City of St. Helena
Regular City Council Meeting
Tuesday, December 14, 2021 @ 6:00 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.

This meeting will be conducted pursuant to the provisions of Government Code Section 54953 (as amended by AB 361) which authorizes teleconferenced meetings under the Brown Act during certain proclaimed States of Emergency. The Governor of California proclaimed a State of Emergency related to COVID-19 on March 4, 2020. This teleconferenced meeting is necessary so that the City can conduct essential business and is permitted under Government Code 54953 in order to protect public health and safety of attendees.

Consistent with Government Code Section 54953, this City Council Meeting will be held via teleconference only, and will not be physically open to the public. City Council members and staff will teleconference into the meeting by audio and/or video. The meeting will be conducted via Zoom Webinar.

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@cityofsthelena.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.

NEW FEATURE FOR ALTERNATIVE PUBLIC COMMENT VIA TELEPHONE BY RESERVATION
If you would like to provide comments via telephone (not using Zoom) during the Council meeting, you can request a reservation from the City Clerk prior to 12:00 p.m. on the meeting day. The reservation request may be submitted to the City Clerk by emailing publiccomment@cityofsthelena.org, or by calling (707) 968-2752. When submitting the request, please identify your name, your telephone number (including the area code first), and the agenda item number you would like to comment on. During the Council meeting, a representative from the City Clerk's Office will call you when public comment is called for the requested item. You will then be able to provide your comments to the Council via telephone.

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/82384037982
Or One tap mobile :
US: +16699006833,,82384037982# or +12532158782,,82384037982#
Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099
Meeting ID: 823 8403 7982
International numbers available: https://us02web.zoom.us/u/kdHmPS6oX0

~~~~~~

Esta reunión será realizada conforme a las provisiones del Código de Gobierno Sección 54953 (modificada por AB 361) la cual autoriza las reuniones de teleconferencia bajo el Acta Brown durante ciertos Estados de Emergencia. El gobernador de California proclamó Estado de Emergencia relacionado con el COVID-19 el 4 de marzo del 2020. Esta reunión por teleconferencia es necesaria para que la Ciudad pueda realizar deberes esenciales y es permitido bajo el Código de Gobierno 54953 en orden de proteger la salud pública y seguridad de los asistentes.

Consistente con el Código de Gobierno Sección 54953, esta reunión del Consejo de la Cuidad será realizada vía teleconferencia y no será físicamente abierta al público. Miembros del Consejo de la Cuidad y personal atenderán la reunión por audio y/ o video. La reunión será transmitida vía Zoom.

La reunión del Consejo de la Cuidad 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 el ID de la reunión o llamando al número ubicado en la agenda e ingrese el ID de la reunión. Se aceptarán comentarios públicos para la reunión del Consejo de la Cuidad por correo electrónico a publiccomment@cityofsthelena.org. Todos los comentarios públicos se harán públicos y se adjuntarán a la agenda, pero no se leerán en voz alta. Todos los comentarios públicos que se reciban después de las 4:00 PM se adjuntarán a la agenda del Consejo de la Cuidad al día siguiente.

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 como utilizar Zoom, consulte las instrucciones a continuación.

Habrá traducción en español durante la junta
Haga clic en el enlace a continuación para participar en la reunión:
https://us02web.zoom.us/j/82384037982
O por iPhone one-tap:
US: +16699006833,,83916598506# or +12532158782,,83916598506#
O por Teléfono: Marque(para mejor calidad, marque número basado en su ubicaciónactual):
US: +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099
ID de la Reunión: ID: 823 8403 7982
International numbers available: https://us02web.zoom.us/u/kdHmPS6oX0

Page

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.

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. Recognition of former Parks & Recreation Director Andre Pichly

   7.2. Arbor Day Proclamation 19
   Proclamation

8. STAFF BRIEFING

   8.1. None

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 a Resolution: (1) Amending CIP S-52 Wastewater Treatment Plant Upgrades Project to Include Updated Project Costs; and (2) Authorizing use of Wastewater Operations Fund (Fund 571) Balance of approximately $2.3 million and maintaining at a minimum of 25% in Fund 571 for CIP S-52. 21 - 28

CEQA Determination: Exempt
Prepared By: April Mitts, Administrative Services Director
Recommendation:
Staff recommends City Council adopt the attached resolution.
Staff Report - Pdf

9.2. Adoption of Resolution Making Findings and Determinations under AB 361 for the Continuation of Virtual Meetings. 29 - 33

CEQA Determination: Not a CEQA project
Prepared By: Ethan Walsh, City Attorney
Recommendation:
Approve the Attached Resolution Making Findings and Determinations Under AB 361.
Staff Report - Pdf

9.3. Consideration and Proposed Approval of Amendment #1 to STH Contract: FY2020-049 with Lisa Wise Consulting for Zoning and General Plan Base Maps in association with Zoning Code Update for an additional $17,369 for a total contract amount not-to-exceed $337,359. 35 - 89

CEQA Determination: Exempt
Prepared By: Maya DeRosa, Planning & Building Director
Recommendation:
Staff recommends the City Council adopt the attached Resolution.
Staff Report - Pdf

9.4. Receive and File FY 2020-21 Annual AB 1600 Report on Development Impact Fees. 91 - 101

CEQA Determination: Not a CEQA project
Prepared By: Mandy Kellogg, Asst. Administrative Services Director
Recommendation:
Receive and file Annual AB 1600 Development Fee Report for Fiscal Year Ending June 30, 2021.
Staff Report - Pdf

9.5. Quarterly Grant Report for FY 2022 Q1, for the period ending September 30, 2022. 103 - 110

CEQA Determination: Not a CEQA project
Prepared By: Mandy Kellogg, Asst. Administrative Services Director
Recommendation:
Receive and file report.

Staff Report - Pdf

9.6. Consideration and Proposed Approval of a Resolution: (1) Authorizing the use of Affordable Housing Trust Funds to reimburse Our Town St. Helena for Interest Only Payments to the Rural Community Assistance Corp for the Affordable Housing Project at 963 Pope Street St. Helena, CA from December 1, 2021 through October 31, 2022 in an Amount of Approximately $1,900 per month for a not-to-exceed amount of $21,000; and (2) Authorizing a budget increase of $13,300 to the Affordable Housing Trust Fund for FY 2021-22 for these payments; and (3) Authorizing an Appropriation of $7,700 in FY 2022-23 to the Affordable Housing Trust Fund for payments from July 1, 2022 through October 31, 2022. 111 - 117

CEQA Determination: Not a CEQA project
Prepared By: April Mitts, Administrative Services Director
Recommendation:
Staff recommends approval of the attached resolution.

Staff Report - Pdf

9.7. Adopt the Resolution approving a Joint Exercise of Powers Agreement forming the St. Helena Financing Authority. 119 - 135

CEQA Determination: Not a CEQA project
Prepared By: Mandy Kellogg, Asst. Administrative Services Director
Recommendation:
Adopt the Resolution approving the joint exercise of powers agreement with CSCDA forming the St. Helena Financing Authority.

Staff Report - Pdf

9.8. Consideration and proposed approval of a Resolution authorizing a budget increase for the costs associated with executing the Joint Exercise of Powers Agreement forming the St. Helena Financing Authority as follows: 101-43-00-21-45 for $8,334; 561-43-00-21-45 for $8,333; and 571-43-00-21-45 for $8,333. 137 - 140

CEQA Determination: Not a CEQA project
Prepared By: Mandy Kellogg, Asst. Administrative Services Director
Recommendation:
Approval of a Resolution authorizing a budget increase for the costs associated with executing the Joint Exercise of Powers Agreement forming the St. Helena Financing Authority as follows: 101-43-00-21-45 for $8,334; 561-43-00-21-45 for $8,333; and 571-43-00-21-45 for $8,333. Use of reserves and fund balances will not affect the percentage of fund balance for each of these funds.

Staff Report - Pdf

9.9. Consideration of approval of a Resolution authorizing: (1) the acquisition of five Verizon Wi-Fi hotspots for a lending program at the St. Helena 141 - 144

Public Library; (2) a budget expense increase in the amount of $1,463 to 380-46-00-21-10; and (3) a budget revenue increase in the amount of $1,463 to 380-34-70-00-00.

CEQA Determination: Not a CEQA project
Prepared By: Chris Kreiden, Library Director
Recommendation:
Staff recommends the City Council approve the attached resolution.
Staff Report - Pdf

9.10. Consideration and Proposed Approval of a Resolution Authorizing: (1) the City's acceptance of the FY 2021 Tobacco Law Enforcement Program Grant in the Amount of $454,788; (2) the City Manager to Execute the Memorandum of Understanding for the Grant Funds; (3) a Budget Expense Increase to Fund 277 in the Amount of $93,110 and a Budget Revenue Increase to Fund 277 in the Amount of $93,110 for FY 2021-22; and (4) the Continuation of the Limited-Term Police Officer SRO Position. 145 - 150

CEQA Determination: Not a CEQA project
Prepared By: Justin Tharp, Lieutenant
Recommendation:
Staff recommends the City Council adopt the attached resolution.
Staff Report - Pdf

9.11. Consideration and proposed adoption of a Resolution accepting the work and final project construction costs of $827,687.63 and directing the filing of the Notice of Completion for CIP Project R19-79 Year 2 Pavement Restoration 151 - 160

CEQA Determination: Class I Categorical Exemption under Section 15301 of CEQA
Prepared By: Martin Beltran, Management Analyst
Recommendation:
Staff recommends City Council adopt the attached resolution.
Staff Report - Pdf

9.12. Consideration and proposed approval of a resolution: (1) authorizing the City Manager to execute Amendment No. 3 to STH Contract: FY 2019-075 in the amount of $146,000 with BKF Engineers (BKF) for the St. Helena Downtown Street Improvements, for a total not-to-exceed amount of $781,600 and (2) authorizing a budget increase of $146,000 to design in CIP Project R18-81 with funding allocated from Fund 230 SB1/RMRA (Road Maintenance and Rehabilitation). 161 - 222

CEQA Determination: CEQA will be completed as part of project design
Prepared By: Martin Beltran, Management Analyst
Recommendation:
Staff recommends City Council adopt the attached Resolution.
Staff Report - Pdf

9.13. ***12-13-2021 - Item 9.13 will be removed from "Consent" and heard under "Old Business".** 223 - 307

Adoption of Resolution Approving Settlement of Hall Vineland, LLC and Hall Vista, LLC v. City of St. Helena et al. (Napa County Superior Court Case No. 19CV000897), Including Settlement Agreement and Water Service and Fire Service Agreements Attached Thereto, and Finding Approval Exempt from CEQA

CEQA Determination: Exempt

Staff Report - Pdf
Tracy McBride.Public Comment
Norm Manzer.Public Comment
Richard Seiferheld.Public Comment
Susan and Terry McWilliams.Public Comment
Sharon Dellamonica.Public Comment
Elaine de Man.Public Comment
Mike Hackett.Public Comment
Ron Rhyno.Public Comment
Sandra Barros.Public Comment
Connie Wilson.Public Comment
Mary Alice Stielau.Public Comment
Mark Smithers.Public Comment
Patty and Don Simons.Public Comment
Norm Manzer.Public Comment 2
Ellen Kieval.Public Comment
Lyndsey Harrison.Public Comment
Lana Ivanoff.Public Comment
Alan Galbraith.Public Comment
Ross Allen.Public Comment
Leslie Stanton.Public Comment

10. PUBLIC HEARINGS

10.1. Consideration and proposed adoption of a resolution approving five-year list of projects under Measure T Program; and determining that the actions authorized by this resolution are exempt from CEQA. 309 - 344

CEQA Determination: Class I Categorical Exemption under Section 15301 of CEQA
Prepared By: Mark Rincon-Ibarra, Public Works Director and City Engineer
Recommendation:
Adopt the attached resolutions.

Staff Report - Pdf
Tracy McBride.Public Comment
Randy Hussong.Public Comment

10.2. Consideration and Proposed Approval of an Urgency Ordinance adding Chapter 16.26 and Chapter 17.114 to the St. Helena Municipal Code to Implement SB9 345 - 388

CEQA Determination: Exempt
Prepared By: Maya DeRosa, Planning & Building Director
Recommendation:
Adopt urgency ordinance by a 4/5 vote.

Staff Report - Pdf
Urgency Ordinance- PPT - CC 12-14-2021

10.3. Consideration of a resolution to adopt the Mitigated Negative Declaration for the R20-02 Mills Lane Storm Drain Improvements Project.

*This item was noticed to be heard at the November 9, 2021 regular City Council meeting and was subsequently continued to the December 14, 2021, regular City Council meeting. This item is being continued again to the January 11, 2022 regular City Council meeting.

Prepared By: Mark Rincon-Ibarra, Public Works Director and City Engineer

11. OLD BUSINESS

11.1. Consideration and adoption of a Resolution: (1) Awarding the WWTP Phase 1 Upgrades, Capital Improvement Project S-52 to Thompson Builders in the amount of $14,888,590; (2) Authorizing the City Manager to execute the Construction Contract with Thompson Builders; and (3) Authorizing the Director of Public Works to approve Change Orders not to exceed 10% of the contract amount. 389 - 400

CEQA Determination: Mitigated Negative Declaration
Prepared By: Martin Beltran, Management Analyst
Recommendation:
Consideration and adoption of a Resolution:
(1) Awarding the WWTP Phase 1 Upgrades, Capital Improvement Project S-52 to Thompson Builders in the amount of $14,888,590.00; and
(2) Authorizing the City Manager to execute the Construction Contract with Thompson Builders; and
(3) Authorizing the Director of Public Works to approve Change Orders not to exceed 10% of the contract amount.

Staff Report - Pdf

12. NEW BUSINESS

12.1. Introduction and First Reading of SB 1383 Ordinance Repealing and Recasting Chapter 8.04 to Title 8 of the St. Helena Municipal Code Regarding Solid Waste Collection, and Adoption of a Resolution Approving a Memorandum of Understanding with Upper Valley Waste Management Agency Regarding Implementation Thereof and Authorize the City Manager to Execute the MOU on Behalf of the City. 401 - 452

CEQA Determination: Not a CEQA project
Prepared By: Ethan Walsh, City Attorney
Recommendation:

1. Introduce and waive first reading of an Ordinance repealing and recasting Chapter 8.04 to Title 8 of the St. Helena Municipal Code regarding solid waste collection I

2. Approve a Resolution approving a Memorandum of Understanding with Upper Valley Waste Management Agency regarding implementation of SB 1383 and authorize the City Manager to execute the MOU on behalf of the City.

Staff Report - Pdf
Sandi Thompson.Public Comment

12.2. Consideration and Proposed Approval of the First Reading of an Ordinance Amending Chapter 2.56 of the St. Helena Municipal Code Pertaining to the Parks and Recreation Commission 453 - 464

CEQA Determination: Not a CEQA project
Prepared By: Mark T. Prestwich, City Manager
Recommendation:
Proposed approval of the first reading of an Ordinance amending Chapter 2.56 of the St. Helena Municipal Code pertaining to the Parks and Recreation Commission, by title only and waive further reading.

Staff Report - Pdf

12.3. The St. Helena City Council will now convene the meeting as a joint meeting of the City Council and Financing Authority. 465 - 579

Authorizing a Resolution of the City Council of the City of St. Helena Approving: (1) installment sale financing to provide interim financing of wastewater system improvements, and (2) financing documents and related official actions; and

Authorizing a Resolution of the Board of the St. Helena Financing Authority Approving: (1) installment sale financing to provide interim financing of wastewater system improvements, and (2) financing documents and related official actions.

CEQA Determination: Not a CEQA project
Prepared By: Mandy Kellogg, Asst. Administrative Services Director
Recommendation:

1. Staff recommends approving the approving the Resolution of the City Council of the City of St. Helena approving: (1) installment sale financing to provide interim financing of wastewater system improvements, and (2) financing documents and related official actions; and
2. Staff recommends approving the Resolution of the Board of the St. Helena Financing Authority approving: (1) installment sale financing to provide interim financing of wastewater improvements, and (2) financing documents and related official actions.

Staff Report - Pdf

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

January City Council Meetings:
1/11 (Staff reports due 12/22)

1/25 (Staff reports due 1/7)
STAFF BRIEFING:
Update on Waste Water Treatment Plant Upgrade Project (report every other month – January next report out)
CONSENT:
Water supply forecasting
1/11 OTSH $250,000 Permanent Loan 963 Pope Street
PH or OLD / NEW BUSINESS:
1/11 Overview of General Plan Climate Action Initiatives
1/11 Mills Lane
1/11 Q2 Review of City of St. Helena City Council Goals and Workplan
1/11 First reading and intention to adopt an ordinance amending the St. Helena Municipal Code Chapter 5.40 (Permits for Elder and/or Dependent Adult Caregivers)

14. ADJOURNMENT

The next Regular City Council meeting is scheduled for January 11, 2022, at 6:00 p.m.

I do hereby certify that a copy of the foregoing agenda was posted on the City website on December 9, 2021. Republished 12-13-2021

Cindy Tzafopoulos

Cindy Tzafopoulos, 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 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
The easiest way to provide public comment is to email your public comment. Public comments may be emailed to 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.

4. **Alternative Public Comment Via Telephone by Reservation**

If you would like to provide comments via telephone (not using Zoom) during the Council meeting, you can request a reservation from the City Clerk prior to 12:00 p.m. on the meeting day. The reservation request may be submitted to the City Clerk by emailing publiccomment@cityofsthelena.org, or by calling (707) 968-2752. When submitting the request, please identify your name, your telephone number (including the area code first), and the agenda item number you would like to comment on. During the Council meeting, a representative from the City Clerk's Office will call you when public comment is called for the requested item. You will then be able to provide your comments to the Council via telephone.

~~~~~~

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.
~~~~~~

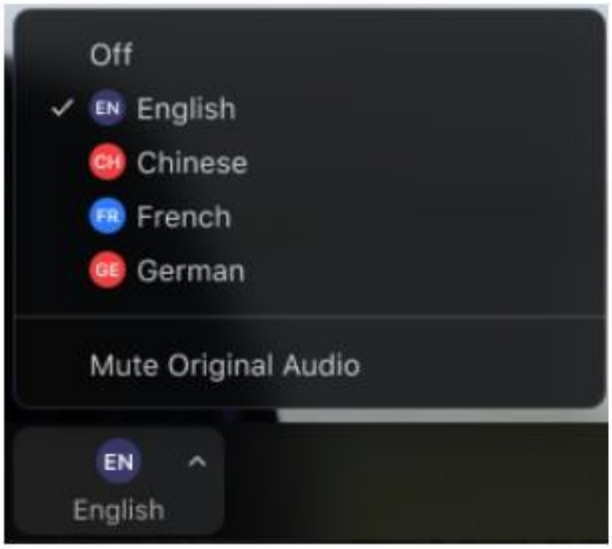
Cómo escuchar la interpretación de un idioma

Windows | macOS

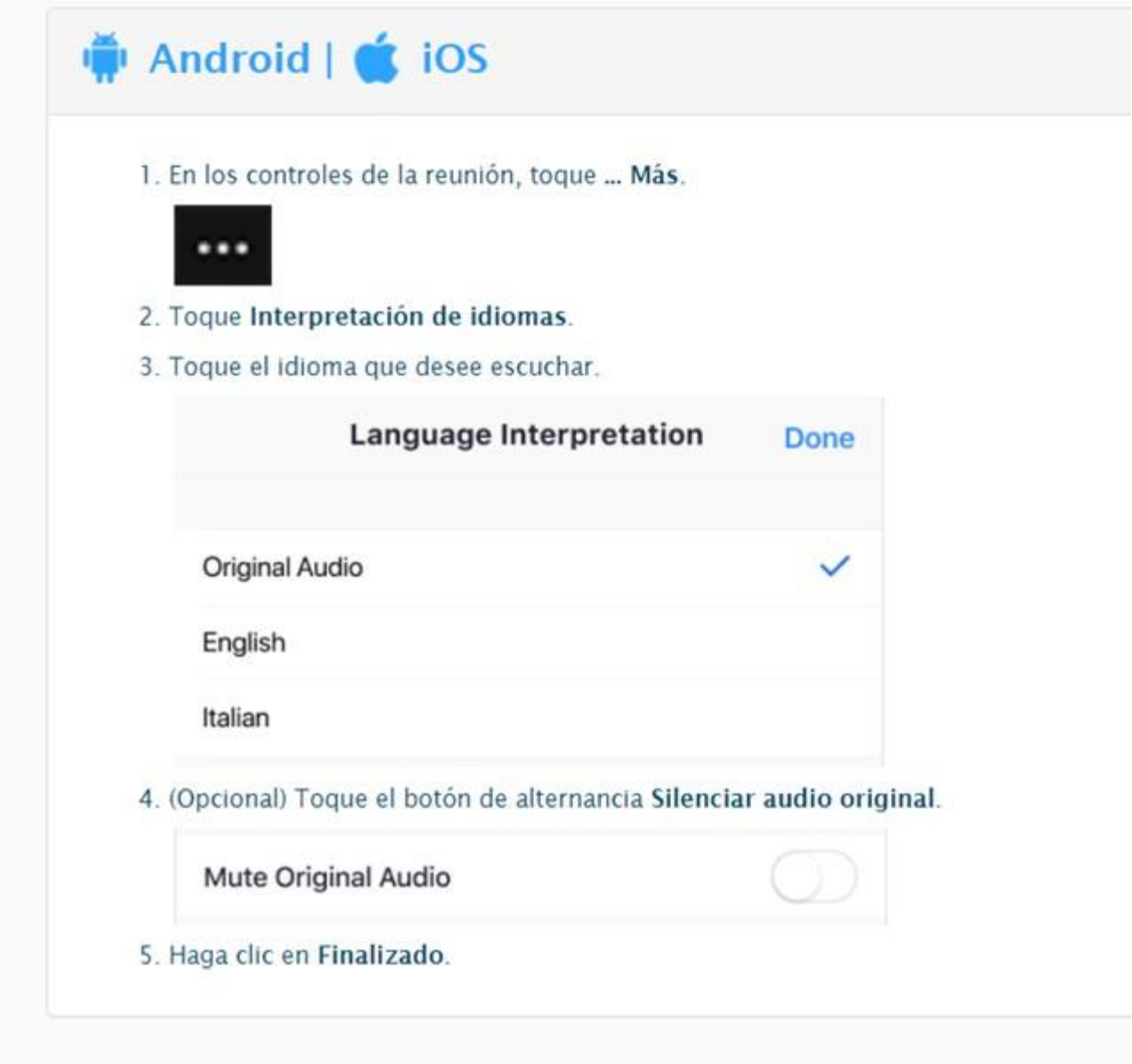
1. En los controles de la reunión o el seminario web, haga clic en **Interpr**



2. Haga clic en el idioma que desee escuchar.



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



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 articulo 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 permisio.

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 lamano**.**

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.

City of St. Helena
PROCLAMATION

ARBOR DAY

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and Arbor Day is now observed throughout the nation and the world, and

WHEREAS, trees reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal, and

WHEREAS, the City of St. Helena has been recognized as a Tree City USA by The National Arbor Day Foundation for 23 years and desires to continue its tree-planting practices

NOW, THEREFORE, let it be known that the City of St. Helena has declared the 16th day of December 2021, as Arbor Day and will be holding tree plantings in recognition of Arbor Day for the purpose of expressing our support for efforts to protect our trees and woodlands.

Dated: December 14, 2021

_____

Geoff Ellsworth, Mayor
City of St. Helena

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **CONSENT ITEMS**

Subject: **Consideration and Proposed Approval of a Resolution: (1) Amending CIP S-52 Wastewater Treatment Plant Upgrades Project to Include Updated Project Costs; and (2) Authorizing use of Wastewater Operations Fund (Fund 571) Balance of approximately $2.3 million and maintaining at a minimum of 25% in Fund 571 for CIP S-52.**

CEQA Determination: **Exempt**

Prepared By: April Mitts, Administrative Services Director

Reviewed By: April Mitts, Administrative Services Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The City of St. Helena (City), in Napa County, owns and operates a Wastewater Treatment and Reclamation Plant (WWTRP) located at 1 Chaix Lane. The WWTRP and its discharge are permitted through the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB).

The City has a Water Reclamation Requirements (WRR) Order No. 87-090 to regulate effluent discharge to land and a recently updated National Pollutant Discharge Elimination System (NPDES) Permit Order No. R2-2016-0003 to regulate discharge to the Napa River. The 2016 NPDES permit contains more stringent effluent limits for biological oxygen demand (BOD) and total suspended solids (TSS), which the WWTRP anticipates it will have difficulty meeting based on historical testing.

As a result, the SFBRWQCB issued a Cease and Desist Order (CDO) No. R2-2016-0004 to the City, which mandated the WWTRP to comply with the specified interim BOD and TSS effluent limits, and to perform a Feasibility Study to evaluate and/or identify modifications to the WWTRP that would meet the new effluent limits. The SFBRWQCB

issued a Compliance Schedule on January 11, 2018, outlining a schedule for compliance with the CDO.

Since that time the City has completed the Feasibility Study and a Final Draft Feasibility Study which was delivered to the SFBRWQCB on June 1, 2018, as required by the Compliance Schedule. The SFBRWQCB accepted the Feasibility Study in a letter dated July 31, 2018, and agrees with the City's approach to the Phase I WWTRP Improvements Project.

The City Council then authorized Professional Services Agreement STH Contract: FY 2019-017, and subsequent amendments, with HydroScience Engineers to ensure that the design of the WWTRP Project improvements are constructed in a manner and cost that meets the City of St. Helena's needs and budget in response to San Francisco Bay Regional Water Quality Control Board Order R2-2016-004. Initial engineering estimates for construction was $11,485,500. The FY 2022 Adopted CIP Budget allocated $12,509,247 for construction and $1,184,088 for contingencies (Attachment 1).

On September 16, 2021, in conjunction with various entities including HydroScience, USDA, City's Municipal Financial Advisor, City staff and others, the City released the advertisement for bids for CIP S-52. Sealed bids for the construction of CIP S-52 were received by the City by 4:00 p.m. on November 4, 2021, at which time the bids were publicly opened and read.

The City received the following bids:

Company	Total Bid Amount
Thompson Builders (Novato, CA)	$14,888,590
Clark Bros. Inc. (Fresno, CA)	$14,913,890
C. Overaa & Co. (Richmond, CA)	$15,514,000
Meyers & Sons (Sacramento, CA)	$17,265,637
Anvil Builders Inc. (San Francisco, CA)	$17,817,300

The apparent low bidder is Thompson Builders, from Novato, CA, for a total bid amount of $14,888,590. The apparent low bidder is $3,403,090 higher than the initial engineering estimate of $11,485,500.

The table below provides a summary of the funding shortfall, this table assumes a 10% contingency:

Item	Adopted CIP Budget	Apparent Lowest Bid
Construction Contract	$12,509,247	$14,888,590
Contingency	$1,184,088	
Contingency – 10%		$1,488,859
TOTAL	***$13,693,355***	***$16,377,449***
Budget Shortfall		***($2,684,094)***

On November 23, 2021, staff provided a briefing to City Council on the budget shortfall and provided a recommended plan on finance for CIP S-52 WWTP Upgrade Project. In order to solve for the funding gap, staff recommended the following in their respective order:

1. Use of Wastewater fund balance in an amount of approximately $2.3 million and maintaining at a minimum of 25%, or three months cash.
2. Interfund Loan from the Traffic Mitigation Impact Fee Fund - this amount is dependent on use of contingency funds and is approximately $900,000 dependent on amount of contingency utilized. The recommended loan term will meet the obligations of the City Council adopted Financial Policy P-FI-0016 Section G - Debt Management and is anticipated to be repaid in a responsible timeframe - approximately five years. If an interfund loan is necessary, the amount and terms will be brought to City Council for authorization.
3. Use of General Fund reserves, if necessary.

Following the staff briefing, City Council provided direction to move forward with the recommended plan on finance for CIP S-52. Additionally, if it is necessary to use General Fund monies, staff will provide a briefing and resolution to City Council prior to use of reserves.

DISCUSSION

The City develops and maintains a five-year Capital Improvement Program which is updated annually in conjunction with the annual operating budget. Due to the increase in project costs, it is necessary the City Council adopt an updated budget for CIP S-52 WWTP Upgrade Project.

Attachment 2 provides and update of the project costs and funding sources as directed by City Council on November 23, 2021.

FISCAL IMPACT

The estimated total costs of the project is $18,650,288 which includes $1,645,833 previously incurred primarily on Design. Funding sources for CIP S-52 includes use of: wastewater CIP Fund balance, Wastewater Impact Fees, debt financing through an interim funding agreement and then through USDA, Wastewater Operations Fund balance, and a loan from the Traffic Impact Fees. If use of General Funds are necessary, staff will bring a resolution to City Council for authorizing of funds.

RECOMMENDED ACTION

Staff recommends City Council adopt the attached resolution.

ATTACHMENTS

Attachment 1: S-52 WWTP Upgrade Project FY 2022-2026 Adopted Budget
Attachment 2: S-52 WWTP Upgrade Project Updated 121421
Attachment 3: Resolution S-52 Updated Project Costs

WWTP Phase 1 Upgrades

Project No: S-52

Category: Wastewater

Project Location: 1 Chaix Ln

Responsible Department:



PROJECT PURPOSE & DESCRIPTION: Per the State Cease and Desist Order, upgrade the plant to meet compliance requirements by 2021. In addition, to compliance requirements, levee repairs and sludge removal will be incorporated into construction of this project.

Merged into S-52: S-53, S-62, S-66, S18-79.

EXPENDITURE ACCOUNTS:

Fund: 773 **Dept**: 5059

EXPENDITURES	Total YTD 05/11/21		2021-22	2022-23	2023-24	2024-25	2025-26	PROJECT TOTAL
3110 - Design	1,530,887							1,530,887
3120 - Environmental/Planning	108,795		23,021					131,816
3140 - Legal Services	1,151		68,900					70,051
3150 - Construction Management	5,000		535,085					540,085
3160 - Construction Contract			12,509,247					12,509,247
3170 - Contingency			1,184,088					1,184,088
EXPENDITURE TOTALS	1,645,833		14,320,341					15,966,174
FUNDING SOURCES								
740-Traffic Impact Fees Fund Loan			873,610					873,610
773-Wastewater Capital Improvement	1,645,833		3,359,729					5,005,562
773-Wastewater Capital Improvement - Debt			9,362,925					9,362,925
774-Wastewater Impact Fees			724,077					724,077
FUNDING TOTALS	1,645,833		14,320,341					15,966,174

WWTP Phase 1 Upgrades

Project No: 04001-S-52

Category: Wastewater

Project Location: 1 Chaix Ln

Responsible Department:



PROJECT PURPOSE & DESCRIPTION: Per the State Cease and Desist Order, upgrade the plant to meet compliance requirements by 2021. In addition, to compliance requirements, levee repairs and sludge removal will be incorporated into construction of this project.

Merged into S-52: S-53, S-62, S-66, S18-79.

EXPENDITURE ACCOUNTS:

Fund: 773 **Dept**: 5059

EXPENDITURES	Total YTD 05/11/21		2021-22	2022-23	2023-24	2024-25	2025-26	PROJECT TOTAL
3110 - Design	1,530,887							1,530,887
3120 - Environmental/Planning	108,795		23,021					131,816
3140 - Legal Services	1,151		68,900					70,051
3150 - Construction Management	5,000		535,085					540,085
3160 - Construction Contract			14,888,590					14,888,590
3170 - Contingency			1,488,859					1,488,859
EXPENDITURE TOTALS	1,645,833		17,004,455					18,650,288
FUNDING SOURCES								
571-Wastewater Cash Operations Fund Balance			2,684,114					2,684,114
740-Traffic Impact Fees Fund Loan			873,610					873,610
773-Wastewater Capital Improvement	1,645,833		3,359,729					5,005,562
773-Wastewater Capital Improvement - Debt			9,362,925					9,362,925
774-Wastewater Impact Fees			724,077					724,077
FUNDING TOTALS	1,645,833		17,004,455					18,650,288

CITY OF ST. HELENA

RESOLUTION NO. 2021-__

Resolution (1) Amending the Fiscal Year 2022-2026 Adopted Capital Improvement Program Budget for CIP S-52 Wastewater Treatment Plant Upgrade Project; and (2) Authorizing use of Wastewater Operations Fund (Fund 571) Balance of Approximately $2.3 Million, Maintaining at a Minimum of 25% Fund Balance in Fund 571, for CIP S-52.

RECITALS

A. The City of St. Helena (City), in Napa County, owns and operates a Wastewater Treatment and Reclamation Plant (WWTRP) located at 1 Chaix Lane. The WWTRP and its discharge are permitted through the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB); and

B. The City has a Water Reclamation Requirements (WRR) Order No. 87-090 to regulate effluent discharge to land and a recently updated National Pollutant Discharge Elimination System (NPDES) Permit Order No. R2-2016-0003 to regulate discharge to the Napa River; and

C. The 2016 NPDES permit contains more stringent effluent limits for biological oxygen demand (BOD) and total suspended solids (TSS), which the WWTRP anticipates it will have difficulty meeting based on historical testing; and

D. As a result, the SFBRWQCB issued a Cease and Desist Order (CDO) No. R2-2016-0004 to the City, which mandated the WWTRP to comply with the specified interim BOD and TSS effluent limits, and to perform a Feasibility Study to evaluate and/or identify modifications to the WWTRP that would meet the new effluent limits. The SFBRWQCB issued a Compliance Schedule on January 11, 2018, outlining a schedule for compliance with the CDO; and

E. Since that time the City has completed the Feasibility Study and a Final Draft Feasibility Study which was delivered to the SFBRWQCB on June 1, 2018, as required by the Compliance Schedule. The SFBRWQCB accepted the Feasibility Study in a letter dated July 31, 2018, and agrees with the City's approach to the Phase I WWTRP Improvements Project; and

F. The City Council then authorized Professional Services Agreement STH Contract: FY 2019-017, and subsequent amendments, with HydroScience Engineers to ensure that the design of the WWTRP Project improvements are constructed in a manner and cost that meets the City of St. Helena's needs and budget in response to San Francisco Bay Regional Water Quality Control Board Order R2-2016-004. Initial engineering estimates for construction was $11,485,500. The FY 2022

Adopted CIP Budget allocated $12,509,247 for construction and $1,184,088 for contingencies; and

G. On September 16, 2021, in conjunction with various entities including HydroScience, USDA, City's Municipal Financial Advisor, City staff and others, the City released the advertisement for bids for CIP S-52. Sealed bids for the construction of CIP S-52 were received by the City by 4:00 p.m. on November 4, 2021, at which time the bids were publicly opened and read; and

H. The apparent low bidder is Thompson Builders, from Novato, CA, for a total bid amount of $14,888,590, which is $3,403,090 higher than the initial engineering estimate of $11,485,500; and

I. On November 23, 2021, staff provided a briefing to City Council on the budget shortfall and provided a recommended plan on finance for CIP S-52 WWTP Upgrade Project. In order to solve for the funding gap, staff recommended the following in their respective order:

1. Use of Wastewater fund balance in an amount of approximately $2.3 million and maintaining at a minimum of 25%, or three months cash.
2. Interfund Loan from the Traffic Mitigation Impact Fee Fund - this amount is dependent on use of contingency funds and is approximately $900,000 dependent on amount of contingency utilized. The recommended loan term will meet the obligations of the City Council adopted Financial Policy P-FI-0016 Section G - Debt Management and is anticipated to be repaid in a responsible timeframe - approximately five years. If an interfund loan is necessary, the amount and terms will be brought to City Council for authorization.
3. Use of General Fund reserves, if necessary; and

J. Following the staff briefing, City Council provided direction to move forward with the recommended plan on finance for CIP S-52. Additionally, if it is necessary to use General Fund monies, staff will provide a briefing and resolution to City Council prior to use of reserves; and

K. It is necessary to update CIP S-52 WWTP Upgrade Project to include the updated costs and funding sources.

RESOLUTION

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

1. Amending the Fiscal Year 2022-2026 adopted Capital Improvement Program Budget for S-52 WWTP Upgrade Project; and

2. Authorizing use of Wastewater Operations Fund (Fund 571) Balance of Approximately $2.3 Million, Maintaining at a Minimum of 25% Fund Balance in Fund 571, for CIP S-52.

Approved at a Regular Meeting of the St. Helena City Council on December 14, 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 Tzafopoulos, City Clerk

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **CONSENT ITEMS**

Subject: **Adoption of Resolution Making Findings and Determinations under AB 361 for the Continuation of Virtual Meetings.**

CEQA Determination: **Not a CEQA project**

Prepared By: Ethan Walsh, City Attorney

Reviewed By: April Mitts, Administrative Services Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On March 17, 2020, in the face of the COVID-19 pandemic, Governor Gavin Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings completely telephonically or by other electronic means.

The provisions in the Brown Act that were suspended by the Governor's Executive Order are contained at Government Code Section 54953(b)(3) and require that when teleconferencing is used, outside of a statewide emergency, that the following occur:

- An agenda is required to be posted at all locations, including any teleconference locations
- Each teleconference location must be identified on the actual agenda
- Each teleconference location shall be accessible to the public
- A quorum of the legislative body must be in the jurisdiction

With the Governor's Executive Order, the four above requirements were suspended, allowing councilmembers to not have to post an agenda at their teleconference location, not have to identify their location on the meeting agenda, not have to ensure public accessibility at the teleconference location, and the legislative body did not need a quorum in the jurisdiction. As the City Council is aware, this allowed City Council and all

other meetings of legislative bodies of the City to be conducted by Zoom with councilmembers, commission members, committee members, and staff all joining from remote locations.

The suspension of certain provisions of the Brown Act was further extended by the Governor on June 11, 2021 by the issuance of Executive Order N-08-21, which continued to allow for complete virtual meetings until September 30, 2021.

With the Governor's Executive Order expiring at the end of September 2021, the State Legislature adopted Assembly Bill 361. On September 16, 2021, the Governor signed AB 361, which allows legislative bodies to meet virtually provided there is a state of emergency declared by the Governor, and either (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the legislative body determines by majority vote that meeting in person would present imminent risks to the health and safety of attendees, subject to certain ongoing findings by the legislative body.

AB 361 also preserves many of the provisions of the earlier executive orders, including the suspension of the four teleconferencing requirements noted above, while also adding new requirements to the management of remote and teleconference public meetings in order to better achieve the levels of transparency that the Brown Act demands. Specifically, AB 361 imposes two new rules on remote public meetings:

1. Local governments and agencies hosting teleconference meetings in lieu of traditional in-person public meetings must permit direct public comment during the teleconference, and must leave open the opportunity for public comment until the comment period for a given item is closed during the ordinary course of the meeting. The opportunity to make public comment must be of a sufficient duration so as to allow actual public participation. The City already complies with this requirement, so it presents no change to our current practice.
2. Any action by the governing body during a public teleconference meeting must occur while the agency is actively and successfully broadcasting to members of the public through a call-in option or an internet-based service option. If a technical disruption within the agency's control prevents members of the public from either viewing the meeting of the public agency, or prevents members of the public from offering public comment, the agency must cease all action on the meeting agenda until the disruption ends and the broadcast is restored. Action taken during an agency-caused disruption may be challenged as a violation of the Brown Act.

The City Council held its first virtual meeting based on the conditions set forth in AB 361 on October 12, 2021. In order to continue to qualify for AB 361's waiver of in-person meeting requirements, the City Council must, within every thirty (30) days of its first meeting under AB 361, make findings that (a) state or local officials recommend measures to promote social distancing, or that (b) an in-person meeting would constitute an imminent risk to the safety of attendees. State officials at Cal-OSHA have, through the adoption of certain regulations, recommended measures to promote social distancing

throughout the State. Additionally, Napa County Public Health Officer Dr. Karen Relucio has, through a memo dated September 27, 2021, recommended the continuance of virtual meetings at the present time as a means of promoting social distancing in order to minimize the spread and transmission of COVID-19 in Napa County.

It is important to note that AB 361 does not require the City to continue with virtual meetings, but simply gives the Council that option. If at any time the City Council desires to return to in person meetings, the Council can agendize that topic for discussion and direct staff to initiate the transition back to in-person or hybrid meetings; however, at this time City staff is recommending adoption of the resolution to allow City Council and all other Commission, Committee, and other Brown Act meetings to continue to be held remotely in order to ensure social distancing consistent with the recommendations of State and local officials.

At the September 28, 2021 regular City Council meeting, the City Council had a discussion item and considered whether to meet in person or continue virtual meetings. It was the consensus of the City Council to continue with the Zoom meeting platform until staff is relocated to Napa Valley College.

DISCUSSION

The City Council held its first virtual meeting based on the conditions set forth in AB 361 on October 12, 2021. The City Council reconsidered and adopted findings by resolution to continue meeting virtually on November 23, 2021. This is being reconsidered on December 14, 2021, due to the second meeting in December is cancelled (December 28, 2021) and January 11, 2022 is beyond 30 days from the last adopted findings.

The enclosed resolution makes the necessary findings for the City Council and all subordinate legislative bodies of the City that are subject to the Brown Act to continue with virtual meetings for the time being. City staff will return to the City Council with a resolution every 30 days to allow for the continuance of virtual meetings for so long as Council and staff believes that virtual meetings are necessary.

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDED ACTION

Approve the Attached Resolution Making Findings and Determinations Under AB 361.

ATTACHMENTS

Resolution AB361

CITY OF ST. HELENA

RESOLUTION NO. 2021-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST. HELENA MAKING FINDINGS AND DETERMINATIONS UNDER AB 361 FOR THE CONTINUATION OF VIRTUAL MEETINGS

WHEREAS, the Ralph M. Brown Act (Gov. Code § 54950 *et seq*.) generally requires local agencies meeting via teleconference, including through other virtual or electronic means to, among other things, provide public access at each location in which members of the legislative body are teleconferencing; and

WHEREAS, the Legislature recently enacted Assembly Bill 361 (AB 361), which amended Government Code section 54953 to allow local agencies to meet fully virtually, without fully adhering to the rules otherwise applicable to teleconferencing, during a proclaimed state of emergency if state or local officials have imposed or recommended measures to promote social distancing; and

WHEREAS, the Governor issued a proclamation declaring a state of emergency on March 4, 2020 due to the COVID-19 pandemic, pursuant to section 8625 of the California Emergency Services Act, and this proclaimed state of emergency currently remains in effect; and

WHEREAS, state or local officials continue to recommend measures to promote social distancing to prevent the spread of COVID-19, and in particular, Cal-OSHA regulation 3205 recommends physical distancing in the workplace generally and regulates a “close contact,” defined as being within 6 feet of another under certain circumstances, and Napa County Health Officer Dr. Karen Relucio has recommended that local public agencies refrain from holding in person public meetings, as a means of promoting social distancing; and

WHEREAS, the continuation of virtual meetings will allow for full participation by members of the public and compliance with the recommendations of state and local officials with regard to social distancing; and

WHEREAS, the City Council of the City of St. Helena desires that all City legislative bodies continue to hold virtual meetings pursuant to AB 361 and Government Code section 54953(e).

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ST. HELENA AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. The City Council has reconsidered the circumstances of the state of emergency.

SECTION 3. As stated in the recitals, state or local officials continue to recommend measures to promote social distancing.

SECTION 4. The City Council and all other legislative bodies of the City of St. Helena who are required to hold public meetings shall continue to meet virtually in accordance with Government Code section 54953(e) and without compliance with section 54953(b)(3), based upon the findings and determinations hereby made by the City Council.

Approved at a Regular Meeting of the St. Helena City Council on December 14, 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:

_____
Geoff Ellsworth, Mayor

ATTEST:

_____
Cindy Tzafopoulos, City Clerk

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **CONSENT ITEMS**

Subject: **Consideration and Proposed Approval of Amendment #1 to STH Contract: FY2020-049 with Lisa Wise Consulting for Zoning and General Plan Base Maps in association with Zoning Code Update for an additional $17,369 for a total contract amount not-to-exceed $337,359.**

CEQA Determination: **Exempt**

Prepared By: Maya DeRosa, Planning & Building Director

Reviewed By: April Mitts, Administrative Services Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

In November 2019 the City entered into STH Contract: FY2020-049 with Lisa Wise Consulting (LWC) to prepare a comprehensive update to the zoning code (Attachment 1). The scope of work of the initial agreement includes the following tasks:

1. Background Review and Technical Analysis
2. Public Outreach
3. Preliminary Draft Regulations by Phase
4. Public Review Draft Zoning Code
5. Environmental Review/CEQA Documentation
6. Public Review and Adoption; Final Zoning Code
7. Handbooks and Handouts.

DISCUSSION

As staff has been immersed in the code revisions and changes it is apparent that, as a result of the new General Plan being adopted, new zoning districts being created, and changes to overlay zones, there is a need to concurrently update and provide an accurate zoning map that is consistent with the new code and the General Plan.

The following is included in the proposed scope of work for Amendment #1:

1. Prepare new GIS base maps for both the General Plan and zoning;
2. Ensure the new maps provide consistency with the newest parcel data from the County;
3. Implement zoning changes needed to be consistent with the adopted General Plan; and
4. Update overlay zones.

The proposed scope and budget includes meetings with staff to discuss map edits as well as an Administrative Draft Zoning Map, a Public Review Draft Zoning Map, and a Final Zoning Map with a memo and associated GIS files. Staff intends to have the draft zoning map released concurrently with the Public Review Draft of the the zoning code. A 10% contingency fee is included in the proposal amount of $17,369. It is intended the zoning map amendments will be adopted concurrently with the new code.

FISCAL IMPACT

The fiscal impact of the amendment is an additional $17,369. The adopted FY 2021-22 Budget does not specifically allocate funds for this additional work; however, the cost for the amendment can be absorbed within the current budget allocation.

RECOMMENDED ACTION

Staff recommends the City Council adopt the attached Resolution.

ATTACHMENTS

Attachment 1 - STH Contract FY 2020-049 Lisa Wise Consulting Zoning Code Update
Attachment 2 - Amendment 1 STH Contract FY 2020-049-01A Zoning Map
Attachment 3 - Resolution- STH Contract FY2020-049 01A LWC Zoning Map Contract Amendment

STH CONTRACT: FY 2020-049

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into on November 12, 2019 by and between the City of St. Helena, located in the County of Napa, State of California (City), and Lisa Wise Consulting (Consultant).

RECITALS:

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

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 A, "Scope of Services"** attached hereto and made a part hereof. Total compensation shall not exceed $319,990.00 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 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: $2,000,000 per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations, as applicable. If Commercial General Liability Insurance or other form with a General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
   2. Automobile Liability: $1,000,000 per accident for bodily injury and property damage.
   3. Employer's Liability: $2,000,000 per accident for bodily injury or disease.

C. Professional Liability Insurance. When Consultant under this Agreement is duly licensed under California Business and Professions Code as an architect, landscape architect, environmental engineer or other professional engineer, or land surveyor ("design professional"), Consultant shall maintain at least $2,000,000 of professional liability insurance. 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 advise 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 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 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 – 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 17 – 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 18 – 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 19 – NOTICES

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

To City:	City Manager 1480 Main Street St. Helena, California 94574
To Consultant:	Lisa Wise Consulting (LWC) Attn: Lisa Wise 983 Osos Street San Luis Obispo, CA 93401 805-595-1345 lisa@lisawiseconsulting.com

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

SECTION 20 – 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 21 – 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 22 – 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 23 – 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 24 – 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 25 – 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 26 – 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 27 – 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 28 – 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 29 – 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 30 – 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 31 – 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:

By: _____
Name: Lisa Wise
Title: President, Lisa Wise Consulting, Inc.

City:

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

Approved as to Form:

By: _____
Name: Kara Ueda
Title: City Attorney

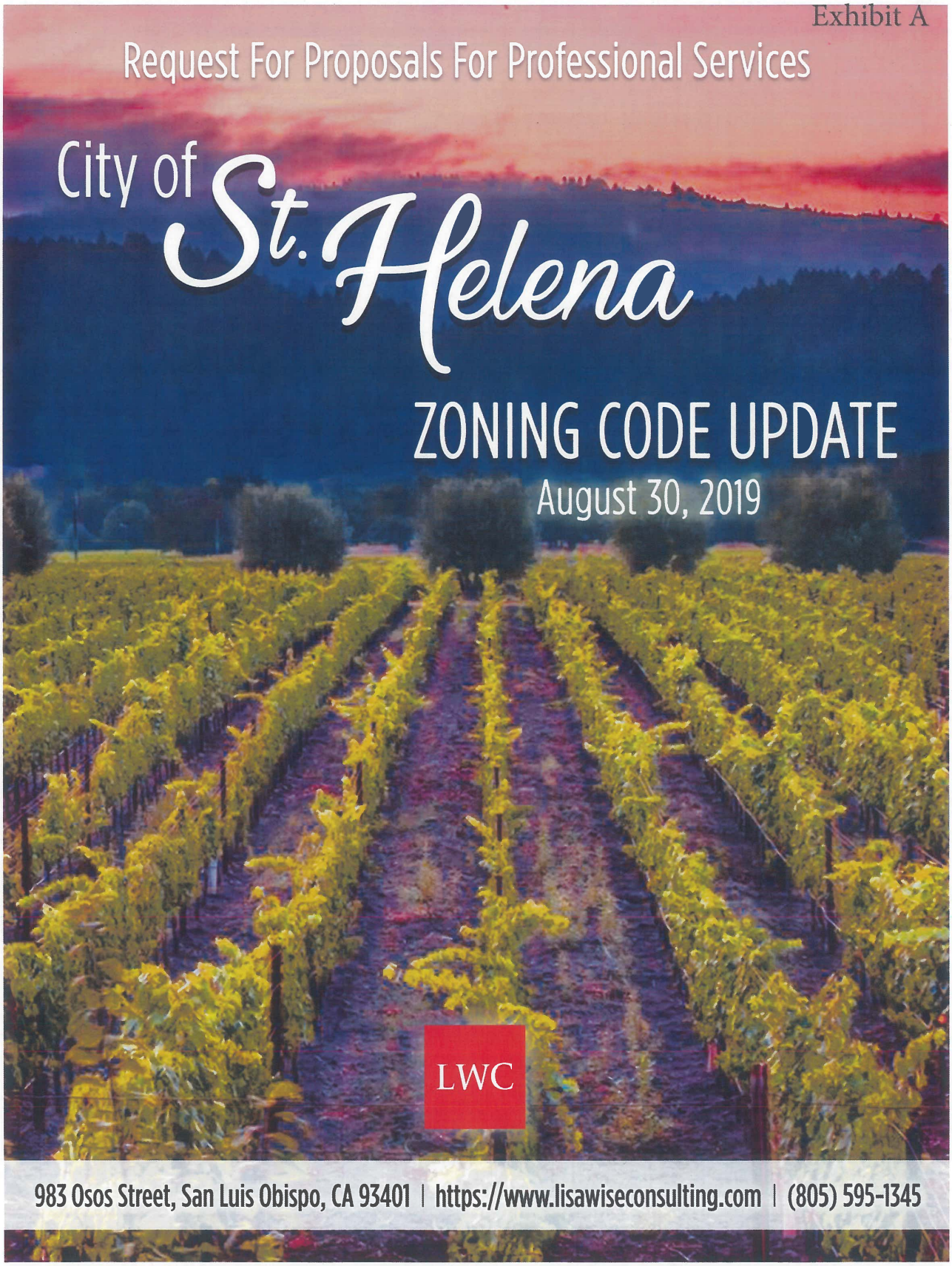
Exhibit A

Request For Proposals For Professional Services

City of St. Helena

ZONING CODE UPDATE

August 30, 2019



LWC

983 Osos Street, San Luis Obispo, CA 93401 | https://www.lisawiseconsulting.com | (805) 595-1345

This page intentionally left blank.



ZONING CODE UPDATE

Lisa Wise Consulting, Inc.

983 Osos Street, San Luis Obispo, CA 93401

(805) 595-1345

https://www.lisawiseconsulting.com/

Firm Contact:

Martha Miller, AICP

(626) 616-9303

martha@lisawiseconsulting.com

This page intentionally left blank.

TABLE OF CONTENTS



COVER LETTER/EXECUTIVE SUMMARY 2

PROJECT APPROACH AND WORK PLAN 4

Approach 4

Scope of Work 7

Schedule 12

CONSULTANT IDENTIFICATION AND TEAM 13

Firm Overview 13

Team Overview 14

Key Staff 15

RELATED PROJECT EXAMPLES AND REFERENCES 17

Relevant Projects 17

PROPOSED BUDGET 22

APPENDIX 23

Resumes 23

COVER LETTER/EXECUTIVE SUMMARY

August 30, 2019

Cindy Tzafopoulos
City of St. Helena
1480 Main Street
St. Helena, CA 94574

RE: Request For Proposals For Professional Services - Zoning Ordinance Update, City of St. Helena

Dear Ms. Tzafopoulos:

We are pleased to submit our proposal for the City of St. Helena Zoning Code Update. As an urban planning firm focused on zoning codes and development regulation, Lisa Wise Consulting, Inc. (LWC) is perfectly suited for this project. The LWC Team is enthused at the opportunity to work with the City and have summarized our approach and understanding of the project in this Cover Letter/Executive Summary.

St. Helena's 2040 General Plan (Plan) lays out comprehensive policies and implementation actions aimed at achieving the community's vision of a safe community with excellent schools, parks, public facilities and well-manged development that celebrates it's small-town, rural character. The challenge now, is to translate policies related to development control and design into a user-friendly, legally compliant, and effective regulations and procedures that:

- Steers future development to the most suitable places,
- Responds to the community's desire for a safe, diverse, vibrant, liveable, and prosperous city,
- Enables vibrant commercial and mixed-use areas, a robust local economy, and
- Prioritizes healthy neighborhoods.

Approach

In preparing the new Code, LWC will work closely with City staff, civic leaders, elected officials, and the community to translate St. Helena's vision into a clear, consistent and feasible set of rules and regulations. Our breadth and depth of planning and zoning experience enables us to provide efficient, high-quality work that considers the most appropriate strategies and best practices for St. Helena. Our approach considers a menu of zoning approaches, including form-based, performance-based, Euclidean, or a mixed, hybrid approach. Our team also brings experience in public sector development review. We understand how to write plans and regulations that respond to local conditions and produce results.

Comprehensive zoning code updates are significant undertakings. Our methodology for this project involves a systematic approach which moves from agreements on the general frameworks of the updated code and then to specific sections. Our approach emphasizes the involvement of staff, decisionmakers, and the community throughout the process, generating a sense of ownership and commitment to the new regulations.

COVER LETTER/EXECUTIVE SUMMARY

Firm Overview

Founded in 2006, Lisa Wise Consulting, Inc. (LWC) is an urban planning and economics firm that specializes in enabling pedestrian and transit-oriented neighborhoods, and facilitating sustainable, well-designed places to live, work, and recreate. LWC has a deep understanding of planning policy and implementation, market opportunities, and development review and entitlements for complex projects.

Project Management

Martha Miller, AICP, will be the Project Manager and primary point of contact for the City. Ms. Miller has a strong resume in preparing and implementing zoning regulations, as public agency staff and in the private sector. Martha's recent and ongoing experience includes comprehensive code updates for the cities of West Sacramento, Vacaville, and Newark. She will provide overall project management, conduct technical analysis, prepare recommendations, and attend all project meetings and events.

Martha will be assisted by LWC President/CEO, **Lisa Wise, AICP**. Lisa is a national expert on code reform, on which she presents regularly at State and National APA, League of California Cities, Urban Land Institute (ULI) and the New Partners for Smart Growth Conferences.

Our planning, zoning code, and community design experience and commitment to client services enables us to provide the most appropriate strategies and best practice approaches for St. Helena. We are adept at applying a menu of coding approaches, and will provide the City of St. Helena a clear, concise, user-friendly Zoning Code that will implement the City's vision established in the 2040 General Plan and stand the test of time.

We have received and reviewed all addenda to the RFP.

Sincerely,

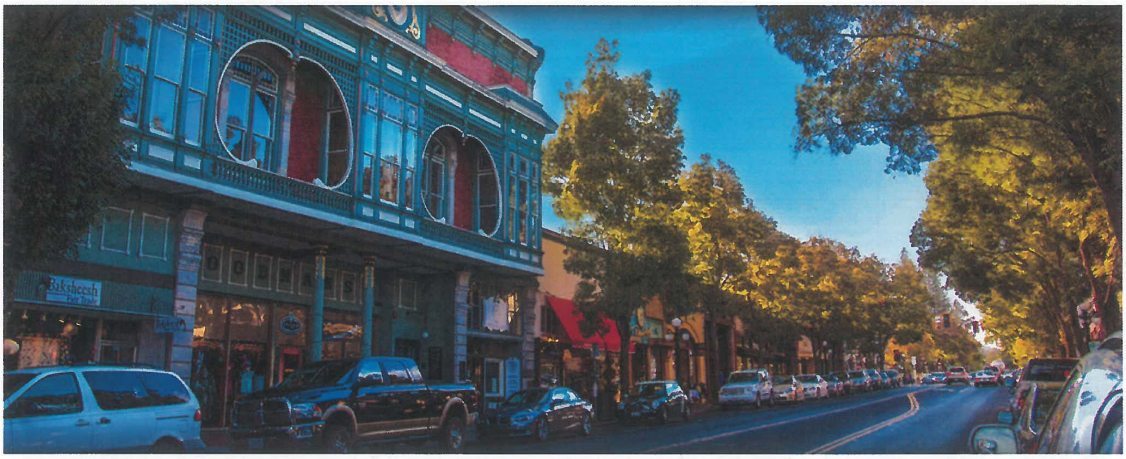
Lisa Wise Consulting, Inc.

