Full-Hybrid Pickup in an amount not-to-exceed \$41,679.6 financed over a five-year period with Enterprise Fleet Management; and (2) authorizing the City Manager to execute all documents necessary for the lease-purchase of the vehicle.

CEQA Determination: Not a CEQA project

Prepared By: Martin Beltran, Management Analyst

Reviewed By: Clayton Church, Acting Public Works Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The Fiscal Year (FY) 2020-21 approved Operations Budget included appropriations for the lease-purchase of one Public Works vehicle for the Wastewater Treatment Plant. On January 9, 2018, City Council authorized a Master Lease Agreement with Enterprise Fleet Management ("Enterprise") for the replacement of vehicles under their Governmental Fleet Management Program. In addition to having the ability to lease vehicles from Enterprise, this contract also allows for the direct purchase of a vehicle and service plan utilization for vehicles. Enterprise's Governmental Fleet Management Program meets the requirements of St. Helena Municipal Code Section 3.04.150 allowing the purchasing officer to "piggy-back" with the competitive bidding of other agencies, and waive the formal bid procedures.

DISCUSSION

Vehicle #402 is used by the Wastewater Treatment Plant in the Public Works Department and is in need of replacement due to age, miles, and utility. The current vehicle is a 2001 Chevy S10 with 116,798 miles and requires new brakes, the heater and air conditioning no longer work, the vehicle leaks oil, and staff is continually needing

to add coolant. The City has made several repairs over the past two years including the replacement of the engine control module in order for the vehicle to be able to pass SMOG and to extend the life of the vehicle as long as possible. Additional maintenance and repairs are needed and repairs are exceeding the replacement value of the vehicle.

Staff is recommending this vehicle be replaced with a 2021 Ford F-150 Full-Hybrid Pickup which will include toolboxes, amber lights, and antenna for radio communication. The replacement cost of the vehicle is \$41,679.60 and will be lease-financed over 60-months with annual payments of \$8,335.92. The replacement cost includes the price of the vehicle and a full maintenance program for five years.

The current vehicle has a Miles Per Gallon (MPG) of 15 and utilizes approximately 500 gallons of fuel per year which equates to 9,800 Carbon Dioxide Equivalent (CO₂e) lbs. each year. The replacement vehicle has a MPG of 25 for City and MPG of 26 for Highway, and will utilize an estimated 335 gallons of fuel each year which equates to 6,566 CO₂e lbs. per year. This is an estimated 33% decrease in CO₂e lbs. per year from the current vehicle. Replacement of this vehicle is consistent with City Council Goal 6: Support Initiatives that Respond to and Plan for Climate Change and the General Plan Climate Change Goal 10.4 which includes improving the fuel efficiency of vehicles.

FISCAL IMPACT

The fiscal impact over a five-year period for the lease-purchase of the new vehicle is \$41,679.60. Funds for the first year lease-purchase have been included in the FY 2020-21 adopted budget.

RECOMMENDED ACTION

Staff recommends City Council adopt the attached resolution.

ATTACHMENTS

[Attachment 1: Resolution](#)

[Attachment 2: Enterprise F-150 Hybrid Quote](#)

CITY OF ST. HELENA

RESOLUTION NO. 2021-

Resolution authorizing: (1) the lease-purchase of a 2021 Ford F-150 Full-Hybrid Pickup in an amount not-to-exceed \$41,679.60 financed over a five-year period with Enterprise Fleet Management; and (2) authorizing the City Manager to execute all documents necessary for the lease-purchase of the vehicle.

RECITALS

- A. The City of St. Helena Public Works Department desires to replace Vehicle #402, a 2001 Chevy S10, with a 2021 Ford F-150 Full-Hybrid Pickup for use with the Wastewater Treatment Plant; and
- B. On January 9, 2018, City Council authorized a Master Lease Agreement with Enterprise Fleet Management which allows the lease or purchase of vehicles through their Governmental Fleet Management Program; and
- C. The City of St. Helena wishes to utilize 60-month lease-purchase agreement for the purchase of the Wastewater Treatment Plant vehicle through Enterprise Fleet Management.

RESOLUTION

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

- 1. Authorizes a 60-month lease-purchase of a 2021 Ford F-150 Full-Hybrid Pickup from Enterprise Fleet Management in an amount not-to-exceed \$41,679.60; and
- 2. Authorizes the City Manager to execute all documents necessary for the lease-purchase of the vehicle.

Approved at a Regular Meeting of the St. Helena City Council on April 13, 2021, by the following vote:

Mayor Ellsworth: _____

Vice Mayor Dohring: _____
Councilmember Chouteau: _____
Councilmember Hall: _____
Councilmember Hardy: _____

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzafopoulos, City Clerk



FLEET MANAGEMENT

Profile: City of St. Helena F-150 (401831)

Comparison Profile

Customer: City of St. Helena

Vehicle Comparison

2021 Ford
F-150
XL 4x2 SuperCrew Cab Styleside
5.5 ft. box 145 in. WB
W1C



Vehicle Type	1/2 Ton Pickup
Engine	3.5L PowerBoost Full-Hybrid V6
EPA MPG City	25
EPA MPG Highway	26
Acquisition Cost	\$33,224
Total Actual Depreciation	\$13,144
Total Fuel Cost	\$6,926
Total Maintenance Cost	\$3,351
Monthly Depreciation	\$553.74
Monthly Management Fee	\$33.22
Monthly Interest	\$54.75
Monthly Use Tax	\$52.94
Monthly Rent with Tax	\$694.66
Lease Term	60 Months
Holding Period	5 Years
Annual Mileage	10,000
Cost Per Mile	\$0.64
RBV at Term	\$0
Expected Sales Price	\$20,080
Estimated Equity at Term	\$20,080



FLEET MANAGEMENT
Profile: City of St. Helena F-150 (401831)

2021 Ford F-150

XL 4x2 SuperCrew Cab Styleside 5.5 ft. box 145 in. WB

Comparison Profile

Customer: City of St. Helena

Selected Options

Code	Description	Invoice Price
101A	Equipment Group 101A High	\$154.00
STDTR	Tires: 245/70R17 BSW A/S	Included
64C	Wheels: 17" Silver Steel	Included
C	Cloth 40/20/40 Front Seat	Included
STDRD	Radio: AM/FM Stereo w/6 Speakers	Included
50S	Cruise Control	Included
76R	Reverse Sensing System	Included
99D	Engine: 3.5L PowerBoost Full-Hybrid V6	\$4,091.00
DZTEMP	Dual Zone Automatic Temperature Control	Included
XL9	Electronic Locking w/3.55 Axle Ratio	Included
NONGV5	GVWR: 7,350 lbs Payload Package	Included
44H	Transmission: Hybrid Electronic 10-Speed Automatic	\$0.00
145WB	145" Wheelbase	STD
PAINT	Monotone Paint Application	STD
477_	Pro Power Onboard - 7.2KW	\$683.00
PAINT	Monotone Paint Application	STD

Total Options Charges \$4,928.00



Report to the City Council
Regular City Council - 13 Apr 2021

Agenda Section: CONSENT ITEMS

**Subject: Appointment of Vice Mayor Paul Dohring to the 2023-2031
6th Cycle Housing Element Update Focus Group.**

CEQA Determination: Not a CEQA project

Prepared By: Aaron Hecock, Senior Planner

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The City of St. Helena has recently initiated an update to its Housing Element. The purpose of the Housing Element is to: 1) identify the community's current and future housing needs; 2) to state the community's goals and objectives with regard to housing production, rehabilitation, and conservation to meet those needs; and 3) to define the policies and programs that the community will implement to achieve the stated goals and objectives. The Housing Element is an element of the City's General Plan, which provides guiding policy for land use and resource management within the city. Unlike the other General Plan elements, the Housing Element is subject to detailed statutory requirements and mandatory review and certification by the California Department of Housing and Community Development and is updated on a schedule mandated by the state.

DISCUSSION

The Housing Element update is a unique opportunity to shape housing within the community through the year 2031. As part of the process, the City will be convening a Focus Group to help address topics that are important to the development of the Housing Element. On March 23, 2021, at a publicly noticed Joint Meeting of the City Council and Planning Commission, Vice Mayor Dohring expressed interest in being on the Housing Element Update Focus Group.

FISCAL IMPACT

None

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Adopt a resolution appointing Vice Mayor Paul Dohring to the 6th Cycle 2023-2031 Housing Element Update Focus Group.

ATTACHMENTS

[Resolution](#)

CITY OF ST. HELENA

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST. HELENA APPOINTING
VICE MAYOR PAUL DOHRING TO THE 6th CYCLE 2023-2031 HOUSING ELEMENT
UPDATE FOCUS GROUP**

Recitals

1. The City has initiated the process to prepare its 2023-2031 6th Cycle Housing Element Update; and
2. As part of the update process a Focus Group is being organized in order to help address topics that are important to the development of the Housing Element; and
3. On March 23, 2021, at a publicly noticed Joint Meeting of the City Council and Planning Commission Vice Mayor Dohring expressed interest in being on the Housing Element Update Focus Group.

Resolution

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

1. Vice Mayor Paul Dohring is appointed to the 6th Cycle 2023-2031 Housing Element Update Focus Group.

I HEREBY CERTIFY that the City of St. Helena City Council approved the foregoing at a Regular Meeting of the St. Helena City Council on April 13, 2021, by the following vote:

Mayor Ellsworth: _____
Vice Mayor Dohring: _____
Councilmember Chouteau: _____
Councilmember Hardy: _____
Councilmember Hall: _____

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzaopoulos, City Clerk



Report to the City Council
Regular City Council - 13 Apr 2021

Agenda Section: CONSENT ITEMS

Subject: Consideration of Second Reading and proposed adoption of an Ordinance Adding Chapter 10.40 “Electric Vehicles” and Sections 10.40.010 – 10.40.070 to Title 10, Vehicles and Traffic, of The St. Helena Municipal Code, Setting Forth Procedures for Expedited Permit Processing For Electric Vehicle Charging Stations

CEQA Not a CEQA project
Determination:

Prepared By: Preya Nixon, Asst. to the City Manager

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The purpose of this chapter is to adopt an expedited, streamlined electric vehicle charging station permitting process that complies with Government Code Section 65850.7, to achieve timely and cost-effective installations of electric vehicle charging stations.

The City Council conducted and approved a first reading of an Ordinance adding Chapter 10.40 “Electric Vehicles” and Sections 10.40.010 – 10.40.070 to Title 10, Vehicles and Traffic, of The St. Helena Municipal Code, Setting Forth Procedures for Expedited Permit Processing For Electric Vehicle Charging Stations at the Tuesday, March 23, 2021, regular City Council meeting.

DISCUSSION

This chapter is intended to encourage the use of electric vehicle charging stations by establishing prescriptive guidelines, minimizing costs to property owners and the City of St. Helena, and limiting obstacles for property owners to install electric vehicle charging stations, consistent with State law.

This update to the St. Helena Municipal Code will bring the City into compliance AB 1236, which requires this streamlined process for electric vehicle charging stations (EVCS). Elements include an expedited process and criteria including a clear checklist on the permit requirements.

A draft of this ordinance was presented to the Active Transportation and Sustainability Committee (ATSC) at their Regular March 3, 2021 meeting. Feedback from the ATSC was support of this ordinance as it promotes sustainability.

Connection to the General Plan - Chapter 10 Climate Change & Connection to Council Goal Six - Support initiatives that respond to and support Climate Change). In addition to being a State requirement, the streamlined permitting process works in coordination with both the General Plan Chapter 10 and City Council Goal 6. Specifically, General Plan implementing action: **CC6.B** Install electric vehicle charging stations with funding from state and federal sources.

A public hearing notice was published in the Napa Valley Register ten days prior to the meeting.

FISCAL IMPACT

Not applicable.

RECOMMENDED ACTION

1. Find that the proposed ordinance adding Chapter 10.40 "Electric Vehicles" and Sections 10.40.010 – 10.40.070 to Title 10, Vehicles and Traffic, of the St. Helena Municipal Code, Setting Forth Procedures For Expedited Permit Processing For Electric Vehicle Charging Stations is exempt from the requirements of CEQA pursuant to Sections 15060(c)(2) and 15060(c)(3) of Title 14 of the California Code of Regulations, and;
2. Staff recommends introducing and conducting the first reading by title only and waive further reading of an ordinance adding Chapter 10.40 "Electric Vehicles" and Sections 10.40.010 – 10.40.070 to Title 10, Vehicles and Traffic, of The St. Helena Municipal Code, Setting Forth Procedures For Expedited Permit Processing for Electric Vehicle Charging Stations.

ATTACHMENTS

[ST HELENA Ordinance Adopting Procedures for Expedited Permitting for Electric Vehicle Charging Stations-c1](#)

CITY OF ST. HELENA

ORDINANCE NO. _____

ADDING CHAPTER 10.40 “ELECTRIC VEHICLES” AND SECTIONS 10.40.010 – 10.40.070 TO TITLE 10, VEHICLES AND TRAFFIC, OF THE ST. HELENA MUNICIPAL CODE, SETTING FORTH PROCEDURES FOR EXPEDITED PERMIT PROCESSING FOR ELECTRIC VEHICLE CHARGING STATIONS

WHEREAS, subsection (a) of Section 65850.7 of California Government Code provides that it is the policy of the State to promote and encourage the use of electric vehicle charging stations and to limit obstacles to their use; and

WHEREAS, subsection (g)(1) of Section 65850.7 of the California Government Code provides that every city, county, or city and county shall adopt an ordinance, consistent with the goals and intent of Government Code Section 65850.7(a), that creates an expedited, streamlined permitting process for electric vehicle charging stations; and

WHEREAS, it is the intent of the City Council to adopt an ordinance encouraging the installation of electric vehicle charging stations by removing obstacles to, and minimizing costs of, permitting for charging stations, while codifying the requirements of Government Code Section 65850.7 into the St. Helena Municipal Code.

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

SECTION 1: The above recitals are hereby incorporated as though set forth in this section.

SECTION 2: Chapter 10.40 and sections 10.40.010 – 10.40.070 are hereby added to Title 10 of the St. Helena Municipal Code, to read as follows:

“Chapter 10.40 – ELECTRIC VEHICLES

Sections:

10.40.010 Purpose

10.40.020 Definitions

10.40.030 Expedited Permitting Process

10.40.040 Permit Application Processing

10.40.050 Technical Review

10.40.060 Electric Vehicle Charging Station Installation Requirements

10.40.070 Severability

Section 10.40.010 – Purpose

The purpose of this chapter is to adopt an expedited, streamlined electric vehicle charging station permitting process that complies with Government Code Section 65850.7, to achieve timely and cost-effective installations of electric vehicle charging stations. This chapter is intended to encourage the use of electric vehicle charging stations by establishing prescriptive guidelines, minimizing costs to property owners and the City of St. Helena, and limiting obstacles for property owners to install electric vehicle charging stations, consistent with State law.

Section 10.40.020 – Definitions

Building Department shall mean the Building Department of the City of St. Helena, and shall include reference to the Chief Building Official or his or her designee.

City checklist shall mean the checklist developed by the City of all requirements with which electric vehicle charging station(s) must comply in order to be eligible for expedited review. The City's checklist and all other permitting documentation shall be published and accessible on the City's website.

Electronic submittal shall mean the utilization of one or more of the following: (1) email; (2) the Internet; or (3) facsimile.

Electric vehicle charging station or charging station shall mean any level of electric vehicle supply equipment station that is designed and built in compliance with Article 625 of the California Electrical Code, and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.

Specific, adverse impact shall mean a significant, quantifiable, direct and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date an application was deemed complete.

Section 10.40.030 – Expedited Permitting Process

(a) Consistent with Government Code Section 65850.7, as may be amended from time to time, the City shall implement an expedited, streamlined permitting process for electric vehicle charging stations, and develop a checklist of all requirements with which electric vehicle charging stations shall comply with in order to be eligible for expedited review. The expedited, streamlined permitting process and checklist may refer to the recommendations contained in the most current version of the "Plug-In

Electric Vehicle Infrastructure Permitting Checklist" of the "Zero-Emission Vehicles in California: Community Readiness Guidebook" as published by the Governor's Office of Planning and Research.

(b) The City's checklist and required application forms shall be published on the City's website.

Section 10.40.040 – Permit Application Processing.

(a) Prior to submitting an application for processing, an applicant shall verify that the installation of an electric vehicle charging station will not have specific, adverse impact to public health and safety and building occupants. Verification by the applicant includes but is not limited to: reviewing and complying with electrical system capacity and loads; electrical system wiring, bonding and overcurrent protection; building infrastructure affected by charging station equipment and associated conduits; areas of charging station equipment; and vehicle parking.

(b) A permit application that satisfies the information requirements in the City's checklist shall be deemed complete and be promptly processed. A complete application pursuant to this section does not authorize an applicant to energize or utilize the electric vehicle charging station until approval and all necessary permits are granted by the Building Department.

(c) If the Building Department determines that the permit application is incomplete, it shall issue a written correction notice to the applicant, detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance.

(d) The Building Department shall allow for electronic submittal of permit applications covered by this article and associated supporting documentations. In accepting such permit applications, the Building Department shall also accept electronic signatures on all forms, applications, and other documentation in lieu of a wet signature by any applicant.

Section 10.40.050 – Technical Review

(a) The Building Department shall review all electric vehicle charging station applications. Notwithstanding the expedited permit processing set forth in this article, the Building Department retains authority at all times to identify and address higher priority life-safety situations.

(b) If the Building Department makes a finding based on substantial evidence that an electric vehicle charging station could have a specific, adverse impact upon the public health or safety, as defined in this chapter, the City may require the applicant to apply for a use permit pursuant to Chapter 17.168 of this Code. An application for a use permit to install an electric vehicle charging station shall not be denied unless the Planning Department makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The findings shall include the basis for the rejection of potential feasible alternatives.

(c) Any conditions imposed on an application to install a charging station shall be designed to mitigate the specific, adverse impact upon the public health or safety at the lowest cost possible.

(d) In the technical review of a charging station application, the Building Department shall not condition the approval of any electric vehicle charging station permit on the approval of such a system by an association, as that term is defined by Civil Code Section 4080.

(e) Upon confirmation by the Building Department that the permit application and supporting documents meet the requirements of the City's checklist, and is consistent with all applicable laws and health and safety standards, the Building Department shall, consistent with Government Code Section 65850.7, as may be amended, approve the application and issue all necessary permits.

Section 10.40.060 – Electric Vehicle Charging Station Installation Requirements

(a) Electric vehicle charging station equipment shall meet the requirements of the California Electrical Code, the Society of Automotive Engineers, the National Electrical Manufacturers Association, and accredited testing laboratories such as Underwriters Laboratories, and rules of the Public Utilities Commission or a Municipal Electric Utility Company regarding safety and reliability.

(b) Installation of electric vehicle charging stations and associated wiring, bonding, disconnecting means, and overcurrent protective devices shall meet the requirements of Article 625 and all applicable provisions of the California Electrical Code.

(c) Installation of electric vehicle charging stations shall be incorporated into the load calculations of all new or existing electrical services and shall meet the requirements of the California Electrical Code. Electric vehicle charging equipment shall be considered a continuous load.

(d) Anchorage of either floor-mounted or wall-mounted electric vehicle charging stations shall meet the requirements of the California Building or Residential Code as applicable per occupancy, and the provisions of the manufacturer's installation instructions. Mounting of charging stations shall not adversely affect building elements.

Section 10.40.070 – Severability

If any section, subsection, phrase, or clause of this article is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.”

SECTION 3: CEQA

This ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The City Council hereby finds that this ordinance is not subject to CEQA because the adoption of this ordinance is not a “project” pursuant to Sections 15060(c)(2) and 15060(c)(3) of Title 14 of the California Code of Regulations. Specifically, this ordinance only establishes a streamlined process for electric vehicle charging station permits and merely authorizes administrative activities which will not result in a direct or reasonably foreseeable indirect physical change in the environment.

Moreover, under Section 15061(b)(3) of the State CEQA Guidelines, this ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

SECTION 4: Effective Date

This ordinance shall take effect 30 days after its final adoption, and a summary of this ordinance shall be published once with the names of the members of the Council

voting for and against the ordinance in the St. Helena Star, a newspaper of general circulation published in the City of St. Helena.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the 23 day of March, 2021, and was adopted at a regular meeting of the St. Helena City Council on the _____ day of _____, 2021, by the following vote:

Mayor Ellsworth:	_____
Vice Mayor Dohring:	_____
Councilmember Chouteau:	_____
Councilmember Hardy:	_____
Councilmember Hall:	_____

APPROVED:

Geoff Ellsworth, 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 23 day of March, 2021. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, 2021, by the following vote:

Mayor Ellsworth:	_____
Vice Mayor Dohring:	_____
Councilmember Chouteau:	_____
Councilmember Hardy:	_____
Councilmember Hall:	_____



Report to the City Council
Regular City Council - 13 Apr 2021

Agenda Section: CONSENT ITEMS

Subject: Consideration and proposed Resolution authorizing the City Manager to execute a Professional Services Agreement with Noll and Tam Architects in an amount not-to-exceed \$41,375 for space planning and Phase 1 tenant improvements at the Napa Valley College Upper Valley Campus

CEQA Determination: Not a CEQA project

Prepared By: April Mitts, Finance Director

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The City of St. Helena is currently in the process of negotiating an agreement with Napa Valley College (NVC) to lease space at their St. Helena campus to serve as a City Hall and Police facility. It is anticipated this space will serve the City for at least five years and is in need of modest Tenant Improvements (TI's) in order to facilitate the specific needs of the City.

DISCUSSION

It is anticipated that once the terms of the lease are negotiated, the City will have a interim timeframe to complete the required TI's for the Administrative departments prior to start of the first lease payment and additional time to complete the required TI's for the Police Department. It is the City's intention to have staff move in as quickly as possible in order to move from the current facility to the NVC campus as the current facility is outdated, in need of significant repairs, and a much smaller facility that is not as conducive to multiple staff being in the office at the same time due to continuing COVID restrictions.

In an effort to prepare for the timeframe needed for TI's, the City Manager has reached out to two architectural firms to receive two informal quotes. After meeting with both firms and evaluating proposals, the City Manager recommends retaining the services of Noll and Tam Architects (Noll and Tam) to perform Phase I which includes the following:

Phase I - City Administration Offices through Construction

1. Space Planning for City Hall and Police
2. Construction Documents for City Hall services (excluding Police Department)

The time to complete Task 1 is 6 weeks for a not-to-exceed amount of \$41,375.

The recommendation to utilize Noll and Tam to perform Phase I is based on the demonstrated ability to complete this project as well as the firm's familiarity with the City due to the previous work completed as part of the Feasibility/Visioning study for the Library, City Hall, and Recreational facilities at the City of St. Helena. While a portion of the previous work completed was for a permanent City Hall, this work will allow Noll and Tam to take previously vetted planning space needs and conform those needs with the NVC space.

FISCAL IMPACT

In the current fiscal year (FY 2020-21), the City received non-budgeted, one-time funds from ERAF in an amount of \$400,795. At the mid-year budget review, City Council authorized \$400,000 of these funds be set aside for one-time expenditures which will be used for costs associated with the Tenant Improvements and moving expenses.

RECOMMENDED ACTION

Staff recommends City Council adopt the attached resolution.

ATTACHMENTS

[Attachment 1 - Noll and Tam Phase I NVC](#)

[Attachment 2 - Resolution Noll and Tam PSA](#)

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into on _____, 2021 by and between the City of St. Helena, located in the County of Napa, State of California (City), and Noll and Tam Architects (Consultant).

RECITALS:

A. City desires to employ Consultant to furnish professional services in connection with the project described as Consulting Services to assist the City with Phase I of the Napa Valley College Tenant Improvements.

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

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

SECTION 1 – BASIC SERVICES

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

SECTION 2 – ADDITIONAL SERVICES

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

SECTION 3 – TIME FOR COMPLETION

The time for completion of Services shall be as identified in **Exhibit A, “Scope of Services”**. The parties expressly agree that time is of the essence in the performance of this Agreement.

SECTION 4 – COMPENSATION AND METHOD OF PAYMENT

A. Subject to any limitations set forth in this Agreement, City agrees to pay consultant the amount specified in Exhibit B, “Compensation” attached hereto and made a part hereof. Total compensation shall not exceed \$41,235 unless additional compensation is approved in accordance with Section 2.

B. Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories if applicable: labor (by sub-category), travel, materials, equipment, supplies, subconsultant contracts, and miscellaneous expenses. Each original invoice furnished shall

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Noll and Tam Architects – Phase I City Hall

include the expenses incurred during the preceding month, the cumulative Agreement amount, and the amount remaining on the Agreement. City shall independently review each invoice submitted to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. If no charges or expenses are disputed, the invoice shall be approved, and City will use its best efforts to cause Consultant to be paid within 30 days of receipt of invoice. If the City disputes any charges or expenses, the City will return the original invoice to Consultant for correction and resubmission. If the City reasonably determines, in its sole judgment, that the invoiced charges and expenses exceed the value of the Services performed to date and that it is probable that the Agreement will not be completed satisfactorily within the contract price, City may retain all or a portion of the invoiced charges and expenses. Within thirty (30) days of satisfactory completion of the project, City shall pay the retained amount, if any, to Consultant.

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

SECTION 5 – STANDARD OF PERFORMANCE

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

B. In order to induce City to enter into this Agreement, Consultant represents that it is duly organized, existing and in good standing under applicable state law; Consultant is licensed to perform all aspects of the Services; Consultant will employ only persons and Subconsultants with all required licenses and certifications; that Consultant is duly qualified to conduct business in the State; that Consultant has duly authorized the execution, delivery and performance of this Agreement and the Services to be performed herein; and that the Agreement does not violate or create a default under any instrument, agreement, order or decree binding on Consultant.

SECTION 6 – INSPECTION AND FINAL ACCEPTANCE

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

SECTION 7 – INSURANCE REQUIRED

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

- A. Minimum Scope of Insurance. Coverage shall be at least as broad as:
 1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
 2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
 3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
- B. Minimum Limits of Insurance. Consultant shall maintain limits no less than:
 1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations, as applicable. If Commercial General Liability Insurance or other form with a General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
 2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
 3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

C. Professional Liability Insurance. When Consultant under this Agreement is duly licensed under California Business and Professions Code as an architect, landscape architect, environmental engineer or other professional engineer, or land surveyor ("design professional"), Consultant shall maintain at least \$2,000,000 of professional liability insurance. When Consultant is not a design professional, Consultant shall maintain at least \$1,000,000 of professional liability insurance combined single limit for each occurrence, insuring against professional errors and omissions in the Services performed by Consultant under this Agreement, including, without limitation, claims for negligence, misrepresentation, violation of good faith and fair dealing, and inaccurate advice arising out of, resulting from, or in connection with Services performed by Consultant under this Agreement.

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

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

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

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

1. The City, its agent, officers, officials, employees, and volunteers are to be covered as additional insured as respects: liability arising out of work or operations performed by the Consultant or Consultant's subconsultants; or automobile owned, leased, hired or borrowed by the Consultant.
2. For any claims related to Consultant's conduct while performing the work of this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its agents, officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its agents, officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subsection (b) of Section 2782 of the Civil Code.

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

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

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

SECTION 8 – INDEMNIFICATION

A. To the fullest extent allowed by law (including without limitation California Civil Code Sections 2782 and 2782.8), as may be applicable, Consultant shall indemnify, defend, and hold harmless City, its agents, officers, officials, employees, representatives, and volunteers from any and all claims, demands, suits, loss, damages, injury, and/or liability (including any and all

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Noll and Tam Architects – Phase I City Hall

costs and expenses in connection therewith, including legal fees and expert witness costs) (collectively, “Liabilities”), incurred by reason of any negligent or otherwise wrongful act or omission of Consultant, its officers, agents, employees, subconsultants, and subcontractors, or any of them, under or in connection with this Agreement; and Consultant agrees at its own cost, expense and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against City, its agents, officers, officials, employees and volunteers, or any of them, arising out of, pertaining to, or relating to such negligent or otherwise wrongful act or omission, and to pay and satisfy any resulting judgments.

B. When Consultant under this Agreement is duly licensed under California Business and Professions Code as an architect, landscape architect, professional engineer, or land surveyor (i.e., a “design professional,” pursuant to Civil Code § 2782.8(c)), the provisions of this section regarding Consultant’s duty to defend and indemnify apply only to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant.

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

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

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

F. In the event that Consultant executes any subconsulting agreements in connection with the Services performed under this Agreement, Consultant shall place in all such subconsulting agreements, and cause its subconsultants to agree to, the indemnity and insurance obligations in favor of City and other Indemnitees, as provided herein, in the exact form and substance of those contained in this Agreement.

SECTION 9 – INDEPENDENT CONTRACTOR STATUS

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

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

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

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

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

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

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

SECTION 11 – OWNERSHIP OF DOCUMENTS

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

Page 6 of 13

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

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

SECTION 12 – CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION

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

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

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

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

SECTION 13 – SUSPENSION OF WORK

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

SECTION 14 – COMPLIANCE WITH LAW

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

SECTION 15 – COMPLIANCE WITH CIVIL RIGHTS

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

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

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

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

SECTION 16 – COMPLIANCE WITH CALIFORNIA LABOR CODE REQUIREMENTS

A. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is

\$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

B. If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

C. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant’s performance of services, including any delay, shall be Consultant’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

SECTION 17 – AUDIT AND INSPECTION OF RECORDS

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

B. Consultant shall maintain all documents and records prepared by or furnished to Consultant during the course of performing the Services for at least three (3) years following completion of the Services. Such records include, but are not limited to, correspondence, internal memoranda, technical reports and investigations, calculations, books and accounts, accounting records documenting its work under its Agreement, and invoices, payrolls, records and all other data related to matters covered by this Agreement.

C. Consultant shall permit City to audit, examine and make copies, excerpts and transcripts from such records, and the Consultant shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any matter whatsoever for three (3) years after City makes the final or last payment or within three (3) years after any pending issues between City and Consultant with respect to this Agreement are closed, whichever is later.

SECTION 18 – LIMITATION OF LIABILITY

A. Consultant agrees that any liability of City arising in connection with this Agreement shall be limited exclusively to the City-entity identified as the “City” under this Contract. Under no circumstance shall any other City-entity be liable to Consultant under any theory, whether in contract, tort, or otherwise, and Consultant waives unconditionally any such claims. Consultant hereby waives and release other City-entites from any liability under this Agreement.

B. Notwithstanding any other provision of this Agreement, in no event shall City be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the Services performed hereunder.

SECTION 19 – COOPERATION BY CITY

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

SECTION 20 – NOTICES

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

To City: City Manager
 1572 Railroad Avenue
 St. Helena, California 94574

To Consultant: Noll and Tam Architects
 Attn: Janet Tam
 729 Heinz Avenue #7
 Berkeley, CA 94710
 Janet.tam@nollandtam.com
 510-542-2200

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

SECTION 21 – TERMINATION

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

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

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

SECTION 22 – ATTORNEYS' FEES

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

SECTION 23 – ENTIRE AGREEMENT

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

SECTION 24 – SUCCESSORS AND ASSIGNS

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

SECTION 25 – CONTINUITY OF PERSONNEL

Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the Services required under this Agreement. Consultant

shall notify City of any changes in Consultant's staff assigned to perform the Services required under this Agreement, prior to any such performance.

SECTION 26 – DEFAULT

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

SECTION 27 – WAIVER

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

SECTION 28 – LAW TO GOVERN; VENUE

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

SECTION 29 – SEVERABILITY

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

SECTION 30 – THIRD PARTY BENEFICIARIES

Consultant's subconsultants shall agree to be bound to the terms of the Agreement to the extent of their scope of Services, including but not limited to, terms regarding indemnity and dispute resolution, and shall agree that City is deemed an express third party beneficiary of their subconsultant agreements. Nothing contained in this Agreement, however, shall operate to confer such or similar rights or benefits on persons or entities not party to this Agreement.

SECTION 31 – STATUTES OF LIMITATION

As between the parties to this Agreement, any applicable statute of limitations for action arising out of, pertaining to, or relating to any act or failure to act in connection with this Agreement shall commence to run on the date of City's issuance of the final Certificate for Payment, or termination of this Agreement, whichever is earlier, except for latent defects and/or

deficiencies, for which the applicable statute of limitation shall begin to run upon discovery of the defect and/or deficiency and its cause.

SECTION 32 – SPECIAL PROVISIONS

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

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

Consultant:

City:

By: _____

By: _____

Name: Janet Tam

Name: Mark T. Prestwich

Title: Principal

Title: City Manager

Approved as to Form:

By: _____

Name: Ethan Walsh

Title: City Attorney

Exhibit A

St Helena City Offices at Napa Valley College
Noll & Tam Fee Proposal
 March 26, 2021

Tenant Improvement Scope to include:

Phase I- City Administration Offices through Construction

A. Space Planning for Administration and Police (1-2 week process)

1. **Administration:** Confirm floor plan layout with City Manager and staff
 (1-2) zoom meetings to review space requirements and floor plan layouts
 Confirm any special equipment and space requirements
2. **Police:** Confirm floor plan layout with City Manager and staff
 (1-2) zoom meetings to review space requirements and floor plan layouts
 Confirm any special equipment and space requirements including dispatch equipment
 requirements, test fit existing dispatch equipment
3. (1) site visit to tour NVC building site
4. Review city provided furniture inventory to confirm test fits
5. Code Review, including incorporation of CASP identified deficiencies for ADA compliance
6. Prepare space plan layout that will proceed to construction documents and review by NVC
 identify new construction items and what will remain

Deliverables:

- Floor plan layout and demolition notes
- Space program list summary of spaces accommodated for Admin and Police

B. Construction Documents for Administration (approx. 4-week process)

Assumptions:

1. Drawings will be for public bid
2. City or NVC will provide "Front End" Division 1 Specifications
3. No City Building Dept Review or permitting/
 No Dept of State Architect (DSA) Review or permitting
4. CVS cursory review, incorporate comments
5. Mechanical, Electrical and Plumbing will be Design/Build by the General Contractor.

Construction Documents Scope:

1. General: Unless specifically identified, there will be no work to the following items that will remain as is:
 - Exterior building shell and associated site and courtyard areas
 - Existing partitions and built-in items including case work
 - Existing wall, floor and ceiling finishes
 - Existing MEP systems

2. New breakroom at existing Lobby- provide new sink & ref, new partition with door and interior glazing, adjustment to sprinklers and lighting if required.
3. (1) new provide offices for HR manager – new partitions, door, adjustment to sprinklers and lighting if required.
4. Add window to existing corridor door near office A (alternate- new door and frame with lite)
5. New lactation room- Close existing opening and add door with privacy hardware, add privacy film to existing exterior door (no change to existing casework or sink)
6. ADA toilet room minor adjustments per CASP report
7. Existing Classroom 1 + 2: Fix shut existing movable wall.
8. Select public lobby seating furniture for City to procure

Deliverables:

- Cover Sheet with site vicinity map, code notes, including ADA- attach CASP report
- Floor plan indicating new construction, demolition notes, and rest to remain as is
- Final furniture/office layout (For information only)
- Enlarged plans + Reflected plans at new office and break room
- ADA upgrades at toilet room per CASP (enlarged plan of rest rooms)
- Finish schedule
- Interior Details: Interior door, new partition, sink casework at break room
- Specification notes on drawings/ MEP notes only on drwgs for D/B
- Front end Div 1 by City

Exclusions: (But can be added if required)

1. Front End Division 1 Specifications (Owner's requirements, including instructions to bidders)
2. MEP Engineering will be design/build by General Contractor
3. IT consultant services
4. Security Consultant services
5. A/V Consultant services
6. Structural engineering is not anticipated for the Admin office tenant improvements
7. Signage
8. Cost Estimating
9. Permitting process, including back check
10. Phase II Construction Documents and Construction Administration for Police TI, to be added after Space Planning Phase 1 task

Phase II: Includes Completion of Police Construction Documents and Construction Administration Fees to follow after completion of the Space Programming task.

In addition to Architectural fees, work will most likely require the following engineers:

- Civil for the site utilizes required by the modular shower trailer
- Structural for foundations required by the modular shower trailer
- Signage consultant to complete the overall building signage to identify the City Offices
- Assuming that MEP and IT consultants can still be design/build by the General Contractor

Exhibit B

Noll & Tam Architects
729 Heinz Avenue
Berkeley, CA 94710

St Helena City offices
Napa Valley College
3/26/2021

← ADMIN OFFICES ONLY →

PHASE I		TOTALS			
Basic Service	Consultant	SPACE PLANNING ADMIN + POLICE	CONSTRUCTION DOCUMENTS	BIDDING AND NEGOTIATION	CONSTRUCTION ADMINISTRATION
Architectural Services	Noll & Tam Architects	\$9,210	\$23,690	\$1,155	\$1,320
Structural Engineering	NIC				
Mechanical/Plumbing Engineering Design /Build	Design /Build				
Electrical Engineering	Not included				
Landscape Architect	BKF		\$5,500		
Civil Engineering (Site ADA)	Not included				\$5,500
Cost Estimating	tbd				
Signage					
Subtotal Basic Services		\$9,210	\$29,190	\$1,155	\$1,320
Reimbursable Expense Allowance			\$500		\$500
					\$41,375

CITY OF ST. HELENA

RESOLUTION No. 2021-

RESOLUTION OF THE COUNCIL OF THE CITY OF ST. HELENA AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH NOLL AND TAM ARCHITECTS IN AN AMOUNT NOT-TO-EXCEED \$41,375 FOR CONSULTING SERVICES TO ASSIST THE CITY WITH PHASE I OF THE NAPA VALLEY COLLEGE TENANT IMPROVEMENTS

RECITALS

- A. The City of St. Helena is currently in the process of negotiating an agreement with Napa Valley College to lease space at their St. Helena campus to serve as a City Hall and Police Facility; and
- B. The space is in need of Tenant Improvements in order to facilitate the specific needs of the City; and
- C. Noll and Tam Architects has the demonstrated ability to complete and has previous experience with the City due to their work on the Feasibility/Visioning study for the Library, City Hall, and Recreational facilities; and
- D. City and Consultant now desire to enter into a PSA for consulting services to assist with City with Phase I of the Napa Valley College Tenant Improvements; and
- E. The total contract is for a not-to-exceed amount of \$41,375.