Martha Miller, AICP
Director, Project Manager and Point of Contact
983 Osos Street; San Luis Obispo, CA 93401
Cell: (626) 616-9303
Office: (805) 595-1345
martha@lisawiseconsulting.com

Lisa Wise, AICP
President, Advising Principal
601 California Street, Ste 607; SF, CA 94108
Cell: (805) 801-4115
Office: (805) 595-1345
lisa@lisawiseconsulting.com

PROJECT APPROACH AND WORK PLAN

Approach



LWC's approach acknowledges the General Plan as the long-range "blue print" for the City's physical development and the code as the tool that implements the policies and programs. The 2040 General Plan lays out comprehensive goals, policies, and implementation programs to achieve the St. Helena community's vision for the future:

> *"...in the year 2040, the town will be a well-integrated place linked by effective community institutions, safe neighborhoods and streets, and superior schools, parks, and public facilities. In addition, planning for thoughtful, well-managed development, while maintaining its small-town, rural character is of vital importance to St. Helena's residents."*

With this clear path set in the General Plan, the next step for St. Helena is to evaluate and update it's regulatory framework to ensure that it enables the type of development that will fortify and sustain the vision. Through the Zoning Code Update, LWC will examine the existing Code and identify how to make land use policies and development controls more user-friendly, legally compliant, and effective, as well as acknowledge opportunities and constraints to maintaining St. Helena's most valued characteristics. LWC's approach focuses on working closely with the community to consider traditional and form-based codes, infill development,pedestrian and bicycle-friendly streetscapes, mixed-use, and transit-oriented development, as well as acknowledgment of economic and fiscal impacts; and best practices for historic preservation, parking, signage, user regulations, and landscaping.

Our experience will enable us to identify the most appropriate and context-sensitive options for St. Helena and produce a state- of-the-art, flexible, user-friendly Zoning Code to effectively achieve the community's vision as expressed in the 2040 General Plan. To execute these objectives, our proposal includes a scope of work and project methodology designed to produce an updated Zoning Code that complies with State and federal law, and:

PROJECT APPROACH AND WORK PLAN

Approach

- Implements the General Plan.
- Reflects sound planning principles and current best practices for promoting and supporting a variety of housing types.
- Promotes high quality infill and mixed-use development, particularly in the Downtown area.
- Responds to community concerns.
- Is streamlined and transparent in its administration and decision-making processes.
- Resolves inconsistencies.
- Is intuitive and user-friendly.

The Zoning Code update is an opportunity to repurpose the Code as a more effective, clear and user-friendly tool that produces the kind of development that St. Helena wants, and is consistent with the City's General Plan.

An Effective Code

LWC is committed to providing highly customized and creative planning programs based on the unique issues facing each community. Our approach is grounded in extensive coordination with City staff, civic leaders and the community, as well as in thorough, objective research and best practice analyses. Each LWC code update project is unique, and reflects the needs, desires, character, and economic realities of the community as well as best practices from industry, academia, and similar cities around the country. However, each LWC effort reflects the following characteristics on zoning and development regulations:









St. Helen's goal is to maintain a small-town atmosphere and to provide quality services for it's citizens.

PROJECT APPROACH AND WORK PLAN

Approach



Foster economically, fiscally, and physically achievable development that reflects the community vision and supports goals for housing and employment and contributes to vibrant commercial centers and business districts.



Enable attractive, long-lasting design that positively affects the public realm and retains or grows in value.



Respond, integrate, and complement the community character of neighborhoods, corridors, and districts where development is occurring.



Offer high degree control and expected development outcomes for the City, residents, businesses, property owners, and community.



Zoning and development regulations should also provide opportunities to accommodate reasonable adjustments and standards to secure better outcomes and community "fit".



Ensure that the benefits and burdens of attaining development goals are shared across the community, expand opportunities for affordable housing and commercial space, and support a diversity of businesses.



Zoning and development regulations should be logical and easy to understand for community members, developers, and City officials and staff, and enable consistent interpretation at the planning counter.

LWC writes codes with an understanding of the different perspectives of users. We believe that code users should not have to hunt for or piece together; rather, they should easily arrive at design excellence and feasibility. When drafting regulations, we test approaches to assure there are no unintended consequences. We also write with clarity, ensuring that the regulations are understandable to all code users and that rules and procedures are clear, consistent, and easy to understand.

PROJECT APPROACH AND WORK PLAN

Scope of Work

By moving from agreements on general approaches to a new zoning framework and on specific sections, our work program relies on City staff and the community and generates a sense of ownership and commitment to the new code. The task-by-task descriptions that follow illustrate our approach to technical review and analysis, framework development, public participation, drafting regulations, and preparation of the final Zoning Code.

Task 1: Background Review and Technical Analysis

A. Project Initiation Meeting and City Tour

LWC will meet with City staff to discuss their ideas and aspirations for the project, review the approach to the Zoning Code Update, discuss the public outreach process, finalize the work program and schedule, and clarify roles and responsibilities. LWC and City staff will conduct a tour of the City to become familiar with the patterns of development and the character of neighborhoods and nonresidential areas resulting from the implementation of the City's current development regulations.

B. Technical Analysis and Evaluation

LWC will conduct technical analysis and evaluation of applicable ordinances, plans, and policy documents, including the 2040 General Plan, existing Zoning Code, development standards from specific plans and planned development districts in the City, and the Draft Design Guidelines.

C. Zoning Code Update Recommendations Memo

Based on technical review of the City's current regulations, the 2040 General Plan, City staff comments, and the results from stakeholder interviews (see Task 2), LWC will prepare a Zoning Code Update Recommendations Memo that highlights General Plan direction for new development controls, assess the strengths and weaknesses of the existing Code, and presents the "big ideas" for the new Zoning Code. The Zoning Code Update Recommendations Memo will include recommendations for utilization of appropriate zoning approaches, including form-based, performance-based, incentive-based, and use-based approaches. Issues identified by stakeholders in Task 2 will be classified and sorted to identify common themes and shared concerns and included as a "punch list" of stakeholder comments in the report.

D. Annotated Outline

Based on comments on the Zoning Code Update Recommendation Memo and other input gathered at Workshop #1 (see Task 2), LWC will prepare an Annotated Outline of the Zoning Code. The outline will provide the recommended format, content, and organization of the new Zoning Code; retaining, amending, or discarding sections as necessary and proposing new sections where needed to improve clarity and user-friendliness.

- ***Meetings***: *Project Initiation Meeting and City Tour (1 trip)*
- ***Products***: *Zoning Code Update Recommendations Memo*
  Annotated Outline

PROJECT APPROACH AND WORK PLAN

Scope of Work

TASK 2: Public Outreach

A. Public Outreach Program

LWC will work with City staff to formulate a Public Outreach Program for the Zoning Code Update using the components identified in this Scope of Work. The Public Outreach Program will outline all public meetings, study sessions, stakeholder meetings, and other outreach tools. The outreach activities identified in this Scope of Work are a first cut, based on our initial understanding of project needs and objectives. We will work with City staff to structure a public process that enables City Council, the Planning Commission, and community members to review and comment on updated regulations as they are being formulated.

B. Stakeholder Interviews

LWC will prepare for and participate in one or two days of meetings and interviews with City staff, City officials, decisionmakers, code users (e.g. property owners, designers, architects, developers, etc.) and others familiar with the Zoning Code and development in St. Helena. City staff will be responsible for identifying and coordinating interviews and meetings. With small group interviews held in two rooms, up to 40 stakeholders can participate in the interview process.

C. Workshops/Study Sessions

LWC will conduct up to five community workshops/study sessions at key stages during the planning process to provide opportunities for public education and informal comment on the choices being considered. Anticipated workshops/study sessions are as follows:

- ***Workshop/Study Session #1:*** Community workshop held early in the process to introduce the project, discuss major issues of current regulations, highlight General Plan direction, and present recommendations for a new regulatory framework.
- ***Workshops/Study Sessions #2-4:*** Three workshops with the Planning Commission to review and provide input on regulations as they are being drafted will be held through the process. Topics will be based on the project phases described in Task 3.
- ***Workshop/Study Session #5:*** Workshop intended to review the Public Review Draft Zoning Code with focused discussion on items that weren't fully resolved during the preliminary draft phase.

The workshops/study sessions may also be combined with open houses, providing a forum for informal discussion with interested community members seeking to understand the new regulations. LWC will created straightforward and informational outreach materials for each workshop/study session.

D. Website Materials

LWC will provide information for the City's website, including text, photographs, maps, renderings, other images, and information on our credentials and the project and progress. Project memorandum and milestone documents will be designed for upload to the City's website to be accessible to interested community members.

PROJECT APPROACH AND WORK PLAN

Scope of Work

E. Outreach Toolkits

In order to engage those who do not otherwise attend public workshops, it can be effective to meet with community groups, associations, and individual citizens in non-traditional settings, such as regular meetings of community organizations or at a gathering of interested neighbors. LWC will provide staff a "toolkit" of materials, based on workshop materials, project deliverables, and project information developed for other aspects of the project, to conduct project briefings to these types of groups throughout the project. Staff will organize and conduct the briefings.

- ***Meetings:*** *Stakeholder Interviews*
  Workshops/Study Sessions
  (Total of 5 throughout the project)
- ***Products:*** *Public Outreach Program*
  Workshop/Study Session Materials
  Information for the City's Website
  Outreach Toolkits

TASK 3: Preliminary Draft Regulations by Phase

LWC will develop preliminary drafts of updated regulations related to emphasis areas in phases as described below to facilitate review prior to incorporation into a complete Public Review Draft Zoning Code.

A. Zoning District Regulations

LWC will prepare draft zoning district regulations for review. Regulations will be drafted for all districts and include use regulations and development standards. LWC will prepare a draft of the Zoning District Regulations for staff review and revise based on staff comments.

B. Citywide Standards

LWC will prepare draft Citywide standards for review. Citywide standards are those that apply to development or uses in some or all zoning districts in the city. Existing standards will be evaluated and new or revised standards will be identified for implementing the General Plan, responding to staff and community concerns, and bringing standards up to date with current uses, practices, and state and federal law. Topics include, but are not limited to standards for specific uses, landscaping, signs, parking, and nonconforming provisions. LWC will prepare a draft of the Citywide standards for staff review and revise based on staff comments.

C. Administration and Permits

LWC will prepare a complete set of administrative provisions for the administration and enforcement of the Code, including application procedures, required findings, hearings and approval, and post decision procedures for all permit/approval types including use permits and code amendments. LWC will prepare a draft of the Administration and Permit Procedures for staff review and revise based on staff comments.

TASK 4: Public Review Draft Zoning Code

A. Public Review Draft Zoning Code

LWC will review all comments on the preliminary draft regulations prepared in Task 3 and prepare the Public Review Draft Zoning Code based on the Annotated Outline and reflective of the analysis and review conducted in Tasks 1 and 2. The Public Review Draft will address all aspects of zoning

PROJECT APPROACH AND WORK PLAN

Scope of Work

regulation, including introductory provisions, district development standards and use regulations, citywide regulations, administrative procedures, and definitions of terms. The Public Review Draft will be fully formatted and contain graphics, diagrams, tables, and charts to complement and supplement the Code text. LWC will prepare an Administrative Draft, coordinate with the City's Project Manager on their review with meetings and phone calls as needed, and prepare a Public Review Draft Zoning Code based on a consolidated set of comments.

B. Zoning Map Revisions

LWC will work with City staff to identify areas that will require map changes. City staff will be responsible for making the changes and preparing the Zoning Map.

C. Revised Public Review Draft Zoning Code

LWC will review comments on the Public Review Draft Zoning Code with City staff and prepare a Revised Public Review Draft Zoning Code. LWC will coordinate with the City's Project Manager with meetings and phone calls as needed to prepare the Revised Public Review Draft Zoning Code.

- ***Meetings:*** *Meetings and phone calls with City staff to review draft products and review the zoning map*
- ***Products:*** *Administrative Draft Public Review Draft Zoning Code*
  Public Review Draft Zoning Code
  Revised Public Review Draft Zoning Code

TASK 5: Environmental Review/ CEQA Documentation

A. EIR Consistency Technical Memo

The City certified an EIR for the General Plan in May 2019. The Zoning Code Update will implement the policy direction of the General Plan, the environmental effects of which were evaluated in detail in the EIR. It is anticipated the Zoning Code Update will be consistent with the General Plan EIR. LWC will prepare a technical memo supporting findings of consistency with the 2040 General Plan EIR. However, if the City desires more formal documentation, an EIR Addendum may be prepared as an optional task.

- ***Products:*** *EIR Consistency Technical Memo*
  (Optional) EIR Addendum

Task 6: Public Review and Adoption; Final Zoning Code

A. Planning Commission Hearings

LWC will attend, prepare materials for, and make formal presentations at up to two Planning Commission hearings to support adoption of the Zoning Code.

B. Final Draft Code

LWC will revise the Revised Public Review Draft Zoning Code based on comments and feedback received at the Planning Commission hearing and prepare a Final Draft Zoning Code for consideration by the City Council.

PROJECT APPROACH AND WORK PLAN

Scope of Work

C. City Council Hearings

LWC will attend, prepare materials for, and make formal presentations at up to two City Council hearings to support adoption of the Zoning Code.

D. Final Zoning Code

Based on City Council action and final text changes provided by City staff, LWC will prepare the final Zoning Code. The document will be produced in Adobe Acrobat (PDF) and a Microsoft Word formats and made accessible and interactive through online publishing.

- ***Meetings:*** *Planning Commission Hearings (2)*
  City Council Hearings (2)
- ***Products:*** *Public Hearing Materials*
  Final Draft Zoning Code
  Final Zoning Code

Task 7: Handbooks and Handouts (Optional)

A. Zoning Handbook

LWC will prepare a concise user-guide/handbook for the public that explains how to use the new Zoning Code. The handbook will be easy to understand with graphics and examples that demonstrate how to use the code and find answers to frequently requested information such as setbacks, lot coverage, commercial building signage, accessory structure standards, and Historic St. Helena design standards. The handbook will be provided in PDF format with internal hyperlinks for easy navigation.

- ***Products:*** *Zoning Handbook*

B. Infill Guidelines Handout

LWC will prepare a handout specifically tailored for infill development strategies and design standards or guidelines. The goal will be to provide an easy to understand guide that will help facilitate and streamline infill development.

- ***Product::*** *Infill Guidelines Handout*

C. Objective Standards for Multi-Family Development Handout

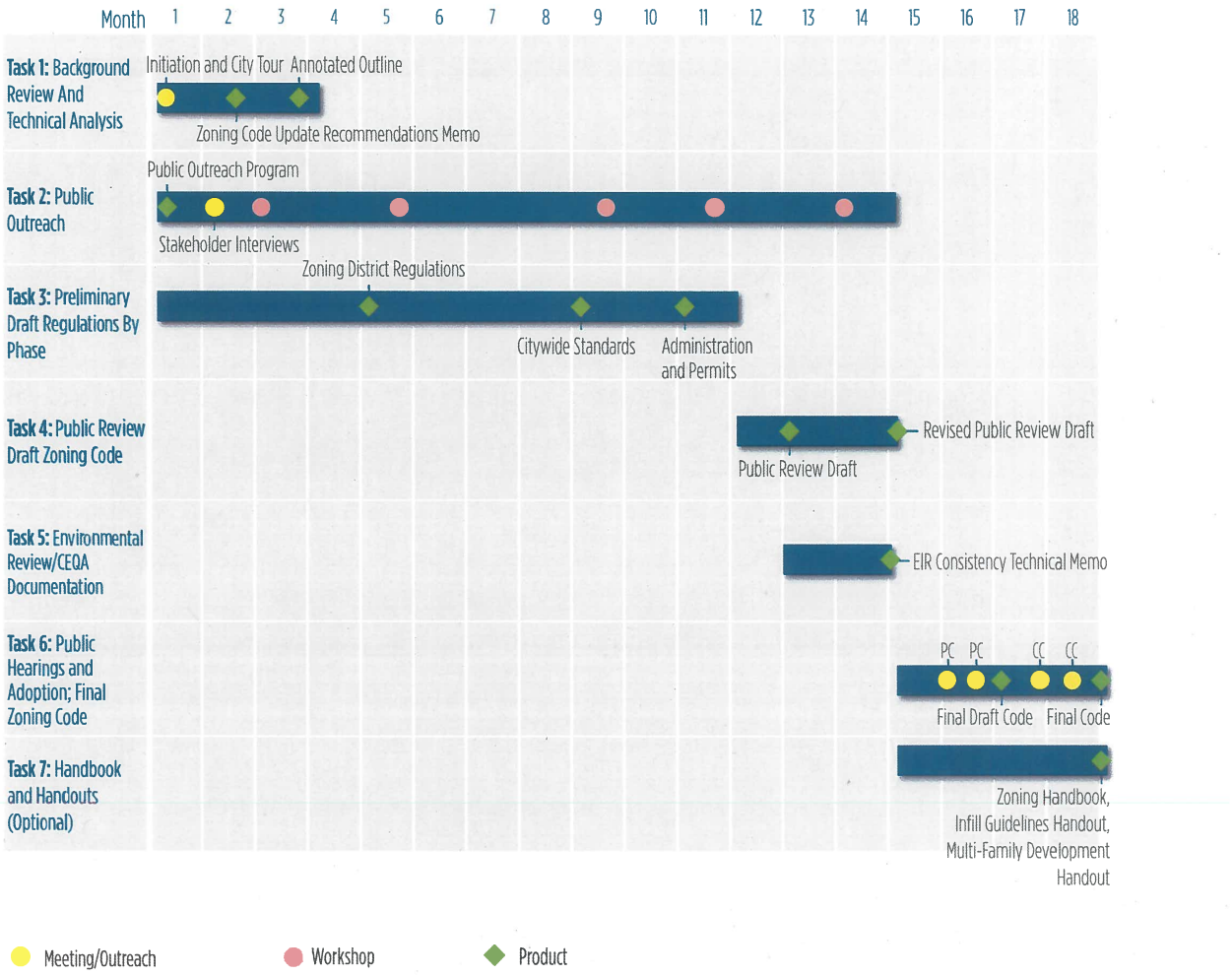
LWC will prepare a handout that outlines the objective standards that can be used when considering multi-family development projects. The document shall clearly identify when and how these standards may be used.

- ***Product:*** *Objective Standards for Multi-Family Development Handout*

PROJECT APPROACH AND WORK PLAN

Schedule

LWC proposes an 18-month timeframe; we are happy to work with the City to refine the scope and schedule to best fit the City's needs. A proposed schedule is presented below with key milestones and meetings indicated throughout.



CONSULTANT IDENTIFICATION AND TEAM

Firm Overview

Lisa Wise Consulting, Inc.

LWC specializes in updating, modernizing and streamlining zoning codes aimed at promoting pedestrian and transit-oriented neighborhoods, revitalizing built environments, and facilitating sustainable, well-designed places to live, work, and recreate. LWC is distinguished by consistent commitment to client service and the development and application of innovative solutions. The LWC team addresses each engagement with a deep understanding of zoning principles and best practices, strong project management skills and experience professional writing skills, and community outreach capabilities. The LWC team also has a proven history of working with local government and state and federal agencies. LWC was founded in 2006, incorporated in 2008 and has grown to a staff of 17 with offices in Los Angeles, San Francisco, and San Luis Obispo, California.

LWC core competencies include:

- Zoning Ordinances, Development Codes, and Form-Based Codes
- Community Planning
- Housing Elements and Affordable Housing Policy
- Public Engagement and Community Consensus Modeling
- Economic and Market Analyses and Strategies

LWC has completed code updates and technical planning related projects with over 100 local governments in California, Arizona, Nevada, Texas, Ohio, Hawaii, Oklahoma, Maine, Iowa, and Massachusetts. Our resumes include 60 comprehensive code updates, diagnoses, and regulatory compliance assessments; 16 sign code updates; and over 130 long range planning, housing, economic, and finance projects on time and to our client's satisfaction. LWC is a certified Disadvantaged Business Enterprise in the State of California (UPC Firm Number 40054).



CONSULTANT IDENTIFICATION AND TEAM

Team Overview

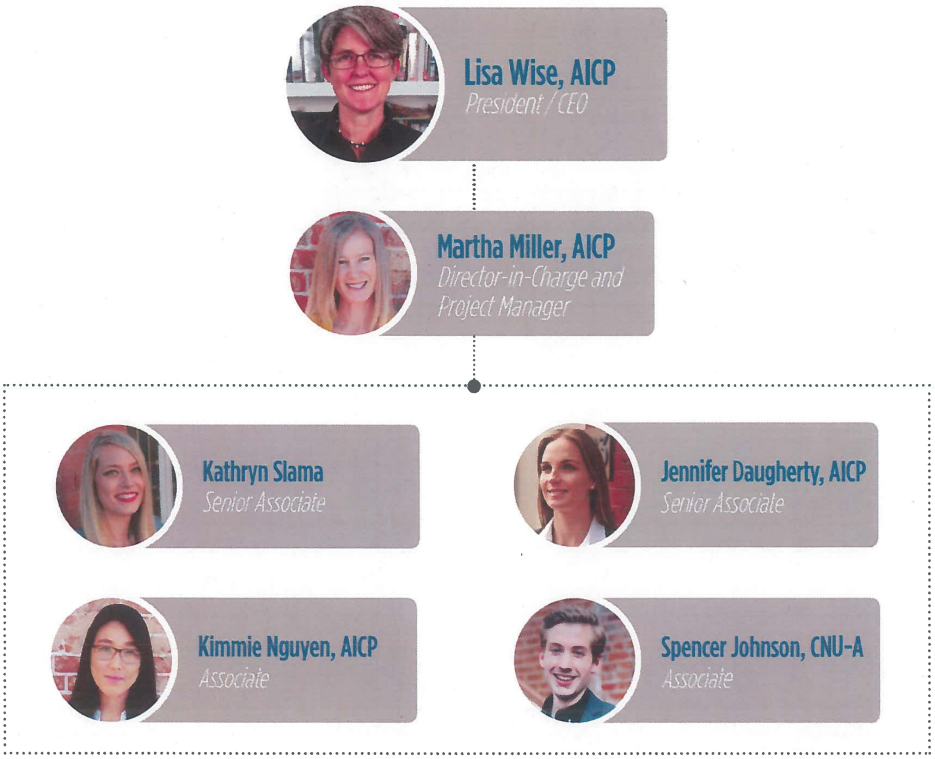
The project will be led by a team of senior staff members. Highlights about the involvement, responsibilities, and professional experience of key personnel follow. Full resumes are provided in this section.

Martha Miller, AICP, will serve as the Director-in-Charge and Project Manager, overseeing the Zoning Ordinance Updates. Martha brings over 16 years of comprehensive zoning code and development regulation experience in private firms and public agencies. She will provide overall project management, conduct technical analysis, prepare recommendations, and attend all project meetings and events. Martha will be the key point of contact for the City.

Ms. Miller will be assisted by firm President/CEO, **Lisa Wise, AICP**, who will provide overall guidance and review of project deliverables. Lisa is considered a national expert on code reform and housing policy, and makes presentations on the topics regularly at State and National APA, League of California Cities, and the New Partners for Smart Growth conferences.

Senior Associates **Kathryn Slama** and **Jennifer Daugherty, AICP**, will support the technical review and analysis of the standards with their skills and knowledge of land use and development regulations and their respective expertise in regulatory evaluation and financial feasibility.

Associates **Spencer Johnson, CNU-A**, and **Kimmie Nguyen, AICP**, will bring their technical analysis, building form expertise, and regulatory experience to the project.



CONSULTANT IDENTIFICATION AND TEAM

Key Staff

Martha Miller, AICP | Director



Martha has over 16 years of experience as a land use planner and project manager specializing in development regulations, specific plans, master plans, TOD strategies, and community engagement. Her experience as a public sector planner, where she managed comprehensive community plan updates, subdivisions plans, and development and entitlement projects, gives her a unique and valuable perspective. Martha has also led complex projects with multiple subconsultants on technical ordinances for density, landscaping, hillsides, parking, sustainability, planned development, and community benefits.

Lisa Wise, AICP | President/CEO



As a certified planner and public accountant, Lisa has over 28 years of professional experience in land development and zoning codes, form-based codes, and economic planning. Her resume includes the creation of land use policy in the State of California and Western Region where she has been directly responsible for a breadth of large-scale projects, including 34 code updates, 35 economic projects, 23 master and specific plans, and 20 housing strategies. Lisa is considered a national expert in the field of zoning, served as the Chair of the Form-Based Code Institute, and recently received the CNU Paul Crawford award for Excellence in Planning.

Kathryn Slama | Senior Associate



Kathryn has contributed her experience on several complex projects, including zoning and development code updates, housing elements, affordable housing policies, and specific plans. She is experienced in leading multi-disciplinary teams in analyzing existing regulatory documents, structuring calibrated zoning recommendations, coordinating community outreach, and production of final documents. Kathryn holds a Master of City and Regional Planning degree from California Polytechnic State University, San Luis Obispo, graduating at the top of her class.

CONSULTANT IDENTIFICATION AND TEAM

Key Staff



Jennifer Daugherty, AICP | Senior Associate

Jennifer brings over 10 years of public planning experience in a diversity of planning engagements including housing elements, specific plans, master plans, zoning code updates, and general plan updates. Jen's experience includes analysis and approvals of complex entitlement projects, housing code and fee updates, grant programs, environmental review, and project management. At LWC, she assists municipal, non-profit, real estate development, and academic clients seeking feasible and implementable solutions to land use planning and correlated issue.



Spencer Johnson, CNU-A | Associate

Spencer focuses on long range planning, zoning code updates, land use economics, and urban and graphic design. He has experience on a wide range of projects, including hybrid and form- based codes, short-term rental analyses, affordable housing design, specific plans, and market analyses. He is actively engaged in the CNU as an Accredited Professional and in APA as the Membership Inclusion Officer for the California Central Coast.



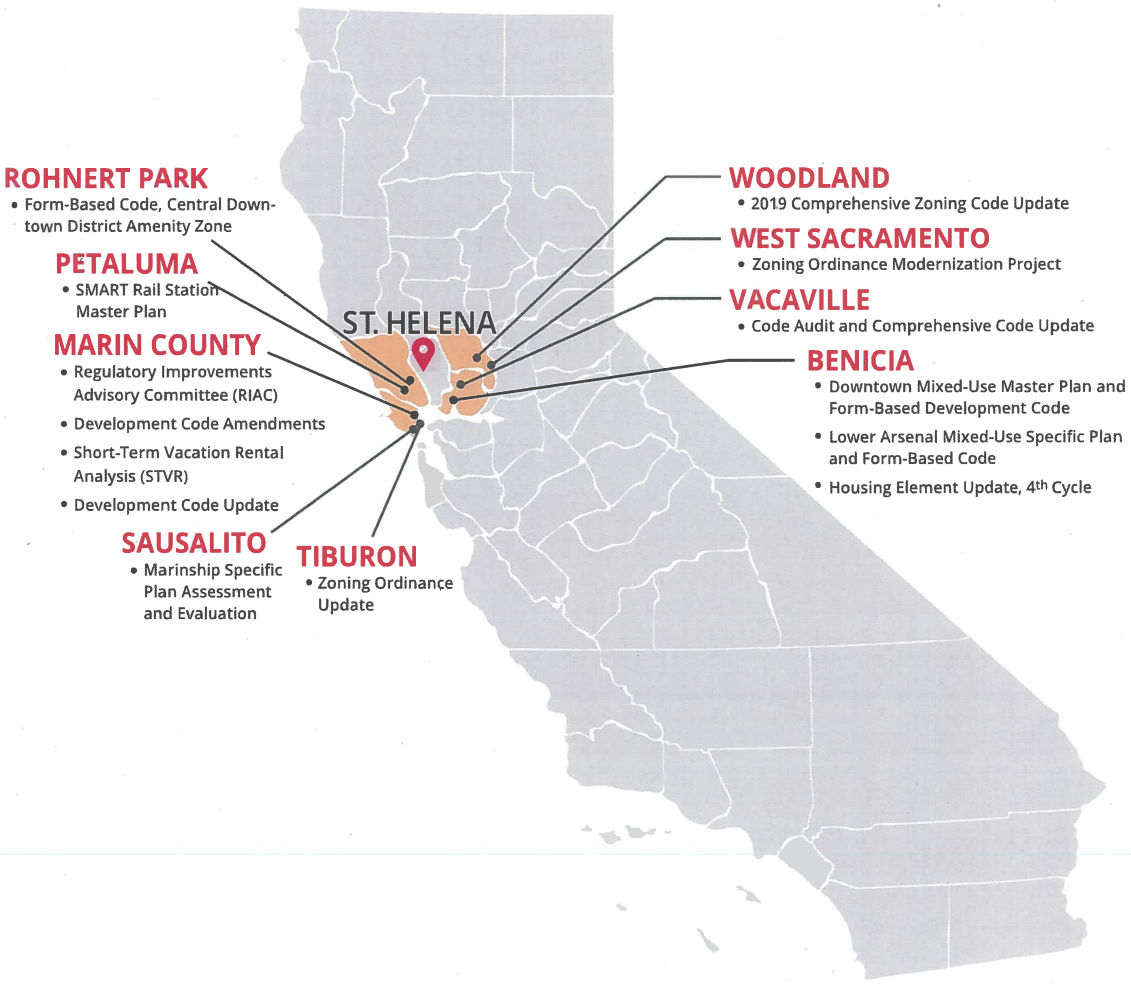
Kimmie Nguyen, AICP | Associate

Kimmie brings strong public-sector experience in project review and the analysis of use permit entitlements with a focus on implementation of land use policy aimed at achieving community and economic objectives. Kimmie has taken mixed use and affordable housing developments through the approval process and participated in the review and approval of zoning code amendments and Transit Oriented Development station area plans. She has a keen sense of how urban design affects the user experience and how to apply a holistic approach.

LWC

RELATED PROJECT EXAMPLES AND REFERENCES

Relevant Projects



RELATED PROJECT EXAMPLES AND REFERENCES

Relevant Projects

LWC

COUNTY OF MARIN

Development Code Amendments

STATUS:
Complete

TIMEFRAME:
2016 - 2017

BUDGET:
$41,925

REFERENCE:
Jeremy Tejirian, AICP
Planning Manager
Community Development Agency
3501 Civic Center Drive
Suite 308
San Rafael, CA 94903
(415) 473-3798
JTejirian@marincounty.org

LWC was retained by the County of Marin to complete targeted amendments to the County's Development Code.

The primary purpose of the amendments was to address high priority issues which focused on signage, slaughterhouses and poultry farms, community gardens, camping, and telecommunications. The project began with focused interviews with staff members followed by a preliminary analysis memorandum. Objectives of the Code Amendments were to modernize standards and allowed uses, improve clarity of procedures and requirements, and comply with legal mandates while preserving the character of Marin County..

Working in close consultation with County staff, LWC developed definitions and standards for uses that were previously not addressed in the Development Code.

In addition, LWC conducted a detailed analysis and update of the Sign Code considering the content-neutral standard set by the *Reed v. Town of Gilbert* Supreme Court ruling. Wireless telecommunications facilities standards were also revised to comply with updated legal requirements, including FCC shot clock standards.

Each of the amendments was adopted, concurrent with staff recommendations, by the Marin County Board of Supervisors.

COUNTY OF MARIN



RELATED PROJECT EXAMPLES AND REFERENCES

Relevant Projects

LWC

CITY OF WEST SACRAMENTO

Zoning Modernization Project

STATUS:
Adopted

TIMEFRAME:
2016 - 2019

BUDGET:
$233,000

REFERENCE:
David Tilley
Principal Planner
City of West Sacramento
1110 West Capitol Avenue,
2nd Floor
West Sacramento, CA
95691
(916) 617-4645
davidt@
cityofwestsacramento.org

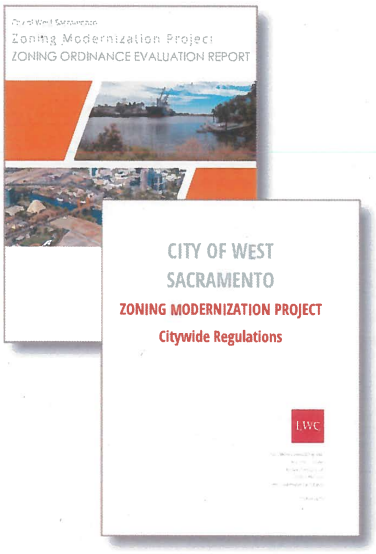
PARTNER:
RRM Design Group

LWC prepared a comprehensive update to the City's Zoning Ordinance. The Zoning Ordinance, originally written in 1990, had been amended numerous times, but had not been comprehensively updated. As land use patterns diversified and modernized, the City found that the Zoning Ordinance was hindering new objectives and economic development.

The Zoning Ordinance Modernization Project (ZOMP) brings the code up to date, adequately reflecting modern uses and current development practices. The ZOMP also provides consistency with the recently adopted General Plan.

In modernizing land use regulations LWC has taken an innovative approach, particularly with the Industrial District where the focus was to balance the viability of industrial development as an employment base and new and emerging economies. New, non industrial uses, such as craftsman or artisan spaces, restaurants, entertainment, retail, and office uses, were allowed in the Industrials to support creative employment areas and a hub for innovation and information sharing.

The Zoning Ordinance will be published in an interactive format on-line through EnCodePlus. Features include hyperlinked cross references; eReader viewer and printer; connection to an interactive GIS Zoning map; build calculators for parking, landscaping and signage; and document archiving.





RELATED PROJECT EXAMPLES AND REFERENCES

Relevant Projects

LWC

CITY OF VACAVILLE

Land Use and Development Code Audit

STATUS:
Complete

TIMEFRAME:
November 18 - March 2019

BUDGET:
$74,000

REFERENCE:
Fred Buderi
City Planner
City of Vacaville
Community Development Department
650 Merchant Street
Vacaville, CA 95688
(707) 449-5307
fred.buderi@cityofvacaville.com

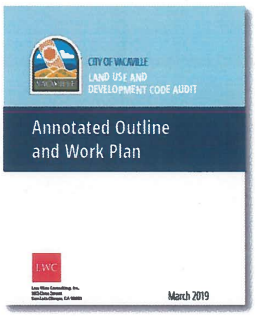


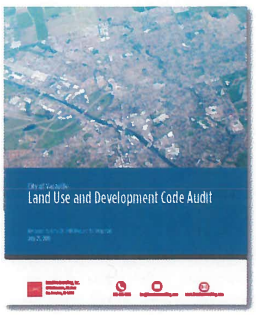
LWC completed an audit of the City of Vacaville's Land Use and Development Code, the first phase of a two-phase effort to comprehensively update the Code and repurpose it as a flexible, effective, user-friendly tool to implement the General Plan. The objective was to produce a user-friendly set of regulations that provide clear direction about the City's expectations and to facilitate development of quality projects by making standards clear and effective, streamlining review processes, and incorporating flexibility to adapt to specific circumstances.

Vacaville's Land Use Development Code was last updated in 1996 and has seen many amendments. While this approach worked in the short-term, it has led to inconsistencies, omissions and duplications. These shortcomings have made the code difficult to use and interpret and have not generated the kind of development that Vacaville has targeted for the future. The City identified addressing these deficiencies as part their 2015 General Plan Update by updating their development code as a priority project. The City Council's vision for the code update emphasized local economic development and attracting high quality projects. The vision went further to identify key goals of Phase 1 (Land Development Code Audit) and Phase 2 (Comprehensive Code Update):

- Flexibility
- Compliance
- Prioritized efforts
- Pinpoint chapters in the General Plan that require updating
- Improved organization and structure
- A detailed, feasible and logical workplan

The Land Use and Development Code Audit identified items for improvements, recommended changes to be made; presented a state-of-the-art organization, form, and style for a new code; and established a work plan a comprehensive update. The second phase, the Code update, is underway.





RELATED PROJECT EXAMPLES AND REFERENCES

Relevant Projects

LWC

CITY OF WOODLAND

2019 Comprehensive Zoning Code Update

STATUS:
August 2019 - Present

TIMEFRAME:
August 2019 - September 2020

BUDGET:
$358,610

REFERENCE:
Steve Coyle
Director of Community Development
300 First Street
Woodland, CA 95695
(530) 661-5820
Stephen.Coyle@cityofwoodland.org

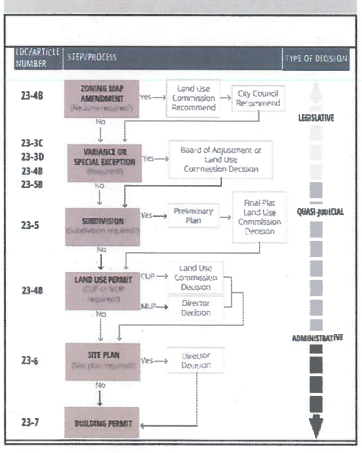
The City of Woodland hired Lisa Wise Consulting, Inc. to update its Zoning Code with a focus on more walkable, complete neighborhoods and corridors in an urban form. The goal of the update is a concise, consistent and user-friendly code that implements the vision established in the *2035 General Plan* and replaces the Interim Zoning that was adopted as an urgency ordinance in 2018.

Much of the new opportunities for new single-family residential within the Woodland's boundaries have been developed, and the emphasis for the new code is to enable and incentivize future development in specific planned neighborhoods, future annexed lands and infill sites as well as mixed use and redevelopment. The update will also focus on modernizing and streamlining the blueprint for the future of the City's large and diverse industrial sector and older commercial development.

The project builds on LWC's participation in a charette facilitated by the California Chapter of the Congress for New Urbanism in 2017 where the community, City staff, elected officials and civic leaders formulated and confirmed the priorities for the code update.

The Comprehensive Zoning Code Update is funded through the State's recently enacted SB2 Planning Grants Program that is intended to streamline approvals and accelerate housing production.

To satisfy the City's commitment to an open, transparent and collaborative project, LWC worked with the City to develop a Public Outreach Program that includes Planning Commission, City Council and Historic Preservation Commission Study Sessions, Focus Area Workshops and a project web page.





PROPOSED BUDGET

St. Helena, California Zoning Code Update		LWC								TOTAL	
		Principal $275		Director $205		Senior $180		Associate $145			
		Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost
TASK 1	BACKGROUND REVIEW AND TECHNICAL ANALYSIS	10	$ 2,750	64	$ 13,120	20	$ 3,600	48	$ 6,960	142	$ 26,430
TASK 2	PUBLIC OUTREACH	8	$ 2,200	120	$ 24,600	40	$ 7,200	80	$ 11,600	248	$ 45,600
TASK 3	PRELIMINARY DRAFT REGULATIONS BY PHASE	8	$ 2,200	120	$ 24,600	52	$ 9,360	88	$ 12,760	268	$ 48,920
TASK 4	PUBLIC REVIEW DRAFT ZONING CODE	12	$ 3,300	60	$ 12,300	80	$ 14,400	120	$ 17,400	272	$ 47,400
TASK 5	ENVIRONMENTAL REVIEW/CEQA DOCUMENTATION	-	$ -	12	$ 2,460	-	$ -	24	$ 3,480	36	$ 5,940
TASK 6	PUBLIC REVIEW AND ADOPTION; FINAL ZONING CODE	8	$ 2,200	60	$ 12,300	30	$ 5,400	40	$ 5,800	138	$ 25,700
	TOTAL BASE FEE	46	$ 12,650	436	$ 89,380	222	$ 39,960	400	$ 58,000	$ 1,104	$ 199,990

TASK 7	Optional Task-Handbooks and Handouts	
TASK 7.A	Zoning Handbook	$ 50,000
TASK 7.B	Infill Guidelines Handout	$ 25,000
TASK 7.C	Objective Standards for Multi-family Development Handout	$ 45,000
	TOTAL OPTIONAL TASKS	120,000
	TOTAL BASE FEE PLUS OPTIONAL TASKS	$ 319,990

APPENDIX
Resumes

LWC

MARTHA MILLER, AICP
Director

Martha Miller has over 16 years experience as a land use planner and project manager specializing in development regulations, specific plans, master plans, transit-oriented development strategies, and community engagement. Her experience as a public sector planner, where she managed comprehensive community plan updates, subdivisions plans, and development and entitlement projects brings a unique and valuable perspective to LWC. Martha's strength is leading complex projects with multiple subconsultants on technical ordinances for industrial land use regulations, landscaping, hillsides, parking, sustainability, planned development, and community benefits. Martha's approach to making better cities is marked by a careful assessment of client needs and available resources, and bringing best practices from form-based, performance-based, and Euclidean applications.



Relevant Project Experience:

- Alameda County, CA, Castro Valley General Plan Implementation
- El Monte, CA, Comprehensive Zoning Ordinance and Citywide Design Guidelines Update
- Fresno, CA, Development Code Update
- Goleta, CA, New Zoning Ordinance and Coastal Implementation Plan
- Hayward, CA, Industrial District Regulations Update
- Hayward, CA, Form-Based Codes Update
- Honolulu, HI, Transit Oriented Development Land Use Ordinance Amendments
- Lake Tahoe, CA, Tahoe Region Local Planning Implementation
- Morro Bay, CA, Comprehensive Zoning Code and Coastal Implementation Plan Update
- Mammoth Lakes, CA, Commercial Districts Development Standards
- Newark, CA, Comprehensive Zoning Ordinance Update
- Placer County, CA, Area Plan and Implementing Ordinance
- Porterville, CA, Development Code Update
- Pomona, CA, Zoning and Subdivision Code Update
- Princeton, San Mateo County, CA, General Plan, Zoning, and Local Coastal Plan Update
- San Carlos, CA, Zoning Ordinance Update
- San Gabriel, CA, "Greening the Code" Zoning Amendments
- Santa Barbara, CA, New Zoning Ordinance
- South San Francisco, CA, Zoning Ordinance Update
- West Hollywood, CA, Norma Triangle Neighborhood Overlay District and Design Guidelines
- West Sacramento, CA, Zoning Modernization Project
- Yuba County, CA, Development Code Update

PAST WORK EXPERIENCE

California Polytechnic State University
San Luis Obispo, CA, Lecturer, 2017 - Present

RRM Design Group
San Luis Obispo, CA, Principal Planner, 2015 - 2017

Dyett & Bhatia Urban and Regional Planners
San Francisco, CA, Principal, 2008 - 2015

San Luis Obispo County
San Luis Obispo, CA, Senior Planner, 2004 - 2008
Planner, 2000 - 2003

Sapphos Environmental
Pasadena, CA, Urban Planner/Environmental Analyst, 2003 - 2004

EDUCATION

California Polytechnic State University
San Luis Obispo, CA, Master of City & Regional Planning

Purdue University
West Lafayette, IN, B.S. Industrial Engineering

CERTIFICATIONS & MEMBERSHIPS

American Institute of Certified Planners
2004 - Present

American Planning Association
2002 - Present
California Central Coast San Luis Obispo Subsection Director (2015 - 2017)

AWARDS

American Planning Association, 2014
Los Angeles Section Award, San Gabriel "Greening the Code"

SCAG Sustainability Award, 2014
San Gabriel "Greening the Code"

APPENDIX

Resumes

LISA WISE, AICP

President, Owner

LWC

As a certified planner and public accountant, Lisa has over 30 years of experience in zoning code updates, land use economics, housing policy, financial feasibility analysis, and the management of complex projects. Lisa is considered a national expert on code reform and housing policy and presents on the topics regularly at State and National APA, League of California Cities, ULI, and the New Partners for Smart Growth conferences. Lisa recently received the CNU Paul Crawford award for Excellence in Planning. She is the former Chair and currently serves on the Steering Committee of the Form Based Code Institute, as adjunct faculty and lectures on Urban Planning and Real Estate Finance at California Polytechnic State University in San Luis Obispo and on the Dean's Leadership Council.

Lisa has been directly responsible for a breadth of large-scale projects that assess land use policy and economic performance, and ultimately make recommendations for more vibrant and resilient communities. These include 34 code updates, 35 economic projects, 23 master and specific plans, 20 housing elements, and several inclusionary and employee housing studies.

Prior to starting LWC in 2006, Lisa worked for land use planning firm Crawford, Multari & Clark Associates. From 1990 to 1999, Lisa was a Manager at PricewaterhouseCoopers (PwC), one of the "Big Four" international accounting, financial services and management consulting firms. At PwC, Lisa's responsibilities included managing large financial services engagements, building client relationships, mentoring staff, and teaching in-house classes.

Relevant Project Experience:

- Alameda County, CA, Ashland Cherryland Business District Specific Plan Update and Form Based Code
- Austin, TX, Land Development Code Update
- Benicia, CA, Mixed-Use Master Plan and Form Based Code
- Beverly Hills, CA, Economic Sustainability Plan
- Cincinnati, OH, Neighborhood Annexation Form Based Code Study
- Flagstaff, AZ, Zoning Ordinance Update
- Grover Beach, CA, Zoning Code Update and West Grand Ave. Master Plan
- Hayward, CA, Downtown Specific Plan and Form Based Code
- Kingsburg, CA, Development Code Update, Form Based Code, and Economic Study
- Las Vegas, NV, Downtown Form-Based Code
- Livermore, CA, Development Code Update
- Lompoc, CA, Zoning Code Update
- Long Beach, CA, Short Term Rental Housing Program and Regulations
- Malibu, CA, Zoning Code and Local Implementation Plan Update
- Mesa, AZ, Form Based Code and Regulating Plan
- Petaluma, CA, SMART Rail Station Areas: TOD Master Plan
- Richmond, CA, Livable Corridors Plan and Form Based Code
- San Luis Obispo, CA, Economic Development Strategic Plan
- Soledad, CA, Downtown Specific Plan, Vision, and Form Based Code
- Tehachapi, CA, Zoning Code Update, Housing Element 4th/5th Cycle
- Westerville, OH, Zoning Code Update



PAST WORK EXPERIENCE

California Polytechnic State University
San Luis Obispo, CA, Adjunct Faculty, 2002 - Present

Crawford, Multari & Clark Associates
San Luis Obispo, CA, Professional Consultant, 2001 - 2006

San Luis Obispo County
San Luis Obispo, CA, Staff Planner, 2000 - 2001

Governor's Office of Planning & Research
Sacramento, CA, Intern, 1999 - 2000

PricewaterhouseCoopers, LLP
New York, NY, Financial Services Manager, 1990 - 1999

EDUCATION

California Polytechnic State University
San Luis Obispo, CA, Master of City & Regional Planning, 2001

DePaul University
Chicago, IL, M.S. Accountancy, 1990

University of Cincinnati
Cincinnati, OH, B.S. Business Administration in Marketing & Finance, 1987

CERTIFICATIONS & MEMBERSHIPS

American Planning Association (APA)
2001 - Present

Certified Public Accountant, 1991

Congress for New Urbanism
2003 - Present
Paul Crawford Award for Excellence in Planning, 2017

Form-Based Code Institute
Chair, 2015 - 2018; Treasurer, 2014 - 2015

Dean's Leadership Council
California Polytechnic, School of Architecture
2018-Present

APPENDIX
Resumes

LWC

KATHRYN SLAMA
Senior Associate

Kathryn has over seven years of hands-on zoning code, housing, station area planning, and project management experience, and is the Senior in charge of LWC's Los Angeles office. Kathryn leads the team on detailed policy and regulatory analysis, formulation of implementation strategies, housing policy, and streamlined and compliant zoning codes. Kathryn has worked with communities large and small across the country to reach consensus on priorities and develop strategies to clarify, streamline, and modernize development codes, with a focus on economic revitalization, resilience, and enabling well-designed places to live, shop, and do business. At LWC, Kathryn has managed technical analysis and code engagements, in Alameda County, Austin TX, Las Vegas, NV, Hayward, Hermosa Beach, Livermore, Long Beach, and Malibu, CA.

Kathryn holds a Bachelor of Arts degree in Environmental Studies from University of California, Santa Barbara and a Master of City and Regional Planning degree from California Polytechnic University, San Luis Obispo, where she graduated at the top of her class. Kathryn brings strong writing and graphic skills, and a fresh perspective on technical planning theory, and practice to the firm.

Relevant Project Experience:

- Alameda County, CA, Ashland Cherryland Business District Specific Plan Update and Form Based Code
- Alameda County, CA, Castro Valley General Plan Implementation, Zoning Code Update, and Specific Plan
- Austin, TX, Land Development Code Update
- Burbank, CA, Mixed Use Development Standards Ordinance
- Calipatria, CA, Zoning Ordinance Update
- Hayward, CA, Downtown Specific Plan and Form-Based Code
- Hayward, CA, Form-Based Codes Update
- Hermosa Beach, CA, General Plan Update
- Kaua'i County, West Kaua'i Form Based COde
- Las Vegas, NV, Downtown Master Plan
- Lompoc, CA, Zoning Code Update
- Long Beach, CA, Zoning Code Audit
- Malibu, CA, Zoning Code and Local Implementation Plan Update
- Pacific Grove, CA, Development Code Update
- Rancho Cucamonga, CA, North Eastern Sphere Annexation Project
- San Luis Obispo County, CA, Oceano Revitalization Plan
- Soledad, CA, Downtown Specific Plan, Vision, and Form Based Code
- Tehachapi, CA, Zoning Ordinance Update



PAST WORK EXPERIENCE

California Polytechnic State University
San Luis Obispo, CA, Teaching Assistant
January 2013 - June 2013

City of Clearlake, CA
Graduate Student Planner
September 2012 - June 2013

City of Carpinteria, CA
Graduate Student Planner
March 2012 - June 2012

EDUCATION

California Polytechnic State University
San Luis Obispo, CA, Master of City & Regional Planning

University of California, Santa Barbara
B.A., Environmental Studies

CERTIFICATIONS & MEMBERSHIPS

American Planning Association
2011 - Present

Cal Poly Graduate Student Planning Association
2011 - 2013

APPENDIX

Resumes

JEN DAUGHERTY, AICP

Senior Associate

LWC

At LWC, Jen focuses on managing complex long-range planning projects, developing projections, and assuring LWC's deliverables exceed client expectations and are submitted on time and within budget. Jen has ten years of public sector experience in a diversity of planning engagements including specific plans, master plans, zoning code updates, and housing elements. While at LWC, Jen has been the Project Manager for several technical analysis and code projects, including projects in Lompoc, Vallejo, and Westerville, OH. She holds a Master of Business Administration from Indiana University and Bachelor of Arts degrees in Environmental Studies and Geography from University of California, Santa Barbara. Jen combines her MBA and public sector experience for a strategic and balanced approach to planning and the economics of land use.

Jen's experience includes analysis and approvals of complex entitlement projects, housing element updates, housing code and fee work, grant programs, environmental review, and project management. In Lompoc, Jen worked closely with the community, City staff, and City legal counsel to craft the award-winning Lompoc Sign Code, which was adopted unanimously in December 2016.

Jen has strong public engagement skills and experience grounded in maintaining open lines of communication, raising public awareness, and building relationships aimed at feasible implementation strategies.

Relevant Project Experience:

- Local Government Commission, Local Funding Guidebook
- Lompoc, CA, Zoning Code Update
- Mammoth Lakes, CA, Clearwater Specific Plan Concept Review
- Mammoth Lakes, CA, General Plan Update
- Mammoth Lakes, CA, Sign Ordinance Update and Negative Declaration
- Mammoth Lakes, CA, Snowcreek Master Plan Update
- Mammoth Lakes, CA, Zoning Code Update
- Marin County, CA, Code Amendments
- Moraga, CA, Downtown Specific Plan Implementation
- Paso Robles, CA, Beechwood Specific Plan
- Rancho Cucamonga, CA, Pro Forma Development for the North Eastern Sphere Annexation Specific Plan Transfer of Development Rights Analysis
- San Pablo, CA, Priority Development Area Implementation Plan
- Tehachapi, CA, Oak Tree Village Specific Plan
- University of Hawaii Infrastructure Master Plan Financial Analysis
- Vallejo, CA, Zoning Code Update
- Westerville, OH, Zoning Code Update



PAST WORK EXPERIENCE

Town of Mammoth Lakes, CA
Senior Planner
March 2014 - August 2015

Town of Mammoth Lakes, CA
Associate Planner
December 2007 - February 2014

Town of Mammoth Lakes, CA
Assistant Planner
June 2006 - November 2007

EDUCATION

Indiana University
Bloomington, IN, Master of Business Administration, 2015

University of California, Santa Barbara
B.A., Environmental Studies, 2004
B.A., Geography, 2004

CERTIFICATIONS & MEMBERSHIPS

American Institute of Certified Planners
2015 - Present

American Planning Association
2013 - Present

Association of Environmental Professionals
2013 - Present

APPENDIX
Resumes

LWC

SPENCER JOHNSON, CNU-A
Associate Planner / Designer

Spencer specializes in long-range planning, urban and graphic design, hybrid codes, land use economics, and developing deliverables that cater to the client's needs. He works closely with the LWC team, subconsultant partners, and clients to develop graphics, conduct research, and produce effective reports and facilitate training and community engagement efforts. Spencer brings strong technical expertise in graphic design and modeling software (Adobe Creative Suite and SketchUp) and participates in all aspects of LWC projects from initiation to completion.

Spencer has served as Deputy Project Manager on several LWC projects, including the Las Vegas Downtown Form-Based Code and Henderson, NV Development Code Update, where he helped facilitate formal educational activities, and documented and analyzed development patterns and conditions in key corridors, and nodes. In May 2018, Spencer earned the Congress for New Urbanism accreditation (CNU-A) through the University of Miami School of Architecture and he currently serves as the Membership Inclusion Officer of the American Planning Association (APA), California Central Coast Chapter.

Prior to LWC, Spencer worked at the San Francisco-based urban design and architecture firm, Van Meter Williams Pollack LLP (VMWP) where he assisted in the design of several TOD and affordable housing projects around the Bay Area. Spencer holds a Bachelor of Science degree in City & Regional Planning from California Polytechnic State University, San Luis Obispo.

Relevant Project Experience:

- Austin, TX, Land Development Code Update
- Compton, CA, Artesia Station Transit-Oriented Development Specific Plan
- Hayward, CA, Downtown Specific Plan and Code
- Henderson, NV, Development Code Update
- Las Vegas, NV, Downtown Form-Based Code
- Lompoc, CA, Zoning Code Update
- Marin County, CA, Code Amendments
- Marin County, CA, Short-Term Vacation Rentals Report
- Paso Robles, CA, Beechwood Specific Plan
- San Luis Obispo, CA, San Luis Ranch Specific Plan
- Seaside, CA, General Plan Update Market Report
- Tehachapi, CA, Oak Tree Village Specific Plan
- Tempe, AZ, Transportation Overlay District Code Update
- Vallejo, CA, Zoning Code Update
- Westerville, OH, Zoning Code Update



PAST WORK EXPERIENCE

Van Meter Williams Pollack LLP
San Francisco, CA, Intern, Urban Design
January 2015 - September 2015

Northern Tool & Equipment
Faribault, MN, Intern, Design Engineering
June 2014 - August 2014

California Polytechnic State University
San Luis Obispo, CA, Event Planner
August 2013 - June 2016

EDUCATION

California Polytechnic State University
San Luis Obispo, CA, B.S., City & Regional Planning

CERTIFICATIONS & MEMBERSHIPS

Congress for New Urbanism
Accredited Professional, 2018 - Present

American Planning Association
Membership Inclusion Officer, CA Central Coast, 2018 - Present
Member, 2015 - Present

California Polytechnic State University
'Best Collaborator' Designation
Associated Students in Planning, Vice President, 2013 - 2014

League of American Bicyclists
Bicycle Friendly Communities Gold Rating Contributor for San Luis Obispo

APPENDIX

Resumes

KIMMIE NGUYEN, AICP

Associate

LWC

Kimmie supports LWC's long-range planning efforts through policy regulatory frameworks and spatial data analysis, and production of client deliverables and outreach materials. Kimmie brings strong public-sector experience in project review and analysis of use permit entitlements with a focus on implementation of land use policy aimed at achieving community objectives and economic and fiscal feasibility. She has has a keen sense of how urban design affects the user experience and how to apply a holistic approach, taking into account building mass, setbacks, façade design, sidewalks and streetscapes. Kimmie has excellent written and spoken communication skills, and is adept at managing correspondence with clients and government agencies, or taking meticulous field notes from stakeholder interviews, workshops, and public meetings.

Prior to LWC, Kimmie was a Planner at Sonoma County, where she reviewed and processed affordable housing developments, design review projects, and zoning code amendments. She also served as a staff liaison to the County's Landmarks Commission, overseeing grant programs to preserve and rehabilitate historic resources. She has also worked in Los Angeles Metro's Planning Division to establish standardized station design elements. Kimmie holds a Bachelor of Science in Urban and Regional Studies and a Minor in Architecture from Cornell University, and a Master of Planning from University of Southern California, Price School of Public Policy.

Relevant Project Experience:

- Alameda County, CA, Castro Valley General Plan Implementation
- Arlington, MA, Sign Regulations Update
- Buena Park, CA, City Yard Form-Based Code
- Grover Beach, CA, Parking Regulations Update
- Half Moon Bay, CA, Poplar Beach Gateways Plan
- Hayward, CA, Industrial District Regulations Update
- Los Angeles County, CA, Metro Purple Line Extension and Regional Connector Station Area Plans
- Morgan Hill, CA, Freeway Oriented Sign Ordinance and Design Guidelines
- Morro Bay, CA, Comprehensive Zoning Code and Local Coastal Implementation Plan Update
- Orange, CA, Comprehensive Sign Code Update
- Portland, ME, Comprehensive Sign Code Update
- Sonoma County, CA, Roseland Village Mixed-Use Development Plan
- Vacaville, CA, Land Use and Development Code Audit
- West Sacramento, CA, Zoning Modernization Project



PAST WORK EXPERIENCE

County of Sonoma
Planner I
November 2016 - November 2017

Los Angeles County Metropolitan Transportation Authority
Intern, Systemwide Planning & Design
January 2016 - November 2016

City of West Hollywood
Intern, Current & Historic Preservation Planning
January 2015 - February 2016

City of Buena Park
Intern, Planning Division
May 2011 - August 2011

EDUCATION

University of Southern California
Master of Planning

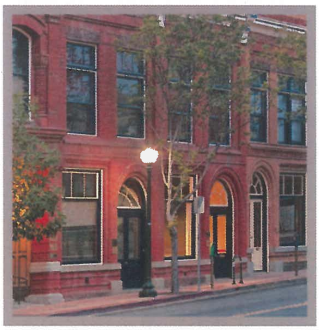
Cornell University
B.S, Urban and Regional Studies
Minor, Architecture

MEMBERSHIPS

American Institute of Certified Planners
2019 - Present

American Planning Association (APA)
2014 - Present

This page intentionally left blank.



SAN LUIS OBISPO



SAN FRANCISCO



LOS ANGELES

LISAWISECONSULTING.COM | (805) 595 1345

AMENDMENT #1

TO PROFESSIONAL SERVICES AGREEMENT WITH LISA WISE CONSULTING; STH CONTRACT NO: 2020-049 FOR ZONING AND GENERAL PLAN BASE MAPS IN ASSOCIATION WITH THE ZONING CODE UPDATE FOR AN ADDITIONAL $17,369 FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED $337,359.

This First Amendment to Professional Services Agreement City of St. Helena STH Contract: FY 2020-049 with Lisa Wise Consulting (LWC) dated November 12, 2019 ("Agreement") is made as of this ____ day of December, 2021 by and between the City of St. Helena and LWC.

RECITALS

A. On November 12, 2019, The City of St. Helena and LWC entered into an agreement to prepare a comprehensive update to the zoning code; and

B. In assessing the creation of new zoning districts identified in the new code, there is a need to concurrently amend the zoning base map and general plan base maps to make sure there is internal consistency between the new code, the general plan map, and zoning map; and

C. The City of St. Helena desires to have an accurate zoning map consistent with the scope of services in Exihibit A, upon adoption of the new zoning code in 2022; and

D. The City of St. Helena and LWC now desire to amend the Agreement for an additional $17,369 and extend the term of the contract to December 1, 2022 for any post adoption coordination needs.

AGREEMENT

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

1. Section 4.A. Compensation, is amended to read as follows:

   "Subject to any limitations set forth in this Agreement, City agrees to pay consultant the additional amount specified in Exhibit A, Scope of Services, attached hereto and made a part hereof. Total compensatation shall not exceed $337,359."

2. Section 3. Time for Completion, is replaced as follows:

   "The time for completion of services shall be through December 1, 2022. The parties expressly agree that time is of the essence in the performance of this Agreement."

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

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.

LISA WISE CONSULTING

By: _____

Print Name: Henry Pontarelli

Title: Vice President, Secretary

APPROVED AS TO FORM:

_____

Ethan Walsh, City Attorney, St. Helena

CITY OF ST. HELENA
a Municipal Corporation

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

ATTEST:

_____
City of St. Helena City Clerk
Cindy Tzafopolous

LWC

EXHIBIT A

MEMO

To: Maya DeRosa, Planning and Building Director, St. Helena

From: Lisa Wise Consulting, Inc. (LWC)

Date: November 18, 2021

Subject: **Proposed Scope of Work; Zoning Map Update Task**

Scope of Work

This Scope of Work describes the work needed to update the City of St. Helena's Citywide zoning map in GIS to identify zoning at a parcel level. The zoning map and associated GIS files are the deliverables for this task and will be generated based on the most current GIS zoning data in ESRI ArcMap format provided to LWC by the City from Napa County by the end of December 2021 and based on the CA State Plane coordinate system and will include basic metadata.

LWC will prepare an Administrative Draft zoning map (Task 1) that will be submitted to City staff on or before January 21, 2022. LWC will revise the map based on a single set of consolidated, non-conflicting comments from the Subcommittee and City staff, and submit a Public Review Draft zoning map (Task 2). LWC will not attend a subcommittee meeting on the Zoning Map. After review and adoption by the Planning Commission and City Council as part of the adoption of the Zoning Code Update, a Final zoning map will be submitted accompanied by a memo outlining the task deliverable (Task 3).

LWC will also participate in up to three one-hour calls to discuss map edits with City staff (Task 4). LWC will submit the Final map and associated GIS files to City staff in an ESRI ArcMap GIS format.

LWC assumes the following:

- The data from Napa County will be complete and accurate. This includes parcels, zoning designations, the City boundary, urban limit line, roadways, and water bodies. The City will conduct any necessary coordination with the County to ensure LWC has copies of the latest and most accurate information.
- The City will provide the information required for LWC to map the locations of parcels to be included in the overlay zones, including the Historic Preservation Overlay (to be identified by base zone with -HP suffix).

The Zoning Map Update Task will focus on the following items:

- The Zoning Map will identify the geographies of the base zoning districts that are applied to parcels within the City. These mapped base zoning districts will reflect conformity with the General Plan (GP) and the anticipated zoning designations currently being developed in the

Zoning Code update. Table 2 below aligns the GP land use designations, existing base zoning designations, and the anticipated new base zoning designations.

- In order to complete the Zoning Map as described above, LWC will generate a new GP land use designation data layer in GIS to ensure the greatest level of accuracy at the parcel level. This GP land use data layer will be included as a deliverable to the City.
- In addition to the proposed base zoning designations, the Zoning Map will identify the geographies of the Floodplain Overlay, Mobile Home Overlay, Parking Impact Overlay, PD Overlay(s), Historic Preservation Overlay (pending additional information on where this overlay will be applied from the City), and the Highway 29 Specific Plan.

Products: Final Citywide Zoning Map with memo and associated files will be submitted in ESRI ArcMap and PDF formats; the GP land use map will be submitted in ESRI ArcMap format; the Administrative Draft and Public Review Draft Zoning Maps will be submitted in PDF format.

Budget

The proposed budget in Table 1 (updated with LWC's 2022 fees) to deliver the task deliverables (Zoning Map, memo, and associated GIS files) will not exceed $17,369. LWC also recommends a contingency based on the complexity of the work and the potential need for additional meetings. LWC will complete the work comprehensively and in alignment with any applicable City guidelines.

Table 1: Budget with 2022 Rates

Task	Fee
Task 1: Administrative Draft Zoning Map	$8,940
Task 2: Public Review Draft Zoning Map	$3,020
Task 3: Final Zoning Map, Memo, and Associated GIS Files	$2,045
Task 4: Meetings with City Staff	$1,785
Base Fee	$15,790
Contingency (10%)	$1,579
Total Fee	**$17,369**

Table 2: Translation Between General Plan Land Use Designation, Existing Base Zone, and Anticipated Base Zone

GP LAND USE DESIGNATION	EXISTING BASE ZONING DESIGNATIONS	ANTICIPATED BASE ZONING DESIGNATIONS
Agriculture	Twenty-Acre Agriculture (A-20)	Twenty-Acre Agriculture (**A-20**)
	Winery (W)	Winery (**W**)
Woodlands and Watershed	Woodlands and Watershed (WW)	Woodlands and Watershed (**WW**)
Low Density Residential	Low Density Residential (LR) Low Density Residential One Acre Minimum (LR-1A)	Low Density Residential (**LR**)
Medium Density Residential	Low Density Residential (LR) Medium Density Residential (MR) High Density Residential (HR)	Medium Density Residential (**MR**)
High Density Residential	Medium Density Residential (MR) High Density Residential (HR)	High Density Residential (**HR**)
Mixed-Use	Service Commercial (SC) Central Business (CB) Business and Professional Office (BPO)	Mixed-Use (**MU**)
Central Business	Central Business (CB) Parks and Recreation (PR)	Central Business (**CB**)
Service Commercial	Service Commercial (SC)	Service Commercial (**SC**)
Office	Business and Professional Office (BPO)	Business and Professional Office (**BPO**)
Industrial	Industrial (I)	Industrial (**I**)
Public and Quasi-Public	Public and Quasi-Public (PQP) Twenty-Acre Agriculture (A-20) Business and Professional Office (BPO)	Public and Quasi-Public (**PQP**)
Parks and Recreation	Parks and Recreation (PR)	Parks and Recreation (**PR**)
Open Space	Open Space (OS)	Open Space (**OS**)

CITY OF ST. HELENA

RESOLUTION NO 2021-

AUTHORIZING: AMENDMENT #1 FOR PROFESSIONAL SERVICES AGREEMENT WITH LISA WISE CONSULTING (LWC); STH CONTRACT NO: 2020-049 FOR ZONING AND GENERAL PLAN BASE MAPS IN ASSOCIATION WITH THE ZONING CODE UPDATE FOR AN ADDITIONAL $17,369 FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED $337,359.

This First Amendment to Professional Services Agreement STH Contract: FY 2020-049 dated November 12, 2020 ("Agreement") is made as of this ____ day of December, 2021 by and between the City of St. Helena and Lisa Wise Consulting (LWC).

RECITALS

A. On November 12, 2019, The City of St. Helena and LWC entered into an agreement to prepare a comprehensive update to the zoning code; and

B. In assessing the creation of new zoning districts identified in the new code, there is a need to concurrently amend the zoning base map and general plan base maps to make sure there is internal consistency between the new code, the general plan map and zoning map; and

C. The City of St. Helena desires to have an accurate zoning map consistent with the scope of services attached to the Professional Service Agreement, upon adoption of the new zoning code in 2022; and

D. The City of St. Helena and LWC now desire to amend the Agreement for an additional $17,369 and extend the term of the contract to December 1, 2022 for any post adoption coordination needs.

RESOLUTION

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows: 1. Authorizes the City Manager to execute Amendment No. 1 to STH Contract: FY2020-049 in the amount of $17,369 with LWC for a total contract amount not-to-exceed $337,359.

Approved at a Regular Meeting of the St. Helena City Council on December 14, 2021, by the following vote:

Mayor Ellsworth: _____

Vice Mayor Dohring: _____

Councilmember Chouteau: _____

Councilmember Hardy: _____

Councilmember Hall: _____

APPROVED: ATTEST:

_____ _____

Geoff Ellsworth, Mayor Cindy Tzafopoulos, City Clerk

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **CONSENT ITEMS**

Subject: **Receive and File FY 2020-21 Annual AB 1600 Report on Development Impact Fees.**

CEQA Determination: **Not a CEQA project**

Prepared By: Mandy Kellogg, Asst. Administrative Services Director

Reviewed By: April Mitts, Administrative Services Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

Cities and counties often charge fees on new development to fund public improvements to mitigate the impact of development activity. These fees are commonly known as development impact fees and are generally collected at the time building permits are issued for residential and commercial construction. Impact fees are established by ordinance and, as required by law, these fees are segregated from the General Fund and accounted for in special revenue funds.

In 1989, the State Legislature passed Assembly Bill 1600 (AB 1600), which added Sections 66000 et seq. to the California Government Code, commonly known as the Mitigation Fee Act. Under AB 1600 the City is required to make available to the public a report on development impact fees. The report must be made available within 180 days of the close of the fiscal year.

This Report Provides: Descriptions of each Development Impact Fee, Amount of the Fee, Beginning and Ending Balances of each Impact Fee Account, Identification of Public Improvements in which Fees were Expended, Schedule for Commencement of Certain Public Improvements to be Funded with Impact Fees, Description of any Interfund Transfer or Loan, and the Amount of Refunds Paid, if any, from Development Impact Fees.

DISCUSSION

The Annual AB 1600 Development Fee Report for Fiscal Year Ending June 30, 2021 was made available to the public on November 28, 2021 (Attachment 1).

Per Section 66006(b)(1) of the California Government Code the annual report must include the following specific reporting requirements:

1. A brief description of the type of development impact fee in the account/fund;
2. The amount of the fee;
3. Beginning and ending balances of the account/fund, the amount of fees collected, and the interest earned;
4. An identification of each public improvement on which fees were expended together with the amount of such expenditures;
5. Information regarding the schedule for commencement of certain public improvements to be funded with development fees;
6. A description of any interfund transfer or loan; and
7. The amount of refunds paid, if any, from a particular fund.

The City of St. Helena development fees covered by AB 1600, and documented in Attachment 1, include the following:

1. Public Safety Impact Fees (pages 1 and 2 of report)
2. Civic Improvement Impact Fees(pages 1 and 3 of report)
3. Park Improvement Impact Fees (pages 1 and 4 of report)
4. Traffic Mitigation Impact Fees (pages 1 and 5 of report)
5. Storm Drain Improvement Impact Fees (pages 1 and 6 of report)
6. Affordable Housing Impact Fees (pages 1 and 7 of report)
7. Water Impact Fees (pages 1 and 8 of report)
8. Sewer Impact Fees (pages 1 and 9 of report)

FISCAL IMPACT

There is no fiscal impact associated with this report.

RECOMMENDED ACTION

Receive and file Annual AB 1600 Development Fee Report for Fiscal Year Ending June 30, 2021.

ATTACHMENTS

2020-2021 AB 1600 REPORT

City of St. Helena
AB1600 Annual Report
Development Impact Fees
Fiscal Year Ended June 30, 2021

Government Code Section 66006 requires local agencies to submit an annual report detailing the status of development impact fees. The annual report must be made available to the public within 180 days of the close of the fiscal year and be presented to the public agency (City Council) at a regularly scheduled public meeting no sooner than 15 days after the report is made available to the public.

This report summarizes the following information for each of the development impact fee programs:

- A brief description of the fee program
- A schedule of fees
- A schedule of projects
- Expenditures by project
- Five-year historical collection and expenditure schedule

The table below shows the activity for each impact fee fund for the fiscal year 2020-2021:

	Public Safety Impact Fund 216	**Civic Improvement Impact** Fund 713	**Park Impact** Fund 734	**Traffic Mitigation Impact** Fund 740	**Storm Drain Improvement** Fund 742	**Affordable Housing** Fund 751	**Water Impact** Fund 764	**Sewer Impact** Fund 774
Beginning Balance, 7/1/20	$ 521,437	$ 716,815	$ 979,598	$ 2,715,793	$ 790,010	$ 479,657	$ 350,333	$ 648,059
Long-term Receivable	$ 61,333	$ -	$ -	$ -	$ -	1,554,516	825,520	162,293
REVENUE								
Interest Earnings	3,522	4,828	6,647	18,312	5,311	3,254	2,360	4,342
Fees Collected	16,527	19,879	54,379	33,414	9,797	106,784	16,238	6,237
Miscellaneous Revenues	-	-	-	-		295	18,164	2,918
Operating Transfers In	-	-	-	-	-	-	-	
TOTAL	**20,049**	**24,707**	**61,025**	**51,726**	**15,109**	**110,333**	**36,762**	**13,497**
EXPENSE/EXPENDITURES								
Non Departmental Expense	6,739	8,573	-	6,739	6,739	1,611,464	6,739	6,739
Transfer to Other Funds*	-	-	53,082	41,711	-	-	-	-
TOTAL	**6,739**	**8,573**	**53,082**	**48,450**	**6,739**	**1,611,464**	**6,739**	**6,739**
Over/(Under) Expenses/Expenditur	13,310	16,135	7,944	3,276	8,370	(1,501,131)	30,023	6,759
Ending Balance, 6/30/21	596,080	732,950	987,542	2,719,069	798,380	533,042	1,205,877	817,110

**See 5-year CIP adopted by City Council on June 23, 2020.*

The City of St. Helena has eight (8) impact fee funds: Public Safety Impact, Civic Improvement Impact, Park Impact, Traffic Mitigation Impact, Storm Drian Improvement, Affordable Housing, Water Impact, and Sewer Impact. Each fee is accounted for in a separate fund within the records of the City of St. Helena.

The following pages discuss each fund in more detail and include a revenue and expenditure summary from 7/1/20 - 6/30/21.

City of St. Helena
AB1600 Annual Report
Development Impact Fees
Fiscal Year Ended June 30, 2021

Public Safety Impact Fee - Fund 216

Description of Fees

Section 22.5 of the City Code establishes this fund to accumulate revenues from fees on building permits to be used solely for equipment and facilities costs for the Police and Fire Departments. Vehicles, capital equipment, and building improvements are approved uses.

Fee Schedule

Category	Fee	Basis
All Development Types	$ 1.26	Square foot

Scheduled Projects

Project	Anticipated Construction Start	Estimated 5-year Project Costs	Total Impact Fees

Expenditure by Project

Project	FY 2020-21 Expenditures	Estimated % of Total Project Funded with Development Fee
	$ -	0.0%

5-Year Collection and Expenditure Schedule

	FY 20/2021	FY 19/2020	FY 18/2019	FY 17/2018	FY 16/2017
Beginning Fund Balance	582,770	485,551	413,657	395,498	353,018
Revenues					
Interest Earnings	3,522	5,319	4,201	2,907	2,041
Impact Fees	16,527	92,033	56,109	17,628	41,193
Operating Transfers In	-	-	12,271	-	-
Total Revenues	$ 20,049	$ 97,352	$ 72,582	$ 20,535	$ 43,234
Expenditures					
Development Impact Fee Study	6,739	133	688	-	754
Police Department Interview Room Remodel	-	-	-	2,376	-
Total Expenditures	$ 6,739	$ 133	$ 688	$ 2,376	$ 754
Revenues over (less than) expenditures	13,310	97,219	71,894	18,159	42,479
Fund Balance, June 30	**596,080**	**582,770**	**485,551**	**413,657**	**395,498**

City of St. Helena
AB1600 Annual Report
Development Impact Fees
Fiscal Year Ended June 30, 2021

Civic Improvement Impact Fee - Fund 713

Description of Fees

This fund is used to accumulate restricted funds from new development's proportionate share of the depreciated replacement of cost of a range of facility types including City Hall, corporation yard facilities, as well as library and recreation facilities.

Fee Schedule

Category	Fee	Basis
New Construction, Additions, Occupancy Changes	$ 2.37	Square foot

Scheduled Projects

Project	Anticipated Construction Start	Estimated 5-year Project Costs	Total Impact Fees

Expenditure by Project

Project	FY 2020-21 Expenditures	Estimated % of Total Project Funded with Development Fee
	$ -	0.0%

5-Year Collection and Expenditure Schedule

	FY 20/2021	FY 19/2020	FY 18/2019	FY 17/2018	FY 16/2017
Beginning Fund Balance	716,815	599,889	626,442	614,652	549,829
Revenues					
Interest Earnings	4,828	7,395	6,341	5,424	3,808
Impact Fees	19,879	137,549	77,790	35,319	61,769
Operating Transfers In	-	-	-	-	-
Total Revenues	$ 24,707	$ 144,944	$ 84,131	$ 40,743	$ 65,577
Expenditures					
Corporation Yard Trailer Rental	1,834	1,862	4,951		
Development Impact Fee Study	6,739	133	688	-	754
General Plan	-	292	9,468	28,954	
Phase I - Feasibility and Visioning Study	-	25,731	7,045	-	-
Transfer to Other Funds (Misapplied Payments)	-	-	88,532	-	
Total Expenditures	$ 8,573	$ 28,018	$ 110,683	$ 28,954	$ 754
Revenues over (less than) expenditures	16,135	116,926	(26,552)	11,790	64,823
Fund Balance, June 30	**732,950**	**716,815**	**599,889**	**626,442**	**614,652**



City of St. Helena
AB1600 Annual Report
Development Impact Fees
Fiscal Year Ended June 30, 2021

Park Impact Fee - Fund 734

Description of Fees

This fund is used to accumulate funds from new or proposed residential development solely for park land acquisition and park improvements.

Fee Schedule

Category	Fee	Basis
Single Family Residential	$ 8.69	Square foot
Multi-Family Residential	$ 14.78	Square foot

Scheduled Projects

Project	Anticipated Construction Start	Estimated 5-year Project Costs	Total Impact Fees
C19-02 Crane Tennis Courts	FY 19/20	$ 250,671	$ 250,671
C19-03 Crane Park Lighting Improvements	FY 19/20	$ 401,611	$ 400,411
C20-03 Skate Park Improvements	FY 19/20	$ 250,000	$ 250,000
C20-04 Baldwin Park Fence & Pathway Repair	FY 19/20	$ 89,100	$ 89,100
C22-01 Jacob Meily Park Upgrades	FY 22/23	$ 125,000	$ 125,000
C22-02 Crane Park Playground Equipment	FY 21/22	$ 250,000	$ 80,000

Expenditure by Project

Project	FY 2020-21 Expenditures	Estimated % of Total Project Funded with Development Fee
C19-02 Crane Tennis Courts	$ 24,508	100.0%
C19-03 Crane Park Lighting Improvements	$ 26,149	99.7%
C20-03 Skate Park Improvements	$ 2,425	100.0%
C20-04 Baldwin Park Fence & Pathway Repair	$ -	100.0%
C22-01 Jacob Meily Park Upgrades	$ -	100.0%
C22-02 Crane Park Playground Equipment	$ -	32.0%

5-Year Collection and Expenditure Schedule

	FY 20/2021	FY 19/2020	FY 18/2019	FY 17/2018	FY 16/2017
Beginning Fund Balance	979,598	960,234	745,701	574,528	372,084
Revenues					
Interest Earnings	6,647	13,163	9,270	5,993	2,982
Impact Fees	54,379	411,746	257,861	165,180	199,462
Operating Transfers In	-	-	-	-	-
Total Revenues	$ 61,025	$ 424,909	$ 267,132	$ 171,173	$ 202,443
Expenditures					
C19-01 Lyman Park Restroom Improvements	-	-	52,598	-	-
C19-02 Crane Park Tennis Courts	26,149	210,434	-	-	-
C19-03 Crane Park Lighting Improvements	24,508	19,753	-	-	-
C20-03 Skate Park Improvements	2,425	167,609	-	-	
C20-04 Baldwin Park Fence & Pathway Repair	-	7,750	-	-	-
Total Expenditures	$ 53,082	$ 405,545	$ 52,598	$ -	$ -
Revenues over (less than) expenditures	7,944	19,364	214,534	171,173	202,443
Fund Balance, June 30	**987,542**	**979,598**	**960,234**	**745,701**	**574,528**



City of St. Helena
AB1600 Annual Report
Development Impact Fees
Fiscal Year Ended June 30, 2021

Traffic Mitigation Impact Fee - Fund 740

Description of Fees

This fund is used to accumulate funds from new or proposed development to finance circulation improvements to reduce the impacts of traffic generated by new development within the City.

Fee Schedule

Category	Fee	Basis
Single Family Residential	$ 2.35	Square foot
Multi-Family Residential	$ 2.86	Square foot
Office	$ 6.50	Square foot
Industrial	$ 4.12	Square foot
Commercial/Retail	$ 25.34	Square foot
Lodging	$ 9.68	Square foot

Scheduled Projects

Project	Anticipated Construction Start	Estimated 5-year Project Costs	Total Impact Fees
R20-02 Mills Lane Storm Drain Project	FY 20/21	$ 6,761,640	$ 200,000

Expenditure by Project

Project	FY 2020-21 Expenditures	Estimated % of Total Project Funded with Development Fee
R20-02 Mills Lane Storm Drain Project	$ 41,711	3.0%

5-Year Collection and Expenditure Schedule

	FY 20/2021	FY 19/2020	FY 18/2019	FY 17/2018	FY 16/2017
Beginning Fund Balance	2,715,793	2,470,519	2,203,354	2,157,500	2,072,547
Revenues					
Interest Earnings	18,312	29,496	25,361	18,475	13,923
Impact Fees	33,414	215,912	225,273	27,379	71,784
Operating Transfers In	-	-	17,218	-	-
Total Revenues	$ 51,726	$ 245,408	$ 267,852	$ 45,854	$ 85,707
Expenditures					
R20-02 Mills Lane Storm Drain Project	41,711	-	-	-	-
Development Impact Fee Study	6,739	133	687	-	754
Total Expenditures	$ 48,450	$ 133	$ 687	$ -	$ 754
Revenues over (less than) expenditures	3,276	245,275	267,164	45,854	84,953
Fund Balance, June 30	**2,719,069**	**2,715,793**	**2,470,519**	**2,203,354**	**2,157,500**

City of St. Helena
AB1600 Annual Report
Development Impact Fees
Fiscal Year Ended June 30, 2021

Storm Drain Improvements Impact Fee - Fund 742

Description of Fees

This fund is used to accumulate funds from new development's proportionate share of planned drainage system improvements.

Fee Schedule

Category	Fee	Basis
Single Family Residential	$ 0.89	Square foot
Multi-Family Residential	$ 0.84	Square foot
Office	$ 2.00	Square foot
Industrial	$ 2.00	Square foot
Commercial/Retail	$ 2.00	Square foot
Lodging	$ 1.55	Square foot

Scheduled Projects

Project	Anticipated Construction	Estimated 5-year Project	Total Impact Fees
R20-02 Mills Lane Storm Drain Project	FY 20/21	$ 6,761,640	$ 700,000

Expenditure by Project

Project	FY 2020-21 Expenditures	Estimated % of Total Project Funded with
R20-02 Mills Lane Storm Drain Project	$ -	10.4%

5-Year Collection and Expenditure Schedule

	FY 20/2021	FY 19/2020	FY 18/2019	FY 17/2018	FY 16/2017
Beginning Fund Balance	790,010	696,348	629,314	605,812	579,967
Revenues					
Interest Earnings	5,311	8,430	7,161	5,242	3,885
Impact Fees	9,797	85,365	55,456	18,260	22,714
Operating Transfers In	-	-	5,104	-	-
Total Revenues	$ 15,109	$ 93,795	$ 67,722	$ 23,502	$ 26,599
Expenditures					
Development Impact Fee Study	6,739	133	687	-	754
Total Expenditures	$ 6,739	$ 133	$ 687	$ -	$ 754
Revenues over (less than) expenditures	8,370	93,662	67,034	23,502	25,844
Fund Balance, June 30	**798,380**	**790,010**	**696,348**	**629,314**	**605,812**

City of St. Helena
AB1600 Annual Report
Development Impact Fees
Fiscal Year Ended June 30, 2021

Affordable Housing Fee - Fund 751

Description of Fees

This fund is used to accumulate funds from new or proposed development in order to defray the costs of providing affordable housing in the City.

Fee Schedule

Category	Fee	Basis
Single Family Residential	2.50%	Construction Cost
Multi-Family Residential	2.50%	Construction Cost
Office	$ 4.11	Square foot
Industrial/Winery	$ 1.26	Square foot
Commercial/Retail	$ 5.21	Square foot
Lodging	$ 3.80	Square foot

Scheduled Projects

Project	Anticipated Construction	Estimated 5-year Project	Total Impact Fees
		$ -	$ -

Expenditure by Project

Project	FY 2020-21 Expenditures	Estimated % of Total Project Funded with
	$ -	0.0%

5-Year Collection and Expenditure Schedule

	FY 20/2021	FY 19/2020	FY 18/2019	FY 17/2018	FY 16/2017
Beginning Fund Balance	2,034,173	2,079,949	1,553,155	1,466,161	1,312,814
Revenues					
Interest Earnings	3,254	5,849	7,202	8,066	9,249
Impact Fees	106,784	317,631	176,224	80,340	235,122
HOME Funds	-	-	448,045	-	-
Annual Monitoring Fees	295	2,292	430	418	965
Operating Transfers In	-	-	54	26,288	-
Total Revenues	$ 110,333	$ 325,772	$ 631,955	$ 115,112	$ 245,336
Expenditures					
723 Hunt Avenue Acquisition Project	1,400,565	-	-	-	-
Turley Flats Project	185,884	316,884	438	(438)	-
HOME Administrative Fees	-	-	34,251	5,863	-
Brenkle Court Project	-	-	40,000	2,938	438
Development Impact Fee Study	-	-	-	-	-
Affordable Housing Legal Fees	10,129	29,664	20,472	19,754	-
Housing Element Update	14,887	-	-	-	
Non-Profit Grant Contribution	-	25,000	10,000	-	91,550
Total Expenditures	$ 1,611,464	$ 371,548	$ 105,162	$ 28,117	$ 91,988
Revenues over (less than) expenditures	(1,501,131)	(45,776)	526,793	86,994	153,348
Fund Balance, June 30	**533,042**	**2,034,173**	**2,079,949**	**1,553,155**	**1,466,161**

City of St. Helena
AB1600 Annual Report
Development Impact Fees
Fiscal Year Ended June 30, 2021

Water Impact Fee - Fund 764

Description of Fees

This fund is used to accumulate funds from new or proposed development to pay for water system capital improvements needed to support new development.

Fee Schedule

Category	Fee	Basis
Single Family Residential	$ 1.93	Square foot
Multi-Family Residential	$ 1.55	Square foot
Office	$ 1.98	Square foot
Industrial	$ 2.63	Square foot
Commercial/Retail	$ 3.83	Square foot
Lodging	$ 3.86	Square foot

Scheduled Projects

Project	Anticipated Construction	Estimated 5-year Project	Total Impact Fees
W00-27 Meadowood Tank Upgrades	FY 20/21	$ 950,000	$ 189,950
W00-35 Bell Canyon Reservoir Improvements	FY 21/22	$ 900,000	$ 135,000
W00-85 Bell House Valve Replacement	FY 21/22	$ 575,275	$ 75,144
S21-01 WWTP Recycled Pipeline & Station	FY 21/22	$ 130,000	$ 95,000

Expenditure by Project

Project	FY 2020-21 Expenditures	Estimated % of Total Project Funded with
W00-27 Meadowood Tank Upgrades	$ 566,232	20.0%
W00-35 Bell Canyon Reservoir Improvements	$ -	15.0%
W00-85 Bell House Valve Replacement	$ -	13.1%
S21-01 WWTP Recycled Pipeline & Station	$ -	73.1%

5-Year Collection and Expenditure Schedule

	FY 20/2021	FY 19/2020	FY 18/2019	FY 17/2018	FY 16/2017
Beginning Fund Balance	1,175,854	1,034,630	903,746	843,606	828,788
Revenues					
Interest Earnings	2,360	3,128	1,945	1,412	752
Impact Fees	16,238	120,433	62,775	27,084	57,965
Miscellaneous Revenues	18,164	17,796	17,438	31,643	14,319
Operating Transfers In	-	-	49,413	-	-
Total Revenues	$ 36,762	$ 141,357	$ 131,572	$ 60,140	$ 73,037
Expenditures					
W00-86 Holmes Tank Upgrade	-	-	-	-	29,000
W00-109 Bell Canyon Intake Tower	-	-	-	-	28,465
Development Impact Fee Study	6,739	133	688	-	754
Total Expenditures	$ 6,739	$ 133	$ 688	$ -	$ 58,219
Revenues over (less than) expenditures	30,023	141,224	130,884	60,140	14,818
Fund Balance, June 30	**1,205,877**	**1,175,854**	**1,034,630**	**903,746**	**843,606**

City of St. Helena
AB1600 Annual Report
Development Impact Fees
Fiscal Year Ended June 30, 2021

Wastewater Impact Fee - Fund 774

Description of Fees

This fund is used to account for the cost of constructing and improving the wastewater treatment plant and sewer collection system in order to support new development.

Fee Schedule

Category	Fee	Basis
Single Family Residential	$ 0.55	Square foot
Multi-Family Residential	$ 0.80	Square foot
Office	$ 0.53	Square foot
Industrial	$ 0.72	Square foot
Commercial/Retail	$ 1.07	Square foot
Lodging	$ 1.06	Square foot

Scheduled Projects

Project	Anticipated Construction	Estimated 5-year Project	Total Impact Fees
S00-52 WWTP Phase 1 Upgrades	FY 20/21	$ 15,966,174	$ 724,077
S18-78 Recycled Water Feasibility Study	FY 22/23	$ 150,000	$ 75,000
S21-01 WWTP Recycled Pipeline & Station	FY 21/22	$ 130,000	$ 35,000

Expenditure by Project

Project	FY 2020-21 Expenditures	Estimated % of Total Project Funded with
S00-52 WWTP Phase 1 Upgrades	$ 572,094	4.5%
S18-78 Recycled Water Feasibility Study	$ -	50.0%
S21-01 WWTP Recycled Pipeline & Station	$ -	26.9%

5-Year Collection and Expenditure Schedule

	FY 20/2021	FY 19/2020	FY 18/2019	FY 17/2018	FY 16/2017
Beginning Fund Balance	810,352	772,109	745,956	717,876	708,567
Revenues					
Interest Earnings	4,342	7,275	6,434	5,267	3,968
Impact Fees	6,237	30,433	17,488	13,050	14,902
Miscellaneous Revenues	2,918	2,918	2,918	9,763	1,693
Operating Transfers In	-	-	-	-	-
Total Revenues	$ 13,497	$ 40,626	$ 26,841	$ 28,080	$ 20,563
Expenditures					
S00-53 Reclamation Field Improvements	-	-	-	-	10,500
Ranch Utility Vehicle	-	2,250	-	-	-
Development Impact Fee Study	6,739	133	688	-	754
Total Expenditures	$ 6,739	$ 2,383	$ 688	$ -	$ 11,254
Revenues over (less than) expenditures	6,759	38,243	26,153	28,080	9,309
Fund Balance, June 30	**817,110**	**810,352**	**772,109**	**745,956**	**717,876**

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **CONSENT ITEMS**

Subject: **Quarterly Grant Report for FY 2022 Q1, for the period ending September 30, 2022.**

CEQA Determination: **Not a CEQA project**

Prepared By: Mandy Kellogg, Asst. Administrative Services Director

Reviewed By: April Mitts, Administrative Services Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

This report covers grant activity for the 1st Quarter of Fiscal Year (FY) 2022.

DISCUSSION

New Awarded Grant Applications in FY 2022 1st Quarter

The City of St. Helena did not receive any new grant awards during 1st Quarter of Fiscal Year 2022.

Applications Pending

The City currently has 11 applications pending.

Agency	Project	Amount
CDBG - Hunt's Grove Parking Lot	Expansion and improvements for Hunt's Grove parking lot.	$200,000
CDBG-CV2 & 3 - Childcare Scholarship Program	Provide childcare scholarships to income qualified families.	$71,053
CDBG-CV2 & 3 - Utility Assistance Program	Provide utility assistance to St. Helena Residents.	$200,000

CDBG - Planning Grant	Affordable Housing Feasibility Analysis.	$204,170
CDBG - Public Services	Community Wellness and Mental Health Program.	$498,281
CDBG - Economic Development	Business Assistance Program	$500,000
CalOES - HMGP	Wastewater Treatment Plant Backup Power.	$728,438
CalOES - HMGP	City Corporation Yard and Crinella Pump Station Emergency Backup Power	$257,380
CalOES - HMGP	Defensible Space and Hazardous Fuels Reduction	$1,866,680
State of CA - Department of Alcoholic Beverage Control	Minor Decoy, Shoulder Tap, and IMPACT Programming	$20,000
State of CA - Department of Justice*	Funding for School Resource Officer	$629,668

CDBG: Hunts Grove Parking Lot Project - Funds will be used to expand and improve parking for Hunt's Grove Apartments to create space for an additional 12 parked cars. The total amount of requested funding is $200,000. This project is currently on a waiting list.

CDBG-CV2 & 3: Childcare Scholarship Program - If the application is approved, additional funding will be awarded to the previously awarded CDBG-CV1 grant to provide childcare scholarships to income qualified families that have been impacted by COVID-19. The program will be administered by Community Resources for Children. The additional funding requested is $71,053.

CDBG-CV2 & 3: Utility Assistance Program - Funding will be used to provide utility assistance for St. Helena residents that have been impacted by COVID-19. Assistance will be provided for up to three months and can be used for water, wastewater, gas, electric, telephone, and internet services. The program will be administered by UpValley Family Centers. The total amount of funding requested is $200,000.

CDBG: Planning Grant - The funding will be used to conduct a sites feasibility analysis to compare various properties in the City for their affordable housing development potential. The total amount of requested funding is $204,170.

CDBG: Public Services - Funding will be used for a Community Wellness & Mental Health Program for children, young adults, and families offering services that include outreach and prevention, education and case management, and mental health and

substance use disorder treatment. The program will be administered by Aldea, Inc. The total amount of funding requested is $498,281.

CDBG: Economic Development - Funding will be used for a Business Assistance Program for the purpose of establishing a business assistance revolving loan fund, which will provide flexible low interest forgivable loans to small and medium sized businesses in the City of St. Helena to offset the negative impacts of COVID-19 to assist with financial recovery and business expansion. The total amount of funding requested is $500,000.

HMGP: Wastewater Treatment Plant Backup Power - Funding would be used to purchase and install emergency backup power at the Wastewater Treatment Plant that would provide sufficient power to the newly designed plant upgrade during power outages. The total project amount is estimated at $971,250, with $728,438 requested in grant funding and $242,812 as a required City match.

CalOES - HMGP: Emergency Backup Power - Funding will be used to upgrade two existing City facilities with back-up power generation capabilities and will include the purchase of two fixed generators for the City Corporation Yard and the Crinella Pump Station. The total project amount is estimated at $343,173, with $257,380 requested in grant funding and $85,793 as a required City match.

CalOES - HMGP: Defensible Space and Fuel Management - Funding will be used to create defensible space around the locations identified as high fire risk in St. Helena by creating a buffer between the identified structures and grass, trees, shrubs, and wildland areas that surround them. The proposed project will slow the rate of spread for future wildfires, making them more manageable and reducing damage to structures. The total project amount is estimated at $2,488,906, with $1,866,680 requested in grant funding and $622,226 as a required City match.

Department of Alcoholic Beverages: Minor Decoy,Shoulder Tap, and IMPACT Programming - Funding will be used to initiate three programs with the goal to reduce underage drinking and the resultant DUI driving injuries and fatalities, reduce youth access to alcoholic beverages through the education of licensee, and provide enforcement intervention. The total funding requested is $20,000.

***Department of Justice - Prop 56 Tobacco Grant Program - School Resource Officer** - Funding will be used for salaries and benefits associated with a School Resource Officer working at the St. Helena Unified School district campuses to implement tobacco education, prevention, and rehabilitation for the students. Funding was requested in the amount of $629,668 to cover salary, benefits, training, and administrative costs for FY 21/22 through FY 24/25.

*The City has since been notified that it was awarded this grant.

Applications Withdrawn

The City withdrew 2 applications during 1st Quarter of Fiscal Year 2022.

Agency	Project	Reason
CalOES - HMGP	Spring Mountain Pressure Zone Pump Station and Tank Improvements.	Did not meet the benefit cost analysis threshold required by the grant program parameters. Researching for other viable grant funds for this project.
CalOES - HMGP	Bell Canyon Intake Tower Improvements to existing intake tower and outlet valves.	Additional requirements needed from grant submittal that could not be met by the deadline. Staff will be submitting the application in the next round. Notice of Interest is due 12/31/2021 and the full application is due 03/10/2022.

Active Grants

These are grant awards with signed agreements. This chart identifies the grant award, required match, and percent expended. Staff is currently managing $7.88 million in active grant funds.

Grant	Project	Award Amount	Additional Project Funding	% Grant Funds Expended	Notes
CENIC on behalf of Califia	Connection to CalRen Hub at St. Helena Public Library	Based on discounts applied	$ -	0.0%	The CENIC connection was completed in March 2019.
Department of Water Resources (DWR)	Comprehensive Flood Control Project	$2,371,333	$20,000,000	100.0%	Holding $237,000 in retention until Conservation Easement is completed.
CalTrans/Federal - OBAG2	Main Street Pedestrian Improvements	$1,206,000	$351,000	0.0%	Planning and design continues on this project.

Friends & Foundation	Enhancement for Library (PT Staff, Spanish/Youth/Adult Programs, Materials, Elsie the Cat, Supplies)	$135,000	$ -	20.3%	The first grant disbursement of $35,000 was received July 2021.
Bulletproof Vest Partnership	Purchase four bulletproof vests	$2,956	$1,478	100.0%	
CalTrans/Federal - HSIP	Replacement of 1,175 lineal feet of guardrail on Silverado Trail that is located in the City of St. Helena	$556,100	$ -	0.9%	Project was delayed due to a CalTrans requirement. An extension was filed and approved updating the Project End Date to 06/01/2023.
Department of Justice	Prop 56 - Hire law enforcement officer to manage programs educating and enforcing issues of underage tobacco use.	$393,514	$ -	31.6%	Final claim was submitted along with follow-up document requests.
Housing and Community Development (HCD) - SB2 Planning Grant	Updates to current zoning code in order to implement housing policies and directives identified in the General Plan and in the 2015 Housing Element.	$160,000	$159,990	86.4%	Project continues to progress as scheduled.
CalOES - HMGP	Purchase of generators and upgrading electrical panels to provide emergency backup power to City facilities.	$485,392	$169,488	100.0%	Generator Installation is complete. Project completion is pending final inspection at one site.
CalOES - PSPS Resiliency Allocation	Replace one generator at the treatment plant and	$300,000	$ -	15.8%	Construction is in progress.

	purchase a roving generator.				
HCD - Local Early Action Planning (LEAP) Grant	Housing Element update to facilitate compliance with the 6th Regional Housing Needs Allocation (RHNA) cycle.	$65,000	$ -	44.3%	Project continues to progress as scheduled.
Upper Valley Waste Management	Money Way Waste/Recycling Consolidation Project	$120,000	$ -	0.0%	Project is anticipated to start in 2022.
HCD - HOME Investment Partnership Program	Funding to continue the Owner-Occupied Rehabilitation Program	$500,000	$ -	0.0%	Funding is awaiting issuance of Standard Agreement.
CDBG-CV1 - Childcare Scholarship Program	Provide childcare scholarships to income qualified families.	$74,484	$ -	0.0%	CRC continues to work with families for placement.
CDBG - Acquisition Project	Acquisition of a 4-unit rental property at 723 Hunt Avenue to preserve a low income housing site.	$1,514,360	$ -	100.0%	Escrow closed on the property on 06/28/2021.

Closed Out Grants

There were no grants closed out during 1st Quarter of Fiscal Year 2022.

Non-Profit Grant Funding

The FY 2021/22 grant application period closed on March 15, 2021 at 5:00 PM. The City received 26 applications with a total of $421,828 in funding requests. On May 25, 2021, City Council awarded 20 applicants for a total of $209,530. The chart below identify the grant type, grantee, project description, award amount, and percent expended as of September 30, 2021.

Grant Type	Grantee	Project Description	Award Amount	Percent Expended*
Community Enrichment	Arts Council Napa Valley	Visual & Performing Arts Student of the Month	$3,250	0.0%

Community Enrichment	Boys & Girls Club	Power Hour - Homework Assistance Program	$5,000	0.0%
Community Enrichment	Friends of the Cameo	Cameo Cinema Drive-In	$8,000	100.0%
Community Enrichment	Lunchtime Productions	CKT - Summer 2021 St. Helena Drama Camps	$2,000	0.0%
Community Enrichment	Napa Valley State Park	Summer Camp Scholarship & Outdoor Education Program	$2,500	0.0%
Community Enrichment	Nimbus Arts	Art Programs & Art Kits	$3,630	0.0%
Community Enrichment	St. Helena Community Band	Yearly Performances	$4,000	0.0%
Community Enrichment	St. Helena Historical Society	Pioneer Classroom and Education Center	$5,000	0.0%
Community Enrichment	Upstage Napa Valley	First Annual Upstage Napa Valley Playwrights Festival	$3,050	0.0%
Programmatic	Boys & Girls Club	St. Helena Teen Club	$28,000	0.0%
Programmatic	Mentis	Youth and Family Mental Health Treatment	$20,000	0.0%
Programmatic	Ole Health	Ole Health Services	$5,000	0.0%
Programmatic	Our Town St. Helena	OTSH Transition Year Capacity Building	$25,000	0.0%
Programmatic	Rianda House Senior Activity Center	Rianda House Senior Activity Center	$25,000	0.0%
Programmatic	Saint Helena Family Center	Enrollment Expansion with New Classroom Space	$10,000	0.0%
Programmatic	St. Helena Cooperative Nursery School	St. Helena Co-Op Nursery School	$10,000	0.0%

Programmatic	St. Helena Farmers Market	Market Match Program	$5,100	0.0%
Programmatic	St. Helena Preschool for All	Preschool Scholarships	$10,000	0.0%
Programmatic	St. Helena Catholic Church	Additional Food Cards, Fuel Vouchers for Families in Need	$10,000	0.0%
Programmatic	Up Valley Family Centers	Community Connections & Immigration Assistance	$25,000	0.0%
		Totals	**$209,530**	0.03%

**This program is a reimbursement grant; therefore, funds are not considered expended until reimbursement paperwork has been received and approved by City staff.*

FISCAL IMPACT

There is no fiscal impact associated with this report.

RECOMMENDED ACTION

Receive and file report.

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **CONSENT ITEMS**

Subject: **Consideration and Proposed Approval of a Resolution: (1) Authorizing the use of Affordable Housing Trust Funds to reimburse Our Town St. Helena for Interest Only Payments to the Rural Community Assistance Corp for the Affordable Housing Project at 963 Pope Street St. Helena, CA from December 1, 2021 through October 31, 2022 in an Amount of Approximately $1,900 per month for a not-to-exceed amount of $21,000; and (2) Authorizing a budget increase of $13,300 to the Affordable Housing Trust Fund for FY 2021-22 for these payments; and (3) Authorizing an Appropriation of $7,700 in FY 2022-23 to the Affordable Housing Trust Fund for payments from July 1, 2022 through October 31, 2022.**

CEQA Determination: **Not a CEQA project**

Prepared By: April Mitts, Administrative Services Director

Reviewed By: April Mitts, Administrative Services Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On August 27, 2019, the City Council authorized a loan from the Affordable Housing Trust Fund to Our Town St. Helena (OTSH) to assist with the acquisition of a property located at 963 Pope Street. The purchase price of the property was $850,000 for a 0.29-acre lot, zoned medium-density residential, with a 2-bedroom 1-bath house located near the front portion of the property. The property will be used solely for the use, operation, and development of affordable housing by constructing four additional units on the back half of the property for moderate-to low-income rental tenants.

The City and OTSH entered into a Housing Trust Fund Loan Agreement dated September 10, 2019, in the amount of $450,000 with zero percent interest. The loan had an initial

term of 24 months and all unpaid sums of the principal amount become immediately due and payable upon the second anniversary date of the promissory note, September 10, 2021.

The remaining balance of the purchase price and initial pre-development expenses were financed with an interest-only loan in the amount of $543,889 from Rural Community Assistance Corp (RCAC) which is in first position for repayment. Interest payments average $1,900 per month, a significant amount for OTSH to continue to pay beyond the initial loan term, which ended in October 2021. At the time the loans were made, OTSH assumed it would have construction and permanent financing in place for the project and the loans could be repaid at the two-year term limit.

Both the City loan and RCAC loan had two-year terms, expiring on September 10, 2021 and October 1, 2021, respectively. At that time, both loans were due and payable in full. On August 24, 2021, the City Council adopted a resolution which provided OTSH with a 90-day extension to the loan term. The extension allowed OTSH and the City to evaluate loan options for City Council consideration. Similarly, RCAC extended its loan term to October 1, 2022.

Since the time the loans were made, OTSH:

- Acquired the property;
- Prepared plans and obtained City entitlements for four new apartments on the property;
- Processed a lot line merger;
- Completed construction drawings and submitted the drawings to the City of review and approval;
- Selected a general contractor; recorded a 55-year affordable deed restriction on the existing house; and
- Leased the home to a moderate-income family.

During this timeframe, construction costs have nearly doubled due to materials and supply chain issues, labor shortages, and general economic conditions. The current estimated total development cost for the project is $3.7 million.

It has always been OTSH's intention to secure construction and permanent financing to repay the two loans; however, OTSH reports that securing financing for the project has been more challenging than anticipated. Aside from the impacts the pandemic has had on lending institutions and increasing construction costs, small developments are proving more difficult to finance because public funding sources favor projects of 50+ units. With assistance from Napa Valley Community Housing (NVCH), OTSH applied to the State HOME program, the U.S. Congressional Appropriations Committee, and the Silicon Valley Housing Trust’s Apple Fund. Unfortunately, due to the competitive nature of the funding, OTSH was denied for all funding requests.

On November 9, 2021, OTSH learned the Notice of Funding Availability (NOFA) for the State HOME program will soon be released. OTSH believes that in order to be competitive for this funding round, it will be necessary to have a documented permanent loan commitment from the City, even if the funds are not available today. It is the intent of OTSH to pursue State HOME program funding and other public funds as they become available. NVCH has obtained letters of interest from a few private lenders, but the proposed terms are challenging and difficult to negotiate without other funding secured. Private lender terms will be refined once subsidy sources are committed to the project.

Additionally, in October 2021, OTSH was able to purchase the adjacent property at 951 Pope Street from the St. Helena Hospital Foundation, thanks to a very generous contribution of a private benefactor. Subject to City approval, this acquisition will allow OTSH to expand it current five-unit development to approximately 10 units. OTSH is optimistic this larger project will be more competitive for financing, make a greater positive impact on the community, and assist the City with meetings its RHNA requirements. OTSH will begin preparing plans and submit a new project application in early to mid-2022.

At the City Council meeting on November 23, 2021, OTSH proposed three options to the City Council for consideration to position the project to be competitive for public financing and complete the construction of the affordable housing units. At this meeting the City Council authorized via resolution a one-year loan extension of the current acquisition loan ($450,000 at zero percent interest), extending the maturity date to December 9, 2022. In addition, the City Council provided the following direction to staff:

1. Return with a resolution authorizing use of the City's Affordable Housing Trust Funds to pay the RCAC loan interest payments (approximately $1,900 per month) starting in December 2021 and concluding October 31, 2022 when the RCAC loan becomes due; and
2. Return with a resolution authorizing a $250,000 permanent loan from the City's Affordable Housing Trust Fund to OTSH for the development of 963 Pope Street to make the project more competitive for the upcoming HOME funding application.

DISCUSSION

Based on City Council direction at the November 23, 2021 Council meeting, staff is recommending approval of the attached resolution authorizing use of the City's Affordable Housing Trust Funds to pay the RCAC loan interest payments (approximately $1,900 per month) starting in December 2021 and concluding October 31, 2022 when the RCAC loan becomes due.

Funds for the RCAC loan interest payments will be reimbursed to OTSH on a quarterly basis upon receipt of an invoice and accompanying documentation showing proof of interest payments to RCAC.

Staff will bring a staff report and Resolution to City Council in January 2022 for the authorization of the $250,000 permanent loan from the City's Affordable Housing Trust Fund to OTSH.

FISCAL IMPACT

The fiscal impact for the adoption of the attached resolution is use of Affordable Housing Trust Funds in an not-to-exceed amount of $21,000. Including the use of $21,000 for interest only payments, the 6/30/22 estimated fund balance for both the Affordable Housing Trust Fund (Fund 751) and Measure E Fund (Fund 752) are shown in the table below:

	Fund 751	**Fund 752**
6/30/21 Estimated Balance	339,402	225,972
Estimated Revenues FY 22	65,295	196,016
Estimated Expenses FY 22	(112,334)	-0-
RCAC Interest Payments	(21,000)	
6/30/22 Estimated Fund Balance	***271,363***	***421,988***

RECOMMENDED ACTION

Staff recommends approval of the attached resolution.

ATTACHMENTS

Attachment 1 - Resolution OTSH RCAC Interest Only Payments

CITY OF ST. HELENA

RESOLUTION NO. 2021-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST. HELENA AUTHORIZING: (1) USE OF AFFORDABLE HOUSING TRUST FUNDS TO REIMBURSE OUR TOWN ST. HELENA FOR INTEREST ONLY PAYMENTS MADE TO THE RURAL COMMUNITY ASSISTANCE CORP FOR THE AFFORDABLE HOUSING PROJECT AT 963 POPE STREET ST. HELENA, CA FROM DECEMBER 1, 2022 UNTIL THE LOAN MATURITY DATE OF OCTOBER 31, 2022 IN AN AMOUNT OF APPROXIMATELY $1,900 PER MONTH FOR A TOTAL NOT-TO-EXCEED AMOUNT OF $21,000; AND (2) AUTHORIZING A BUDGET INCREASE OF $13,300 TO THE AFFORDABLE HOUSING TRUST FUND FOR FY 2021-22 FOR THESE PAYMENTS; AND (3) AUTHORIZING AN APPROPRIATION OF $7,700 IN FY 2022-23 TO THE AFFORDABLE HOUSING TRUST FUND FOR PAYMENTS FROM JULY 1, 2022 THROUGH OCTOBER 31, 2022.

WHEREAS, On August 27, 2019, the City Council authorized a loan from the Affordable Housing Trust Fund to Our Town St. Helena (OTSH) to assist with the acquisition of a property located at 963 Pope Street. The purchase price of the property was $850,000 for a 0.29-acre lot, zoned medium-density residential, with a 2-bedroom 1-bath house located near the front portion of the property. The property will be used solely for the use, operation, and development of affordable housing by constructing four additional units on the back half of the property for moderate-to low-income rental tenants; and

WHEREAS, The City and OTSH entered into a Housing Trust Fund Loan Agreement dated September 10, 2019, in the amount of $450,000 with zero percent interest. The loan has a term of twenty-four (24) months and all unpaid sums of the principal amount shall become immediately due and payable upon the second anniversary date of the promissory note, September 10, 2021; and

WHEREAS, The remaining balance of the purchase price and initial pre-development expenses were financed with an interest-only loan in the amount of $543,889 from Rural Community Assistance Corp (RCAC) which is in first position for repayment. Interest payments average $1,900 per month; and

WHEREAS, At the time the loans were made, OTSH assumed it would have construction and permanent financing in place for the project and the loans could be repaid at the two-year term limit; and

WHEREAS, Both the City loan and RCAC loan had two-year terms, expiring on September 10, 2021 and October 1, 2021, respectively. At that time, both loans were due and payable in full. On August 24, 2021, the City Council adopted Resolution 2021-103 which provided OTSH with a 90-day extension to the loan term. Similarly, RCAC extended its loan term to October 1, 2022; and

WHEREAS, On November 23, 2021, OTSH proposed three options to the City Council to position the 963 Pope Street project to be competitive for public financing and complete the construction of this affordable housing project; and

WHEREAS, On November 23, 2021, the City Council authorized, via Resolution, an additional one-year extension to the loan term extending the maturity date to December 9, 2022 and provided direction to staff to return to Council with a Resolution authorizing use of the City's Affordable Housing Trust Funds to pay the RCAC loan interest payments starting in December 2021 and concluding October 31, 2022 when the RCAC loan becomes due.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ST. HELENA AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. The City Council of the City of St. Helena hereby approves use of Affordable Housing Trust Funds to reimburse Our Town St. Helena for Interest Only Payments to the Rural Community Assistance Corp for the Affordable Housing Project at 963 Pope Street St. Helena, CA from December 1, 2021 through October 31, 2022 in an Amount of Approximately $1,900 per month for a not-to-exceed amount of $21,000.

SECTION 3. Funds for the RCAC loan interest payments will be reimbursed to OTSH on a quarterly basis upon receipt of an invoice and accompanying documentation showing proof of interest payments to RCAC.

SECTION 4. The City Council of the City of St. Helena Hereby authorizes a budget increase of $13,300 to the Affordable Housing Trust Fund for FY 2021-22 for these payments; and authorizes an Appropriation of $7,700 in FY 2022-23 to the Affordable Housing Trust Fund for payments from July 1, 2022 through October 31, 2022.

Approved at a Regular Meeting of the St. Helena City Council on December 14, 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:

_____
Geoff Ellsworth, Mayor

ATTEST:

_____
Cindy Tzafopoulos, City Clerk

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **CONSENT ITEMS**

Subject: **Adopt the Resolution approving a Joint Exercise of Powers Agreement forming the St. Helena Financing Authority.**

CEQA Determination: **Not a CEQA project**

Prepared By: Mandy Kellogg, Asst. Administrative Services Director

Reviewed By: April Mitts, Administrative Services Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

In connection with the possibility of financing capital improvement projects, the City's financing team (Del Rio Advisors, LLC as Municipal Advisor, and Jones Hall, as Bond Counsel) have advised there is a market preference for the issuance of revenue bonds, rather than certificates of participation, that should result in lower borrowing costs to the City. In order to issue revenue bonds, the City needs to form a "joint exercise of powers authority" ("JPA") under the California Government Code, and the City has approached the California Statewide Communities Development Authority ("CSCDA") to act as the other party to a joint exercise of powers agreement forming the St. Helena Financing Authority.

By creating the Authority, the City will have an entity that can issue revenue bonds for financings. The Bank of the West Interim Financing, being considered later this evening, if approved, would be the first financing to utilize the St. Helena Financing Authority.

DISCUSSION

Creating the Authority requires the adoption of the attached resolution by the City Council.

The governing board of CSCDA has already approved the agreement, such that upon approval by the City Council, the St. Helena Financing Authority will be formed. Final steps include filing certain documents with the California Secretary of State's office. The

City's bond counsel, Jones Hall, has prepared the joint exercise of powers agreement and will manage the Secretary of State filings.

FISCAL IMPACT

Staff anticipates the cost to form the St. Helena Financing Authority to be $25,000 ($10,000 to be paid to CSCDA and $15,000 for legal costs to be paid to Jones Hall as Bond Counsel). A budget adjustment will be requested in a subsequent staff report.