RESOLUTION

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

- 1. The City Council approves a Professional Services Agreement with Noll and Tam Architects to assist with City with Phase I of the Napa Valley College Tenant Improvements for a not-to-exceed amount of \$41,375; and
- 2. The City Council authorizes the City Manager to execute the agreement on behalf of the City.

Approved at a Regular Meeting of the St. Helena City Council on April 13, 2021, by the following vote:

Mayor Ellsworth: _____

Vice Mayor Dohring: _____
Councilmember Chouteau: _____
Councilmember Hardy: _____
Councilmember Hall: _____

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzaferopoulos, City Clerk



Report to the City Council
Regular City Council - 13 Apr 2021

Agenda Section: CONSENT ITEMS

Subject: Review and consideration of the 2020 St. Helena Annual Housing Element Progress Report

CEQA Determination: Not a CEQA project

Prepared By: Aaron Hecock, Senior Planner

Reviewed By: Maya DeRosa, Planning & Building Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

In 1969, the state mandated that all California cities, towns and counties must plan for the housing needs of residents regardless of income. This state mandate is called the Housing Element (HE) and Regional Housing Needs Allocation (RHNA). The California Department of Housing and Community Development (HCD), determines the total number of new homes the Bay Area needs to build, and how affordable those homes need to be, in order to meet the housing needs of people at all income levels. The numbers are provided to the Association of Bay Area Governments (ABAG) who then divides them up between all Bay Area jurisdictions.

Pursuant to Government Code Section 65400, by April 1st of each year, Cities are required to submit an annual report to the Office of Planning and Research (OPR) and HCD outlining the progress made towards implementing the City's 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.

On May 26, 2015, the City of St. Helena adopted its 5th cycle state-mandated Housing Element update, spanning the years 2015-2023. This Housing Element details how the City plans to accommodate a total of 31 RHNA 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.

HCD is currently in the process of finalizing the 6th RHNA cycle (2023-2031) and the City expects to receive their final housing unit allocation numbers from ABAG in the near future.

DISCUSSION

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 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. As reported in the 2020 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.

HCD requires a report to the City Council at a public meeting. Given this, staff has attached HCD Annual Report worksheets 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 attached Table D from the HCD Annual Report worksheet. The required annual report was submitted to OPR and HCD prior to the April 1, 2021 deadline.

As identified in Table B of the HCD worksheet, the City has issued building permits for 91 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 for very-low and moderate income categories identified in the RHNA allocations. It should be noted that one deed restricted moderate income unit (in addition to 4 low income units) was approved as part of the 963 Pope Street affordable housing project. Once building permits are issued those units will count toward our RHNA numbers.

Additional housing element and supporting information can be found at the following link:

<http://www.cityofsthelena.org/planning/page/2015-2023-housing-element>

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 recognizing that staff submitted the information to HCD and OPR in keeping with the April 1, 2021 mandate.

ATTACHMENTS

[Table A](#)

[Table B](#)

[Table D](#)

[LEAP Reporting](#)

Note: "+" indicates an optional field
Cells in grey contain auto-calculation formulas

Cells in grey contain auto-calculation formulas

Table A

[illegible]

Jurisdiction	St. Helena	
Reporting Year	2020	(Jan. 1 - Dec. 31)

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
 (CCR Title 25 §6202)

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					2					2	6
	Non-Deed Restricted												
Low	Deed Restricted	5			8		6					14	
	Non-Deed Restricted												
Moderate	Deed Restricted	5										4	1
	Non-Deed Restricted		4										
Above Moderate		13	23	6	11	10	4	17				71	
Total RHNA		31											
Total Units			27	6	19	10	12	17				91	7

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		2020	(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 all units, including affordable housing units and Accessory Dwelling Units from the Growth Management system in compliance with current state law.
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 the Brenkle Ct. Project from Our Town St. Helena (OTSH)). Building permits for each unit were issued in 2019. An additional 5 deed restricted affordable units were approved in 2020 however building permits have not yet been issued.
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 has created an SB 330 Checklist 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 2020 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 \$2,450,000) to three different affordable housing projects, anticipated to result in the construction and/or occupancy of 21 new affordable housing units in St. Helena through 2021. 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 E 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. Estimated annual revenue from this measure is approximately \$280,000.
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.	Ongoing	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 on-going 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. The last update being January 1, 2020 with adoption of the 2019 Code Standards.

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 now that the 2040 St Helena General Plan has been adopted. 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.
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 currently underway. 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.	Ongoing	In 2020, 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 was adopted in May 2019. A comprehensive zoning code has begun 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 was adopted in May 2019. A comprehensive zoning code update has begun will include additional direction regarding the development of Accessory Dwelling Units (ADUs). 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 2020, the City incentivised ADU development in all residential areas of the community. The St Helena 2040 General Plan was adopted in May 2019. A comprehensive zoning code update has begun will include additional direction regarding the development of Accessory Dwelling Units (ADUs).
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 which is expected to occur along with the comprehensive zoning code update. Financial incentives and potential variance from development standards will be included as a part of this review. The City has also begun its 6th Cycle Housing Element Update which will identify Key Housing Opportunity Sites and potenital rezoning oppotunities withing the City.
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.	Ongoing	The City Council has expressed an interest in reviewing housing needs Citywide which is expeted to occur along with the comprehensive zoning code update. 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. The City has also begun its 6th Cycle Housing Element Update which will identify Key Housing Opportunity Sites and potenital rezoning oppotunities withing the City.

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 along with the comprehensive zoning code update. Incentives for the development of these units including parking ratio reductions, 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. The City has also begun its 6th Cycle Housing Element Update which will identify Key Housing Opportunity Sites and potential rezoning opportunities within the City.
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 along with the comprehensive zoning code update. 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 the comprehensive zoning code update. 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 2020.

-	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 2021.	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 the comprehensive zoning code update. 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. The City has also begun its 6th Cycle Housing Element Update which will identify Key Housing Opportunity Sites and potenital rezoning oppotunities withing the City.
Goal 3 Quantified Objective:	Assist in the acquisition of low-interest loans for rehabilitation, including energy conservation, of 10 lower-income housing units by January 31, 2023 of the end of the Housing Element planning period (2 extremely low income, 2 very low income, 3 low income, and 3 moderate income households).	31-Dec-22	City was awarded \$500,000 HOME funds grant in 2017 and initiated implementation of a program to make 0-interest, 0-payment 30-year loans for rehabilitation work to owners of deed restricted homes. To date, the City has expended or committed approximately \$448,000 of these funds to assist 12 low income home owners and are making effort to utilize the complete balance. The City was awarded another \$500,000 in HOME funds in 2020 however that agreement has not been exectedut yet.

[illegible]

Jurisdiction	St. Helena
Reporting Year	2020 (Jan. 1 - Dec. 31)

ANNUAL ELEMENT PROGRESS REPORT Local Early Action Planning (LEAP) Reporting (CCR Title 25 §6202)					
<i>Please update the status of the proposed uses listed in the entity's application for funding and the corresponding impact on housing within the region or jurisdiction, as applicable, categorized based on the eligible uses specified in Section 50515.02 or 50515.03, as applicable.</i>					
Total Award Amount	\$	65,000.00	Total award amount is auto-populated based on amounts entered in rows 15-26.		
Task	\$ Amount Awarded	\$ Cumulative Reimbursement Requested	Task Status	Other Funding	Notes
Issue Request for Proposals		0	Completed		
Select Consultant		0	Completed		
Execute Contract		0	Completed		
Public Workshop	5000	0	In Progress		
Study Session with Planning Commission	5000	0	In Progress		
Study Session with City Council	5000	0	In Progress		
Prepare Administrative Draft Housing Element	19500	0	In Progress		
Prepare Draft CEQA Document	19500	0	In Progress		
Public Review CEQA Document	5000	0	In Progress		
Submit Draft Housing Element to HCD for Review			In Progress		
Planning Commission Hearing	3000	0	In Progress		
City Council Adoption	3000		In Progress		

Summary of entitlements, building permits, and certificates of occupancy (auto-populated from Table A2)

Completed Entitlement Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	4
	Non-Deed Restricted	0
Moderate	Deed Restricted	1
	Non-Deed Restricted	0
Above Moderate		13
Total Units		18

Building Permits 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		17
Total Units		17

Certificate of Occupancy 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		8
Total Units		8



Report to the City Council
Regular City Council - 13 Apr 2021

Agenda Section: PUBLIC HEARINGS

Subject: Consideration and approval of a Resolution adopting a penalty structure for a violation of the City's Phase II and Phase III water regulations set forth in the St. Helena Municipal Code section 13.04.220 et seq.

CEQA Not a CEQA project
Determination:

Prepared By: April Mitts, Finance Director

Reviewed By: Mark T. Prestwich, City Manager

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

St. Helena Municipal Code (SHMC) provides that at any time the City Council finds and determines that a water shortage emergency condition meeting the criteria of Phase I water emergency (SHMC 13.04.230), Phase II water emergency (SHMC 13.04.240), or Phase III water emergency (SHMC 13.04.250), and it is necessary to limit water use, the City Council must adopt a resolution setting forth the applicable phase. One of the criteria for establishing a Phase I water emergency under SHMC 13.04.230 includes when the Director of Public Works determines that the conditions requiring the establishment of a Phase II water emergency appears imminent.

On June 23, 2020, the City Council adopted Resolution 2020-72 establishing Phase I Water regulations, and the City Clerk published a notice declaring the establishment of a Phase I water emergency. The notice set forth limitations of water use applicable to a Phase I water emergency. At the time of the Phase I water emergency, the City had extremely low annual cumulative rainfall (20"), a forecast for a potential multi-year drought, and the Bell Canyon Reservoir was at 60% capacity. Public Works had also implemented changes to conserve Bell Canyon Reservoir water by optimizing Stonebridge Wells and City of Napa water use. In June 2020, the forecast for when a potential Phase II water emergency would be triggered by was November.

On October 13, 2020, the Public Works Director informed the City Council that a Phase II water emergency had been triggered on October 1, 2020. The trigger system utilizes data the water treatment operators submit in a monthly water production report. The September 2020 water report was delayed due to the September 27, 2020 Glass Fire and was not available in time to bring a Phase II water emergency for discussion and consideration to City Council. As of October 13, 2020, Bell Canyon Reservoir was at 399.8' and 39.4% capacity.

At the October 27, 2020 City Council meeting, the City Council adopted Resolution No. 2020-107 determining that conditions requiring the establishment of a Phase II water emergency exist and as a result directed City staff to enact a Phase II water emergency.

Following the October 27, 2020 City Council meeting, a working group of City staff was created to focus on the implementation of Phase II water regulations. The group consists of the City Manager, Public Works Director, Finance Director, City Clerk, and other staff members from Finance and Public Works. The working group coordinated the implementation of Phase II water regulations which included the recruitment of Water Advisory Board members (selected at the January 12, 2021 City Council meeting), collection of customer data for water allocation purposes, public outreach and communications, and developing a penalty methodology. At the December 8, 2020 City Council meeting, an update regarding the implementation of Phase II water regulations was provided to the City Council and to the public.

On December 10, 2020, the City entered into a Professional Services Agreement with Raftelis Financial Consultants for the development of proposed water emergency policies, including penalties, during declared water shortage emergencies (Attachment 1). The scope of services includes the following:

1. Task 1 - Data Review and Due Diligence
2. Task 2 - Water Shortage Penalty Development
3. Task 3 - Shortage Allocation Analyses
4. Task 4 - Water Shortage Penalty Policy Memorandum

On March 23, 2021, Raftelis presented to City Council their recommendation for a penalty structure for the City of St. Helena (Attachment 1 - Raftelis Memorandum). At this meeting, the City Council directed staff to hold a public hearing on April 13, 2021 to adopt the recommended penalty structure.

On March 30, 2021, a notice of public hearing was circulated.

DISCUSSION

The City of St. Helena is currently in a water emergency situation which requires conservation efforts from its water customers. The goal of the penalty is to ensure

compliance with the required conservation measures to ensure the City has enough water to provide basic necessities.

The proposed penalty structure (Table 1) is a tiered volumetric structure intended to minimize penalties for those barely exceeding the water usage allocation and where water use can be reasonably reduced below the allocated water use in subsequent months. This structure creates higher penalty amounts based on the amount of water waste, and provides financial incentives to reduce water use. Under SHMC 13.04.230 and 13.04.240 the City must notify customers of the water usage allocation for each account that would be allowed under a Phase II water emergency or a Phase III water emergency.

Table 1 - Proposed Penalty Structure for a Phase II and Phase III Water Emergency

Volume Exceeded	\$ per HCF Exceeded	\$ per Gallon Exceeded
<25% Over (up to 24.999%)	\$10.00	\$0.013
25-50% Over (25-49.999%)	\$25.00	\$0.033
50-100% Over (50-99.999%)	\$100.00	\$0.134
>100% Over	\$250.00	\$0.334

If adopted as proposed, the penalty rate structure for excessive water use will take effect on May 1, 2021. Customers will be notified on a monthly basis via USPS mail of any penalties incurred during the preceding month and penalties will be applied directly to the customers' water account with the City. The monthly correspondence will include the number of gallons/units of water allocated in the monthly timeframe, the number of gallons/units of water used, and the amount of penalties incurred.

Outreach Activities

The City recognizes the water situation is an important issue for everyone, and without significant rainfall or conservation efforts from all water users, the City is at risk of not having an adequate water supply. Immediately after the adoption of the penalty rate structure, the City will provide notice to all water customers via USPS comparing their actual water usage to water allocation for March 2020. The City will also provide customers with water saving tips to help reduce water consumption immediately. The City will continue this practice on a monthly basis until the termination of the water emergency.

Table 2 provides a summary of the outreach which has been conducted to-date regarding the current water emergency.

Table 2

Date Distributed	Material	Where Distributed
June 2020	Press Release: City Enters Phase I Water Emergency	City's Website City's E-News

		Email Distribution Social Media Media Contacts
July 2020	Utility Bill Insert: Phase I Water Emergency	City Utility Bills
July 2020	SHINE Newsletter - Phase I Water Emergency	City's Website City's E-News (Approx. 2,500 subscribers)
November 2020	Press Release: City Enters Phase II Water Emergency	City's Website City's E-News Email Distribution Social Media Media Contacts
November 2020	SHINE Newsletter - Phase II Water Emergency	City's Website City's E-News (Approx. 2,500 subscribers)
November 2020	Press Release: Additional Information About Phase II Water Emergency	City's Website City's E-News Email Distribution Social Media Media Contacts
November 2020	Formation of Water Advisory Board	City's Website City's E-News Email Distribution Social Media Media Contacts
January 2021	Water Survey Letter	City Utility Bills
February 2021	Water Survey Letter - Reminder	Direct Mailer
March 2021	Press Release: Phase II Water Emergency Update and Water Conservation	City's Website City's E-News Email Distribution Social Media Media Contacts
March 2021	SHINE Newsletter - Phase II Water Emergency Update and General Water Update.	City's Website City's E-News (Approx. 2,500 subscribers)

All outreach materials can be found on the City's website: [Water Regulations](#)

Exceptions

Recognizing water customer may have a variety of circumstances and the mandatory conservation measures outlined in SHMC 13.02.220 et seq may not be feasible, SHMC 13.04.280 provides the Public Works Director may, with such conditions that seem

reasonable, grant exception permits in addition to any basis allocation, based on the conditions defined in this section. The reasons are summarized below:

1. For any customer with an allocation based on previous water use, if it can be demonstrated that water conservation measures beyond those required in Chapter 13.12 were in place prior to the preceding nonshortage year.
2. For single-family residential parcels exceeding 7,000 square feet in area, the quantity of up to 20 gallons per day for each 1,000 square feet that the property exceeds 7,000 square feet for the purpose of maintaining mature landscape or orchard plants.
3. For medical conditions of a resident, a quality as required to maintain health standards.
4. For any customer with an allocation based on previous winter water use, if it can be demonstrated that efficient and essential water uses are not represented in average winter water use, an additional quantity of water may be allocated to provide for these efficient and essential needs.

Further, the Water Advisory Board may grant permits for uses of water or for exceptions to water conservation measures for water connections otherwise prohibited by Sections 13.04.230, 13.04.240, and 13.04.250 if it finds and determines that such regulations would:

1. Cause an unnecessary and undue hardship to the applicant or to the public;
2. Cause an emergency condition affecting the health, sanitation, fire protection, or safety of the applicant or public; or
3. Promote water conservation by providing for the establishment of water efficient landscaping meeting the standards of Section 17.112.140 and such policies and regulations as have been adopted to implement the provisions of that chapter, replacing more water-intensive landscaping.

Any request for exceptions should be made through the Public Works Department by contacting Martin Beltran at: mbeltran@cityofsthelena.org.

FISCAL IMPACT

There are several fiscal considerations in the establishment of Phase I, Phase II, and Phase III water emergency regulations. Several components will fiscally affect the City including:

1. Drought Rates - The 2017 adopted water rate structure includes a drought period surcharge that begins once the City implements Phase I Water Regulations. Drought rates are applied to use charges (does not affect service (or base) charges). Drought rates are 6% higher than non-drought rates because during drought years the cost of water per 1,000 gallons is 6% higher than during non-drought years. Drought rates went into effect July 1, 2020.
2. Decrease in Consumption - Both Phase II and Phase III Water Regulations limit the amount of use based on winter average for commercial, industrial, and

commercial users and limits the amount of use based on the number of persons in a household for residential customers. While drought rates went into effect July 1, 2020, additional water conservation requirements will result in a decrease in water enterprise revenues. The analysis conducted by Raftelis estimates the conservation measures in Phase II would equate to a 30% reduction in water consumption. Utilizing actual water use from July 1, 2019 through June 30, 2020 and utilizing the non-drought, peak season water consumption charge, there will be an estimated decrease in revenues of \$1.26 million to the City's Water Enterprise Fund during Phase II restrictions.

3. Additional Staffing and Outreach - Additional staffing and outreach costs will be associated with the implementation and monitoring of Phase III Water Regulations due to: (a) outreach to all customers which will include mailers and possible follow-up phone calls, (b) calculations which must be done for customers based on classification, (c) customer data input into the City's financial software system for each customer; (d) monitoring of water use for the duration of the water emergency, and (e) implementation of penalties.
4. Penalties - The fiscal impact in implementing penalties is dependent on customer use. Every customer can avoid penalties by limiting water usage to the amount of their allocation. Penalties collected will be placed in the Water Enterprise Fund and will solely be used for water purposes. The funds will be used in the following manner:
 - Recover a portion of the financial deficit created by water shortage conditions from the entire community, in proportion to water usage.
 - Implement a range of actions to reduce water use and help ensure that demand for water does not exceed supply during this current water shortage situation and beyond. Such actions may include:
 - Public outreach campaigns;
 - Water efficiency customer assistance and rebate programs;
 - Operational changes;
 - Water waste patrols;
 - Installation of purple pipe; and/or
 - Installation of Automatic Metering Infrastructure (AMI) to allow for advanced meter data collection and management.

RECOMMENDED ACTION

Adopt the attached resolution.

ATTACHMENTS

[Attachment 1 - City of St. Helena Water Emergency Policies Memorandum 2021 final](#)

[Attachment 2 - Resolution St. Helena Establishing Volumetric Penalties](#)

City of St. Helena

Water Shortage Emergency Policies

Memorandum / March 31, 2021





March 31, 2021

April Mitts
Finance Director
City of St. Helena
1572 Railroad Avenue
St. Helena, CA 94574

Subject: 2021 Water Shortage Emergency Policies Study

Dear. April Mitts,

Raftelis is pleased to submit this Water Shortage Emergency Policy Study to the City of St. Helena (City). The City engaged Raftelis to assist in developing a penalty structure during declared shortages when water rationing is required and to evaluate the City's existing approach to allocating water during a shortage. This memorandum summarizes our analyzes, findings, and recommendations.

It was a pleasure working with you, and we wish to express our thanks for the support City staff provided during the study.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sanjay'.

Sanjay Gaur
Vice President

A handwritten signature in black ink, appearing to read 'Kevin'.

Kevin Kostiuik
Manager

A handwritten signature in black ink, appearing to read 'MH'.

Michael Hicks
Consultant

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1. Scope of Study

The City of St. Helena (City) engaged Raftelis to develop a water penalty structure to be implemented during Phase II and Phase III water shortage events. The Study includes an evaluation of the existing water allocation to City water customers during a shortage. The City declared a Phase II event in October 2020 and, absent an immediate change to local water supply conditions, a Phase III event could be called.

Raftelis conducted a water shortage penalty survey of water service providers across California to recommend the most appropriate framework to the City given similarities to other agencies. The City will rely upon the penalty structure recommendation in this memorandum to comply with water allocations. The City seeks to change water usage behaviors across its customer base to avoid a worsening water supply situation.

As part of the water allocation review, Raftelis conducted a water demand reduction analysis, based on fiscal year (FY) 2020¹ customer water use information, to compare non-shortage year water demand against projected demand subject to City allocations at each Phase and in two “seasons” (Summer / Winter).

Study data and information relied upon for the project include water shortage ordinances in the City’s Municipal Code, water supply information provided by the City’s Public Works Department, summarized time-series customer water demand information, and water allocation bases by customer class and season provided by City staff.

¹ FY 2020 is July 1, 2019 through June 30, 2020

2. City Water Supply Conditions

The City of St. Helena (City) provides water services to residential and non-residential customers in and around the City. The City's water sources include surface water from Bell Canyon Reservoir, groundwater from Stonebridge Wells, and purchased treated water from the City of Napa. The Louis Stralla Water Treatment Plant, which treats surface water stored in Bell Canyon Reservoir, has a capacity of 4.3 million gallons a day (MGD). Stonebridge Wells includes two active groundwater wells and filtration facilities. The City distributes its sources of treated water via six storage tanks and four pump stations.

The City established an agreement in September 2006 with the City of Napa for the delivery of treated water. In December 2011, an amendment increased the minimum annual delivery to 600 acre-feet (AF) with optional delivery of up to 800 AF. Optional additional delivery of 200 AF may be delivered, provided the City of Napa has sufficient water supply. If Napa does not have sufficient supply, it will attempt to acquire supplemental dry-year water on a single-year basis from an outside source. Groundwater pumping from Stonebridge Wells is limited to 450 acre-feet per year (AFY) to preserve basin water levels and avoid overdraft.

Bell Canyon Reservoir is the most critical water source that provides water reliability, given the constraints on groundwater and limitations on purchased water. The trigger for declaring and rescinding local shortage conditions is dependent on storage capacity at Bell Canyon Reservoir and determined by the City's Safe Yield Committee. Bell Canyon Reservoir has a capacity of 2,400 AF with 25% of capacity reserved for firefighting and minimum flows for fish and wildlife. The City can not provide water to customers from the Bell Canyon Reservoir when its storage capacity drops to 25%.

Extremely low annual rainfall and Bell Canyon Reservoir level reduced to 60% of total capacity prompted the City to enact Phase I Water Regulations on June 23, 2020, in preparation for a potential multi-year drought. The implementation of this policy calls for customers of the City to follow certain conservation measures. With a consecutive dry year approaching, on November 1, 2020, the City declared a Phase II water emergency with Bell Canyon beginning the month of October at 39.4% capacity. As of March 22, 2021, the reservoir sits at 43% capacity.

3. Water Shortage Penalties

3.1. Water Penalties and California's Legal Environment

In California, water rates are subject to the substantive and procedural provisions of Proposition 218, a measure passed by voters in 1996 which amended the California Constitution (specifically Article XIII D, Section 6). While the City imposes water rates on its customers subject to the requirements of Proposition 218, the fees proposed in this report are not water rates. The proposed fees are penalties imposed during periods of shortage for exceeding a defined water allocation. While rates must be based on the cost of service provided, penalties need not meet the same legal standard. Further, while rates generate revenues for the purpose of recovering costs to serve customers, shortage penalties aim to dissuade behavior and are not designed to be a revenue-generating mechanism. Shortage penalties are subject to the provisions of Proposition 26, a measure passed by the voters in 2010 to further define fees from taxes.

There are limits to water shortage penalty fees and how the revenues generated from penalties may be spent. These limitations should be confirmed with the City Attorney's office and any external legal counsel providing advice to the City².

The end goal of water shortage penalties is to establish compliance with an adopted law or regulation by enforcing a policy (i.e., water allocations). The goal of a penalty is to recover the costs of regulations and the enforcement of the fees, which fall under the guidelines of Proposition 26.

3.2. Water Penalty Survey

Raftelis began our water penalty effort by surveying ten agencies across California, listed in Table 3-1 below. The survey includes water service providers across a mix of geography, service area size, climate, sources of supply, and customer demographics. The diversity in comparative agencies assists us in identifying an appropriate framework for a penalty structure.

Table 3-1: Survey List

Sweetwater Authority	Montecito Water District
City of Santa Cruz	City of Turlock
Las Virgenes Water District	Yorba Linda Water District
East Bay Municipal Utility District	City of Ceres
Coachella Valley Water District	El Toro Water District

Raftelis qualitatively analyzed and grouped reasons why agencies develop water shortage penalties. The reason(s) why an agency adopts and implements penalties can influence the type of structure created by an agency and the monetary charge(s) imposed for exceeding an allocation. Raftelis's observations include the following reasons why an agency implements a penalty structure:

- › There is a finite amount of water supply that is in danger of being exhausted
- › There is a mandatory conservation order in place

² Raftelis is not a law firm and cannot provide legal advice

- › Social messaging to encourage good water behavior that may be modeled by neighboring agencies
- › Some combination thereof

The City fits into the first category given that the water supply situation is critical. It is conceivable that the City will run out of water absent significant curtailment or significant spring precipitation. Penalties, along with the City's individual water allocations, are required to reduce water use and prevent more severe restrictions and more severe water rationing.

3.2.1. QUALITATIVE EVALUATION

Raftelis applied three indicators to the comparative agencies surveyed to better characterize and compare them to the City. The three indicators are average household income, per capita demand, and water supply reliability. Table 3-2 shows the exercise results with low scores in red, medium (Med) scores in yellow, and high scores in green. Using our professional judgment and knowledge of the agencies surveyed, Raftelis identified the three agencies most like the City. These three are bolded in the table and include the City of Santa Cruz, Montecito Water District, and Yorba Linda Water District.

The City of Santa Cruz relies on a single source of water supply with no access to other sources or interconnections to neighboring agencies. While Santa Cruz's water demand is considerably lower than the City their water supply challenges are most similar. Montecito Water District serves a very affluent community, has very high per capita water demand, and until recently, low water supply reliability³ (while not as constrained as St. Helena or Santa Cruz). Lastly, the City resembles the Yorba Linda Water District who serves an affluent community, and has relatively high water demand.

Table 3-2: Metric Categorization

Agency	Income	Per Capita Demand	Reliability
St. Helena	High	High	Low
Santa Cruz	Med	Low	Low
Las Virgenes MWD	High	High	High
East Bay MUD	Med	Med	Med
Coachella Valley WD	Med	High	High
Montecito WD	High	High	Low
City of Turlock	Low	High	High
Yorba Linda WD	High	High	High
City of Ceres	Low	High	High
El Toro WD	Med	Med	High
Sweetwater Authority	Med	Med	High

3.2.2. PENALTY STRUCTURES

Penalty structures can take on several forms dictated by water reliability, customer demographics, and community values. In our survey, the common structures are:

³ In June 2020 the Montecito Water District signed a water supply agreement with the neighboring City of Santa Barbara to receive up to 40% of their annual water supply from the City's ocean desalination facilities; and even in local dry years the District has access to and conveyance for State Water Project (SWP) water.

- › Violation Based – a flat fee (fine) paid each time an allocation is exceeded (e.g. a citation)
- › Tiered Volumetric – the penalty increases as water use increases beyond the allocation (e.g., marginal tax rates)
- › Uniform Volumetric – one penalty rate for all water use beyond the allocation (e.g., data overage charges from cellular providers)
- › Hybrid: For example, a Uniform Volumetric structure incorporating a Violation Based approach – this type of hybrid represents the historical penalty structure for St. Helena, which was developed but never implemented

Each penalty structure has a different set of benefits and challenges in terms of implementation, administration, customer communications, and driving change in water use behavior. While some penalty types tend to be simpler to explain to customers, they may not promote as strong of a price signal for conservation compliance. Others may provide a stronger price signal while being more burdensome to administer. Table 3-3 provides a matrix of the benefits and challenges of the penalty types above.

Table 3-3: Benefits and Challenges

Structure	Benefits	Challenges
Violation Based	Simple to communicate, less administrative burden	Penalty not directly related to water use
Tiered Volumetric	Moderates penalties for bills just over allocation	Selection of appropriate exceedance bins
Uniform Volumetric	Simple to understand and to administer	May give a break to egregious users relative to other options
Hybrid	Ensures increasing financial repercussions for repeat offenders	More complicated to administer and to explain

Table 3-4 shows the penalty structure and penalty amounts for each agency in our survey. For additional comparison, a “historical” City penalty structure is included in the survey. The historical penalty structure was proposed but never adopted or implemented. Most penalty structures surveyed are volumetric in nature, with only three agencies having flat, violation-based penalties. There is a clear group of “low” penalties and “high” penalties among the volumetric penalty agencies. The agencies with low volumetric penalties tend to have high water reliability and/or utilize budget-based rate structures (an allocation-based rate). The agencies with high volumetric penalties tend to have low water reliability and high community incomes, on average. The three most like agencies identified in the previous subsection are also the three agencies with the highest penalties in place.

Table 3-4: Penalty Structures and Penalties

Agency	Penalty Structure	Penalties
St. Helena	Volumetric	*Historical* \$374 - \$1,122 / HCF
Santa Cruz	Volumetric	\$25 - \$50 / HCF
Las Virgenes MWD	Volumetric	\$2.50 - \$5.00 / HCF
East Bay MUD	Volumetric	\$2.00 / HCF
Coachella Valley WD	Volumetric	\$2.31 - \$10.03 / HCF
Montecito WD	Volumetric	\$30 - \$45 / HCF
Turlock	Flat	\$25 - \$50 per violation
Yorba Linda WD	Volumetric	\$20 - \$160 / HCF
Ceres	Flat	\$25 - \$150 per violation
El Toro WD	Volumetric	\$2.00 / HCF
Sweetwater Authority	Flat	\$100 - \$500 per violation

3.2.3. PENALTY DISCUSSION & RECOMMENDED PENALTY STRUCTURE

In comparing Table 3-2 and Table 3-4, we can conclude anecdotally that agencies with high penalties tend to have low supply reliability and/or a high-income customer base. The most comparable agencies with the City, highlighted in both tables, include the City of Santa Cruz, Montecito Water District, and Yorba Linda Water District, all of whom have progressive volumetric penalties. (Their penalties increase as the emergency phase increases, or when an account goes incrementally beyond their allocation, or when accounts that are repeat offenders have an increase in their penalty.) An additional observation is that all volumetric penalties surveyed are much less than the penalties the City proposed at one time but did not implement.

Based on similarities with the City of Santa Cruz, Montecito Water District, and Yorba Linda Water District, Raftelis recommends for the City to implement a Tiered Volumetric penalty structure. This structure conveys a strong (and increasing) price signal, which is required to dissuade water use and to reach high-income customers for whom a modest penalty would not change behavior. As proposed, this approach provides a strong price signal without punishing the average water user who may marginally exceed their allocation initially but can reasonably reduce the allocation in subsequent months.

The structure, as recommended, incrementally increases penalties as an account further exceeds its allocation. Therefore, it will maximize the penalty rate for wasteful and egregious water customers who may require financial persuasion to reduce their water usage.

The first step in developing the recommended Tiered Volumetric penalty structure is to analyze customer water use in different periods of the year to identify logical breakpoints for the penalty tiers. These tier breakpoints are defined as exceedance thresholds below or the point at which the volumetric penalty increases. Raftelis relied upon multi-year summarized Single Family Residential water use, by month, to identify seasonal demand patterns. The results show the average winter use per single-family residential (SFR) account to be approximately 11 hundred cubic feet (HCF) per month and the average summer use per SFR account to be approximately 13 HCF. These values represent the approximate first and second breakpoints of the proposed penalty structure. A two-person SFR household in Summer Phase II is allotted approximately 8.6 HCF (see calculation steps in Table 3-6) per month with approximately two times this amount defined as the third and final penalty tier breakpoint. These exceedance thresholds are shown in Table 3-5.

Table 3-5: Exceedance Threshold Definitions

HCF/Month	Definition
11	Average Winter Use
13	Average Summer Use
17	Approximately 2x Summer Allocation

Table 3-6 shows the calculation steps for defining a Summer allocation for a SFR customer in a two-person household. Allocations are discussed in detail in Section 4. The indoor allocation is 65 gallons per capita per day (gpcd) per person. This example assumes a two-person household or 130 gallons per day ($65 \text{ gpd} \times 2 \text{ persons} = 130 \text{ gal}$). Based upon the US Census 2019 American Community Survey, the average density of a SFR household in St. Helena is 2.25 people.

The outdoor allocation is based on a 2,500-gallon per month limit that the City allows for landscaping in Summer months. This converts to 83 gallons per day (gpd) in a 30 day month ($2,500 \text{ gal} / 30 \text{ days} = 83 \text{ gpd}$). The summation of these two allocations yields a daily water allocation of 213 gallons or approximately 8.6 HCF per month ($213 \text{ gpd} \times 30 \text{ days} = 6,400 \text{ gal} / \text{month}$. $6,400 \text{ gal/month} / 748 \text{ gallons per HCF} = 8.6 \text{ HCF}$).

Table 3-6: Summer Allocation Example – SFR, Two-Person Household

Allocation	Gallons per day (gpd)	Gallons/Month	HCF/Month
Indoor	130	3,900	5.21
Outdoor	83	2,500	3.34
Total	213	6,400	8.6

The penalty structure must apply uniformly across all users and user classes. The values in Table 3-5 are translated into percentages exceeding the two-person SFR example in Table 3-6. The approximate percentages corresponding to 11, 13, and 17 HCF are at 25%, 50%, and 100% over the allocation. Table 3-7 shows the different penalty thresholds and exceedance amounts at increasing usage levels. The table shows monthly use and overages in both gallons and HCF. If the recommended penalty structure is adopted and implemented, the City should expect that many bills will fall into the first and second exceedance bins, which correspond to the summer averages of SFR customers in non-shortage.

Table 3-7: Penalty Thresholds

Threshold	% Over Allocation	Use (Gallons/Mo.)	Gallons Over Allocation	Use (HCF/Mo.)	HCF Over Allocation
<25% Over	5%	6,720	320	9.0	0.4
	10%	7,040	640	9.4	0.9
	15%	7,360	960	9.8	1.3
	20%	7,680	1,280	10.3	1.7
	25%	8,000	1,600	10.7	2.1
25-50% Over	30%	8,320	1,920	11.1	2.6
	35%	8,640	2,240	11.6	3.0
	40%	8,960	2,560	12.0	3.4
	45%	9,280	2,880	12.4	3.9
	50%	9,600	3,200	12.8	4.3
50-100% Over	60%	10,240	3,840	13.7	5.1
	70%	10,880	4,480	14.5	6.0
	80%	11,520	5,120	15.4	6.8
	90%	12,160	5,760	16.3	7.7
	100%	12,800	6,400	17.1	8.6
>100% Over	110%	13,440	7,040	18.0	9.4
	120%	14,080	7,680	18.8	10.3
	130%	14,720	8,320	19.7	11.1
	140%	15,360	8,960	20.5	12.0
	150%	16,000	9,600	21.4	12.8

Table 3-8 illustrates the thresholds for the two-person SFR household calculated in Table 3-6. For use over the allocation of 6,400 gallons but below 8,000 gallons in a month, the customer would be levied a penalty at the first tier. For use above 8,000 gallons but below 9,600 gallons, the customer would be levied a penalty at the second tier for use in the tier. The tiers are incremental; only the water use within the tier pays the penalty at that level.

Table 3-8: Example SFR Customer Exceedance Thresholds – Summer, Two-Person Household

	Gallons Per Day (gpd)	Gallons Per Month
Summer Allocation	213	6,400
<25% Over	267	8,000
25-50% Over	320	9,600
50-100% Over	427	12,800
>100% Over	>427	>12,800

Based upon evaluation of the penalties imposed by comparative agencies, and after discussions with City staff and the City Council, the proposed penalties are presented in Table 3-9. The first penalty tier is \$10/HCF for water use up to 25% over allocation (or approximately 11 HCF for a two-person SFR account). The second penalty tier is \$25/HCF for use that is 25-50% above allocation, or between 11-13 HCF for the SFR example. The third penalty

tier \$100/HCF for water use 50-100% above allocation. The fourth penalty tier is \$250/HCF for all use greater than 100% above an account's allocation.

Table 3-9: Proposed Penalties (\$/HCF)

Threshold	Volumetric Penalty
<25% Over	\$10/HCF
25-50% Over	\$25/HCF
50-100% Over	\$100/HCF
>100% Over	\$250/HCF

Table 3-10 provides the hypothetical penalty for the example two-person SFR account that uses 14 HCF per month in Phase II Summer. The account exceeds their allocation by 4.4 HCF. With the incremental penalty structure in place, the total monthly penalty is \$191.44.