RECOMMENDED ACTION

Adopt the Resolution approving the joint exercise of powers agreement with CSCDA forming the St. Helena Financing Authority.

ATTACHMENTS

Resolution - Approving JPA Agreement
St. Helena Financing Authority JPA Agreement

CITY OF ST. HELENA

RESOLUTION NO. 2021-____

Resolution Authorizing: (1) and directing the execution of a Joint Exercise of Powers Agreement by and between the City of St. Helena and the California Statewide Communities Development Authority to form the St. Helena Financing Authority

RECITALS

A. WHEREAS, under the Joint Exercise of Powers Act, comprising Articles 1, 2, 3 and 4 of Chapter 5 of Division 7 of Title 1 (commencing with section 6500) of the California Government Code (the "JPA Act"), a number of California cities, counties and special districts, entered into a joint exercise of powers agreement pursuant to which California Statewide Communities Development Authority ("CSCDA") was organized; and

B. WHEREAS, CSCDA, acting pursuant to the JPA Act, may enter into a joint exercise of powers agreement with one or more public agencies pursuant to which such contracting parties may jointly exercise any power common to them and to exercise additional powers granted under the JPA Act; and

C. WHEREAS, CSCDA and the City of St. Helena (the "City") desire to create and establish the St. Helena Financing Authority (the "Authority") pursuant to the JPA Act; and

D. WHEREAS, there has been presented to this meeting a proposed form of Joint Exercise of Powers Agreement (the "Authority Agreement"), by and between CSCDA and the City, which creates and establishes the Authority; and

E. WHEREAS, under California law and the Authority Agreement, the Authority will be a public entity separate and apart from the parties to the Authority Agreement and the debts, liabilities and obligations of the Authority will not be the debts, liabilities or obligations of CSCDA, the City or any representative of the City serving on the governing body of the Authority or as an officer of the Authority; and

RESOLUTION

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

Section 1. Direction to Facilitate Short-Term Financing. The City Council hereby approves the Authority Agreement in substantially the form on file with the City Clerk, together with any changes therein or additions thereto approved by the City Manager, Administrative Services Director, Assistant Administrative Services Director, or any of their designees (each, an "Authorized Officer"). The Authorized Officers are hereby authorized and directed for and in the name and on behalf of the City to execute the final form of the Authority Agreement, and the City Clerk is hereby authorized and directed to attest to the final form of the Authority Agreement. Execution of the Authority Agreement by an Authorized Officer shall be conclusive evidence of the approval of any changes therein or additions thereto by an Authorized Officer.

Section 2. Effective Date. This Resolution shall take effect immediately upon its passage and adoption.

Approved at a Regular Meeting of the St. Helena City Council on December 14, 2021, by the following vote:

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

APPROVED:

_____
Geoff Ellsworth, Mayor

ATTEST:

_____
Cindy Tzafopoulos, City Clerk

JOINT EXERCISE OF POWERS AGREEMENT

by and between

the CITY OF ST. HELENA

and

CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY

creating the

ST. HELENA FINANCING AUTHORITY

Dated as of _____ 1, 2021

TABLE OF CONTENTS

Section 1.	Definitions	1
Section 2.	Purpose	2
Section 3.	Term	2
Section 4.	The Authority	2
Section 5.	Powers	5
Section 6.	Termination of Powers	6
Section 7.	Fiscal Year	6
Section 8.	Disposition of Assets	6
Section 9.	Contributions and Advances	6
Section 10.	Obligations	6
Section 11.	Agreement not Exclusive	7
Section 12.	Accounts and Reports	7
Section 14.	Conflict of Interest Code	8
Section 15.	Breach	8
Section 16.	Notices	8
Section 17.	Withdrawals and Additions of Members	8
Section 18.	Effectiveness	8
Section 19.	Severability	8
Section 20.	Successors; Assignment	9
Section 21.	Amendment of Agreement	9
Section 22.	Form of Approvals	9
Section 23.	Waiver of Personal Liability	9
Section 24.	Notices	9
Section 25.	Section Headings	9
Section 26.	Miscellaneous	10

JOINT EXERCISE OF POWERS AGREEMENT

THIS AGREEMENT, dated as of _____ 1, 2021, by and between the CITY OF ST. HELENA, a general law city and municipal corporation organized and existing under and by virtue of the laws of the State of California (the "City"), and CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY, a joint exercise of powers authority organized and existing under and by virtue of the laws of the State of California ("CSCDA").

DECLARATION OF PURPOSE

A. Chapter 5 of Division 7 of Title 1 of the California Government Code (the "Act") authorizes the City and CSCDA to create a joint exercise of powers entity which has the power to exercise any powers common to the City and CSCDA and to exercise additional powers granted to it under the Act. This Agreement creates such an agency, which shall be known as the "St. Helena Financing Authority" (the "Authority") for the purposes and to exercise the powers described herein.

B. The City is authorized to buy, sell, lease and use property and to incur indebtedness for public purposes pursuant to the California Government Code and other laws of the State of California.

C. CSCDA is authorized to buy, sell and lease property and to issue bonds, expend bond proceeds, and borrow and loan money for any of its corporate purposes pursuant to the Act and an Amended and Restated Joint Exercise of Powers Agreement forming the California Statewide Communities Development Authority, dated as of June 1, 1998, as amended, by and among the cities, counties, districts and other political subdivisions that are parties to that agreement.

D. Article 4 of the Act (known as the "Marks-Roos Local Bond Pooling Act of 1985") authorizes and empowers the Authority to issue bonds and to purchase bonds issued by, or to make loans to, the City or CSCDA for financing public capital improvements, working capital, liability and other insurance needs, or projects whenever there are significant public benefits, as determined by the City or CSCDA. The Marks-Roos Local Bond Pooling Act of 1985 further authorizes and empowers the Authority to sell bonds so issued or purchased to public or private purchasers at public or negotiated sale.

TERMS OF AGREEMENT

Section 1. Definitions. Unless the context otherwise requires, the terms defined in this Section 1 shall for all purposes of this Agreement have the meanings herein specified.

"*Act*" means Articles 1, 2 and 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code, as amended.

"*Agreement*" means this Joint Exercise of Powers Agreement, as it may be amended from time to time, creating the Authority.

"*Authority*" means the St. Helena Financing Authority created by this Agreement.

"*Board*" means the governing board of the Authority.

"*Brown Act*" means the Ralph M. Brown Act (Chapter 9 of Part 1 of Division 2 of Title 5 of the California Government Code), or any successor legislation hereafter enacted.

"*City*" means the City of St. Helena, a general law city and municipal corporation duly organized and existing under and by virtue of the laws of the State.

"*City Council*" means the City Council of the City.

"*CSCDA*" means California Statewide Communities Development Authority, a joint exercise of powers authority, duly organized and existing under and by virtue of the laws of the State.

"*Indenture*" means each indenture, trust agreement, fiscal agent agreement, lease, sublease, loan agreement, or other instrument pursuant to which Obligations are issued or incurred.

"*Member*" or "*Members*" means the members of the Authority from time to time as may be modified in accordance with this Agreement. As of the date of this Agreement, the Members are the City and CSCDA.

"*Obligations*" means bonds and any other evidence of indebtedness of the Authority authorized and issued pursuant to the Act.

"*State*" means the State of California.

Section 2. Purpose. This Agreement is made pursuant to the Act for the purpose of assisting the financing and refinancing of capital improvement projects of the City and to finance working capital for the City by exercising the powers referred to in this Agreement.

Section 3. Term. This Agreement shall become effective as of the date hereof and shall continue in full force and effect until terminated by a supplemental agreement of CSCDA and the City; *provided, however*, that in no event shall this Agreement terminate while any Obligations of the Authority remain outstanding under the terms of any Indenture or other instrument pursuant to which such Obligations are issued or incurred.

Section 4. The Authority.

(a) *Creation of the Authority*. There is hereby created pursuant to the Act an authority and public entity to be known as the "St. Helena Financing Authority." As provided in the Act, the Authority shall be a public entity separate from the Members. The debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of the Members.

Within 30 days after the effective date of this Agreement or any amendment hereto, the Authority will cause a notice of this Agreement or amendment to be prepared and filed with the office of the Secretary of State of the State in the manner set forth in sections 6503.5 of the Act. Such notice shall also be filed with the office of the Controller of the State.

In addition, as required by Section 53051 of the California Government Code, within 70 days after the effective date of this Agreement, the Authority shall file with the Secretary of State on a form prescribed by the Secretary of State and also with the County Clerk of Contra Costa

County, a statement of the following facts: (1) the full, legal name of the Authority, (2) the official mailing address of the Board, (3) the name and residence or business address of each member of the Board, and (4) the name, title, and residence or business address of the Chair and Secretary of the Authority, and within 10 days after any change in the facts required to be stated pursuant to the foregoing, an amended statement containing such information shall be filed with the Secretary of State on a form prescribed by the Secretary of State and also with the County Clerk of Contra Costa County.

(b) *Governing Board*. The Authority shall be administered by the Board which shall consist of the members of the City Council. The term of office as a member of the Board shall terminate when such member of the Board ceases to hold his or her respective seat on the City Council, and the successor to such seat on the City Council shall automatically become a member of the Board upon assuming such office.

Members of the Board shall not receive any compensation for serving as such, but shall be entitled to reimbursement for any expenses actually incurred in connection with serving as a member if the Board determines that such expenses shall be reimbursed and there are unencumbered funds available for such purpose.

(c) *Meetings of Board*.

(1) Time and Place. Initially, the Board shall conduct regular meetings on the same date, at the same time and at the same location as the regular meetings of the City Council. Such regular meetings may occur either during or after the regular meetings of the City Council, but may not commence earlier than the starting time for the regular meetings of the City Council. The time and place for holding regular meetings may be changed at any time by resolution of the Board. If the Secretary does not post an agenda for a regular meeting pursuant to the Brown Act, then such failure to post shall be deemed to be a determination by the Chair that no items required discussion and, therefore, that the regular meeting has been cancelled, except as otherwise provided in the Brown Act. The Board may hold special meetings at any time and from time to time in accordance with law.

(2) Legal Notice. All regular and special meetings of the Board shall be called, noticed, held and conducted subject to the provisions of the Brown Act.

(3) Minutes. The Secretary of the Authority shall cause minutes of all meetings of the Board to be kept and shall, as soon as practicable after each meeting, cause a copy of the minutes to be forwarded to each member of the Board and to the Members.

(4) Quorum. A majority of the members of the Board shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn meetings from time to time.

(d) *Officers; Duties; Bonds*.

(1) The officers of the Authority shall be the Chair, Vice Chair, Executive Director, Secretary and Treasurer. The Chair shall be the person serving as the Mayor of the City; the Vice-Chair shall be the person serving as the Vice Mayor of the City; the Executive Director shall be the person serving as the City Manager of the City; the Treasurer shall be the person serving as the Administrative Services Director (or if no

Administrative Services Director, the Finance Director or person holding a similar position) of the City; and the Secretary shall be the person serving as the City Clerk of the City. The officers shall perform the duties normal to their respective offices and such other duties as may be impossed by the Board. The Chair or the Executive Director shall sign all contracts on behalf of the Authority, and shall perform such other duties as may be imposed by the Board; provided that the Board may, by resolution, authorize other officers of the Authority to sign contracts on behalf of the Authority. The Vice Chair shall act, sign contracts, and perform all of the Chair's duties in the absence of the Chair. The Secretary shall perform such duties as may be imposed by the Board and cause a copy of this Agreement to be filed with the California Secretary of State pursuant to the Act. These officers shall have such additional powers and duties as may be determined by the Board from time to time by resolution. The City Attorney shall serve as the General Counsel of the Authority.

(2) Pursuant to Section 6505.6 of the Act, the Treasurer of the City is hereby designated as the Treasurer of the Authority. The Treasurer of the Authority is designated as the public officer or person who has charge of, handles, or has access to any property of the Authority, and such officer shall file an official bond in the amount of $25,000 as required by section 6505.1 of the Act; provided, that such bond shall not be required if the Authority does not possess or own property or funds with an aggregate value of greater than $500 (excluding amounts held by a trustee or other fiduciary in connection with any Bonds). The cost of the bond, if necessary, shall be paid by the City.

(3) So long as required by section 6505 and section 6505.5 of the Act, the Treasurer of the Authority shall prepare or cause to be prepared: (a) a special audit as required pursuant to section 6505 of the Act every year during the term of this Agreement; and (b) a report in writing on the first day of July, October, January and April of each year to the Board, the City and CSCDA which report shall describe the amount of money held by the Treasurer of the Authority for the Board, the amount of receipts since the last such report, and the amount paid out since the last such report (which may exclude amounts held by a trustee or other fiduciary in connection with any Obligations to the extent that such trustee or other fiduciary provides regular reports covering such amounts).

(4) The services of the officers shall be without compensation by the Authority. The City will provide such other administrative services as required by the Authority, and shall not receive economic remuneration from the Authority for the provision of such services.

(5) The Board shall have the power to appoint such other officers and employees as it may deem necessary and to retain independent counsel, consultants and accountants.

(6) All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, worker's compensation and other benefits which apply to the activities of officers, agents or employees of the Members when performing their respective functions within the territorial limits of their respective Member, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of this Agreement.

(7) None of the officers, agents or employees, if any, directly employed by the Authority shall be deemed, by reason of their employment by the Authority, to be employed by any Member or, by reason of their employment by the Authority, to be subject to any of the requirements of any Member.

(8) The Members hereby confirm their intent and agree that, as provided in Section 4(A) hereof and in the Act, the debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of the City or CSCDA, and they do not intend by the following sentence to impair this provision. Notwithstanding Section 4(A) hereof and the Act, the City and the Authority shall indemnify, defend and hold harmless CSCDA and each of CSCDA's officers, directors, employees, attorneys, Commission members and agents from and against any and all costs, expenses, losses, claims, damages and liabilities directly or indirectly arising out of or in connection with the activities of the Authority, including but not limited to any transaction or series of transactions undertaken by or for the benefit of the City. CSCDA may elect to defend itself in any such action with counsel of its choice, the reasonable fees of such counsel to be paid by the City. The Authority and the City shall be jointly and severally liable for any indemnity obligation owed to CSCDA or any other indemnified party under this paragraph. Notwithstanding the provisions of section 895.6 of the California Government Code, the City shall not have any right to contribution from CSCDA. This paragraph (8) shall survive the termination of this Agreement.

(9) In any event, the Authority or the City shall cause all records regarding the Authority's formation, existence, operations, any Obligations issued or incurred by the Authority, obligations incurred by it and proceedings pertaining to its termination to be retained for at least six years following termination of the Authority or final payment of any Obligations issued or incurred by the Authority, whichever is later.

Section 5. Powers. The Authority shall have any and all powers which are common powers of the Members, and the powers separately conferred by law upon the Authority. All such powers, whether common to the Members or separately conferred by law upon the Authority, are specified as powers of the Authority except any such powers which are specifically prohibited to the Authority by applicable law. Except as otherwise set forth herein as permitted by law, the Authority's exercise of its powers is subject to the restrictions upon the manner of exercising the powers of the City.

The Authority is hereby authorized, in its own name, to do all acts necessary or convenient for the exercise of its powers, including, but not limited to, any or all of the following: to sue and be sued; to make and enter into contracts; to employ agents, consultants, attorneys, accountants, and employees; to acquire, hold or dispose of property, whether real or personal, tangible or intangible, wherever located; to issue bonds or otherwise incur debts, liabilities or Obligations to the extent authorized by the Act or any other applicable provision of law and to pledge any property or revenues or the rights thereto as security for such Obligations.

Notwithstanding the foregoing, the Authority shall have any additional powers conferred under the Act or under applicable law, insofar as such additional powers may be necessary to accomplish the purposes set forth in Section 2 hereof.

Notwithstanding anything to the contrary in this Agreement, the Authority shall not have the power or the authority to enter into any retirement contract with any public retirement system (as defined in Section 6508.2 of the California Government Code) for any reason. The provision

in this paragraph is intended to benefit the Members and to be a confirming irrevocable obligation of the Authority which may be enforced by the Members, individually or collectively.

Section 6. Termination of Powers. The Authority shall continue to exercise the powers herein conferred upon it until the termination of this Agreement in accordance with Section 3 hereof.

Section 7. Fiscal Year. Unless and until changed by resolution of the Board, the fiscal year of the Authority shall be the period from July 1 of each year to and including the following June 30, except for the first fiscal year which shall be the period from the date of this Agreement to June 30, 2022.

Section 8. Disposition of Assets. Upon termination of this Agreement pursuant to Section 3 hereof, any surplus money in possession of the Authority or on deposit in any fund or account of the Authority shall be returned in proportion to any contributions made as required by section 6512 of the Act. The Board is vested with all powers of the Authority for the purpose of concluding and dissolving the business affairs of the Authority. After rescission or termination of this Agreement pursuant to Section 3 hereof, all property of the Authority, both real and personal, shall be distributed to the City, subject to Section 9 hereof.

Section 9. Contributions and Advances. Contributions or advances of public funds and of personnel, equipment or property may be made to the Authority by the Members for any of the purposes of this Agreement. Payment of public funds may be made to defray the cost of any such contribution. Any such advance made in respect of a revenue-producing facility shall be made subject to repayment, and shall be repaid, in the manner agreed upon by the City or CSCDA, as the case may be, and the Authority at the time of making such advance as provided by section 6512.1 of the Act. It is mutually understood and agreed that neither the City nor CSCDA has any obligation to make advances or contributions to the Authority to provide for the costs and expenses of administration of the Authority, even though either may do so. The Members may allow the use of personnel, equipment or property in lieu of other contributions or advances to the Authority.

Section 10. Obligations.

(a) *Authority to Issue or Incur Obligations*. When authorized by the Act or other applicable provisions of law and by resolution of the Board, the Authority may issue or incur Obligations for the purpose of raising funds for the exercise of any of its powers or to otherwise carry out its purposes under this Agreement. Said Obligations shall have such terms and conditions as are authorized by the Board.

(b) *Limited Obligations*. The Obligations, including the principal and any purchase price thereof, and the interest and premium, if any, thereon, shall be special obligations of the Authority payable solely from, and secured solely by, the revenues, funds and other assets pledged therefor under the applicable Indenture(s) and shall not constitute a charge against the general credit of the Authority or any Member. The Obligations shall not be secured by a legal or equitable pledge of, or lien or charge upon or security interest in, any property of the Authority or any of its income or receipts except the property, income and receipts pledged therefor under the applicable Indenture(s). The Obligations shall not constitute a debt, liability or obligation of the State or any public agency thereof, including any Member, other than the special obligation of the Authority as described above. Neither the faith and credit nor the taxing power of the State or any public agency thereof, including the Members, shall be pledged to the payment of

the principal or purchase price of, or the premium, if any, or interest on the Obligations nor shall the State or any public agency or instrumentality thereof, including the Members, in any manner be obligated to make any appropriation for such payment. The Authority shall have no taxing power.

No covenant or agreement contained in any Obligation or Indenture shall be deemed to be a covenant or agreement of any director, officer, agent or employee of the Authority or any Member, in his or her individual capacity and no director or officer of the Authority executing a Obligation shall be liable personally on such Obligation or be subject to any personal liability or accountability by reason of the issuance of such Obligation.

Section 11. Agreement not Exclusive. This Agreement shall not be exclusive and shall not be deemed to amend or alter the terms of other agreements between the City and CSCDA, except as the terms of this Agreement shall conflict therewith, in which case the terms of this Agreement shall prevail.

Section 12. Accounts and Reports.

(a) *Books and Records*. All funds of the Authority shall be strictly accounted for in books of account and financial records maintained by the Authority, including a report of all receipts and disbursements. The Authority shall establish and maintain such funds and accounts as may be required by generally accepted accounting principles and by each Indenture for outstanding Obligations (to the extent such duties are not assigned to a trustee for owners of Obligations). The books and records of the Authority shall be open to inspection at all reasonable times by the Members and their representatives.

(b) *Indentures*. The Authority shall require that each Indenture provide that the trustee appointed thereunder shall establish suitable funds, furnish financial reports and provide suitable accounting procedures to carry out the provisions of such Indenture. Said trustee may be given such duties in said Indenture as may be desirable to carry out the requirements of this Section 12.

(c) *Audits*. The Treasurer of the Authority shall cause an independent audit to be made of the books of accounts and financial records of the Authority in compliance with the requirements of the Act. Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants in making an audit pursuant to this Section 12, shall be borne by the Authority and shall be a charge against any unencumbered funds of the Authority available for that purpose.

(d) *Audit Reports*. The Treasurer of the Authority, as soon as practicable after the close of each Fiscal Year but in any event within the time necessary to comply with the requirements of the Act shall file a report of the audit performed pursuant to this Section 12 as required by the Act and shall send a copy of such report to public entities and persons in accordance with the requirements of the Act.

Section 13. Funds. Subject to the provisions of each Indenture for outstanding Obligations providing for a trustee to receive, have custody of and disburse funds which constitute Authority funds, the Treasurer of the Authority shall receive, have the custody of and disburse Authority funds pursuant to accounting procedures approved by the Board and shall make the disbursements required by this Agreement or otherwise necessary to carry out the provisions and purposes of this Agreement.

Section 14. Conflict of Interest Code. The Authority shall, by resolution, adopt a Conflict of Interest Code to the extent required by law. Such Conflict of Interest Code may be the conflict of interest code of the City.

Section 15. Breach. If default shall be made by the City or CSCDA in any covenant contained in this Agreement, such default shall not excuse either the City or CSCDA from fulfilling its obligations under this Agreement and the City and CSCDA shall continue to be liable for the performance of all conditions herein contained. The City and CSCDA hereby declare that this Agreement is entered into for the benefit of the Authority created hereby and the City and CSCDA hereby grant to the Authority the right to enforce by whatever lawful means the Authority deems appropriate all of the obligations of each of the parties hereunder. Each and all of the remedies given to the Authority hereunder or by any law now or hereafter enacted are cumulative and the exercise of one right or remedy shall not impair the right of the Authority to any or all other remedies.

Section 16. Notices. Notices and other communications hereunder to the parties shall be sufficient if delivered to the clerk or secretary of the governing body of each party.

Section 17. Withdrawals and Additions of Members.

(a) *Withdrawals*. Any Member may withdraw from the Authority by filing with the Board a certified copy of a resolution of the governing body of the Member expressing its desire to so withdraw, whereupon the withdrawing Member shall no longer be considered a Member for any reason or purpose under this Agreement and its rights and obligations under this Agreement shall terminate. The withdrawal of a Member shall not affect the existence of the Authority nor the effectiveness of any Obligations of the Authority.

(b) *Additional Members*. Any public agency may be added as a party to this Agreement, and become a Member, by filing with the Board a certified copy of a resolution of the governing body of such public agency whereby it agrees to the provisions of this Agreement and requests to become a Member. The Board may accept or reject any such proposal in its sole discretion, and if accepted, such public agency shall become a Member when (i) its admission is approved by a vote of a majority of the Board voting on the matter and (ii) such public agency agrees to share public agency's future share of the costs and expenses incurred by the Authority in the course of its activities. Upon satisfaction of the provisions of this clause (b), such public agency shall be a Member for all purposes of this Agreement. The effectiveness of such membership shall not constitute an amendment or modification of this Agreement.

Section 18. Effectiveness. This Agreement shall become effective and be in full force and effect and a legal, valid and binding obligation of CSCDA and the City, as the initial Members, when each party has executed a counterpart of this Agreement.

Section 19. Severability. Should any part, term, or provision of this Agreement be decided by the courts to be illegal or in conflict with any law of the State, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms or provisions hereof shall not be affected thereby.

Section 20. Successors; Assignment. This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties. Except to the extent expressly provided

herein, neither party may assign any right or obligation hereunder without the consent of the other.

Section 21. Amendment of Agreement. This Agreement may be amended by supplemental agreement executed by the Members at any time; provided, however, that this Agreement may be terminated only in accordance with Section 3 hereof and, provided further, that such supplemental agreement shall be subject to any restrictions contained in any Obligations or documents related to any Obligations to which the Authority is a party.

Section 22. Form of Approvals. Whenever an approval is required in this Agreement, unless the context specifies otherwise, it shall be given, in the case of CSCDA, by resolution duly adopted by the board of directors of CSCDA, and, in the case of the City, by resolution duly adopted by the City Council, and, in the case of the Authority, by resolution duly adopted by the Board. Whenever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

Section 23. Waiver of Personal Liability. No member, officer, employee, attorney, agent, and, with respect to CSCDA, Commission member of the Authority, the City or CSCDA shall be individually or personally liable for any claims, losses, damages, costs, injury and liability of any kind, nature or description arising from the actions of the Authority or the actions undertaken pursuant to this Agreement, and the City shall defend such members, officers, employees, attorneys, agents, or, with respect to CSCDA, Commission member, against any such claims, losses, damages, costs, injury and liability. Without limiting the generality of the foregoing, no member, officer, employee, attorney, agent, or, with respect to CSCDA, Commission member, of the Authority or of any Member shall be personally liable on any Obligations or be subject to any personal liability or accountability by reason of the issuance of Obligations pursuant to the Act and this Agreement. To the full extent permitted by law, the Board shall provide for indemnification by the Authority of any person who is or was a member of the Board, or an officer, employee or other agent of the Authority, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a member of the Board, or an officer, employee or other agent of the Authority, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith and in the course and scope of his or her office, employment or agency. In the case of a criminal proceeding, the Board may provide for indemnification and defense of a member of the Board, or an officer, employee or other agent of the Authority to the extent permitted by law.

Section 24. Notices. Notices to the City hereunder shall be sufficient if delivered to the City Manager, and notices to CSCDA hereunder shall be sufficient if delivered to CSCDA staff.

Section 25. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

Section 26. Miscellaneous. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Where reference is made to duties to be performed for the Authority by a public official or employee, such duties may be performed by that person's duly authorized deputy or assistant. Where reference is made to actions to be taken by a Member, such action may be

exercised through the officers, staff or employees of such Member, in the manner provided by law.

This Agreement is made in the State, under the Constitution and laws of the state and is to be construed as a contract made and to be performed in the State.

This Agreement is the complete and exclusive statement of the agreement among the parties with respect to the subject matter hereof, which supersedes and merges all prior proposals, understandings, and other agreements, whether oral, written, or implied in conduct, between the parties relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers or officials thereunto duly authorized.

CITY OF ST. HELENA

By _____
City Manager

Attest:

_____
City Clerk

CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY

By: _____
Authorized Signatory

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **CONSENT ITEMS**

Subject: **Consideration and proposed approval of a Resolution authorizing a budget increase for the costs associated with executing the Joint Exercise of Powers Agreement forming the St. Helena Financing Authority as follows: 101-43-00-21-45 for $8,334; 561-43-00-21-45 for $8,333; and 571-43-00-21-45 for $8,333.**

CEQA Determination: **Not a CEQA project**

Prepared By: Mandy Kellogg, Asst. Administrative Services Director

Reviewed By: April Mitts, Administrative Services Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The Joint Exercise of Powers Act, being California Government Code Sections 6500 and following (the "Act"), permits two or more public agencies to create, by agreement, a joint powers authority for the purpose of jointly exercising any common power and certain additional powers provided for in the Act, including the power to issue bonds for the purposes specified in the Act.

In connection with the possibility of financing capital improvement projects, the City's financing team (Del Rio Advisors, LLC as Municipal Advisor, and Jones Hall as Bond Counsel) have advised there is a market preference for the issuance of revenue bonds, rather than certificates of participation, that should result in lower borrowing costs to the City. In order to issue revenue bonds, the City needs to form a "joint exercise of powers authority" ("JPA") under the California Government Code. The City has approached the California Statewide Communities Development Authority ("CSCDA") to act as the other party to a joint exercise of powers agreement forming the St. Helena Financing Authority.

DISCUSSION

Jones Hall, as Bond Counsel, has coordinated with CSCDA to determine the necessary steps to form the JPA. Administrative costs associated preparing required documents and managing the Secretary of State filings are as follows:

Agency	Cost
California Statewide Communities Development Authority (CSCDA)	$10,000
Jones Hall	$15,000
Total	**$25,000**

By creating the Authority, the City will have an entity that can issue revenue bonds for financings.

FISCAL IMPACT

The fiscal impact for the costs associated with executing the Joint Exercise of Powers Agreement is for a total of $25,000. Costs will be split between the General Fund, Water Operations Funds, and Wastewater Operations Fund as follows:

Fund	Amount
101-43-00-21-45	$8,334
561-43-00-21-45	$8,333
571-43-00-21-45	$8,333
Total	**$25,000**

RECOMMENDED ACTION

Approval of a Resolution authorizing a budget increase for the costs associated with executing the Joint Exercise of Powers Agreement forming the St. Helena Financing Authority as follows: 101-43-00-21-45 for $8,334; 561-43-00-21-45 for $8,333; and 571-43-00-21-45 for $8,333. Use of reserves and fund balances will not affect the percentage of fund balance for each of these funds.

ATTACHMENTS

Resolution - Approving Budget Increase for JPA Formation Costs

CITY OF ST. HELENA

RESOLUTION NO. 2021-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST. HELENA AUTHORIZING A BUDGET INCREASE FOR THE COSTS ASSOCIATED WITH EXECUTING THE JOINT POWERS AGREEMENT FORMING THE ST. HELENA FINANCING AUTHORITY AS FOLLOWS: 101-43-00-21-45 for $8,334; 561-43-00-21-45 for $8,333; and 571-43-00-21-45 for $8,333.

WHEREAS, the Joint Exercise of Powers Act, being California Government Code Sections 6500 and following (the "Act"), permits two or more public agencies to create, by agreement, a joint powers authority for the purpose of jointly exercising any common power and certain additional powers provided for in the Act, including the power to issue bonds for the purposes specified in the Act; and

WHEREAS, in connection with the possibility of financing capital improvement projects, the City's financing team (Del Rio Advisors, LLC as Municipal Advisor, and Jones Hall, as Bond Counsel) have advised there is a market preference for the issuance of revenue bonds, rather than certificates of participation, that should result in lower borrowing costs to the City; and

WHEREAS, in order to issue revenue bonds, the City needs to form a "joint exercise of powers authority" ("JPA") under the California Government Code, and the City has approached the California Statewide Communities Development Authority ("CSCDA") to act as the other party to a joint exercise of powers agreement forming the St. Helena Financing Authority; and

WHEREAS, there are certain administrative costs associated with preparing required documents for the formation of the JPA and managing required Secretary of State filings; and

WHEREAS, City staff has requested a budget adjustment to cover the costs from CSCDA in the amount of $10,000 and Jones Hall in the amount of $15,000 for a total of $25,000 to be split between the General Fund, Water Operations Funds, and Wastewater Operations Fund.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ST. HELENA AS FOLLOWS:

1. Approves a budget increase to 101-43-00-21-45 in the amount of $8,334;

2. Approves a budget increase to 561-43-00-21-45 in the amount of $8,333; and

3. Approves a budget increase to 571-43-00-21-45 in the amount of $8,333 for administrative costs associated with the formation of JPA.

Approved at a Regular Meeting of the St. Helena City Council on December 14, 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 Tzafopoulos, City Clerk

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **CONSENT ITEMS**

Subject: **Consideration of approval of a Resolution authorizing: (1) the acquisition of five Verizon Wi-Fi hotspots for a lending program at the St. Helena Public Library; (2) a budget expense increase in the amount of $1,463 to 380-46-00-21-10; and (3) a budget revenue increase in the amount of $1,463 to 380-34-70-00-00.**

CEQA Determination: **Not a CEQA project**

Prepared By: Chris Kreiden, Library Director

Reviewed By: April Mitts, Administrative Services Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

A current trend for Libraries is the loaning of portable Wi-Fi hotspots which allow library cardholders, who do not have home internet access, to easily access the internet using a Wi-Fi enabled device such as a phone, tablet, or laptop. These hotspots are available to check out from the library, just like a book or DVD. In an increasingly interconnected world, the internet is vital in day-to-day life.

Offering mobile hotspot devices to the community will help library patrons meet information needs in new and exciting ways. Friends & Foundation would like to provide the funds for the St. Helena Public Library to be able to provide this service to its patrons.

DISCUSSION

City staff researched Wi-Fi hot spot programs and recommends utilization of Verizon Wi-Fi hotspots because of their ease of use and due to the better coverage provided by Verizon in the area. Additionally, it is being recommended that acquisition of devices and monthly payment plans be obtained through the City's account, which offers special pricing for governments. The cost to purchase five Wi-Fi hot spot devices is $162.30

(including tax) and requires a two-year service agreement for $199.95 per month for 24-months.

The Friends & Foundation has, over the years provided, the St. Helena Public Library with annual grants to help fund library materials, programming, and part-time staffing. The grant for the current fiscal year (FY 2021-22) is $135,000. To make the Wi-Fi hotspot lending program possible, the Friends & Foundation is offering to add an additional $1,463 to the FY 2021-22 grant for the acquisition and monthly service costs for five Wi-Fi hotspots and offering to increase their grant contribution for the entirety of the service agreement.

FISCAL IMPACT

The fiscal impact for the purchase of the five Wi-Fi hotspots is an increase to FY 2021-22 expenses by $1,300 and and offsetting increase to revenues by $1,300. Both increases will be done in the Friends and Foundation Fund (Fund 380).

RECOMMENDED ACTION

Staff recommends the City Council approve the attached resolution.

ATTACHMENTS

Attachment 1: Resolution - Library Wi-Fi Hotspots

CITY OF ST. HELENA

RESOLUTION NO. 2021-

Consideration of approval of a Resolution authorizing (1) acquisition of five Verizon Wi-Fi hotspots for a lending program at the St. Helena Public Library, (2) budget adjustment increasing expenses in the amount of $1,463 to 380-46-00-21-10, and (3) budget adjustment increasing revenues received from Friends & Foundation in the amount of $1,463 to 380-34-70-00-00.

WHEREAS, a current trend for Libraries is the loaning of portable Wi-Fi hotspots which allow library cardholders, who do not have home internet access, to easily access the internet using a Wi-Fi enabled device such as a phone, tablet, or laptop. These hotspots are available to check out from the library, just like a book or DVD. In an increasingly interconnected world, the internet is vital in day-to-day life; and

WHEREAS, offering mobile hotspot devices to the community will help library patrons meet information needs in new and exciting ways. Friends & Foundation would like to provide the funds for the St. Helena Public Library to be able to provide this service to its patrons

WHEREAS, the Friends and Foundation would like to provide the St. Helena Public Library with additional funding provide five Verizon Wi-Fi hotspots for a two-year term; and

WHEREAS, City staff has requested a FY 2021-22 budget adjustment to cover the costs of these five Verizon Wi-Fi hotspots in the amount of $1,463 to be provided by Friends & Foundation; and

WHEREAS, the Friends and Foundation will increase their grant contribution in FY 2022-23 to accommodate the five Verizon Wi-Fi hotspots.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ST. HELENA AS FOLLOWS:

1. Approves a FY 2021-22 budget increase to 380-46-00-21-21 in the amount of $1,463; and

2. Approves a FY 2021-22 revenue budget increase to 380-34-70-00-00 in the amount of $1,463 to fund the acquisition of five Verizon Wi-Fi hotspots for a lending program at the St. Helena Public Library.

Approved at a Regular Meeting of the St. Helena City Council on December 14, 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:

_____
Geoff Ellsworth, Mayor

ATTEST:

_____
Cindy Tzafopoulos, City Clerk

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **CONSENT ITEMS**

Subject: **Consideration and Proposed Approval of a Resolution Authorizing: (1) the City's acceptance of the FY 2021 Tobacco Law Enforcement Program Grant in the Amount of $454,788; (2) the City Manager to Execute the Memorandum of Understanding for the Grant Funds; (3) a Budget Expense Increase to Fund 277 in the Amount of $93,110 and a Budget Revenue Increase to Fund 277 in the Amount of $93,110 for FY 2021-22; and (4) the Continuation of the Limited-Term Police Officer SRO Position.**

CEQA Determination: **Not a CEQA project**

Prepared By: Justin Tharp, Lieutenant

Reviewed By: Chris Hartley, Chief of Police

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

Approved by California voters in 2016, Proposition 56 (also known as California Healthcare Research and Prevention Tobacco Tax Act of 2016) increased taxes on cigarettes and other tobacco products by $2.00 starting in April 2017. The initiative specifically allocates $30 million of annual revenue to the California Department of Justice and these funds are used to support local law enforcement investigations intended to reduce the illegal sale of tobacco products to minors. In accordance with the State Budget Act and Proposition 56, any local government within the State of California who have the authority to enforce tobacco-related state laws or local ordinances is eligible to receive grant funds. The purpose of this grant project is to enable local law enforcement agencies to expand their efforts in addressing tobacco-related issues, emphasizing enforcement efforts towards the illegal sales and marketing efforts to minors.

DISCUSSION

The City of St. Helena has received Prop 56 grant funding for the past three years which fully funded the current School Resource Officer (SRO) position. This funding expired on June 30, 2021. On April 12, 2021, prior to the expiration of the grant, the City applied for $629,688 to extend the grant through June 30, 2025 and, on November 18, 2021, the City was notified via email by the Office of Attorney General, California Department of Justice, that the City's grant application was approved for funding in the amount of $454,788, with an award period beginning the date of the signed Memorandum of Understanding (MOU); the grant expires on June 30, 2024.

The grant funding will continue to fund the SRO currently assigned to all the public schools within the St. Helena Unified School District (SHUSD). The primary focus of the SRO will be St. Helena High School and Robert Louis Stevenson Middle School (RLS); the grades/ages most impacted by the use of tobacco and tobacco related products. The primary goal of the SRO is the continued reduction in the use of tobacco related products amongst the student body of SHUSD. This will be accomplished through educational activities including, but not limited to, D.A.R.E programming and direct enforcement of state and local laws, such as possession of tobacco products on a school campus and retail enforcement, including minor decoy stings. The SRO will focus on reducing new tobacco trends, such as e-cigarettes and vaping that is gaining popularity among teenagers and young adults.

City Staff is recommending that the City Council accept the grant award in the amount of $454,788; ratify and authorize the City Manager to execute the Memorandum of Understanding (MOU), and related documents, for the period of December 1, 2021 through June 30, 2024. City Staff recommends the continued funding for the limited term Police Officer (SRO) position and authorize enforcement program with the ending date of June 30, 2024. Finally, City Staff recommends a budget expense increase in the current fiscal year (FY 2021-22) to Fund 277 in the amount of $93,110 and a budget revenue increase in the amount of $93,110 which will cover the SRO position through June 30, 2022. Allocations for FY 2022-23 and FY 2023-24 will be done through the annual budget process.

FISCAL IMPACT

The fiscal impact for the acceptance of the grant is an increase in both revenues and expenses for an amount not-to-exceed $454,788 over a three-year period.

RECOMMENDED ACTION

Staff recommends the City Council adopt the attached resolution.

ATTACHMENTS

Attachment 1: Department of Justice/Tobacco Grant Award Notification FY 21/22
Attachment 2: Resolution No. 2021 Prop 56 Grant

ROB BONTA
Attorney General

State of California
DEPARTMENT OF JUSTICE

DIVISION OF OPERATIONS
TOBACCO GRANT PROGRAM
P O BOX 160187
SACRAMENTO, CA 95816-0187
Telephone (916) 210-6422
E-Mail Address TobaccoGrants@doj ca gov

November 18, 2021

Christopher Hartley, Chief
St. Helena Police Department
1480 Main Street
St Helena, CA 94574

Re: Tobacco Grant Award Notification FY 21/22

Dear Christopher Hartley:

Congratulations! On behalf of the California Department of Justice, I am excited to inform you that your agency's grant application for funds authorized under the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 has been approved for Funding in the amount of $454,788[1].

The California Department of Justice was excited to receive applications totaling over $71 million to support local law enforcement agencies in educating minors about the harms of tobacco products, enforcing state and local tobacco laws, and conducting retailer enforcement. Consequently, some awards were approved with modifications.

In order to accept the award, your agency must, within 15 calendar days of the date of this letter, respond with a signed Letter of Intent (template attached) affirming either 1) your agency will seek a resolution to accept the award, if your agency has a governing body; or 2) no governing body exists and no resolution is required. The letter can be sent via email to TobaccoGrants@doj.ca.gov with subject line "FY 21-22_Letter of Intent_St. Helena Police Department" and/or hard copy to:

CA Department of Justice
Division of Operations
Tobacco Grant Program
P.O. Box 160187
Sacramento, CA 95816-0187

If the Letter of Intent is **only** being sent via hard copy, it must be postmarked within 15 days of the date of this letter. Upon receipt of the Letter of Intent, the Local Assistance Unit

[1]Award amounts are subject to change due to appeals or declinations of awards.

within the California Department of Justice will provide documents as part of your grant agreement (Memorandum of Understanding, Handbook, etc.).

Also provided with the electronic version of this letter are the Award Summary and approved Budget Detail which will reflect any necessary modifications. If you wish to realign the approved funds, please reference the attached instruction sheet and return your revised Budget Detail with your letter of intent.

If you have any questions about this process, please do not hesitate to contact me at (916) 210-7006 or at TobaccoGrants@doj.ca.gov.

Sincerely,

Stacy Heinsen

Digitally signed by Stacy Heinsen
Date: 2021.11.17 17:49:01 -08'00'

STACY HEINSEN
Manager, Tobacco Grant Program

For ROB BONTA
Attorney General

CITY OF ST. HELENA

RESOLUTION NO. 2021-__

Resolution Authorizing: (1) the City's acceptance of the FY 2021 Tobacco Law Enforcement Program Grant in the Amount of $454,788; (2) the City Manager to Execute the Memorandum of Understanding for the Grant Funds; (3) a Budget Expense Increase to Fund 277 in the Amount of $93,110 and a Budget Revenue Increase to Fund 277 in the Amount of $93,110 for FY 2021-22; and (4) the Continuation of the Limited-Term Police Office SRO Position.

RECITALS

WHEREAS, approved by California voters in 2016, Proposition 56 (also known as California Healthcare Research and Prevention Tobacco Tax Act of 2016) increased taxes on cigarettes and other tobacco products by $2.00 starting in April 2017. The initiative specifically allocates $30 million of annual revenue to the California Department of Justice and these funds are used to support local law enforcement investigations intended to reduce the illegal sale of tobacco products to minors; and

WHEREAS, in accordance with the State Budget Act and Proposition 56, any local government within the State of California who have the authority to enforce tobacco-related state laws or local ordinances is eligible to receive grant funds. The purpose of this grant project is to enable local law enforcement agencies to expand their efforts in addressing tobacco-related issues, emphasizing enforcement efforts towards the illegal sales and marketing efforts to minors; and

WHEREAS, the City of St. Helena has received Prop 56 grant funding for the past three years which fully funded the current School Resource Officer (SRO) position. This funding expired on June 30, 2021. On April 12, 2021, prior to the expiration of the grant, the City applied for $629,688 to extend the grant through June 30, 2025; and

WHEREAS, on November 18, 2021, the City was notified via email by the Office of Attorney General, California Department of Justice, that the City's grant application was approved for funding in the amount of $454,788, for the period of December 1, 2021 through June 30, 2024; and

WHEREAS, the grant funding will continue to fund the SRO currently assigned to all the public schools within the St. Helena Unified School District (SHUSD); and

WHEREAS, to receive grant funding, the City Council must accept the grant award and execute a Memorandum of Understanding.

RESOLUTION

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

1. Authorizes the City's acceptance of the FY 2021 Tobacco Law Enforcement Program Grant in the Amount of $454,788.

2. Authorizes the City Manager to Execute the Memorandum of Understanding for the Grant Funds.

3. Authorizes a Budget Expense Increase to Fund 277 in the Amount of $93,110 and a Budget Revenue Increase to Fund 277 in the Amount of $93,110 for FY 2021-22.

4. Authorizes the Continuation of the Limited-Term Police Officer SRO Position.

Approved at a Regular Meeting of the St. Helena City Council on December 14, 2021, by the following vote:

Mayor Ellsworth:

Vice Mayor Dohring:

Councilmember Chouteau:

Councilmember Hardy:

Councilmember Hall:

APPROVED: ATTEST:

_____ _____

Geoff Ellsworth, Mayor Cindy Tzafopoulos, City Clerk

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **CONSENT ITEMS**

Subject: **Consideration and proposed adoption of a Resolution accepting the work and final project construction costs of $827,687.63 and directing the filing of the Notice of Completion for CIP Project R19-79 Year 2 Pavement Restoration**

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

Prepared By: Martin Beltran, Management Analyst

Reviewed By: Mark Rincon-Ibarra, Public Works Director and City Engineer

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The City of St. Helena is responsible for the maintenance of public streets within the City limits. On June 8, 2021, City Council adopted the Capital Improvement Program (CIP) which included year two of R19-79 Pavement Restoration Project. The R19-79 Year 2 Pavement Restoration Project included maintenance of existing streets which consisted of:

- Constructing full-depth asphalt concrete repairs
- Pavement grinding
- Asphalt concrete overlays
- Traffic striping
- Crosswalk markings
- Sidewalk replacement
- Valley gutters replacement
- Curb and gutter repairs
- ADA curb ramp upgrades

- Installing signage when applicable, which does not expand or increase the existing street capacity

This work was completed on the following street segments:

- Brown Street from Allison Avenue to end of street - West
- Crinella Court from Main Street to Park Street
- Christine Court from Park Street to end of street - East
- Henry Court from Park Street to end of street - East
- Crinella Drive from Park Street to Pump Station and Pump Station to Park Street
- Park Street from Pratt Avenue to Christine Court and Christine Court to Crinella Drive
- Volker Court from Crinella Drive to end of street - East
- Voorhees Circle from Mitchell Drive for a span of 230' - East

On July 27, 2021, City Council awarded the R19-79 Year 2 Pavement Restoration Project to Argonaut Constructors in the amount of $804,825.75.

The City of St. Helena required construction management and inspection services in order to produce a high quality, cost effective project. On August 24, 2021, City Council approved a professional service agreement with Coastland Civil Engineering, Inc. (Coastland) for the R19-79 Year 2 Pavement Restoration project in an amount not to exceed $99,781.00.

DISCUSSION

Argonaut Constructors was awarded the R19-79 Year 2 Pavement Restoration project in the amount of $804,825.75. The Director of Public Works was authorized to approve change orders (CCO) for construction contingency for unforeseen conditions not to exceed 15% of the construction contract - up to $120,823.86. During construction the Director authorized one CCO order for $1,380.29. Additionally, as part of the construction contract, five contract unit item overruns occurred in bid options for sidewalks, curbs, and gutters (Items 14 and 15). The overruns, which addressed sidewalk issues, were submitted by the Construction Manager (Coastland) to the Director of Public Works and the Director of Public Works authorized the field adjustments (Attachment 1). The change order and contract unit over-runs are summarized below:

Number	Description	Amount
Contract Amount:	Argonaut Constructors Award of Contract	$804,825.75
CCO #1	Additional demolition and debris off haul needed to remove an unidentified dead tree and repair an unknown two-inch drain line.	$1,380.29
Contract Unit Item Over-runs	Over-runs included: one additional monument to grade not shown on the plans, a Case "C" ramp was initially approved instead of a Case	$21,481.59

	"A" at the eastern ramp at Crinella Drive & Main Street, per plans the cross gutter totals to 3,034 SF instead of the 2,185 SF initially listed, additional sidewalk replacement (approximately 26 LF), and additional 26 LF of curb and gutter replacement.	
TOTAL COSTS		***$827,687.63***

The R19-79 Year 2 Pavement Restoration project has a total budget of $1,033,000 for construction and contingency. The project was completed within the allocated budget. The Public Works Department has inspected the work and found the work to be completed satisfactorily. Following the acceptance of the project, City staff will file a Notice of Completion concerning the project with the Napa County Recorder's Office.

FISCAL IMPACT

The total estimated project expenditures are summarized below:

R19-79 Pavement Restoration Project		
Expenditure	**Adopted Budget**	**Estimated Costs**
Survey, Design, Engineering (includes Year 1 Pavement design costs)	$125,939	$123,516
Final Construction Contract (Year 1)	$837,389	$837,389
Final Construction Contract (Year 2)	$939,000	$827,688
Construction Management (Year 1)	$ 48,126	$ 48,126
Construction Management (Year 2)	$155,000	$116,881
Contingency	$ 94,000	
Total Cost	***$2,199,454***	***$1,953,600***

Funding for R19-79 includes a combination of General Fund (Measure T/RMRA MOE), Measure T, and Senate Bill 1 (SB1).

RECOMMENDED ACTION

Staff recommends City Council adopt the attached resolution.

ATTACHMENTS

Attachment 1: CCO & Overrun Summary Sheet
Attachment 2: Resolution
Attachment 3: R19-79 Year 2 Pavement Restoration NOC
Attachment 4: CIP R19-79 Pavement Restoration

ITEM NO.	DESCRIPTION	APPROXIMATE QUANTITY	UNIT	UNIT PRICE	APPROXIMATE AMOUNT	TOTAL TO DATE		% OF ITEM COMPLETE	Comments
						QUANTITY	AMOUNT		
1	Mobilization	1	LS	$75,000.00	$75,000.00	1.000	$75,000.00	100%	
2	Traffic and Pedestrian Traffic Control and Construction Area Signs	1	LS	$46,000.00	$46,000.00	1.000	$46,000.00	100%	
3	Stormwater Pollution Prevention	1	LS	$5,000.00	$5,000.00	1.000	$5,000.00	100%	
4	Adjust Existing Manholes to Grade	14	EA	$900.00	$12,600.00	14.000	$12,600.00	100%	
5	Adjust Existing Water Meter to Grade	5	EA	$900.00	$4,500.00	3.000	$2,700.00	60%	
6	Adjust Existing Water Valve to Grade	25	EA	$650.00	$16,250.00	20.000	$13,000.00	80%	
7	Adjust Existing Survey Monument to Grade	16	EA	$650.00	$10,400.00	17.000	$11,050.00	106%	There was one additional monument not shown on the plans.
8	Thermoplastic Striping - Various Types	1	LS	$2,500.00	$2,500.00	1.000	$2,500.00	100%	
9	Thermoplastic Pavement Markings (Words and Symbols)	1	LS	$2,500.00	$2,500.00	1.000	$2,500.00	100%	
10	Raised Pavement Marker, Blue Reflective	9	EA	$25.00	$225.00	8.000	$200.00	89%	
11	Construct Caltrans Case "A" Curb Ramp	3	EA	$9,200.00	$27,600.00	2.000	$18,400.00	67%	
12	Construct Caltrans Case "C" Curb Ramp	14	EA	$9,500.00	$133,000.00	15.000	$142,500.00	107%	The City approved a Case "C" ramp instead of a Case "A" at the eastern ramp at Crinella Drive and Main Street (pan sheet 15/18). Please note the reduced bid item #11.
13	Cross Gutter	2,185	SF	$26.00	$56,810.00	3034.000	$78,884.00	139%	Per plan the cross gutter totals to 3,034 SF. This may have been an error in the quantity estimate. Please see the attached field measurements and calculations.
14	Sidewalk	225	SF	$34.00	$7,650.00	288.000	$9,792.00	128%	Additional sidewalk replacemnent (approximately 26 LF) directed by City in the field.
15	Curb and Gutter	45	LF	$97.00	$4,365.00	71.000	$6,887.00	158%	Additional 26LF curb and gutter replacemnent directed by City in the field.
16	Edge Grinding	9,375	LF	$4.25	$39,843.75	9254.000	$39,329.50	99%	
17	2.0" HMA Overlay	392	TON	$114.00	$44,688.00	407.000	$46,398.00	104%	
18	2.5" HMA Overlay	2,155	TON	$114.00	$245,670.00	2165.060	$246,816.84	100%	
19	HMA Base Repair Dig-Out Repairs	500	SY	$62.00	$31,000.00	500.000	$31,000.00	100%	
20	Pavement Reinforcement Fabric	19,612	SY	$2.00	$39,224.00	17875.000	$35,750.00	91%	

CITY OF ST. HELENA

RESOLUTION NO. 2021-

Resolution accepting the work and final project construction costs of $827,687.63 and directing the filing of the Notice of Completion for CIP Project R19-79 Year 2 Pavement Restoration

RECITALS

A. The project plans for the work were approved by the Director of Public Works pursuant to authority by St. Helena City Council on May 27, 2021; and

B. Pursuant to St. Helena Municipal Code Chapter 3.04; Article 3 Public Works Projects; Section 3.04.220 on June 11, 2021, a notice inviting bids was posted and mailed to contractors inviting bids for the R19-79 Year 2 Pavement Restoration Project; and

C. On July 9, 2021, four (4) bids were received and opened in accordance with applicable law; and

D. The lowest responsive and responsible bidder for the Project was Argonaut Constructors, of Santa Rosa, CA in the amount of $804,825.75; and; and

E. On July 27, 2021, the City of St. Helena Council awarded the R19-79 Year 2 Pavement Restoration Project to Argonaut Constructors in the amount of $804,825.75, authorized the City Manager to execute a construction contract in the amount of $804,825.75 with Argonaut Constructors for R19-79 Year 2 Pavement Restoration Project, and authorized the Director of Public Works to approve change orders not-to-exceed 15% of the contract amount; and

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

Number	Description	Amount
CCO #1	Additional demolition and debris off haul needed to remove an unidentified dead tree and repair an unknown two-inch drain line.	$1,380.29
	Contract Change Order Total	**$1,380.29**

Contract Unit Item Over-runs	Over-runs included one additional monument to grade not shown on the plans, a Case "C" ramp was initially approved instead of a Case "A" at the eastern ramp at Crinella Drive & Main Street, per plans the cross gutter totals to 3,034 SF instead of the 2,185 SF initially listed, additional sidewalk replacement (approximately 26 LF), and additional 26 LF of curb and gutter replacement.	$21,481.59

F. The final construction contract amount is $827,687.63, which includes one change order totaling $1,380.29 and contract unit item over-runs in the amount of $21,481.59; and

G. The project has been inspected and Argonaut Constructors has completed the work in accordance with the contract documents for the project; and

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

RESOLUTION

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

1. The contract entitled R19-79 Year 2 Pavement Restoration, with the final contract amount of $827,687.63, is accepted as complete, subject to the Contractor, Argonaut Constructors, completing the punch list work prior to the release of the retention, and the Contractor's continuing warranty and other obligations pursuant to the contract.
2. The Public Works Director/City Engineer is authorized to prepare a Notice of Completion and the City Clerk is directed to file a Notice of Completion with the Napa County Recorder.

Approved at a Regular Meeting of the St. Helena City Council on December 14,2021, by the following vote:

Mayor Ellsworth: _____

Vice Mayor Dohring: _____

Councilmember Chouteau: _____

Councilmember Hall: _____

Councilmember Hardy: _____

APPROVED:

_____
Geoff Ellsworth, Mayor

ATTEST:

_____
Cindy Tzafopoulous, City Clerk

Recording Requested By:
City of St Helena
1572 Railroad Avenue
St Helena, CA 94574

Exempt From Recording Fees Per Government Code Sec. 27383

When Recorded Mail To:
City Clerk
City of St Helena
1572 Railroad Avenue
St Helena, CA 94574

SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN THAT:

1. The undersigned is an owner of an interest of estate in the hereinafter described real property, the nature of which interest or estate is: fee simple.
2. The full name and address of the undersigned owner and of any and all co-owners are:

Name	Street and No.	City	State
City of St Helena	1572 Railroad Avenue	St Helena	CA

3. Work or Improvement on the property hereinafter described as the R19-79 Year 2 Pavement Restoration Project was completed and accepted by the City of St. Helena City Council on December 14, 2021.
4. The work done was: maintenance of existing streets, including maintenance of existing streets, consisting of constructing full-depth asphalt concrete repairs, pavement grinding, asphalt concrete overlays, traffic striping, crosswalk markings, sidewalk replacement, valley gutters replacement, curb and gutter repairs, ADA curb ramp upgrades, and installing signage when applicable, which does not expand or increase the existing street capacity.
5. The name of the original contractor for the work of improvement as a whole was: Argonaut Constructors.
6. The real property herein referred to is situated in the City of St Helena, County of Napa, State of California, and described as follows: Brown Street from Allison Avenue to End (W), Crinella Court from Main Street to Park Street, Christine Court from Park Street to End (E), Henry Court from Park Street to End (E), Crinella Drive from Park Street to Pump Station and Pump Station to Park Street, Park Street from Pratt Avenue to Christine Court and Christine Court to Crinella Drive, Volker Court from Crinella Drive to End (E), and Voorhees Circle from Mitchell Drive (E) to 230'.

By: _____
Owner's Authorized Agent's Signature

Mark A. Rincón-Ibarra, PE Public Works Director/City Engineer

VERIFICATION

I, the undersigned, say:

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

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

Executed at St. Helena, California, this 14th day of December, 2021.

City of St. Helena

_____
Mark A. Rincón-Ibarra, Public Works Director

Pavement Restoration FY 19 Design/FY 22 Construction

Project No: R19-79

Category: Streets

Project Location: St. Helena, CA 94574

Responsible Department:



PROJECT PURPOSE & DESCRIPTION: Rehabilitate streets throughout the City with various surface treatments (i.e. slurry seal, micro-surface, and overlay). Curb ramp upgrades may be part of projects as needed. Council approved a five-year list of streets on February 13, 2018.

Construction for Year 2 paving deferred to FY 22.

EXPENDITURE ACCOUNTS:

Fund: 741 **Dept**: 5014

EXPENDITURES	Total YTD 05/11/21		2021-22	2022-23	2023-24	2024-25	2025-26	PROJECT TOTAL
3110 - Design	120,939		5,000					125,939
3150 - Construction Management	48,126		155,000					203,126
3160 - Construction Contract	837,389		939,000					1,776,389
3170 - Contingency			94,000					94,000
EXPENDITURE TOTALS	1,006,454		1,193,000					2,199,454
FUNDING SOURCES								
101-General Fund - Measure T/RMRA MOE	410,188		300,000					710,188
230-Gas Tax			150,000					150,000
230-Gas Tax - RMRA/SB1			300,000					300,000
240-Measure T	564,455		443,000					1,007,455
741-Streets Capital Improvement - Grant OBAG II	31,811							31,811
FUNDING TOTALS	1,006,454		1,193,000					2,199,454

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **CONSENT ITEMS**

Subject: **Consideration and proposed approval of a resolution: (1) authorizing the City Manager to execute Amendment No. 3 to STH Contract: FY 2019-075 in the amount of $146,000 with BKF Engineers (BKF) for the St. Helena Downtown Street Improvements, for a total not-to-exceed amount of $781,600 and (2) authorizing a budget increase of $146,000 to design in CIP Project R18-81 with funding allocated from Fund 230 SB1/RMRA (Road Maintenance and Rehabilitation).**

CEQA Determination: **CEQA will be completed as part of project design**

Prepared By: Martin Beltran, Management Analyst

Reviewed By: Mark Rincon-Ibarra, Public Works Director and City Engineer

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On December 11, 2018, City Council approved STH Contract: FY 2019-075 with BKF Engineers in the amount of $529,000 for engineering and landscaping services for the St. Helena Downtown Street Improvements (Attachment 1). The project includes streetscape planning design between Main Street (Highway 29) and Railroad Avenue, (2) the connecting public alleyways on Money Way, and (3) the alleyways between Main Street and Oak Avenue in downtown St. Helena.

On May 28, 2019, City Council approved Amendment No. 1 in the amount of $74,100 to STH Contract: FY2019-075 to include fiber light pole coordination, southern gateway study, input on the downtown restrooms, and additional environmental work as required by Caltrans to complete the downtown sidewalk improvements (Attachment 2).

On June 11, 2019, City Council authorized Amendment No. 2 in the amount of $32,500 to STH Contract: FY2019-075 for a total not-to-exceed amount of $635,600 (Attachment

3). This amendment was brought to City Council for authorization following the discussion which took place at the October 23, 2018 City Council meeting. At this meeting, City Council discussed the Napa Valley Vine Trail's Feasibility Study to bring the Vine Trail through St. Helena and discussed a 50% cost share with the Napa Valley Vine Trail for the analysis work. Staff received a proposal from BKF (Amendment No. 2) to complete this study which included the area between Grayson Avenue and Pratt Avenue.

DISCUSSION

Following a series of project updates provided at City Council meetings, on November 9, 2021 the City Council provided direction to move forward with this project using a segmented approach that would utilize the OBAG-2 grant funding to deliver the Pine Street to Adams Street segment of Main Street before December 31, 2022, with the remaining portion of the project advancing when funding was secured.

One of the remaining tasks needed before the project can be cleared for construction is obtaining a right of way clearance through Caltrans. During the design of the improvements, it was discovered there are a number of locations where sections of the existing sidewalk are outside of the existing right of way. Additionally, there appears to be differences between older property deed descriptions and Caltrans right of way records from a 2010 relinquishment map. Prior to the preparation of the plans associated with this project, staff did not know that portions of the existing sidewalk were outside of the right of way. It was thought the right of way extended from face of building to face of building based on the prior streetscape and sidewalk improvement project which installed the pavers and the trees. However, mapping shows this may not be the case. In an effort to resolve this issue, title reports are needed for properties within the project area to determine if additional easements or rights of way were implemented between when the original property deeds were recorded or when the prior streetscape project was constructed. Staff anticipates once the rights of way issues are resolved, there will be sections of the sidewalk that are outside of the existing right of way.

To complete this work, an Amendment is needed to accommodate additional scope of work related to right of way delineation and right of way enhancements along the downtown corridor. The following tasks are included in the proposed scope of work for Amendment No. 3.

Task 1: Main Street Right of Way

BKF will obtain Caltrans Right of Way Maps to complete a delineation of the right of way. BKF will create base maps including topographic, utility, and preliminary boundary information based on existing as-built plans, right of way, and easement maps as provided by the City. Individual properties within the project area will be identified by tax assessor number.

Task 2: Main Street Plan Updates

Through the NEPA review, Boundary Survey delineation, and condition assessment of the sewer laterals, additional modifications to the PS&E will be completed to update the plan set for construction.

Task 3: Main Street Wayfinding and Signage
BKF will include wayfinding and signage improvements with or ancillary (bid alternative) to the sidewalk improvements.

Task 4: Vine Trail Presentations
The original Vine Trail scope of work was to develop the plan and alternatives without presentations to committees or the council. This additional task will include funding for approximately 28 hours of presentations to committees and the City Council.

FISCAL IMPACT
BKF Engineer's total contract including Amendment No. 3 for $146,000 will be for an amount not-to-exceed $781,600. The additional funding for Amendment No. 3 is available using Fund 230 SB1/RMRA (Road Maintenance and Rehabilitation).

RECOMMENDED ACTION
Staff recommends City Council adopt the attached Resolution.

ATTACHMENTS
Attachment 1: STH Contract FY2019-075 BKF
Attachment 2: STH Contract FY2019-075-01A BKF
Attachment 3: STH Contract FY2019-075-02A BKF
Attachment 4: R18-81 Downtown Sidewalk Updated 121421
Attachment 5: Amendment No. 3 STH Contract FY2019-075
Attachment 6: Resolution BKF Amendment No. 3

STH CONTRACT: FY 2019-075

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into on 12/11, 2018 by and between the City of St. Helena, located in the County of Napa, State of California (City), and BKF(Consultant).

RECITALS:

A. City desires to employ Consultant to furnish professional services in connection with the project described as St. Helena Downtown 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"**, unless such additional services and compensation are authorized in advance and in writing by the City Council or City Manager of the City.

SECTION 3 – TIME FOR COMPLETION

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

SECTION 4 – COMPENSATION AND METHOD OF PAYMENT

A. Subject to any limitations set forth in this Agreement, City agrees to pay consultant the amount specified in Exhibit B, "Compensation" attached hereto and made a part hereof. Total compensation shall not exceed $529,000 (Five Hundred Twenty-nine Thousand Dollars and Zero Cents), 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 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

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

SECTION 6 – INSPECTION AND FINAL ACCEPTANCE

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

SECTION 7 – INSURANCE REQUIRED

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

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:
   1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
   2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).

3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

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

1. General Liability: $2,000,000 per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations, as applicable. If Commercial General Liability Insurance or other form with a General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: $2,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: $2,000,000 per accident for bodily injury or disease.

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

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

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

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

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

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

written notice by certified mail, return receipt requested, has been given to the City.

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

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

C. If any action or proceeding is brought against Indemnitees by reason of any of the matters against which Consultant has agreed to indemnify Indemnitees as provided above, Consultant, upon notice from City, shall defend Indemnitees at Consultant's expense by counsel acceptable to City, such acceptance not to be unreasonably withheld. Indemnitees need not have

first paid for any of the matters to which Indemnitees are entitled to Indemnification in order to be so indemnified. The insurance required to be maintained by Consultant shall ensure Consultant's obligations under this section, but the limits of such insurance shall not limit the liability of Consultant hereunder. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

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

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

SECTION 9 – INDEPENDENT CONTRACTOR STATUS

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

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

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

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

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

B. City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant is aware of any stated position of City

relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

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

SECTION 11 – OWNERSHIP OF DOCUMENTS

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

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

SECTION 12 – CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION

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

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

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

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

SECTION 17 – COOPERATION BY CITY

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

SECTION 18 – NOTICES

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

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

To Consultant:
BKF
1646 North California Boulevard, Suite 400
Walnut Creek, CA. 94596

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

SECTION 19 – TERMINATION

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

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

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

SECTION 20 – ATTORNEYS' FEES

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

SECTION 21 – ENTIRE AGREEMENT

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

SECTION 22 – SUCCESSORS AND ASSIGNS

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

SECTION 23 – CONTINUITY OF PERSONNEL

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

SECTION 24 – DEFAULT

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

SECTION 25 – WAIVER

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

SECTION 26 – LAW TO GOVERN; VENUE

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

SECTION 27 – SEVERABILITY

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

SECTION 28 – SPECIAL PROVISIONS

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

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

Consultant:

By: _____
Name: Daniel Schaefer
Title: Principal/Vice President

City:

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

Approved as to Form:

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

EXHIBIT A – SCOPE OF WORK

WORK PLAN

Our approach to completing the design of improvements to the St. Helena Downtown Improvements Project includes the following elements:

PROGRAM MANAGEMENT AND MEETINGS

BKF will manage the design team as well as track progress, schedule, and budget. We will be responsible for documenting all design decisions and keeping an official record of the project. Furthermore, we will submit monthly progress reports identifying tasks completed, budget status, and issues status. A senior member of our team will perform an independent quality control review of the team's documents prior to each submittal. The review will evaluate constructability, cost, and discrepancies between the disciplines.

We believe that at appropriate phases of the project, meetings are essential to convey ideas and resolve issues. For the St. Helena Downtown Improvements Project, we propose the following meetings per Task.

ELEMENT 1: DOWNTOWN STREETSCAPE PLAN

Task 1: Data Collection

- City of St. Helena: One Kickoff Meeting and One Review Meeting
- Public Utility Company: General public utility meeting to discuss the project

Task 2: Downtown Streetscape Plan

- City of St. Helena: Two Review Meetings; Two City Council Meetings; Two Planning Commission Meetings
- Community/Stakeholders Meeting: BKF will conduct three community/stakeholder meetings with the public and stakeholders. We anticipate the following:

  Outreach collateral for print and online which might include: Project logo, flyers, website/social media graphics, mailers, etc.; preparation of meeting agendas, exhibits, presentations, and sign- in sheets; facilitation of stakeholder meetings to gain insight and understand priorities; summary of meetings

  Identify appropriate communication channels for stakeholders (City websites, Facebook, Next door, Chamber newsletters, etc.) protocols and polices for social media. Proposal assumes team will provide monthly project updates to City for website post

- Caltrans: One Review Meeting

ELEMENT 2: DOWNTOWN SIDEWALK IMPROVEMENTS

Task 1: Caltrans Local Assistance

- Caltrans: One Review Meeting
- City of St. Helena: One Review Meeting

Task 2: Preliminary Engineering

- City of St. Helena: Two Review Meetings and One City Council Meeting
- Business Meeting to develop Staging Strategy: Based on our experience working in retail districts, construction projects can affect local business significantly. We anticipate holding a meeting with local businesses to understand their concerns. We will use the data collected to create a detailed phasing and traffic handling strategy.
- Public Utility Company: General public utility meeting to complete preliminary coordination.

Task 3: Final Engineering

- City of St. Helena: Two Review Meetings; One City Council Meeting
- Caltrans: Two Review Meetings
- Public Utility Company: Final public utility meeting to complete final coordination.

ELEMENT 1: DOWNTOWN STREETSCAPE PLAN

The St. Helena Downtown Streetscape Plan is intended to address the downtown area depicted in Exhibit C and Exhibit D of the RFP as well as addressing the connecting public alleyways between Main Street (Highway 29) and Railroad Avenue, Money Way, and alleyways between Main Street and Oak Avenue in downtown St. Helena.

Task 1: Data Collection

During this task, our team will develop data to understand the project's opportunities and constraints, which will serve as a basis to define the project for use in the environmental assessment and right of way certification. Our objectives during this task include:

- Perform a site assessment to understand topographic, boundary, and utility constraints.
- Review existing pavement conditions and sub grade geotechnical issues.
- Complete an urban design analysis to integrate complete street concepts.
- Review traffic operations along the corridor.

Objective 1 - Initial Site Assessment

A. **Data Collection and Field Review.** The team will research and collect available records from Napa County, the City of St. Helena, and the public utilities to obtain property line, utility data, geotechnical information and traffic information. BKF will field walk the site to create a photographic log along the roadway. During the walk, we will review horizontal and vertical sight distances and note potential areas of conflict. We will take notes of any potential public/private conflicts within rights-of-way and address the need for construction easements during construction and Caltrans encroachment process.

   The field reconnaissance will access existing conditions as well as the pedestrian experience. In addition, the Team will review the following: Existing vegetation; signage, storefronts and business types; setbacks; pedestrian connections; historic and special architectural features; driveways, parking, alleys and loading zones.

B. **Right of Way and Surveyed Features.** BKF will complete field surveys along the roadway, acquiring cross sections at 25 foot intervals. We will Caltrans Right of Way Maps to complete a delineation of the right of

way. Our team will create base maps including topographic, utility, and preliminary boundary information that will be based on existing as-built plans, right of way and easement maps as provided by the City. Individual properties within the project area will be identified by tax assessor number.

C. **Public Utilities Coordination**: As the project may require the relocation of existing public utilities, BKF will meet with PG&E, Comcast, AT&T, the City of Napa, the City of St. Helena Water System, and the City of St Helena Sewer/Wastewater System to coordinate relocations and potential upgrades to their facilities.

Deliverables: Base mapping including topography, boundary, and utility information. We will provide the City an electronic and hard copy (1) titled, Task 1, Background Data for St. Helena Downtown Streetscape Plan.

Task 2: Downtown Streetscape Plan

Using the data collected in Task 1, the team will prepare a Conceptual design to define the project for use in engaging the public and Local Assistance. Our objectives during this Task include:

- Complete concept design to define the Basis of Design, conceptual construction cost, and right of way needs;
- identify (not resolve) conflicts between existing conditions and proposed streetscape design; and
- define utilities that the project may relocate.

Objective 1 - Define Project

The conceptual streetscape plans and options for streetscape components will serve as the basis to define the project. The submittal will include the Basis of Design Report, which will summarize the following:

Exhibit showing conflicts between existing conditions and proposed design.

Photometric analysis. We will complete a photometric analysis for the existing lighting system in conformance to the IESNA standards to determine if more lighting is necessary for the project corridors.

Pavement plan with pavement rehabilitation strategies; accessibility exhibit showing areas to upgrade to current standards; striping and signage plan; wayfinding signage; traffic calming (bulb-outs and parklets); connections to rear parking areas; selection and locations of tree grates, trash, seating, bike racks, etc.; sidewalk/crosswalk materials and patterns; lighting and event power; street tree species and irrigation strategy; typical street sections; itemized cost estimate.

Objective 2 - Outreach

Throughout the process Gates will perform basic services which includes the following:

- Outreach Plan
- Outreach collateral for Print and Online which might include: Project logo, flyers, Website/Social Media Graphic, mailers, etc. (4-6 pieces)
- Prepare stakeholders meeting agendas, exhibits, presentations, and sign – in sheets.
- Facilitate 3 stakeholder meetings to gain insight and understand priorities. (2 hours)
- Summary of stakeholder meetings.
- Identify appropriate communication channels for stakeholders (City websites, Facebook, Next door, Chamber newsletters, etc.) protocols and polices for social media. Proposal assumes team will provide monthly project updates to City for post website.

Objective 3 - Enhanced Outreach

As we move forward, Gates will develop a program tailored to support the City's efforts at outreach. After strategizing with the City, the tailored program will be drafted from some of the following enhanced scope items depending on the City's needs and ability to stay within the allocated budget:

- Local Youth interns to support outreach
- Translation into Spanish of outreach collateral
- Assist staff to co-conduct stakeholder meeting logistics
- Interactive on-line community survey
- Additional collateral pieces
- Interview key stakeholders (6-8)
- Interactive Map for website
- host and maintain project website linked to City website with monthly updates
- Day long pop – up event
- ½ day event booths
- Social media campaign – schedule, copy and images, hashtags and local tags (Approximately 4/event)
- Tool Kit – instructions and exhibits (digital) for staff or community leader use in presentation to small groups

Objective 4 - Implementation Menu/Phasing of Master Plan (budgeting/menu scenarios):

The Design Team and the City will collaborate on creating an Implementation Menu and Phasing of the Master Plan with approximate costs. This matrix will help the City prioritize the improvements and determine a conceptual phasing plan for the implementation of the improvements.

Deliverables: We will provide the basis of design report, plans, implementation menu, phasing plans, conceptual costs report, and conceptual studies in an electronic and hard copy (1) titled ***Task 2, St. Helena Downtown Streetscape Plan.***

ELEMENT 2: DOWNTOWN SIDEWALK IMPROVEMENTS

The second element is to design and develop construction plans for the Downtown Sidewalk Improvements, City Project No. R18-81 on Main Street from approximately Mitchell Drive to Pine Street that will be based on the approved Downtown Streetscape Plan for work within the sidewalk corridor.

Task 1: Local Assistance Coordination

As a discretionary municipal project, the proposed Downtown Streetscape Plan and Sidewalk Improvements are subject to CEQA and NEPA due to federal funds.

The Downtown Streetscape Plan requires completion of an environmental review process in accordance with CEQA and NEPA. Our team will carry out environmental tasks in accordance with applicable CEQA/NEPA regulations and guidelines, various federal acts, environmental laws at the federal and state level, and the Caltrans environmental review process.

Based on M-Group's review of available materials and information, we are proposing to prepare a Notice of Exemption per CEQA Guidelines, Article 19 Categorical Exemptions. In order to strengthen the exemption justification, all applicable categorical exemptions will be identified including but not limited to Section 15301 Existing Facilities, Section 15302 Replacement or Reconstruction, and Section 15303 New Construction. In addition, the exceptions to the exemptions will be reviewed and documented.

For NEPA purposes, we are proposing to provide environmental services and documentation to support Caltrans in making a NEPA determination, presumed to be a Categorical Exclusion, pursuant to their role as a federal agent on behalf of the Federal Highway Administration (FHWA).

Objective 1: Prepare CEQA Categorical Exemption

CEQA Categorical Exemption. The CEQA Guidelines include a list of classes of projects which have been determined not to have a significant effect on the environment and which, therefore, are exempt from the provisions of CEQA. The following classes most closely align with the proposed project:

- Class 1 (Section 15301), Existing Facilities, which includes existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities
- Class 4 (Section 15304), Minor Alterations to Land, which includes the creation of bicycle lanes on existing rights-of-way.

Given the nature of the proposed improvements, a CE seems most appropriate for this project. M-Group will review the Downtown Streetscape Plan and Sidewalk Improvements, characterize existing conditions and develop a CEQA compliant project description. M-Group will collaborate with the project team and Public Works staff to refine the project description and clarify the extent and limits of construction activities. We will prepare CEQA compliant environmental documentation and draft a Notice of Exemption in accordance with CEQA Guidelines Article 19 Categorical Exemptions. All environmental findings will be assimilated into a concise document itemizing the applicability of the exemption and addressing all exceptions to the exemption. M-Group will coordinate with the project team to file the Notice of Exemption (NOE) with the County Clerk and Office of Planning and Research (OPR).

Deliverables: We will provide the technical documents in an electronic and hard copy.

Objective 2: Prepare NEPA Documentation

M-Group will prepare environmental documentation for the project upon which Caltrans can rely for NEPA purposes. We will assist with assembling and submitting materials to Caltrans including completion of the Categorical Exclusion Checklist. It is expected that the environmental documentation will support a Notice of Exclusion. This Task includes coordination with the project team, technical specialists (as warranted), and Caltrans, and submittal of environmental documents to Caltrans including the Exclusion Checklist and supporting materials.

Deliverables: We will provide the technical documents in an electronic and hard copy.

Objective 3: Prepare Various Technical Memoranda

BKF will prepare the following technical memorandums to support the project based on the field review: Traffic Routing, Thermoplastic Striping, Equipment Staging, Water Quality/ Resources, Hydraulic Study, FAA Airport Notice, and Tree/ Vegetation Protection. We will additionally provide memoranda related to work within the floodplain including a boundary schematic, map, and encroachment report.

Objective 4: Prepare Right of Way Certification - to be completed as part of Task 3

BKF will provide documentation as required by Local Assistance to demonstrate that the project has the necessary right of way clearances to construct the project.
Utility Certification: BKF will identify by potholing high-risk facilities and document public utility relocations necessary to construct the project. We will coordinate with public utilities as necessary for relocation of their facilities.

Prepare Legal Descriptions and Plat Maps for TCE: Based on improvements illustrated in the 75% documents, areas of temporary construction easements will be defined. BKF will prepare legal descriptions and plat maps for up to 20 locations in the project area.

Objective 5: Request for Authorization Process - E76 - to be completed as part of Task 3

With the approval of the environmental review and with acquisition of all rights of way necessary for the project, BKF will compile documents necessary for the Request for Authorization Process (E76). Our dedicated Local Assistance

Coordinator, Brock Roby, will support the City to compile the Request for Construction Authorization 13-D, Finance Letter 3-O, Final Field Review Form 7-B, PCE Form, ROW Certification 13-A, and Final PS&E Package

Deliverables: We will provide the technical documents in an electronic and hard copy (1) titled, ***Task 1, Caltrans Local Assistance Coordination for St. Helena Downtown Sidewalk Improvements Project.***

Task 2: Preliminary Engineering

Using the data collected during the Downtown Streetscape Plan Tasks and upon authorization by the City to move forward with the Main Street Sidewalk Improvements, the team will prepare a preliminary design based on the conceptual streetscape plan. Our objectives during this Task include:

- Complete preliminary engineering based on the Basis of Design to further refine construction cost, and right of way needs; resolve conflicts between existing conditions and proposed streetscape design; and confirm utilities that the project may relocate.

Objective 1 – Preliminary Plans

The preliminary (35%) design will serve as the basis to move into final engineering the project. The submittal will include:

- Photometric Analysis (We will complete a final photometric analysis in conformance to the IESNA standards); Drainage Report (BKF will complete a final drainage report documenting hydraulic capacity. The report will indicate strategies for complying with NPDES provision C.3 should the City choose to explore these opportunities); horizontal layout plan; typical cross sections; pavement plan; striping and signage plan; planting plan; special provisions in an outline format; right of way acquisition exhibit illustrating temporary construction easements; public utility relocation exhibits; temporary construction easement exhibits; and cost estimate.

Objective 2 – Confirm Utility Conflicts and Resolutions

BKF will retain a licensed general engineering contractor to pothole underground utilities at strategic locations to define the horizontal and vertical locations. Additionally, depending on the pavement rehabilitation strategy, we may acquire additional data in the roadway to confirm utilities are not located within the proposed structural section. We will acquire the location using traditional survey techniques.

Objective 3 – City Council Meeting

To inform stakeholders and community members of the project, we will host a meeting at City Hall to discuss the proposed project to review and potentially modify or approve the Preliminary Documents. We will modify the documents based on City Council comments.

Deliverables: Upon authorization to proceed by City Council, we will provide an electronic and hardbound copy (1) titled ***Task 2, Preliminary Engineering Plans for St. Helena Downtown Sidewalk Improvements Project.***

Task 3: Final Engineering

Objective 1: Plans, Specifications, and Estimate

The objective of this task is to develop the documents, including plans and specifications, to a level necessary for submittal to Local Assistance demonstrating the project is ready for construction. The team will prepare construction

documents, including plans and specifications, in accordance with the City's standards for formal submittals at the 75%, 90%, and 100% level of completeness. We anticipate a draft 100% submittal will be used for the E76 submittal. Upon approval, the team will include a final 100% set for bidding. Each submittal will contain the following plan elements:

- title and key map sheet
- horizontal layout plan
- typical cross sections
- pavement repair plan
- utility relocation plan
- striping and street signage plan
- landscape planting plan
- site furnishing plan
- construction phasing and staging
- construction details

Additionally, special provisions in an outline format; right of way acquisition plat and legal descriptions; temporary construction easement plats and legal descriptions; and final cost estimate, including downtown streetscape plan.

In the 75% submittal, the team will include the City's front end specifications into the special provisions and incorporate federal bid requirements as required by the Local Assistance. We will also prepare costs estimates at each submittal that also take into account the entire Downtown Streetscape Plan.

Objective 2: Local Assistance

BKF will prepare the documentation associated with local assistance as specified in Task 1, which includes, but is not limited to, the following:

Caltrans Request for Authorization to Proceed with Right of Way and Utility Relocation; Caltrans Encroachment Permit application; and Caltrans Authorization to Proceed with Construction.

Objective 3 – City Council Meeting

Upon authorization to proceed with construction by Caltrans, we will attend a meeting with City Council for acceptance of the Final Engineering Plans and Construction Documents, including engineers cost estimate and authorization to proceed with advertisement.

Deliverable: Each progress submittal will include hard copies of plans, specifications, and construction cost estimate. We will additionally provide an electronic version of the submittal in Adobe Acrobat format.

Task 4: Bid Assistance

Our support during bidding will include:

- *Pre-Bid Conference:* BKF will attend a pre bid conference to provide information to contractors and answer questions.
- *Bid Addenda:* BKF will respond to contractor questions and issue addenda.
- *Bid Opening:* BKF will be present at the bid opening.
- *Bid Documents:* BKF will prepare conformed bid documents based on any issued addenda and will provide an electronic file and hard copy of all working documents.
- *Caltrans Award Package:* BKF will prepare the Caltrans construction award package after city council has awarded the contract.

Task 5: Construction Design Support

Contractor Request for Information (RFI): BKF will respond to RFI's with City review during construction.

Punchlist: BKF will walk the site with the Contractor and the City to provide for feedback on any outstanding items to complete the project. We will create a matrix and narrative of any outstanding items. We anticipate two field visits: one preliminary and one final.

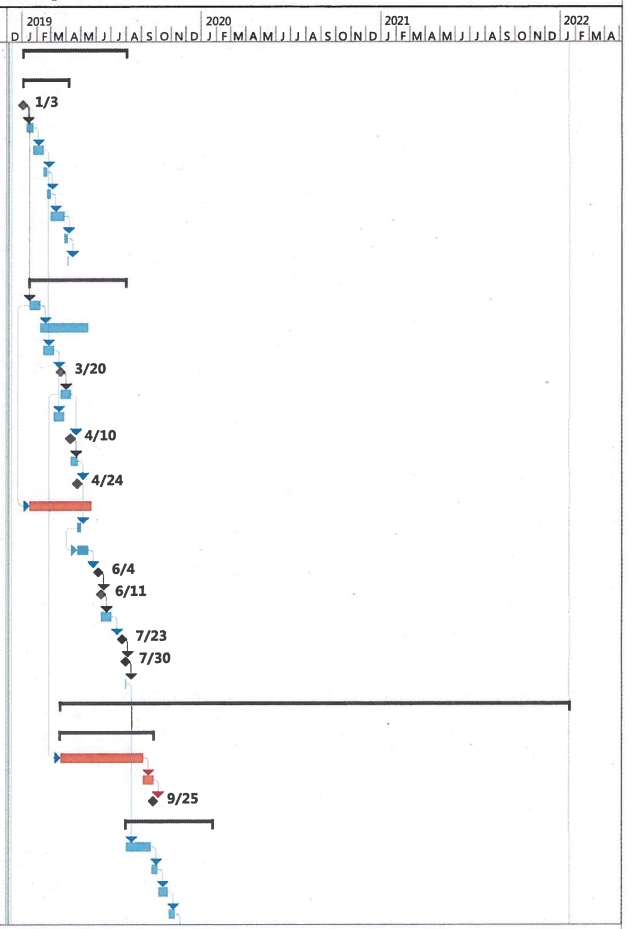
Project Close Out: BKF will prepare as-built record drawings at the completion of construction based on redline markups from the contractor and any changes due to the RFI process. We will prepare and provide an electronic file and hard copy of all working documents.

COMPENSATION

The Consultant will perform these services on a time and materials basis for a not to exceed amount of $529,000. Any contingency items not outlined in this scope of work are required to be approved in writing by the Public Works Director prior to proceeding.

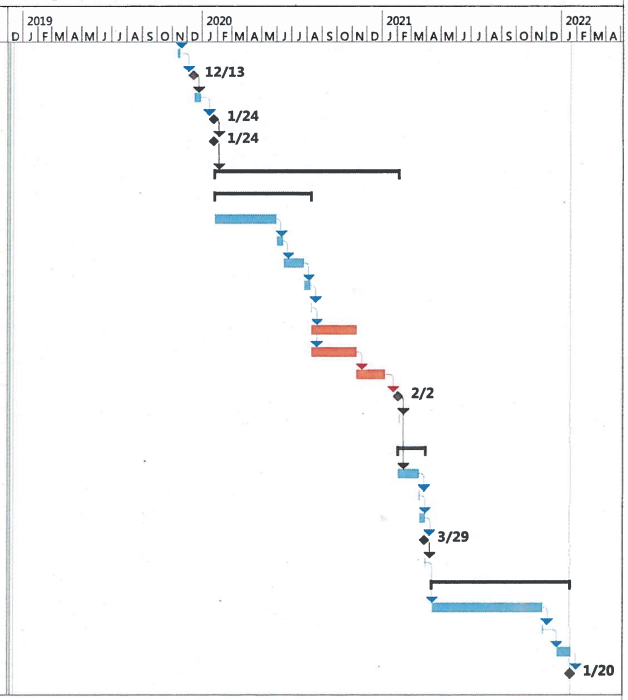
St. Helena Downtown Streetscape and Sidewalk Improvements

ID	Task Name	Duration	Start	Finish	Predecessors
1	**Element 1: St Helena Downtown Streetscape Plan**	**151 days**	**Thu 1/3/19**	**Thu 8/1/19**	
2	**Task 1 Data Collection**	**67 days**	**Thu 1/3/19**	**Fri 4/5/19**	
3	Notice to Proceed at Kickoff Meeting	0 days	Thu 1/3/19	Thu 1/3/19	
4	Right of Way Delineation	10 days	Thu 1/10/19	Wed 1/23/19	3FS+5 days
5	Surveyed Features	15 days	Thu 1/24/19	Wed 2/13/19	4
6	Utility Upgrades	5 days	Thu 2/14/19	Wed 2/20/19	5
7	Conflict/Clash Detection	5 days	Thu 2/21/19	Wed 2/27/19	6
8	Surveyed Topography	20 days	Thu 2/28/19	Wed 3/27/19	7
9	Temporary Construction Easements/Caltrans Encroachment Permitting	5 days	Thu 3/28/19	Wed 4/3/19	8
10	Deliverable: Background Data for St. Helena Streetscape Plan	2 days	Thu 4/4/19	Fri 4/5/19	9
11	**Task 2 Downtown Streetscape Plan**	**141 days**	**Thu 1/17/19**	**Thu 8/1/19**	
12	Develop Outreach Plan	15 days	Thu 1/17/19	Wed 2/6/19	3FS+10 days
13	Outreach Implementation	70 days	Thu 2/7/19	Wed 5/15/19	12
14	Conceptual Streetscape Plan	15 days	Thu 2/14/19	Wed 3/6/19	5
15	Stakeholders Meeting 1	0 days	Wed 3/20/19	Wed 3/20/19	14FS+10 days
16	Draft Preliminary Streetscape Plan	15 days	Thu 3/21/19	Wed 4/10/19	15
17	Identify Conflicts	15 days	Thu 3/7/19	Wed 3/27/19	14
18	Stakeholders Meeting 2	0 days	Wed 4/10/19	Wed 4/10/19	16
19	Preliminary Streetscape Plan	10 days	Thu 4/11/19	Wed 4/24/19	18
20	Stakeholders Meeting 3	0 days	Wed 4/24/19	Wed 4/24/19	19
21	Caltrans Encroachment and Traffic Engineering Division engagement	90 days	Thu 1/17/19	Wed 5/22/19	12SS
22	Preliminary Itemized Engineer's Estimate	5 days	Thu 4/25/19	Wed 5/1/19	19
23	Prioritization and Implementation Planning	15 days	Thu 4/25/19	Wed 5/15/19	22SS
24	Planning Commission Meeting	0 days	Tue 6/4/19	Tue 6/4/19	23FS+14 days
25	City Council Meeting	0 days	Tue 6/11/19	Tue 6/11/19	24FS+5 days
26	Update Streetscape Plan	15 days	Wed 6/12/19	Tue 7/2/19	25
27	Planning Commission Meeting	0 days	Tue 7/23/19	Tue 7/23/19	26FS+15 days
28	City Council Meeting	0 days	Tue 7/30/19	Tue 7/30/19	27FS+5 days
29	Deliverable: St. Helena Downtown Streetscape Plan	2 days	Wed 7/31/19	Thu 8/1/19	28
30	**Element 2: St Helena Downtown Sidewalk Improvements**	**741 days**	**Thu 3/21/19**	**Thu 1/20/22**	
31	**Task 1 Caltrans Local Assistance Coordination and Environmental Review**	**135 days**	**Thu 3/21/19**	**Wed 9/25/19**	
32	Caltrans Local Assistance and Environmental Studies (CEQA Class 1 CatEX)	120 days	Thu 3/21/19	Wed 9/4/19	16SS
33	Caltrans Request for Authorization documentation	15 days	Thu 9/5/19	Wed 9/25/19	32
34	Deliverable: Caltrans Local Assistance Coordination for St. Helena DSI Project	0 days	Wed 9/25/19	Wed 9/25/19	33
35	**Task 2 Preliminary Engineering Plans**	**126 days**	**Fri 8/2/19**	**Fri 1/24/20**	
36	Prepare Draft Preliminary Engineering Plans	36 days	Fri 8/2/19	Fri 9/20/19	29
37	Identify and Resolve Conflicts between Streetscape and Existing Conditions	10 days	Mon 9/23/19	Fri 10/4/19	36
38	Identify Construction Easements and Engage Caltrans	15 days	Mon 10/7/19	Fri 10/25/19	37
39	Utility Relocations and Upgrades	10 days	Mon 10/28/19	Fri 11/8/19	38



St. Helena Downtown Streetscape and Sidewalk Improvements

ID	Task Name	Duration	Start	Finish	Predecessors
40	Prepare Preliminary Engineer's Estimate	5 days	Mon 11/11/19	Fri 11/15/19	39
41	City Review Meeting	0 days	Fri 12/13/19	Fri 12/13/19	40FS+20 days
42	Prepare Preliminary Engineering Plans	10 days	Mon 12/16/19	Fri 12/27/19	41
43	City Council Review Meeting	0 days	Fri 1/24/20	Fri 1/24/20	42FS+20 days
44	Deliverable: Preliminary Engineering Plans for St. Helena Downtown Sidewalk Improvements Project	0 days	Fri 1/24/20	Fri 1/24/20	43
45	**Task 3 Final Construction Engineering**	**270 days**	**Mon 1/27/20**	**Fri 2/5/21**	**44**
46	Prepare Final Engineering Plans, Specifications and Estimate	**141 days**	**Mon 1/27/20**	**Mon 8/10/20**	
47	75% Submittal	90 days	Mon 1/27/20	Fri 5/29/20	
48	City Review	10 days	Mon 6/1/20	Fri 6/12/20	47
49	90% Submittal	30 days	Mon 6/15/20	Fri 7/24/20	48
50	City Review	10 days	Mon 7/27/20	Fri 8/7/20	49
51	100% Submittal	1 day	Mon 8/10/20	Mon 8/10/20	50
52	Caltrans Request for Authorization to Proceed (R/W and Utility Relocation)	65 days	Tue 8/11/20	Mon 11/9/20	51
53	Caltrans Encroachment Permit Application	65 days	Tue 8/11/20	Mon 11/9/20	51
54	Caltrans Request for Authorization to Proceed with Construction	42 days	Tue 11/10/20	Wed 1/6/21	53
55	City Council Approval Meeting	0 days	Tue 2/2/21	Tue 2/2/21	54FS+19 days
56	Deliverable: Final Engineering Plans for St. Helena Downtown Sidewalk Improvements Project	1 day	Fri 2/5/21	Fri 2/5/21	55FS+2 days
57	**Task 4 Bidding Support**	**40 days**	**Wed 2/3/21**	**Tue 3/30/21**	
58	Bidding Support	30 days	Wed 2/3/21	Tue 3/16/21	55
59	Bid Evaluation	2 days	Wed 3/17/21	Thu 3/18/21	58
60	Conform Plan Set	7 days	Fri 3/19/21	Mon 3/29/21	59
61	Caltrans Construction Award package	0 days	Mon 3/29/21	Mon 3/29/21	60
62	Deliverable: Bid Assistance for St. Helena Downtown Sidewalk Improvements Project	1 day	Tue 3/30/21	Tue 3/30/21	61
63	**Task 5 Construction Design Support**	**202 days**	**Wed 4/14/21**	**Thu 1/20/22**	
64	Construction Support and RFI Response	160 days	Wed 4/14/21	Tue 11/23/21	62FS+10 days
65	Punch Walk	2 days	Wed 11/24/21	Thu 11/25/21	64
66	Record Drawings	20 days	Fri 12/24/21	Thu 1/20/22	65FS+20 days
67	Deliverable: Construction Design Support for St. Helena Downtown Sidewalk Improvements Project	0 days	Thu 1/20/22	Thu 1/20/22	66



BkF 100 YEARS
ENGINEERS / SURVEYORS / PLANNERS

St. Helena Downtown Fee Proposal

12/5/2018

		BKF Engineers								Gates & Associates			M-Group			
		Project Manager - Engineer								Urban Design & Landscaping			Environmental			
		Principal	Project Manager	Engineer/Surveyor 3	Engineer/Surveyor 2	Engineer/Surveyor 1	Field Crew	Total BKF Hours	BKF Fee	Principal	Project Manager	Staff	Principal	Senior Staff	Technical Illustrator	Total Fee
	Published Billing Rates	$240	$206	$168	$148	$129	$288			$165	$125	$115	$200	$160	$130	
Element 1: St Helena Downtown Streetscape Plan																
Task 1	**Data Collection**															
a	Right of Way Delineation		8	16			16	40	$8,944							$8,944
b	Surveyed Features		4			80	96	180	$38,792		6					$39,542
c	Utility Upgrades		4	16	16			36	$5,880							$5,880
d	Conflict/Clash Detection		4	8	8			20	$3,352	1						$3,517
e	Surveyed Topography		4			40	40	84	$17,504							$17,504
f	Temporary Construction Easements/Caltrans Encroachment Permitting		4	16	8	8		36	$5,728							$5,728
g	Deliverable: Background Data for St. Helena Streetscape Plan					2		2	$258							$258
Task 1 Subtotal:		**0**	**28**	**56**	**32**	**130**	**152**	**398**	**$80,458**	**1**	**6**	**0**	**0**	**0**	**0**	**$81,373**
Task 2	**Downtown Streetscape Plan**															
a	Preliminary Streetscape Plan	2	20	20	40	80		162	$24,200	2	40	130				$44,480
b	Caltrans Encroachment and Traffic Engineering Division engagement		8	8				16	$2,992							$2,992
c	Identify Conflicts		8	8				16	$2,992		8	4				$4,452
d	Preliminary Itemized Engineer's Estimate	1	4	8				13	$2,408		2	6				$3,348
e1	Outreach		20					20	$4,120	40	48	80				$25,920
e	Stakeholders Meetings (up to 3)		16	16				32	$5,984	12	12	80				$18,664
f	Planning Commission and City Council meetings															
	1 Iteration 1 - 1 Commission + 1 Council meeting	2	8	8				18	$3,472	8	12	8				$7,212
	2 Iteration 2 - 1 Commission + 1 Council meeting	2	8	8				18	$3,472	8	12	8				$7,212
g	Deliverable: St. Helena Downtown Streetscape Plan					2		2	$258							$258
h	Implementation Menu/Phasing of Master Plan (budgeting/menu scenarios)	8	20			30		58	$9,910		4					$10,410
Task 2 Subtotal:		**15**	**112**	**76**	**40**	**112**	**0**	**355**	**$59,808**	**70**	**138**	**316**	**0**	**0**	**0**	**$124,948**
Subtotal Element 1									**$140,266**							**$206,321**

BkF 100 YEARS
ENGINEERS / SURVEYORS / PLANNERS

St. Helena Downtown Fee Proposal

12/5/2018

		BKF Engineers								Gates & Associates			M-Group			
		Project Manager - Engineer								Urban Design & Landscaping			Environmental			
		Principal	Project Manager	Engineer/Surveyor 3	Engineer/Surveyor 2	Engineer/Surveyor 1	Field Crew	Total BKF Hours	BKF Fee	Principal	Project Manager	Staff	Principal	Senior Staff	Technical Illustrator	Total Fee
	Published Billing Rates	$240	$206	$168	$148	$129	$288			$165	$125	$115	$200	$160	$130	
Element 2: St Helena Downtown Sidewalk Improvements																
Task 1	**Caltrans Local Assistance Coordination and Environmental Review**															
a	Caltrans Local Assistance and Environmental Studies (CEQA Class 1 CatEX/Nepa)		24	16		8			$8,664				2	40	50	$21,964
b	Caltrans Request for Authorization documentation		40	16		16		72	$12,992							$12,992
c	Deliverable: Caltrans Local Assistance Coordination for St. Helena DSI Project					2		2	$258							$258
Task 1 Subtotal:		**0**	**64**	**32**	**0**	**26**	**0**	**74**	**$21,914**	**0**	**0**	**0**	**2**	**40**	**50**	**$35,214**
Task 2	**Preliminary Engineering Plans**															
a	Prepare Preliminary Engineering Plans	4	20	40	40	60		164	$25,460	2	16	30				$31,240
b	Identify and Resolve Conflicts between Streetscape and Existing Conditions		2	24	8	8		42	$6,660	2	8	4				$8,450
c	Identify Construction Easements and Engage Caltrans		4	20		16		40	$6,248							$6,248
d	Utility Relocations and Upgrades		4	8		20		32	$4,748							$4,748
e	Prepare Preliminary Engineer's Estimate	1	4	8		16		29	$4,472		2	4				$5,182
f	City Review Meeting		4					4	$824		8	6				$2,514
g	City Council Review Meeting		4					4	$824		8	6				$2,514
g	Deliverable: Preliminary Engineering Plans for St. Helena Downtown Sidewalk Improvements Project					8		8	$1,032							$1,032
Task 2 Subtotal:		**5**	**42**	**100**	**48**	**128**	**0**	**323**	**$50,268**	**4**	**42**	**50**	**0**	**0**	**0**	**$61,928**
Task 3	**Final Construction Engineering**															
a	Prepare Final Engineering Plans, Specifications and Estimate															
	75% Submittal	2	30	40	80	120		272	$40,700	4	40	80				$55,560
	90% Submittal	2	20	20	40	80		162	$24,200	4	24	40				$32,460
	100% Submittal	2	4	8	24	40		78	$11,360	2	12	30				$16,640
b	Caltrans Request for Authorization to Proceed (R/W and Utility Relocation)		8	8				16	$2,992							$2,992
c	Caltrans Encroachment Permit Application		8	8				16	$2,992							$2,992
d	Caltrans Request for Authorization to Proceed with Construction		8	8				16	$2,992							$2,992

BkF 100 YEARS
ENGINEERS / SURVEYORS / PLANNERS

St. Helena Downtown Fee Proposal

12/5/2018

		BKF Engineers								Gates & Associates			M-Group			
		Project Manager - Engineer								Urban Design & Landscaping			Environmental			
		Principal	Project Manager	Engineer/Surveyor 3	Engineer/Surveyor 2	Engineer/Surveyor 1	Field Crew	Total BKF Hours	BKF Fee	Principal	Project Manager	Staff	Principal	Senior Staff	Technical Illustrator	Total Fee
	Published Billing Rates	$240	$206	$168	$148	$129	$288			$165	$125	$115	$200	$160	$130	
e	City Council Approval Meeting		4					4	$824							$824
f	Deliverable: Final Engineering Plans for St. Helena Downtown Sidewalk Improvements Project					2		2	$258							$258
Task 3 Subtotal:		**6**	**82**	**92**	**144**	**242**	**0**	**566**	**$86,318**	**10**	**76**	**150**	**0**	**0**	**0**	**$114,718**
Task 4	**Bidding Support**															
a	Bidding Support		4	8				12	$2,168		16	8				$5,088
b	Bid Evaluation			2				2	$336	2	4					$1,166
c	Conform Plan Set		2	4	8	16		30	$4,332		4	8				$5,752
d	Caltrans Construction Award package		6	8				14	$2,580							$2,580
e	Deliverable: Bid Assistance for St. Helena Downtown Sidewalk Improvements Project					2		2	$258							$258
Task 4 Bidding Support Subtotal:		**0**	**12**	**22**	**8**	**18**	**0**	**60**	**$9,674**	**2**	**24**	**16**	**0**	**0**	**0**	**$14,844**
Task 5	**Construction Design Support**															
a	RFI Response		30	40		20		90	$15,480	4	24	8				$20,060
b	Punch Walk		4	8		8		20	$3,200	2	16					$5,530
c	Record Drawings		1			8		9	$1,238	2	4	8				$2,988
d	Deliverable: Construction Design Support for St. Helena Downtown Sidewalk Improvements Project					2		2	$258							$258
Task 5 Construction Design Support Subtotal:		**0**	**35**	**48**	**0**	**38**	**0**	**121**	**$20,176**	**8**	**44**	**16**	**0**	**0**	**0**	**$28,836**
Subtotal Labor Element 2:		**11**	**235**	**294**	**200**	**452**	**0**	**1,144**	**$188,350**	**24**	**186**	**232**	**2**	**40**	**50**	**$255,540**
Total Element 1 and Element 2									**$328,616**							**$461,861**
Reimbursable Expenses																
Printing, Postage, and Travel					$6,139						$4,000			$2,000		$12,139
Historical, Cultural & Paleontological Resources Record Search														$5,000		$5,000
Subtotal Reimbursable Expenses					**$6,139**						**$4,000**			**$7,000**		**$17,139**
Subtotal Labor Plus Reimbursable Expenses (including approved Optional Items)									**$334,755**		**$57,890**			**$20,300**		**$479,000**
Proejct Contingency																**$50,000**
Total Labor Plus Reimbursable Expenses (including approved Optional Items and Project Contingency)																**$529,000**

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 3/8/2019

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

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

PRODUCER Dealey, Renton & Associates P. O. Box 12675 Oakland CA 94604-2675	**CONTACT NAME:** Nancy Ferrick **PHONE (A/C, No, Ext):** 510-465-3090 **FAX (A/C, No):** 510-452-2193 **E-MAIL ADDRESS:** nferrick@dealeyrenton.com
	INSURER(S) AFFORDING COVERAGE — **NAIC #** **INSURER A :** Travelers Property Casualty Co of Ameri — 25674 **INSURER B :** XL Specialty Insurance Co. — 37885 **INSURER C :** **INSURER D :** **INSURER E :** **INSURER F :**
INSURED BKFENGINE BKF Engineers 255 Shoreline Drive, Suite 200 Redwood City CA 94065-1428	

COVERAGES **CERTIFICATE NUMBER:** 681436808 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X **COMMERCIAL GENERAL LIABILITY** CLAIMS-MADE [X] OCCUR X Cross Liability GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [X] PRO-JECT LOC OTHER:	Y	Y	6808J585363	9/1/2018	9/1/2019	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG $	$ 1,000,000 $ 1,000,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
A	**AUTOMOBILE LIABILITY** X ANY AUTO OWNED AUTOS ONLY X HIRED AUTOS ONLY SCHEDULED AUTOS X NON-OWNED AUTOS ONLY	Y	Y	BA8J591007	9/1/2018	9/1/2019	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$ 1,000,000 $ $ $ $
A	X **UMBRELLA LIAB** X OCCUR **EXCESS LIAB** CLAIMS-MADE DED RETENTION $	Y	Y	CUP8J595006	9/1/2018	9/1/2019	EACH OCCURRENCE AGGREGATE $	$ 5,000,000 $ 5,000,000 $
A	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [N] **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	Y	UB9K584739	7/1/2018	7/1/2019	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
B	Professional Liability			DPR9927800	7/1/2018	7/1/2019	$5,000,000 $7,000,000	per Claim Annual Aggregate

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

RE: City of St. Helena Downtown Project / BKF Job #C20181627-10. The City of St. Helena, its Agents, Officers, Officials, Employees, and Volunteers are named as Additional Insured as respects General and Automobile Liability for claims arising from the operations of the named insured. General and Automobile Liability insurance is Primary/Non-Contributory per policy form wording. Waiver of Subrogation applies to General Liability, Auto Liability and Workers' Compensation. 30 Days Notice of Cancellation. Professional Liability Deductible: $25,000 per claim.

CERTIFICATE HOLDER

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

CANCELLATION 30 Days Notice of Cancellation

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

POLICY NUMBER 6808J585363

COMMERCIAL GENERAL LIABILITY
ISSUED DATE: 3/8/2019

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Names of Additional Insured Person(s) or Organization(s):

Any person or organization that you agree in a written contract, on this Coverage Part, provided that such written contract was signed and executed by you before, and is in effect when the "bodily injury" or "property damage" occurs or the "personal injury" or "advertising injury" offense is committed.

Location of Covered Operations:

Any project to which an applicable written contract with the described in the Name of Additional Insured Person(s) or Organization(s) section of this Schedule applies.

(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.)

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring, or "personal injury" or "advertising injury" arising out of an offense committed, after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

 Copyright 2005 The St. Paul Travelers Companies, Inc. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTO COVERAGE PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

A. BLANKET ADDITIONAL INSURED
B. EMPLOYEE HIRED AUTO
C. EMPLOYEES AS INSURED
D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS
E. TRAILERS – INCREASED LOAD CAPACITY
F. HIRED AUTO PHYSICAL DAMAGE
G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT
H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT
I. WAIVER OF DEDUCTIBLE – GLASS
J. PERSONAL PROPERTY
K. AIRBAGS
L. AUTO LOAN LEASE GAP
M. BLANKET WAIVER OF SUBROGATION

A. BLANKET ADDITIONAL INSURED

The following is added to Paragraph **A.1.**, **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

B. EMPLOYEE HIRED AUTO

1. The following is added to Paragraph **A.1.**, **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

   An "employee" of yours is an "insured" while operating a covered "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

2. The following replaces Paragraph **b.** in **B.5.**, **Other Insurance**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

   b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

   (1) Any covered "auto" you lease, hire, rent or borrow; and

   (2) Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

   However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

C. EMPLOYEES AS INSURED

The following is added to Paragraph **A.1.**, **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

© 2015 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph **A.2.a.(2)** of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

   (2) Up to $3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph **A.2.a.(4)** of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

   (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to $500 a day because of time off from work.

E. TRAILERS – INCREASED LOAD CAPACITY

The following replaces Paragraph **C.1.** of **SECTION I – COVERED AUTOS**:

1. "Trailers" with a load capacity of 3,000 pounds or less designed primarily for travel on public roads.

F. HIRED AUTO PHYSICAL DAMAGE

The following is added to Paragraph **A.4.**, **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Hired Auto Physical Damage Coverage

If hired "autos" are covered "autos" for Covered Autos Liability Coverage but not covered "autos" for Physical Damage Coverage, and this policy also provides Physical Damage Coverage for an owned "auto", then the Physical Damage Coverage is extended to "autos" that you hire, rent or borrow subject to the following:

(1) The most we will pay for "loss" to any one "auto" that you hire, rent or borrow is the lesser of:

(a) $50,000;

(b) The actual cash value of the damaged or stolen property as of the time of the "loss"; or

(c) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

(2) An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".

(3) If a repair or replacement results in better than like kind or quality, we will not pay for the amount of betterment.

(4) A deductible equal to the highest Physical Damage deductible applicable to any owned covered "auto".

(5) This Coverage Extension does not apply to:

(a) Any "auto" that is hired, rented or borrowed with a driver; or

(b) Any "auto" that is hired, rented or borrowed from your "employee".

G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph **A.4.a.**, **Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

We will pay up to $50 per day to a maximum of $1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT

Paragraph **C.1.b.** of **SECTION III – PHYSICAL DAMAGE COVERAGE** is deleted.

I. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph **D.**, **Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

J. PERSONAL PROPERTY

The following is added to Paragraph **A.4.**, **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Personal Property Coverage

We will pay up to $400 for "loss" to wearing apparel and other personal property which is:

(1) Owned by an "insured"; and

(2) In or on your covered "auto".

This coverage only applies in the event of a total theft of your covered "auto".

No deductibles apply to Personal Property coverage.

© 2015 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

K. AIRBAGS

The following is added to Paragraph **B.3.**, **Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Exclusion **3.a.** does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs **A.1.b.** and **A.1.c.**, but only:

a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;

b. The airbags are not covered under any warranty; and

c. The airbags were not intentionally inflated.

We will pay up to a maximum of $1,000 for any one "loss".

L. AUTO LOAN LEASE GAP

The following is added to Paragraph **A.4.**, **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Auto Loan Lease Gap Coverage for Private Passenger Type Vehicles

In the event of a total "loss" to a covered "auto" of the private passenger type shown in the Schedule or Declarations for which Physical Damage Coverage is provided, we will pay any unpaid amount due on the lease or loan for such covered "auto" less the following:

(1) The amount paid under the Physical Damage Coverage Section of the policy for that "auto"; and

(2) Any:

(a) Overdue lease or loan payments at the time of the "loss";

(b) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;

(c) Security deposits not returned by the lessor;

(d) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and

(e) Carry-over balances from previous loans or leases.

M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph **A.5.**, **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.

© 2015 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

COMMERCIAL GENERAL LIABILITY
POLICY NUMBER: 6808J585363 ISSUED DATE: 3/8/2019

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):

Any person or organization that you agree in a written contract to include as an additional insured on this Coverage Part for "bodily injury" or "property damage" included in the "products-completed operations hazard", provided that such contract was signed and executed by you before, and is in effect when, the bodily injury or property damage occurs.

Location And Description Of Completed Operations

Any project to which an applicable contract described in the Name of Additional Insured Person(s) or Organization(s) section of this Schedule applies.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

© ISO Properties, Inc., 2004

POLICY NUMBER: 6808J585363

COMMERCIAL GENERAL LIABILITY
ISSUE DATE: 09/01/2018

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

OTHER INSURANCE – DESIGNATED ADDITIONAL INSUREDS – PRIMARY AND NON-CONTRIBUTORY WITH RESPECT TO CERTAIN OTHER INSURANCE

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designated Additional Insured

All parties required by written contract

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

PROVISIONS

The following is added to Paragraph **4. a., Primary Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

The insurance afforded under this Coverage Part to an additional insured designated in the Schedule above is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with that other insurance, provided that if you agree in a written contract or agreement that the insurance afforded to such additional insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to such other insurance only if:

(1) The "bodily injury" or "property damage" for which coverage is sought is caused by an "occurrence" that takes place; and

(2) The "personal injury" or "advertising injury" for which coverage is sought arises out of an offense that is committed;

subsequent to the signing and execution of that contract or agreement by you.

© 2008 The Travelers Companies, Inc.

COMMERCIAL GENERAL LIABILITY

POLICY NUMBER: 6808J585363

ISSUED DATE: 3/8/2019

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

Any person or organization that you agree in a written contract

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US Condition (Section IV-COMMERCIAL GENERAL LIABILITY CONDITIONS) is amended by the addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazards." This waiver applies only to the person or organization shown in the Schedule above.

Copyright, Insurance Services Office, Inc., 1992

POLICY NUMBER: BA8J591007

COMMERCIAL AUTO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED – PRIMARY AND NON-CONTRIBUTORY WITH OTHER INSURANCE

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

PROVISIONS

1. The following is added to Paragraph **A.1.c., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

   Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in **SECTION II**.

2. The following is added to Paragraph **B.5., Other Insurance** of **SECTION IV – BUSINESS AUTO CONDITIONS**:

   Regardless of the provisions of paragraph **a.** and paragraph **d.** of this part **5. Other Insurance,** this insurance is primary to and non-contributory with applicable other insurance under which an additional insured person or organization is the first named insured when the written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, requires this insurance to be primary and non-contributory.

© 2015 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

TRAVELERS

WORKERS COMPENSATION
AND
EMPLOYERS LIABILITY POLICY

ENDORSEMENT WC 99 03 76(00) — 001

POLICY NUMBER: UB9K584739

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT CALIFORNIA (BLANKET WAIVER)

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 3.00 % of the California workers' compensation premium otherwise due on such remuneration.

Schedule

Person or Organization	Job Description
ALL PERSONS OR ORGANIZATIONS THAT REQUIRES YOU TO OBTAIN EXECUTED THE CONTRACT BEFORE	THAT ARE PARTIE TO A CONTRACT THIS AGREEMENT, PROVIDED YOU THE LOSS.

DATE OF ISSUE: 3/8/2019 **ST ASSIGN:** CA

017106

CITY OF ST. HELENA

RESOLUTION NO. 2018-176

Resolution (1) approving a Professional Services Agreement with BKF for St. Helena Downtown Street Improvements in an amount not to exceed $529,000; (2) authorizing the City Manager to execute all grant related documents pertaining to CIP Project R18-81; and (3) authorizing a budget increase of $234,000 to design in CIP Project R18-81 in FY 2019/20 with funding allocated from FY 2019/20 SB1 and Gas Tax funds.