Table 3-10: Example SFR Customer Penalty – Phase II Summer at 14 HCF

	Penalty Rate (\$/HCF)	Penalty Threshold at 8.6 HCF /Month	HCF in Each Penalty Tier	Penalties (\$)
<25% Over	\$10	10.7	2.1	\$ 21.39
25-50% Over	\$25	12.8	2.1	\$ 53.48
50-100% Over	\$100	17.1	1.2	\$ 116.58
>100% Over	\$250	>17.1	0	\$ -
Total Penalty				\$ 191.44

Table 3-11 provides a range of penalty impacts for two-person SFR accounts based on water use. The usages shown range from historically low month winter water use (and below the Phase II Summer Allocation) to above peak month summer water use. At 8 HCF of use, no penalty is imposed as the allocation in this example is 8.6 HCF. At 9 HCF, the customer would pay a \$4.44 penalty (0.4 HCF (rounded) at a rate of \$10/HCF). At 12 HCF, the account enters the second penalty rate for any amount of incremental use in the tier. The same is true at 14 HCF and 18 HCF.

Table 3-11: Example SFR Customer Penalties – Phase II Summer at Varying Use

Threshold	Monthly Use (HCF)	Penalty Rate (\$/HCF)	Penalty Amount (\$)
<25% over	8	N/A	\$0.00
	9	\$10	\$4.44
	10	\$10	\$14.44
	11	\$10	\$29.01
25-50% over	12	\$25	\$54.01
	13	\$25	\$91.44
50-100%	14	\$100	\$191.44
	15	\$100	\$270.05
	16	\$100	\$370.05
	17	\$100	\$470.05
>100% Over	18	\$250	\$570.05
	19	\$250	\$670.05
	20	\$250	\$770.05

4. Allocation Analysis

4.1. Comparative Allocation Approaches

Thresholds for penalties can be defined using a variety of water allocation methods. There is a myriad of approaches to allocating water to customers while in shortage conditions. Methodologies include a water budget framework, uniform allocations, historical use, home size / area / fixture count, or a hybrid method, among others. From our penalty survey of water agencies, we grouped allocation approaches into three broad categories:

- › By Class
- › Water Budget Based
- › Historical Use

Table 4-1 shows the agencies mentioned in Table 3-1 grouped into three categories. In our survey, allocations by class are the most common method for implementing allocations. The three agencies that use Budget Based structures have Budget Based Rate structures and utilize the fact that budget-based rates are de facto allocations, even in non-shortage conditions. Montecito Water District and Sweetwater Authority use formulas based on historical use to allocate water in shortage.

Table 4-1: Allocation Basis

Allocation by Class	Budget Based	Historical Use
St. Helena	Las Virgenes MWD	Montecito WD
City of Santa Cruz	Coachella Valley WD	Sweetwater Authority
East Bay MUD	El Toro WD	
City of Turlock		
Yorba Linda WD		
City of Ceres		

4.2. Assumptions

Because the City allocates water differently in the summer and winter months, Raftelis analyzed Summer and Winter usage patterns under Phase II and Phase III reduction assumptions. Summer months are defined as April – October, and Winter Months are defined as November – March.

Raftelis relied upon monthly FY 2020 water use data by customer class to perform the shortage reduction analysis. That is, to identify the level of water demand reduction called for at each shortage phase and during each season. City customer classifications were grouped into three distinct user types, with each having a different water allocation formula.

- › Residential (Single Family Residential or SFR; and Multi-Family Residential or MFR⁴)
- › Irrigation (Dedicated irrigation accounts which do not have interior/domestic water needs)
- › Commercial (All Non-Residential and Non-Irrigation accounts)

⁴ MFR includes all non-single family residential such as apartments, condos, and mobile homes

In 2013 the City developed and adopted its current approach to allocating water during shortage. Our evaluation models these existing formulas to determine water allotments, by customer type, in each Phase and season.

4.3. Phase II Summer Reduction

During Phase II restrictions, Residential users are allotted 65 gallons per capita per day (gpcd) for their indoor needs. This amount is consistent throughout the year in a Phase II shortage. Households self-report their occupancy to the City to determine each indoor allotment. Residences that do not respond are assumed to have two people per household, in line with Census data. During the summer months, each residential connection receives an additional 2,500 gallons of water each month for irrigation needs. Irrigation customers are mandated to reduce their usage by 25%⁵, and commercial customers are mandated to reduce their usage by 10%.

During Phase III restrictions, the residential indoor allotment is reduced from 65 gpcd to 60 gpcd, and the outdoor allocation is reduced from 2,500 gallons per month to 1,250 gallons per month. Irrigation customers are mandated to reduce use by 50%. Commercial customers are mandated to reduce use by 20%.

Table 4-2 shows actual water use for summer FY 2020 (no reduction assumption). The City's residential customers make up approximately 90% of water accounts and 60% of use. Dedicated Irrigation service makes up only 2% of water demand, with the remaining 38% from Commercial users.

Table 4-2: Summer Water Demand

Class	Summer Water (Actual Use)	% of Total
Residential	275,132	60%
Irrigation	11,175	2%
Commercial	173,502	38%
Total Summer Usage	459,809	100%

Having summarized non-shortage demand, Raftelis then estimates potential water use, subject to the allowances for each class, Phase, and season described earlier. Estimating the targeted use subject to allocations allows us to determine the demand reduction across the water system compared to normal conditions. The allocation for Residential indoor water use is shown in Table 4-3. Line 1 "Population" is estimated from census data, and Line 4 "# of days in Summer" is calculated by converting the seven months of summer into days by multiplying by an average of 30.5 days per month (7 months * 30.5 days/month = 213.5 days). The total indoor needs are shown at the bottom of Line 6. While the table estimates the summer period, the same assumptions are used to estimate the Winter season, save for the number of days in the Winter season.

⁵ 25% reduction is based on 60% reference evapotranspiration.

Table 4-3: Residential Summer Indoor Allocation

Line	Description	Amounts
(1)	Population St. Helena	6,000
(2)	Water Allocation	65 gpcd
(3)	Allocation Total (1) x (2)	390,000 gpd
(4)	# of Days in Summer	213.5 days
(5)	Summer Gallon Allocation (3) x (4)	83,265,000 gallons
(6)	Summer HCF (5) / 748	111,317 HCF

Residential customers also receive an allotment of water during the Summer season for irrigation needs. The total amount is calculated in Table 4-4. The estimated number of accounts is multiplied by the irrigation allotment and the number of months in the Summer season to estimate the amount of residential class allocation for irrigation needs.

Table 4-4: Residential Outdoor Allotment

Line	Description	Amounts
(1)	Residential Accounts	2,155 Accounts
(2)	Irrigation Allotment	2,500 gal per month
(3)	Number of Months	7
(4)	Total Allotment (gal) (1)*(2)*(3)	37,708,125 gallons
(5)	Total Allotment (HCF) (4) / 748	50,412 HCF

Line 6 from Table 4-3 and Line 5 from Table 4-4 are added together to yield the total amount of water allocated to residential users in Phase II, Summer Season. This value is the targeted water use for the Residential class in Summer. Calculation steps are shown in Table 4-5.

Table 4-5: Total Residential Target Use

Description	Amounts
Indoor Needs	111,317 HCF
Plus Irrigation Allotment	50,412 HCF
Total Residential Target Use	161,729 HCF

Table 4-6 shows the estimated required reductions from each class of customers. Under these assumptions, a total system-wide demand reduction of 29% is required across all users in Phase II, Summer. To achieve the overall reduction, Residential is required to reduce by an estimated 41%, Irrigation by 25%, and Commercial by 10%.

Table 4-6: Phase II Target Summer Reduction

Class	Summer Water (Actual Use)	Summer Water (Target Use)	Target % Reduction
Residential	275,132	161,729	-41%
Irrigation	11,175	8,381	-25%
Commercial	173,502	156,152	-10%
Total Summer Usage	459,809	326,262	-29%

4.4. Phase II Winter Reduction

Winter reduction targets are calculated the same as Summer, however, without an allotment for Irrigation. Table 4-7 shows actual winter water use for FY 2020 (no reduction assumption). As in the Summer season, Residential customers make up the majority of Winter water use. Commercial water use is slightly higher in the Winter (41%) than in the Summer (38%).

Table 4-7: Winter Water Demand

Class	Winter ⁶ Water (Actual Use)	% of Total
Residential	145,102	58%
Irrigation	4,400	2%
Commercial	102,484	41%
Total Winter Usage	251,986	100%

Raftelis then estimates potential water use, subject to the allowances for the Residential class, shortage phase, and season described earlier. This calculation is shown in Table 4-8 and is the same calculation as for the Summer indoor allocation except for the number of days in the Winter season. Line 1 “Population” is estimated from census data and Line 4 “# of Days in Winter” is calculated by converting the five months of winter into days by multiplying by an average of 30.5 days per month (5 months * 30.5 days/month = 152.5 days). The total indoor needs are shown in Line 6.

Table 4-8: Residential Winter Indoor Allocation

Line	Description	Amounts
(1)	Population St. Helena	6,000
(2)	Water Allocation	65 gpcd
(3)	Allocation Total (1) x (2)	390,000 gpd
(4)	# of Days in Winter	152.5
(5)	Winter Gallon Allocation (3) x (4)	59,475,000 gallons
(6)	Winter HCF (5) / 748	79,512 HCF

Table 4-9 shows the estimated required reductions from each class of customers. Under these assumptions, a total system-wide reduction of 31% is required across all water uses in Phase II, Winter. To achieve the overall reduction Residential is required to reduce by an estimated 45%, Irrigation by 25%, and Commercial by 10%.

⁶ Winter Months are defined as November – March.

Table 4-9: Phase II Target Winter Reduction

Class	Winter Water (Actual Use)	Winter Water (Target Use)	Target % Reduction
Residential	145,102	79,512	- 45%
Irrigation	4,400	3,300	- 25%
Commercial	102,484	92,236	- 10%
Total Winter Usage	251,986	175,048	- 31%

Table 4-10 summarizes the estimated reductions by class, at each Phase in each season.

Table 4-10: Reduction by Class and Phase Summary

Class	Phase II		Phase III	
	Summer Reduction	Winter Reduction	Summer Reduction	Winter Reduction
Residential	-41%	-45%	-50%	-49%
Irrigation	-25%	-25%	-50%	-50%
Commercial	-10%	-10%	-20%	-20%
Total Usage	-29%	-31%	-38%	-37%

4.5. Future Considerations of Water Allocations

Allocations should reflect the demand reductions required across the system, and those system-wide demand reductions should align with projected future available supply. Our understanding is that City staff is currently working to confirm supply availability- relative to non-shortage supply- and required demand reductions. Based on our analysis of targeted demand relative to non-shortage demand, the City is targeting a 29% system-wide demand reduction in Phase II, Summer shortage. The City should confirm whether a 29% system-wide demand reduction is sufficient to weather the Summer season, which is just now beginning.

While a 29% reduction may be appropriate based on projected supply conditions, there are significant differences in the curtailment requested from the City's different user groups. The City should revisit the allocation basis for each user group to ensure equity between them. There is no perfect allocation basis, and equity can be subjective. However, the City will want to evaluate the burden borne by each class during the shortage.

Questions for consideration include:

- › Is a 10% reduction of prior Winter water use a sufficient reduction from the City's Commercial users?
- › Is it reasonable to expect greater than a 40% decrease in Residential water demand to achieve a 29% reduction in system-wide water demand?
- › Should Irrigation water users be requested to reduce demand by significantly greater than the system-wide reduction target?
- › Should Commercial (Non-Irrigation, Non-Residential) users be categorized into two or more groups based on water uses?

The City may seek to require additional conservation from Non-Residential/Commercial water customers by potentially differentiating traditional Commercial use and Industrial use. By increasing mandatory reductions from Commercial/Industrial, a larger share of water may be allocated to Residential users, thereby widening the burden of the mandatory reductions. This positively affects Residential customers as a larger Residential allocation means fewer Residential accounts entering penalty. Conversely, an argument could be made that Residential outdoor allocations should be reduced in the Summer period, as this represents discretionary water use. This would reduce the amount of water available to Residential users, freeing up allocation for Commercial users who rely on the water for business operations and as inputs to processes.

Areas to examine refinements and simplifications may include:

- › Adopting a default Residential household size for indoor allotments and thereby reducing the burden to staff
- › Harmonizing Summertime outdoor irrigation allotments between SFR and MFR and Commercial customers. Currently, the former receives a flat allotment each month where the latter's allotment is determined as a function of irrigated area.
- › Commercial allocations based on a fraction of historical use rather than four month Winter average. This may serve Commercial users whose seasonality of water use is not reflected in Winter water.
- › Further reducing the indoor allotments to Residential users in Phase II to align with state indoor efficiency standards, currently at 55 gpcd.

Lastly, if not already programmed, the City should ensure customers have an avenue to appeal their allocation as well as any penalties imposed. There should be discretion used in adjusting individual allocations, hearing appeals to penalties imposed, and reviewing connections that may have mixed-use water characteristics and warrant a variance.

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
ST. HELENA ESTABLISHING VOLUMETRIC PENALTIES
DURING PHASE II AND PHASE III WATER
EMERGENCIES**

WHEREAS, pursuant to California Water Code section 375, the City of St. Helena adopted a water conservation program to reduce the quantity of water used by persons within its jurisdiction for the purpose of conserving the water supplies of the City; and

WHEREAS, the City's water conservation program is set forth in Article 2 (Water Shortage Emergencies, Drought, and Water Conservation) of Chapter 13.04 (Water Service System) of Title 13 (Public Services) of the St. Helena Municipal Code (SHMC) (commencing with section 13.04.220); and

WHEREAS, under the City's water conservation program, any time a water shortage meets the criteria of a Phase I water emergency (SHMC § 13.04.230), Phase II water emergency (SHMC § 13.04.240) or Phase III water emergency (SHMC § 13.04.250), and it is necessary to limit water use, the City Council must adopt a resolution setting forth the applicable phase; and

WHEREAS, on June 23, 2020, the City Council declared a Phase I water emergency; at the time of the Phase I water emergency, there was a forecast of a possible multi-year drought; and, on October 27, 2020, the City Council declared a Phase II water emergency; and

WHEREAS, the statewide snowpack is 59% of average this time of year and this year is one of the driest years on record for the state; and

WHEREAS, the City is experiencing a water shortage which requires conservation efforts from its water customers to enough there is enough water to provide basic necessities; and

WHEREAS, pursuant to Water Code section 377, the City may, by resolution, make the violation of a water conservation program enacted by its City Council subject to a volumetric penalty; and

WHEREAS, to secure compliance with the rules and regulations established during water shortage emergencies, and assure important public policy objectives are achieved for the reduction of water usage during water emergencies, the City is authorized to impose volumetric penalties during water shortage emergencies when the City Council deems it appropriate under the circumstances; and

WHEREAS, the City Council hereby finds and determines that it is desirable to establish volumetric penalties to be imposed by the City during a declared Phase II or Phase III water emergency, and the volumetric penalties shall govern the actions of persons using and consuming water for the purpose of conserving and protecting the

City's water supplies, and deterring and preventing the waste or unreasonable use of valuable water resources.

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

SECTION 1. The City Council hereby finds and determines that the forgoing recitals are true and correct and are hereby incorporated and adopted as findings and determinations of the City Council as if fully set forth herein.

SECTION 2. The following water use limitations shall apply during a Phase II or Phase III water emergency declared by the City Council pursuant to Article 2 of Chapter 13.04 of Title 13 of the St. Helena Municipal Code. All customers shall be prohibited from using potable water in excess of their monthly water usage allocation. For purposes of this Resolution, "monthly water usage allocation" means the allocation in SHMC § 13.04.240 during a Phase II water emergency or the allocation in SHMC § 13.04.250 during a Phase III water emergency.

SECTION 3. The violation of Section 2 of this Resolution may be subject to the imposition of the volumetric penalties as set forth in Section 4 of this Resolution.

SECTION 4. The following volumetric penalties are hereby adopted:

(a) Any customer who fails to comply with the established monthly water usage allocation or limit shall be subject to a volumetric penalty for each unit of water, or portion thereof, used in excess of the established monthly water usage allocation. The amount of the volumetric penalty shall be as set forth in the table below.

Volume Exceeded	\$ per HCF Exceeded	\$ per Gallon Exceeded
<25% Over (up to 24.999%)	\$10.00	\$0.013
25-50% Over (25-49.999%)	\$25.00	\$0.033
50-100% Over (50-99.999%)	\$100.00	\$0.134
>100% Over	\$250.00	\$0.334

(b) Any volumetric penalty imposed on any customer pursuant to this Resolution shall be:

- (i) applicable to all potable water used in excess of the customer's monthly water usage allocation pursuant to Section 2;
- (ii) collected on the customer's water bill;
- (iii) due and payable as part of the customer's water bill;
- (iv) the responsibility of the customer of record for the property where the violation occurred; and

(vi) paid in addition to the water service fees the City imposes for the potable water delivered to the property where the violation occurred.

(e) The receipt of a water bill with any applicable volumetric penalty shall serve as notice of violation of the provisions of the Resolution.

(f) Any person who wishes to appeal the imposition of a volumetric penalty may do so pursuant to Section 13.04.180 of the St. Helena Municipal Code. Notice of the right to appeal the imposition of a volumetric penalty shall be included in the customer's water bill.

SECTION 5. The water use limitations and volumetric penalties established by this Resolution shall remain in effect unless otherwise terminated by the City Council by a separate resolution.

SECTION 6. Any person may apply for an exception permit pursuant to SHMC §13.04.280 for exceptions to water conservation measures and the monthly water usage allocation specified in Section 2 of this Resolution.

SECTION 7. If any section, subsection, subdivision, sentence, clause, or phrase in this Resolution or any part thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Resolution or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 8. This Resolution shall become effective immediately upon its adoption by the City Council.

APPROVED at a regular meeting of the St. Helena City Council on April 13, 2021, by the following votes:

Mayor Ellsworth: _____

Vice Mayor Dohring: _____

Council Member Chouteau: _____

Council Member Hardy: _____

Council Member Hall: _____

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzafopoulos, City Clerk

Cindy Tzaopoulos

From: Anna Chouteau
Sent: Saturday, April 10, 2021 7:29 AM
To: Mark Prestwich; Cindy Tzaopoulos
Subject: Fwd: [External] April 13 public comment

Here is a public comment from Mariam. Cindy, do you get the emails when they are sent to us as a group? Seems like that would make sense since people seem to be wanting to make a public comment when they email all of us.

Anna

Sent from my iPad

Begin forwarded message:

From: Mariam Hansen <wartuhi@comcast.net>
Date: April 9, 2021 at 3:23:22 PM PDT
To: CityCouncil <CityCouncil@cityofsthelena.org>
Subject: [External] April 13 public comment

Dear City Council,

Thank you for scheduling a public hearing on the 10.1. Consideration and approval of a Resolution adopting a penalty structure for a violation of the City's Phase II and Phase III water.

As my elected representative, I ask that you do not vote to adopt this measure.

What a joke—you know that you will vote yes. Having a public hearing is just to check the box. Nothing anyone says matters.

Phase 2 regulations prohibit new water connections, yet you voted to approve 5 new apartments on Pope Street. How can you do that? Assuring adequate, safe water to the city is a basic function of city government, yet this has not been done. New mansions, hotel and apartments were approved after June 23, 2020 when Phase 1 restrictions were instituted.

So what if the voters approve a new bond measure to fix the old leaky pipes? Water saved will be used up by new users and we will be stuck with the bill.

This is not a one or two year situation. California has been in a drought since 1999 and St. Helena has only had normal rainfall in two of the last 10 years.

What can you do? Stop adding new users to the water system!! Follow your own rules!!!

Mariam Hansen

Cindy Tzaopoulos

From: Mark Smithers <msmithers@tfewines.com>
Sent: Sunday, April 11, 2021 2:23 PM
To: Geoff Ellsworth; Paul Dohring; Anna Chouteau; Lester Hardy; Eric Hall
Cc: Mark Prestwich; Cindy Tzaopoulos
Subject: [External] City Council meeting April 13, 2021 - penalty structure for excess water use, agenda item 10.1

To our Mayor and City Council members,

Thank you for your service and the opportunity to communicate on this obviously important topic. Before you implement the water use penalty structures you are discussing at your meeting of April 13, 2021, I request that you consider the many issues currently existing in the current Phase II water regulations, the opportunity to make them more equitable, and the opportunity to avoid water waste.

I recognize our water availability and use is a very complicated and difficult issue; one with no easy answers that assure equity among the various groups of users. Hopefully you will be able to construct an approach that recognizes the differences among users within groups (residential) and between groups (residential, industrial, commercial, etc.).

A few facts. The City has approximately 2,700 water connections. Residential customers (approximately 2,430 connections) use about 50% of our water while industrial, commercial, and other (approximately 270 connections) use the other 50%. As you can see, non-residential users make up about 10% of the connections but use 50% of the water. Within that group are a few very very large users; a few may use in excess of 30,000,000 gallons a year each. The city needs to talk with these users and work with them to do everything they can to reduce their use. Significant water use decreases by a few large users will have a tremendous impact on our water availability.

Within the residential water user group there are stark differences and a one size fits all solution will result in non-equitable water allocations and penalties. Allowing all homes the same allocation per person and the same summer irrigation allocation will result in some users using much more water indoors than others and may push others to forgo irrigation resulting in dying trees, forgone food production, increased grocery bills, and ugly dead yards. Many homes in St Helena have virtually no landscaping while others have significant food producing vegetable gardens, fruit trees, and vines. Gardens and trees are a common good and reduce air pollution whereas a long shower is just beneficial to the individual. Allocating the same summer irrigation of 2,500 gallons a month simply doesn't recognize the lack of this needed allocation for many homes and doesn't provide enough for others. Additionally, we have many second homes in St Helena, allowing the same monthly per person indoor use allocation to a home that is only occupied 7 days a month vs the primary home residence occupied 30 days a month allows the second home owner to be quite wasteful. And then you have the issue of occupants that have been conserving water in the past before we had an issue or has conserved more in the winter than required; how do you recognize and reward this past conservation?

I offer a few thoughts:

Approach St Helena hospital for water purchases that can be directed to Bell Canyon.

Continue to pursue additional water deliveries from the City of Napa.

Determine which homes are second homes and reduce their monthly per person allocation.

Reduce the summer irrigation allocation to avoid the allocation being used indoors.

Develop a process and criteria that will align outside irrigation allocation needs with property facts.

Recognize water needs and allocation for home food growers.

Consider recent past water conservation when attempting to penalize for summer over use along the lines of an annual use allocation.

At a minimum recognize the David vs Goliath situation existing between residential use and industrial use. It is worth repeating: non-residential users make up 10% of the connections but use 50% of the water. Industrial and commercial users are in a far better position to have major impacts on water use and availability. All users should be asked to reduce water use similarly. If business are only asked to cut back 10%, then how is it equitable to give residential users a firm cap that likely reduces their water use 30% or more?

Thanks for considering the above and I truly hope we will get some rain and have a successful water conservation summer.

Mark Smithers

Mark Smithers | Senior Vice President, Finance
Trinchero Family Estates
Office: 1-707-302-3027 | Ext. 2612 | Mobile: 1-707-290-4508
msmithers@tfewines.com

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Cindy Tzaopoulos

From: Mike Reynolds <mreynolds@hallwines.com>
Sent: Monday, April 12, 2021 6:21 PM
To: Public Comment
Cc: Geoff Ellsworth; Paul Dohring; Anna Chouteau; Lester Hardy; Mark Prestwich; April Mitts
Subject: [External] Public Comment - Phase II Water Regulations – Proposed Baseline allocation and Volumetric Penalties

Date: April 12, 2021

To: Geoff Ellsworth – Mayor
 Paul Doring – Vice Mayor
 Anna Chouteau – Council Member
 Lester Hardy – Council Member
 Eric Hall – Council Member

As a commercial water customer with the City of St. Helena, I have watched with great interest the recent public meetings and discussions on the proposed Phase II and Phase III water regulations in 2021 and 2022.

We have been working on water conservation techniques at the winery for years and are looking into additional ways to conserve water in 2021 and into the future. Given that, we will be trying to meet or exceed the water reductions proposed by the Council, while at the same time meeting the sanitation requirements implicit in commercial winemaking.

I have reviewed in detail the proposed structure for determining water baseline use proposed in the April 13th City Council Agenda documents. As noted by both Ms. Mitts, Mr. Hardy, and others in the March 23rd City Council meeting, the proposed December 2019 – March 2020 monthly water use average as a baseline does not adequately account for the seasonality and annual variability of winery production requirements, and specifically harvest.

I also note that in the Raftelis '2021 Water Shortage Emergency Policies Study to the City of St. Helena' dated March 31, 2021 (Section 4.5, Future Considerations of Water Allocations, Page 16), Raftelis points out that the City should consider, "Commercial allocations based on a fraction of historical use rather than four month Winter Average. This may serve Commercial users whose seasonality of water use is not reflected in Winter water."

If the penalty structure is enacted (as proposed) based on the baseline winter uses, a representative winery could reduce their annual water use by 20% (following seasonal average use patterns) and still receive penalties equal to 700% or more of their historic annual water fees. This baseline proposal needs more consideration.

Given the structural challenges that you and your consultants have identified for winery water baseline allocations and penalties, we urge you to develop an annual methodology and reconciliation for commercial water allocation and conservation (specifically wineries at a minimum) before enacting the Phase II regulations and penalty structure.

Regards,

Mike Reynolds
 President
 Hall Wines

TRINCHERO
Family Estates

City of St. Helena

1572 Railroad Avenue, St. Helena, CA 94574

Geoff Ellsworth

Paul Dohring

Anna Chouteau

Eric Hall

Lester Hardy

Mark Prestwich

April Mitts

Clayton Church

Regarding: 2021 Water Emergency

**Comments on Resolution Adopting a Penalty Structure for a Violation of the
City's Phase II and Phase III Water Regulations**

Water Allocation Calculation and Fine Methods for Winery Operations

Dear COSH Council:

Thank you for providing us with an opportunity to comment on the 2021 Water Emergency allocation and penalty structure. We understand that the City of St. Helena (COSH) is implementing Emergency Water Restrictions due to current conditions in our reservoir. Sutter Home is happy to support our community and embraces the need to contribute to community water reduction goals.

Water conservation has been a company initiative for Sutter Home Winery for many years and we are proud of the water conservation measures that we have implemented. As with many other wineries, our ongoing water conservation teams measure the performance of our water conservation initiatives using a metric of gallons of water used per gallon of wine made. Our efficient use of water was recently confirmed during our participation in the Napa Green Winery and the California Sustainable Winery Alliance certification processes. Sutter Home Winery is consistent in the efficient use of the water that is essential to our operations particularly in relation to industry standards and was singled out in the Napa Green certification as performing substantially better than other wineries using the same efficiency metric.

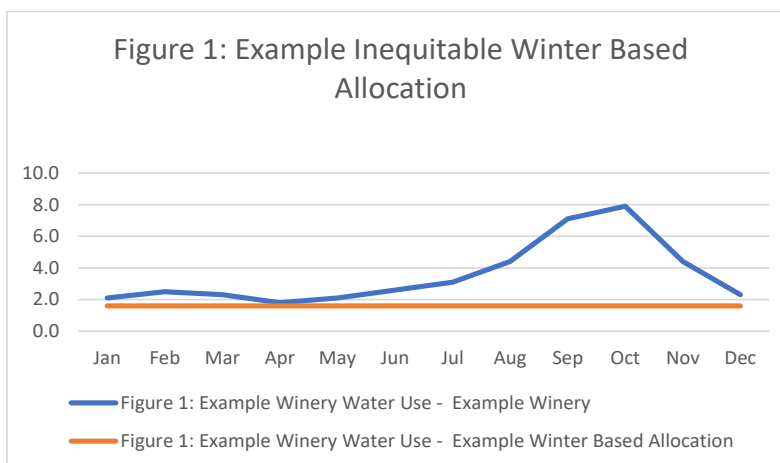
TRINCHERO

Family Estates

We understand that COSH is developing a water allocation methodology and penalty structure designed to promote and incentivize conservation. Sutter Home believes that the current allocation methodology and penalty structure is inequitable and represents a hardship on our business, as it does not take into consideration the essential water needed during our seasonal and crush operations. Our estimates of potential penalties based on the current allocation method range from \$2.7 to \$5.4 million. Establishing a monthly target based on previous monthly water use, including August to November, is needed to modify the existing allocation and penalty structure.

We are currently working on additional water conservation measures that we believe will meet equitable reduction goals to support emergency reductions. However, the current allocation and penalty structure is not appropriate for winery operations and creates an undue business hardship on wineries. For example, for our fermentation and bottling operation cleaning procedures we are required by the FDA and SQF (Safe Quality Food) guidelines to fully sanitize surfaces that are in contact with our products throughout the winemaking process. Failure to do so puts our products and consumers at risk. Essential operation cleaning requirements increase water usage requirements during the harvest months. To minimize use we have put in place many conservation measures including running an onsite well to reduce the use of City water when possible.

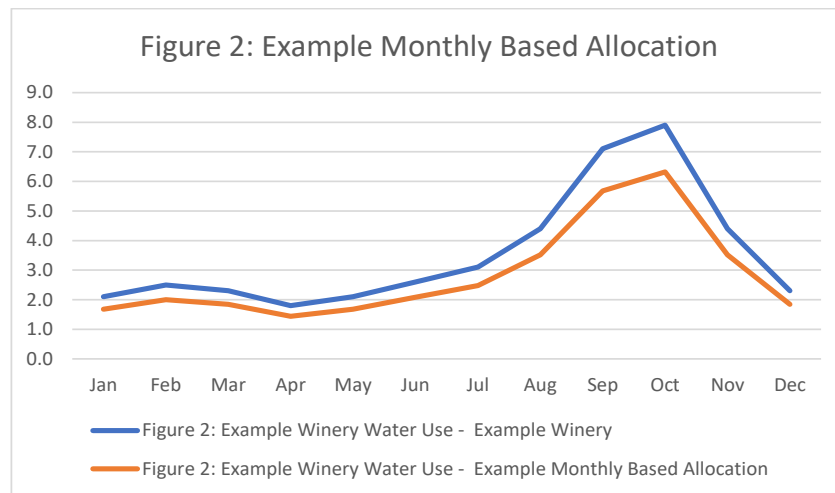
Figure 1 below illustrates that the allocation methodology and penalty structure is inequitable as it does not consider essential winery operations. The current flat line allocation severely impacts the seasonal crush operations when we receive fruit for fermentation. When applied to a winery's seasonal operations, an allocation based on only winter use is arbitrary and disconnected from actual usage patterns.



TRINCHERO

Family Estates

Figure 2 below illustrates an allocation methodology and targeted reduction that could align with essential business operations of a winery. Each month must have a specific equitable allocation that represents the essential business operations in that month.



We appreciate the opportunity to contribute to COSH community water conservation measures and comment in the COSH planning process. We believe the allocation and penalty methodology can be adjusted to ensure that they are equitable, operationally sound, and successful by recognizing the seasonal water needs of wineries and other commercial users. I would like to propose that the COSH and the water district work with Sutter Home and other stakeholders to develop a fair and equitable allocation and penalty structure.

Sincerely,

Robert Torres

Principal, Vice Chairman & Director

Cindy Tzaopoulos

From: Kimberly Phinney <kimbophinney@gmail.com>
Sent: Tuesday, April 13, 2021 1:10 PM
To: Geoff Ellsworth; Anna Chouteau; Paul Dohring; Lester Hardy; Eric Hall
Cc: Mark Prestwich; Cindy Tzaopoulos; April Mitts
Subject: Re: [External] St. Helena Water Rationing

Hello All,

Hoping this finds you well.

I just wanted to take a moment to thank you those of you who responded to my email below.

I have follow up questions as I have not been notified or read any details. With a monetary penalization for going over our allotted amount, what is that money going to be used for? Secondly, how is the city of St. Helena and it's now potentially penalized residents being compensated for the water loss during the fires? Obviously, that necessary use by first responders was paramount for our town survival, however it did deplete our water supply significantly.

Please send me in the proper direction for answers! Thank you and I look forward to hearing form you.

Ciao,
 Kim Phinney

On Mar 26, 2021, at 4:42 PM, Kimberly Phinney <kimbophinney@gmail.com> wrote:

Dear Mayor Ellsworth, Council Members Chouteau, Dohring, Hardy, Hall and City Manager Prestwich, City Clerk Tzaopoulos, and Finance Director Mitts!

I hope this finds you all well.

I am writing to discuss the current state of affairs when it comes to our water rationing and having fines imposed if we go above our calculated allocation.

Our home on Allyn Avenue operates on gas and electric from PG&E. In live time I can check our usage of both gas and electric and adjust accordingly when I see unusual usage or our dollar amount getting too high.

Because of Covid, digital learning, zoom, lots of home time, I can go onto Xfinity, our provider for phone, cable and internet, and see our usage, live time, and adjust accordingly if we are getting to high on data or over use charges.

We have Nest all over our home for climate control, lighting, monitoring, and at any time, I can go and adjust all accordingly.

To further adjust for usage and perhaps over usage, we can look at our very own gas tanks in our car and say, should I fill up, should I walk, I should *make* a friend to drive.

I have Blue Shield for health insurance and can also go online, live time, and see where we are with policies, claims, bills, and deductibles.

I can also view live time, our car and home insurance policies, claims, adjustments, and additions.

Lastly, our bank accounts and credit card statements, are live time and show how much money is available and how much I have spent and on what.

All of these are components of budgeting, not only our time, but our routine activity, our patterns, and especially our cash flow. We know live time, how much we have, how much we owe and when.

In the most recent St. Helena Star, "(Penalties) should not knock anybody out of the game, so to speak," said Mayor Geoff Ellsworth, adding that penalties should be "manageable" for all classes of users." My comment in regards to this statement is, we won't know if we are out of the game until it is too late, seeing actual charges (most likely penalties) before usage amounts. How is this equitable for all in our community?

In the same article, Council Member Dohring stated 'we don't even know how much we need to conserve', with Eric Hall agreeing. My question is, how and why can we even start penalizing if there isn't even an end goal?

If I feel like we are getting too high with our water usage, we can go to the local laundry mat and wash away. In the conservation scenario, this would penalize the non-resident according to your statement of penalties. Same with showering and bathing - if I feel like we are getting up there in usage on a 'hunch', we could go to the gym and punish the non-resident there. Non-residential customers must reduce their water use by 10% compared with their previous non-drought winter average (December-March). How is this equitable for business owners, especially the ones where we the residents and public utilize their facilities to avoid using ours?

St. Helena, how do you propose we adjust our usage, monitor our usage, even change our habits, when you are qualifying us off of 'off times', bill on a two month cycle, and already begin the following cycle by the time we find out how much water we are actually using? Begin motivating behavior is one thing, charging without our knowing usage, is another. Another, quite frankly, that doesn't seem right, nor fair. Is it legal?

This whole situation feels like you are putting the onus on the resident blindly when it is our cities responsibility to be up to date, modern some would say, so we have the ability to view live time, like everything else (including our children's school grades, UPS and Fedex tracking, you name it) our usage before being penalized. We sure do pay enough to live here, you would think that the one utility we receive from the city could be monitored more professionally, more user friendly and more accurate according to time of use.

Please provide further details on our consumer options to see our water usage live time or how you plan to inform us prior to 60+ days of a billing cycle of our ability to stay in the game.

Thank you for your time, it is appreciated.

Ciao,
Kim Phinney



April 7, 2021

Project No. 2013854601

Ms. Christy Pestoni, Chief Operating Officer, Clover Flat Landfill
Mark Prestwich, City Manager and Saint Helena City Council
Michael Kirn, City Manager and Calistoga City Council

RESPONSE TO PUBLIC COMMENT DURING MARCH 2021 CITY COUNCIL MEETING

The executive director of the Institute for Conservation Advocacy Research and Education (ICARE) participated in public comment at the start of the March 23, 2021 Saint Helena City Council meeting. The comments were regarding the Clover Flat Landfill and a monitoring report prepared by Golder Associates. ICARE commented similarly during the March 2, Calistoga City Council meeting. Based on a review of the recorded public comments made at the March 23, 2021 City Council meeting, clarification of several items appears to be necessary. The following information should facilitate an enhanced understanding of the Golder report relative to the public comments made during the City Council meeting. Each of the comments are presented in italics and addressed below in the order presented at the Saint Helena City Council meeting.

A public comment participant referred to the “Fatal Risk Controls” in the field notes of the report, which are part of the field person’s safety check-in, required by Golder.

This Job Safety and Environment Analysis form is a tool and exercise used for the safety assurance of our employees, our clients, contractors, and the environment. It is but one of many tools used by Golder to proactively evaluate conditions in the field and to be aware of any applicable safety protocols before proceeding with field activities. During the December 2020 sampling event, field personnel appropriately checked boxes on the safety form to indicate the potential for heavy equipment and motor vehicle hazards (simply because they are present in the work area, by necessity). Before proceeding with field work, personnel review procedures to avoid any associated hazards posed by these factors that may be present. Hazard prevention procedures are listed for each potential hazard. Heavy equipment operation and operating a motor vehicle have the *potential* to cause an injury if uncontrolled and when procedures are not properly followed. Checking the box on the safety form that these potential hazards exist, is to enhance awareness by actively acknowledging their presence. The presence of heavy equipment and motor vehicle operation do not pose a threat to human health and the environment when procedures are followed by all, and all people are aware of the actions that prevent injury. Awareness is the purpose of the checkmarks on the form.

Safety awareness and check-in forms are not, as the commenter implied, an indication of process negligence or of any onsite equipment failure. It appears that the commenter may have misunderstood the purpose of the form. Nothing on the form indicated, as the commenter suggested, that “...equipment did not pass and could cause a fatality”.

The commenter stated, regarding “additional Fatal Risk Controls not addressed in the work method statement”, that it was “checked ‘yes’, but there were no notes, so it was incomplete.”

Ms. Christy Pestoni
Chief Operating Officer

Project No. 2013854601
April 7, 2021

The notes were complete and followed onto the next the page as the form instructs, but the commenter may not have read further to see the notes. The form states: *Are there any other factors, not already covered in Work Method Statements, which could result in injury, illness, environmental harm, or property damage? If yes, record hazard & controls in Section 4.* Section 4 follows onto the next page of the form. The field person noted this “additional factor” to be the risk posed by potential COVID-19 exposure. Appropriately, the notes further indicate to “follow [company COVID-19] procedures” that are in place to protect personnel.

The ICARE representative remarked that 2019 laboratory data was not included in the report; the speaker did not indicate the report name or reporting period. Assuming the speaker referenced the most recent (second semi-annual 2020 monitoring) report, the reply to this comment is as follows:

A given self-monitoring program report will either present and discuss laboratory data for the first half or second half of that reporting year as indicated in the title of the report; however, regardless of the period reported, one can locate a list of cumulative historical data for the site and the concentration trends for groundwater, surface water, and leachate in the appendices of each semi-annual report. For the most recent report (reporting for the second half of 2020), this historical data is provided as *Appendix D Historical Groundwater, Surface Water, and Leachate Data*.

The ICARE representative participating in public comment remarked that site wells were still not fixed and that only two wells were functioning.

Two wells, B-11 and B-12, were not sampled during 2020 due to casing obstructions; however, the most recent self-monitoring report also states that these obstructed wells were replaced in December of 2020, just after the fourth quarter sampling event. A report documenting the well replacements is currently in production. For the fourth quarter 2020, other site wells were functioning properly and with the exception of one dry well (due to low groundwater level at that location), all other existing wells were sampled without issue.

With regard to the timing of obstructed well replacement in 2020, it is important to note that because of the Glass fire and a number of challenges associated with the COVID-19 pandemic, several unforeseen and unavoidable delays were encountered for all entities and processes involved with finalizing the well installation during 2020. During the final two weeks of December 2020, well B-11 was replaced (with B-11R) and well B-12 was reconstructed. In January 2021, proper development of the replacement wells (B-11R and B-12) was completed in preparation for sample collection. The well locations were also surveyed in the first quarter of 2021, along with all other existing site groundwater monitoring wells, to better evaluate groundwater gradient and flow direction beneath the site with up-to-date well casing elevation data. The new wells will be sampled along with all site wells, as scheduled, during the second quarter 2021. As required, the data from the second quarter sampling event will be reported by July 30, 2021.

The commenter discussed turbidity and pesticides at locations LCS and LEW-2, which are landfill leachate collection locations (LCS and LEW-2).

The referenced leachate collection locations (LCS and LEW-2) are not to be confused with groundwater monitoring wells. The presence of turbidity and pesticides in leachate are not an indication of pollution in groundwater or surface water. Leachate is collected and confined, not “intentionally released” into the river as the commenter stated. Pesticides were not detected in the site groundwater during the fourth quarter 2020 sampling event.

Ms. Christy Pestoni
Chief Operating Officer

Project No. 2013854601
April 7, 2021

The commenter stated "...saw thousands, sometimes hundreds of units per liter of contaminants" and indicated wells were "high with turbidity".

The commenter is misinterpreting the data shown in the report, the comment made is vague and is difficult to address. For example, the landfill is located in an area of mineralized groundwater, therefore contains thousands of micrograms per liter of iron in groundwater that is upgradient and beneath the site. Additionally, turbidity is a measure of how "murky" or "clear" water is. "High" turbidity can be caused by any number of factors but does not particularly or independently indicate contamination; high turbidity is not unusual, it is caused by particulates in suspension, more commonly these particulates are merely suspended (floating) fine-grained soil particles, such as clay. Typically, turbidity stabilizes or is reduced during the routine process of well purging prior to sample collection, consistent by what is shown in groundwater sampling field notes where turbidity measurements are recorded.

To summarize, the Fatal Risk Controls form is a health and safety form used by Golder staff to recognize potential hazards and provide procedures to avoid them, historical monitoring data that includes 2019 data was included in Appendix D of the reviewed monitoring report, the sample location with pesticides is a leachate collection point and no groundwater samples contained pesticides. Naturally occurring minerals show in samples as detected analytes and are not all considered to be contaminants. Lastly, "high" turbidity does not independently indicate contamination in groundwater.

Please contact the undersigned should you have any questions on the responses provided herein.

Sincerely,



Lia Holden, PG
Senior Geologist



Kris Johnson, PG, CEG
Practice Leader



Report to the City Council
Regular City Council - 13 Apr 2021

Agenda Section: PUBLIC HEARINGS

Subject: Consideration and proposed approval of the Annexation of Territory into the St Helena Municipal Sewer District No. 1 MSD Annexation No. 139, 2790 Spring Street, St Helena, CA. 94574 (APN) 009-391-034.

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: Martin Beltran, Management Analyst

Reviewed By: Clayton Church, Acting Public Works Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

Antony Cartlidge and Sarah Forni, owners of 2790 Spring Street, St Helena, CA. 94574, Napa County Assessor Parcel Number (APN) 009-391-034 ("Property"), have applied to be annexed into the St. Helena Municipal Sewer District No. 1 ("District"), MSD Annexation No. 139. A location map and description for the property is shown in Attachment 1. City Council approval of the annexation is the formal administrative process to change the property's tax rate area code from septic to sanitary sewer for tax purposes.

Per the City of St. Helena Municipal Code Sections 13.020.040 and 13.020.070, the property owner is required to annex into the City of St. Helena Municipal Sewer District No. 1, pay all annexation, connection, and impact fees prior to building their project.

Spring Street was overlaid in 2019 and is under a five year prohibition period as defined in the St. Helena Municipal Code Section 12.12.040; therefore the applicant will need to request a waiver from Public Works and specifically outline the justification on why the

proposed work was not scheduled prior to paving and why it cannot wait for another four years. The applicant submitted a waiver request letter for consideration of waiving the 5-year moratorium and is included as Attachment 2.

On March 9, 2021, City Council adopted Resolution 2021-033 (Attachment 5), ordering the public hearing to annex the Property into the District.

DISCUSSION

The public hearing notices to consider objections to the proposed annexation for April 13, 2021, were first published on March 25, 2021 and the second on April 1, 2021. Also, per Section 4610.5, copies of the resolution were posted in three public places within the area to be annexed not earlier than the 60th day or later than the 30th day prior to the hearing.

At the time established for the hearing, City Council will hear and consider any objections to the annexation and exclude any territory which in the Council's opinion will not be benefited by the annexation. (See Section 4646). After making changes to the boundaries of the area to be annexed, if any, the City Council may then adopt a resolution approving the annexation of the Property into the District (which will also require at least four affirmative votes) upon a determination by the Council that the Property will be benefited by the annexation; certified copies of the resolution will then be recorded and filed in the manner and with the same force and effect as provided in Section 4613. (See Section 4647). Upon recordation of the resolution the Property annexed becomes a part of the District and is subject to all the liabilities and entitled to all the benefits of the District. (See Section 4648).

If the City Council approves the resolution following the hearing, City staff will then process the annexation with Napa County and the State Board of Equalization to change the tax rate area code for the property. Staff will work with the applicant to obtain required encroachment and building permits.

[1] Unless otherwise noted, all further section references are to the California Health and Safety Code.

FISCAL IMPACT

The Applicant is responsible to construct the sewer lateral and connect to the house; pay annexation, connection, impact fees, and any applicable Building Department fees; and responsible for any repairs to the road caused by the connection to the City's sewer system.

RECOMMENDED ACTION

It is recommended the City Council adopt a Resolution approving the Annexation of Territory into the St Helena Municipal Sewer District No. 1 MSD Annexation No. 139, 2790 Spring Street, St. Helena, CA. 94574 (APN) 009-391-034.

ATTACHMENTS

[Attachment 1: Location Map and Legal Description](#)

[Attachment 2: 5-year Moratorium Letter](#)

[Attachment 3: Sewer Annexation and Impact Fees Receipt](#)

[Attachment 4: Sewer Annexation Application](#)

[Attachment 5: Resolution 2021-033 ordering the public hearing to annex the Property into the District](#)

[Attachment 6: Resolution](#)

5190
Annex
02-25-2021

EXHIBIT A

THE CARTLIDGE ANNEXATION TO THE CITY OF ST HELENA SEWER DISTRICT

GEOGRAPHICAL DESCRIPTION

All that certain property, situated in a portion of Sections 1, Township 7 North, Range 6 West, Mount Diablo Base Meridian, in the County of Napa, State of California, and being the Lands of Cartlidge as described in the Grant Deed recorded January 24, 2006 as Series Number 2006-0002570, Napa County Records, State of California, described as follows:

Beginning at the point that bears South 5° 53' 44" West 269.75 feet from the southeast corner of Lot 1 as shown on that certain map entitled "Final Map of Sylvaner Estates Unit No. 5" filed February 2, 1977 in Book 11 of Maps at Page 37, Napa County Records, State of California, said corner of Lot 1 being the boundary of The City St. Helena Sewer District and said point being the northeast corner of said Lands of Cartlidge on the west line of Spring Road;

thence (1) South 8° 28' 00" West 298.22 feet along said west line to the southeast corner of said Lands of Cartlidge;

thence (2) leaving said west line of Spring Road North 59° 45' 00" West 196.26 feet to the southwest corner of the Lands of Cartlidge;

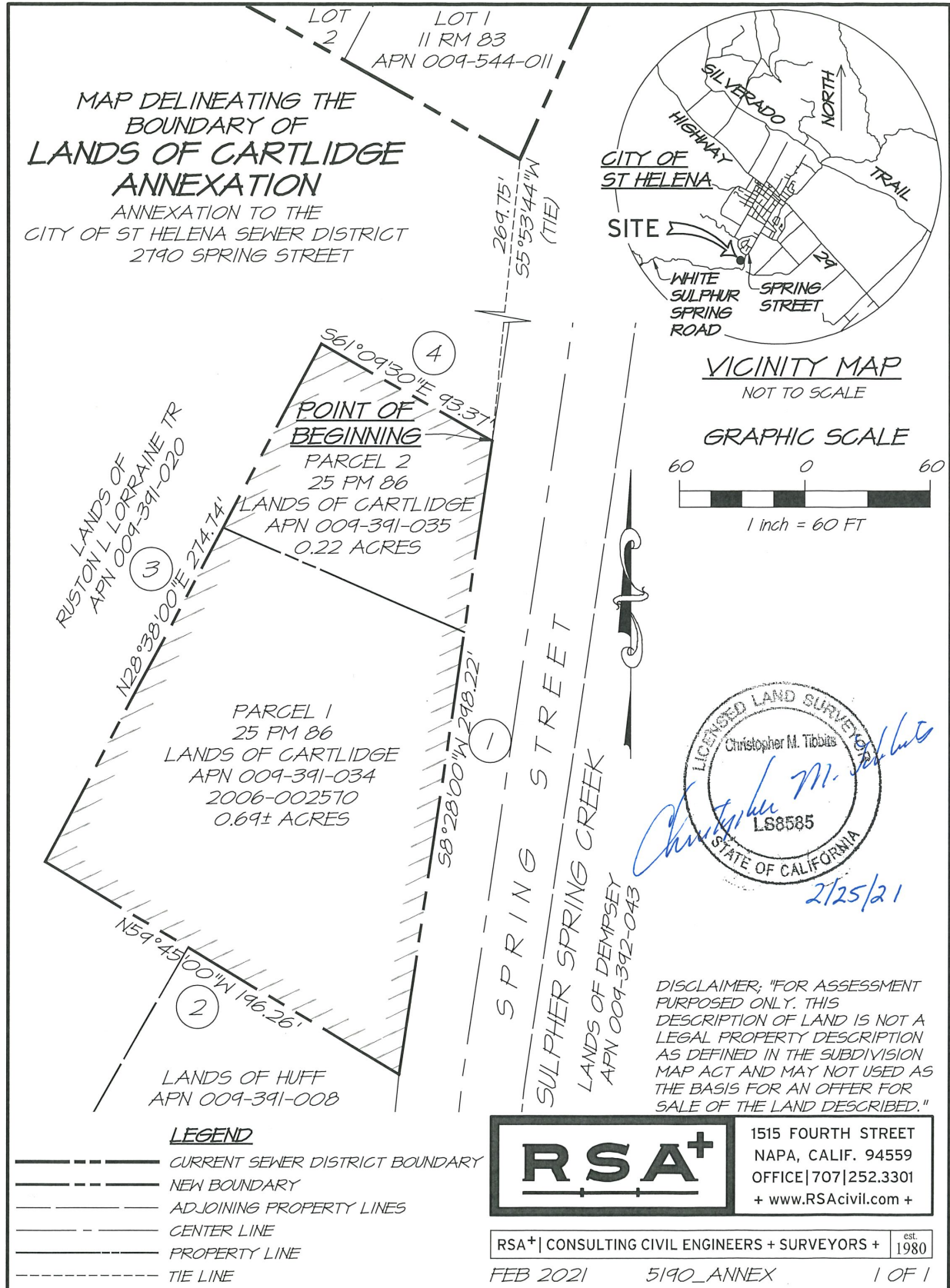
thence (3) North 28° 38' 00" East 274.74 feet to the northwest corner of the Lands of Cartlidge;

thence (5) South 61° 09' 03" East 93.37 feet to the **Point of Beginning**.

Containing 0.91 Acres, more or less.

For assessment purposed only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not used as the basis for an offer for sale of the land described.





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#4120001.0

October 27, 2020

Erica Smithies
 City of St. Helena
 Department of Public Works
 1572 Railroad Avenue
 St. Helena, CA 94574

RE: Cartlidge Property Sewer Annexation
 APN: 009-391-034

Dear Erica:

On behalf of Tony Cartlidge, I would like to request annexation of 2790 Spring Street to the St. Helena Sewer District, a waiver for limited excavation of Spring Street during the Prohibition Period to extend the public sanitary sewer main, a waiver from extending the public sanitary sewer main the full width of the parcel, and approval to offset the sewer main extension to the western unpaved shoulder of Spring Street.

This property lies within the sphere of influence of the St. Helena Sewer District. The existing 2,841 SF single-family residence is currently served by an on-site septic system. A building permit application (BD2008-016) has been submitted to convert an existing 460 SF storage building with no current sewer connection into a 760 SF Accessory Dwelling Unit (ADU). St. Helena Municipal Code section 13.20.070(C) requires all structures on this parcel to be connected to the City's public sewer system as a condition of building permit issuance. This letter and the enclosed Civil Improvement Plans detail our proposal to connect the existing residence and proposed ADU to the St. Helena municipal sewer system.

The existing St. Helena public sewer main extends to the intersection of Spring Street and Sylvaner Avenue. We propose to extend this public sewer main approximately 450' southwest to the subject parcel. Spring Street was recently repaved, and is currently within the 5-year Prohibition Period for trenching. St. Helena Municipal Code section 12.12.040 allows for a waiver to be obtained for work that is mandated by City law, to provide service for buildings where no other reasonable means of providing service exists, and for situations in which no alternate course of action exists. As noted earlier, City law will require connection to the City's public sewer system following approval of the Building Permit for the ADU. The existing on-site septic system does not have sufficient capacity to serve the proposed ADU, and does not constitute a reasonable means of providing service. Given the 450'± gap between the subject parcel and the existing public sewer main, no alternative course of action exists aside from extending the public sewer main along Spring Street to serve the subject parcel.

Although some excavation within the paved limits of Spring Street is unavoidable, we have identified several options for minimizing excavation of Spring Street:

- Terminate the sewer main extension at the northeastern property corner.
- Offset the sewer main extension from southbound travel way to the western (southbound) unpaved shoulder.
- Utilize horizontal directional drilling to the maximum extent practicable.

St. Helena Municipal Code section 13.20.060 typically requires new sewer main extensions to span the full frontage of the subject parcel, unless it is determined that no public purpose would be served by further extension. In this case, the subject parcel is the last parcel on Spring Street within the St. Helena Sewer District's sphere of influence. No public purpose would be served by extending the sewer main to serve parcels outside of the sphere of influence. In contrast, granting this waiver would serve the public purpose of reduced excavation of Spring Street during its prohibition period from 650'± to 450'±.

The existing public sewer main in Spring Street at Sylvaner Avenue is within the southbound paved travel lane of the road. Typically, this relative alignment is maintained during sewer main extensions, to provide adequate offsets from other utilities (e.g. water). In this case, the existing water main is installed near the edge of pavement on the east (northbound) side of the road. By offsetting the proposed sewer main extension to the western (southbound) unpaved shoulder, we can further reduce excavation of Spring Street during its prohibition period from 450'± to 150'±.

To further minimize excavation of Spring Street, we asked the project contractor to conduct a constructability review with their directional drilling subcontractor. According to the directional driller, the underlying soils in the vicinity may contain large cobbles that can deflect the drill on long runs. This requires the driller to make a small excavation, remove the cobble, and realign the drill, resulting in a patchwork of small excavations. This is not practical for the entire length of the proposed main extension, but it may serve to further reduce excavation of Spring Street for the final 150'± from the proposed western shoulder installation to the point of connection at Spring Street and Sylvaner Avenue.

We hope that this letter has shown that:

1. 2790 Spring Street requires annexation to the St. Helena Sewer District;
2. A waiver for excavation of Spring Street during the prohibition period is warranted;
3. Extension of the public sewer main across the full frontage of the property is not necessary; and
4. The proposed project serves to minimize excavation of Spring Street to the maximum extent practicable.

Thank you for your consideration in this matter. Please do not hesitate to contact me should you have any questions or comments.

Regards,



Paul Warnock, PE
Project Manager

PW/sb

Cash Receipts

Receipt Listing

User: MBeltran
 Printed: 02/08/2021 - 2:20 PM
 Batch: 00000.00.0000



Rept No	Void	Cust No	Date	Name		Cash	Check	Other	Change	Net Cash	Total
Cust No	Account No		Type	Description	Amount						
00222397		005377	11/12/2020	Tony Cartlidge		0.00	6,134.52	0.00	0.00	0.00	6,134.52
005377			EncPMaj	Encroachment Permit Major -	500.00	CR: 101-33-84-00-00 Public Works App & Permit Fees					
005377			SewerAnn	Sewer Annexation Fees - 2790	5,634.52	CR: 571-34-80-00-00 Annexation Fees					
Receipt Totals:					6,134.52	0.00	6,134.52	0.00	0.00	0.00	6,134.52
Void Totals:					0.00	0.00	0.00	0.00	0.00	0.00	0.00
Grand Totals:					6,134.52	0.00	6,134.52	0.00	0.00	0.00	6,134.52



CITY OF ST. HELENA

DEPARTMENT OF PUBLIC WORKS

1572 RAILROAD AVENUE

ST. HELENA, CA .

94574

707-968-2658

Sewer Annexation Application Packet and Instructions

The City of St. Helena Municipal Sewer District No. 1 is considered a “community sanitary sewer” which is a sanitary sewer system owned and operated by the City of St. Helena. The municipal sewer district is not defined by a geographical boundary or city limit line it is simply those properties that are connected to the public system and are considered users of the system. A property located within the city limits does not necessarily imply that the property has been annexed to the sewer district. A Tax Rate Area (TRA) on the Assessor’s Tax Roll will indicate if the property is in or out of the district. A TRA 3002 indicates the property is located within the sewer district, a TRA 3000 indicates it is not part of the sewer district.

Any project, property or person wishing to connect the municipal sewer district and become a user of the system is required to be annexed into the district if the property generating the wastewater is not already a part of the district as indicated by TRA 3000.

Procedures for Annexation into the Municipal Sewer District No. 1 are as follows:

1. To process the application process ALL of the following items must be completed and submitted to the St. Helena Public Works Director:
 - St. Helena Application for Sewer Annexation
 - St. Helena Application Fee, Process Fee and Connection Fee
 - Board of Equalization (BOE): Statement of Boundary Change Form
 - Board of Equalization Fee

For more information of the BOE requirements please visit:
<https://www.boe.ca.gov/proptaxes/pdf/jurboundaryreq.pdf> and
<https://www.boe.ca.gov/proptaxes/pdf/400ta.pdf>

 - Napa County Mapping Flat Fee
2. Upon receipt of the application forms and appropriate fees, staff will review packet and determine if the proposed application meets the annexation requirements, and notify the applicant of determination.
3. Complete application meeting all annexation requirements will then be submitted for City Council review.
 - If the annexation is denied by City Council, applicant shall be refunded the State Board of Equalization Fee and the Napa County Mapping Fee.
 - If the annexation is approved by City Council, the applicant shall submit a written geographic description of the project area and map (both hard copy and digital format) depicting the projected area prepared by a Licensed Land Surveyor per BOE guidelines.
4. Upon receipt of the required geographic description of the project area and map, staff will prepare and submit the required information and fees to the State Board of Equalization and Napa County.



Sewer Annexation Application Packet and Instructions

5. Prior to user physically connecting to the City's sewer system:

- Staff shall confirm with the applicant that the annexation proceedings are complete and all fees have been paid
- Prior to backfill of the trench at the connection point both Building and Public Works Staff will inspect applicable work and connections before final approval is given to applicant

FY 2018/2019	
City Sewer Annexation Fees (Resolution 2012-21)	
Sewer Connection Application Fee	\$900
Annexation Process	\$2,000
Connection Fee Inspection	\$400
City Sewer Impact Fees (per habitable square foot) Municipal Code § 3.32.080	
Single Family Residential	\$.52
Multi-family Residential	\$.77
Office	\$.51
Industrial	\$.69
Commercial/Retail	\$1.02
Lodging	\$1.01
$\$(\text{type of building}) \times (\text{Habitable SF}) = \text{Sewer Impact Fee}$	
State Board of Equalization (BOE) Fee (Acreage Per Single Annexation)	
Less than 1 acre	\$300
1.00 – 5.99 (most St. Helena properties)	\$350
6.00 – 10.99	\$500
11.00 – 20.99	\$800
21.00 – 50.99	\$1,200
51.00 – 100.99	\$1,500
Greater than 101 acres	Refer to BOE
Napa County Mapping Flat Fee	\$162
TOTAL TO BE PAID WITH APPLICATION SUBMITTAL	\$ 5,634.52

x 3,601 SF = \$1,872.52

If you have additional questions please contact the Public Works Department at 707-968-2658 or for specific questions please contact:

- Glenn Price, Public Works Supervisor at 707-339-1053 or gprice@cityofstheleena.org for sewer service and connection information
- Christina Cook, Administrative Assistant at 707-968-2658 or ccook@cityofstheleena.org for annexation information
- Si tiene preguntas favor de llamar a Carlos Uribe, 707-486-6144 o curibe@cityofstheleena.org



CITY OF ST. HELENA
DEPARTMENT OF PUBLIC WORKS
 1572 RAILROAD AVENUE, ST. HELENA, CA. 94574
 707-968-2658

Application for Sewer Annexation

APPLICANT INFORMATION			
Applicant(s) Name Tony Cartledge			Phone 707-287-4495
Applicant(s) Street Address 2890 Spring Street	City St. Helena	State CA	Zip 94574
Property Owner Name same			Phone same
PROPERTY INFORMATION			
Property Address seeking sewer annexation 2890 Spring Street		City St. Helena	State CA
Assessor's Parcel No (APN) 009-391-034		Dwelling Square Footage 3,601	Existing Land Use Residential R3/U
Subsequent Development Plans, if any, and Timing 300 sq.ft. addition for ADU, currently in Building Permit plan review process (BD2008-016).			
REQUIRED SIGNATURE			
I hereby certify that this application and all other documents submitted are true and correct to the best of my knowledge and belief. I also certify that I am the owner of the above property and have full legal rights to the property.			
 Property Owner Signature		11-12-2020 Date	
**** FOR OFFICE USE ONLY ****			
Application Received By		Date Application Received	
Present Zoning		General Plan Designation	
Application Checklist	Date Completed	Fee Calculation Worksheet	
St. Helena Application for Sewer Annexation		Sewer Connection Application Fee (St. Helena)	\$900
Statement of Boundary Change Application: BOE		Annexation Process (St. Helena)	\$2000
Fees submitted		Connection Fee Inspection (St. Helena)	\$400
Staff Report/Resolution Drafted		Sewer Impact Fee (St. Helena)	
City Council Approved		State Board of Equalization (BOE) Fee	
Legal Description and Map		Napa County Mapping Flat Fee	\$162
Confirm Tax Area Rate		Total Due at Application	
Submission to BOE		Sewer Impact Fee: \$ _____ * X _____ (Habitable SF)	
Submission to Napa County Auditor		(18/19) *PER SF \$.51 SFR \$.77 MFR \$.51 Office \$.69 Industrial \$1.02 Com/Retail \$1.01 Lodging	
Submission to Napa County Assessor's office			
Napa County Tax Rate Area Change Received		Total Collected with Application	
Grading Permits Approved		Date Payment Received	
Encroachment Permits Approved		Fees to other agencies:	
Finance Notified		State Board of Equalization Fee (Check # _____)	
Date Service Began		Napa County Mapping Flat Fee (Check # _____)	\$162.00

CITY OF ST. HELENA

RESOLUTION NO. 2021-33

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST. HELENA SETTING A HEARING FOR 6:00 P.M., TUESDAY, APRIL 13, 2021 TO CONSIDER OBJECTIONS TO THE PROPOSED ANNEXATION OF TERRITORY, KNOWN AS 2790 SPRING STREET, ST HELENA, CA. 94574 (APN 009-391-034), INTO THE ST HELENA MUNICIPAL SEWER DISTRICT NO. 1, MSD ANNEXATION NO. 139

RECITALS

- A. The owner of 2790 Spring Street, St Helena, CA (APN 009-391-034-000) ("Property") has requested annexation into the St. Helena Municipal Sewer District No. 1 ("District"); and
- B. The legal description and boundary for the Property to be annexed is described in the attached Exhibit A – Annexation Description; and
- C. The proposed annexation is hereby designated as MSD Annexation No. 139.

RESOLUTION

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

- 1. The Property, as legally described and depicted in Exhibit A – Annexation Description, will benefit from the proposed annexation into the District; and
- 2. A hearing to consider any objections to the proposed annexation of the Property into the District is hereby set for Tuesday, April 13, 2021, commencing virtually using Zoom at 6:00 p.m. or as soon thereafter as the matter can be heard. Those members of the public wishing to participate must do so remotely via Zoom electronic meetings in the following ways; by either logging onto the Zoom link located on the meeting agenda (please download the app to your computer or mobile device) and enter the meeting ID or by calling a listed number and enter the meeting ID; and
- 3. The City Clerk shall cause a certified copy of this Resolution, together with the names of the members of the City Council voting for and against it, to be

published once a week for at least two successive weeks in a newspaper of general circulation printed and published in the city, and the first publication shall not be more than 60 nor less than 30 days prior to the date fixed for the hearing in accordance with Health and Safety Code Section 4310; and

4. The City Clerk shall cause a certified copy of this Resolution to be posted in three public places within the area to be annexed not earlier than the 60th day or later than the 30th day prior to the hearing in accordance with Health and Safety Code Section 4310.5; and
5. The City Clerk shall cause a certified copy of this Resolution to be mailed, postage prepaid, to each person to whom land in the area to be annexed is assessed as such owner is shown on the last equalized county assessment roll, at the address as shown upon the roll, and to each person who has any interest in any land within the area to be annexed whose name and address and a designation of the land in which they are interested is on file in the office of the city clerk in accordance with Health and Safety Code Section 4310.5.

Approved at a Regular Meeting of the St. Helena City Council held on Tuesday, March 9, 2021, by the following vote:

Mayor Geoff Ellsworth: Yes

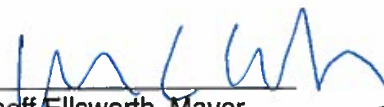
Vice Mayor Paul Dohring: Yes

Council Member Anna Chouteau: Yes

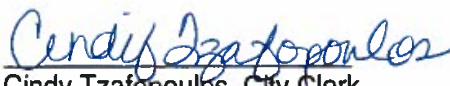
Council Member Lester Hardy: Yes

Council Member Eric Hall: Yes

APPROVED:


Geoff Ellsworth, Mayor

ATTEST:


Cindy Tzaopoulos, City Clerk



RESOLUTION NO. 2021-

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
ST. HELENA TO APPROVE THE ANNEXATION OF
TERRITORY, KNOWN AS 2790 SPRING STREET, ST
HELENA, CA. 94574 (APN 009-391-034), INTO THE ST
HELENA MUNICIPAL SEWER DISTRICT NO. 1, MSD
ANNEXATION NO. 139**

RECITALS

- A. The property at 2790 Spring Street, St. Helena, CA (APN) 009-391-034-000 will benefit from annexation into the St. Helena Municipal Sewer District No. 1; and
- B. The owner of 2790 Spring Street, St Helena, CA (APN) 009-391-034-000 ("Property") has requested annexation into the St. Helena Municipal Sewer District No. 1 ("District"); and
- C. The legal description and boundary for the Property to be annexed is described in the attached Exhibit A – Annexation Description; and
- D. A public hearing regarding this proposed annexation was ordered on March 9, 2021, and duly noticed and held on April 13, 2021 at a regular meeting of the City Council of the City of St. Helena; and
- E. All annexation fees have been paid; and
- F. The City has complied with all laws applicable to these annexation proceedings, including without limitation Health & Safety Code sections 4641 et seq.

RESOLUTION

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

- 1. The territory described in the attached Exhibit A – Annexation Description, commonly known as 2790 Spring Street, St Helena, CA., Napa County Assessor Parcel Number (APN) 009-391-034-000 is hereby ordered annexed; and
- 2. The City Clerk shall cause a certified copy of this Resolution to be recorded with the official records of the County of Napa, pursuant to section 4647 of the Health & Safety Code.

Approved at a Regular Meeting of the St. Helena City Council held on Tuesday,
April 13, 2021 by the following vote:

Mayor Ellsworth:	_____
Vice Mayor Dohring:	_____
Councilmember Chouteau:	_____
Councilmember Hall:	_____
Councilmember Hardy:	_____

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzaopoulos, City Clerk



Report to the City Council
Regular City Council - 13 Apr 2021

Agenda Section: NEW BUSINESS

Subject: Consideration and proposed approval of a resolution appointing John Zimmerman to the Active Transportation & Sustainability Committee (ATSC) and keeping the recruitment open until vacant seats have been filled

CEQA Determination: Not a CEQA project

Prepared By: Cindy Tzafopoulos, City Clerk

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The City Clerk has previously advertised a recruitment in the newspaper, City website, enews and social media seeking applicants from the community to fill vacancies on the Active Transportation & Sustainability Committee.

DISCUSSION

Currently there are three vacant seats on the Active Transportation & Sustainability Committee (ATSC). The vacancies consist of one regular position and two alternate members.

The City received one application from community member John Zimmerman for the ATSC Committee.

Should Council decide not to appoint John Zimmerman, staff would re-advertise for the position to fill the vacancy.

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDED ACTION

It is recommended the Council adopt a resolution appointing John Zimmerman to the Active Transportation & Sustainability Committee to a regular seat with a term expiring June 30, 2021. Staff recommends leaving the recruitment open for the Active Transportation & Sustainability Committee's unfilled terms of office until filled.

ATTACHMENTS

[John Zimmerman ATSC Application for Appointment](#)
[Appointment Resolution](#)



CITY HALL, 1572 RAILROAD AVENUE
OFFICE OF THE CITY CLERK
ST. HELENA, CA 94574
(707) 968-2742
www.cityofstheleena.org

APPLICATION FOR APPOINTMENT

Note: Your application will be copied for the City Council and made available to the press and public.

Board/Committee/Commission to which you are applying:

Name: John Zimmerman

Home Address:
1620 Spring Street, St Helena

Mailing Address: same as above

Occupation: Retired Junior College President

Business Address: _____

Telephone: Home 916 806 3260 Cell _____ Business _____

E-mail: jzimmerman@mticcollege.edu

➤ Please indicate if above numbers can be made available to the public upon request: ☒ **Yes** ☐ **No**

Resident of St. Helena? ☒ **Yes** ☐ **No** Yes, how long have you lived in St. Helena? 7 months

Current occupation (within last 12 months) Retired

Business interests in last 12 months: none

Previous Committee/Commission Experience:

none with St Helena related interests

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

BS California State University Sacramento

Professional and/or community service activities:

Salvation Army, Accrediting Commission for California Community and Junior Colleges

Local government related experience: _____

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

I am new to St Helena and hope to make a possitive contribution to the community. My approach is to apply a practical approach to challenges and work collaboratively with those involed.

Names, addresses, and phone numbers of three individuals familiar with your background:

David Delehant, _____

Stan Huser, _____

David Allen, _____

Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.

John Zimmerman

3-16-21

Signature of Applicant

Date

If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.

Please return the completed application to:

City of St. Helena

City Clerk

1572 Railroad Avenue

St. Helena, CA, 94574

COMMITTEE/BOARD OR COMMISSION POLICY

The City Council establishes the following policy clarifying the role of advisory committees, commissions, and boards with respect to their responsibilities.

- The purpose of creating an advisory committee/commission is to seek a broader perspective on certain issues, and to provide a forum for public participation.
- The committee/commission members should understand that they are to function in an advisory capacity to the City Council and management, and that the City Council reserves the right to use its own judgment in any matters which are brought before them for a decision.
- Your committee/commission is governed by ordinance or resolution in such a manner to insure efficient and democratic operation of its meetings and responsibility.

All committee/commission members should understand that their appointment is for a limited purpose and time, and that once the assigned time is completed they are excused from this appointment unless re-appointed in compliance with the applicable City ordinance or resolution.

PLANNING COMMISSION

The Planning Commission is a five member advisory board to the City Council on matters pertaining to planning. The Planning Commission reviews Subdivision Maps, Parcel Maps, Use Permits, Variances, and Design Review for consistency with the General Plan and Zoning Ordinance regulations.

- **Appointment Process** - the Mayor shall nominate committee members from the pool of applicants, and they will be appointed only after a majority vote approval by the City Council. Applicants may choose to attend the City Council meeting and make a statement in support of their application before the Council votes on the appointment.
- **Term** - Four years
- **Residency Requirement** - Must Reside in City Limits
- **Meets** - First and Third Tuesdays of each month at 6:00 p.m.

ACTIVE TRANSPORTATION AND SUSTAINABILITY COMMITTEE

The Active Transportation and Sustainability Committee is a five member advisory commission with two alternate members, and advises the City Council on matters pertaining to active transportation and matters pertaining to sustainability and the environment.

- **Appointment Process** - the Mayor shall nominate committee members from the pool of applicants, and they will be appointed only after a majority vote approval by the City Council. Applicants may choose to attend the City Council meeting and make a statement in support of their application before the Council votes on the appointment.
- **Term** - Two years
- **Residency Requirement** – Must Reside in City Limits
- **Meets** – First Wednesday of each month at 5:00 p.m. at City Hall

BOARD OF LIBRARY TRUSTEES

The Board of Library Trustees have the power to establish and enforce rules, regulations, and bylaws necessary for the administration and protection of the public library, subject to the approval and confirmation of the City Council.

- **Appointment Process** - the Mayor shall nominate committee members from the pool of applicants, and they will be appointed only after a majority vote approval by the City Council. Applicants may choose to attend the City Council meeting and make a statement in support of their application before the Council votes on the appointment.
- **Term** - Two years
- **Residency Requirement** - Need not be Residents of the City
- **Meets** - Second Wednesday of each month at 5:00 p.m. at the St. Helena Library

PARKS AND RECREATION COMMISSION

The Parks and Recreation Commission is a five member advisory commission to the City Council on matters pertaining to parks and recreation.

- **Appointment Process** - the Mayor shall nominate committee members from the pool of applicants, and they will be appointed only after a majority vote approval by the City Council. Applicants may choose to attend the City Council meeting and make a statement in support of their application before the Council votes on the appointment.
- **Term** - Two years
- **Residency Requirement** - At least four Commissioners shall reside within the City Limits. One member may reside outside the City Limits but within the School District Boundary.
- **Meets** – Third Wednesday of each month at 4:30 p.m. at City Hall

MOSQUITO ABATEMENT DISTRICT BOARD

The Board's mission is to promote eliminating mosquito sources, yellowjacket control, tick outreach and rodent control.

- **Appointment Process** - the Mayor shall nominate committee members from the pool of applicants, and they will be appointed only after a majority vote approval by the City Council. Applicants may choose to attend the City Council meeting and make a statement in support of their application before the Council votes on the appointment.
- **Term** - Two years
- **Residency Requirement** - Need not be Residents of the City.
- **Meets** – Second Wednesday of each month at 7:00 p.m. at District Office

NAPA COUNTY ACTIVE TRANSPORTATION ADVISORY COMMITTEE

The Committee promotes and encourages safe bicycling and walking to further Napa County's goal of becoming a bicycle- and pedestrian-friendly county.

- **Appointment Process** - the Mayor shall nominate committee members from the pool of applicants, and they will be appointed only after a majority vote approval by the City Council. Applicants may choose to attend the City Council meeting and make a statement in support of their application before the Council votes on the appointment.
- **Term** - Two years
- **Residency Requirement** - Need not be Residents of the City.
- **Meets** – Third Wednesday of each month at 1:30 p.m. at the NCTPA Board Room, 625 Burnell Street

CITY OF ST. HELENA

RESOLUTION NO. 2021-

**Resolution of the City of St. Helena City Council Appointing an applicant to the
Active Transportation & Sustainability Committee**

RECITALS

- A. There are three vacancies on the Active Transportation & Sustainability Committee;
and
- B. One application has been received from community member; and
- C. There is a desire to leave the recruitment open for the Active Transportation &
Sustainability Committee's unfilled terms of office until filled.

RESOLUTION

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

Active Transportation & Sustainability Committee

- 1. John Zimmerman is appointed to the Active Transportation & Sustainability
Committee filling a vacancy with the term expiring on June 30, 2021.