RECITALS

A. The City of St. Helena requires engineering and landscape architect services in order to provide plans, specifications, and construction estimates for the St. Helena Downtown Sidewalk Improvements, CIP Project No. R18-81; and

B. On September 25, 2018, the City issued a Request for Proposals inviting consultants to submit proposals for the St. Helena Downtown Improvements that included streetscape planning and CIP R18-81 design; and

C. On October 25, 2018, City staff received and reviewed five (5) responsive proposals; and

D. On November 27, 2018, the City interviewed five firms and found that BKF provided the best combination of qualifications, experience, and local knowledge for the project; and

E. BKF will meet the City's insurance requirements; and

F. The project is included in the City Council adopted five-year Capital Improvement Program (CIP) for Fiscal Year 2018/2019; and

G. A total of $295,000 is included in CIP R18-81 for design services; and

H. The proposal from BKF is $529,000 which includes both streetscape design and construction plans; and

I. The addition of the streetscape design exceeded the initial design estimates by $234,000; and

J. A budget increase for design for CIP R18-81 in the amount of $234,000 is necessary for FY 2019/20 CIP budget for CIP R18-81; and

K. Funding for this increase is available through the use of Gas Tax and SB1 funding.

RESOLUTION

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

1. Approves the Professional Services Agreement with BKF for design services in an amount not to exceed $529,000 and authorizes the City Manager to execute the Professional Services Agreement.
2. Authorizes the City Manager to sign the Caltrans Program Supplement Agreement (PSA) for this specific project in order to receive federal-aid grant funding allocation and other Caltrans related forms specific to this project.
3. Authorizing a budget increase of $234,000 to design in CIP Project R18-81 in FY 2019/20 with funding allocated from FY 2019/20 SB1 and Gas Tax funds.

Approved at a Regular Meeting of the St. Helena City Council on December 11, 2018, by the following vote:

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

APPROVED:

Geoff Ellsworth, Mayor

ATTEST:

Cindy Tzafopoulos, City Clerk

CITY OF ST. HELENA
Incorporated March 24, 1878
Re-incorporated May 14, 1969
STATE OF CALIFORNIA

STH CONTRACT: FY 2019-075-01A

AMENDMENT NO. 1
TO PROFESSIONAL SERVICES AGREEMENT WITH BKF
FOR PROFESSIONAL SERVICES FOR DOWNTOWN STREETSCAPE IMPROVEMENTS
AS PART OF CAPITAL IMPROVEMENT PROJECT R18-81

This Amendment No. 1 to Agreement for Professional services is made effective on December 11, 2018 by and between the City of St. Helena, a municipal corporation ("City"), and BKF ("Consultant").

RECITALS

A. Pursuant to the terms of the written Agreement between City and Consultant, dated December 11, 2018, and approved by Resolution No. 2018-176, dated December 11, 2018, the City entered into a Professional Services Agreement with Consultant for $529,000.00 ("Agreement") regarding the City's Downtown Streetscape Improvements Project ("Project"). The Project is part of the City's Capital Improvement Project R18-81; and

B. The Agreement's current Scope of Services do not include the funds or the additional work that have been identified to complete the environmental scope of work for the implementation of Project R18-81 nor the additional work identified during the preliminary design of the project; and

C. City and Consultant now desire to amend the Agreement to include, as part of the Downtown Streetscape Improvements, Capital Improvement Project R18-81, the additional scope required; and

D. The Consultant has represented it has the necessary expertise, experience, and qualifications to perform the additional services for the Project; and

TERMS

A. Parties agree to amend Section 1, "Basic Services" of the Agreement and Amendment No. 1, to provide additional services, as outlined in Exhibit A-1, "Scope of Services" Items 2-5 attached hereto.

B. Section 4.A of the Agreement is amended to read as follows: "Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amount specified in Exhibit B-1, "Compensation" attached hereto and made a part hereof." The "Total compensation shall not exceed" specified in Section 4.A is amended as follows:

Original Agreement Amount	$529,000.00
Amendment No. 1	$ 74,100.00
Total Compensation	**$603,100.00**

Total compensation shall not exceed $603,100.00, unless prior additional compensation is approved in writing in accordance with Section 2.

C. The Agreement, as modified by this Amendment No. 1, constitutes the entire agreement between City and Consultant. Except as expressly set forth in the Amendment No. 1, the Agreement has not been modified, changed, altered, or amended, and is in full force and effect.

Entered as of the day and year first above stated.

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:

BKF
1646 North California Boulevard, Suite 400
Walnut Creek, CA. 94596

Signatures of Authorized Persons:

By: _____

Print Name: Daniel Schafer

Title: Principal/Vice President

CITY OF ST. HELENA
a Municipal Corporation

By: _____
Mark T. Prestwich, City Manager

APPROVED AS TO FORM:

_____ for MGB
Michael G. Biddle, City Attorney

ATTEST:

_____
City Clerk
Cindy Tzafopoulos

Attachments:

- Exhibit A-1: Scope of Services
- Exhibit B-1: Compensation

EXHIBIT A-1

ITEM 1: NAPA VALLEY VINE TRAIL TO SCHOOL FEASIBILITY STUDY

The St Helena Vine Trail Connector School to School Feasibility Study is intended to develop a preliminary plan to link St. Helena High School with Robert Louis Stevenson Middle School and connecting to existing Vine Trail alignments at Adams Street/Library Land and/or Madrona Avenue/Fulton Lane. The scope is based on the description and exhibit contained in the Helena Vine Trail Connector School to School Feasibility Study Project Understanding and Scope of Work dated 2.19.19

Task 1: Site Assessment

During this task, our team will develop data to understand the project's opportunities and constraints, which will serve as a basis to define the alignment. Our objectives during this task include:

- Perform a site assessment to understand topographic, boundary, and utility constraints.
- Review existing property line and physical improvements within the corridor(s).

Objective 1 - Initial Site Assessment

A. **Data Compilation and Mapping.** BKF will obtain and review digital files and prepare a GIS map for the route study, including the most detailed and accurate publicly available aerial photo, lidar topo, and property/ROW lines from City of St Helena.

B. **Data Collection and Field Review.** The team will review the records from City of St. Helena, and the public utilities to obtain property line, utility data, and other appurtenant information to create a base plan. BKF will field walk the site to create a photographic log along the corridor. During the walk, we will review horizontal and vertical issues and note potential areas of conflict or concern with regards to an alignment. We will take notes of any potential public/private conflicts within rights-of-way. The field reconnaissance will access existing conditions as well as the trail experience.

Meetings: City of St. Helena: One Kickoff Meeting and One Review Meeting

Task 2: Route Study Report

Using the data collected in Task 1, the team will prepare preliminary alignments to define the project option and issues. Our objectives during this Task include:

- Complete a planning analysis to identify potential alignment alternatives
- Analyze the alternatives to define the Basis of Design, conceptual construction cost, and right of way needs;
- Work with the committee to establish a preferred alignment

Objective 1 - Define Preliminary Alignments and Preliminary Route Study Report

Based on the information available, site walks, and input by the City on potential property owner issues, BKF will develop preliminary alignments to address the desired trail outcome. We will provide exhibits

showing conflicts between existing conditions and proposed design. Gates will review the route study for connectivity and landscape/placemaking opportunities.

Along with the plan hardcopies, we will prepare a memorandum report summarizing study objectives, existing conditions of the route, and conceptual approach to creating the path in the typical or special conditions that occur on the route. The typical conditions and conceptual solutions will be illustrated with photos and sketch cross-sections.

A summary cost/benefit/feasibility analyses will aid the stakeholders in analyzing the alternatives.

Objective 2 – Finalize Alignment and Report:

BKF will meet with the City, Vine Trail staff, and stakeholders to review the alignments and comments for the committee. Based on these comments, BKF will finalize the alignment and report to provide a recommendation on the preferred alternative.

Deliverables: We will provide the basis of design report, plans, conceptual costs report, and conceptual studies in an electronic and hard copy (1) titled.

Meetings: City, Vine Trail Staff, and Stakeholders: up to two Review Meetings

ITEM 2: FIBER LIGHT POLE COORDINATION

The City would like to investigate the opportunity of installing fiber in the Downtown Area's street lights to complete a dark fiber network. Illumination Technologies is interested in deploying 5G technology infrastructure in concert with the downtown streetscape project.

Our objectives during this task include:

- Review with the fiber company the potential for using the existing Light Poles; and
- Develop a conceptual trench and network scheme to accommodate the fiber

Initial Site Assessment Scope includes:

A. **Fiber Coordination.** BKF will work with the Fiber Company and the City to assess the feasibility for providing a fiber network in deploying the 5G technology.

B. **Conceptual Scheme Validation.** BKF will review the requirements for the fiber network area, criteria for the light poles (height, diameter, etc.), pull boxes, and associated infrastructure.

Meetings: City of St. Helena: One Kickoff Meeting and One Review Meeting

ITEM 3: SOUTHERN GATEWAY STUDY

During this task, our team will develop project's opportunities and constraints to serve as a basis for defining potential gateways and gateway art. Our objectives during this task include:

1. Perform a site assessment to understand topographic, boundary, and utility constraints.
2. Review existing property line and physical improvements within the corridor(s).
3. Coordinate with team and City regarding feasibility of potential gateway locations
4. Formulate Concept Studies of St Helena Southern Gateway
    a. Preferred Locations Diagram
    b. (2) Concepts for Gateway Element
    c. Character Images Exhibit
    d. Materials and Finishes Exhibit
5. Determine preferred Concepts
6. Develop Preferred Southern Gateway Concept
    a. Conceptual Details
    b. Perspective Rendering
    c. Materials Palette
7. Present Preferred Concepts

Deliverables:

- Concept Study of St Helena Southern Gateway
- Preferred Gateway Concept

Meetings:

1. Meetings to determine preferred Concepts
    a. (1) Meeting/Presentation with "Stakeholders" (Service Clubs, Beautification Foundation, Community Members)
    b. (2) Go-To Meetings to review Concepts
2. Meetings to present Preferred Concepts
    a. (1) Meeting/Presentation with "Stakeholders" (Service Clubs, Beautification Foundation, Community Members)
    b. (1) Presentation to City Council

ITEM 4: RESTROOM STUDY

Our objectives for this study is to evaluate the potential for a public restroom within the downtown core area. Work includes:

1. Input on type of structure
2. Design and style suggestions for structure
3. Evaluation of proposed location and alignment with downtown project
4. Include graphic presentation with community meetings
5. Provide summary of insights for presentation by City to the Council

Deliverables: Concept Study

ITEM 5: CULTURAL STUDY FOR CALTRANS ENVIRONMENTAL REVIEW

Work needed to comply with Caltrans required Historic Property Survey Report (HPSR), Archaeological Study Report (ASR), Historic Resource Evaluation Report (HRER), and Finding of Effect (FOE) report for the City of St. Helena's Main Street St. Helena Downtown Improvements project (Grant funded project).

This study includes only the work proposed along Main Street; future work may be required if the project extends to Oak Avenue, Railroad Avenue, Spring Street, Adams Street or other local roadways.

The work is based on hiring a subconsultant, Evans & De Shazo, Inc. who specializes in these areas. The scope includes:

1. Archaeological Study Report (ASR)
    a. Mapping
    b. Sacred Lands Inventory & Native American Consultation
    c. Records Search
    d. Field Survey
    e. Reporting
2. Historic Resource Evaluation Report (HRER)
    a. Mapping
    b. Records Search
    c. Historic Resource Survey
    d. Reporting
3. Historic Property Survey Report (HPSR)
4. Finding of Effect (FOE)

Deliverables:

- Historic Property Survey Report (HPSR)
- Archaeological Study Report (ASR)
- Historic Resource Evaluation Report (HRER)
- Finding of Effect (FOE)

Meetings: Architectural Historian (12 hours) and Archeologist (8 hours)

EXHIBIT B-1

St. Helena Downtown Amendment Scope Items

	BKF Engineers PM, Surveying Civil Design	Gates & Associates Urban Design & Landscaping	M-Group Environmental	Evans & De Shazo (New Team Member) Historic Preservation	Total
Item 1: Napa Valley Vine Trail School to School Feasibility Study	$ 30,000	$ 2,500	$ -	$ -	$ 32,500
Item 2: Fiber Light Pole Coordination	$ 7,200	$ 1,500	$ -	$ -	$ 8,700
Item 3: Southern Gateway Study	$ 3,200	$ 14,800	$ -	$ -	$ 18,000
Item 4: Restroom Study	$ -	$ 2,150	$ -	$ -	$ 2,150
Item 5: Caltrans Cultural Resources within Highway 29 Only	$ -	$ -	$ -	$ 42,745	$ 42,745
Reimbursable Allowance					$ 2,505
Total Contract Amendment Items	**$ 40,400**	**$ 20,950**	**$ -**	**$ 42,745**	**$ 106,600**

AMENDMENT #3
TO PROFESSIONAL SERVICES AGREEMENT WITH BKF ENGINEERS; STH CONTRACT NO: FY 2019-075 FOR PROFESSIONAL SERVICES FOR DOWNTOWN STREETSCAPE IMPROVEMENTS AS PART OF CAPITAL IMPROVEMENT PROJECT R18-81 FOR AN ADDITIONAL $146,000 FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED $781,600.00.

This Third Amendment to Professional Services Agreement STH Contract: FY 2019-075 dated December 11, 2018 ("Agreement") is made as of this ____ day of _____, 2021 by and between the City of St. Helena, a municipal corporation ("City"), and BKF Engineers ("Consultant").

RECITALS

A. On December 11, 2018, the City and Consultant entered into the Agreement for Consultant to provide professional engineering and landscaping services in connection with the project described as St. Helena Downtown Improvements; and

B. On May 28, 2019, City Council authorized Amendment No. 1 in the amount of $74,100 to include fiber light pole coordination, a southern gateway study, input on the downtown restrooms, and additional environmental work as required by Caltrans to complete the downtown sidewalk improvements; and

C. On June 11, 2019, City Council authorized Amendment No. 2 in the amount of $32,500 to include the Napa Valley Vine Trait's Feasibility Study to bring the Vine Trail through St. Helena and a 50% cost share to complete the work for a total amended notto-exceed amount of the agreement of $635,600; and

D. The Agreement's current Scope of Services do not include the funds or the additional work that have been identified to complete the scope of work for the implementation of Project R18-81 nor the additional work identified during the preliminary design of the project; and

E. Additional funding in the amount of $146,000 has been requested for a total not-to-exceed contract of $781,600; and

F. The City of St. Helena and BKF Engineers now desire to amend the Agreement to include the additional funding necessary for the Consultant to provide additional

Engineering and Landscaping Consulting Services for the Downtown Sidewalk Improvements, Capital Improvement Project R18-81.

AGREEMENT

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

1. Section 1. Basic Services

   Parties agree to amend Section 1, "Basic Services" of the Agreement to provide additional services, as outlined in Exhibit A, "Scope of Work" attached hereto.

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

   "Total compensation shall not exceed $781,600.00 ... "

Original Agreement Amount	$529,000.00
Amendment No. 1	$74,100.00
Amendment No. 2	$32,500.00
Amendment No. 3	$146,000.00
Total Compensation	**$781,600.00**

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

Entered as of the day and year first above stated.

CONSULTANT: BKF Engineers

Signatures of Authorized Persons:

By: _____

Print Name: _____

CITY OF ST. HELENA
a Municipal Corporation

By: _____

Print Name: Mark T. Prestwich
Title: City Manager

Title: _____

APPROVED AS TO FORM:

_____
Ethan Walsh, City Attorney

ATTEST:

_____
City Clerk

Attachments:
Exhibit A: "Scope of Services"
Exhibit B: "Compensation"

Exhibit A
Scope of Services

TASK 1: Main Street Right of Way

1) **Background Need**: From the original scope, BKF's work assumed the following.

   ***Right of Way and Surveyed Features**. BKF will obtain Caltrans Right of Way Maps to complete a delineation of the right of way. Our team will create base maps including topographic, utility, and preliminary boundary information that will be based on existing as-built plans, right of way and easement maps as provided by the City. Individual properties within the project area will be identified by tax assessor number.*

   Based on the research from Caltrans and the City, Caltrans relinquished a portion of the right of way to the City in 2010. Caltrans current right of way maps delineate their right of way to the back of the existing curb. Our efforts included researching Caltrans' on-line website, contacting District 4's office, and researching historic records. It appears that Caltrans 'purged' the historic right of way maps from their system and the City has no prior records of the right of way on file.

BKF prepared a preliminary survey based on historic recorded maps (e.g. subdivisions) to recreate the City right of way behind the back of curb. This preliminary survey work indicated that, in order to identify the City's right of way, a formal boundary determination would be necessary, and a Record of Survey would then be required in accordance with Section 8762 of the California Professional Land Surveyor's Act (PLS Act).

2) **Scope of Work**: In order to adequately assess the impact of the sidewalk improvements on the private properties, additional work is needed to address the following:

   a. **Title Reports**. There appear to be 44 APN parcels that front the project. By obtaining title reports of these parcels BKF will be able to assess if there are underlying easements for public access within the properties (as the existing publicly maintained sidewalk appears to be within most of the existing parcels) or other boundary information not contained in the historic record maps. BKF have solicited proposal from Title Companies to procure the Title Reports.

   b. **Boundary Survey**. Based on the outcome of the Title Reports and information contained therein, BKF will complete the boundary survey to locate the right of way.

   c. **Record of Survey**. Based on the completion of the Boundary Survey, BKF will file a Record of Survey with the County Surveyor in accordance with Section 8762 of the PLS Act. The County Surveyor charges fees to review and record the Record of Survey map. These fees are anticipated to be paid directly by the City.

   d. **Plat and Legal Descriptions**. Based on the limits of work and preliminary sidewalk improvements, it appears that up to 37 areas will require either a new public access easement and/or temporary construction easements needed to construct the improvements. BKF will prepare legal descriptions and accompanying graphical plats of each of the acquisitions.

3) **Scope Qualifications**: Appraisals, negotiations, and easement terms (cover sheets) are not included in this

scope as the extent of work is unknown and it is anticipated that the City will contract with a municipal agency for these services.

TASK 2: Main Street Plan Phasing and Updates

1) **Background Need**: Phasing of the Main Street improvements is needed for the City to leverage the current grant without having to complete the entire corridor improvements. Additionally, through the NEPA review, Boundary Survey delineation, and condition assessment of the sewer laterals, additional modifications to the PS&E are needed to update the plan set for construction.

2) **Scope of Work:**

   a. **Phasing of the Improvements (Phase 1 Bid Set)**. Based on the need to phase the project, BKF will recompile the drawing set for Phase/Segment 1 only (Adams to Pine). Additionally, BKF will support the City's efforts in negotiating an updated project description with NVTA and Caltrans Local Assistance.

   b. **Overall Plan Refinement Options**. Additionally, based on comments from the City we will look at options for reducing the scope of work by potentially eliminating the curb replacement and work in the alcove areas. This scope does not include revising Phases 2 and 3 plans to address changes to these phases.

   c. **Environmental Review Modifications**. Based on the NEPA review and historic study, modifications to the improvements are needed to relocate and adjust improvements adjacent to historically significant buildings that were identified in the study and required to meet the NEPA guidelines.

   d. **Sewer Laterals**. In order to adequately assess the impact of the sidewalk improvements on the private properties, additional work is needed to add sewer lateral replacement based on the sewer inspection performed by the City and replace laterals that are in poor condition between the edge of the building (installing new cleanout) and the sewer main in the street.

TASK 3: Main Street Wayfinding and Signage

1) **Background Need**: BKF understand that the City desires to include wayfinding and signage improvements with or ancillary (bid alternative) to the sidewalk improvements.

2) **Scope of Work**:

   a. **Wayfinding and Signage Study**. David Gates and Associates (DGA) worked with the City to develop and expand wayfinding and signage options for the downtown area. DGA participated in committee meetings (Beautification Committee and the Transportation and Sustainability Group) to review the options and update the study.

   b. **Wayfinding and Signage PSE**. DGA will update the PSE plans to include the wayfinding and signage design concepts. The wayfinding signage selected has provisions for planting requiring hand watering and a custom panel placed on a 'standard' post.

TASK 4: Vine Trail Presentations (shared Cost with Vine Trail)

1) **Background Need:** The original Vine Trail scope of work was to develop the plan and alternatives without presentations to committees or the council.

2) **Scope of Work:** Based on requests from the City and Vine Trail, BKF developed presentation materials for the Vine Trail Engineering/Route Committee and for the City of St Helena. BKF will present the findings at both meetings.

Exhibit B
Compensation

Based on the tasks required, BKF has developed a fee based on the level of effort needed to complete each task.

TASK ITEM			**LEVEL OF EFFORT COST**
Task 1: ROW Mapping and Plats/Legal(s)	Number	Fee/Per	**$89,600**
1. Title Reports	44	$600	$26,400
2. Boundary Survey			$11,800
3. Record of Survey			$7,000
4. Plat and Legal Descriptions (if required)	37	$1,200	$44,400
Task 2: Plan Modifications	BKF	DGA	**$34,700**
1. Phase 1 Plan Bid Set	$8,500	$1,500	$10,000
2. Overall Plan Refinement Options	$10,000		$10,000
3. Environmental Review Modifications	$1,000	$7,500	$8,500
4. Sewer Improvements	$6,200	$0	$6,200

Task 3: Wayfinding/Signage	BKF	DGA	**$15,200**
1. Study	$0	$8,600	$8,600
2. PSE Additions	$3,000	$3,600	$6,600
Task 4: Vine Trail Presentations (Cost Sharing)	$6,500	$0	**$6,500**
Total			**$146,000**

The total additional budget requested is $146,000, for a new project total not-to-exceed of $781,600.

Original Agreement Amount	$529,000.00
Amendment No. 1	$74,100.00
Amendment No. 2	$32,500.00
Amendment No. 3	$146,000.00
Total Compensation	**$781,600.00**

Downtown Sidewalk Improvements

Project No: 02001-R18-81

Category: Streets

Project Location: St. Helena, CA 94574

Responsible Department:



PROJECT PURPOSE & DESCRIPTION: This is a sidewalk improvement project funded by the One Bay Area Grant II program and local funds. The project will replace sidewalks, trees, and implement traffic calming devices on Main Street between Mitchell Drive and Pine Street. Approximately 3,609 linear feet of sidewalk and 17 ADA curb ramps will be replaced.

EXPENDITURE ACCOUNTS:

Fund: 741 **Dept**: 5014

EXPENDITURES	Total YTD 05/11/21		2021-22	2022-23	2023-24	2024-25	2025-26	PROJECT TOTAL
3110 - Design	505,386		146,000					651,386
3140 - Legal Services			2,314					2,314
3150 - Construction Management	2,500		382,500	382,500				767,500
3160 - Construction Contract	186		2,320,250	2,320,250				4,640,686
3170 - Contingency			232,050	232,050				464,100
EXPENDITURE TOTALS	508,072		3,083,114	2,934,800				6,525,986
FUNDING SOURCES								
101-General Fund	64,500							64,500
101-General Fund - Measure T/RMRA MOE (Prior Year)	75,000			271,914				346,914
230-Gas Tax	134,000							134,000
230-Gas Tax - RMRA/SB1	108,000		146,000					254,000
240-Measure T	126,572			2,000,000				2,126,572
741-Streets Capital Improvement - Grant OBAG II			603,000	603,000				1,206,000
741-Streets Capital Improvement - Measure T Loan			2,334,114	59,886				2,394,000
999-Unidentified								0
FUNDING TOTALS	508,072		3,083,114	2,934,800				6,525,986

AMENDMENT #3

TO PROFESSIONAL SERVICES AGREEMENT WITH BKF ENGINEERS; STH CONTRACT NO: FY 2019-075 FOR PROFESSIONAL SERVICES FOR DOWNTOWN STREETSCAPE IMPROVEMENTS AS PART OF CAPITAL IMPROVEMENT PROJECT R18-81 FOR AN ADDITIONAL $146,000 FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED $781,600.00.

This Third Amendment to Professional Services Agreement STH Contract: FY 2019-075 dated December 11, 2018 ("Agreement") is made as of this ____ day of _____, 2021 by and between the City of St. Helena, a municipal corporation ("City"), and BKF Engineers ("Consultant").

RECITALS

A. On December 11, 2018, the City and Consultant entered into the Agreement for Consultant to provide professional engineering and landscaping services in connection with the project described as St. Helena Downtown Improvements; and

B. On May 28, 2019, City Council authorized Amendment No. 1 in the amount of $74,100 to include fiber light pole coordination, a southern gateway study, input on the downtown restrooms, and additional environmental work as required by Caltrans to complete the downtown sidewalk improvements; and

C. On June 11, 2019, City Council authorized Amendment No. 2 in the amount of $32,500 to include the Napa Valley Vine Trait's Feasibility Study to bring the Vine Trail through St. Helena and a 50% cost share to complete the work for a total amended not-to-exceed amount of the agreement of $635,600; and

D. The Agreement's current Scope of Services do not include the funds or the additional work that have been identified to complete the scope of work for the implementation of Project R18-81 nor the additional work identified during the preliminary design of the project; and

E. Additional funding in the amount of $146,000 has been requested for a total not-to-exceed contract of $781,600; and

F. The City of St. Helena and BKF Engineers now desire to amend the Agreement to include the additional funding necessary for the Consultant to provide additional Engineering and Landscaping Consulting Services for the Downtown Sidewalk Improvements, Capital Improvement Project R18-81.

AGREEMENT

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

1. Section 1. Basic Services

   Parties agree to amend Section 1, "Basic Services" of the Agreement to provide additional services, as outlined in Exhibit A, "Scope of Work" attached hereto.

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

"Total compensation shall not exceed $781,600.00 ... "

Original Agreement Amount	$529,000.00
Amendment No. 1	$74,100.00
Amendment No. 2	$32,500.00
Amendment No. 3	$146,000.00
Total Compensation	**$781,600.00**

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

Entered as of the day and year first above stated.

CONSULTANT: BKF Engineers

Signatures of Authorized Persons:

By: _____

Print Name: Daniel Schaefer

Title: Principal/Secretary

CITY OF ST. HELENA
a Municipal Corporation

By:_____

Print Name: Mark T. Prestwich

Title: City Manager

APPROVED AS TO FORM:

_____
Ethan Walsh, City Attorney

ATTEST:

_____
City Clerk

Attachments:
Exhibit A: "Scope of Services"
Exhibit B: "Compensation"

Exhibit A
Scope of Services

TASK 1: Main Street Right of Way

1) **Background Need**: From the original scope, BKF's work assumed the following.

> ***Right of Way and Surveyed Features****. BKF will obtain Caltrans Right of Way Maps to complete a delineation of the right of way. Our team will create base maps including topographic, utility, and preliminary boundary information that will be based on existing as-built plans, right of way and easement maps as provided by the City. Individual properties within the project area will be identified by tax assessor number.*

Based on the research from Caltrans and the City, Caltrans relinquished a portion of the right of way to the City in 2010. Caltrans current right of way maps delineate their right of way to the back of the existing curb. Our efforts included researching Caltrans' on-line website, contacting District 4's office, and researching historic records. It appears that Caltrans 'purged' the historic right of way maps from their system and the City has no prior records of the right of way on file.

BKF prepared a preliminary survey based on historic recorded maps (e.g. subdivisions) to recreate the City right of way behind the back of curb. This preliminary survey work indicated that, in order to identify the City's right of way, a formal boundary determination would be necessary, and a Record of Survey would then be required in accordance with Section 8762 of the California Professional Land Surveyor's Act (PLS Act).

2) **Scope of Work**: In order to adequately assess the impact of the sidewalk improvements on the private properties, additional work is needed to address the following:

   a. **Title Reports**. There appear to be 44 APN parcels that front the project. By obtaining title reports of these parcels BKF will be able to assess if there are underlying easements for public access within the properties (as the existing publicly maintained sidewalk appears to be within most of the existing parcels) or other boundary information not contained in the historic record maps. BKF have solicited proposal from Title Companies to procure the Title Reports.

   b. **Boundary Survey**. Based on the outcome of the Title Reports and information contained therein, BKF will complete the boundary survey to locate the right of way.

   c. **Record of Survey**. Based on the completion of the Boundary Survey, BKF will file a Record of Survey with the County Surveyor in accordance with Section 8762 of the PLS Act. The County Surveyor charges fees to review and record the Record of Survey map. These fees are anticipated to be paid directly by the City.

   d. **Plat and Legal Descriptions**. Based on the limits of work and preliminary sidewalk improvements, it appears that up to 37 areas will require either a new public access easement and/or temporary construction easements needed to construct the improvements. BKF will prepare legal descriptions and accompanying graphical plats of each of the acquisitions.

3) **Scope Qualifications**: Appraisals, negotiations, and easement terms (cover sheets) are not included in this scope as the extent of work is unknown and it is anticipated that the City will contract with a municipal agency for these services.

TASK 2: Main Street Plan Phasing and Updates

1) **Background Need**: Phasing of the Main Street improvements is needed for the City to leverage the current grant without having to complete the entire corridor improvements. Additionally, through the NEPA review, Boundary Survey delineation, and condition assessment of the sewer laterals, additional modifications to the PS&E are needed to update the plan set for construction.

2) **Scope of Work:**

   a. **Phasing of the Improvements (Phase 1 Bid Set)**. Based on the need to phase the project, BKF will recompile the drawing set for Phase/Segment 1 only (Adams to Pine). Additionally, BKF will support the City's efforts in negotiating an updated project description with NVTA and Caltrans Local Assistance.

   b. **Overall Plan Refinement Options**. Additionally, based on comments from the City we will look at options for reducing the scope of work by potentially eliminating the curb replacement and work in the alcove areas. This scope does not include revising Phases 2 and 3 plans to address changes to these phases.

   c. **Environmental Review Modifications**. Based on the NEPA review and historic study, modifications to the improvements are needed to relocate and adjust improvements adjacent to historically significant buildings that were identified in the study and required to meet the NEPA guidelines.

   d. **Sewer Laterals**. In order to adequately assess the impact of the sidewalk improvements on the private properties, additional work is needed to add sewer lateral replacement based on the sewer inspection performed by the City and replace laterals that are in poor condition between the edge of the building (installing new cleanout) and the sewer main in the street.

TASK 3: Main Street Wayfinding and Signage

1) **Background Need**: BKF understand that the City desires to include wayfinding and signage improvements with or ancillary (bid alternative) to the sidewalk improvements.

2) **Scope of Work**:

   a. **Wayfinding and Signage Study**. David Gates and Associates (DGA) worked with the City to develop and expand wayfinding and signage options for the downtown area. DGA participated in committee meetings (Beautification Committee and the Transportation and Sustainability Group) to review the options and update the study.

   b. **Wayfinding and Signage PSE**. DGA will update the PSE plans to include the wayfinding and signage design concepts. The wayfinding signage selected has

provisions for planting requiring hand watering and a custom panel placed on a ‘standard’ post.

TASK 4: Vine Trail Presentations (shared Cost with Vine Trail)

1) **Background Need:** The original Vine Trail scope of work was to develop the plan and alternatives without presentations to committees or the council.

2) **Scope of Work:** Based on requests from the City and Vine Trail, BKF developed presentation materials for the Vine Trail Engineering/Route Committee and for the City of St Helena. BKF will present the findings at both meetings.

Exhibit B
Compensation

Based on the tasks required, BKF has developed a fee based on the level of effort needed to complete each task.

TASK ITEM			**LEVEL OF EFFORT COST**
Task 1: ROW Mapping and Plats/Legal(s)	Number	Fee/Per	**$89,600**
1. Title Reports	44	$600	$26,400
2. Boundary Survey			$11,800
3. Record of Survey			$7,000
4. Plat and Legal Descriptions (if required)	37	$1,200	$44,400
Task 2: Plan Modifications	BKF	DGA	**$34,700**
1. Phase 1 Plan Bid Set	$8,500	$1,500	$10,000
2. Overall Plan Refinement Options	$10,000		$10,000
3. Environmental Review Modifications	$1,000	$7,500	$8,500
4. Sewer Improvements	$6,200	$0	$6,200
Task 3: Wayfinding/Signage	BKF	DGA	**$15,200**
1. Study	$0	$8,600	$8,600
2. PSE Additions	$3,000	$3,600	$6,600
Task 4: Vine Trail Presentations (Cost Sharing)	$6,500	$0	**$6,500**
Total			**$146,000**

The total additional budget requested is $146,000, for a new project total not-to-exceed of $781,600.

Original Agreement Amount	$529,000.00
Amendment No. 1	$74,100.00
Amendment No. 2	$32,500.00
Amendment No. 3	$146,000.00
Total Compensation	**$781,600.00**

CITY OF ST. HELENA

RESOLUTION NO. 2021-

Authorizing: (1) the City Manager to execute Amendment No. 3 to STH Contract: FY 2019-075 in the amount of $146,000 with BKF for the St. Helena Downtown Street Improvements, for a total not-to-exceed amount of $781,600; (2) authorizing a budget increase of $146,000 to design in CIP Project R18-81 with funding allocated from Fund 230 SB1/RMRA (Road Maintenance and Rehabilitation)

RECITALS

A. The City of St. Helena requires engineering and landscape architect services in order to provide plans, specifications, and construction estimates for the St. Helena Downtown Sidewalk Improvements, CIP Project No. R18-81; and

B. On December 11, 2018, City Council approved a STH Contract: FY 2019-075 with BKF in the amount of $529,000 for engineering and landscaping services for the St. Helena Downtown Street Improvements; and

C. On May 28, 2019, City Council authorized Amendment No. 1 in the amount of $74,100 to include fiber light pole coordination, a southern gateway study, input on the downtown restrooms, and additional environmental work as required by Caltrans to complete the downtown sidewalk improvements; and

D. On June 11, 2019, City Council authorized Amendment No. 2 in the amount of $32,500 to include the Napa Valley Vine Trait's Feasibility Study to bring the Vine Trail through St. Helena and a 50% cost share to complete the work for a total amended not-to-exceed amount of the agreement of $635,600; and

E. On November 9, 2021, City Council provided direction to move forward with this project using a segmented approach that would utilize the OBAG-2 grant funding to deliver the Pine Street to Adams Street segment of Main Street before December 31, 2022, rather than complete all three downtown blocks from Pine Street to Mitchell Drive at this time; and

F. Staff received a proposal for the additional scope of work related to right of way delineation and right of way enhancements along the downtown corridor; and

G. Additional funding in the amount of $146,000 has been requested for a total not-to-exceed contract of $781,600; and

H. Additional funds needed for the study are available in Fund 230 SB1/RMRA (Road Maintenance and Rehabilitation).

RESOLUTION

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

1. Authorizes the City Manager to execute Amendment No. 3 to STH Contract: FY 2019-075 in the amount of $146,000 with BKF for the St. Helena Downtown Street Improvements, for a total not-to-exceed amount of $781,600.
2. Authorizing a budget increase of $146,000 to design in CIP Project R18-81 with funding allocated from Fund 230 SB1/RMRA (Road Maintenance and Rehabilitation).

Approved at a Regular Meeting of the St. Helena City Council on December 14, 2021, by the following vote:

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

APPROVED: ATTEST:

_____ _____
Geoff Ellsworth, Mayor Cindy Tzafopoulous, City Clerk

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **CONSENT ITEMS**

Subject: **Adoption of Resolution Approving Settlement of *Hall Vineland, LLC and Hall Vista, LLC v. City of St. Helena et al.* (Napa County Superior Court Case No. 19CV000897), Including Settlement Agreement and Water Service and Fire Service Agreements Attached Thereto, and Finding Approval Exempt from CEQA**

CEQA Determination: Exempt

Prepared By: Kevin D. Siegel, Special Counsel

Reviewed By: Mark T. Prestwich, City Manager, and
Mark Rincon-Ibarra, Public Works Director and City Engineer

Approved By: Mark T. Prestwich, City Manager

It is recommended that the City Council adopt a resolution approving settlement of *Hall Vineland, LLC et al. v. City of St. Helena et al.* (Napa County Superior Court Case No. 19CV000897), as set forth in the proposed Settlement Agreement attached hereto, and discussed below.

BACKGROUND

In 1961, the Vineland Vista Mobile Home Park ("Vineland Vista MHP") was established at 341 St. Helena Highway (the "Property"). Since that time, the City has provided domestic water service to the Property.

The Property is just outside City limits, in unincorporated Napa County (the "County"). The County, which has land use authority with respect to the Property, had approved the Vineland Vista MHP pursuant to a Use Permit issued in 1961.

In 2008, Hall Vineland, LLC and Hall Vista, LLC (collectively, "Hall") acquired the Property. Hall proceeded to pursue a rehabilitation or redevelopment project, for which it would

need the County's land use approval, and caused MHP tenants to vacate while it pursued that project.

While the City has no land use authority over the Property or project, it does have rights and obligations as a water service provider, particularly as set forth in the St. Helena Municipal Code ("SHMC") and the City's Water Neutral Policy.

In connection with its consideration of Hall's proposed project, the County requires that Hall have a current "will-serve letter" from the City to demonstrate adequate prospective water supply for Hall's proposed project. Thus, in 2016, Hall applied to the City for a will-serve letter for water service for its proposed project. The application included a Water Demand Analysis by Summit Engineering, dated November 17, 2016 ("WDA"), for which City staff had provided input during its preparation. The WDA estimated that historical water demand for the Property was 5,850 gallons per day, which is the equivalent of or 2,135,250 gallons per year. In 2018, Hall submitted an updated WDA by Summit Engineering, which included the same estimate of historical water demand.

On December 28, 2016, the City's Public Works Director provided Hall a will-serve letter for water service for the project, as described in the WDA ("2016 Will Serve Letter").

In May 2018, Hall applied to the County for discretionary land use approvals for Hall's proposed project—a modification of the 1961 Use Permit and a Development Agreement ("Development Application"). The County provided the City with a copy of the Development Application.

City staff became concerned that the 2016 Will-Serve Letter might not have been properly issued pursuant to the SHMC and Water Neutral Policy with respect to the City's management of its limited water supply, including without limitation pursuant to the City's Water Neutral Policy and St. Helena Municipal Code ("SHMC") Chapter 13.12. Hall disagreed, asserting, for example, that the Will-Serve Letter properly confirmed the water supply for the project, and that neither SHMC nor the City's Water Neutral Policy authorized any deviation.

By letter dated September 5, 2018, the City's Public Works Director withdrew the 2016 Will-Serve Letter ("2018 Rescission Letter"). The 2018 Rescission Letter concluded, in part, as follows:

> Accordingly, the City hereby withdraws the December 28, 2016 Will-Serve Letter. This withdrawal is without prejudice to (1) your submission of a new or amended request for a Will-Serve Letter based on accurate data regarding baseline, existing water usage, as well as proposed water demand, a comparison of the two, and proposed retrofits that may be required under the Municipal Code to achieve a zero water use increased from the proposed Project, and (2) your obtaining a water use agreement from the City. Upon [y]our

> satisfactory completion of both requirements, the City may issue a new Will-Serve Letter. In the meantime, the December 28, 2016 Will-Serve Letter is hereby withdrawn.

On July 13, 2019, Hall filed a lawsuit against the City of St. Helena and the City of St. Helena Office of the Director of Public Works (Napa County Superior Court Case No. 19CV000897). The Complaint alleged causes of action for (1) inverse condemnation (i.e., a taking of, or damage to, property rights for which just compensation must be paid); (2) breach of contract; (3) breach of contract's covenant of good faith and fair dealing; (4) anticipatory breach of contract; and (5) promissory estoppel.

Hall originally alleged that the City's actions caused approximately $7.5 million in damages. They later asserted that the damages were more than $9 million.

The City has denied and disputed Hall's contentions, as to both facts and law.

The City sought dismissal of the lawsuit (by demurrer), asserting that it could not be held liable under any of the alleged causes of action. The Superior Court rejected the City's demurrer. The City filed a petition in the Court of Appeal seeking a writ of mandate to reverse the Superior Court's decision on the City's demurrer and to dismiss the case. The Court of Appeal summarily denied the City's petition, which is a denial without a decision on the merits and deferral of any appellate review until after the trial court proceedings have concluded.

The parties proceeded to engage in discovery to prepare for further motions (e.g., motion for summary judgment or adjudication) and/or trial. A jury trial was set for March 14, 2022.

Meanwhile, the parties engaged in settlement discussions, court-facilitated settlement conferences, and then mediation with the Honorable William Cahill, retired judge and JAMS mediator, with the parties equally sharing mediation costs. The City's negotiating team constituted Vice Mayor Dohring, Councilmember Hardy, City Manager Prestwich, and special counsel Kevin D. Siegel (from Burke, Williams & Sorensen, LLP). City Attorney Ethan Walsh was also involved throughout the process.

During the negotiations, settlement conferences, and mediation, the City's goals included the following:

1. Securing a Water Service Agreement for the Property that includes (i) an annual limitation that matches the Property's historic water demand, consistent with City agreements with other property owners outside of City limits to whom the City provides water service when they develop or redevelop their property; and (ii) additional terms consistent with other Water Service Agreements, such as an obligation that Hall defend and indemnify the City in the event of litigation challenging the Water Service Agreement;
2. Securing the Water Service Agreement for the adjacent Hall Winery Property, 401 St. Helena Highway (also outside City limits), which the City Council had approved

in 2007 but for which the City did not have an executed copy, to ensure that Hall is bound by the annual limitation of 8 million gallons per year in that agreement—reduced from 12 million gallons per year since the Certificate of Occupancy was issued, as provided for in the agreement—and is obligated to pay a penalty surcharge of 60% if it exceeds that amount, and other terms;
3. Protecting the City's water supply consistent with the SHMC and Water Neutral Policy;
4. Limiting the City's financial exposure, including to potential payment of damages and attorney's fees;
5. Securing releases; and
6. Securing dismissal of the litigation.[1]

The City's negotiation team and City Attorney have discussed litigation and negotiation issues in closed sessions with the City Council (minus Councilmember Chouteau who has been recused as further discussed below).

We now recommend approval of the settlement, which includes the Settlement Agreement and Water and Fire Service Agreements attached thereto.

DISCUSSION

We believe that the City would have a reasonably good chance of prevailing in the trial court or on appeal. However, success in court would not necessarily advance or protect all of the City's goals. For example, the City is keenly interested in entering into a water service agreement with an annual limitation that matches historic usage, to preserve water neutrality. But success in court might not secure that objective. For example, even if the City defeated Hall's inverse condemnation (taking) or contract claims, the court might not affirmatively rule that Hall was required to enter into a water service agreement rather than renew its application for a will-serve letter. Similarly, the litigation would not address the parties' rights vis-à-vis the adjacent Hall Winery Property.

Further, submitting the City's fate on these issues to a judge or jury would be risky, as to liability and potential damages, as well as costly.

Accordingly, we negotiated a settlement that best advances the City's goals. Critical terms of the settlement include the following:

1. The City and Hall will contemporaneously enter into a Water Service Agreement (Exh. A to the Settlement Agreement) for a project that (i) is consistent with that presented to the City in connection with the 2016 Will-Serve Letter and Water Demand Analysis as to water usage and has water needs; (ii) includes an annual limitation that matches historic demand, pursuant to the City's Water Neutral Policy, to wit: 2,135,250 gallons per year (which is approximately 6.5 acre feet), (iii) provides that any annual water usage in excess of this annual limitation will be

[1] The City does not have any land use authority over the Property. While it has the right to comment on the public, as other public agencies or members of the project may, its authority concerns the provision of water pursuant the SHMC, Water Neutral Policy, and state law.

subject to 60% penalty surcharges, and also authorizes the City to require conservation measures and/or termination of water service for non-essential uses if Hall breaches the annual limitation; (iv) includes a hold harmless, defense and indemnity provision to protect the City in the event of a lawsuit challenging the agreement;

2. The City and Hall will contemporaneously enter into a Fire Service Agreement (Exh. B to the Settlement Agreement) which is consistent with that which the City had prepared for approval in February 2018;
3. The City will pay Hall an initial payment of $450,000 ("Initial Payment"), followed by five annual payments of $100,000 ("Annual Payments"), for a total payment of $950,000 ("Total Payment"), without interest;
4. Dismissal with prejudice following the first payment by the City, which means that Hall could not re-file this lawsuit;
5. Mutual releases;
6. No admission of liability;
7. The City will withdraw its letter to the County dated September 25, 2018, by which the City offered comments with respect to the land use issues to be considered by the County in its consideration of the project;
8. The City will cooperate with respect to implementation of the agreements, e.g., by issuing a will-serve letter consistent with the Water Service Agreement.

The City has presented the proposed settlement to the Napa County Superior Court. The City did so pursuant to Government Code sections 1090(a) and 1091(b)(15).

Government Code section 1090(a) provides: "Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity."

Because Councilmember Chouteau's husband, Mark Mumford, works for Hall, the City is arguably subject to the prohibition of section 1090(a).

While Councilmember Chouteau properly recused herself and has not participated in this matter, including without limitation with respect to closed sessions and settlement discussions, her recusal alone is not sufficient to remove any such prohibition against entry into any agreement(s) with Hall.

However, Government Code section 1091 authorizes the City to enter into the settlement, pursuant to the following provisions:

> (a) An officer shall not be deemed to be interested in a contract entered into by a body or board of which the officer is a member within the meaning of this article if the officer has only a remote interest in the contract and if the fact of that interest is disclosed to

> the body or board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.
>
> (b) As used in this article, "remote interest" means any of the following:
> * * *
> (15) That of a party to litigation involving the body or board of which the officer is a member in connection with an agreement in which all of the following apply:
> (A) The agreement is entered into as part of a settlement of litigation in which the body or board is represented by legal counsel.
> (B) After a review of the merits of the agreement and other relevant facts and circumstances, a court of competent jurisdiction finds that the agreement serves the public interest.
> (C) The interested member has recused himself or herself from all participation, direct or indirect, in the making of the agreement on behalf of the body or board.

Accordingly, once we had a final agreement to propose for approval by the City Council (without Councilmember Chouteau participating, as further noted in the proposed resolution), we presented that agreement to the Court and asked it to find that the agreement is in the public interest and that Councilmember Chouteau has no more than a remote interest pursuant to Government Code section 1091(b)(15). The Court made the requisite findings on Thursday, December 9, 2021.

Accordingly, we now seek City Council approval.

CEQA

The approval of the settlement, including the Settlement Agreement and attached Water and Fire Service Agreements, is exempt from the California Environmental Quality Act ("CEQA"). The City is not providing any additional water supply or other services to the Property, is not approving Hall's project, and is not making any discretionary decision that might have a significant environmental impact. Thus, the proposed approval of the settlement is exempt from CEQA as there is no possibility that the approval of the settlement agreement will cause a significant environmental impact. (See, e.g., CEQA Guidelines § 15061(b)(3).)

FISCAL IMPACT

City will pay Hall an initial payment of $450,000 ("Initial Payment"), followed by five annual payments of $100,000 ("Annual Payments"), for a total payment of $950,000 ("Total Payment"), without interest. Spreading this payment out over six years reduces fiscal impacts.

Settling this case per the payment terms above eliminates risk that a court or jury would find the City liable for a larger amount.

RECOMMENDED ACTION

Approval of Proposed Resolution

ATTACHMENTS

Settlement Agreement [Proposed], including Exhibits:

A. Water Service Agreement
B. Fire Service Agreement
C. Request for Dismissal, with Prejudice

CITY OF ST. HELENA

RESOLUTION NO. 2021- ___

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST. HELENA APPROVING SETTLEMENT OF *HALL VINELAND, LLC AND HALL VISTA, LLC V. CITY OF ST. HELENA ET AL.* (NAPA COUNTY SUPERIOR COURT CASE NO. 19CV000897), INCLUDING SETTLEMENT AGREEMENT AND WATER SERVICE AND FIRE SERVICE AGREEMENTS ATTACHED THERETO, AND FINDING APPROVAL EXEMPT FROM CEQA

WHEREAS, in 1961, the Vineland Vista Mobile Home Park ("Vineland Vista MHP") was established at 341 St. Helena Highway (the "Property"). Since that time, the City of St. Helena ("City") has provided domestic water service to the Property.

WHEREAS, the Property is just outside City limits, in unincorporated Napa County (the "County"). The County, which has land use authority with respect to the Property, had approved the Vineland Vista MHP pursuant to a Use Permit issued in 1961.

WHEREAS, in 2008, Hall Vineland, LLC and Hall Vista, LLC (collectively, "Hall") acquired the Property. Hall proceeded to pursue a rehabilitation or redevelopment project, for which it would need the County's land use approval, and caused Vineland Vista MHP tenants to vacate while it pursued that project.

WHEREAS, although the City has no land use authority over the Property or project, it does have rights and obligations as a water service provider, particularly as set forth in the St. Helena Municipal Code ("SHMC") and the City's Water Neutral Policy.

WHEREAS, a dispute arose between the City and Hall as to the parties' respective rights and obligations with respect to the provision of domestic water service to the Property.

WHEREAS, on July 13, 2019, Hall filed a lawsuit against the City of St. Helena and the City of St. Helena Office of the Director of Public Works (Napa County Superior Court Case No. 19CV000897) with respect to that dispute. The Complaint alleged causes of action for (1) inverse condemnation (i.e., a taking of, or damage to, property rights for which just compensation must be paid); (2) breach of contract; (3) breach of contract's covenant of good faith and fair dealing; (4) anticipatory breach of contract; and (5) promissory estoppel; and sought over $7.5 million in damages and recovery of attorney's fees.

WHEREAS, the City and Hall actively litigated the case for over two years, and the case was set for trial on March 14, 2022.

WHEREAS, the City and Hall also engaged in settlement discussions, court-facilitated settlement conferences, and mediation with a retired judge.

WHEREAS, the City Council (minus Councilmember Chouteau who has been recused, as discussed further below) has discussed litigation and negotiation issues in closed session with their counsel and the City Attorney.

WHEREAS, the City's counsel, Vice Mayor Dohring, Councilmember Hardy, and City Manager Prestwich have negotiated a proposed settlement with Plaintiffs.

WHEREAS , the negotiated settlement, a copy of which is attached to the Staff Report in this matter, includes terms that advance City goals, such as securing a Water Service Agreement for the Property that includes (i) an annual limitation that matches the Property's historic water demand, consistent with City agreements with other property owners outside of City limits to whom the City provides water service when they develop or redevelop their property; and (ii) additional terms consistent with other Water Service Agreements, such as an obligation that Hall defend and indemnify the City in the event of litigation challenging the Water Service Agreement; protecting the City's water supply consistent with the City's Municipal Code and Water Neutral Policy; limiting the City's financial exposure, including to potential payment of damages and attorney's fees; securing releases and dismissal of the litigation.

WHEREAS, critical terms of the settlement include the following:

1. The City and Hall will contemporaneously enter into a Water Service Agreement (Exh. A to the Settlement Agreement) for a project that (i) is consistent with that presented to the City in connection with the 2016 Will-Serve Letter as to water usage and has water needs consistent with the WDA; (ii) includes an annual limitation that matches historic demand, pursuant to the City's Water Neutral Policy, to wit: 2,135,250 gallons per year (which is approximately 6.5 acre feet); (iii) provides that any annual water usage in excess of this annual limitation will be subject to 60% penalty surcharges, and also authorizes the City to require conservation measures and/or termination of water service for non-essential uses if Hall breaches the annual limitation; and (iv) includes a hold harmless, defense and indemnity provision to protect the City in the event of a lawsuit challenging the agreement;
2. The City and Hall will contemporaneously enter into a Fire Service Agreement (Exh. B to the Settlement Agreement), which is consistent with that which the City had prepared for approval in February 2018;
3. The City will pay Hall an initial payment of $450,000 ("Initial Payment"), followed by five annual payments of $100,000 ("Annual Payments"), for a total payment of $950,000 ("Total Payment"), without interest;

4. Dismissal with prejudice following the first payment by the City, which means that Hall could not re-file this lawsuit;
5. Mutual releases;
6. No admission of liability;
7. The City will withdraw its letter to the County dated September 25, 2018, by which the City offered comments with respect to the land use issues to be considered by the County in its consideration of the project; and
8. The City will cooperate with respect to implementation of the agreements, e.g., by issuing a will-serve letter consistent with the Water Service Agreement.

WHEREAS, while Councilmember Chouteau properly recused herself and has not participated in this matter, including without limitation with respect to closed sessions and settlement discussions, her recusal alone may not be sufficient to authorize the City Council to approve the proposed settlement, pursuant to Government Code section 1090(a), unless Councilmember Chouteau's interest is deemed no more than a "remote interest" under Government Code section 1091(b)(15).

WHEREAS, Government Code section 1091 authorizes the City to enter into the settlement, pursuant to the following provisions:

> (a) An officer shall not be deemed to be interested in a contract entered into by a body or board of which the officer is a member within the meaning of this article if the officer has only a remote interest in the contract and if the fact of that interest is disclosed to the body or board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.
>
> (b) As used in this article, "remote interest" means any of the following:
>
> * * *
>
> (15) That of a party to litigation involving the body or board of which the officer is a member in connection with an agreement in which all of the following apply:
>
> (A) The agreement is entered into as part of a settlement of litigation in which the body or board is represented by legal counsel.
>
> (B) After a review of the merits of the agreement and other relevant facts and circumstances, a court of competent

jurisdiction finds that the agreement serves the public interest.

(C) The interested member has recused himself or herself from all participation, direct or indirect, in the making of the agreement on behalf of the body or board.

WHEREAS, the City presented the proposed settlement to the Napa County Superior Court pursuant to Government Code sections 1090(a) and 1091(b)(15), requesting findings pursuant to Government Code section 1091(b)(15).

WHEREAS, on December 9, 2021, the Superior Court made the requisite findings pursuant to Government Code section 1091(b)(15).

WHEREAS, City Councilmember Chouteau has been recused throughout because her husband works for Plaintiffs and has been involved with issues concerning the subject property, such that Councilmember Chouteau arguably has a conflict of interest.

WHEREAS, Councilmember Chouteau's potential conflict of interest and recusal have been noted in the City's official records, the City has been represented by counsel throughout the litigation (including the settlement discussions), the Court has found settlement is in the public interest, Councilmember Chouteau has not participated, directly or indirectly, in the making of the agreement on behalf of City, and Councilmember Chouteau's potential conflict of interest and recusal have been noted in City's official records.

WHEREAS, pursuant to the foregoing, Councilmember Chouteau has no more than a remote interest in the settlement.

WHEREAS, the City is not providing any additional water supply or other services to the Property, is not approving Hall's project, and is not making any discretionary decision that might have a significant environmental impact.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ST. HELENA AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. The City Council hereby approves the Settlement Agreement attached to the Staff Report, subject to minor modifications as the City Attorney and City Manager may make, and directs and authorizes the City Attorney and City Manager to take any and all appropriate actions to effectuate and implement the Settlement Agreement.

SECTION 3. This approval is exempt from the California Environmental Quality Act ("CEQA") as there is no possibility that the approval of the settlement agreement will cause a significant environmental impact. (See, e.g., CEQA Guidelines § 15061(b)(3).) (See, e.g., CEQA Guidelines § 15061(b)(3).) The City Clerk is hereby directed to file a Notice of Exemption with the County.

Approved at a Regular Meeting of the St. Helena City Council on December 14, 2021, by the following vote:

Mayor Geoff Ellsworth:

Vice Mayor Paul Dohring:

Council Member Anna Chouteau: **RECUSED**

Council Member Lester Hardy:

Council Member Eric Hall:

APPROVED:

_____
Geoff Ellsworth, Mayor

ATTEST:

_____
Cindy Tzafopoulos, City Clerk

SETTLEMENT AGREEMENT BETWEEN (1) HALL VINELAND, LLC AND HALL VISTA, LLC AND (2) THE CITY OF ST. HELENA AND CITY OF ST. HELENA OFFICE OF THE DIRECTOR OF PUBLIC WORKS

This Settlement Agreement ("**Agreement**") is entered into as of December __, 2021 ("**Effective Date**") by and between (1) Hall Vineland, LLC and Hall Vista, LLC (collectively, "**Hall**"), and (2) the City of St. Helena and the City of St. Helena Office of the Director of Public Works (collectively, the "**City**"). Hall and the City are referred to individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

A. Hall owns real property commonly known as 341 St. Helena Highway, St. Helena, CA, and as APN 027-130-005 and -006 (the "**Property**" or "**Vineland Vista MHP Property"**). The Property is just outside City limits, in unincorporated Napa County.

B. In 1961, the County of Napa ("**County**") issued a Conditional Use Permit to Hall's predecessors-in-interest for the operation of a mobile home park, which Hall's predecessors developed and operated. The mobile home park was commonly known as Vineland Vista Mobile Home Park ("**Vineland Vista MHP**"). Hall contends that the Vineland Vista MHP operates pursuant to a Permit to Operate, No. 2247, issued pursuant to the Mobilehome Parks Act.

C. Since approximately 1961, the City contends that it has provided domestic water service to the Property (except that for several months in 2018, water delivery was temporarily suspended to prevent potential contamination of the City's water supply after a backflow device was stolen and until the Halls properly installed a sufficient replacement backflow device, after which water delivery resumed).

D. In 2008, Hall acquired the Property. Thereafter, Hall commenced efforts to rehabilitate the Property while seeking to retain its status as a mobile home park under the Mobilehome Parks Act (applicable state law) and County ordinances ("**Project**").

E. The County requires that Hall have a current "will-serve letter" from the City to demonstrate adequate prospective water supply for Hall's proposed Project.

F. In 2016, Hall applied to the City for a will-serve letter for water service for Hall's proposed Project. The application included a Water Demand Analysis by Summit Engineering, dated November 17, 2016 ("**WDA**"), for which City staff had provided input during its preparation. The WDA estimated that historical water demand for the Property was 5,850 gallons per day, which is the equivalent of or 2,135,250 gallons per year. (In 2018, Hall submitted an updated Water Demand Analysis by Summit Engineering, which included the same estimate of historical water demand.)

G. On December 28, 2016, the City's Public Works Director provided Hall a will-serve letter for water service for Hall's proposed Project ("**2016 Will Serve Letter**").

H. In May 2018, Hall applied to the County for discretionary land use approvals for

Hall's proposed Project—a modification of the 1961 Use Permit for the Vineland Vista MHP and a Development Agreement for the development of farmworker housing ("**Development Application**"). The County provided the City with a copy of the Development Application.

I. The city contends that City staff became concerned that the 2016 Will-Serve Letter might not have been properly issued pursuant to City regulations and policy with respect to the City's management of its limited water supply, including without limitation pursuant to the City's Water Neutral Policy and St. Helena Municipal Code ("**SHMC**") Chapter 13.12. Hall contends, in part, that the City's Water Neutral Policy and the SHMC do not apply because they are preempted by the Mobilehome Parks Act.

J. By letter dated September 5, 2018, the City's Public Works Director withdrew the 2016 Will-Serve Letter ("**2018 Rescission Letter**"). The 2018 Rescission Letter concluded, in part, as follows:

> Accordingly, the City hereby withdraws the December 28, 2016 Will-Serve Letter. This withdrawal is without prejudice to (1) your submission of a new or amended request for a Will-Serve Letter based on accurate data regarding baseline, existing water usage, as well as proposed water demand, a comparison of the two, and proposed retrofits that may be required under the Municipal Code to achieve a zero water use increased from the proposed Project, and (2) your obtaining a water use agreement from the City. Upon [y]our satisfactory completion of both requirements, the City may issue a new Will-Serve Letter. In the meantime, the December 28, 2016 Will-Serve Letter is hereby withdrawn.

K. On July 13, 2019, Hall filed a lawsuit against the City of St. Helena and the City of St. Helena Office of the Director of Public Works (Napa County Superior Court Case No. 19CV000897) ("**Pending Litigation**"). The Complaint in the Pending Litigation alleges causes of action for (1) inverse condemnation; (2) breach of contract; (3) breach of contract's covenant of good faith and fair dealing; (4) anticipatory breach of contract; and (5) promissory estoppel.

L. Hall and the City prefer to avoid the risk and costs associated with the Pending Litigation and desire to resolve their disputes subject to the terms and conditions set forth herein.

TERMS

In consideration of the Recitals set forth above, the terms and conditions of this Agreement and other valuable consideration, the adequacy of which is hereby acknowledged, the Parties agree as follows:

1. Water Service Agreement for the Vineland Vista MHP Property: The City and Hall shall, contemporaneously with the execution of this Agreement, execute and enter into a Water Service Agreement for the Vineland Vista MHP Property ("**MHP Water Service Agreement**"), in substantially the same form as attached hereto as **Exhibit A** and incorporated by reference, which the City shall cause to be recorded with the County Recorder. After

recording the MHP Water Service Agreement, the City shall promptly provide Hall with a copy. As set forth in Exhibit A: (i) the Vineland Vista MHP Property shall have an annual water usage limitation of 2,135,250 gallons per year (which is approximately 6.5 acre feet), (ii) any annual water usage in excess of this annual limitation will be subject to penalty surcharges, and will trigger conservation measures and/or termination of water service for non-essential uses, and (iii) Hall will be permitted to install an up-sized, 3.0-inch or 3.5-inch water meter. For purposes of this Agreement, the term "nonessential uses" shall mean uses for which non-potable water would suffice.

2. Fire Service Agreement for the Vineland Vista MHP Property: The City and Hall shall, contemporaneously with the execution of this Agreement, execute and enter into a Fire Service Agreement for the Vineland Vista MHP Property, in substantially the same form as attached hereto as **Exhibit B** and incorporated by reference, which the City shall cause to be recorded with the County Recorder.

3. Payment by City. The City shall jointly pay Hall Vineland, LLC and Hall Vista, LLC, and Hall Vineland, LLC and Hall Vista, LLC shall accept, an initial payment of $450,000 ("**Initial Payment**"), followed by five annual payments of $100,000 ("**Annual Payments**"), for a total payment of $950,000 ("**Total Payment**"). The City shall make the Initial Payment twenty-one (21) days after the Effective Date. The City shall make the Annual Payments on the Effective Date of each subsequent year, (and after Hall delivers the executed dismissal pursuant to paragraph 5 below). The City shall deliver the Initial Payment and subsequent Annual Payments to Christian Baker, Esq., Manatt, Phelps & Phillips, LLP, One Embarcadero Center, 30th Floor, San Francisco, CA 94111, or other such person(s) and at such addresses as Hall may provide in writing from time-to-time pursuant to the Notice provision of this Agreement (paragraph 8, below).

4. Dismissal: Thirty-one (31) days after the Effective Date, Hall shall provide to the City a fully executed request for entry of dismissal of the Action, with prejudice, as to all causes of action and all parties, in substantially the same form as attached hereto as **Exhibit C**. The City is authorized to and shall file the request for entry of dismissal of the Action, as long as the City has made the Initial Payment as set forth in the prior paragraph.

5. Fees and Costs: Each Party shall bear its own costs, expert fees, attorneys' fees and other fees and costs with respect to the Pending Litigation negotiation of this Agreement.

6. Mutual Release: Except for the obligations specified herein and the ability to enforce same, the Parties hereby release and forever discharge each other, together with their employees, officers, agents, representatives, trustees, directors, partners, stockholders, attorneys, successors, assigns, heirs, personal representatives and executors, and all persons, firms, associations, co-partners, co-venturers, insurers, contractors, engineers, subcontractors, subsidiaries, parents, affiliates, or corporations connected therewith, and each of them from any and all claims, debts, liabilities, demands, obligations, costs, expenses, attorneys' fees, actions, and causes of actions of every nature, character, and description whether known or unknown, directly or indirectly arising out of any matter, fact, and/or allegation related to the Pending Litigation or the subject matter of the Recitals ("**Released Claims**"). The Released Claims do

not include any rights or obligations, continuing or otherwise, of the Parties under this Agreement, the MHP Water Service Agreement or Fire Service Agreement.

7. Waiver of California Civil Code Section 1542: The Parties, on behalf of themselves, attorneys, heirs, predecessors, successors, and assigns, acknowledge that each is aware of the provisions of Section 1542 of the California Civil Code, and expressly waive any rights or benefits that may be available under Section 1542, which provides:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

8. Notice: Any notice required under this Agreement will be in writing and may be given by any commercially acceptable means, including via personal delivery, overnight courier, or first-class, registered or certified mail, postage pre-paid, to the following persons:

To Hall:

General Counsel
2323 Ross Avenue
Suite 200
Dallas, TX 75201

cc: Christian Baker, Esq., at cbaker@manatt.com.

To City:

City Manager
City of St. Helena
1572 Railroad Avenue
St. Helena, CA 94574

cc: Ethan Walsh, City Attorney, at Ethan.Walsh@bbklaw.com.

Notice of change of address and/or persons shall be given by written notice in the manner described in this paragraph.

9. No Admission: This Agreement affects the settlement of claims which are denied, disputed and contested, and nothing contained herein shall be construed as an admission of

wrongdoing by any Party hereto or as an admission of any liability of any kind to any other Party.

10. Public Record: This Agreement is a public record under the California Public Records Act (Gov. Code § 6250 et seq.).

11. Cooperation re Hall's Development Application and Provision of Water: The City will withdraw its letter to the County dated September 25, 2018, and if Hall further pursues its Development Application or if Hall pursues an alternative rehabilitation or development project as described in Recital F of the MHP Water Service Agreement, act in good faith with respect to the MHP Water Service Agreement and the City's provision of water to the Vineland Vista MHP Property, including without limitation with respect to the issuance of a will-serve letter for a project consistent with Recital F. The City agrees that the City's bad faith termination of water service under the terms of the MHP Water Service Agreement, the City's bad faith refusal to enter into the Fire Service Agreement attached hereto as Exhibit B, or the City's bad faith refusal to provide a will-serve letter would result in irreparable harm to Hall, and in the event of any such bad faith conduct, Hall may pursue, in addition to any other legal or equitable remedies, specific performance or liquidated damages in the amount of $250,000. The Parties agree that the interruption, reduction, or cessation of service or in delivery of water under the MHP Water Service Agreement due to force majeure events (as defined in paragraph 14 of the MHP Water Service Agreement), or consistent with paragraph 5 (Applicable Laws) of the MHP Water Service Agreement, or that are necessary as determined in City's sole discretion because of maintenance or operational needs shall not constitute a breach of this provision.

12. Joint Press Release: The Parties will work together in good faith to prepare and issue a joint press release regarding this Settlement Agreement.

13. Entire Agreement and Construction:

a. This Agreement constitutes the full and entire agreement between the Parties with respect to the subject matter of this Agreement, superseding all prior agreements, negotiations and discussions between the Parties, and the Parties acknowledge that there is no other agreement, oral or written, regarding the subject matter of this Agreement. This Agreement may not be modified, except by a written instrument executed by both Parties.

b. The Parties acknowledge: (i) the Agreement and its reduction to final form is the result of good faith negotiations between the Parties through their respective counsel; (ii) the Parties' counsel have reviewed and examined the Agreement before execution; and (iii) the Parties agree that this Agreement is the project of joint draftsmanship and that should any of the terms be determined by a court, or in any type of quasi-judicial or other proceeding, to be vague, ambiguous and/or unintelligible, that the sentences, phrases, clauses or other wording or language of any kind shall not be construed for or against either Party in accordance with California Civil Code Section 1654, and that each Party to this Agreement waives the effect of that statute.

14. Severability: If any word, phrase, clause, sentence, provision, or paragraph of this Settlement Agreement is or shall be held invalid or unlawful for any reason, the same shall be

deemed severed from the remainder hereof, and stricken therefrom, and shall in no way affect or impair the validity of this Agreement or any other portion thereof, and this Settlement Agreement shall otherwise remain in full force and effect.

15. Assignment: The Parties represent and warrant that they have not heretofore assigned or transferred or purported to assign or transfer, nor will they assign or transfer in the future, any claims, matters, demands or causes of action that are herein released or discharged for any reason, including by way of subrogation, unless the other Party provides its written consent or such assignment or transfer is required by law.

16. Binding Effect: This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, legal representatives, successors, assigns and transferees.

17. Informed Consent: This Agreement is freely and voluntarily entered into by the Parties and each of them. Each of the Parties has had the benefit of advice of counsel of its choice in the negotiating, drafting and execution of this Agreement and the language in all parts of this Agreement is the product of the efforts of all counsel, or freely and voluntarily waived that right. Accordingly, neither the entire Agreement nor any provision in it shall be deemed to have been proposed or drafted by a Party or construed against any Party.

18. Gender Neutral: As used in this Agreement, the masculine, feminine, or neuter gender, and the singular or plural number shall each be deemed to include the other whenever the contents so indicate.

19. Governing Law: This Agreement shall be interpreted and governed according to the laws of the State of California.

20. Captions and Paragraph Headings: Captions and paragraph headings used herein are for convenience only. They are not a part of this Agreement and shall not be used in construing this Agreement.

21. Authority to Execute: The undersigned warrant that they are fully authorized to execute this Agreement on behalf of Parties for whom they sign (including that the City Manager is authorized to sign on behalf of named defendant City of St. Helena Office of the Director of Public Works).

22. Execution in Counterparts and Copies: This Agreement may be executed in one or more identical counterparts and all such counterparts together shall constitute a single instrument for the purpose of the effectiveness of this Agreement. Photocopies or facsimiles shall constitute good evidence of such execution.

The Parties have executed this Agreement as of the Effective Date stated in the introductory clause.

[signatures on next page]

HALL VINELAND, LLC

By: _____
Name: _____
Title: _____

CITY OF ST. HELENA AND CITY OF ST. HELENA OFFICE OF THE DIRECTOR OF PUBLIC WORKS

By: _____
Name: Mark Prestwich
Title: City Manager

HALL VISTA, LLC

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Christian Baker, attorney for Hall Vineland, LLC and Hall Vista, LLC

APPROVED AS TO FORM:

By: _____
Ethan Walsh, City Attorney

EXHIBIT A

EXEMPT FROM RECORDING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City Clerk
City of St. Helena
1572 Railroad Avenue
St. Helena, California 94574

APN 027-130-005, -006

WATER SERVICE AGREEMENT
(HALL VINELAND, LLC and HALL VISTA, LLC)

THIS AGREEMENT ("**Agreement**"), entered into on December __, 2021, by and between the City of St. Helena, a municipal corporation of the State of California ("**City**"), and Hall Vineland, LLC, a Texas limited liability company and Hall Vista, LLC, a Texas limited liability company (collectively "**Customer**" or "**Hall**"), each of whom shall be referred to as a "party" and together as the "parties," provides as follows:

RECITALS

A. Customer is the owner of certain real property commonly known as 341 St. Helena Highway, St. Helena, CA and as APN 027-130-005 and -006 (the "**Property**"), as more particularly described in **Exhibit A** attached hereto and incorporated herein. The Property is located immediately outside the City's jurisdictional boundaries.

B. In 1961, the County of Napa ("**County**") issued a Conditional Use Permit to Hall's predecessors-in-interest for the operation of a mobile home park, which Hall's predecessors developed and operated. The mobile home park was commonly known as Vineland Vista Mobile Home Park ("**Vineland Vista MHP**").

C. The City contends that it has provided domestic water service to the Property since approximately 1961.

D. In accordance with the Mobilehome Parks Act, The County of Napa acts as the Local Enforcement Agency ("**LEA**") for the California Department of Housing and Community Development, Mobilehome Park and Mobilehome laws and regulations. "County" as referenced herein includes the County acting as the LEA.

E. Hall intends to refurbish and rehabilitate the Vineland Vista MHP consistent with its Permit to Operate. The Vineland Vista MHP has a valid Permit to Operate, No. 2247, issued by the County under the Mobilehome Parks Act.

F. Hall intends to pursue a development application, development entitlements and other discretionary and/or ministerial approvals from the County ("collectively the "**County Approvals**") as necessary to proceed with the rehabilitation of the Vineland Vista MHP, to include buildings and units with a maximum of forty four (44) bedrooms (the "**Project**"), for which on-site City water usage in or for any common areas, clubhouse, restaurants, dining halls, common laundry facilities, recreational facilities (e.g., pools, hot tubs, or gyms), landscaping, and/or uses other than dwelling units would be consistent with, and not projected to exceed, those uses, projections and limits set forth in the Water Demand Analysis (revised October 8, 2018) previously conducted at the Vineland Vista MHP.

G. The City acknowledges and understands that Hall intends that the users of the water provided hereunder will be Hall for the common area facilities on the Property and the owners/renters of the spaces and manufactured homes located on the Property and that the City is required to comply with any applicable notice requirements for the change in water availability to the owners/renters required by statutes, ordinances, or regulations, as may be amended from time to time.

H. The City has an overburdened water system and in order to ensure adequate water supply for existing and future water customers the City adopted the St. Helena Water Neutral Policy for Development in 2011, and enacted Chapter 13.12 of the St. Helena Municipal Code ("**SHMC"**).

I. The parties hereto wish to enter into this Agreement to fulfill the requirement for a water use agreement and describe the rights and obligations of the parties regarding the provision of water by the City to the Customer.

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

AGREEMENT

1. Annual Water Limitation. Customer agrees to use no more than 2,135,250 gallons of City-provided potable water per Water Year ("**Annual Limitation**") at the Property, upon and subject to the terms and conditions set forth herein. As used herein, the term "Water Year" shall mean the City's fiscal year, which begins annually on July 1 and ends on June 30.

2. Permissible Uses. City water shall be used only for those uses on the Property as authorized as part of the Project to be approved by the County Approvals. City shall not be obligated to provide water service for any other use nor for any further expansion of the uses allowed as part of the Project to be approved by the County Approvals.

3. Rates. Customer shall pay rates for water service in accordance with the City's adopted water rate structure as it may be amended from time to time, and shall be billed in the same manner as other similar City water customers. Customer shall pay City for such water service in accordance with the City's regular billing cycle for domestic water service customers.

4. No Guarantee of Service. The parties acknowledge and agree that by entering into this Agreement, the City is not guaranteeing the continuous, uninterrupted provision of water. Customer agrees that City shall not be responsible or liable for any damage, harm, or economic loss suffered by Customer due to interruption, reduction, or cessation of service or in delivery of water under this Agreement due to force majeure events (as defined herein) or that are necessary as determined in City's sole discretion because of maintenance or operational needs. City shall not be responsible for the supply or provision of back-up or reserve potable water if there is an interruption to City water service.

5. Applicable Laws. While water is furnished to Customer pursuant to this Agreement, Customer shall be bound by and subject to all lawful resolutions, rules, regulations, directives, ordinances, and orders of the City pertaining to water services as may be enacted from time to time for all other applicable users of City domestic water service, including, without limitation, provisions relating to rate charges and changes and water shortage emergencies. Customer shall also be bound by and subject to all provisions within the St. Helena Municipal Code related to water conservation, including but not limited to, Article 2 (Water Shortage Emergencies, Drought and Water Conservation) of Chapter 13.04, Chapter 13.12 (Water Use Efficiency and New Development), and section 17.112.140 (Water efficient landscaping), as they may be amended from time to time.

6. Monitoring of Usage. Customer shall monitor its water usage on a monthly basis and employ all measures necessary to ensure that the Annual Limitation is not exceeded. In the event that Customer exceeds the Annual Limitation, Customer shall make available to the City, upon demand and reasonable notice, such books, records, or documents that reasonably demonstrate the measures taken to prevent exceedances of the Annual Limitation. In the event the City Director of Public Works reasonably determines that the Annual Limitation inevitably will be exceeded or that the Annual Limitation has been exceeded, City may require Customer to undertake reasonable additional conservation measures and may require Customer, upon forty (40) days' prior written notice, to terminate water service for nonessential uses. For purposes of this Agreement, the term "nonessential uses" shall mean uses for which non-potable water would suffice. At any time that City determines pursuant to the St. Helena Municipal Code that a water shortage emergency condition exists, as provided by St. Helena Municipal Code Chapter 13.04, and that is necessary to limit usage by the customers of the municipal water department, the maximum delivery Annual Limitation of 2,135,250 gallons will be adjusted as provided in Article 2 of St. Helena Municipal Code Chapter 13.04, as it may be amended from time to time.

7. Installation of Water Efficient Fixtures. Customer shall implement water efficiency measures generally consistent with St. Helena Municipal Code Section 13.12.030.

8. Installation of Up-Sized Water Meter. Customer shall be permitted to install a 3-inch or 3.5-inch water service meter.

9. Penalty. Without limitation on and in addition to City's other rights and remedies under this Agreement, in the event Customer exceeds its Annual Limitation, it shall pay to City a penalty surcharge equal to sixty percent (60%) of the water rate charge for each hundred cubic feet, or portion thereof, used in excess of the Annual Limitation. Such penalty surcharge shall be due and payable within 30 days after calculation and demand by City. In addition to the 60% surcharge, City may avail itself of all rights and remedies set forth in Section 13 of this Agreement.

10. Changes in Use. Customer agrees that if any future request or application for approval of amendments or modifications to the Use Permit for the Property or approval of other entitlements or permits for development of the Property for any use other than the Project is submitted to the County of Napa, including without limitation Napa County Planning Commission (the "**Planning Commission**") or Board of Supervisors (the "**Board**"), that have a reasonable potential to impact Hall's Annual Limitation, the City shall be informed on or before the date on which any such request or application is submitted.

11. Term. This Agreement shall be effective as of the date of last execution by the parties ("**Effective Date**") and shall continue indefinitely.

12. Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default of this Agreement; to enforce any covenants or agreements herein or to enjoin any threatened or attempted violation thereof; or to obtain any other remedy consistent with the purpose of this Agreement. Prior to instituting legal action alleging breach of this Agreement, the non-defaulting party shall provide written notice of breach to the defaulting party and a reasonable opportunity to cure the default of not less than thirty (30) days, except in the event of nonpayment of charges due from Customer, in which event the breach shall be cured in not less than ten (10) days. If the cure of a breach reasonably requires more than thirty days and if the defaulting party has commenced to cure within thirty days and thereafter prosecutes the cure with reasonable diligence, then the time within which such failure may be cured shall be extended for such period as may be reasonably necessary to complete the cure with reasonable diligence.

13. Remedies; Prohibition on Damages.

a. As part of the bargained for consideration for this Agreement, the parties agree that any action or proceeding to cure, correct, or remedy any default or to enforce any covenant or promise herein shall be limited solely and exclusively to those remedies expressly provided herein. City and Customer may institute legal or equitable proceedings to cure, correct, or remedy any default, or to enforce any covenant or promise herein, enjoin any threatened or attempted violation, or enforce by specific performance, injunction, declaratory relief, writ of mandate and/or other similar non-monetary relief, the obligations and rights of the parties.

b. Without limitation and in addition to its other rights under this Agreement, the City shall have the right to enter Customer's Property, within reason, to read the water meter on Customer's Property, and take such action as City deems reasonably necessary for the remaining portion of a particular Water Year as may be necessary to ensure that Customer does not use water in excess of its 2,135,250 gallon Annual Limit in any Water Year.

c. In no event shall the City, or any of its officers, agents, representatives, officials, employees, or insurers, be liable to Customer for damages stemming from any breach or violation of this Agreement. This provision does not preclude, prohibit, or proscribe a cause of action for injunctive relief or specific performance, nor does it preclude, prohibit, or proscribe a cause of action for damages, if any, that may arise from any alleged violation of law, either statutory or common, including without limitation a claim for inverse condemnation, or breach of any other agreement which is independent of contractual rights and obligations created by this Agreement.

14. Force Majeure.

a. "Force Majeure Event" means a cause of non-performance or delay that is not the fault of the party who is required to perform under this Agreement and is beyond that party's reasonable control, including the elements (including floods, earthquakes, windstorms, drought or water shortage and unusually severe weather), water pipeline or infrastructure failures, fire, energy shortages or rationing, riots, acts of terrorism, war or war-defense conditions, acts of any public enemy, epidemics, the actions or inactions of any governmental entity, (excluding City) or that entity's agents, litigation, labor shortages (including shortages caused by strikes or walkouts), and materials shortages.

b. If the performance of any act required by this Agreement to be performed by either City or Customer is prevented or delayed because of a Force Majeure Event, then the time for performance will be extended for a period equivalent to the period of delay, and performance of the act during the period of delay will be excused. An extension of time for any such Force Majeure Event shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. Times of performance under this Lease may also be extended in writing by the mutual agreement of City and Customer.

c. This Section does not excuse (1) Customer's obligation to pay for water provided under this Agreement when due and payable; or (2) either party's obligation to perform an act when performance is rendered difficult or impossible solely because of the party's financial condition. Customer expressly agrees that adverse changes in economic conditions, either of Customer specifically or the economy generally, or changes in market conditions or demand, shall not constitute grounds of enforced delay pursuant to this Section. Customer expressly assumes the risk of such adverse economic or market changes and/or financial inability, whether or not foreseeable as of the effective date of this Agreement.

15. Indemnity. Customer shall defend with counsel approved by the City, indemnify, and hold harmless the City, its elected and appointed officials, employees, volunteers and agents from and against any and all loss, liability, expenses, claims, costs (including reasonable attorney's fees), suits and damages of every kind, nature, and description, directly or indirectly arising from or in any manner connected with the City's approval of this Agreement or the performance of the terms of this Agreement.

16. Notice. Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Agreement shall be sent to the parties at the following addresses:

City: Director of Public Works
City of St. Helena
1572 Railroad Avenue
St. Helena, California 94574

cc: Ethan Walsh, City Attorney, at Ethan.Walsh@bbklaw.com.

Customer:
General Counsel
2323 Ross Avenue
Suite 200
Dallas, TX 75201

cc: Christian Baker, Esq., at cbaker@manatt.com.

17. Construction and Interpretation. This Agreement has been reviewed by legal counsel for both parties and shall be deemed for all purposes to have been jointly drafted by both Customer and City. No presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement. The language in all parts of this Agreement, in all cases, shall be construed as a whole and in accordance with its fair meaning and not strictly for or against any party, and consistent with the provisions hereof, in order to achieve the parties' objectives. The captions of the sections of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of construction. This and enforced in accordance with the laws of the State of California. Should any legal action be brought by either party because of breach of this Agreement or to enforce any provision of this Agreement, the prevailing party in such action shall be entitled to all reasonable attorneys' fees, court costs, and necessary disbursements in connection with such action. Any action to interpret or enforce this Agreement shall be brought and maintained exclusively in the courts of and for Napa County, California.

18. Severability. The parties hereto agree that the provisions of this Agreement are severable. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected and shall remain in full force and effect unless amended or modified by mutual consent of the Parties in writing

19. No Water Rights Conferred. Nothing in this Agreement shall be construed to confer any appropriative, public trust or other right to water on any person or entity.

20. Successors and Assigns. The provisions of this Agreement shall be binding on all tenants, heirs, assigns, transferees and successors in interest to the parties hereto and shall be a covenant that runs with the land.

21. Execution in Counterparts. This Agreement may be executed in duplicate counterparts, each of which shall be deemed an original.

22. Amendment. The provisions of this Agreement may be amended only by mutual written consent of the parties. Any amendments to this Agreement must be in writing and executed by both parties.

23. Authorized Signatories. Both parties represent to the other that they have the requisite power and authority to conduct their business and to execute, deliver, and perform the requirements of, this Agreement. Each party warrants to the other that the individual who has signed this Agreement has the legal power, right, and authority to enter into this Agreement and to bind each respective party.

[Signatures on following page]

Executed the last date written below and effective the first date above written.

CUSTOMER:

HALL VINELAND, LLC, a California limited liability company

By:

Its:

Dated: _____

HALL VISTA, LLC, a California limited liability company

By:

Its:

Dated: _____

CITY: CITY OF ST. HELENA,
a municipal corporation

Dated: _____ By: _____
Mark Prestwich
Its: City Manager

ATTEST:

_____
Cindy Tzafopoulous, City Clerk

APPROVED AS TO FORM:

_____

Ethan Walsh, City Attorney

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

STATE OF CALIFORNIA)
) ss.
COUNTY OF NAPA)

On _____, 20__, before me, the undersigned, City Clerk of the City of St. Helena, personally appeared Mark Prestwich, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature: _____
Cindy Tzafopoulous, City Clerk

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

The land is situated in the State of California, County of Napa, and is described as follows:

TRACT TWO:
PARCEL ONE:

Commencing at a point on the southwestern line of the State Highway leading from Napa to St. Helena, where the same is intersected by the southeastern line of the 4.69 acre tract conveyed to John Thomas by deed of record in Book S of Deeds, at page 463, said Napa County Records, and running thence southeasterly along the southwestern line of said State Highway, 11 rods and 12 feet to the northwestern line of the premises now or formerly of LeBaron, thence southwesterly along the north western line of said premises of LeBaron, 27 rods to the north eastern line of the 3 acre tract conveyed to George Chase by deed of record in Book R of Deeds, at page 132, said Napa County Records; thence northwesterly along the northeastern line of said premises conveyed to Chase, 11 rods and 12 feet to the south eastern line of said premises conveyed to Thomas and hereinbefore referred to, and thence northeasterly along said last mentioned line, 27 rods to the point of commencement.

APN: 027-130-005 (ptn)

EXCEPTING THEREFROM all that portion granted Southern Pacific Railroad Company by document recorded December 23, 1948 in Book 300 at page 130 of Official Records.

PARCEL TWO:

An Easement for a private roadway 30 feet in width upon and across the land described in the deed recorded December 23, 1948 in Book 300 at page 130 of Official Records, and gas pipe and water pipe as contained in the document recorded December 23, 1948 in Book 300 at page 130 of Official Records.

Commencing at an iron stake set at the most southerly corner of the land acquired by Southern Pacific Railroad Company by deed from Napa Fruit Company dated June 4, 1930 and recorded in Volume 52, page 4, Official Records of Napa County; thence South 87° 32' 14" West 288.70 feet to a point on the southeasterly line of the lands now or formerly of Maria Carolina Leuenberger as referred to in deed dated May 25, 1936, recorded August 31, 1937 in Volume 121 at page 385, Official Records of Napa County, said point being the actual point of beginning of the parcel to be described; thence northeasterly along said southeasterly line North 46° 23' East 20.04 feet; thence southeasterly leaving said southeasterly line along a curve to the left having a radius of 372.24 feet, an arc distance of 25.38 feet (the chord of said curve bears South 41° 39' 48" East 25.37 feet); thence South 43° 37' East 124.40 feet; thence southeasterly along a curve to the left having a radius of 372.24 feet an arc distance of 45.69 feet (the chord of said curve bears South 47° 07' 58" East 45.68 feet) to a point on the northwesterly line of the lands of the Napa Valley Co-operative Winery as referred to in deed dated July 22, 1947, recorded September 3, 1947 in Volume 272 at page 455, Official Records of Napa County; thence along said northwesterly line South 46° 23' West 20.14 feet; thence northwesterly, leaving said northwesterly line along a curve to the right having a radius of 392.24 feet, an arc distance of 45.68 feet (the chord of said curve bears North 46° 57' 10" West 45.65 feet) thence North 43° 37' West 124.40 feet; thence northwesterly along a curve to the right having a radius of 392.24 feet an arc distance of 25.38 feet (the chord of said curve bears North 41° 45' 47" West 25.37 feet) to the point of beginning.

EXCEPTING therefrom that portion thereof lying below a depth of 500 feet, measured vertically, from the contour of the surface of said property, but without the right for any purpose whatsoever to enter upon, into or through the surface of said property or any part thereof lying between said surface and 500 feet below said surface, as reserved in the deed from Southern Pacific Transportation Company, recorded April 14, 1987 in Book 1509, Page 109 of Official Records.

APN: 027-130-005 (Ptn.)

TRACT ONE:

Commencing at the most eastern corner of the 3 acre tract of land described in the deed to Robert M. Joses and wife, of record in Book 296 of Official Records, page 77, said Napa County Records; running thence northwesterly along the northeastern line of said 3 acre tract, 314.90 feet; thence southwesterly, parallel with the southeastern line of Almond or Lewelling Avenue, 202.00 feet to the southwestern line of said 3 acre tract; thence southeasterly along said southwestern line, 314.90 feet to the southern corner thereof; thence northeasterly, along the southeastern line of said 3 acre tract, 202.00 feet to the point of commencement.

APN: 027-130-006

Exhibit A

EXHIBIT B

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:
City Clerk
City of St. Helena
1572 Railroad Avenue
St. Helena, California 95474
EXEMPT FROM RECORDING FEES PURSUANT TO GOVERNMENT CODE SECTION 27383

Assessor's Parcel Nos. 027-130-005

VINELAND VISTA MOBILE HOME PARK
FIRE SERVICE AGREEMENT

This Agreement is entered into on December _____, 2021, between Hall Vineland, LLC ("Owner") and the City of St. Helena a California Municipal Corporation ("City"), and provides as follows:

RECITALS

A. Owner is the owner of APN No. 027-130-005, located at 341 South St. Helena Highway, and Hall Vista, LLC, is the owner of APN No. 027-130-006. Owner and Hall Vista are collectively referred to herein as "Site Owners." APN No. 027-130-005 and APN No. 027-130-006 are together commonly known as the "Vineland Vista Mobile Home Park," more particularly described in Exhibit A attached hereto (the "Site"), which serves multiple users.
B. The Site has been, a mobile home park in the County of Napa pursuant to a Conditional Use Permit issued on April 24, 1961 for a mobile home park and dwellings.
C. Owner intends that APN No. 027-130-005 and APN No. 027-130-006 will serve up to 22 HUD mobile home or recreational vehicle spaces, one (1) pool house, one (1) club house, and one (1) operations building.
D. The Site Owners are updating infrastructure to comply with Napa County Ordinances and the State Mobilehome Parks Act.
E. In compliance with Napa County Fire Code Standards, adopted in furtherance of the California Fire Code, Site Owners are required to provide automatic fire sprinkler protection and on-site private fire hydrant system (together referred to herein as "Private Fire Service").
F. Site Owners received a single water connection through the City of St. Helena after construction of the Site in 1961. Due to the planned upgrades and renovations to the Site, and to comply with current Building Code standards requiring separate service lines for potable and fire water distribution systems within the private system, Site Owners desire to enter into separate agreements with City to add one separate Private Fire Service connection to the Site.
G. St. Helena Municipal Code Sections 13.040.050(H) and 13.04.200 allow the connection of Private Fire Service outside the City limits to City's water distribution system, provided Site Owner comply with all conditions of Section 13.04.200.

H. City and Site Owners desire to enter into this Agreement to permit the Site Owners, in conjunction with owner of APN No. 027-130-006, Hall Vista, LLC, as reflected by a separate agreement, to extend the Private Fire Service from the City's existing water transmission main to the Site along State Route 29.
I. St. Helena Municipal Code Sections 3.32.070 and 13.04.040 requires water impact fees and water service connections respectively to be paid for every connection to the City's water system.
J. Site Owners and City wish to enter into this Agreement pursuant to the terms and conditions set forth below.
K. Site Owners shall coordinate their efforts in a single application submission and process to meet the conditions articulated in the Agreement to obtain one single Private Fire Service connection for the Site.

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

AGREEMENT

1. Subject to St. Helena Municipal Code Section 13.04.200, City shall allow, at Site Owners' sole expense, one (1) connection ("Authorized Connection") to the existing aforementioned water transmission main as follows:
    1. City Standard Fire Service Assembly Meter (8-inch) with City Standard Double Detector Check Valve (8-inch) to serve an on-site private fire hydrant system.
2. The Authorized Connection shall only serve the Site, with the exact location and installation details of the Authorized Connection to City's water main supply for Fire Service to conform to City of St. Helena Standards and be approved by City representatives including, without limitation, the City of St. Helena Director of Public Works and Napa County Building Official.
3. Prior to commencing any work on the Authorized Connection, Site Owners shall prepare and submit plans and specifications for the Authorized Connection for the fire hydrant and fire services from City's water transmission main acceptable to the City of St. Helena Director of Public Works, Napa County Building Official and Napa County Fire Marshall.
4. Following receipt of both approvals required under section 2., above, Site Owners shall give City seventy-two (72) hours' notice prior to each (a) construction inspection and (b) test for the Fire Service. Site Owners shall submit the results of all such inspections and tests to City within 30 days of said inspections and tests.
5. A final inspection and hydrostatic pressure test of the Fire Service shall be performed and satisfactorily passed prior to City's activating the service.
6. Site Owners shall perform a second hydrostatic pressure test one (1) year after the original test and submit the results to City within 30 days of the test.
7. Site Owners shall maintain the Private Fire Service in accordance with the most current applicable version of the California Building Standards Code, including the Fire Code (Title 24, Cal. Code of Regulations), the California Mobilehome Parks Act and related regulations, and allow inspections by City and the County of Napa acting as the Local Enforcement Agency under the California Mobilehome Parks Act, California Health and

Safety Code, Section 18300, and California Code of Regulations, Article 6, Sections 1300, et seq.

8. The Private Fire Service shall only be used by authorized firefighting personnel, City of St. Helena personnel, and such other persons granted specific permission to do so by City. Said Private Fire Service shall be used by those persons only for fire suppression, testing of the protection system, fire drills, and flushing and cleaning of water distribution mains. No other connection to, extension of, or use of City's water system is approved or implied by this limited Agreement.
9. The Private Fire Service shall be privately owned and maintained by Site Owners, and Site Owners shall be responsible for maintenance of the Private Fire Service in its entirety from the point at which it connects to the valve outlet flange of the inlet valve on each of the required double detector check valves.
10. Site Owners shall be solely responsible and shall pay the full cost of the construction and installation of the Private Fire Service including, without limitation, the cost of connecting to the City's existing water main, performing all required tests and inspections, and preparing and submitting inspection and testing reports to the City. Site Owners shall pay City for all reasonable attorneys' fees, planner and City Staff time incurred in connection with this Agreement at the City's normal rates. Site Owners shall make such payment to City within 30 days of receipt of the invoice date. City will endeavor to provide a preliminary estimate of these costs in advance.
11. Site Owners shall pay the City a one-time water impact fee at the applicable commercial rate set forth in St. Helena Municipal Code Section 3.32.070.B. Water Impact Fee shall be paid prior to the connection to City Water Transmission Main.
12. Site Owners shall pay the applicable monthly fee for one 8-inch Private Fire Service, as established by St. Helena Municipal Code Section 13.04.200. All bills for water charges will be rendered by the City as established by St. Helena Municipal Code Section 13.04.100 G. All bills shall become due and payable upon presentation and shall be paid at the office of the department.
13. Site Owners shall pay for any City water used for fire suppression or other approved and/or unauthorized uses on the Site Owners' property based on fire service meter assembly readings, at the rate set forth in St. Helena Municipal Code Section 13.04.080.
14. In the event of a leak of Site Owners' Private Fire Service, City will provide notice and Site Owners with three days to cure such leakage. Should Site Owners fail to make repairs, the City will have the right to exercise, at its sole option, the authority to discontinue service, with notice to the County Fire Chief, until adequate repairs are made. Site Owners shall be responsible for payment of the water lost through any leak based on the fire service meter assembly readings, at the rate set forth by resolution.
15. In the event of breach of this Agreement by Site Owners, City shall have the authority, with notice to the Napa County Fire Chief or Fire Marshal, to terminate this Agreement.
16. This Agreement incorporates herein by reference the provisions of Chapter 13.08 and 13.12 of the St. Helena Municipal Code relating to water, and Site Owners agree to comply with the terms thereof.
17. Site Owners understand and agree that City makes no guarantee as to pressure or volume of the water in this line or the main supplying the same, and City shall not, under any circumstances, be held liable, and Site Owners waive and release City from any and all claims for the loss or damage from a deficiency or failure in the supply of water, whether

occasioned by the shutting off of water in case of accident or for alterations, extensions, connections, repairs, testing, a general water shortage or for any cause whatsoever.

18. Site Owners shall indemnify and hold harmless City, its agents, officers, officials, employees, and volunteers from any and all claims, demands, suits, loss, damages, injury, and/or liability (including any and all costs and expenses in connection therewith), that may arise by reason of City's provision or failure to provide water pursuant to this Agreement incurred by reason of any negligent or otherwise wrongful act or omission of Site Owners under or in connection with this Agreement and the City's provision or failure to provide water pursuant to this Agreement; and Site Owners agree at its own cost, expense and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against City, its agents, officers, officials, employees and volunteers, or any of them, arising out of such negligent or otherwise wrongful act or omission, and to pay and satisfy any resulting judgments.
19. The parties expressly agree this Agreement shall be construed as a valid equitable servitude and covenant running with the land binding on the parties hereto and all heirs, successors in interest, assignees, or transferees of the parties hereto.
20. In the event of any legal action arising out of this Agreement, the prevailing party shall be entitled to reasonable costs of suit and attorney's fees.

Owner: Hall Vineland, LLC

By:_____
Mike Reynolds; President

Dated:_____

City: City of St. Helena

By: _____
Mark Prestwich; City Manager

Dated: _____

APPROVED AS TO FORM:

_____
Ethan Walsh, City Attorney

Owner: Hall Vineland, LLC

STATE OF CALIFORNIA)
) ss.
COUNTY OF NAPA

On _____, before me, _____, a Notary Public in and for the State of California, personally appeared Mike Reynolds, President of Hall Vineland, LLC personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

_____
Notary's Signature

City: City of St. Helena

STATE OF CALIFORNIA)
) ss.
COUNTY OF NAPA

On _____, before me, _____, a Notary Public in and for the State of California, personally appeared_____ _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

_____
Notary's Signature

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

The land is situated in the State of California, County of Napa, and is described as follows:

TRACT TWO:
PARCEL ONE:

Commencing at a point on the southwestern line of the State Highway leading from Napa to St. Helena, where the same is intersected by the southeastern line of the 4.69 acre tract conveyed to John Thomas by deed of record in Book S of Deeds, at page 463, said Napa County Records, and running thence southeasterly along the southwestern line of said State Highway, 11 rods and 12 feet to the northwestern line of the premises now or formerly of LeBaron, thence southwesterly along the north western line of said premises of LeBaron, 27 rods to the north eastern line of the 3 acre tract conveyed to George Chase by deed of record in Book R of Deeds, at page 132, said Napa County Records; thence northwesterly along the northeastern line of said premises conveyed to Chase, 11 rods and 12 feet to the south eastern line of said premises conveyed to Thomas and hereinbefore referred to, and thence northeasterly along said last mentioned line, 27 rods to the point of commencement.

APN: 027-130-005 (ptn)

EXCEPTING THEREFROM all that portion granted Southern Pacific Railroad Company by document recorded December 23, 1948 in Book 300 at page 130 of Official Records.

PARCEL TWO:

An Easement for a private roadway 30 feet in width upon and across the land described in the deed recorded December 23, 1948 in Book 300 at page 130 of Official Records, and gas pipe and water pipe as contained in the document recorded December 23, 1948 in Book 300 at page 130 of Official Records.

Commencing at an iron stake set at the most southerly corner of the land acquired by Southern Pacific Railroad Company by deed from Napa Fruit Company dated June 4, 1930 and recorded in Volume 52, page 4, Official Records of Napa County; thence South 87° 32' 14" West 288.70 feet to a point on the southeasterly line of the lands now or formerly of Maria Carolina Leuenberger as referred to in deed dated May 25, 1936, recorded August 31, 1937 in Volume 121 at page 385, Official Records of Napa County, said point being the actual point of beginning of the parcel to be described; thence northeasterly along said southeasterly line North 46° 23' East 20.04 feet; thence southeasterly leaving said southeasterly line along a curve to the left having a radius of 372.24 feet, an arc distance of 25.38 feet (the chord of said curve bears South 41° 39' 48" East 25.37 feet); thence South 43° 37' East 124.40 feet; thence southeasterly along a curve to the left having a radius of 372.24 feet an arc distance of 45.69 feet (the chord of said curve bears South 47° 07' 58" East 45.68 feet) to a point on the northwesterly line of the lands of the Napa Valley Co-operative Winery as referred to in deed dated July 22, 1947, recorded September 3, 1947 in Volume 272 at page 455, Official Records of Napa County; thence along said northwesterly line South 46° 23' West 20.14 feet; thence northwesterly, leaving said northwesterly line along a curve to the right having a radius of 392.24 feet, an arc distance of 45.68 feet (the chord of said curve bears North 46° 57' 10" West 45.65 feet) thence North 43° 37' West 124.40 feet; thence northwesterly along a curve to the right having a radius of 392.24 feet an arc distance of 25.38 feet (the chord of said curve bears North 41° 45' 47" West 25.37 feet) to the point of beginning.

EXCEPTING therefrom that portion thereof lying below a depth of 500 feet, measured vertically, from the contour of the surface of said property, but without the right for any purpose whatsoever to enter upon, into or through the surface of said property or any part thereof lying between said surface and 500 feet below said surface, as reserved in the deed from Southern Pacific Transportation Company, recorded April 14, 1987 in Book 1509, Page 109 of Official Records.

APN: 027-130-005 (Ptn.)

TRACT ONE:

Commencing at the most eastern corner of the 3 acre tract of land described in the deed to Robert M. Joses and wife, of record in Book 296 of Official Records, page 77, said Napa County Records; running thence northwesterly along the northeastern line of said 3 acre tract, 314.90 feet; thence southwesterly, parallel with the southeastern line of Almond or Lewelling Avenue, 202.00 feet to the southwestern line of said 3 acre tract; thence southeasterly along said southwestern line, 314.90 feet to the southern corner thereof; thence northeasterly, along the southeastern line of said 3 acre tract, 202.00 feet to the point of commencement.

APN: 027-130-006

Exhibit A

EXHIBIT C

CIV-110

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address):*	*FOR COURT USE ONLY*
Christian Baker (SBN CA 247006); Brandon Hughes (SBN CA 329947) Manatt, Phelps & Phillips, LLP One Embarcadero Center, 30th Floor San Francisco, CA 94111 TELEPHONE NO.: 415.291.7400 FAX NO. *(Optional):* 415.291.7474 E-MAIL ADDRESS *(Optional):* ATTORNEY FOR *(Name):* Plaintiffs Hall Vineland, LLC and Hall Vista, LLC	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF NAPA STREET ADDRESS: 825 Brown Street MAILING ADDRESS: 825 Brown Street CITY AND ZIP CODE: Napa, CA 94559 BRANCH NAME: Historic Courthouse	
PLAINTIFF/PETITIONER: HALL VINELAND, LLC, et al. DEFENDANT/RESPONDENT: CITY OF ST. HELENA, et al.	
REQUEST FOR DISMISSAL	CASE NUMBER: 19CV000897

A conformed copy will not be returned by the clerk unless a method of return is provided with the document.

This form may not be used for dismissal of a derivative action or a class action or of any party or cause of action in a class action. (Cal. Rules of Court, rules 3.760 and 3.770.)

1. TO THE CLERK: Please **dismiss** this action as follows:
   a. (1) ☒ With prejudice (2) ☐ Without prejudice
   b. (1) ☐ Complaint (2) ☐ Petition
      (3) ☐ Cross-complaint filed by *(name)*: on *(date)*:
      (4) ☐ Cross-complaint filed by *(name)*: on *(date)*:
      (5) ☒ Entire action of all parties and all causes of action
      (6) ☐ Other *(specify)*:*
2. *(Complete in all cases except family law cases.)*
   The court ☐ did ☒ did not waive court fees and costs for a party in this case. *(This information may be obtained from the clerk. If court fees and costs were waived, the declaration on the back of this form must be completed).*

Date:

Christian E. Baker
(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

▶ _____
(SIGNATURE)

Attorney or party without attorney for:
☒ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Cross–Complainant

*If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

TO THE CLERK: Consent to the above dismissal is hereby given.**
Date:

_____
(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

▶ _____
(SIGNATURE)

Attorney or party without attorney for:
☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Cross–Complainant

** If a cross-complaint – or Response (Family Law) seeking affirmative relief – is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (i) or (j).

(To be completed by clerk)

4. ☐ Dismissal entered as requested on *(date)*:
5. ☐ Dismissal entered on *(date)*: as to only *(name)*:
6. ☐ Dismissal **not entered** as requested for the following reasons *(specify)*:
7. a. ☐ Attorney or party without attorney notified on *(date)*:
   b. ☐ Attorney or party without attorney not notified. Filing party failed to provide
      ☐ a copy to be conformed ☐ means to return conformed copy

Date: Clerk, by _____, Deputy

Form Adopted for Mandatory Use
Judicial Council of California
CIV-110 [Rev. Jan. 1, 2013]

REQUEST FOR DISMISSAL

Code of Civil Procedure, § 581 et seq.;
Gov. Code, § 68637(c); Cal. Rules of Court, rule 3.1390
www.courts.ca.gov

CIV-110

PLAINTIFF/PETITIONER: Hall Vineland, LLC, et al. DEFENDANT/RESPONDENT: City of St. Helena, et al.	CASE NUMBER: 19CV000897

COURT'S RECOVERY OF WAIVED COURT FEES AND COSTS

If a party whose court fees and costs were initially waived has recovered or will recover $10,000 or more in value by way of settlement, compromise, arbitration award, mediation settlement, or other means, the court has a statutory lien on that recovery. The court may refuse to dismiss the case until the lien is satisfied. (Gov. Code, § 68637.)

Declaration Concerning Waived Court Fees

1. The court waived court fees and costs in this action for *(name):*
2. The person named in item 1 is (*check one below):*
   a. ☐ not recovering anything of value by this action.
   b. ☐ recovering less than $10,000 in value by this action.
   c. ☐ recovering $10,000 or more in value by this action. *(If item 2c is checked, item 3 must be completed.)*
3. ☐ All court fees and court costs that were waived in this action have been paid to the court *(check one):* ☐ Yes ☐ No

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

_____ ▶ _____

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY MAKING DECLARATION) (SIGNATURE)

American LegalNet, Inc.
www.FormsWorkFlow.com

Cindy Tzafopoulos

From: Tracy McBride <tracymcbride22@gmail.com>
Sent: Sunday, December 12, 2021 8:14 PM
To: Public Comment
Subject: [External] City Council 12/14/21 item 9.13 Hall vs City of St Helena

City Council members,

I recognize many hours have been spent on this difficult project, but I respectfully request that you pull this from the consent agenda, and move it to the Public Hearings for a recorded vote for the large settlement sum of $950,000.

Additionally, I see the page 2 of your report states the mobile home tenants were "caused" to vacate. I do not understand this language, and would like it explained for public record (i.e. how were the tenants vacated?). Even though the project is outside the city limits, this history of the property is recorded within our city and thus I am asking for clarification.

What a painful lesson for our city. I hope the City Council members will weigh in on what was learned to avoid this situation in the future, and why this settlement is the best course of action.

Thank you for your consideration.

Tracy McBride,
Phone: 510-517-6202
email: tracymcbride22@gmail.com

Cindy Tzafopoulos

From: Norman Manzer <manzer103@comcast.net>
Sent: Monday, December 13, 2021 1:51 PM
To: Geoff Ellsworth; Lester Hardy; Paul Dohring; Eric Hall
Cc: Mark Prestwich; Cindy Tzafopoulos
Subject: [External] Consent Calendar for Hall Vineland LLC & Hall Vista LLC

Dear members of the St Helena City Council,

The issue before our City for Hall Vineland LLC and Hall Vista LLC is too convoluted to be swept under the rug with placement upon the Consent Calendar. I ask that you remove it from your meeting calendar and make it available for public content. Thank you, Norm Manzer, St Helena

Cindy Tzafopoulos

From: Richard Seiferheld <seiferheld@me.com>
Sent: Monday, December 13, 2021 1:19 PM
To: Geoff Ellsworth; Paul Dohring; Lester Hardy; Eric Hall
Cc: Mark Prestwich; Cindy Tzafopoulos
Subject: [External] Agenda Item 9.13 - December 14, 2021 St. Helena City Council

I request that the subject agenda item be postponed and rescheduled to a later City Council meeting thereby providing a greater opportunity for public comment on this important matter.

Richard Seiferheld
seiferheld@me.com
707 695 0915

Cindy Tzafopoulos

From: Susan McWilliams <susanmcwilliams@comcast.net>
Sent: Monday, December 13, 2021 11:16 AM
To: geoffellsworth@yahoo.com; Paul Dohring; Lester Hardy; Eric Hall; Mark Prestwich
Cc: Cindy Tzafopoulos
Subject: [External] Delay any action on Hall Vineland Vista

Importance: High

We are contacting the city to urge you to delay any action on the proposed Hall Vineland Vista project. The city is in a water crisis and already – and most unfortunately – provides water to entities outside city limits that use enormous quantities of water, but are grandfathered in to city agreements.
Vineland Vista once provided affordable housing. Its future is apparently another Calistoga Ranch-style luxury vacation development, perhaps even open to Pacaso.
All St. Helenans must be made aware of this project and its implications to our water supply. For the good of locals, please delay any action and publicize what this means to our city. Thank you.

Susan and Terry McWilliams

Cindy Tzafopoulos

From: sharon dellamonica <sharondellamonica@gmail.com>
Sent: Monday, December 13, 2021 11:16 AM
To: Geoff Ellsworth; Paul Dohring; Lester Hardy; Eric Hall; Mark Prestwich; Cindy Tzafopoulos
Subject: [External] Item 9.13 - Adoption of Resolution Approving Settlement of Hall Vineland, LLC and Hall Vista, LLC v. City of St. Helena

Dear St. Helena City Council members, et al,

I am writing to request that Item 9.13 (Adoption of Resolution Approving Settlement of Hall Vineland, LLC and Hall Vista, LLC v. City of St. Helena) be removed from Tuesday, Dec. 14, 2021 consent calendar and pushed to Jan. or Feb. so that the public has an opportunity to familiarize themselves with the background, and to respond.

Sharon Dellamonica
727 Hunt Ave.
St. Helena, CA 94574

Cindy Tzafopoulos

From: Elaine de Man
Sent: Monday, December 13, 2021 1:01 PM
To: Cindy Tzafopoulos
Subject: [External] Agenda Item 9.13
Attachments: 12-11-21 Vineland Vista.png

Hi Cindy,

Hope you are well.

What follows are my comments relating to Agenda Item 9.13. If possible, please publish without including my email address. Also, I have attached the graphic included with the comment and am wondering what I need to do to make it available for the meeting tomorrow night.

Thanks for your help,

Elaine

Ref: Item 9.13: Adoption of Resolution Approving Settlement of Hall Vineland, LLC and Hall Vista, LLC v. City of St. Helena et al.

I appreciate the time and effort that the settlement agreement with the Halls regarding Vineland Vista must have taken. My hat is off to Vice Mayor Dohring and Councilmember Lester Hardy for their work on our behalf.

However. I have a number of concerns that I think the community needs to be made aware of and should be discussed in public before this resolution is passed.

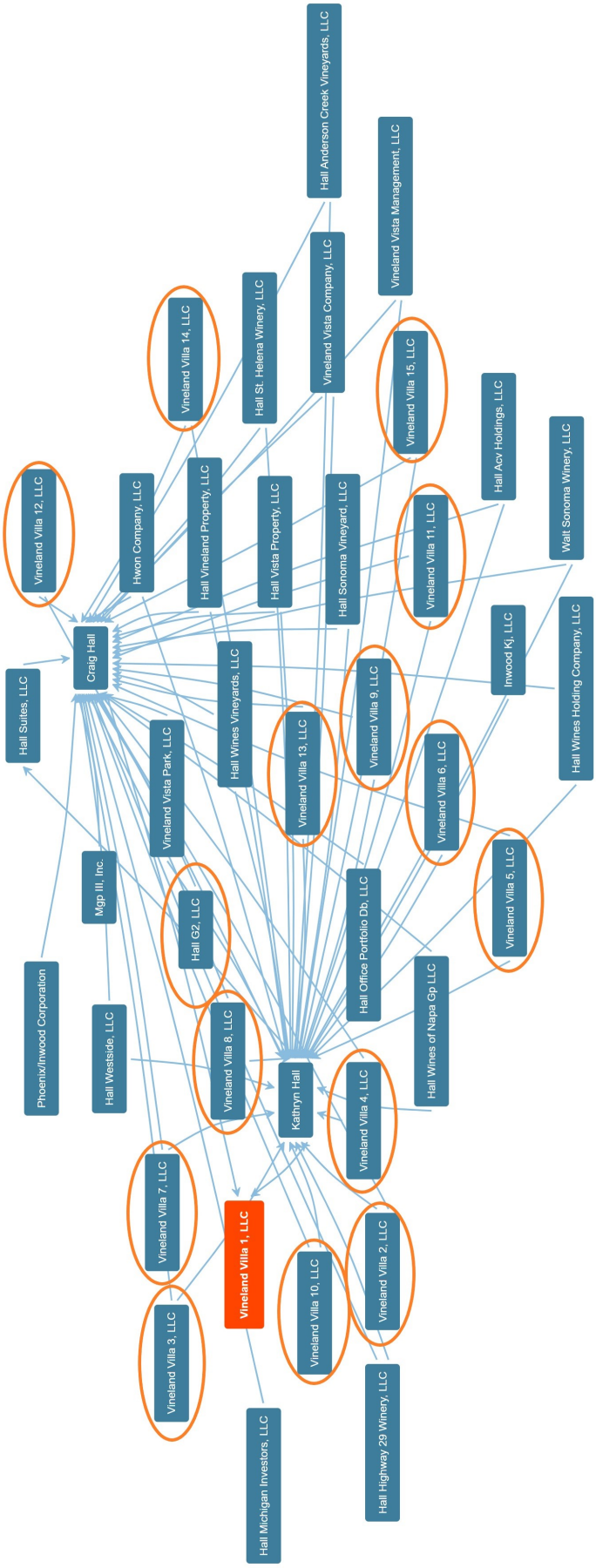
1) I find it quite unsettling that this appears on the St. Helena City Council's agenda as a "consent item" where it might possibly be accepted without any public comment. Please object and at least have a discussion for the record.

2) Given that this agreement concerns a cash settlement of nearly $1m *and* will impact the St. Helena water supply for *all* users, I think the community deserves more time to learn about and weigh in on this issue. Consequently I am asking that this item be continued to a future meeting of the city council.

3) It is concerning to me that the plans for the original "motorhome park" presented by the Halls no longer appears on the county's website. This project does still show up on the County's Planning Department Project Map as Vineland Vista Mobile Home Park, P18-00199. However, that project (and any details associated with it) no longer appears on the county's website. **Consequently, we have no idea what the Hall's have**

planned for the site or how our water will actually be used and by whom. We should at the very least know *that* before approving this settlement.

4) Ironically, according to Corporation Wiki, the Hall's have created 15 (fifteen) separate Vineland Villa LLC's. (Source: CorporationWiki.com) Do we know what this is about? Do these involve the Vineland Vista mobile home park? Is it a coincidence that it roughly coincides with the number of affordable trailer homes they destroyed? Is their intention to sell shares in fractional ownership (*ala* Pacaso), thus relieving their "guests" of paying TOT even to the county? Even if the members of the city council are aware of this, I'm sure the rest of the community is not. I think the residents of St. Helena deserve an explanation, and not one thrown out in haste once public comment is over, before the city agrees to this settlement.


Hall Anderson Creek Vineyards, LLC
Vineland Vista Management, LLC
Vineland Vista Company, LLC
Hall St. Helena Winery, LLC
Vineland Villa 14, LLC
Vineland Villa 15, LLC
Hall Acv Holdings, LLC
Walt Sonoma Winery, LLC
Vineland Villa 12, LLC
Hwon Company, LLC
Hall Vineland Property, LLC
Hall Vista Property, LLC
Hall Sonoma Vineyard, LLC
Vineland Villa 11, LLC
Inwood Kj, LLC
Hall Wines Holding Company, LLC
Craig Hall
Hall Suites, LLC
Hall Wines Vineyards, LLC
Vineland Villa 9, LLC
Vineland Villa 13, LLC
Vineland Villa 6, LLC
Vineland Vista Park, LLC
Mgp III, Inc.