Approved at a Regular Meeting of the St. Helena City Council on April 13, 2021, by the
following vote:

Mayor Ellsworth:	_____
Vice Mayor Dohring:	_____
Councilmember Chouteau:	_____
Councilmember Hall:	_____
Councilmember Hardy:	_____

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzaopoulos, City Clerk



Report to the City Council
Regular City Council - 13 Apr 2021

Agenda Section: NEW BUSINESS

Subject: Consideration and Proposed Approval of a Resolution Authorizing the Fifth Amendment to the Napa County Agreement No. 3265 (Upper Valley Waste Management Agency Joint Powers Authority Agreement)

CEQA Determination: Not a CEQA project

Prepared By: Preya Nixon, Asst. to the City Manager

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The City of St. Helena is a Member of the Upper Valley Waste Management Agency ("Agency"), a joint powers agency organized and operating under the Joint Exercise of Powers Act (Government Code section 6500 et seq.). The Agency's members include the County of Napa, the City of Calistoga, the City of St. Helena, and the Town of Yountville. Its operations are governed by state law and the Joint Powers Agreement between the members. Section 9.1 of the Joint Powers Agreement states:

Amendments to this Agreement shall be made only with the consent of all existing MEMBERS at the time of the amendment without regard to voting power; any such consent shall be in the form of duly authorized resolutions of the MEMBERS' respective governing bodies.

DISCUSSION

The proposed resolution would amend the Joint Powers Agreement to:

1. Provide for implementation and enforcement of state mandates regarding organic waste recycling, and

2. Specify how the franchise fees collected under the Franchise Agreement will be distributed to Members, and
3. Clarify the sources of funds to carry out the duties and responsibilities of the Agency.

The Amended and Restated Franchise Agreement with Upper Valley Disposal Service

On October 19, 2020, the Agency entered into an Amended and Restated Franchise Agreement with Upper Valley Disposal Service for recyclables, organics, construction and demolition debris, and solid waste collection services. Among many other things, the agreement requires the franchisee to pay franchise fees and an AB 939/Statutory fee for the Agency's operations. The new franchise fees are phased in as follows: 2.5% of gross receipts in fiscal year 2021-2022, 6% of gross receipts in fiscal year 2022-2023, and 10% of gross receipts in fiscal year 2023-2024 and for each fiscal year thereafter.

Under the current Joint Powers Agreement, Members of the Agency may request that the Agency collect franchise fees on their behalf. The City of Calistoga is currently the only Member with such an arrangement. This Resolution amends Section 6.5 of the Joint Powers Agreement to remove this procedure, while ensuring prior commitments regarding franchise fees are met, and would instead provide:

Distribution of Franchise Fees. If the AGENCY imposes a franchise fee on a FRANCHISE for SOLID WASTE HANDLING SERVICES, the franchise fee shall be distributed to MEMBERS, within 120 days of the AGENCY's receipt thereof, based on each MEMBER's pro rata share of the FRANCHISE's gross receipts collected within that MEMBER's jurisdiction. For example, if the FRANCHISE receives twenty percent (20%) of its gross receipts from a MEMBER's jurisdiction, that MEMBER shall receive twenty percent (20%) of any franchise fees received by the AGENCY. Notwithstanding the foregoing, if a MEMBER is receiving a franchise fee as of October 19, 2020, that MEMBER shall continue to receive franchise fees under this Section equal to the amount otherwise due until the amount distributed hereunder equals or exceeds such amount; thereafter, such MEMBER shall receive distributions hereunder in the same manner as other MEMBERS.

This Resolution also amends Section 7.2 of the Joint Powers Agreement to explicitly authorize the Agency to use fees and charges to fund its operations including, for example, an AB 939/Statutory fee. While other provisions of the Joint Powers Agreement grant this authority, Section 7.2 would do so explicitly in the same section governing other funding mechanisms for the Agency.

Mandatory Organics Recycling

SB 1383 was signed by the Governor in late 2016 and regulations implementing its provisions were finalized in late 2020. The bill, as approved, sets specific targets for reducing the amount of organic waste in landfills as follows:

- 50% reduction from 2014 levels by 2020
- 75% reduction from 2014 levels by 2025

The bill also sets a goal of recovering 20% of edible food for human consumption by 2025. The bill authorizes CalRecycle to adopt regulations to achieve these targets, including those mentioned above. The regulations take effect on January 1, 2022, two years after the 2020 goal. In addition, the bill authorizes local jurisdictions to charge fees to recover the costs incurred in complying with the regulations. Local jurisdictions must monitor compliance with organic waste disposal requirements, inspect waste containers, and contact violators for failing to sort waste. Beginning in 2024, local jurisdictions may impose penalties on individuals or businesses that contaminate waste bins with the incorrect waste. Local jurisdictions must also provide education and outreach to organic waste generators.

The bill also requires local jurisdictions to adopt enforceable ordinances or mechanisms by January 1, 2022, and establish an enforcement program that requires commercial and residential organic waste generators to comply with organic waste requirements. If a violation occurs between January 1, 2022 and December 31, 2023, jurisdictions must provide violators with educational materials. If a violation occurs after January 1, 2024, jurisdictions may take enforcement action against the violator.

This Resolution amends Section 6.1 of the Joint Powers Agreement to add subsection (s). The amendment grants the Agency the authority to undertake or assist with implementation and enforcement of state organic waste recycling mandates under SB 1383 and two prior related bills, AB 341 and AB 1826, as well as future state organic waste recycling mandates. Specifically, the amendment authorizes the Agency to enter into franchises and memoranda of understanding with Members for this purpose, or directly implement and enforce these laws. It is anticipated that the Agency will work collaboratively with Members and the existing franchisee to reach a mutually agreeable framework to meet these requirements.

RECOMMENDED ACTION

Staff Recommends Approval of a Resolution Authorizing the Fifth Amendment to the Napa County Agreement No. 3265 (Upper Valley Waste Management Agency Joint Powers Authority Agreement)

ATTACHMENTS

[Upper Valley JPA Formation Agreement](#)

[Resolution of Members Consenting to and Approving Fifth Amendment to JPA Agreement](#)

[Exhibit A - Fifth Amendment to Upper Valley Waste Management JPA](#)



JPA FORMATION AGREEMENT

UPPER VALLEY WASTE MANAGEMENT AGENCY

Joint Powers Formation Agreement

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UPPER VALLEY WASTE MANAGEMENT AGENCY

Joint Powers Formation Agreement

SECTION 1. DEFINITIONS

The terms defined in this Section that are capitalized in this AGREEMENT have the following meanings:

"ACT" means the California Integrated Waste Management Act of 1989 (California Public Resources Code Sections 40000 et seq.) and all regulations adopted under that legislation, as that legislation and those regulations may be amended from time to time.

"AGREEMENT" means this joint exercise of powers agreement, as it may be amended from time to time.

"AGENCY" means the Upper Valley Waste Management Agency, a joint exercise of powers authority created by the MEMBERS pursuant to this AGREEMENT.

"BOARD" means the BOARD of DIRECTORS of the AGENCY.

"DIRECTOR" means the representative appointee of a MEMBER to the BOARD.

"FISCAL YEAR" means the period commencing on each July 1 and ending on the following June 30.

"FRANCHISE" means an agreement for provision of SOLID WASTE HANDLING SERVICES.

"GOVERNMENT CODE" means Articles 1, 2 and 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code (California Government Code Sections 6500 et seq.) and all regulations adopted under that legislation, as that legislation and those regulations may be amended from time to time.

"HOUSEHOLD HAZARDOUS WASTE ELEMENT" or "HHWE" means the element prepared pursuant to the ACT, which identifies a program for the safe collection, recycling, treatment and disposal of hazardous wastes which are generated by households within a jurisdiction and which should be separated from the SOLID WASTE stream.

"LANDFILL" means the Clover Flat Sanitary Landfill, including any accessory facilities related thereto.

"MANAGER" means the person, MEMBER agency or firm hired or contracted by the BOARD as the AGENCY's administrative officer to manage the affairs of the AGENCY and to effect the policies of the BOARD.

"MEMBER" means any of the governing bodies of the signatories to this AGREEMENT and "MEMBERS" means all of the governing bodies of the signatories to this AGREEMENT.

"NAPA COUNTY SOLID WASTE SERVICE ZONE THREE (3)" means that area defined in the May 22, 1973 Napa County Franchise Agreement No. 604 as Napa County Garbage Service Zone

3, being an area in the Northern portion of Napa County, California, more particularly described as follows:

Commencing at the point formed by the intersection of the Range Line separating R4W and R5W, M.D.B. & M. with the westerly extension of a line parallel to, and distant 200 feet at right angles southerly from the centerline of the County Road known as "Trubody Lane"; thence from said point of commencement, leaving said Range Line, northwesterly, to the northeast corner of Section 3, T6N, R 5 W, M.D.B & M.; thence westerly, along the northerly line of said Section 3, to the northwest corner of said Section 3; thence leaving said Section line, northwesterly to the southeast corner of said Section 29; T7N, R5W, M.D.B. & M.; thence northerly along the easterly line of said Section 29, to the northeast corner of said Section 29; thence leaving said Section Line, northwesterly, to the southeast corner of Section 18, T7N, R5W, M.D.B. & M.; thence northerly along the easterly line of said Section 18, to the point of intersection with the Carne Humana Rancho Grant Line, said Rancho as shown on a map on file in the office of the County Recorder, Napa, California, in Book D of Patents, Page 127, entitled "Plat-Carne Humana Rancho"; thence westerly along said Grant Line to corner number CH2 of said Rancho; thence, leaving said Grant Line, westerly, across said Section 18, to the southeast corner of Section 12, T7N, R6W, M.D.B. & M.; thence northerly along the easterly line of said Section 12, to the northeast corner of said Section 12; thence westerly along the northerly line of Sections 12 and 11, T7N, R6W, M.D.B. & M.; to the southeast corner of Section 3, T7N, R6W, M.D.B. & M.; thence northerly, along the easterly line of said Section 3, to the northeast corner of said Section 3; thence westerly, along the northerly line of said Section 3, to the southeast corner of Section 34, T8N, R6W, M.D.B. & M.; thence northerly, along the easterly line of Sections 34 and 27, T8N, R6W, M.D.B. & M., to the northeast corner of said Section 27; thence westerly, along the northerly line of said Section 27; thence westerly, along the northerly line of said Section 27 to the southeast corner of Section 21, T8N, R6W, M.D.B. & M.; thence northerly along the easterly line of Section 21 and 16, T8N, R6W, M.D.B. & M. to the northeast corner of said Section 16; thence westerly, along the northerly line of said Section 16, to the southeast corner of Section 8, T8N, R6W, M.D.B. & M.; thence northerly, along the easterly line of said Section 8, to the point of intersection with said Carne Humana Rancho Grant Line; thence westerly, along said Grant Line, to corner number CH22, of said Rancho; thence leaving said Grant Line and continuing westerly, along the westerly extension of the last mentioned line, to the point of intersection with the easterly line of Section 12, T8N, R7W, M.D.B. & M.; thence northerly along the easterly line of said Section 12, to the northeast corner of said Section 12; thence westerly, along the northerly line of Sections 12, 11 and 10, T8N, R7W, M.D.B. & M., to the point of intersection with the boundary line separating Napa and Sonoma Counties; thence northwesterly, along said boundary line, to the point of intersection with the centerline of the State Highway, Route 103, Sign Route 128, known as "Healdsburg Highway"; thence leaving said boundary line, northeasterly, to corner number CH28 of said Carne Humana Rancho; thence southeasterly, along said Rancho Grant Line, to the point of intersection with the Center Line of the State Highway; Route 49, Sign Route 29, known as "Lake County Highway"; thence leaving said Grant Line, northerly, along the centerline of said highway, to the point of intersection with the southerly line of Section 14, T9N, R7W, M.D.B. & M.; thence easterly, along the southerly line of Sections 14 and 13, T9N, R7W, M.D.B. & M., to the southeast corner of said Section 13; thence southerly, along the westerly line of Sections 19 and 30, T9N, R6W, M.D.B. & M., to Corner number CH30 of said Carne Humana Rancho; thence southeasterly, along said Carne Humana Rancho Grant Line through corners CH31, CH32, and CH33 to the point of intersection with the westerly line of section 34, T9N, R6W, M.D.B. & M.; thence leaving said Grant Line, east, across said Section 34, to the easterly line of

said Section 34; thence southerly, along the easterly line of said Section 34; and along the easterly line of Section 3, T8N, R6W, M.D.B. & M., to the Southeast corner of said Section 3; thence Easterly, along the Southerly Line of Sections 2 and 1, T8N, R6W, M.D.B. & M., to the Southeast corner of said Section 1; thence Northerly, along the Easterly line of said Section 1 and the Easterly line of Section 36 and 25, T9N, R6W, M.D.B. & M., to the Northeast corner of said Section 25; thence leaving said Section Line, Southeasterly to corner number LJ2 of the La Jota Rancho, said Rancho as shown on a map on file in the office of the County Recorder, Napa, California, in Book A of Patents, Page 6, entitled, "Plat of the Rancho De La Jota"; thence Southeasterly, Southwesterly and Northwesterly, along said La Jota Rancho Grant Line, through corners LJ1, LJ5 and LJ4, to the point of intersection with the Northerly Line of Section 17, T8N, R5W, M.D.B. & M.; thence leaving said Grant Line, Westerly along the Northerly Line of said Section 17, to the Northwest corner of said Section 17; thence Southerly, along the Westerly Line of Section 17 and 20, T8N, R5W, M.D.B. & M., to the Southwest corner of said Section 20; thence Easterly, along the Southerly Line of sections 20 and 21, T8N, R5W, M.D.B. & M., to the southeast corner of said Section 21; thence leaving said Section Line, Southeasterly, to the Southeast corner of Section 27, T8N, R5W, M.D.B. & M.; thence Southerly, along the Westerly Line of Section 35, T8N, R5W, M.D.B. & M., and the Westerly Line of Section 2, T7N, R5W, M.D.B. & M., to the point of intersection with the centerline of the State Highway, Route 102, Sign Route 128, known as "Rutherford - Winters Highway"; thence Southeasterly, along the Center Line of said Highway, to the point of intersection with the Westerly Line of Section 1, T7N, R5W, M.D.B. & M.; thence southerly, along the Westerly Line of said Section 1, to the Southwest corner of said Section 1; thence leaving said Section Line, Southeasterly, to the Northwest corner of Section 18, T7N, R4W, M.D.B. M.; thence Southerly, along the Westerly Line of said Section 18, to the Southwest corner of said Section 18; thence leaving said Section Line, Southeasterly, to the Northwest corner of Section 29, T7N, R4W, M.D.B. & M.; thence continuing Southeasterly, to the Southeast corner of said Section 29; thence Southerly, along the Westerly line of Section 33, T7N, R4W, M.D.B. & M., to the Southwest corner of said Section 33, said Southwest corner also being on the Yajome Rancho Grant Line, said Rancho as shown on a map on file in the office of the County Recorder, Napa, California, in Book A of Patents, Page 72, entitled, "Plat of the Rancho Yajome"; thence Southerly and Easterly, along said Rancho Grant Line to the point of intersection with the Westerly Line of Section 3, T6N, R4W, M.D.B. & M.; thence Southerly, along the Westerly Line of said Section 3, to the Southwest corner of said Section 3; thence leaving said Section Line, Southwesterly, to a point on the Center Line of the County Road known as "Silverado Trail", said point being the point formed by the intersection of said Center Line with the Easterly extension of a Line parallel to, and distant 200 feet at right angles Southerly from the Center Line of the County Road known as "Trubody Lane"; thence continuing Southwesterly, along said Line parallel to, and distant 200 feet at right angles Southerly from the center line of said "Trubody Lane" and its Easterly and Westerly extensions, to the point of commencement; excluding therefrom all area that is within the incorporated limits of the Cities of St. Helena and Calistoga, and areas which are subsequently annexed to said Cities, at such time as they are annexed.

"NAPA COUNTY SOLID WASTE SERVICE ZONE FOUR (4)" means the area defined in the June 30, 1998 Napa County Resolution No. 9884 defining the boundaries of franchise zone 4 in the unincorporated area of the County for the handling, collection, transportation and disposal of solid waste, being an area in the Northern portion of Napa County, California, more particularly described as follows:

Beginning at the intersection of the centerline of Pope Canyon Road with the Southwestern line of the Locoallomi Rancho and running thence Southwesterly about 1.2 miles to the Northeast corner of the La Jota Rancho, being Rancho corner LJ1, said Rancho as shown on a map on file in the office of the County Recorder, said Napa County, in Book A of Patents, Page 6, entitled "Plat of the Rancho De La Jota", said Rancho corner also being an angle point in the Northerly line of "Napa County Solid Waste Service Zone Three (3)" as defined in the May 22, 1973 Napa County Franchise Agreement No. 604 as Napa County Garbage Service Zone 3; thence Northwesterly along the Northeastern line of said Rancho, being Rancho corner LJ2; thence Northwesterly along the Northerly line of said Zone 3 about 1.9 miles to the most Northern corner of said Rancho, being Rancho corner LJ2; thence Northwesterly along the Northerly line of said Zone 3 about 1.4 miles to the Northeast corner of Section 25 Township 9 North, Range 6 West, Mount Diablo Base and Meridian; thence leaving said Northerly line of Zone 3 and running Northwesterly about 2.9 miles to the center of Section 11, Township 9 North Range 6 West MDB&M; thence Northerly about 3.3 miles to a point on the North line of Section 26 Township 10 North, Range 6 West, MDB&M, said point being 3000 feet Easterly from the Northeast corner thereof; thence continuing Northerly on the same course another 0.5 miles to the Napa County / Lake County line; thence Northeasterly along said County line about 1.8 miles to an angle point therein, said angle point being about 200 feet East of Butts Canyon Road; thence Northeasterly along said County line 1200 feet; thence Northeasterly about 3.6 miles to the intersection of the North line of Section 15 Township 10 North, Range 5 West, MDB&M, with the center of Putah Creek; thence Southeasterly along the center of Putah Creek about 3 miles to the intersection thereof with the North-South Center Section line of Section 24 Township 10 North, Range 5 West, MDB&M; thence Southerly about 3.3 miles to the center of Section 12, Township 9 North, Range 5 West MDB&M; these Westerly about 700 feet along the East-West Center Section line of said Section 12 to the intersection thereof with the centerline of said Pope Canyon Road; thence Southwesterly along said centerline about 3.9 miles to the point of beginning."

"NON-DISPOSAL FACILITY ELEMENT" or "NDFE" means the element which describe new facilities and the expansion of existing facilities, which will be needed to implement a jurisdiction's SRRE.

"SERVICE AREA" means those incorporated areas of Calistoga City, St. Helena City and Yountville Town, those unincorporated areas within NAPA COUNTY SOLID WASTE SERVICE ZONE THREE, NAPA COUNTY SOLID WASTE SERVICE ZONE FOUR, and the unserved, unincorporated areas adjacent to NAPA COUNTY SOLID WASTE SERVICE ZONES THREE and FOUR.

"SOLID WASTE" means the type of wastes commonly collected including putrescible and nonputrescible solid, semisolid and liquid wastes, including garbage, trash, refuse, paper rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. SOLID WASTE also includes source separated recyclable or compostable materials intended for collection as part of a FRANCHISE. SOLID WASTE does not include any wastes defined as "hazardous wastes" or "medical wastes" under federal or state laws or regulations.

"SOLID WASTE HANDLING SERVICE" or "SOLID WASTE HANDLING SERVICES" means those service or services provided, or facility owned, operated or used by a FRANCHISE for the collection, transportation, processing, storage, transfer or disposal of SOLID WASTE generated in the SERVICE AREA.

"SOURCE REDUCTION AND RECYCLING ELEMENT" or "SRRE" means the element prepared pursuant to the ACT, which includes a program for management of SOLID WASTE generated within a jurisdiction, consistent with the California Integrated Waste Management Board's waste management hierarchy.

SECTION 2. FORMATION

- 2.1 The MEMBERS, pursuant to the GOVERNMENT CODE, do hereby form, establish and create the Upper Valley Waste Management Agency, it being understood that the BOARD shall be entitled to change the AGENCY's name from time to time if it so chooses. The AGENCY shall constitute a public entity separate and distinct from the MEMBERS thereof.

SECTION 3. PURPOSE

- 3.1 General. The AGENCY is formed for the purpose of providing coordination of economical, regional waste management services, including but not limited to franchising of SOLID WASTE HANDLING SERVICES, providing uniform rate review and rate setting for those services, and meeting the requirements of the ACT. This shall not prohibit any of the MEMBER(S) from individually or jointly contracting for other SOLID WASTE HANDLING SERVICES for which the AGENCY has not entered into, and is not planning to enter into, a FRANCHISE to provide those SOLID WASTE HANDLING SERVICES uniformly in the SERVICE AREA, as long as the MEMBER has the AGENCY establish a rate for those SOLID WASTE HANDLING SERVICES. Any such individual contract by the MEMBERS for SOLID WASTE HANDLING SERVICES shall be for terms of three (3) years or less.
- 3.2 Regional Agency Pursuant to Section 40970 et al. of the ACT. The AGENCY shall act as a Regional Agency to implement the ACT within the SERVICE AREA, except those unserved, unincorporated areas adjacent to NAPA COUNTY SOLID WASTE SERVICE ZONE THREE. The AGENCY, and not the MEMBERS, is responsible for compliance with Article I (commencing with Section 41780) of Chapter 6 of the ACT.
- 3.3 Common and Additional Powers. The AGENCY's purpose also includes the establishment of the AGENCY as an independent joint powers entity to enable the MEMBERS to jointly exercise the common powers of the MEMBERS set forth in Section 3.1 and for the exercise of such additional powers as are conferred under Section 6 or conferred by the GOVERNMENT CODE upon all joint powers authorities.

SECTION 4. ORGANIZATION

- 4.1 Composition. The AGENCY shall be composed of the County of Napa, the City of Calistoga, the City of St. Helena and the Town of Yountville.

- 4.2 Name. The official name of the AGENCY shall be the "UPPER VALLEY WASTE MANAGEMENT AGENCY" whose address is 1195 Third Street, Room 101, Napa, California, 94559.
- 4.3 BOARD. The power of the AGENCY is vested in its BOARD. The composition and voting power of the members of the BOARD shall be as follows:

	<u>DIRECTORS</u>	<u>Voting Power</u>
City of Calistoga	1	1
City of St. Helena	1	1
Town of Yountville	1	1
County of Napa (each DIRECTOR shall have one vote)	2	<u>2</u>
		TOTAL OF: 5 votes

Each MEMBER shall appoint its representative(s) to the BOARD and at least one person as an alternate to serve in the case of absence or conflict on the part of the appointed DIRECTOR. One of the County DIRECTORS shall be a Supervisor representing County Supervisorial District 2 or 3. For the County, with two DIRECTORS, alternate(s) shall be specifically designated for each particular DIRECTOR. Each DIRECTOR and alternate shall be an elected official of the governing body of the MEMBER that he or she represents.

If a DIRECTOR or alternate ceases holding any such elected position, he or she shall then cease to serve as a DIRECTOR or alternate. Vacancies shall be filled by the appointing MEMBER within thirty (30) days of the occurrence thereof. The AGENCY and the BOARD shall be entitled to rely on a written notice from the City or Town Clerk (in the case of the Cities and the Town) and the Clerk of the Board of Supervisors (in the case of the County) as conclusive evidence of the appointment and removal of the DIRECTORS and/or alternates representing that MEMBER. All designations must be placed on file with the Clerk of the AGENCY to be effective. All DIRECTORS serve solely at the pleasure of the appointing MEMBERS.

- 4.4 Voting. Each DIRECTOR shall have one vote on all matters presented to the BOARD for a vote. The affirmative vote of a majority of the voting power of the AGENCY as a whole (three affirmative votes) shall be required to approve an act of the AGENCY.
- 4.5 Quorum. A majority of the DIRECTORS (three) shall constitute a quorum for the transaction of business of the BOARD except that if there is less than a quorum present, the DIRECTOR who is present, or the MANAGER may adjourn any meeting.
- 4.6 Officers, Committees, Rules. The AGENCY may designate such officers, establish such committees, and adopt such rules as may be necessary or convenient to conduct its affairs.
- 4.7 Meetings. Regular meetings of the AGENCY shall be held at least three (3) times each FISCAL YEAR, at such times and places as may be established by the AGENCY by resolution. All meetings of the AGENCY, including regular, adjourned regular, and special meetings shall be called, noticed, held and conducted in accordance with the provisions of the Brown Act (Government Code Section 54950 et seq.).
- 4.8 Compensation. No compensation shall be received by any member of the AGENCY BOARD unless expressly provided by resolution of the AGENCY and with approval of a majority of the MEMBERS governing bodies.
- 4.9 Bylaws. The BOARD, from time to time, may adopt bylaws for the conduct of the AGENCY's affairs, provided that they are not inconsistent with this AGREEMENT.

SECTION 5. PERSONNEL AND ADMINISTRATION

- 5.1 Employees. The AGENCY may have its own employees or may contract with a MEMBER or firm for the furnishing of any necessary staff services associated with or required by the AGENCY.
- 5.2 MANAGER. Except and until the AGENCY exercises its option to obtain other employees or contractors, the MANAGER of the AGENCY shall be the Director of Environmental Management or his designee. The Director of Environmental Management shall contract with the AGENCY for services and shall serve until such time as the AGENCY exercises its option to obtain other employees or contractors. The MANAGER shall serve as the Purchasing Agent of the AGENCY.
- 5.3 Support Services. Except and until the AGENCY exercises its option under the GOVERNMENT CODE and Section 5.1 of the AGREEMENT, the County of Napa will provide support services to the AGENCY including all legal, financial, accounting, data processing, secretarial, purchasing and personnel services. The County Auditor-Controller and Treasurer-Tax Collector shall be the Auditor and Treasurer for the AGENCY pursuant to the GOVERNMENT CODE. Such services and their costs shall be included in the annual budget referred to in Section 7.1.

SECTION 6. POWERS

- 6.1 Approved Powers. To the full extent permitted by applicable law (including specifically the ACT and the GOVERNMENT CODE), the AGENCY is authorized, in its own name, to do all acts necessary or convenient for the exercise of such powers enumerated in the ACT or that each MEMBER could exercise separately including, without limitation, any and all of the following:
- a. to enter into FRANCHISE(s) to provide for SOLID WASTE HANDLING SERVICES within the jurisdictions of the MEMBERS.
 - b. to establish rates, tolls, tipping fees, other fees, rentals and other charges in connection with FRANCHISE SOLID WASTE HANDLING SERVICES, as well as any and all services provided by the AGENCY, and to include in such rates and charges amounts necessary to carry out those purposes described in Section 3 of this AGREEMENT;
 - c. to provide for the implementation of the requirements of the ACT for the MEMBERS, as a Regional Agency pursuant to the ACT, including the following:
 - i. review local ordinances and resolutions to ensure consistency with the ACT;
 - ii. adopt, review, revise and recommend updates, including those necessary due to any additions or changes to state or federal law, of the SRRE, HHWE, and NDFE of the AGENCY to meet the requirements of the ACT;
 - iii. monitor and implement the AGENCY SRRE, HHWE and NDFE and make findings as to nonconformance as required by the ACT;
 - iv. each MEMBER shall be responsible to implement the AGENCY SRRE, HHWE and NDFE as stated in the AGENCY SRRE, HHWE and NDFE;
 - d. to assist with the development and implementation of the Countywide Integrated Waste Management Plan and other documents, and in that regard is empowered by the MEMBERS to:
 - i. review, approve, recommend updates and adopt the Countywide Siting Element, and the Countywide Summary Element;
 - ii. inform the MEMBERS of new or revised planning criteria adopted for use within each of the MEMBERS jurisdictions;
 - iii. review the Countywide Hazardous Waste Management Plan; and
 - iv. participate with any other regional waste management efforts, such as household hazardous waste collection and agricultural chemical collection events;
 - e. to sue and be sued;
 - f. to employ agents, employees and to contract for professional services;
 - g. to incur debts, liabilities and obligations;
 - h. to reimburse the MEMBER(S) for the costs of special services provided to the AGENCY;
 - i. to require that the MEMBERS direct all SOLID WASTE generated by MEMBERS to FRANCHISE SOLID WASTE facilities;

- j. to make and enter into contracts, including contracts with any MEMBER, and to assume existing contracts made by any MEMBER;
 - k. to apply for and accept grants, advances and contributions;
 - l. to make plans and conduct studies; and
 - m. to coordinate efforts with established local, regional and state waste management agencies.
 - n. to provide annual reporting to each of the MEMBERS.
 - o. to review and make recommendations on pending SOLID WASTE and household hazardous waste legislation.
 - p. to represent the AGENCY on the Napa County and Cities Integrated Waste Management Local Task Force.
 - q. to assist with the development of local markets for recycled products and provide resources for information concerning product availability.
 - r. to conduct or contract for Household Hazardous Waste events and activities.
- 6.2 Limitations. Such powers shall be exercised subject only to the limitations set forth in this AGREEMENT, applicable law and such restrictions upon the manner of exercising such powers as are imposed by law upon the County of Napa in the exercise of similar powers.
- 6.3 Possible Future Responsibilities and Duties. Upon future approval and agreement by all of the MEMBERS, the AGENCY may conduct other related waste management responsibilities and duties.
- 6.4 Individual MEMBER services. Upon approval of the AGENCY and the governing body of a MEMBER, the AGENCY may contract to provide services individually for that MEMBER, pursuant to Section 3.1 of this AGREEMENT.
- 6.5 Individual MEMBER Franchise Fees. Upon written request of any MEMBER, the AGENCY shall require the collection of a franchise fee by the collection franchisee from the ratepayers within the MEMBER's jurisdiction within one hundred and twenty (120) days upon the receipt of a written request by a MEMBER.

SECTION 7. FINANCE

- 7.1 Budget. A budget for the AGENCY shall be adopted by the BOARD for the ensuing FISCAL YEAR prior to June 30 of each year. The budget shall include sufficient detail to constitute an operating guideline. It shall also include the anticipated sources of funds, and the anticipated expenditures to be made for the operations of the AGENCY including, but not limited to, franchising of SOLID WASTE SERVICES, setting rates, and implementing the ACT. Approval of the budget by the BOARD shall constitute authority for the MANAGER to expend funds for the purposes outlined in the approved budget, subject to

the availability of funds on hand as determined by the Auditor-Controller; provided that this shall not be construed to limit the power of the BOARD to modify the budget in whatever manner it deems appropriate and instruct the MANAGER accordingly.

- 7.2 Landfill Surcharge. The MEMBERS agree that funds for carrying out the duties and responsibilities of this AGREEMENT shall come from a surcharge placed on fees collected at the LANDFILL. The MEMBERS understand that an allowance for this surcharge will be 'passed through' to the users of the SOLID WASTE SERVICES.
- 7.3 Rates The BOARD shall establish rates to be charged for FRANCHISE SOLID WASTE SERVICES in amounts sufficient to provide for their efficient operation, including administrative, processing, storage, transportation and disposal costs, and for all duties and responsibilities of the AGENCY.
- 7.4 No General Fund Obligation. No MEMBER shall be obligated to expend any of its general fund monies to support the operations of the AGENCY unless said expenditure is first approved by their respective governing body.
- 7.5 Competitive Purchases. The BOARD shall establish procedures and policies to ensure competitive prices for the purchase of goods and services to the extent necessary. Formal bidding shall not be necessary except to the extent required by law for general law counties.
- 7.6 Accountability. The AGENCY shall be strictly accountable to all MEMBERS for all receipts and disbursements. The AGENCY may not obligate itself beyond the monies due to it under this AGREEMENT plus any monies on hand or irrevocably pledged to its support from other sources.
- 7.7 Debts, Liabilities and Obligations. The debts, liabilities, and obligations of the AGENCY shall be solely the obligation of the AGENCY and not the debts, liabilities, and obligations of the MEMBERS or its officers or employees except as required by GOVERNMENT CODE, in which event the right to pro rata contribution provided by section 895.6 shall be modified to the extent that "pro rata" shall mean that proportion of the liability which is equivalent to the ratio of the tonnage of SOLID WASTE generated and regulated within the jurisdiction of a particular MEMBER to the total tonnage of SOLID WASTE generated and regulated within the combined jurisdictions of the MEMBERS during the calendar year in which the event giving rise to the liability occurred.
- 7.8 Audit. The AGENCY shall cause an annual audit to be prepared and filed to the extent required by GOVERNMENT CODE.
- 7.9 Regional Agency Planning Civil Penalties Any civil penalties which are imposed pursuant to the ACT will be apportioned by the AGENCY. The AGENCY shall review the civil penalty and determine one of the following concerning the payment of the penalty:
 - a. that the AGENCY shall pay the entirety of the penalty; or
 - b. that an individual MEMBER is responsible for the assessment of the civil penalty and that the penalty shall be therefore imposed upon that MEMBER for payment of the penalty; or

- c. that multiple MEMBERS, but not all MEMBERS, are responsible for the assessment of the civil penalty and that the penalty shall be therefore allocated equally and imposed upon those responsible MEMBERS.

SECTION 8. WITHDRAWAL AND/OR TERMINATION

- 8.1 Withdrawal. A MEMBER may not withdraw from the AGENCY unless it has entered into an agreement with the AGENCY, at least ninety (90) days prior to the end of the fiscal year permitting a MEMBER to withdraw and specifying the terms and impact of its withdrawal, which approval shall not be unreasonably withheld. No withdrawal shall be effective unless and until the AGENCY and the MEMBER comply with any then-applicable requirements of law relating to changes in the composition of entities such as the AGENCY.
- 8.2 Franchise obligations upon withdrawal/termination. Upon withdrawal, those withdrawing MEMBER(S) or upon termination, all MEMBERS, shall succeed as franchisor(s) to existing AGENCY franchise(s) for that portion of the franchise operative within their respective jurisdictional boundaries for the remaining term of the franchise(s).
- 8.3 Continuance of AGENCY upon a Withdrawal. Upon withdrawal of any MEMBER, the remaining MEMBERS shall determine, by majority vote, whether the AGENCY shall continue in existence or be terminated.
- 8.4 Physical Asset Distribution upon Termination. In the event that the AGENCY is terminated, any physical assets remaining shall be sold and, after all liabilities, encumbrances and liens have been paid, the proceeds of the sale shall be allocated proportionately to the MEMBERS based on their estimated annual waste disposal, as determined by the most recent annual tonnages as submitted by the LANDFILL.
- 8.5 Funds of the AGENCY. All revenues shall become funds of the AGENCY. No revenues shall be returned to a withdrawing MEMBER unless the AGENCY as a whole dissolves, in which case, any remaining funds shall be distributed according to Section 8.6.
- 8.6 Assets. Subject to the then-applicable requirements of the GOVERNMENT CODE, upon dissolution of the AGENCY, the assets of the AGENCY remaining after payment of or adequate provision for all debts, liabilities and obligations, including franchise obligations, of the AGENCY shall be divided among the MEMBERS in accordance with an unanimous agreement among them or, in the absence of such an agreement, in proportion to the total tonnage of SOLID WASTE each MEMBER generated. Any assets that are not conveniently divisible shall be sold at a duly noticed public auction, in which case the net proceeds from the sale shall be divided among the MEMBERS in accordance with that agreement or, in the absence of such an agreement, those same proportions. In-kind contributions shall be returned to the donating MEMBER.
- 8.7 Effective Date of Dissolution. No dissolution shall be effective unless and until the AGENCY and MEMBERS comply with any then-applicable requirements of the GOVERNMENT CODE and the ACT relating to changes in the composition of entities such as the AGENCY.
- 8.8 Regional Agency Compliance Upon Dissolution Upon dissolution, each MEMBER shall be responsible for complying with the requirements of the ACT within their respective

jurisdictional boundaries in accordance with the programs set out in the AGENCY SRRE, HHWE, and NDFE.

SECTION 9. MISCELLANEOUS

- 9.1 Amendments. Amendments to this AGREEMENT shall be made only with the consent of all existing MEMBERS at the time of the amendment without regard to voting power; any such consent shall be in the form of duly authorized resolutions of the MEMBERS' respective governing bodies. Notwithstanding the foregoing, no amendment shall require any MEMBER to contribute any funds to the AGENCY or become directly or contingently liable for any debts, liabilities or obligations of the AGENCY without the consent of that MEMBER evidenced in a written instrument signed by a duly authorized representative of that MEMBER.
- 9.2 Term and Continuance. The AGENCY became effective September 29, 1992 and this AGREEMENT shall continue until rescinded, renegotiated according to Section 9.1, or terminated.
- 9.3 Severability. Should any part, term or provision of this AGREEMENT be decided by a final judgement of a court or arbitrator to be illegal or in conflict with any law of the State of California or otherwise be unenforceable or ineffectual, the validity of its remaining parts, terms and provisions shall be not be affected.
- 9.4 No Conflicts. Unless otherwise required by law, during the term of this AGREEMENT, no MEMBER shall exercise any power or undertake any act which conflicts with or is inconsistent with the powers or objectives of the AGENCY.
- 9.5 Effective Dates. The terms of this AMENDMENT became effective as of September 29, 1992. The terms of the First Amendment became effective on March 15, 1994. The current terms of the AGREEMENT (Second Amendment) shall become effective as of the date noted at the start of this AGREEMENT
- 9.6 Filings. The MANAGER shall file all required notices with the Secretary of State in accordance with GOVERNMENT CODE and any other applicable State and Federal laws, as such may be amended from time to time.
- 9.7 Notices. All notices which any MEMBER or the AGENCY may wish to give in connection with this AGREEMENT shall be in writing and shall be served by personal delivery during usual business hours at the principal office of the MEMBER or AGENCY, to an officer or person apparently in charge of that office, or by depositing the same in the United States mail, postage prepaid, and addressed to the MEMBER or AGENCY at its principal office, or to such other address as the AGENCY or MEMBER may designate from time to time by written notice given to the other MEMBERS in the manner specified in this Section. Service of notice pursuant to this Section shall be deemed complete on the day of service by personal delivery (but 24 hours after such delivery in the case of notices of special meetings of the BOARD) or three (3) days after mailing if deposited in the United States mail. Until changed by written notice to the AGENCY and the MEMBERS, notice shall be delivered as follows:

COUNTY OF NAPA:	Clerk of the Board of Supervisors 1195 Third Street, Room 310 Napa, CA 94559
CITY OF CALISTOGA:	Clerk of the Calistoga City Council 1232 Washington Street Calistoga, CA 94515
CITY OF ST. HELENA:	Clerk of the St. Helena City Council 1480 Main Street St. Helena, CA 94574
TOWN OF YOUNTVILLE:	Clerk of the Yountville Town Council 6550 Yount Street Yountville, CA 94599
AGENCY:	Upper Valley Waste Management Agency Environmental Management Director 1195 Third Street, Room 101 Napa, CA 94559

- 9.8 Successors and Assigns. This AGREEMENT shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the MEMBERS. However, no MEMBER shall assign any of its rights under this AGREEMENT except to a duly formed public entity organized and existing under the laws of the State of California and then only when approved in accordance with this AGREEMENT. No assignment shall be effective unless and until the AGENCY, the MEMBERS and the proposed assignee comply with all then-applicable requirements of the GOVERNMENT CODE and the ACT relating to changes in the composition of entities such as the AGENCY.
- 9.9 Section Headings. All section headings contained in this AGREEMENT are for convenience and reference. They are not intended to define or limit the scope of any provision of this AGREEMENT.
- 9.10 Arbitration. All disputes that arise in connection with the interpretation or performance of this AGREEMENT shall be resolved on an equitable basis by a single arbitrator under the commercial arbitration rules of the American Arbitration Association. The arbitrator's decision shall be final and binding on the AGENCY, all MEMBERS and all former MEMBERS involved or affected by the dispute. The AGENCY, any MEMBER and any former MEMBER that is party to the dispute may enforce any award, order or judgement of the arbitrator in any court of competent jurisdiction.
- 9.11 Law to Govern. It is understood and agreed by the parties that the law of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this AGREEMENT and shall govern the interpretation of this AGREEMENT.
- 9.12 Entirety. The MEMBERS agree that this AGREEMENT represents the full and entire agreement between the MEMBERS hereto with respect to matters covered herein. This AGREEMENT supersedes any and all other communications, representations, proposals,

understandings or agreements, either written or oral, between the MEMBERS hereto with respect to such subject matter.

- 9.13 Waiver. A waiver of any breach of any provision of this AGREEMENT shall not constitute or operate as a waiver of any other breach of such provision or of any other provision, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provision.

RESOLUTION NO. 2021-__

A Resolution of the City Council of the City of St. Helena Consenting to and Approving the Fifth Amendment to Napa County Agreement No. 3265 (Upper Valley Waste Management Agency Joint Powers Agreement)

RECITALS

WHEREAS, the Upper Valley Waste Management Agency is a joint powers entity formed to provide economical coordination of regional waste management services to the Members, including but not limited to franchising of solid waste handling services, uniform rate review and rate setting for those services in the Agency's Service Area, and acting as the Regional Agency for purposes of implementing the provisions of the California Integrated Waste Management Act of 1989 (the "Agency"); and

WHEREAS, the Agency is organized and operates under California Government Code section 6500 et seq. (the "Joint Exercise of Powers Act") and is a separate and distinct public entity from its member agencies, which include the County of Napa, the City of Calistoga, the City of St. Helena, and the Town of Yountville (the member agencies are collectively referred to herein as "Members" and individually as "Member"); and

WHEREAS, the Agency and Members are subject to that certain joint powers agreement (Napa County Agreement No. 3265) dated September 29, 1992, and subsequently amended on March 15, 1994, June 27, 1995, August 20, 1996, and August 25, 1998 (the "Joint Powers Agreement"); and

WHEREAS, the Joint Powers Agreement in Section 9.1 provides in relevant part: "Amendments to this AGREEMENT shall be made only with the consent of all existing MEMBERS at the time of the amendment without regard to voting power; any such consent shall be in the form of duly authorized resolutions of the MEMBERS' respective governing bodies;" and

WHEREAS, the City Council of the City of St. Helena now wishes to consent to and approve an amendment to the Joint Powers Agreement pursuant to this Resolution and as provided herein.

RESOLUTION

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

1. The Recitals above are true and correct and fully incorporated herein.

2. The "Fifth Amendment to Napa County Agreement No. 3265 (Upper Valley Waste Management Agency Joint Powers Agreement)," attached hereto as Exhibit "A" and fully incorporated herein by reference, is hereby consented to and approved.
3. The City Manager is authorized to take all actions necessary or convenient to effectuate this Resolution.
4. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of St. Helena held on this 13th day of April, 2021 by the following vote:

Mayor Geoff Ellsworth: _____

Vice Mayor Paul Dohring: _____

Council Member Anna Chouteau: _____

Council Member Lester Hardy: _____

Council Member Eric Hall: _____

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzaopoulos, City Clerk

EXHIBIT "A"

**[Fifth Amendment to Napa County Agreement No. 3265 (Upper Valley Waste Management
Agency Joint Powers Agreement)]**

**FIFTH AMENDMENT TO NAPA COUNTY
AGREEMENT NO. 3265
(UPPER VALLEY WASTE MANAGEMENT AGENCY
JOINT POWERS AGREEMENT)**

This **FIFTH AMENDMENT TO NAPA VALLEY AGREEMENT NO. 3265 (Upper Valley Waste Management Agency Joint Powers Formation Agreement)** (this "Fifth Amendment") is made and entered into effective July 1, 2021 by and between the County of Napa, the City of Calistoga, the City of St. Helena, and the Town of Yountville.

RECITALS:

WHEREAS, by joint powers agreement (Napa County Agreement No. 3265) dated September 29, 1992, and subsequently amended on March 15, 1994, June 27, 1995, August 20, 1996, and August 25, 1998 (hereinafter referred to as "JOINT POWERS AGREEMENT"), the County of Napa, the City of Calistoga, the City of St. Helena, and the Town of Yountville (hereinafter referred to collectively as the "MEMBERS" and individually as "MEMBER") have formed the Upper Valley Waste Management Agency (hereinafter referred to as the "AGENCY") as a joint powers entity to provide economical coordination of regional waste management services to the MEMBERS, including but not limited to franchising of solid waste handling services, uniform rate review and rate setting for those services in the Agency's service area, and acting as the regional agency for purposes of implementing the provisions of the California Integrated Waste Management Act; and

WHEREAS, Assembly Bill 341 (Chesbro, 2011; Recycling of Commercial Solid Waste) amended the California Integrated Waste Management Act of 1989 and requires all commercial businesses and public entities that generate four cubic yards or more of waste per week to have a recycling program in place ("AB 341"); and

WHEREAS, Assembly Bill 1826 (Chesbro, 2014; Mandatory Organics Recycling) also amended the California Integrated Waste Management Act of 1989 and requires local jurisdictions to implement an organic waste recycling program to divert organic waste generated by businesses and multi-family properties ("AB 1826"); and

WHEREAS, Senate Bill 1383 (Lara, 2016; Short-Lived Climate Pollutants) further amended the California Integrated Waste Management Act of 1989 and establishes methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants ("SB 1383"); and

WHEREAS, on December 8, 2020, the California Department of Resources Recycling and Recovery ("CalRecycle") approved the final text of regulations implementing SB 1383, now found in Title 14, Division 7, Chapter 12 of the California Code of Regulations; and

WHEREAS, SB 1383 requires jurisdictions to implement an organic waste diversion program that includes organic waste collection services to businesses and residences, edible food recovery goals, public education and outreach, contamination monitoring and sampling activities, recordkeeping and reporting, organic and edible food recovery, infrastructure capacity planning, procurement of recovered organic waste products, and enforcement; and

WHEREAS, the Agency is authorized to: (i) enter into franchises to provide for solid waste handling services within the jurisdictions of the MEMBERS, (ii) establish rates, tolls, tipping fees, other fees, rentals and other charges in connection with franchise solid waste handling services, and (iii) do all acts necessary or convenient for the exercise of such powers enumerated in the California Integrated Waste Management Act of 1989 or that each MEMBER could exercise separately; and

WHEREAS, on October 19, 2020, the Agency entered into that certain “Amended and Restated Franchise Agreement between Upper Valley Waste Management Agency and Upper Valley Disposal Service for Recyclables, Organics, Construction and Demolition Debris and Solid Waste Collection Services” (the “Franchise Agreement”) which, among other things, requires the franchisee to pay: (i) a franchise fee equal to 2.5% of gross receipts in fiscal year 2021-2022, 6% of gross receipts in fiscal year 2022-2023, and 10% of gross receipts in fiscal year 2023-2024 and for each fiscal year thereafter, and (ii) an AB 939/Statutory fee of 3% of gross receipts each quarter following July 1, 2021 for the Agency’s costs of programs, pilot studies, education and outreach campaigns, reporting, compliance, and other activities in complying with the California Integrated Waste Management Act and other existing or future statutory requirements related to solid waste and recycling; and

WHEREAS, the fees are the product of extensive negotiation and represent the parties’ estimate of the reasonable value of the franchise and the rights conferred thereunder; and

WHEREAS, pursuant to Section 6.5 of the JOINT POWERS AGREEMENT, upon written request of any MEMBER, the Agency shall require the collection of a franchise fee by the franchisee from the ratepayers within that MEMBER’s jurisdiction and, as of the date first written above, the City of Calistoga has requested, and the franchisee collects, a franchise fee of 6% from ratepayers within the City of Calistoga; and

WHEREAS, pursuant to Section 9.1 of the JOINT POWERS AGREEMENT, amendments to the JOINT POWERS AGREEMENT shall be made only with the consent of all existing MEMBERS at the time of the amendment without regard to voting power and any such consent shall be in the form of duly authorized resolutions of the MEMBERS’ respective governing bodies; and

WHEREAS, the MEMBERS now wish to amend the JOINT POWERS AGREEMENT to: (i) provide for implementation and enforcement of state mandates regarding organic waste recycling, (ii) specify how the franchise fees collected under the Franchise Agreement will be distributed to Members, and (iii) clarify the sources of funds to carry out the duties and responsibilities of the Agency.

NOW, THEREFORE, BE IT AGREED as follows:

1. The foregoing recitals are true and correct and fully incorporated herein.
2. Section 6.1 of the JOINT POWERS AGREEMENT is hereby amended to add paragraph s. which reads as follows:
 - s. to undertake or assist with implementation and enforcement of state organic waste recycling mandates, as they may change from time to time and including, but not limited to, AB 341, AB 1826, and SB 1383, and in that regard is empowered by the MEMBERS to:

- i. Enter into FRANCHISE(s) to provide organic recycling and collection services to all commercial and residential generators of organic waste within the SERVICE AREA;
 - ii. Enter into FRANCHISE(s) to provide for procurement of eligible recovered organic waste products;
 - iii. Enter in FRANCHISE(s) to establish, implement, and administer edible food recovery programs;
 - iv. Enter into Memoranda of Understanding with MEMBERS regarding implementation and enforcement of state organic waste recycling mandates;
 - v. Implement and enforce state organic waste recycling mandates.
3. Section 6.5 of the JOINT POWERS AGREEMENT is hereby amended to read as follows:

“6.5 Distribution of Franchise Fees. If the AGENCY imposes a franchise fee on a FRANCHISE for SOLID WASTE HANDLING SERVICES, the franchise fee shall be distributed to MEMBERS, within 120 days of the AGENCY’s receipt thereof, based on each MEMBER’s pro rata share of the FRANCHISE’s gross receipts collected within that MEMBER’s jurisdiction. For example, if the FRANCHISE receives twenty percent (20%) of its gross receipts from a MEMBER’s jurisdiction, that MEMBER shall receive twenty percent (20%) of any franchise fees received by the AGENCY. Notwithstanding the foregoing, if a MEMBER is receiving a franchise fee as of October 19, 2020, that MEMBER shall continue to receive franchise fees under this Section equal to the amount otherwise due until the amount distributed hereunder equals or exceeds such amount; thereafter, such MEMBER shall receive distributions hereunder in the same manner as other MEMBERS.
4. Section 7.2 of the JOINT POWERS AGREEMENT is hereby amended to read as follows:

“7.2 Funds for Duties and Responsibilities of AGREEMENT. The MEMBERS agree that funds for carrying out the duties and responsibilities of this AGREEMENT shall come from a surcharge placed on fees collected at the LANDFILL and/or fees or charges imposed and collected by the AGENCY. The MEMBERS understand that an allowance for ~~this~~ any such surcharge and/or fees or charges will be ‘passed through’ to the users of the SOLID WASTE SERVICES.”
5. Except as modified in Paragraphs 2., 3., and 4. above, all of the provisions of the JOINT POWERS AGREEMENT shall remain in full force and effect as previously adopted.

IN WITNESS WHEREOF, this Fifth Amendment is executed by the parties hereto:

COUNTY OF NAPA:

ATTEST: Clerk of the Napa County Board of
Supervisors

By: _____
Diane Dillon, Chair of the Board of Supervisors

Jose Luis Valdez, Clerk of the Board

APPROVED AS TO FORM: Napa County Counsel

Resolution No. _____ Adopted On:

Jeffrey Braz, County Counsel

_____, 2021

CITY OF CALISTOGA:

ATTEST: Clerk of the City of Calistoga
City Council

By: _____
Chris Canning, Mayor of the City of Calistoga

Susan Sneddon, City Clerk

APPROVED AS TO FORM: Calistoga City Attorney

Resolution No. _____ Adopted On:

Michelle Kenyon, City Attorney

_____, 2021

CITY OF ST. HELENA:

ATTEST: Clerk of the City of St. Helena
City Council

By: _____
Geoff Ellsworth, Mayor of the City of St. Helena

Cindy Tzafopoulos, City Clerk

APPROVED AS TO FORM: St. Helena City Attorney

Resolution No. _____ Adopted On:

Ethan Walsh, City Attorney

_____, 2021

TOWN OF YOUNTVILLE:

ATTEST: Clerk of the Town of Yountville
Town Council

By: _____
John F. Dunbar, Mayor of the Town of Yountville

Michelle Dahme, Town Clerk

APPROVED AS TO FORM: Yountville Town Attorney

Resolution No. _____ Adopted On:

Gary B. Bell, Town Attorney

_____, 2021



real estate law • land use law • business law • climate change law

December 4, 2020

Mark Prestwich
City Manager
1572 Railroad Avenue
St. Helena, CA 94574

Delivery via email to mprestwich@cityofstheleena.org

RE: City Council Agenda Item 11.5 - December 8, 2020
Appointments to Upper Valley Waste Management Agency

Dear Mr. Prestwich,

This firm represents Upper Valley Disposal Service, Inc. and Clover Flat Landfill, Inc. (collectively “UVDS”). In its December 8 meeting, the St. Helena City Council will consider appointments to various boards and commissions including the City’s appointment to the Board of Directors for the Upper Valley Waste Management Agency (the “JPA”). UVDS has specific concerns regarding the possible appointment of Mayor Geoff Ellsworth to the JPA’s Board of Directors based on Mr. Ellsworth’s activities as a private citizen. As explained below, we are concerned Mr. Ellsworth’s activities as a private citizen would cloud and confuse his representation of the City’s interests on the JPA’s Board. As part of City Council’s appointment deliberations, we ask that this letter be shared with City Council and made part of the City’s record on this matter.

The JPA was created to contract for the collection and disposal of solid waste in three municipalities (Yountville, St. Helena, and Calistoga) and upvalley portions of Napa County’s unincorporated lands.¹ The JPA’s Formation Agreement states that Directors serve at the pleasure of the municipality appointing that Director.² Therefore, the City’s appointment to the JPA Board is the City’s voice in *contractual* oversight of solid waste operations. Regulatory oversight of landfill operations is the jurisdiction of the many other agencies, including CalRecycle, Napa County Local Enforcement Agency (“LEA”), California Department of Fish and Wildlife, and the Regional Water Quality Control Board. The JPA does not have regulatory oversight of UVDS’s landfill or other solid waste operations.

Mr. Ellsworth has appeared before the JPA Board multiple times to advocate for the closure of the Clover Flat landfill even though the JPA does not have the power to take that action. More recently, Mr. Ellsworth has addressed the JPA Board in opposition to modernized contracts with

¹ Upper Valley Waste Management Agency Formation Agreement, Section 6.

² Upper Valley Waste Management Agency Formation Agreement, Section 4.3.

UVDS and has mischaracterized the contract negotiations between the JPA and UVDS.³ For example, Mr. Ellsworth has repeatedly described the JPA's recent contract as a "no-bid" contract, but, respectfully, he should know that there was nothing that was subject to bid. The prior contract was a collection of nine separate documents that needed to be restated into a single document. The staff report for the JPA's consideration of this contract clearly stated that the restated agreement "contains the same term as the current agreement".⁴ The term of the prior contract and the new contract expires in 2036, so there was no open contract on which other companies could bid. If the JPA had not adopted the new contract, the prior contract still would be in place for the next 16 years.

Mr. Ellsworth's statements to the JPA Board were not on behalf of City Council or as an alternate member of the JPA Board. Instead, he was acting as a private citizen in furtherance of personal goals. In this effort, Mr. Ellsworth hired a personal lawyer to advocate before the JPA Board,⁵ and Mr. Ellsworth has hired a public relations firm to draft negative newspaper articles that mischaracterize UVDS's operations and compliance with regulations.⁶ Mr. Ellsworth's comments to the JPA Board and the press, even where the facts contradict his comments, indicate his personal desire to close Clover Flat landfill, regardless of the cost in money or carbon footprint.⁷ This predetermined judgment makes it impossible for Mr. Ellsworth to be impartial in relation to UVDS's operations, especially given that the JPA does not have the authority to close the Clover Flat landfill.

California law provides that public officials are bound to exercise their powers with disinterested skill and diligence and primarily for the public's benefit.⁸ Decisionmakers cannot be strongly biased in favor of one set of parties in a proceeding or have unalterable notions of facts related to a proceeding.⁹ The administration of the JPA's existing contracts requires fair process with unbiased decisionmakers.¹⁰ Our concern is that Mr. Ellsworth would be disqualified from many JPA decisions based on his unalterable personal views and desires.

³ <https://www.wine-searcher.com/m/2020/10/landfill-woes-napas-latest-concern>
<https://localnewsmatters.org/2020/10/16/napa-county-landfill-reopens-after-being-damaged-by-glass-fire/>
<https://www.sfgate.com/news/bayarea/article/North-Bay-Fires-Bring-New-Challenge-With-Debris-15693914.php>

⁴ The October 19, 2020 staff report to the JPA Board is enclosed with this letter.

⁵ A copy of the October 19, 2020 letter from lawyer Stuart Flashman is enclosed with this letter. In the letter, Mr. Flashman confirms that he represents Geoffrey Ellsworth.

⁶ See enclosed press release drafted by Public Good PR, an Oregon public relations firm hired by Mr. Ellsworth.

⁷ See St. Helena Star article at https://napavalleyregister.com/community/star/news/st-helena-mayor-ellsworth-landfill-spar-over-fire-risk/article_c045246d-f306-51b7-a941-692479e00f4d.html a copy of which is enclosed.

⁸ See page 116 of California League of Cities publication *A guide for Local Agency Counsel: Providing Conflict of Interest Advice* available online at <https://www.cacities.org/Resources-Documents/Resources-Section/Open-Government/Providing-Conflict-of-Interest-Advice>

⁹ *Breakzone Billiards v. City of Torrance* (2000) 81 Cal. App.4th 1205, 1234 n. 23; *Petrovich Dev. Co. v. County of Sacramento* (2020) 48 Cal.App.5th 963, 972 (councilmember's statements and circulation of talking points in opposition to gas station evidenced bias disqualifying councilmember from proceedings on the project).

¹⁰ While the JPA's Bylaws do not speak to whether the JPA acts in a legislative or adjudicatory capacity, even legislative acts are subject to due process standards requiring a fair process. (*Mennig v. City Council* (1978) 86 Cal.App.3d 341, 351.)

Mr. Ellsworth certainly has the free speech right to advocate his personal views. Having already hired a lawyer and a public relations firm to advance these personal views, he clearly is passionate on this topic. As a company, UVDS always is willing to dialogue with our customers about UVDS's operations and the many coming changes to California solid waste regulation. We submit that other councilmembers would be better suited to representing solely the City's interests on the JPA Board, which would allow Mr. Ellsworth to continue advocacy of his personal goals.

We thank the City Council for its consideration on this matter.

Respectfully,



Rob Anglin

cc: Mayor Geoff Ellsworth
Vice Mayor Paul Dohring
Councilmember Anna Chouteau
Councilmember Lester Hardy
Councilmember Eric Hall
Ethan Walsh (City Attorney)
Cindy Tzafopoulos (City Clerk)



Agenda Date: 10/19/2020

Agenda Placement:

Upper Valley Waste Management Agency Board Agenda Letter

TO: Board of Directors

FROM: Steven Lederer - Manager
Upper Valley Waste Management Agency

REPORT BY: Alice Ramirez, Senior Office Assistant - 259-6716

SUBJECT: PUBLIC HEARING: RESOLUTION OF THE BOARD OF DIRECTORS OF THE UPPER VALLEY WASTE MANAGEMENT AGENCY APPROVING AMENDMENT OF SOLID WASTE SERVICES FRANCHISE AGREEMENT WITH UPPER VALLEY DISPOSAL SERVICE AND ESTABLISHING FRANCHISE AND OTHER FEES

RECOMMENDATION

PUBLIC HEARING: RESOLUTION OF THE BOARD OF DIRECTORS OF THE UPPER VALLEY WASTE MANAGEMENT AGENCY APPROVING AMENDMENT OF SOLID WASTE SERVICES FRANCHISE AGREEMENT WITH UPPER VALLEY DISPOSAL SERVICE AND ESTABLISHING FRANCHISE AND OTHER FEES

REQUESTED ACTION: Adoption of Resolution and authorization for the Chair to sign the franchise agreement:

- Agency Resolution 2020-4 approving the "Amended and Restated Franchise Agreement between Upper Valley Waste Management Agency and Upper Valley Disposal Service for Recyclables, Organics, Construction and Demolition Debris and Solid Waste Collection Services"

EXECUTIVE SUMMARY

The Agency entered into a franchise agreement with Upper Valley Disposal Service (UVDS) on September 25, 1995 and the parties have amended it nine times since. This franchise agreement amends and restates the agreement, modernizing the relationship and addressing oversight, transparency, and accountability of UVDS. It would take effect on July 1, 2021, the next year for which rates will be modified, and contains the same term as the current agreement: terminating on June 30, 2036 with automatic one-year extensions each year unless the Agency gives notice not to extend and/or the agreement is assigned or UVDS is in default (in which case the term automatically reverts to a fixed fifteen year term). The franchise agreement provides for:

1. An exclusive franchise for collection, processing, and transportation of solid waste, recyclable materials, construction and demolition debris, and organics materials with mandatory collection in members' jurisdictions requiring it and voluntary collection in all others. Certain things are exempted from the franchise (self-haul, materials removed by contractor, source separated e-waste, sewage treatment by-product, materials generated by state and federal facilities, and others);
2. Reimbursement from UVDS to the Agency for approximately half of the Agency's cost to develop and negotiate the agreement;
3. Agency approval of all subcontractors;

4. Authority for the Agency to require additional services as laws and industry requirements change (e.g., when SB 1383 takes effect);
5. All Franchised materials to be delivered to Clover Flat Land Fill or Upper Valley Recycling unless another disposal facility is preapproved by the Agency or an emergency exists;
6. No-cost services to members (the County of Napa, the Cities of Calistoga and St. Helena, and the Town of Yountville) for member facilities, member public containers, and member community events (these may be updated from time to time by the members);
7. Required pick up by UVDS of up to five tons per month of abandoned solid waste as directed by the Agency;
8. A public education and outreach plan preapproved by the Agency to educate the public about the requirements and opportunities for reducing and diverting solid waste, recyclable materials, construction and demolition debris, and organics materials;
9. Diversion standards to ensure the Agency and its members meet diversion goals required by state law;
10. Required hours of operation, customer service requirements, load inspection programs and handling standards for hazardous waste, safety training, vehicle and driver requirements, signage, and maintenance, collection vehicle noise restrictions, equipment inventory, required personnel (CFO/COO), billing requirements, notification to the Agency of cancelled accounts, Agency access to billing records, customer privacy protections, documentation and reporting of customer complaints;
11. An administrative process for resolving disputes between the parties;
12. Quarterly and annual reporting to the Agency of services provided, tons delivered, customer complaints, financials, and other information requested by the Agency;
13. Performance reviews and performance audits by the Agency to ensure compliance with the franchise agreement;
14. Franchise fees to the Agency of a percent of UVDS's gross receipts equal to: 2.5 percent for 2021-2022, 6 percent for 2022-2023, and 10 percent for 2023-2024 and each year thereafter;
15. An AB 939/statutory fee to the Agency of 3 percent of UVDS's gross receipts;
16. A three-year rate cycle in which rates are set and then automatically indexed (by the Bay Area CPI) on July 1 in intervening years with the possibility of extraordinary rate adjustments under certain circumstances and the ability for the Agency to reset rates in its discretion;
17. Indemnification (including environmental indemnification) for claims arising from UVDS's performance under the agreement or its failure to comply with the agreement (e.g., the requirement it comply with all applicable laws);
18. Significantly increased insurance limits of \$5,000,000 for general liability, automobile liability, and environmental liability;
19. A performance bond of \$3,000,000 or, at the Agency's option, an irrevocable letter of credit of \$2,000,000;
20. Events of default including: fraud or deceit, insolvency or bankruptcy, failure to maintain insurance coverage, violations of regulation, violations of applicable law, failure to perform services, failure to provide mandatory reports or pay amounts due, acts or omissions that violate the agreement, false, misleading, or inaccurate statements, seizure or attachment of assets, suspension or termination of service, criminal activity, assignment of agreement without approval, failure to provide proposals or implement a change in service directed by the Agency;
21. Cure periods for events of default of 10 days, 30 days, or none with the ability of UVDS to request a longer cure and correct period;
22. Remedies for the Agency in the event of default: suspension of UVDS's obligations under the agreement, liquidated damages, and/or termination of the agreement;
23. Liquidated damages and performance standards in addition to remedies under an event of default; and
24. The right of the Agency to demand assurance of performance from UVDS.

Agency Staff is happy to provide additional information during the meeting about any topic above or the franchise agreement generally.

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15301, 15237, 15306, 15307, 15308, 15273, 15183, and/or 15061(b)(3).

Conclusion

The Agency Manager considers this proposal to be fair and balanced for both the companies and recommends adoption of this Resolution.

RECOMMENDATION: Staff recommends approval of the amendment to the Franchise Fee Agreement between Upper Valley Waste Management Agency and Upper Valley Disposal Service.

Law Offices of
Stuart M. Flashman
5626 Ocean View Drive
Oakland, CA 94618-1533
(510) 652-5373 (voice & FAX)
e-mail: stu@stufash.com

October 19, 2020

Board of Directors
Upper Valley Waste Management
Agency
c/o County Administration Building
1195 Third Street
Napa, CA 94559

Re: Item 6.B on agenda for board meeting of October 19, 2020

Dear Board Members:

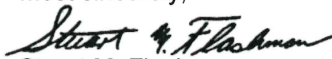
I am writing on behalf of my client, Geoffrey Ellsworth, to comment on the above-referenced agenda item, which concerns approving a restated and amended franchise agreement with the Clover Flats Landfill Facility. My client has major concerns about the Agency moving ahead with an unqualified approval of this amended agreement, especially its term, extending to 2040. That concern arises from the combination of recent events concerning the landfill facility and the County's pending consideration of a request to modify the use permit for that facility.

As you may be aware, there have been a series of violations of environmental regulations involving the landfill facility. My client will be bringing those violations to the Board's attention. In addition, the facility has applied to County for a modification of its conditional use permit to expand the allowable uses at the facility.

While the Agency has asserted that the amendment to the franchise agreement is exempt from CEQA review, the same cannot be said for the application for a use permit modification. Indeed, the environmental review of approving that modification must take into account, among other things, the environmental record of the facility, which is not good. It seems likely that consideration of that use permit application will require preparation of an Environmental Impact Report, which will take a significant amount of time. Further, given the facility's environmental record, approval of the modification cannot be assumed.

My client is concerned about the Agency's extending the franchise agreement until 2040 while that modification remains pending. I would strongly suggest that the agreement, at the moment, only be extended until the use permit decision has been made. Alternatively, the Agency could make extension of the permit beyond that time contingent on the County granting the use permit modification. If the use permit modification is not granted, the Agency should consider opening up the franchise agreement for competitive bidding.

Most sincerely,


Stuart M. Flashman

cc: Geoffrey Ellsworth

Begin forwarded message:

From: "Mary C. Derr"
<mary@publicgoodpr.com>
Subject: Concerns Grow in Napa County
over Risk of Landfill to Grape Industry
Date: October 21, 2020 at 2:59:19 PM PDT
To: "news@yountvillesun.com"
<news@yountvillesun.com>

Hi Sharon – Please let me know if you would like to learn more or schedule an interview with Mr. Ellsworth.

Thanks,
Sev

FOR IMMEDIATE RELEASE
October 21, 2020

CONTACT:

Severn Williams, 510-336-9566
Public Good PR
sev@publicgoodpr.com

**Concerns Grow in Napa County
over Risk of Landfill to Grape
Industry**

*Residents cite radioactivity, fire risk for entire
Napa region at troubled Clover Flat Landfill*

ST. HELENA, Calif. –The landfill for the City of St. Helena, located in the heart of Napa's wine country, has become a growing concern after a forced closure due to damage incurred because of the Glass Fire and test results showing elevated levels of radioactivity.

of the Glass Fire and last year's closure after landfill activity led to contamination of the Napa River that directly irrigates many Napa Valley vineyards.

For nearly a year from 2019 into 2020 the Clover Flat Landfill stored unregulated radioactive waste for an extended period and has posed numerous threats in recent years to safety, water quality, and regional wine and agriculture industries, from fires and from contaminant leakage into the Napa River. Local residents are calling for stricter regulation or relocation of the landfill.

"St. Helena is located just six rural, forested miles away and downriver of this landfill, where highly flammable and explosive gasses continue to be processed and fueled by continued operation," said Geoff Ellsworth, mayor and resident of St. Helena, speaking as an individual elected official. "PG&E and Cal Fire maps clearly show this as a high fire risk area and as we know, forest fires in this region can move at great speed. There are also concerns about impacts to air quality if a fire does burn through the landfill as with the Glass Fire. Landfill fires pose a health risk from burn, toxic smoke, gases, explosion hazards and exposure to particulate matter. It is irresponsible to our community to not at least consider moving our waste management to a safer location."

A chemical explosion related to commercial winery waste and more than a dozen fires in a five-year period, large enough to require CalFire response, add to the litany of dangers the landfill has posed.

The landfill was "severely damaged" by the recent Glass Fire complex, according to a [report posted on CalRecycle](#), the state agency responsible for overseeing the site. The gas collection system was "heavily impacted" and uncontrolled flames have been observed at gas wellheads. The leachate collection system was damaged, which could result in more contamination of the Napa watershed. Power lines were burned or toppled, several machines, the oil collection center and other structures burned, and all erosion control measures along

burned, and air erosion control measures along hillsides and creeks were destroyed.

The landfill's operator did make significant improvements and investments last year, under threat of losing its contract, and is actively attempting to repair damage from the Glass Fire complex. Nevertheless, Ellsworth explains that "this litany of environmental violations and system failures illustrates the inherent, ongoing danger Clover Flat poses to our local and regional water quality and agriculture-based economy. And in what universe do the words 'radioactive waste material' fail to spur immediate action? It's unconscionable."

"Residents and business owners in our region should be concerned that the existing review process has not brought about significantly enhanced oversight of this facility," added Ellsworth. "As it is currently managed, Clover Flat poses serious risks from catastrophic fire and contamination of the region's drinking water and the water that feeds our wine grapes and other agricultural products. We need to move beyond political maneuverings and do what's right for safety and economic security."

Ellsworth and others are calling for ramped-up safety regulations at the site and a community-driven process to both closely examine potential dangers posed by Clover Flat, and to consider making a change in where the city sends its trash. The Clover Flat Landfill is associated with Upper Valley Disposal Company, and both operate under non-competitive, no-bid evergreen agreements.

Ellsworth noted, "It may not have been well understood in the mid-1960s, when this landfill was first established, that all landfills are prone to leakage and fire. But the science informs us today that no matter what measures are taken at the landfill, fire risk is inherent and leakage into the Napa River and watershed will be an ongoing issue of concern. We know we will have more fires, floods and possibly earthquakes due to nearby fault lines, so we need to look at vulnerable locations like the landfill and rethink these operations to protect our community, our waterways and our Napa Valley brand."

12/4/2020

St. Helena Mayor Ellsworth, landfill spar over fire risk | News | napavalleyregister.com

https://napavalleyregister.com/community/star/news/st-helena-mayor-ellsworth-landfill-spar-over-fire-risk/article_c045246d-f306-51b7-a941-692479e00f4d.html

St. Helena Mayor Ellsworth, landfill spar over fire risk

Jesse Duarte

Sep 1, 2020

SALE! Subscribe for \$1/mo.



Upper Valley Recycling Center at Clover Flat Landfill in a 2019 photo.

Cynthia Sweeney photo, The Weekly Calistogan

Jesse Duarte

https://napavalleyregister.com/community/star/news/st-helena-mayor-ellsworth-landfill-spar-over-fire-risk/article_c045246d-f306-51b7-a941-692479e00f4d.html

1/12

12/4/2020

St. Helena Mayor Ellsworth, landfill spar over fire risk | News | napavalleyregister.com

St. Helena Mayor Geoff Ellsworth and Clover Flat Landfill are sparring after Ellsworth questioned whether the landfill should continue operating given the risk of fires.

Ellsworth first raised the issue at the Aug. 11 City Council meeting. He noted that a fire originating in one of the Upvalley's remote, high-wind canyons could have "devastating" consequences, and that landfills are "by nature prone to fire."

"As politically challenging as an issue like this can be, and while I recognize some efforts have been made to mitigate recent problems with fires and other environmental issues, I believe logic tells us it's time to more deeply weigh the value of continuing an inherently high fire risk operation in a remote, high-wind canyon in a high fire risk area just a few miles away and over forested lands from Upvalley population centers like St. Helena, Calistoga, Angwin and Deer Park," he said.

Ellsworth acknowledged the potentially high cost, both in money and carbon footprint, of relocating the operation "to a more fire safe area." However, he said the matter "should be considered in a timely manner by our safety teams."

He made the comments during a portion of the meeting set aside for brief reports by councilmembers. Since his specific concern wasn't listed on the meeting's agenda, nobody from the landfill was able to respond immediately.

Christy Pestoni, the landfill's chief operating officer, responded two weeks later with a **letter to the Star** and a statement at the Aug. 25 council meeting, where she called Ellsworth's comments "politically motivated."

12/4/2020

St. Helena Mayor Ellsworth, landfill spar over fire risk | News | napavalleyregister.com

Ellsworth **is campaigning for re-election** against City Councilmember Mary Koberstein and former Vice Mayor Peter White. Pestoni's husband, Eric Hall, **is running for City Council**.

"The landfill ... has had challenges, but it's currently operating in a compliance mode, and there hasn't been a fire there in two years," Pestoni said.

When Ellsworth raised the issue on Aug. 11, Koberstein said it lay within the purview of the Upper Valley Waste Management Agency (UVWMA), a joint powers authority (JPA) that oversees the landfill's operations. She said the council lacks "any independent ability to do anything."

"I suggest that we work through the agency, through our appointed members, to handle this," she said.

St. Helena's appointed members to the UVWMA board are Koberstein, a full member, and Ellsworth, an alternate.

12/4/2020

St. Helena Mayor Ellsworth, landfill spar over fire risk | News | napavalleyregister.com

“(Ellsworth) knows that the site is compliant, he attends all the public JPA meetings, and he’s toured the facility – in fact, I organized the tour for him last October,” Pestoni said. “He didn’t have any issues last October and actually was very pleased about our progress.”

“We are a community partner. He is an alternate on the JPA board,” Pestoni said. “This is a new platform for the mayor, in my opinion, and a conflict of interest.”

In a statement to the Star, Ellsworth said he has a responsibility as mayor to advocate for health, safety and environmental matters.

“And while I do appreciate our local partnerships and I do receive a certain amount of information as an alternate on the Joint Powers Authority related to this landfill, there are considerations I have raised there that are still to be fully addressed,” he said.

Ellsworth proposed engaging in a Local Agency Formation Commission (LAFCO) Municipal Service Review on countywide solid waste management “rather than getting into an unproductive back and forth on a sensitive landfill issue.”

12/4/2020

St. Helena Mayor Ellsworth, landfill spar over fire risk | News | napavalleyregister.com

“A number of companies currently provide solid waste management in Napa County and the region, and such a review could identify synergies to maximize best practices and methods of process and oversight,” Ellsworth said. “With new climate realities, new fire behavior patterns and newer understandings of the underground hydrogeologic dynamics related to landfills there would certainly be a value to an open and comprehensive discussion.”

According to the Napa Valley Register, the agency threatened to revoke Clover Flat’s contract to operate the landfill in April 2019 after a series of fires in 2018 and leaks affecting a nearby creek. The agency **withdrew its breach-of-contract notice** last October, determining the landfill had taken significant steps to address the fire concerns.

In her letter to the Star, Pestoni said the landfill has spent \$10 million on improvements such as using only soil as daily cover, replacing its onsite management team, providing 24-hour fire watch during fire season, and providing a staging area for

12/4/2020

St. Helena Mayor Ellsworth, landfill spar over fire risk | News | napavalleyregister.com

Illumination Technologies' IQ 24-Hour Fire Watch detection system. It also installed a \$1 million compactor.

Bryce Howard, general manager for Upper Valley Disposal Services and Clover Flat Landfill, briefed the city council on the landfill's latest fire control and prevention measures, including on-site water storage for firefighting purposes. He said the county fire marshal accepted the plan, and the county's Environmental Health Division conducts monthly inspections to ensure compliance.

The landfill completed remedial actions for fire mitigation and control of excess leachate, said Margie Mohler, chair of the Upper Valley Waste Management Agency, and Steve Lederer, Napa County Director of Public Works, in a joint statement to the Star.

"The UVWMA is satisfied that the past safety concerns of the oversight regulatory bodies have been met by Clover Flat Landfill," they said. "The UVWMA has not held any discussion on changing the location of this landfill."

Calistoga Mayor Chris Canning, who serves on the UVWMA board and was highly critical of the landfill after the 2018 fires, said the landfill "has come a long way."

12/4/2020

St. Helena Mayor Ellsworth, landfill spar over fire risk | News | napavalleyregister.com

“Fire risk is inherent to their business, but they are in a much better place today compared with before,” Canning said.

Watch now: Helicopters fight Mondavi Fire in the hills west of Robert Mondavi Winery

You can reach Jesse Duarte at 967-6803 or jduarte@sthelenastar.com.

Jesse Duarte

St. Helena Reporter

Jesse has been a reporter for the St. Helena Star since 2006.



real estate law • land use law • business law • climate change law

February 11, 2021

Cindy Tzafoopoulos
City Clerk
1572 Railroad Avenue
St. Helena, CA 94574

Delivery via email to ctzafoopoulos@cityofsthenana.org

RE: Complaint regarding City of St. Helena Standards of Conduct

Dear Ms. Tzafoopoulos,

This firm represents Upper Valley Disposal Service, Inc. and Clover Flat Landfill, Inc. (collectively "UVDS"). This letter addresses personal activities of Mayor Geoff Ellsworth that violate the City of St. Helena's adopted Standards of Conduct. As stated in my letter to Mark Prestwich dated December 4, 2020, my client appreciates and respects Mr. Ellsworth's right to engage in advocacy as a private citizen.¹ However, such advocacy must comply with the City's adopted Standards of Conduct. The City's Standards of Conduct provides:

(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 expressly state they do not represent their body or the City of St. of St. Helena, nor will they allow the inference that they do....*²

On February 8, 2021, Mr. Ellsworth submitted a letter to the Upper Valley Waste Management Agency (the "JPA") that began with the following introduction:

"I write this letter as an individually elected official, as mayor of St. Helena..."³

In his recent letter and past letters, Mr. Ellsworth repeatedly has addressed the JPA with this introduction as an "elected official" and as "mayor of St. Helena." This description of official capacity is distinct from writing as a private citizen. The distinction of being "individually elected" is meaningless because all members of City Council are elected individually.

¹ A copy of my December 4, 2020 letter is enclosed for your records.

² City Council Rules of Procedure for the Conduct of Council & Standards of Conduct, §3.2(m)(emphasis supplied), adopted by Resolution 2019-16. A copy of Resolution 2019-16 is enclosed with this letter.

³ A copy of Mr. Ellsworth's February 8, 2021 letter is enclosed with this letter. Italics and underline are supplied in the quote above. This letter does not address the assertions Mr. Ellsworth made in his February 8th letter, but that omission does not constitute acquiescence or agreement with the letter's content.

To comply with the City's Standard of Conduct, Mr. Ellsworth's personal opinions and positions must include the express disclaimer that such opinions and positions do not represent City Council or the City of St. Helena. Mr. Ellsworth did not include such a disclaimer when writing as an "elected official" and "mayor." Instead, Mr. Ellsworth represents that his opinions and position flow from his elected capacity as mayor. This representation is strengthened by his letter's closing statement that his opinions and positions "must be prioritized before continuing with other major City business."⁴ By starting and ending his letter with references to his elected capacity on City business, Mr. Ellsworth clearly represents that he is acting in an official capacity rather than a personal capacity. Because the City's Standard of Conduct requires an express disclaimer and avoiding even the inference that Mr. Ellsworth is representing the City Council or City, Mr. Ellsworth's February 8th letter clearly violates the Standard of Conduct quoted above.

Mr. Ellsworth's representations have ripple effects beyond his own communications. Community members discussing UVDS's Whitehall Lane facility describe a meeting with the "Mayor of St. Helena" in which "Mayor Ellsworth" expressed his personal opinions and positions regarding UVDS.⁵ The purpose of the above quoted Standard of Conduct is to prevent the City's adopted policies from being misstated or confused with personal opinions and positions of elected officials. Here, Mr. Ellsworth's communications under his official title have created exactly that misstatement and confusion in the community.

California law provides that public officials are bound to exercise their powers with disinterested skill and diligence and primarily for the public's benefit.⁶ Decisionmakers cannot be strongly biased in favor of one set of parties in a proceeding or have unalterable notions of facts related to a proceeding.⁷ We have expressed our position that Mr. Ellsworth is disqualified from JPA decisions based on his unalterable personal views and desires, and our view is the disqualification would extend to future City decisions involving UVDS. We grow increasingly concerned that Mr. Ellsworth will use the power of his elected office to improperly interfere with contracts that the JPA has legally entered through an open and public process. While Mr. Ellsworth has a right to engage in civic discourse about any matter that interests him, he cannot continually reference his elected position to represent personal opinions and positions as those of City Council or the City of St. Helena. Ideally, Mr. Ellsworth's future advocacy would both lack references to his elected position and expressly state that his communications do not reflect the opinion or position of City Council or the City of St. Helena.

⁴ Italics and underline supplied.

⁵ See enclosed pdf copy of an email from Matt Smith dated January 20, 2021.

⁶ See page 116 of California League of Cities publication *A guide for Local Agency Counsel: Providing Conflict of Interest Advice* available online at <https://www.cacities.org/Resources-Documents/Resources-Section/Open-Government/Providing-Conflict-of-Interest-Advice>

⁷ *Breakzone Billiards v. City of Torrance* (2000) 81 Cal. App.4th 1205, 1234 n. 23; *Petrovich Dev. Co. v. County of Sacramento* (2020) 48 Cal.App.5th 963, 972 (councilmember's statements and circulation of talking points in opposition to gas station evidenced bias disqualifying councilmember from proceedings on the project).

I have copied Vice Mayor Paul Dohring, City Manager Mark Prestwich, and City Attorney Ethan Walsh on this letter. We recognize that the City's Standards of Conduct allow this complaint to be made with the complainant's name redacted. My client expressly waives any redaction of its name, and we consent to this letter be shared with all members of City Council. UVDS is a family company with a long history in our community, and we always are willing to engage in an open and honest communication about the waste management service UVDS provides.

Thank you for your attention to this matter.

Respectfully,



Rob Anglin

cc: Vice Mayor Paul Dohring
Mark Prestwich (City Manager)
Ethan Walsh (City Attorney)

HolmanTeague

real estate law • land use law • business law • climate change law

April 12, 2021

Mark Prestwich
City Manager
1572 Railroad Avenue
St. Helena, CA 94574

Delivery via email to mprestwich@cityofsthenana.org

RE: City Council Agenda Item 12.2 – April 13, 2021
Fifth Amendment to the Napa County Agreement No. 3265 (Upper Valley Waste Management Agency Joint Powers Agreement)

Dear Mr. Prestwich,

This firm represents Upper Valley Disposal Service, Inc. and Clover Flat Landfill, Inc. (collectively “UVDS”). In its April 13 meeting, the St. Helena City Council will consider the Fifth Amendment to the Napa County Agreement No. 3265, which is the joint powers agreement governing the Upper Valley Waste Management Agency (the “JPA”). For the reasons outlined below, Mayor Geoff Ellsworth must recuse himself from the City Council’s decision on this agenda item. We have copied Mr. Ellsworth on this correspondence so that he can review and consult with counsel prior to the April 13 meeting. Mr. Ellsworth has waged a personal crusade to negate existing contracts and to haul the community’s solid waste long distances over Napa County roads. Mr. Ellsworth’s continued pursuit of his personal activism constitutes bias disqualifying him from participating in this matter. We ask that this letter be shared with City Council and made part of the City’s public record on this matter.¹

In addition to his repeated misstatements at public forums, **Mr. Ellsworth recently solicited another waste management company to provide service to the City of St. Helena.** Enclosed please find an email from David Adler of Recology. In a phone call and by the enclosed email, Mr. Adler informed UVDS that Mr. Ellsworth traveled to Recology’s office in Davis, California on March 30, 2021 to solicit waste management services for the City of St. Helena. Mr. Ellsworth apparently made a previous visit to Recology’s Vallejo office for the same purpose. Recology declined to negotiate with Mr. Ellsworth, and it seems that fact alone prevented Mr. Ellsworth from commencing negotiations with Recology. Mr. Ellsworth’s actions raise three serious concerns.

First, it is clear that Mr. Ellsworth communicated his elected position when soliciting Recology’s waste management services for the City of St. Helena. It concerns UVDS greatly that Mr. Ellsworth continues to use his official position to pursue a matter that was not proposed or even considered by the City of St. Helena, City Council, or the JPA. Mr. Ellsworth has misconstrued his elected position to include the power to unilaterally

¹ Mr. Ellsworth’s continued misstatements regarding UVDS are the subject of my letters dated December 4, 2020 and February 11, 2021. I have enclosed those letters rather than restate the contents herein.

and privately contract for city services. Because Mr. Ellsworth contacted Recology in secret, we cannot know whether Mr. Ellsworth upheld the ethical obligation to separate his elected role with his private advocacy. UVDS filed an ethics complaint in February based on Mr. Ellsworth's failure to adhere to the City's adopted Standards of Conduct on this subject.

Second, Mr. Ellsworth's actions are in conflict to the JPA's powers and objectives, which is a violation of the JPA Formation Agreement.² Mr. Ellsworth's efforts ignore the fact that the City (through the JPA) has contracted with UVDS for waste management services through 2036. These existing contracts are in place regardless of the City Council's actions on the Fifth Amendment. As a past member of the JPA Board, Mr. Ellsworth knows or should know these facts, which makes his recent actions even more egregious.

Third, Mr. Ellsworth's private solicitation of waste management services, "as an individually elected St. Helena official" does not comply with public contracting requirements. Even if existing UVDS contracts were not in place, *public contracting is subject to a public process*. It is ironic that Mr. Ellsworth uses multiple public forums to make misstatements about UVDS while surreptitiously soliciting another waste management company in the hopes of replacing UVDS. We are aware of no provision of California law or the City's Municipal Code that would authorize a mayor to privately and unilaterally engage in solid waste franchise negotiations.

Because Mr. Ellsworth has repeatedly turned any public forum into a platform to argue for hauling this community's waste long distances, he is likely to confuse the issues before the City Council on April 13. On April 6, 2021, Mr. Ellsworth addressed the Napa County Board of Supervisors on an agenda item for funding the Napa Communities Firewise Foundation. Mr. Ellsworth spoke during public comment to advocate for closing UVDS's facilities and hauling all upvalley waste out of Napa County. Rather than speaking to the matter actually on the agenda (i.e. firewise funding), Mr. Ellsworth addressed the personal issue that dominates most all of his public comments even while the City faces other pressing issues.

It is important to outline exactly what City Council is considering on April 13. As articulated in the staff report, the Fifth Amendment makes the following changes:

1. Provide for implementation and enforcement of state mandates regarding organic waste recycling, and
2. Specify how the franchise fees collected under the Franchise Agreement will be distributed to Members, and
3. Clarify the sources of funds to carry out the duties and responsibilities of the Agency.³

² Section 9.4 of the JPA Formation Agreement, which is attached to the Staff Report for Item 12.2 on the April 13, 2021 City Council Agenda.

³ Pages 1-2 of the Staff Report for Item 12.2

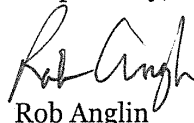
City Council is not being presented with an opportunity to change waste management service providers.⁴ However, Mr. Ellsworth's actions in soliciting Recology and his comments to the Board of Supervisors reflect his continued personal desire to close Clover Flat landfill and the Whitehall Lane composting facility, regardless of the cost in money or carbon footprint.⁵ This predetermined judgment makes it impossible for Mr. Ellsworth to be impartial in relation to any topic related to UVDS's operations.

California law provides that public officials are bound to exercise their powers with disinterested skill and diligence and primarily for the public's benefit.⁶ Decisionmakers cannot be strongly biased in favor of one set of parties in a proceeding or have unalterable notions of facts related to a proceeding.⁷ City Council's consideration of the Fifth Amendment requires fair process with unbiased decisionmakers. Our concern is that Mr. Ellsworth's unalterable personal views and desires will manifest in an attempt to broaden or distort the matter before City Council.

During the December 8, 2020 City Council meeting, Mayor Ellsworth cited his personal advocacy while stepping down from serving as an alternate on the JPA Board. The same personal positions that made Mr. Ellsworth ill-suited to the JPA Board will be a barrier to his impartial consideration of the Fifth Amendment. Based on the above, Mayor Geoff Ellsworth must recuse himself from Item 12.2 on the City Council's April 13, 2021 agenda.

Thank you for your attention to this matter.

Respectfully,



Rob Anglin

cc: Mayor Geoff Ellsworth (via email)
Ethan Walsh (City Attorney)
Cindy Tzaopoulos (City Clerk)

⁴ Even if City Council were to withdraw from the JPA entirely, the City remains bound by the existing franchise agreement binding the City pursuant to Section 8.2 of the JPA Formation Agreement.

⁵ See St. Helena Star article at https://napavalleyregister.com/community/star/news/st-helena-mayor-ellsworth-landfill-spar-over-fire-risk/article_c045246d-f306-51b7-a941-692479e0of4d.html a copy of which is enclosed.

⁶ See page 116 of California League of Cities publication *A guide for Local Agency Counsel: Providing Conflict of Interest Advice* available online at <https://www.cacities.org/Resources-Documents/Resources-Section/Open-Government/Providing-Conflict-of-Interest-Advice>

⁷ *Breakzone Billiards v. City of Torrance* (2000) 81 Cal. App.4th 1205, 1234 n. 23; *Petrovich Dev. Co. v. County of Sacramento* (2020) 48 Cal.App.5th 963, 972 (councilmember's statements and circulation of talking points in opposition to gas station evidenced bias disqualifying councilmember from proceedings on the project).

-----Original Message-----

From: David Adler [mailto:DAdler@recology.com]

Sent: Friday, April 2, 2021 2:32 PM

To: Christy Pestoni <Christy@uvds.com>

Subject: St Helena

Hi Christy-

Per our discussion, on Tuesday, the Mayor of St Helena showed up at our Davis operation and spoke with one of our Supervisors. He said he was interested in Recology services for St Helena. My Ops Manager emailed me and conveyed this to me. I responded to her that Recology was not interested in any way and that Upper Valley has a Franchise Agreement with St Helena.

Supposedly this gentleman (Mayor of St Helena) reached out to our GM at Recology Vallejo a few months ago. Once again, we expressed we were not interested in engaging further on these discussions.

If you have any other questions, please let me know.

Thank you,
Dave

Dave Adler
Vice President & Group Manager, Inland
Recology

Sent from my iPhone
Please excuse any typos

Cindy Tzaopoulos

From: Sandi Thompson <saludwi94062@yahoo.com>
Sent: Monday, April 12, 2021 1:06 PM
To: Cindy Tzaopoulos
Subject: [External] Letter to Comment on agenda item renewing JPA

Cindy,

Please include my letter in the City Council package for April 13, 2021, regarding the agenda item on updating the current Joint Powers Agreement. I also intend to provide oral public comment during the agenda item.

Mayor Ellsworth and St Helena City Councilmembers,

First and foremost, the City should not enter into an updated franchise agreement with either Upper Valley Disposal Service (UVDS) or Clover Flats Landfill (CFL). The lack of a competitive bidding process for both CFL and UVDS defies logic, when the public is awarding an exclusive contract for a critical public service, such as waste handling, and is an affront to hard-working taxpayers. There are companies who provide this service to similarly situated municipalities and would welcome the opportunity to compete. The Council should take action to ensure the franchise agreement is not updated and that a request for proposal occurs.

I would also ask that St Helena City Council request that the City Attorney do an analysis of the current Joint Powers Agreement (JPA) that includes costs and options of moving forward with another provider, as vetted through a competitive process. Citizens should demand that we know what the true cost would be of both leaving the existing arrangement as well as entering into an agreement with the winner of a competitive process.

I thank you for considering my request. The current JPA operates very opaquely and the current service provider has the luxury of serving without the scrutiny and sunshine of competition. And frankly, neither CFL and UVDS belong in the fragile ecosystem of Napa County in 2021.

Sandra Thompson
1457 South Whitehall Lane

Cindy Tzaopoulos

From: Mark Prestwich
Sent: Monday, April 12, 2021 3:53 PM
To: Cindy Tzaopoulos
Subject: FW: [External] Item 12.2 St Helena CC

Public comment.

-----Original Message-----

From: Mike Hackett <mhackett54@gmail.com>
Sent: Monday, April 12, 2021 3:41 PM
To: Paul Dohring <PDohring@cityofsthelena.org>; Anna Chouteau <achouteau@gmail.com>; Lester Hardy <LHardy@cityofsthelena.org>; Geoff Ellsworth <geoffellsworth@yahoo.com>
Cc: Mark Prestwich <MPrestwich@cityofsthelena.org>
Subject: [External] Item 12.2 St Helena CC

I feel serious mistakes are being made regarding the City of St. Helena's future. For any of you on the CC to be even be thinking, let alone be publicly speaking about development plans here is preposterous. Where is the disconnect from reality? If the public REALLY knew about the critical shortage of deliverable water, and the vexing problems with waste water, they'd be very concerned also. In light of the appearance of this disconnect, I believe that Mayor Ellsworth's multiple concerns about Clover Flat landfill need to be publicly addressed. Ellsworth's campaign platform was always based around water equity, science based decisions on the environment and safety of people. Please table the decision regarding the land fill until the citizens are fully educated on the truth at hand. Thank you

J. M. Hackett
282 White Cottage Rd.
Angwin

Please forward to CC Hall

Sent from my iPhone

Cindy Tzaopoulos

From: jmzin@comcast.net
Sent: Monday, April 12, 2021 8:39 AM
To: Cindy Tzaopoulos
Subject: [External] Opening Saint Helena's Waste and Recycling Contract to Competitive Bidding

Dear Mayor Ellsworth and Councilmembers Chouteau, Dohring, Hall and Hardy,

What could possibly be wrong with opening up Saint Helena's contract for waste and recycling needs to a competitive bidding process? Like most municipal contracts of this magnitude, there should be an open and competitive process to ensure that what the community is getting is the best service at the most favorable price.

However, I imagine that rates and prices alone would not be the only criteria for a successful bid. Environmental standards and mitigation of community environmental impacts would likely also be a major component of consideration by the Upper Valley Waste Management Agency.

At the current time, the oversight of Upper Valley Disposal's Clover Flat Landfill and its Recycling Center are in question. It is the responsibility of the Upper Valley Waste Management Agency to manage this basic, but vital service for the communities of the upper valley. By not requesting and considering competitive bids from other waste management companies, it is not acting in the best interest of the communities it serves.

I ask that the City of St. Helena insist that the Upper Valley Waste Management Agency act in the communities' best interests. Ensuring that our contract with Upper Valley Disposal compares favorably to other municipalities, not only in service and cost, but with close attention to the health of our Valley's environment – air, water and soil – is crucial. If it does not, it is important that we be open to considering a change in our service.

Thank you.

Sincerely,

John Milliken
1256 Hudson Avenue
St. Helena, CA 94574

Cindy Tzaopoulos

From: Anna Chouteau
Sent: Tuesday, April 13, 2021 11:26 AM
To: Mark Prestwich; Cindy Tzaopoulos
Subject: Fwd: [External] Tuesday Council Meeting

Did you see this?

Sent from my iPad

Begin forwarded message:

From: Matt Smith <msmith@smiththerapypartners.com>
Date: April 12, 2021 at 11:30:36 AM PDT
To: Geoff Ellsworth <GEllsworth@cityofsthelena.org>, Paul Dohring <PDohring@cityofsthelena.org>, Anna Chouteau <AChouteau@cityofsthelena.org>, Lester Hardy <LHardy@cityofsthelena.org>
Cc: Kami Smith <napahoney@yahoo.com>, Lauren Pesch <Lepesch@gmail.com>, Leslie Velasco <lsv4733@gmail.com>
Subject: [External] Tuesday Council Meeting

Dear Mayor, Vice Mayor and Council Member,

My wife and I live on So. Whitehall Ln.

This email is in reference to the upcoming city council meeting and more specifically the UVDS/Franchise agenda item.

We have asked for 2 things from the county and would ask you to consider the same.

1. No franchise should be given until a competitive bid for waste management and recycling has taken place.
2. A third party audit of the entire permitting and development of UVDS to reassure the community that all compliance regulations have been complied to and resolution of our concerns met.

This all relates to the homeowners on going complaints of sound, odor, light and growing compost issues to name a few that have not been resolved.

Thank you for considering this request.

I am available to discuss any of the above issues with you individually or as a group of concerned home owners.

Matt Smith
President
Smith Therapy Partners
10785 West Twain Suite 223
Las Vegas, Nevada 89135
Mobile: 702.355.0221
msmith@smiththerapypartners.com
msmith@stplv.com
www.smiththerapypartners.com





Report to the City Council
Regular City Council - 13 Apr 2021

Agenda Section: NEW BUSINESS

Subject: Discussion and Direction Regarding the 2021 July 4th Firework Show

CEQA Determination: Not a CEQA project

Prepared By: Andre Pichly, Parks & Recreation Director

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

From 2015 through 2019, the City's Parks & Recreation Department has hosted 4th of July Fireworks at Crane Park.

In 2020, the City Council made the decision to cancel the July 4th fireworks event out of an abundance of caution related to the COVID-19 pandemic. Some of these factors included:

- Hosting the event in the midst of the pandemic would have been contrary to County of Napa Public Health Guidelines at that time; and,
- A large gathering of people could contribute to the transmission of the virus; and,
- Given that nearly all other fireworks displays in the region for the Independence Day holiday had been canceled, the St Helena firework display could become a regional draw resulting in increased vehicle traffic, as well as drawing larger than usual crowds and straining City resources.

DISCUSSION

Staff is requesting the City Council discuss and provide direction on a potential 2021 fireworks display.

Staff has identified the following for Council consideration and discussion.

COVID-19

The County of Napa's COVID-19 risk level may advance into the yellow (minimal) tier by the start of summer. The risk level is still dependent on human behavior and percentage of the population who have received vaccines. If the County were to move into the yellow tier the guidelines for Outdoor Live Events (see page 5 of attachment) state that for the 4th of July event the City would need to:

- Operate with modifications.
- Limit capacity to 25%. In 2019 we estimate the crowd at Crane Park around 1,000 people total on the Crane West ballfield and around the bocce courts. This number does not include any individuals who may have spectated the event from the Primary School next to the park. A limited attendance of 25% would then mean limiting the crowd to 250.
- Require reservations with assigned seating only. Staff would need to create "bubbles" or spaces for people from the same households to be seated for the show.
- Limit attendees to those living within 120 miles of St. Helena.

Staff has reached out to the City of Calistoga, Town of Yountville, City of Napa, and the City of American Canyon in order to get a sense of what each respective City will be offering for 4th of July. Table 1 provides a summary of each City:

Table 1

City	Fireworks	Other Activities
Calistoga	No	In development.
Yountville	No	No other activities planned.
Napa	No	No other activities planned.
American Canyon	TBD	In development.

Large Gatherings

If St. Helena is the only organization in the region to host a fireworks show, it could result in a large gathering of people that could contribute to the transmission of the virus, increased vehicle traffic on City roadways, and impact City resources to ensure COVID-19 guidelines for outdoor live events is being followed.

Budget

Impact on the FY 2021/22 City budget - the estimated costs of the firework show is \$40,000 with additional cost of approximately \$10,000, which may be higher based on requirements for outdoor live events. While the FY 2020/21 City budget is performing better than expected for sales tax, the City is still in a challenging situation as City revenues are still being impacted from the pandemic and other emergency events.

Risk of Fire

In years past, the City of St. Helena has sponsored a public firework display in celebration of Independence Day on July 4th. However, due to a lack of rainfall during this winter, the Fire Chief anticipates a very dry spring and summer with a high risk for potential wildfires.

Although the display is performed by a licensed firework vendor, the potential risk of unexpected wind cannot be ignored or even avoided.

As a reminder to the community, fireworks of any kind are illegal and prohibited by all cities and towns in Napa County including the county areas. This includes so called "safe and sane" fireworks.

Regarding the Vendor

Prior to the cancellation of the 2020 firework show, the City Council had approved a Professional Services Agreement (PSA) with Devastating Pyrotechnics to provide the firework show. Because of the cancellation due to COVID, the vendor has agreed, if the City were to choose to host a 2021 firework show, the same price of \$40,000 would be honored. If recommended to proceed with a fireworks show, a PSA will be brought back to the City Council for approval. Due to timing, and out of courtesy to the vendor, it would be beneficial for Devastating Pyrotechnics to know as soon as possible if St. Helena will be utilizing their services during this busy season.

Other 4th of July Activities

The Parks & Recreation Department is currently in the process of planning other July 4th events. They include:

- Bike Parade
- Front Yard Fourth

If Council directs to not have a firework show this year, staff will work on developing other recreation opportunities that incorporate COVID-safe participation measures.

FISCAL IMPACT

If the City proceeds with the annual 4th of July event, the cost for the annual Firework show would be \$40,000 and programming costs would be approximately \$10,000. All costs would be budgeted in the FY 2021/22 budget cycle.

RECOMMENDED ACTION

Provide direction to the City Manager.

ATTACHMENTS

[Dimmer-Framework-April 2](#)

Blueprint for a Safer Economy

Activity and Business Tiers

April 2, 2021

SECTORS	Tier 1 Widespread (Case Rate >7 and Test Positivity >8%)	Tier 2 Substantial (Case Rate 4-7 and Test Positivity 5-8%)	Tier 3 Moderate (Case Rate 1-3.9 and Test Positivity 2-4.9%)	Tier 4 Minimal (Case Rate <1 and Test Positivity <2%)
Post 2 million doses administered in first Healthy Places Index quartile	CR >10	CR 4-10	CR 1-3.9	CR <1
Post 4 million doses administered in first Healthy Places Index quartile	CR >10	CR 6-10	CR 2-5.9	CR <2
Critical Infrastructure	Open with modifications	Open with modifications	Open with modifications	Open with modifications
Gatherings * - Social, informal gatherings - No defined guest list required - No testing or vaccination required	Current: Outdoor gatherings only with modifications • Max 3 households Effective April 15, 2021 Outdoor only • Max 3 households	Current: Indoor gatherings strongly discouraged, allowed with modifications • Max 3 households Effective April 15, 2021 Outdoor • Max 25 people Indoor • Indoor gatherings strongly discouraged, allowed with modifications (no food/drink except when following the standards in the guidance)	Current: Indoor gatherings strongly discouraged, allowed with modifications • Max 3 households Effective April 15, 2021 Outdoor • Max 50 people Indoor • Indoor gatherings strongly discouraged, allowed with modifications (no food/drink except when following the standards in the guidance)	Current: Indoor gatherings strongly discouraged, allowed with modifications • Max 3 households Effective April 15, 2021 Outdoor • Max 100 people Indoor • Indoor gatherings strongly discouraged, allowed with modifications (no food/drink except when following the standards in the guidance)

SECTORS	Tier 1 Widespread (Case Rate >7 and Test Positivity >8%)	Tier 2 Substantial (Case Rate 4-7 and Test Positivity 5-8%)	Tier 3 Moderate (Case Rate 1-3.9 and Test Positivity 2-4.9%)	Tier 4 Minimal (Case Rate <1 and Test Positivity <2%)
Post 2 million doses administered in first Healthy Places Index quartile	CR >10	CR 4-10	CR 1-3.9	CR <1
Post 4 million doses administered in first Healthy Places Index quartile	CR >10	CR 6-10	CR 2-5.9	CR <2
		Max 25% capacity in settings where capacity limits exist and up to 3 households or 10 people	Max 25% capacity in settings where capacity limits exists or 25 people or whichever is fewer	Max 50% capacity in settings where capacity limits exist or 50 people or whichever is fewer
Private Events ** (meetings/receptions/ conferences) Required mitigation measures: - Purchased tickets or defined guest list - Seating chart/Assigned seating - Testing and vaccination can increase capacity - No intermingling of multiple private events	Effective April 15, 2021 Outdoor only - Maximum 25 people - If all guests are tested or show proof of full vaccination: Max 100	Effective April 15, 2021 Outdoor - Maximum of 50 people - If all guests are tested or show proof of full vaccination: Max 200 Indoor - If all guests are tested or show proof of full vaccination: Max 100 people	Effective April 15, 2021 Outdoor - Maximum of 100 people - If all guests are tested or show proof of full vaccination: Max 300 Indoor - If all guests are tested or show proof of full vaccination: Max 150 people	Effective April 15, 2021 Outdoor - Maximum of 200 people - If all guests are tested or show proof of full vaccination: Max 400 Indoor - If all guests are tested or show proof of full vaccination: Max 200 people

SECTORS	Tier 1 Widespread (Case Rate >7 and Test Positivity >8%)	Tier 2 Substantial (Case Rate 4-7 and Test Positivity 5-8%)	Tier 3 Moderate (Case Rate 1-3.9 and Test Positivity 2-4.9%)	Tier 4 Minimal (Case Rate <1 and Test Positivity <2%)
Post 2 million doses administered in first Healthy Places Index quartile	CR >10	CR 4-10	CR 1-3.9	CR <1
Post 4 million doses administered in first Healthy Places Index quartile	CR >10	CR 6-10	CR 2-5.9	CR <2
Indoor Seated Live Events and Performances **	Closed	Effective April 15, 2021: All venues: - In-state visitors only, check for current CDPH Travel Advisory in effect - Weekly worker testing program - All tickets delivered digital, advanced purchase only - Pre-designated eating area (no eating/drinking allowed in seats) – 6 feet of distance. - Suites 25% capacity, max three households. Venues: 0-1,500 - Maximum 10% or 100 people 25% if all guests are tested or show proof of full vaccination	Effective April 15, 2021 All venues: - In-state visitors only, check for current CDPH Travel Advisory in effect - Weekly worker testing program - All tickets delivered digital, advanced purchase only - Pre-designated eating area (no eating/drinking allowed in seats) – 6 feet of distance. - Suites 25% capacity, max three households. Venues: 0-1,500 - Maximum 15% or 200 people 35% if all guests are tested or show proof of full vaccination	Effective April 15, 2021 All venues: - In-state visitors only, check for current CDPH Travel Advisory in effect - Weekly worker testing program - All tickets delivered digital, advanced purchase only - Pre-designated eating area (no eating/drinking allowed in seats) – 6 feet of distance. - Suites 25% capacity, max three households. Venues: 0-1,500 - Maximum 25% or 300 people 50% if all guests are tested or show proof of full vaccination

SECTORS	Tier 1 Widespread (Case Rate >7 and Test Positivity >8%)	Tier 2 Substantial (Case Rate 4-7 and Test Positivity 5-8%)	Tier 3 Moderate (Case Rate 1-3.9 and Test Positivity 2-4.9%)	Tier 4 Minimal (Case Rate <1 and Test Positivity <2%)
Post 2 million doses administered in first Healthy Places Index quartile	CR >10	CR 4-10	CR 1-3.9	CR <1
Post 4 million doses administered in first Healthy Places Index quartile	CR >10	CR 6-10	CR 2-5.9	CR <2
		Venues: 1,501 and above 20% if all guests are tested or show proof of full vaccination	Venues: 1,501 and above 10% capacity or 2000, whatever is fewer; with modifications, and no eating/drinking 35% if all guests are tested or show proof of full vaccination	Venues: 1,501 and above 10% capacity or 2000, whatever is fewer; with modifications, and no eating/drinking 50% if all guests are tested or show proof of full vaccination
Limited Services	Open with modifications	Open with modifications	Open with modifications	Open with modifications
Outdoor Playgrounds & Outdoor Recreational Facilities	Open with modifications	Open with modifications	Open with modifications	Open with modifications
Hair Salons & Barbershops	Open indoors with modifications	Open indoors with modifications	Open indoors with modifications	Open indoors with modifications
All Retail (including critical infrastructure, except standalone grocers)	Open indoors with modifications Max 25% capacity	Open indoors with modifications Max 50% capacity	Open indoors with modifications	Open indoors with modifications

SECTORS	Tier 1 Widespread (Case Rate >7 and Test Positivity >8%)	Tier 2 Substantial (Case Rate 4-7 and Test Positivity 5-8%)	Tier 3 Moderate (Case Rate 1-3.9 and Test Positivity 2-4.9%)	Tier 4 Minimal (Case Rate <1 and Test Positivity <2%)
Post 2 million doses administered in first Healthy Places Index quartile	CR >10	CR 4-10	CR 1-3.9	CR <1
Post 4 million doses administered in first Healthy Places Index quartile	CR >10	CR 6-10	CR 2-5.9	CR <2
Shopping Centers (Malls, Destination Centers, Swap Meets)	Open indoors with modifications • Max 25% capacity • Closed common areas • Closed food courts	Open indoors with modifications • Max 50% capacity • Closed common areas • Reduced capacity food courts (see restaurants)	Open indoors with modifications • Closed common areas • Reduced capacity food courts (see restaurants)	Open indoors with modifications • Reduced capacity food courts (see restaurants)
Personal Care Services	Open indoors with modifications	Open indoors with modifications	Open indoors with modifications	Open indoors with modifications
Museums, Zoos, and Aquariums	Outdoor only with modifications	Open indoors with modifications • Indoor activities max 25% capacity	Open indoors with modifications • Indoor activities max 50% capacity	Open indoors with modifications
Places of Worship	• Outdoor encouraged • Indoor strongly discouraged, allowed with modifications • Max 25% capacity	Open indoors with modifications • Max 25% capacity	Open indoors with modifications • Max 50% capacity	Open indoors with modifications • Max 50% capacity
Movie Theaters	Outdoor only with modifications	Open indoors with modifications • Max 25% capacity or 100 people, whichever is fewer	Open indoors with modifications • Max 50% capacity or 200 people, whichever is fewer	Open indoors with modifications • Max 50% capacity

SECTORS	Tier 1 Widespread (Case Rate >7 and Test Positivity >8%)	Tier 2 Substantial (Case Rate 4-7 and Test Positivity 5-8%)	Tier 3 Moderate (Case Rate 1-3.9 and Test Positivity 2-4.9%)	Tier 4 Minimal (Case Rate <1 and Test Positivity <2%)
Post 2 million doses administered in first Healthy Places Index quartile	CR >10	CR 4-10	CR 1-3.9	CR <1
Post 4 million doses administered in first Healthy Places Index quartile	CR >10	CR 6-10	CR 2-5.9	CR <2
Hotels and Lodging	Open with modifications	Open with modifications +Fitness centers (+10%)	Open with modifications +Fitness centers (+25%) +Indoor pools	Open with modifications +Fitness Centers (50%) +Spa facilities etc.
Gyms and Fitness Centers	Outdoor only with modifications	Open indoors with modifications - Max 10% capacity +Climbing walls	Open indoors with modifications - Max 25% capacity +Indoor pools	Open indoors with modifications - Max 50% capacity +Saunas +Steam rooms
Restaurants	Outdoor only with modifications	Open indoors with modifications Max 25% capacity or 100 people, whichever is fewer	Open indoors with modifications Max 50% capacity or 200 people, whichever is fewer	Open indoors with modifications Max 50% capacity
Wineries, Breweries and Distilleries	Outdoor only with modifications - Reservations 90-minute time limit - Seating/tables only - Limited hours (service for on-site consumption closed by 8 pm)	Outdoor only with modifications - Reservations 90-minute time limit - Seating/tables only - Limited hours (service for on-site consumption closed by 8 pm)	Open indoors with modifications Max 25% capacity indoors, or 100 people, whichever is fewer	Open indoors with modifications Max 50% capacity or 200 people indoors, whichever is fewer

SECTORS	Tier 1 Widespread (Case Rate >7 and Test Positivity >8%)	Tier 2 Substantial (Case Rate 4-7 and Test Positivity 5-8%)	Tier 3 Moderate (Case Rate 1-3.9 and Test Positivity 2-4.9%)	Tier 4 Minimal (Case Rate <1 and Test Positivity <2%)
Post 2 million doses administered in first Healthy Places Index quartile	CR >10	CR 4-10	CR 1-3.9	CR <1
Post 4 million doses administered in first Healthy Places Index quartile	CR >10	CR 6-10	CR 2-5.9	CR <2
Bars (where no meal provided; follow restaurant guidance where meal is provided)	Closed	Closed	Open outdoors with modifications	Open indoors with modifications Max 25% capacity indoors, or 100 people, whichever is fewer
Family Entertainment Centers ***	Outdoor only with modifications	Outdoor only with modifications	Indoor - Max 25% capacity 50% if all guests are tested or show proof of full vaccination With modifications 100% masking except for food and beverage service - Food/beverage consumption must be restricted to designated areas separated from activity area - Service of alcohol without meals must follow bar guidance (outdoor only)	Indoor - Max 50% capacity 75% if all guests are tested or show proof of full vaccination With modifications 100% masking except for food and beverage service - Food/beverage consumption must be restricted to designated areas separated from activity area

SECTORS	Tier 1 Widespread (Case Rate >7 and Test Positivity >8%)	Tier 2 Substantial (Case Rate 4-7 and Test Positivity 5-8%)	Tier 3 Moderate (Case Rate 1-3.9 and Test Positivity 2-4.9%)	Tier 4 Minimal (Case Rate <1 and Test Positivity <2%)
Post 2 million doses administered in first Healthy Places Index quartile	CR >10	CR 4-10	CR 1-3.9	CR <1
Post 4 million doses administered in first Healthy Places Index quartile	CR >10	CR 6-10	CR 2-5.9	CR <2
Cardrooms, Satellite Wagering	Outdoor only with modifications	Outdoor only with modifications	Open indoors with modifications • Max 25% capacity	Open indoors with modifications • Max 50% capacity
Offices	Remote	Remote	Open indoors with modifications • Encourage telework	Open indoors with modifications • Encourage telework
Outdoor Live Events with Assigned Seats and Controlled Mixing (e.g., sports and live performances)	• 100 people or fewer • Regional visitors (120 miles) • Advanced reservations only • No concessions or concourse sales	• Max 20%, includes suites with 25% occupancy per suite and suites no more than 3 households • Weekly worker testing program • In-state visitors only, check for current CDPH Travel Advisory in effect • Advanced reservations only • Primarily in-seat concessions (no concourse sales)	• Max 33%, includes suites with 25% occupancy per suite • Weekly worker testing program • In-state visitors only, check for current CDPH Travel Advisory in effect • Primarily in-seat concessions (no concourse sales) • Max 67% if all guests are tested or show proof of full vaccination	• Max 67%, includes suites with 25% occupancy per suite • In-state visitors only, check for current CDPH Travel Advisory in effect • Primarily in-seat concessions (no concourse sales)

SECTORS	Tier 1 Widespread (Case Rate >7 and Test Positivity >8%)	Tier 2 Substantial (Case Rate 4-7 and Test Positivity 5-8%)	Tier 3 Moderate (Case Rate 1-3.9 and Test Positivity 2-4.9%)	Tier 4 Minimal (Case Rate <1 and Test Positivity <2%)
Post 2 million doses administered in first Healthy Places Index quartile	CR >10	CR 4-10	CR 1-3.9	CR <1
Post 4 million doses administered in first Healthy Places Index quartile	CR >10	CR 6-10	CR 2-5.9	CR <2
Amusement Parks/ Fairs ****	Closed	• Max 15% • Small Groups - Max 10 people or 3 household groups with no intergroup mixing • Indoor capacity max 15% with time restrictions • No indoor dining • Weekly worker testing program • In-state visitors only, check for current CDPH Travel Advisory in effect • Online ticket purchases only	• Max 25% • Indoor capacity max 25% with time restrictions • Weekly worker testing program • With other modifications • In-state visitors only, check for current CDPH Travel Advisory in effect	• Max 35% • Indoor capacity max 25% with time restrictions • Weekly worker testing program • With other modifications • In-state visitors only, check for current CDPH Travel Advisory in effect
Overnight Sleepaway Camps *****	Closed	Effective June 1, 2021: Open with modifications	Effective June 1, 2021: Open with modifications	Effective June 1, 2021: Open with modifications

Updated on April 2, 2021:

*Updated Gatherings effective April 15, 2021

**Added private events and indoor seated live events and performances effective April 15, 2021

***Updated Family Entertainment Centers

****Added Fairs to Amusement Parks

Updated on March 11, 2021:

*****Regardless of trigger being met, these activities (overnight sleepaway camps) cannot begin any sooner than June 1, 2021.



Report to the City Council
Regular City Council - 13 Apr 2021

Agenda Section: NEW BUSINESS

Subject: Consideration and proposed approval of a resolution: (1) authorizing the Mayor to execute a Cooperative Joint Powers Agreement with Napa County, the Cities of Calistoga, Napa, American Canyon, and the Town of Yountville and (2) commit to fund the City's proportionate share of \$5,022 for the administration the Napa Countywide Climate Action Committee

CEQA Determination: Not a CEQA project

Prepared By: Preya Nixon, Asst. to the City Manager

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The City Council has appointed Mayor Ellsworth and Council Member Chouteau to serve on the regional Napa County Climate Action Committee (CAC). This committee has met for over a year and has recommended the creation of a more formal structure to address organizational and operational issues to assist the committee in accomplishing its core goals and objectives. The CAC is recommending creation of a Cooperative Joint Powers Agreement to Fund and Administer the Napa Countywide Climate Action Program (JPA) between the County of Napa and each individual city/town. The formal agreement outlines the scope of the Climate Action Program, governance structure, and funding structure for the program going forward.

DISCUSSION

As outlined in the Napa Climate Action Program Joint Powers Agreement, the purpose of this Agreement is to establish a collaborative framework to allow the Member Agencies to work with each other. The collaborative efforts will also include working with community organizations, businesses, schools, and regional partners and

jurisdictions on coordinated actions to reduce greenhouse gas emissions and limit the adverse effects of future climate change. The Climate Action Committee (CAC) shall act as a community round table or forum for the sharing of information, providing public education, promoting events and grants relevant to climate change, developing a regional greenhouse gas inventory, and identifying mutually agreed upon climate goals and action items for consideration by the individual Member Agencies. A working group made up of staff from each Member Agency shall assist the CAC in working on the greenhouse gas inventory, developing draft mutual goals and action items, preparing joint draft ordinances or policies for consideration by individual Member Agencies, and supporting regional sustainability efforts.

Specific administrative and planning functions of the Napa Countywide Climate Action Committee (CCAP) are more particularly described in the JPA as follows:

- Coordinate with Local Programs through the CAC. The CAC includes representatives from all Parties who meet monthly to discuss common issues and identify solutions.
- Manage and implement the Joint Powers Agreement regarding those tasks to be performed at a countywide level by the CCAP and coordinate with Parties regarding tasks to be performed on an individual municipal level.
- Develop and manage annual budgets and budget forecasts for work performed at the CCAP level.
- Develop supporting scopes of work for activities performed at the countywide level by the CCAP.
- Develop and manage contracts for activities performed at the countywide level by outside contractors and consultants. Oversee contractors; facilitate review of deliverables by permittees; approve final deliverables; and review and approve invoices.
- Track CCAP expenditures throughout the year and provide mid-year and end of year actual expenditures' accounting.
- Facilitate CAC meetings (work groups, sub-committees), prepare agendas and minutes, and staff and broadcast meetings.
- Disseminate information (e.g., training and/or workshop announcements), schedule presenters, and develop materials (e.g., brochures and/or electronic media) at the countywide level to the Parties and public.
- Make presentations to municipal city and town councils, as requested.
- Facilitate and encourage municipal implementation of plans and projects developed at the countywide level by the CCAP.
- Coordinate with other city, county, regional, and state agencies to stay informed of changes in State climate action policies and regulations, and/or recent court decisions, and provide regular updates to the CAC on this information.
- Track progress on CCAP measurable goals.

Under the Countywide Program structure, the Countywide Program will be responsible for facilitating the development of common regional climate action goals and standards

for adoption by each Member Agency. Each individual jurisdiction is responsible for implementing specific climate action policies and tasks that may specifically be required to comply with State climate action requirements.

The JPA would be advised by a twelve-member standing committee comprised of two elected officials from each participating jurisdiction. The JPA's activities will be subject to the Brown Act. Staffing and administrative support, including legal counsel will be provided by the County of Napa. The cost allocation methodology for the program shall be based on the County contributing 33% of actual CCAP Program Administration costs and member agencies sharing the remaining 67% cost allocated on a fifty percent (50%) equal share and fifty percent (50% proportional population share exclusive of the unincorporated area population). The City of St. Helena's annual cost share estimate is in the range of 8.5% or about \$5,022 of the total annual CCAP administration cost under this cost methodology.

At its April 23, 2021 meeting, the members of the Napa Countywide Climate Action Committee took action to approve the proposed draft JPA agreement with the understanding that there may be some final edits to the agreement based on ongoing Attorney and/or City Manager review. The City's representatives to the CCAC support approval of entering into this JPA agreement. Use of a JPA structure such as this is fairly common structure for regional partnerships and the City has entered into similar agreements for provisions.

FISCAL IMPACT

The participants will establish an estimated amount each fiscal year for the provisions of services by the Administering Agency. Each participant will be responsible for their annual proportional costs of supporting the JPA. The County is contributing 33% of actual CCAP Program Administration costs and member agencies sharing the remaining 67% cost allocated on a fifty percent (50%) equal share and fifty percent (50% proportional population share exclusive of the unincorporated area population). If required, cities and town shall pay for the actual costs of any optional services.

The estimated City of St. Helena contribution for FY 2021-22 is \$5,022 and will be included in the FY 2021-22 Budget.

RECOMMENDED ACTION

Staff recommends adoption of the attached resolution.

ATTACHMENTS

[Resolution](#)

[Cooperative Countywide JPA](#)

[6-25-19 City of St. Helena Proclamation - County wide Commitment to Address Climate Change June 2019](#)

CITY OF ST. HELENA
RESOLUTION NO. 2021-

A Resolution of the City Council of the City of St. Helena Authorizing the Mayor to Execute a Joint Powers Agreement with Napa County, the cities of Calistoga, Napa, and American Canyon, and the Town of Yountville to Fund and Administer the Napa Countywide Climate Action Program in an amount not to exceed \$5,022

Recitals

- A. WHEREAS, as public agencies, Parties are authorized by Chapter 5 of Division 7 of Title I of the California Government Code (commencing with Section 6500) to enter into a joint exercise of powers agreement for the funding and performance of joint actions related to regional climate change which each agency is individually authorized to conduct within its own jurisdiction; and
- B. WHEREAS, on October 8, 2018, the Intergovernmental Panel on Climate Change (IPCC) released a report, "Global Warming of 1.5°C," which states that "Limiting global warming to 1.5°C would require rapid, far-reaching and unprecedented changes in all aspects of society," and projected that the earth could reach and exceed this temperature threshold by as early as 2030, far earlier than previously anticipated; and
- C. WHEREAS, the State of California as a whole, and the Parties, residents, economy, and environment have already experienced adverse effects associated with climate change, such as a prolonged wildfire season and firestorms, rising temperatures, mudslides, severe droughts, property destruction and damage to infrastructure, and recognize that climate change represents a growing danger to human health, safety, economic prosperity, basic services, and natural resources; and
- D. WHEREAS, the Member Agencies recognize that climate change is a global problem, that decisive near-term action is needed to prevent further global warming, and that we must work together with other jurisdictions, because the most practical and cost-effective solutions to climate change which can directly benefit local residents require broad participation and coordination; and
- E. WHEREAS, in June 2019, the Member Agencies all adopted Resolutions or Proclamations regarding the "Countywide Commitment to Address Climate Change," to do the following: (1) address climate change in their respective General Plans, consistent with State guidelines; (2) form a committee to identify countywide goals and strategies for addressing climate change, including an updated greenhouse gas (GHG) inventory, countywide GHG goal and timeline, and common GHG reduction standards for each jurisdiction to adopt

independently; and (3) identify potential threats and funding to improve community resiliency; and

- F. WHEREAS, since September 2019 the Parties have supported and participated in the Climate Action Committee ("CAC") to share information on climate change strategies and coordinate on regional policies and actions; and
- G. WHEREAS, the Parties agree to share the costs of administering the CAC and any future joint actions related to regional climate change including a greenhouse gas inventory as outlined in the JPA Agreement Exhibits; and
- H. WHEREAS, the Parties desire to enter into an agreement for the purpose of addressing climate change through a regional effort and to seek out funding opportunities to assist in achieving common greenhouse gas reduction goals and strategies, as agreed to by the individual Member Agencies.

Resolution

Now therefore, the City Council of the City of St. Helena does resolve as follows:

- 1. Hereby Adopts the Resolution Authorizing the City of St. Helena to enter into a Cooperative Joint Powers Agreement (JPA) to Fund and Administer the Napa Countywide Climate Action Program.
- 2. The City Council of the City of St. Helena directs staff to include an amount of \$5,022 in the FY 2021/22 Budget to participate in the CAC.
- 3. Authorizes Mayor to execute final version of draft JPA agreement which may have non-substantive edits subject to review by City Manager and City Attorney.
- 4. The Resolution is hereby adopted and becomes effective and in full force immediately upon adoption.

PASSED, APPROVED and ADOPTED at a regularly scheduled meeting of the City Council of the City of St. Helena held on the 13th day of April, 2021 by the following vote:

Mayor Geoff Ellsworth: _____

Vice Mayor Paul Dohring: _____

Council Member Anna Chouteau: _____

Council Member Lester Hardy: _____

Council Member Eric Hall: _____

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzaopoulos, City Clerk

CITY OF AMERICAN CANYON AGREEMENT NO. _____
CITY OF CALISTOGA AGREEMENT NO. _____
CITY OF NAPA AGREEMENT NO. _____
CITY OF ST. HELENA AGREEMENT NO. _____
NAPA COUNTY AGREEMENT NO. _____
TOWN OF YOUNTVILLE AGREEMENT NO. _____

**COOPERATIVE JOINT POWERS AGREEMENT
 TO FUND AND ADMINISTER
 THE NAPA COUNTYWIDE CLIMATE ACTION PROGRAM**

THIS COOPERATIVE JOINT POWERS AGREEMENT (“Agreement”) is entered into as of this ____ day of ____, 2021, by and between the CITY OF AMERICAN CANYON, a municipal corporation of the State of California, hereinafter referred to as “American Canyon,” CITY OF CALISTOGA, a municipal corporation of the State of California, hereinafter referred to as “Calistoga,” CITY OF NAPA, a municipal corporation of the State of California, hereinafter referred to as “Napa,” the CITY OF ST. HELENA, a municipal corporation of the State of California, hereinafter referred to as “St. Helena,” TOWN OF YOUNTVILLE, a municipal corporation of the State of California, hereinafter referred to as “Yountville,” and COUNTY OF NAPA, a political subdivision of the State of California, hereinafter referred to as “County” (hereinafter collectively referred to as “Member Agencies” or parties”).

RECITALS

WHEREAS, as public agencies, COUNTY and CITIES are authorized by Chapter 5 of Division 7 of Title I of the California Government Code (commencing with Section 6500) to enter into a joint exercise of powers agreement for the funding and performance of joint actions related to regional climate change which each agency is individually authorized to conduct within its own jurisdiction; and

WHEREAS, on October 8, 2018, the Intergovernmental Panel on Climate Change (IPCC) released a report, “Global Warming of 1.5°C,” which states that “Limiting global warming to 1.5°C would require rapid, far-reaching and unprecedented changes in all aspects of society,” and projected that the earth could reach and exceed this temperature threshold by as early as 2030, far earlier than previously anticipated; and

WHEREAS, climate modeling shows that it is not possible to stabilize global mean temperature rise at or below 1.5°C without undertaking additional pre-2030 climate mitigation and restoration actions focused on reducing radiative forcing levels associated with excess trapped heat. These urgent actions are additional and complementary to current efforts to reduce greenhouse gas emissions being undertaken by the state; and

WHEREAS, the State of California as a whole, and the Parties, residents, economy, and environment have already experienced adverse effects associated with climate change, such as a prolonged wildfire season and firestorms, rising temperatures, mudslides, severe droughts, property destruction and damage to infrastructure, and recognize that climate change represents a

growing danger to human health, safety, economic prosperity, basic services, and natural resources; and

WHEREAS, the Member Agencies recognize that climate change is a global problem, that decisive near-term action is needed to prevent further global warming, and that we must work together with other jurisdictions, because the most practical and cost-effective solutions to climate change which can directly benefit local residents require broad participation and coordination; and

WHEREAS, in June 2019, the Member Agencies all adopted Resolutions regarding the “Countywide Commitment to Address Climate Change,” to do the following: (1) address climate change in their respective General Plans, consistent with State guidelines; (2) form a committee to identify countywide goals and strategies for addressing climate change, including an updated greenhouse gas (GHG) inventory, countywide GHG goal and timeline, and common GHG reduction standards for each jurisdiction to adopt independently; and (3) identify potential threats and funding to improve community resiliency; and

WHEREAS, since September 2019 the Parties have supported and participated in the Climate Action Committee (“CAC”) to share information on climate change strategies and coordinate on regional policies and actions; and

WHEREAS, the Parties agree to share the costs of administering the CAC and any future joint actions related to regional climate change including a greenhouse gas inventory; and

WHEREAS, the Parties desire to enter into an agreement for the purpose of addressing climate change through a regional effort and to seek out funding opportunities to assist in achieving common greenhouse gas reduction goals and strategies, as agreed to by the individual Member Agencies.

TERMS

NOW, THEREFORE, Napa County, American Canyon, Napa, St. Helena, Calistoga, and Yountville agree to the terms and conditions as follows:

1. Term of the Agreement.

This Agreement shall become effective upon the execution of all of the parties hereto and shall continue in full force and effect until terminated in the manner provided in this Agreement. The inclusion of additional members to this Agreement or the withdrawal of some, but not all, of the parties to this Agreement shall not be deemed dissolution or termination of this Agreement. The Agreement shall continue in full force and effect so long as there shall be at least two Member Agencies to this Agreement.

2. Designation of Administering Agency.

The Member Agencies hereby designate Napa County as the Administering Agency for purposes of administering this Agreement (the “Administering Agency”) pursuant to Government Code section 6506.

3. Purpose of Agreement.

The purpose of this Agreement is to establish a collaborative framework to allow the Member Agencies to work with each other and with community organizations, businesses, schools, and regional partners and jurisdictions on coordinated actions to reduce greenhouse gas emissions and limit the adverse effects of future climate change.

4. Administration

The Administering Agency will be advised in the implementation of its duties under this Agreement by the CAC, a standing body consisting of 12 elected officials, with two (2) representatives from each of the Member Agencies. The CAC shall adopt by-laws to govern its conduct and shall comply with the Ralph M. Brown Act, Government Code 54950 et seq. The CAC shall act as a community round table or forum for the sharing of information, providing public education, promoting events and grants relevant to climate change, developing a regional greenhouse gas inventory, and identifying mutually agreed upon climate goals and action items for consideration by the individual Member Agencies.

5. Staffing

Staffing and support for the CAC shall be provided by the Administering Agency, at the discretion of the County Executive Officer. A working group made up of staff from each Member Agency shall assist the CAC in working on the greenhouse gas inventory, developing draft mutual goals and action items, preparing joint draft ordinances or policies for consideration by individual Member Agencies, and supporting regional sustainability efforts.

6. Legal Counsel

The Administering Agency will designate Napa County Counsel to serve as legal counsel for the purposes of this Agreement and will enter into a contract with Napa County Counsel to provide legal advice to the CAC, which will set forth the job responsibilities and duties of legal counsel. A majority of the CAC can change the legal counsel for any reason.

7. Party's Proportional Cost Reimbursement Obligations

(a) **Payment Schedule.** The Parties shall establish an estimated amount ("Estimated Amount") each fiscal year for the provision of services by the Administering Agency hereunder. The Administering Agency shall submit the Estimated Amount for each fiscal year to all Parties by March 1st of each year. The Estimated Amount will be developed based on the services described in Exhibit A. The Parties shall use reasonable efforts to have the Estimated Amount approved by their respective governing bodies or by designee authorized by the Party by July 1st of each year. In the event of any delay in the adoption of the Estimated Amount pursuant to this provision, the Administering Agency is authorized to continue providing services in accordance with Exhibit A. Cities and Town shall continue to pay the Administering Agency all direct and indirect costs for services rendered pursuant to this Agreement.

(b) **Payment Apportionment.** During the term of this Agreement, CITIES, TOWN, and County shall reimburse the Administering Agency for the proportional costs of supporting the CAC, providing public education, promoting events and grants relevant to climate change, administering grants, developing a regional greenhouse gas inventory, and identifying mutually agreed upon climate goals and action items for consideration by the individual Member

Agencies. The costs for these services shall be determined in accordance with the method described in Exhibit A, attached hereto and hereby incorporated by reference. The Parties have agreed upon a methodology for payment of the cost of services provided by the Administering Agency that are attributable to each Party for the following:

(1) **Program Administration.** Services to be provided by the Administering Agency, also herein referred to as Category 1 items, which will constitute a baseline of program costs to be shared amongst all of the Cities, Town, and Administering Agency.

(2) **Optional Services.** Services to be provided by the Administering Agency at the request by one or more of the CITIES, TOWN, and/or COUNTY, also herein referred to as Category 2 items, will be an additional cost beyond the baseline Program Administration to be borne only by those Parties who expressly request in writing such services.

(c) **Method and Timing of Reimbursement.** The Administering Agency shall provide for strict accountability of all funds and report all receipts and disbursements, upon a Party's request. Each Party to this Agreement shall be invoiced regularly by the Administering Agency for the proportional costs described in Section 7 hereof. Payment by each Party of the invoice shall be made and received in the Administering Agency's administrative offices on or before the close of business within 45 calendar days of the date of the invoice. The due date shown on the invoice shall not be less than 30 calendar days after the date of issuance of the invoice.

8. Insurance

(a) **Liability Insurance.** Each Party shall obtain and maintain in full force and effect during the term of this Agreement the following liability insurance coverages, issued by a company admitted to do business in California and having an A.M. Best rating of A:VII or better or equivalent self-insurance.

(1) **General Liability.** Each party shall obtain and maintain in full force and effect during the term of this Agreement commercial or comprehensive general liability insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence, either issue by a company admitted to do business in the State of California and having and A.M. Best Rating of no less than A:VII or by self-insurance satisfactory to the other Party's risk manager or employee designated by the Party to perform such function, or by a combination thereof, covering liability for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of that Party under this Agreement except for acts or omissions performed in strict compliance with express direction of the other Parties' governing boards, officers, or personnel. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

(2) **Comprehensive Automobile Liability Insurance.** Each Party shall obtain and maintain in full force and effect during the term of the Agreement a comprehensive automobile liability insurance policy (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with that Party's activities under this Agreement of not less than THREE HUNDRED THOUSAND DOLLARS (\$300,000) combined single limit per occurrence.

(b) **Certificates of Coverage.** When the foregoing coverages are provided by insurance rather than by self-insurance (written proof of which shall be provided to the other Parties), the coverages shall be evidenced by one or more certificates of coverage which shall be

filed with the Administering Agency's Secretary or Clerk prior to payment for performance of any of the Parties' duties under this Agreement; shall name the other Parties, their officers, employees, and agents as additional insureds; shall be kept current during the term of this Agreement; and shall provide that the other Parties shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change. Upon written request by the other Parties, the Party shall provide or arrange for the insurer to provide the other Parties with certified copies of the actual insurance policies or relevant portions thereof within thirty (30) days of the request.

9. Hold Harmless/Defense/Indemnification.

Upon written demand, each Party shall defend, release, indemnify, and hold harmless the other Parties as well as their respective officers, agents, and employees from any claim, loss, liability penalty, demand, or expense including without limitation, those for personal injury (including death), damage to property or for costs of remediation or other actions needed to correct or abate any violation of federal, state, or local law, or regulation arising out of, or connected with, any acts or omissions of that Party or its officers, agents, or employees when performing any obligations or exercising any rights under this Agreement.

10. Termination for Cause and Non-Appropriation.

(a) **Termination for Cause.** If any Party shall fail to fulfill in a timely and proper manner that Party's obligations under this Agreement, including each Party's Proportional Cost Reimbursement Obligation, or otherwise breach this Agreement, and fail to cure such failure or breach within thirty (30) days of receipt of written notice from the Administering Agency describing the nature of the failure or breach, any of the non-defaulting Parties may, in addition to any other remedies they may have, terminate this Agreement as to the defaulting Party by giving thirty (30) days written notice to the defaulting Party in the manner set forth in Paragraph 12 (Notices).

(b) **Termination for Non-Appropriation.** This Agreement may be terminated by any of the CITIES, TOWN, or by COUNTY as to that Party only if despite that Party's best efforts, that Party is unable to appropriate sufficient funds in any fiscal year to meet its financial obligations under this Agreement. Termination under this paragraph shall be effective only after the terminating Party has given no less than thirty (30) days written notice of such termination to all other Parties specifying the effective date thereof. Upon termination by any Party, that Party's share of the administrative costs borne by the Administering Agency shall be shared by the remaining Parties pursuant to the formula described in Exhibit A and the terminating Party shall only be responsible for payment of administrative costs already previously appropriated by the terminating Party.

11. No Waiver.

The waiver by any Party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

12. Notices.

All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid,

return receipt requested. Any mailed notice, demand, request, consent, approval, or communication that any Party desires to give the other Parties shall be addressed to the other Parties at the address set forth below. Any Party may change its address by notifying the other Parties in writing of the change of address. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date note on the return receipt or five days following the date of deposit, whichever is earlier.

NAPA COUNTY

Minh Tran, Executive Officer
County of Napa
1195 Third Street, Room 310
Napa, CA. 94559

CITY OF AMERICAN CANYON

Jason Holley, City Manager
City of American Canyon
4381 Broadway, Suite 201
American Canyon, CA. 94503

CITY OF CALISTOGA

Michael Kirn, City Manager
City of Calistoga
1232 Washington Street
Calistoga, CA. 94515

CITY OF NAPA

Steve Potter, City Manager
City of Napa
955 School Street
Napa, CA. 94559

CITY OF ST. HELENA

Mark Prestwich, City Manager
City of St. Helena
1572 Railroad Avenue
St. Helena, CA. 94574

TOWN OF YOUNTVILLE

Steve Rogers, City Manager
Town of Yountville

6550 Yount Street
Yountville, CA. 94559

13. Independent Entities.

Although this Agreement is a Joint Powers Agreement as authorized by California Government Code section 65000 et seq., CITIES, TOWN, and COUNTY are independent entities, and CITIES, TOWN, and COUNTY and the respective officers, agents, and employees of CITIES, TOWN, and COUNTY are not, and shall not be deemed, employees of the other Parties for any purpose including but not limited to worker's compensation and employee benefits.

14. Privileges, Immunities, and other Benefits.

In accordance with California Government Code section 6513, all of the privileges and immunities from liability, all exemptions from laws, ordinances and rules, and all pension, relief, disability, worker's compensation, and other benefits that apply to the activity of the trustees, officers, employees, or agents of the Parties when performing their functions within the territorial limits of their respective public agencies, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties associated with performance of this Agreement.

15. Interpretation; Venue.

(a) **Interpretation.** The headings used herein are for reference only. The terms of the Agreement are set out in the text under the headings. This Agreement shall be governed by the laws of the State of California without regard to the choice of law or conflicts.

(b) **Venue.** This agreement is made in Napa County, California. The venue for any legal action in state court filed by a Party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Superior Court of California, County of Napa, a unified court. The venue for any legal action in federal court filed by a Party to this Agreement lying within the jurisdiction of the federal courts shall be the Northern District of California. The appropriate venue for arbitration, mediation, or similar legal proceedings under this Agreement shall be Napa County, California; however nothing in this sentence shall obligate a Party to submit to mediation or arbitration any dispute arising under this Agreement.

16. Authority to Contract.

Each Party warrants hereby that it is legally permitted and otherwise has the authority to enter into and perform pursuant to this Agreement.

17. Conflict of Interest.

Each party covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. Each Party further covenants that in the performance of its services pursuant to this Agreement, no person having any such interest shall be employed.

18. Non-Solicitation of Employees.

Except with the written permission of the other affected Parties, each Party agrees not to solicit for employment the employees of the other Parties who were directly involved in the

performance of the services hereunder for the term of this Agreement and a period of six (6) months after termination of this Agreement. Nothing in this paragraph shall preclude any Party from publishing or otherwise distributing applications and information regarding the Party's job openings where such publication or distribution is directed to the general public.

19. Third Party Beneficiaries.

Nothing contained in this Agreement shall be construed to create any rights in third Parties and the Parties do not intend to create such third-party rights.

20. Attorney's Fees.

In the event that a Party commences legal action of any kind or character to either enforce the provisions of this Agreement or to obtain damages for breach thereof, the prevailing Party in such litigation shall be entitled to all costs and reasonable attorney's fees incurred in connection with such action.

21. Severability.

If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

22. Entirety of Contract.

This Agreement constitutes the entire agreement between the Parties relating to the subject of this Agreement and supersedes all previous agreements, promises, representations, understandings, and negotiations, whether written or oral, among the Parties with respect to the subject matter hereof.

23. Execution by Counterparts.

This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument, and shall become effective when counterparts have been signed by each of the Member Agencies and delivered to the Administering Agency; it being understood that all Member Agencies need not sign the same counterparts.

24. Amendments/Modifications

This Agreement may only be amended or modified by the written consent of all parties hereto.

25. Cooperation

Each party commits to fully cooperate with the other party to accomplish the purposes of this Agreement.

26. Successors

No Member Agency shall assign any interest in this Agreement without the prior written consent of the other Member Agencies. This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.

27. Compliance with Laws

Each of the parties hereto shall comply with all applicable federal and state laws.

28. Withdrawal

Any party to this Agreement may withdraw from the Agreement, except that no party may withdraw if such withdrawal would adversely affect any grant to such an extent that the Administering Agency would be rendered incapable of meeting its then-existing grant requirements and/or would lose funding. In such a circumstance, the party seeking to withdraw would be permitted to withdraw on the condition that the above-described grant requirements were met and/or funding or liability requirements stabilized. Any member wishing to withdraw may do so only on July 1 of any such year, and shall provide the Administering Agency with at least 180 days' notice in writing of its intent to withdraw. Upon withdrawal, any member retains its financial obligations for current contracts executed to fulfill this Agreement, and assumes that responsibility at its own expense.

IN WITNESS WHEREOF, this Agreement was executed by the parties hereto as of the date first above written.

NAPA COUNTY, a political subdivision
of the State of California

ALFREDO PEDROZA, Chair of the
Board of Supervisors

ATTEST: JOSE LUIS VALDEZ
Clerk of the Board

APPROVED AS TO FORM:
Office of County Counsel

By: _____

By: _____
Deputy

CITY OF AMERICAN CANYON, a political subdivision
of the State of California

Mayor

ATTEST:
City Clerk

APPROVED AS TO FORM:

By: _____

By: _____
City Attorney

CITY OF CALISTOGA, a political subdivision
of the State of California

Mayor

ATTEST:
City Clerk

By: _____

CITY OF NAPA. A political subdivision
of the State of California

Mayor

ATTEST:
City Clerk

By: _____

CITY OF ST. HELENA, a political subdivision
of the State of California

Geoff Ellsworth, Mayor

ATTEST:
City Clerk

By: _____
Cindy Tzaopoulos, City Clerk

TOWN OF YOUNTVILLE, a political subdivision
of the State of California

Mayor

ATTEST:
City Clerk

By: _____

APPROVED AS TO FORM:

By: _____
City Attorney

APPROVED AS TO FORM:

By: _____
City Attorney

APPROVED AS TO FORM:

By: _____
Ethan Walsh, City Attorney

APPROVED AS TO FORM:

By: _____
City Attorney

EXHIBIT A

Countywide Climate Action Program

Administration, Planning, and Funding

The Countywide Climate Action Program (CCAP) refers to the Countywide and Local Programs implemented by Napa County; Cities of American Canyon, Napa, Calistoga, and St. Helena; and the Two of Yountville (collectively, the “CCAP Parties”). Each CCAP Party is implementing a Local Program and contributes financial and in-kind support to the Countywide Program. The CCAP Parties have entered into a Joint Powers Agreement (JPA) to fund the Countywide Program based on the CCAP Parties’ population size/assessed value.

COUNTYWIDE PROGRAM

Program Administration

The COUNTY will be the lead agency responsible for administering the CCAP. Administrative duties include staffing and supporting the Climate Action Committee (CAC) to identify countywide goals and strategies for addressing climate change; applying for, administering, and implementing grants to prepare an updated greenhouse gas (GHG) inventory; developing GHG goals and timelines, as well as common GHG reduction actions, for each Party to consider and adopt independently; providing a forum for Parties to share information as they address climate change in their respective General Plans; and identifying potential threats and funding to improve community resiliency.

COUNTY Staffing

The County has a Planning, Building, and Environmental Services (PBES) Director or designee and Environmental Resources Specialist on staff, as well as planners and support staff (office assistants, GIS, accounting, etc.) to administer, coordinate, and implement the CCAP.

COUNTY Staff Duties

Specific administrative and planning functions of the CCAP are more particularly described as follows:

- Coordinate with Local Programs through the CAC. The CAC includes representatives from all Parties who meet monthly to discuss common issues and identify solutions.
- Manage and implement the Joint Powers Agreement regarding those tasks to be performed at a countywide level by the CCAP and coordinate with Parties regarding tasks to be performed on an individual municipal level.
- Develop and manage annual budgets and budget forecasts for work performed at the CCAP level.
- Develop supporting scopes of work for activities performed at the countywide level by the CCAP.

- Develop and manage contracts for activities performed at the countywide level by outside contractors and consultants. Oversee contractors; facilitate review of deliverables by permittees; approve final deliverables; and review and approve invoices.
- Track CCAP expenditures throughout the year and provide mid-year and end of year actual expenditures' accounting.
- Facilitate CAC meetings (work groups, sub-committees), prepare agendas and minutes, and staff and broadcast meetings.
- Disseminate information (e.g., training and/or workshop announcements), schedule presenters, and develop materials (e.g., brochures and/or electronic media) at the countywide level to the Parties and public.
- Make presentations to municipal city and town councils, as requested.
- Facilitate and encourage municipal implementation of plans and projects developed at the countywide level by the CCAP.
- Coordinate with other city, county, regional, and state agencies to stay informed of changes in State climate action policies and regulations, and/or recent court decisions, and provide regular updates to the CAC on this information.
- Track progress on CCAP measurable goals.

Countywide Program Structure

The Countywide Program shall be responsible for facilitating the development of common regional climate action goals and standards for adoption by each Party.

CITIES, TOWN, and COUNTY shall be responsible for implementing climate action policies and tasks specifically required of them to comply with State climate action requirements.

EXHIBIT B**EXHIBIT B ESTIMATED AMOUNT FOR FISCAL YEAR 2021 – 2022**

In accordance with Section 7.(a) of this Agreement, the Administering Agency has provided the Estimated Amount the Fiscal Year (FY) 2021-2022 to all Parties. The Estimated Amount was developed based on the services described in Exhibit A, and includes: agenda, staff report writing, and staff to support monthly meetings of the CAC; administration of the Bay Area Air Quality Management District grant; contracting and management of the consultant hired to prepare the greenhouse gas inventory pursuant to the grant; coordinating the Parties staff working group; drafting CAC bylaws; and other administrative support. If the CAC directs additional actions or efforts, this Estimated Amount may be supplemented with the approval of all Parties.

The Estimated Amount for FY 2021-2022 is \$59,080, calculated as follows. Hourly rates quoted are weighted labor rates.

Environmental Resource Specialist: 224 hours at \$98/hour = \$21,952

Director of Planning, Building, and Environmental Services Department: 112 hours at \$209/hour = \$23,408

Deputy County Counsel IV: 56 hours at \$245/hour = \$13,720

EXHIBIT C

COST REIMBURSEMENT

CCAP PROGRAM ADMINISTRATION COSTS

The COUNTY shall contribute 33.0% of the actual costs of the CCAP Program Administration costs, from the PBES budget.

COST-SHARE FOR REMAINING BALANCE

CITIES and TOWN shall each reimburse COUNTY for the remaining Category 1, Program Administration, costs for COUNTY's administration of the CCAP according to a formula that allocates costs based on fifty percent (50%) equal shares and fifty percent (50%) proportional share of population exclusive of the unincorporated area population, more specifically as follows:

American Canyon: 12.8%
Calistoga: 8.3% Napa: 29.9%
St. Helena: 8.5%
Yountville: 8.5%

CATEGORY 2 OPTIONAL SERVICES

CITIES and TOWN shall each reimburse COUNTY for the actual costs of any optional services expressly requested in writing by a Party.

**City of St. Helena
PROCLAMATION**

**COUNTYWIDE COMMITMENT TO ADDRESS CLIMATE CHANGE
June 2019**

WHEREAS, on October 8, 2018, the Intergovernmental Panel on Climate Change (IPCC) released a report, “Global Warming of 1.5°C,” which states that “Limiting global warming to 1.5°C would require rapid, far-reaching and unprecedented changes in all aspects of society,” and projected that the earth could reach and exceed this temperature threshold by as early as 2030, far earlier than previously anticipated; and

WHEREAS, Climate modeling shows that it is not possible to stabilize global mean temperature rise at or below 1.5°C without undertaking additional pre-2030 climate mitigation and restoration actions focused on reducing radiative forcing levels associated with excess trapped heat. These urgent actions are additional and complementary to current efforts to reduce greenhouse gas emissions being undertaken by the state; and

WHEREAS, the State of California as a whole, and Napa County and its Cities and Town, residents, economy, and environment have already experienced adverse effects associated with climate change, such as a prolonged wildfire season and firestorms, rising temperatures, mudslides, severe droughts, property destruction and damage to infrastructure, and recognize that climate change represents a growing danger to human health, safety, economic prosperity, basic services, and natural resources; and

WHEREAS, Napa County and its Cities and Town (collectively Napa County Jurisdictions) recognize that climate change is a global problem, that decisive near-term action is needed to prevent further global warming, and that we must work together with other jurisdictions, because the most practical and cost-effective solutions to climate change which can directly benefit County and City residents require broad participation and coordination.

NOW, THEREFORE, BE IT PROCLAIMED, that Napa County Jurisdictions are dedicated to working together with community organizations, businesses, schools, and regional partners and jurisdictions to educate, mobilize, expand, and accelerate local, regional, and statewide support for comprehensive, immediate, and sustained action.

BE IT FURTHER PROCLAIMED, that Napa County Jurisdictions commit to and will pursue the following local actions in support of these goals:

1. Address climate change in their respective General Plans consistent with the State Office of Planning and Research Guidelines for General Plan Updates.
2. Form a community round table, advisory group, or other similar stakeholders group to review Napa County Jurisdictions' respective existing Climate Action Plans (and/or functional equivalent thereof) and then identify countywide goal setting and strategies for addressing climate change issues which may include some or all of the following:
 - a. Estimate baseline and future projected countywide greenhouse gas (GHG) emissions.
 - b. Agree upon a countywide GHG reduction goal and timeline.
 - c. Establish common goals and standards that each jurisdiction can adopt independently to reduce emissions.
3. Identify potential threats to the County, Cities, and Town resulting from future climate change and develop cost estimates and funding opportunities for shared projects and programs to improve community resiliency.

Dated this 25th Day of June, 2019

Geoff Ellsworth, Mayor
City of St. Helena