Vineland Villa 5, LLC
Hall G2, LLC
Hall Office Portfolio Db, LLC
Phoenix/Inwood Corporation
Hall Wines of Napa Gp LLC
Hall Westside, LLC
Vineland Villa 8, LLC
Kathryn Hall
Vineland Villa 4, LLC
Vineland Villa 7, LLC
Vineland Villa 1, LLC
Vineland Villa 10, LLC
Vineland Villa 2, LLC
Vineland Villa 3, LLC
Hall Highway 29 Winery, LLC
Hall Michigan Investors, LLC

I understand that jurisdiction over land use belongs to the county, but given that this project will be taking water from the already beleaguered residents of St. Helena (not to mention the $950K payment) to implement a high-end resort with no benefit at all to the citizens deserves time for the members of the local community to comment on and understand. That won't happen given the time constraints of this meeting.

I understand this agreement was reached to avoid these very deep pockets from suing the city, again, or prevailing in court with their vast array of lawyers and lobbyists. But if we acquiesce, without even a discussion, when will it stop? I dare say "never." Yes, you may feel your hands are tied and this was the best we could do, but that doesn't mean that you can't give the community adequate time to let their concerns be heard and discussed.

I understand, too, that members of the City Council have been dealing with this issue for years and would like to get it off their plate as soon as possible. But to do so would be a disservice to the citizens of St. Helena. Consequently, I ask that you please postpone this decision and discussion to a later date.

Thank you for your time and consideration.

Elaine de Man

Cindy Tzafopoulos

From: mike hackett <mhackett54@gmail.com>
Sent: Monday, December 13, 2021 12:23 PM
To: Geoff Ellsworth; Paul Dohring; Lester Hardy; Eric Hall; Mark Prestwich; Cindy Tzafopoulos
Subject: [External] Hall Vista LLC

Dear members of the St. Helena City Council and Staff,

I understand the consent calendar for your December 14th meeting contains item 9.13 in which you intend to allow what is essentially conversion of low income housing into another hotel project.

Obviously this is a social injustice of large proportions. We all know how this happened with Senator Dodd putting forth SB-13 to "grease the skids" for this project. At a time of climate and water crisis, particularly in St. Helena, to allow this on the consent calendar without public comment is completely disingenuous to your residents.

You must have run for this governmental body because you truly care about the core values that represent your residents. This is the opposite of that.

Please do not allow this to proceed without transparency. It must be placed on a future date, given maximum amount of outreach to the community, and stop this injustice.

Just person to person here: from one caring individual to all of you, you do NOT owe these ultra-rich folks a damn thing. You are not required to send your Bell Canyon watershed resource to enrich the Halls. Camon, let's be real here. The Hall's Walt Ranch project, which is also upcoming before the County BOS on appeal tomorrow, is more of the same. They want to remove 14,700 mature oaks and replace with 16,000 seedlings. What a travesty of environmental justice. Take this to the bank: a mature oak sequesters 63 lbs of carbon per year, while a seedling captures 1 lb per year.

Mike Hackett
707 965-9640

Cindy Tzafopoulos

From: Ron Rhyno <rcr@interx.net>
Sent: Monday, December 13, 2021 2:14 PM
To: Mark Prestwich; Cindy Tzafopoulos
Subject: FW: RE: [External] Item 9.13, St. Helena City Council Meet December 14th

-----Original Message-----
From: "Ron Rhyno" <rcr@interx.net>
Sent: Monday, December 13, 2021 5:04pm
To: gellsworth@cityofsthelena.org, pdohring@cityofsthelena.org, lhardy@cityofsthelena.org, ehall@cityofsthelena.org, achouteau@cityofsthelena.org
Cc: rcr@interx.net
Subject: RE: Item 9.13, St. Helena City Council Meet December 14th

-----Original Message-----
From: "Ron Rhyno" <rcr@interx.net>
Sent: Monday, December 13, 2021 4:32pm
To: St Helena Council members
Subject: St. Helena City Council Meet December 14th RE: Item 9.13,

As the former Director for NVC Up-Valley Programs from 1979-1989 I had responsibility for College classes and programs from Yountville North,and management of the College's St Helena Center. I loved working in the Up-Valley and still love the Up-Valley.

Re Item 9.13 --

I strongly urge Item 9.13 be removed from the December 14th Consent Calendar, and be moved to a future meeting because it is a multilayered matter requiring St Helena residents open understanding and input, prior to any decision-making.

Wealth *-- As the premier wine-grape terroir in the Americas: County* ***beauty****, world-class restaurants, and lodging have made Napa Valley a* ***Destination****; and now a '****Brand****,' driving visitation and vine/wine/lodgings investments in the Napa Valley Brand. The Napa Valley name* ***sells****.*

Wealth *is required to participate in the vine-wine business* ***but Wealth*** *also* ***imbues a sense of privilege****, defined as "a special advantage, immunity, permission, right or benefit granted to or enjoyed by an individual, class, or caste." (S. Wildman, 1996, Privilege Revealed.)*

Unfortunately privilege more often than not produces:

...that which is determined to be true
is largely the product of who has the power to assert and insert
a specific discourse into public consciousness.
Foucault, Power and Knowledge, 1980

Item 9.13, Adoption of Resolution Approving Settlement of Hall Vineland, LLC and Hall Vista, LLC v. City of St. Helena et al., in the **consent calendar** for the St. Helena City Council meeting on December 14. Meaning it could be passed without discussion. If passed, this agreement would allow the Hall's Vineland Vista resort perhaps 2,135,250 gallons of St. Helena Water per year in a time of drought and water constraints for St Helena residents.
...and as rumored, will the city also have to pay the Hall's $950,000 for "damages"? If Yes then it needs to be discussed with St Helena residents.

Ron Rhyno
Professor Emeritus, Napa Valley College

Cindy Tzafopoulos

From: sandra barros <sbarroswinegeek@hotmail.com>
Sent: Monday, December 13, 2021 4:27 PM
To: Geoff Ellsworth; Paul Dohring; Lester Hardy; Eric Hall; Mark Prestwich; Cindy Tzafopoulos
Subject: [External] Hall project

Hello to all of you.

I am writing because of some information I have received regarding the Hall/Vineland project. I have lived in St. Helena for 18 years, and watched the low cost housing/trailer park and the old Vineland school be demolished.
I have not forgotten and have been hoping to learn more details about the development the Hall corporation has been working on.
I want to know more **and want the item to be pulled from the consent calendar for December 14th and meeting planned for another time.**
The "rehabilitation" of the property seems like a bad joke, when all remnants of the property gone and I sincerely doubt that low cost modular houses will be put in their place.
I would like the tax paying residents of St. Helena to have input and get answers to some of the questions several of us that I know of have including the following:
Please explain the gag order.
What is the reason for the $950,000 in damages the city would have to pay the Hall corporation? Damages to what?
The allowed water use seems excessive and what happens if they go over that amount?
There's no TOT money that will come into the city, so what is the value of this development?
It seems like a potential Pacaso style development, and that won't sit well with us.
14 units? Where are the plans?
There seems like something is being ok'd without going through the usual process, and I don't like it.
We want to have our questions answered in a public meeting that will be announced so residents can attend, discuss and give input.

Thank you for listening to a long time resident who lives and works in St. Helena.
Sandra Barros 260 Nemo Ct.

Cindy Tzafopoulos

From: Connie Wilson <clw1956@comcast.net>
Sent: Tuesday, December 14, 2021 9:26 AM
To: Geoff Ellsworth; Paul Dohring; Anna Chouteau; Lester Hardy; Eric Hall; Cindy Tzafopoulos
Subject: [External] City Council Meeting 12-14-21and Agenda Item 9.13

Dear Mayor, Council Members and Ms. Ctzafopoulos,

I urge you to please postpone Agenda Item 9.13 to a later date to allow public discussion and understanding how this project and the proposed settlement will impact our city, its citizens and our water supply.
We have the right to be fully informed as to the consequences of a decision of this magnitude.

I am always concerned as to the intentions of the Halls. I will never forget how the mobile home park residents were evicted, especially my friends and their three young children. If you are now going to allow a hotel with suspicious LLC ownership to replace affordable housing and to pay almost a million dollars to settle the lawsuit, then St. Helena citizens have a right to know how and why.

Thank you for your consideration.

Connie Wilson
St. Helena

Cindy Tzafopoulos

From: Mary Alice Stielau <mastielau@gmail.com>
Sent: Tuesday, December 14, 2021 7:01 AM
To: Geoff Ellsworth; Paul Dohring; Lester Hardy; Eric Hall; Mark Prestwich; Cindy Tzafopoulos
Subject: [External] Item 9.13 Resolution Approving Settlement of Hall Vineland

The decision on Item 9.13, Adoption of Resolution Approving Settlement of Hall Vineland, LLC and Hall Vista, LLC v. City of St. Helena et al. will have a big impact on our town. Please postpone this important discussion so that more members of the community have an opportunity to learn about it and weigh in.

Thank you for your consideration of this matter.

Mary Alice Stielau

Cindy Tzafopoulos

From: Mark Smithers <msmithers@tfewines.com>
Sent: Tuesday, December 14, 2021 10:05 AM
To: Cindy Tzafopoulos
Cc: Geoff Ellsworth; Paul Dohring; Eric Hall; Lester Hardy; Anna Chouteau
Subject: [External] Hall settlement funding

To our mayor and city council members;

In as much as the Hall settlement and costs are disappointing, I understand the need to reduce the city's potential higher liability from past public works director action that may or may not have been well considered or counseled. I support the conclusion of this matter.

However, I'm very interested in what entity will pay for this settlement. Is it the water enterprise or the general fund? The staff report did not provide any indication.

Given that we do not have a separately employed or managed water enterprise and the regular allocation of employee wages and expense to the water enterprise while they work in the capacity of the water enterprise, it completely supports the conclusion that this settlement and the related legal expense are a cost of the water enterprise and not the general fund.

I'd like to emphasize that the water enterprise has no employees. Rather the City employees are allocated to the water enterprise, even those that might work 100% for the benefit of that entity. The public works director in her capacity as a representative of the water enterprise who's wages based on time spent are allocated to the water enterprise acted to permit and reverse the permit for water access to the Hall property. Those actions and the acts associated with the settlement are wholly a water enterprise liability and all costs should be born by the water enterprise. Whether the activities were done well or done poorly, the costs are still allocated / born by the water enterprise.

I'd like confirmation that the water enterprise will fully cover these costs and none will be born by the general fund. Of special note the current reserves of the water enterprise are estimated at 50% and that does not include the approximate $5.5 million of penalties the water enterprise should firmly collect from customer over water use this past summer which would result in a reserve at fiscal year end of nearly 175%.

It would be criminal for the general fund to pay this settlement cost which is a direct result of water enterprise actions or those acting on behalf of the water enterprise.

Please post to the agenda item.

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

Confidentiality Notice: This message, and any documents, files or previous e-mail messages attached to it, is the property of Trinchero Family Estates or its affiliates. It is intended only for the use of the individual or entity to which it is addressed and may contain information that is non-public, proprietary, privileged, confidential, and/or exempt from disclosure under applicable law or may constitute attorney work product. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this message is strictly prohibited. If you have received this communication in error, please notify us immediately by reply e-mail and destroy the original communication and its attachments without reading or saving them to disk or other storage medium. Thank you.

Cindy Tzafopoulos

From: Patty Simons <patricia.simons.ps@gmail.com>
Sent: Tuesday, December 14, 2021 9:33 AM
To: Cindy Tzafopoulos
Subject: [External] Agenda today

Dear Cindy,
We just became aware of item 9.13 regarding Hall and the water issues on the agenda today. We were wondering if it is possible to move that agenda item to another date so additional background information could be made available to the community. We are all aware of the water crisis in St. Helena and this appears that it would exacerbate the problem. Please send this to all council members, city manager, etc.
Thank you,
Patty and Don Simons
831 Signorelli Circle
707-694-0512

Cindy Tzafopoulos

From: Norman Manzer <manzer103@comcast.net>
Sent: Monday, December 13, 2021 7:37 PM
To: Geoff Ellsworth; Lester Hardy; Paul Dohring; Eric Hall
Cc: Mark Prestwich; Cindy Tzafopoulos
Subject: RE: [External] Consent Calendar for Hall Vineland LLC & Hall Vista LLC

Dear Members of the City Council,

Thank you for removing this from the Consent Calendar, but placing it upon tomorrow's Agenda for public comment is premature. Our citizens need to be fully informed of this proposal and become prepared to ask the appropriate questions before it is put forward to a vote. This is an issue that has longstanding consequences to our town. I would ask your placement of this item on the Agenda of two meetings from tomorrow at the earliest. Thank you. Norm Manzer, St Helena

---

From: Norman Manzer <manzer103@comcast.net>
Sent: Monday, December 13, 2021 1:51 PM
To: 'gellsworth@cityofsthelena.org' <gellsworth@cityofsthelena.org>; 'lhardy@cityofsthelena.org' <lhardy@cityofsthelena.org>; 'pdohring@cityofsthelena.org' <pdohring@cityofsthelena.org>; 'ehall@cityofsthelena.org' <ehall@cityofsthelena.org>
Cc: MPrestwich@cityofsthelena.org; ctzafopoulos@cityofsthelena.org
Subject: Consent Calendar for Hall Vineland LLC & Hall Vista LLC

Dear members of the St Helena City Council,

The issue before our City for Hall Vineland LLC and Hall Vista LLC is too convoluted to be swept under the rug with placement upon the Consent Calendar. I ask that you remove it from your meeting calendar and make it available for public content. Thank you, Norm Manzer, St Helena

Cindy Tzafopoulos

From: EK <ekieval@comcast.net>
Sent: Monday, December 13, 2021 10:03 PM
To: Cindy Tzafopoulos
Subject: [External] Proposed Hall Settlement

Dear Ms. Tzafopoulous,

I am highly dismayed by the proposed resolution of the lawsuit between Hall Vista, LLC v. City of St. Helena, which is certainly a no-win situation for the city. It is my understanding that this item is scheduled for the agenda at the December 14 City Council meeting, where it could be voted on with minimal public discussion. If passed, the proposed settlement would have a huge negative impact on the citizens of St. Helena. I urge the City Council to re-schedule this item for a later date to allow opportunity for more public consideration. Respectfully, Ellen Kieval St. Helena

Cindy Tzafopoulos

From: Lyndsey Harrison <lyndsey1.harrison@gmail.com>
Sent: Tuesday, December 14, 2021 9:09 AM
To: Cindy Tzafopoulos
Subject: [External] CALL TO ACTION HALL Settlement — Nextdoor

Please address this issue and put in SH Star this week so more people can be aware and comment. Pro and con.
Thanks,
Lyndsey Harrison
1521 Allyn Avenue

Frommy neighborhood: https://nextdoor.com/p/FX2NzdKn-yDQ?utm_source=share&extras=Mjk5ODM3MDY%3D

Sent from my iPad

Cindy Tzafopoulos

From: Mark Prestwich
Sent: Tuesday, December 14, 2021 3:13 PM
To: Cindy Tzafopoulos
Subject: FW: [External] Hall Winery Settlement

Public Comment

From: lana ivanoff <lanaivanoff@att.net>
Sent: Tuesday, December 14, 2021 7:47 AM
To: Mark Prestwich <MPrestwich@cityofsthelena.org>; Geoff Ellsworth <geoffellsworth@yahoo.com>; Paul Dohring <PDohring@cityofsthelena.org>; Eric Hall <EHall@cityofsthelena.org>; Anna Chouteau <AChouteau@cityofsthelena.org>; Lester Hardy <ltrainhardy@yahoo.com>
Subject: [External] Hall Winery Settlement

City Council Members:

Please consider postponing any further discussion on the Hall Winery Settlement so the public has time to read the proposal, think about it, and respond.

I can't believe something like this was put on the consent calendar, and would have slipped through without the publics knowledge. Thank you for at least moving it to old business. Now you need to inform the public in as many ways as possible before taking action.

I would also like to know where the payoff funds. ($1M), will be coming from.

Lana Ivanoff

Cindy Tzafopoulos

From: agalbraith94574@gmail.com
Sent: Tuesday, December 14, 2021 2:12 PM
To: Cindy Tzafopoulos
Cc: Mark Smithers
Subject: [External] Hall Settlement Public Comment

I fully support the policy position articulated by Mark Smithers. It is also supposed by well recognized principles of public finance. Alan Galbraith Sent from my iPhone

Cindy Tzafopoulos

From: Ross Allen <rossrallen@gmail.com>
Sent: Tuesday, December 14, 2021 12:59 PM
To: Geoff Ellsworth; Paul Dohring; Cindy Tzafopoulos; Lester Hardy; Mark Prestwich; Eric Hall
Subject: [External] Public discussion needed on Item 9.13

Hello -

I am absolutely appalled that the City of St. Helena, with all its budget and infrastructure problems, is even considering giving away $1 million to the Halls, Texas billionaires, and millions of acre-feet of water to their winery and slum trailer park cum luxury resort.

St. Helena has a crumbling infrastructure — our city streets and water treatment facility — that St. Helena RESIDENTS must pay for.

We can't even afford police presence to enforce traffic law on the various streets within the city limits (including Sprig St., and Pratt Ave.),where citizens have complained about reckless speeding for years. Nothing has been done.

This agenda item must be discussed and presented to the public in view of the facts that:
1. The Halls' properties are outside the city limits and offer no direct value to the city through taxes or occupancy; 2. St. Helena is in a water emergency, every household in St. Helena is suffering, and the proposal is a giveaway of another 2 million acre-feet for some resort incorporated in Texas and NOT WITHIN THE CITY? The Halls already have 8 million acre-feet our our water. That's too much already.

This deal stinks of corruption, influence-peddling, and incompetence by placing the interests of litigious Texas billionaires ahead of the citizens who elected you, pay your bills, and whom you are sworn to serve.

We need full disclosure and discussion of this bad deal before it is too late. As far as I am concerned, the only acceptable outcome to this giveaway is NO!.

In next year's election, I and everyone I know will remember who voted for and against this proposal.

You were elected to administer our city's limited funds wisely for the benefit of our citizens, not for enriching special interests and for vanity projects.

- Dr. Ross Allen
Pratt Speedway, St. Helena

Cindy Tzafopoulos

From: Leslie Stanton <lesliestan@gmail.com>
Sent: Tuesday, December 14, 2021 12:07 PM
To: Cindy Tzafopoulos
Subject: [External] Hall

Hello Cindy -
Please add this email to the many that are protesting the Council's possible capitulation to the Hall settlement.

Dear Council Members and City Manager -
Please allow our community more time to understand the Hall lawsuit against the City over water. The distaste and distrust for the Halls is huge and we deserve to know what is going on as it affects all CITY water customers both monetarily and in our surety of adequate water in the coming years. Until the water problem is under control I believe that City residents should take precedence over County visitors.

Respectfully, Leslie Stanton

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **PUBLIC HEARINGS**

Subject: **Consideration and proposed adoption of a resolution approving five-year list of projects under Measure T Program; and determining that the actions authorized by this resolution are exempt from CEQA.**

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

Prepared By: Mark Rincon-Ibarra, Public Works Director and City Engineer

Reviewed By: April Mitts, Administrative Services Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The Independent Taxpayer Oversight Committee (ITOC) is required by Measure T to review the Minimum Maintenance of Effort (MOE), and the five-year expenditure plan developed by the Napa Valley Transportation Authority (NVTA) in coordination with the jurisdictions. The five-year plan shall include proposed projects for each jurisdiction funded by Measure T. The expenditure plan will also include the proposed projects and expenditures to meet the 6.67% Measure T equivalent for Class 1 projects.

On December 10, 2019, City Council adopted its current five-year plan. The City of St. Helena is in year two of the five-year plan and is required to update the plan biennially.

To meet the MOE requirements, each jurisdiction submitted its FY 2007-08, FY 2008-09, and FY 2009-10 three-year average MOE documentation by June 30, 2017. Each jurisdiction also provided a summary of how their MOE was defined, how it was calculated, and what activities/treatments make up their MOE. Each jurisdiction is now required to submit its annual MOE certification report to City Council and the NVTA-Tax Agency (TA) Board.

Current Pavement Condition

In May 2021, the City completed its biennial pavement inspection requirement with the Metropolitan Transportation Commission which assists the City in developing a pavement management program (PMP). The program through the use of computerized street pavement software, Streetsaver, is utilized to assist in developing the five-year project list for Measure T.

The intent of the PMP is to develop a maintenance strategy to increase the overall condition of the street network to an optimal Pavement Condition Index (PCI) and to maintain the PCI at that level. The optimal PCI is defined as the threshold where future maintenance consists only of “preventative maintenance” activities (such as microsurfacing) as compared to overlays or reconstruction of the asphalt surface itself.

The City's roadway network consists of approximately 26 centerline miles. This roadway network is made up of approximately one centerline mile of arterial streets, 11 centerline miles of collector streets, and 14 centerline miles of residential streets; with a current reconstruction value of over $21 million.

Taken as a network, the citywide average Pavement Condition Index (PCI) is 50. MTC's State of Repair report states that approximately 75 percent of a pavement's serviceable life has been expended by the time its PCI rating falls to 60. The PMP Report shows that approximately 35% of the City’s roadway network is in “Excellent” or "Very Good" condition, 20% is in “Good” or "Fair" condition, 15% is in “Poor” condition, and 30% is in “Very Poor” condition.

DISCUSSION

The City Council previously adopted the 5-year work plan via Resolution No. 2019-152. The City is required to update the Plan every two-years and follow the same adoption process to ensure proper application of Measure T revenues. Once adopted, the updated Plan will be submitted to the Measure T Independent Taxpayer's Oversight Committee for review and recommendation for adoption by the NVTA-TA Board.

The proposed 5-year list is more extensive to allow more locations for Measure T funds to be utilized. If the project is not on the list, then Measure T funds cannot be used without amending the list through City Council and the NVTA-TA Board. The proposed five-year list of projects includes streets needing overlays, microsurfacing, slurry seals, citywide traffic safety and sidewalk program, citywide stormwater maintenance, and local grant match for the Downtown Main Street Sidewalk Replacement project. City staff utilized several methods to compile the updated project list:

- Streetsaver pavement software program that assists municipalities with planning street maintenance repairs and budget needs;
- Because Streetsaver focuses on pavement maintenance only, streets identified for non-specific pavement needs, such as sidewalk for Main Street, stormwater

maintenance, and traffic safety and sidewalk were added to the list with estimated costs;
- Interwest Consulting Group assisted with providing a refined five-year street maintenance list with GIS mapping based on Streetsaver, visual site inspections, and input from City staff.

Once adopted, the project list will not limit the flexibility of the City to fund projects in accordance with local needs and priorities so long as the projects are consistent with Measure T and adopted by City Council in advance of expenditures. It is also important to note that this is a five-year plan and is subject to change based on available funding. In addition, every two years (if not sooner), the street list will be refined further to plan and prioritize known sewer, water, and storm drain utility replacement project needs identified in their respective utility master plans or as public utility companies such as PG&E identify work needing to be performed in the area. City staff will continue to work to ensure that complete street elements identified in the adopted General Plan, bicycle, and pedestrian plans are reviewed and incorporated as much as possible into proposed road improvements as they are implemented.

An adopted Measure T five-year Project List and Measure T Equivalent must be submitted to NVTA by December 31, 2021. In addition, the adopted project list(s) will also be sent to the public utility companies so they may plan utility work in advance of City street maintenance so they will not be subject to the three and five-year street prohibitions in accordance with St. Helena Municipal Code Section 12.12.040.

FISCAL IMPACT

The City is estimated to receive 5.9% of revenues collected countywide for Measure T. The table below provides a summary of the Measure T funds received by Fiscal Year:

Fiscal Year	Amount
2018-19	963,788
2019-20	1,445,175
2020-21 (Estimated)	1,033,584
2021-22 (Estimated)	1,303,353

In addition to Measure T, the City is required to maintain a local maintenance of effort based on supporting financial documentation from FY's 2007-08, 2008-09 and 2009-10 which amounts to $379,189 per year in General Funds to contribute towards the five-year project list. Gas Tax and SB1 are also eligible sources of funds to program for these projects. It is the intent to utilize this same list to meet SB1's annual reporting requirement.

RECOMMENDED ACTION

Adopt the attached resolutions.

ATTACHMENTS

Attachment 1: Resolution Measure T FY 2022/23 - 2026/27

Attachment 2: Exhibit A to Resolution Measure T Five Year List of Projects
Attachment 3: Exhibit B St. Helena Five-year Plan Map

CITY OF ST. HELENA

RESOLUTION NO. 2021-

Resolution approving a Five-Year Expenditure Plan under Measure T (Napa Countywide Road Maintenance Act) Program

RECITALS

A. **WHEREAS,** on November 6, 2012 the voters of Napa County passed the Napa Countywide Road Maintenance Act, also known as Measure T, which imposes a half cent transaction and use (sales) tax to provide supplemental funding for road maintenance as detailed in the Measure T Expenditure Plan; and

B. **WHEREAS,** The Napa Valley Transportation Authority is the designated agency that administers and oversees the Measure T revenues; and

C. **WHEREAS,** the City of St. Helena is an eligible recipient of Measure T funds; and

D. **WHEREAS,** the tax proceeds will be used to pay for the projects outlined in the Measure T Expenditure Plan allocated to the County of Napa and the cities and town within Napa County ("Local Agencies") as set forth in Measure Ts; and

E. **WHEREAS**, under the Measure T Expenditure Plan, Measure T funds are provided to the Local Agencies to be used for streets and roads projects as defined in the Measure; and

F. **WHEREAS,** the City of St. Helena has entered into a Master Agreement with NVTA that outlines procedures for Measure T expenditures, and

G. **WHEREAS**, Measure T project(s) will comply with the requirements under the California Environmental Quality Act (California Code Sections 21000 *et seq*.; as implemented through California Regulations Title 14, Chapter 3, Sections 15000 *et seq*.); and

H. **WHEREAS,** on this date, December 14, 2021, proper public notice was given in accordance with the law.

RESOLUTION

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

1. The City Council hereby determines that the projects anticipated to be funded pursuant to the five-year project list approved pursuant to this resolution are

exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 as the repair, maintenance or minor alteration of existing facilities involving no or negligible expansion of use beyond that which presently exists.

2. The City Council hereby adopts the five-year project list as set forth in Exhibit "A," and authorizes the Public Works Director to file the list with NVTA.
3. The Resolution is hereby adopted and becomes effective and in full force immediately upon adoption.

Approved at a Regular Meeting of the St. Helena City Council on December 14, 2021, by the following vote:

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

APPROVED:

_____
Geoff Ellsworth, Mayor

ATTEST:

_____
Cindy Tzafopoulos, City Clerk

Measure T Napa Countwide Road Maintenance Act

Jurisdiction Name: City of St. Helena

Primary Contract #1 Mark A. Rincón-Ibarra Email: mrincon@cityofsthelena.org Phone: 707-968-2629

Secondary Contract # Mandy Kellogg Email: mkellogg@cityofsthelena.org Phone: 707-968-2649

Fiscal Years Include FY #1 2022-23 FY #2 2023-24 FY#3 2024-25 FY#4 2025-26 FY#5 2026-27

Maintenance of Effort (MOE)

Please provide the following information to establish MOE amount and to validate information:

1. Attach copies of Local Streets and Roads State Controller Reports for three years - FY 2007-08, FY 2008-09, FY 2009-10
2. Attach independent auditors validation for *each* Local Streets and Roads State Controller Report
3. Enter MOE Amounts Claiming: FY 2007-08 $261,217 FY 2008-09 $510,388 FY 2009-10 $365,963
4. Enter Certified MOE Amount: **Total MOE:** $379,189

Please note: Eligible expenses include local streets and roads maintenance and supporting infrastructure within the public right of way for pavement, sealing, overlays, reconstruction, associated infrastructure, as required, excluding any local revenues expended for the pupose of storm damage repair as verified by an independent auditor. One time allocations that have been expended for local streets and road maintenance, but which may not be available on an ongoing basis shall not be considered when calculating an Agency's annual maintenance of effort.

Planned Measure T Expenditures

Please provide Five (5) year planned streets and road maintenance projects beginning in FY 2022-27 **(add rows as needed)**:

Project #	Fiscal Year	Total Project Cost	Measure T Amount	Federal Funds	State Funds	Other Local Funds	Project Scope	Project Phase	Location (intersection, mile marker, length of alignment)	Is the Project Included in the Countywide Transportation Plan?	Is the Project in the Jurisdiction's Capital Improvement Plan?
	2022/23	$ 28,584	$ 28,584	$ -	$ 3,813.32	$ -	2" AC OL w/Fabric	Design/Constructio	June Lane - Hunt Ave to Chiles Ave, 245'	No	Yes
	2022/23	$ 37,250	$ 37,250	$ -	$ 4,969.43	$ -	2" AC OL w/Fabric	Design/Constructio	Stockton Street - Adams St to Tainter St, 447'	No	Yes
	2022/23	$ 7,200	$ 7,200	$ -	$ 960.53	$ -	2" AC OL w/Fabric	Design/Constructio	Stralla Court - Pope St to End (S), 90'	No	Yes
	2022/23	$ 79,300	$ 79,300	$ -	$ 10,579.21	$ -	2" AC OL w/Fabric	Design/Constructio	Voorhees Circle - Mitchell Dr (E) to Mitchell Dr (W), 915'	No	Yes
	2022/23	$ 73,847	$ 73,847	$ -	$ 9,851.74	$ -	2.5" AC OL w/Fabric	Design/Constructio	Railroad Avenue - Hunt Ave to Adams St, 530'	No	Yes
	2022/23	$ 133,794	$ 133,794	$ -	$ 17,849.12	$ -	2.5" AC OL w/Fabric	Design/Constructio	Valley View Street - Birche Ave to 315' N/O Grayson Ave, 932'	No	Yes
	2022/23	$ 163,613	$ 163,613	$ -	$ 21,827.19	$ -	2.5" AC OL w/Fabric	Design/Constructio	Valley View Street - Spring St to Birche Ave, 1,043'	No	Yes
	2022/23	$ 47,278	$ 47,278	$ -	$ 6,307.24	$ -	2" AC OL	Design/Constructio	Library Lane - Adams St to End (N), 460'	No	Yes
	2022/23	$ 64,400	$ 64,400	$ -	$ 8,591.44	$ -	2" AC OL	Design/Constructio	Pope Street - Starr Ave to Peppertree Cir, 575'	No	Yes
	2022/23	$ 10,306	$ 10,306	$ -	$ 1,374.90	$ -	MicroSurfacing	Design/Constructio	Chiles Avenue - Signorelli Cir to End (E), 530'	No	Yes
	2022/23	$ 11,439	$ 11,439	$ -	$ 1,526.05	$ -	MicroSurfacing	Design/Constructio	Tainter Street - Stockton St to Kearney St, 710'	No	Yes
	2022/23	$ 6,284	$ 6,284	$ -	$ 838.33	$ -	MicroSurfacing	Design/Constructio	Tainter Street - Kearney St to Oak Ave, 390'	No	Yes
	2022/23	$ 13,085	$ 13,085	$ -	$ 1,745.64	$ -	MicroSurfacing	Design/Constructio	Tainter Street - Allyn Ave to Stockton St, 740'	No	Yes
	2022/23	$ 26,013	$ 26,013	$ -	$ 3,470.33	$ -	Reconstruct Structure (AC)	Design/Constructio	Oak Avenue - Adams St to Adams St (intersection), 65'	No	Yes
	2022/23	$ 197,107	$ 197,107	$ -	$ 26,295.54	$ -	Reconstruct Structure (AC)	Design/Constructio	College Avenue - Pope St to Pvmt Change, 874'	No	Yes
	2022/23	$ 379,189	$ -	$ -	$ -	$ 379,189	Street Maintenance Progam: Pothole Patching	Construction	Various locations as needed	No	No
Total FY 2022/23		**$ 1,278,689**	**$ 899,500**	**$ -**	**$ 120,000**	**$ 379,189**					
	2023/24	$ 90,109	$ 90,109	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Allyn Avenue - Tainter St to Spring St, 560'	No	Yes
	2023/24	$ 70,947	$ 70,947	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Andrea Avenue - Kearney St to Oak Ave, 410'	No	Yes
	2023/24	$ 15,862	$ 15,862	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Dowdell Lane - House 759 to House 679, 350'	No	Yes
	2023/24	$ 34,094	$ 34,094	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Dowdell Lane - Montessori @ Cop to House 867, 260'	No	Yes
	2023/24	$ 23,603	$ 23,603	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Dowdell Lane - House 867 to House 759, 450'	No	Yes
	2023/24	$ 297,098	$ 297,098	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Silverado Trail 175' N/O Howell Mountain Rd to City Limits (S),	No	Yes
	2023/24	$ 14,203	$ 14,203	$ -	$ -	$ -	MicroSurfacing	Design/Constructio	Adams Street - Allyn Ave to Stockton St, 730'	No	Yes
	2023/24	$ 15,439	$ 15,439	$ -	$ -	$ -	MicroSurfacing	Design/Constructio	Adams Street - Stockton St to Kearney St, 710'	No	Yes
	2023/24	$ 6,860	$ 6,860	$ -	$ -	$ -	MicroSurfacing	Design/Constructio	Adams Street - Cop @ Library Ln to Cop Before Railroad Ave,	No	Yes
	2023/24	$ 6,352	$ 6,352	$ -	$ -	$ -	MicroSurfacing	Design/Constructio	Adams Street - Cop @ Business Center Dwy to Cop @ Library	No	Yes
	2023/24	$ 6,107	$ 6,107	$ -	$ -	$ -	MicroSurfacing	Design/Constructio	Adams Street - End (E) to Cop @ Business Center Dwy, 280'	No	Yes
	2023/24	$ 6,189	$ 6,189	$ -	$ -	$ -	MicroSurfacing	Design/Constructio	Pope Street - Begin Bridge to Silverado Trail, 500'	No	Yes
	2023/24	$ 84,734	$ 84,734	$ -	$ -	$ -	Reconstruct Structure (AC)	Design/Constructio	South Crane Avenue - Grayson Ave to Vallejo St, 410'	No	Yes
	2023/24	$ 322,400	$ 322,400	$ -	$ -	$ -	Reconstruct Structure (AC)	Design/Constructio	South Crane Avenue - Vallejo St to Sulphur Springs Ave, 2,015'	No	Yes
	2023/24	$ 379,189	$ -	$ -	$ -	$ 379,189	Street Maintenance Progam: Pothole Patching	Construction	Various locations as needed	No	No
Total FY 2023/24		**$ 1,373,186**	**$ 993,997**	**$ -**	**$ -**	**$ 379,189**					
	2024/25	$ 53,900	$ 53,900	$ -	$ -	$ -	2" AC OL w/Fabric	Design/Constructio	Chablis Circle - Pinot Wy to 500' NE/O Pinot (E), 490'	No	Yes
	2024/25	$ 58,421	$ 58,421	$ -	$ -	$ -	2" AC OL w/Fabric	Design/Constructio	Kearney Street - Pine St to Adams St, 590'	No	Yes
	2024/25	$ 35,767	$ 35,767	$ -	$ -	$ -	2" AC OL w/Fabric	Design/Constructio	Kearney Street - Madrona St to Pine St, 370'	No	Yes

	2024/25	$ 33,334	$ 33,334	$ -	$ -	$ -	2" AC OL w/Fabric	Design/Constructio	Pine Street - Kearney St to Oak Ave, 400'	No	Yes
	2024/25	$ 48,719	$ 48,719	$ -	$ -	$ -	2" AC OL w/Fabric	Design/Constructio	Columbard Court - Chardonnay Wy to End (W), 430'	No	Yes
	2024/25	$ 40,334	$ 40,334	$ -	$ -	$ -	2" AC OL	Design/Constructio	Quail Court - Elmhurst Ave to End (N), 440'	No	Yes
	2024/25	$ 68,620	$ 68,620	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Brown Street - Allison Ave to End (W), 490'	No	Yes
	2024/25	$ 70,020	$ 70,020	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Chablis Circle - Pinot Way to 500' NE/O Pint Way (E), 500'	No	Yes
	2024/25	$ 27,316	$ 27,316	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Chablis Circle - Pinot Way to End, 102'	No	Yes
	2024/25	$ 95,779	$ 95,779	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Chardonnay Way - Spring St to Pinot Wy, 610'	No	Yes
	2024/25	$ 59,750	$ 59,750	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Charter Oak Avenue - Carwash to End (E), 640'	No	Yes
	2024/25	$ 36,114	$ 36,114	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Charter Oak Avenue - Main St to Carwash, 230'	No	Yes
	2024/25	$ 101,624	$ 101,624	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Edwards Street - Hunt Ave to Pope St, 750'	No	Yes
	2024/25	$ 73,823	$ 73,823	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Hunt Avenue - Edwards St to June Ln, 485'	No	Yes
	2024/25	$ 2,774	$ 2,774	$ -	$ -	$ -	MicroSurfacing	Design/Constructio	Magnolia Avenue - Rosebud Ln to E End, 181'	No	Yes
	2024/25	$ 15,692	$ 15,692	$ -	$ -	$ -	MicroSurfacing	Design/Constructio	North Crane Avenue - Mitchell Dr to End (S), 717'	No	Yes
	2024/25	$ 2,909	$ 2,909	$ -	$ -	$ -	MicroSurfacing	Design/Constructio	Pine Street - Main St to Fire Station, 154'	No	Yes
	2024/25	$ 27	$ 27	$ -	$ -	$ -	Seal Cracks	Design/Constructio	Doris Avenue - Vineyard Ave to End (W), 120'	No	Yes
	2024/25	$ 44	$ 44	$ -	$ -	$ -	Seal Cracks	Design/Constructio	Doris Court - Vineyard Ave to End (E), 190'	No	Yes
	2024/25	$ 193	$ 193	$ -	$ -	$ -	Seal Cracks	Design/Constructio	Hillview Place - Spring Mountain Rd to Oak Ave, 770'	No	Yes
	2024/25	$ 90	$ 90	$ -	$ -	$ -	Seal Cracks	Design/Constructio	North Crane Avenue - Spring St to Mitchell Dr, 715'	No	Yes
	2024/25	$ 190	$ 190	$ -	$ -	$ -	Seal Cracks	Design/Constructio	North Crane Avenue - Mitchell Dr to End (S), 717'	No	Yes
	2024/25	$ 95	$ 95	$ -	$ -	$ -	Seal Cracks	Design/Constructio	Oak Avenue - Hillview Pl to Madrona St, 550'	No	Yes
	2024/25	$ 271	$ 271	$ -	$ -	$ -	Seal Cracks	Design/Constructio	Vineyard Avenue - End (N) to Road Widens, 1,030'	No	Yes
	2024/25	$ 111	$ 111	$ -	$ -	$ -	Seal Cracks	Design/Constructio	Vineyard Avenue - Road Widens to Hillview Pl, 515'	No	Yes
	2024/25	$ 379,189	$ -	$ -	$ -	$ 379,189	Street Maintenance Progam: Pothole Patching	Construction	Various locations as needed	No	No
Total FY 2024/25		**$ 1,205,106**	**$ 825,917**	**$ -**	**$ -**	**$ 379,189**					
	2025/26	$ 22,037	$ 22,037	$ -	$ -	$ -	2" AC OL	Design/Constructio	Harvest Lane - Starr Ave to End (W), 220'	No	Yes
	2025/26	$ 47,600	$ 47,600	$ -	$ -	$ -	2" AC OL w/Fabric	Design/Constructio	Fulton Lane - RR Tracks to 25 MPH Sign, 1,020'	No	Yes
	2025/26	$ 41,174	$ 41,174	$ -	$ -	$ -	2" AC OL w/Fabric	Design/Constructio	Pine Street - Oak Ave to Main St, 314'	No	Yes
	2025/26	$ 35,969	$ 35,969	$ -	$ -	$ -	2" AC OL w/Fabric	Design/Constructio	Stockton Street - Madrona St to Pine St, 395'	No	Yes
	2025/26	$ 61,455	$ 61,455	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Fountain Street - Dowdell Ln to End (N), 380'	No	Yes
	2025/26	$ 49,738	$ 49,738	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Fulton Lane - Main St to Railroad Ave, 380'	No	Yes
	2025/26	$ 28,848	$ 28,848	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Fulton Lane - Railroad Ave to RR Tracks, 300'	No	Yes
	2025/26	$ 44,154	$ 44,154	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Spring Street - Oak Ave to BCR @ Main St, 330'	No	Yes
	2025/26	$ 81,054	$ 81,054	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Starr Avenue - Harvest Ln to Pope St, 385'	No	Yes
	2025/26	$ 208,834	$ 208,834	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Starr Avenue - Hunt Ave to Harvest Ln, 935'	No	Yes
	2025/26	$ 128,902	$ 128,902	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Vintage Avenue - McCormick St to End (E), 780'	No	Yes
	2025/26	$ 2,477	$ 2,477	$ -	$ -	$ -	MicroSurfacing	Design/Constructio	Doris Avenue - Vineyard Ave to End (W), 120'	No	Yes
	2025/26	$ 4,038	$ 4,038	$ -	$ -	$ -	MicroSurfacing	Design/Constructio	Doris Court - Vineyard Ave to End (E), 190'	No	Yes
	2025/26	$ 10,256	$ 10,256	$ -	$ -	$ -	MicroSurfacing	Design/Constructio	Fulton Lane - 25 MPH Sign to End (E) City Limits, 1,420'	No	Yes
	2025/26	$ 5,683	$ 5,683	$ -	$ -	$ -	MicroSurfacing	Design/Constructio	Kearney Street - Tainter St to Spring St, 390'	No	Yes
	2025/26	$ 4,918	$ 4,918	$ -	$ -	$ -	MicroSurfacing	Design/Constructio	McCorkle Avenue - End (W) to Allison Ave, 300'	No	Yes
	2025/26	$ 379,189	$ -	$ -	$ -	$ 379,189	Street Maintenance Progam: Pothole Patching	Construction	Various locations as needed	No	No
Total FY 2025/26		**$ 1,156,326**	**$ 777,137**	**$ -**	**$ -**	**$ 379,189**					
	2026/27	$ 63,686	$ 63,686	$ -	$ -	$ -	2" AC OL w/Fabric	Design/Constructio	Kidd Ranch Road - McCorkle Ave to End (S), 485'	No	Yes
	2026/27	$ 138,532	$ 138,532	$ -	$ -	$ -	2" AC OL w/Fabric	Design/Constructio	Signorelli Circle - Chiles Ave to Chiles Ave, 1,055'	No	Yes
	2026/27	$ 84,140	$ 84,140	$ -	$ -	$ -	2" AC OL w/Fabric	Design/Constructio	Spring Mountain Court - Spring Mountain Rd to End (S), 700'	No	Yes
	2026/27	$ 79,172	$ 79,172	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Allyn Avenue - Pine St to Adams St, 440'	No	Yes
	2026/27	$ 47,272	$ 47,272	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Hillview Place - Scott St to Vineyard Ave, 350'	No	Yes
	2026/27	$ 48,622	$ 48,622	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Hillview Place - Stockton St to Spring Mountain Rd, 360'	No	Yes
	2026/27	$ 18,883	$ 18,883	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Hillview Place - End (W) to Scott St, 160'	No	Yes
	2026/27	$ 42,835	$ 42,835	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Hillview Place - Vineyard Ave to Stockton St, 350'	No	Yes
	2026/27	$ 44,871	$ 44,871	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Pope Street - Main St to Church St, 230'	No	Yes
	2026/27	$ 58,024	$ 58,024	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Spring Street - Hudson Ave (W) to Allyn Ave, 370'	No	Yes
	2026/27	$ 152,972	$ 152,972	$ -	$ -	$ -	2.5" AC OL w/Fabric	Design/Constructio	Spring Street - Allyn Ave to Stockton St, 870'	No	Yes
	2026/27	$ 9,661	$ 9,661	$ -	$ -	$ -	MicroSurfacing	Design/Constructio	Vineyard Avenue - Road Widens to Hillview Pl, 515'	No	Yes
	2026/27	$ 10,130	$ 10,130	$ -	$ -	$ -	MicroSurfacing	Design/Constructio	Vineyard Avenue - Hillview Pl to Madrona St, 540'	No	Yes
	2026/27	$ 18	$ 18	$ -	$ -	$ -	Seal Cracks	Design/Constructio	El Bonita Avenue - La Quinta Wy to COP (Change of	No	Yes
	2026/27	$ 13	$ 13	$ -	$ -	$ -	Seal Cracks	Design/Constructio	El Bonita Avenue - COP (Change of Pvmt) to Dahlia St, 108'	No	Yes
	2026/27	$ 128	$ 128	$ -	$ -	$ -	Seal Cracks	Design/Constructio	El Bonita Avenue - Dahlia St to BCR @ Main St, 1,036'	No	Yes
	2026/27	$ 31	$ 31	$ -	$ -	$ -	Seal Cracks	Design/Constructio	El Bonita Court - El Bonita Ave to End, 120'	No	Yes
	2026/27	$ 47	$ 47	$ -	$ -	$ -	Seal Cracks	Design/Constructio	Kennedy Court - La Quinta Wy to End (W), 390'	No	Yes
	2026/27	$ 44	$ 44	$ -	$ -	$ -	Seal Cracks	Design/Constructio	La Quinta Way - End (N) to End (S), 360'	No	Yes
	2026/27	$ 379,189	$ -	$ -	$ -	$ 379,189	Street Maintenance Progam: Pothole Patching	Construction	Various locations as needed	No	No
Total FY 2026/27		**$ 1,178,270**	**$ 799,081**	**$ -**	**$ -**	**$ 379,189**					

Equivalent Fund Class 1 Multi-Purpose Paths:

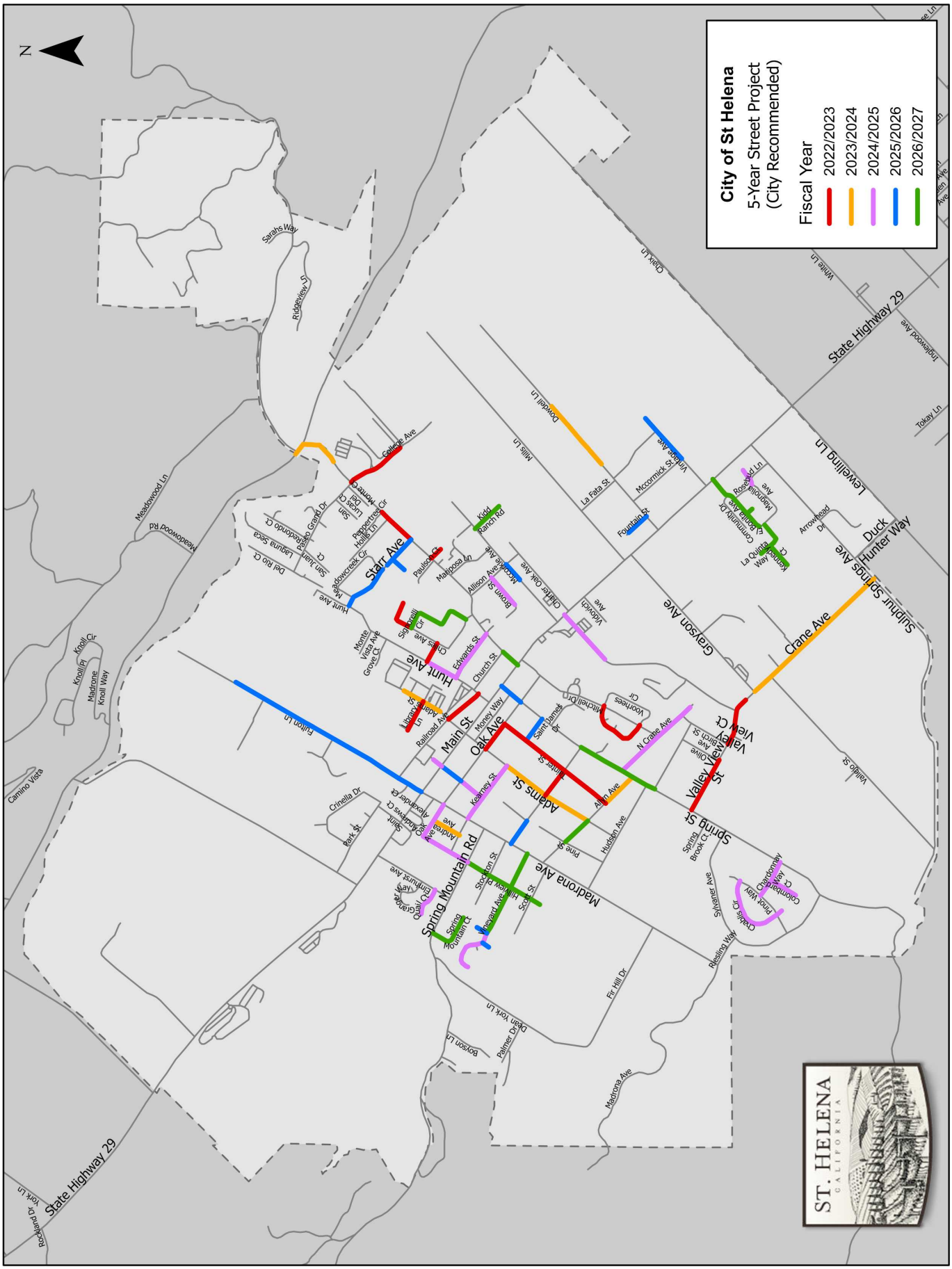
Please provide a five year multi-purpose Expenditures beginning in FY 2022-27 **(add rows as needed)**:

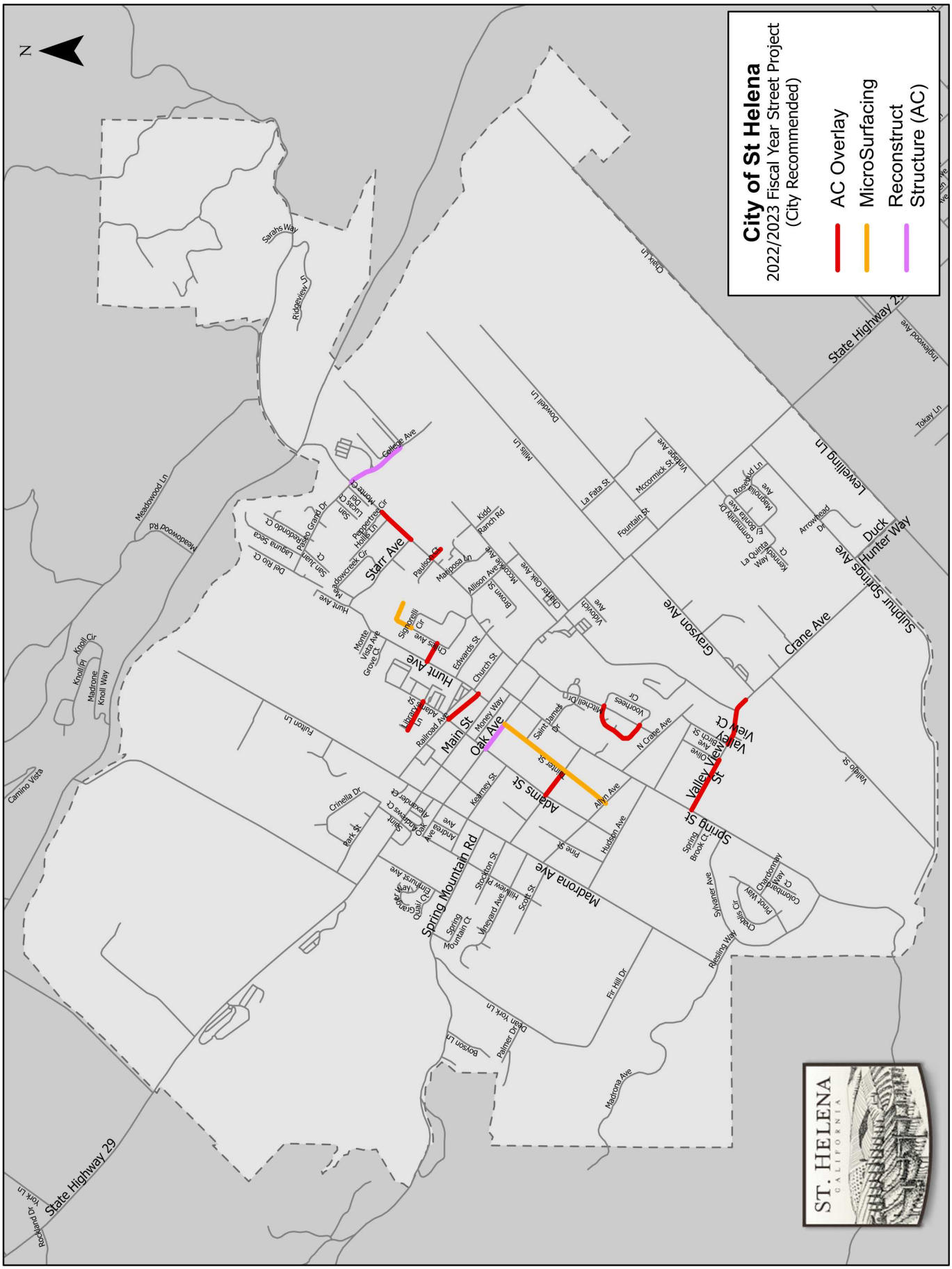
Project #	Fiscal Year	Total Project Amount	Measure T Amount	Federal Funds	State Funds	Other Local Funds	Project Description	Project Phase (Env, PS&E, Construction)	Location (intersection, mile marker, length of alignment)	Project Included in Countywide Bike Plan?	Project in Jurisdiction's Capital Improvement Plan?

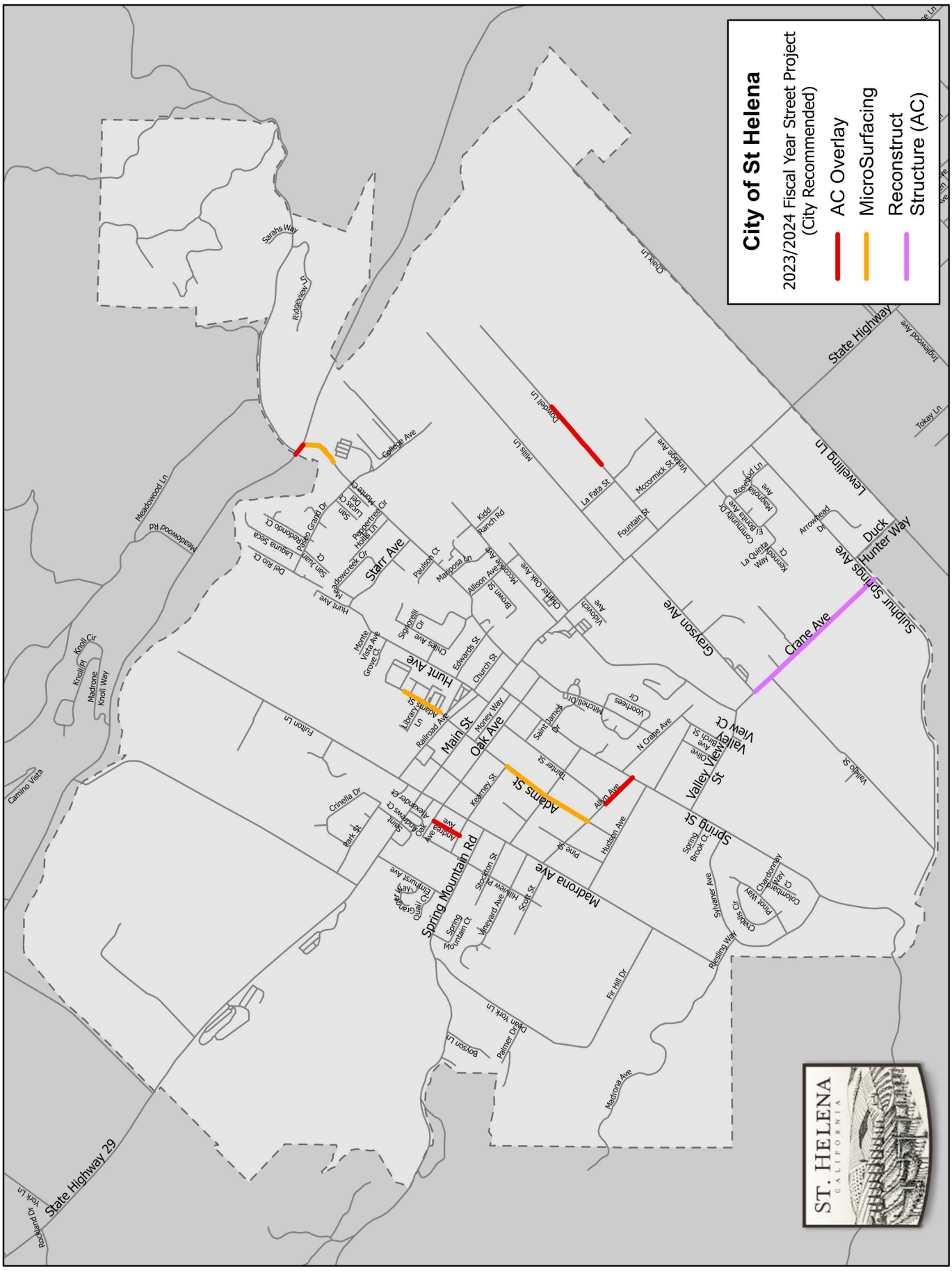
Note: The amount of a jurisdiction's annual bike expenditure must be a minimum of 6.67% of the anticipated revenue amount received from Measure T each year. Estimates by jurisdiction are shown on the table labeled "Measure T Revenue Estimates". Funding for Class 1 Multi-use path projects that are funded by philanthropy, state discretionary funding or federal discretionary funding shall not count as part of the 6.67 % expenditure obligation required to be eligible to receive Measure T revenues.

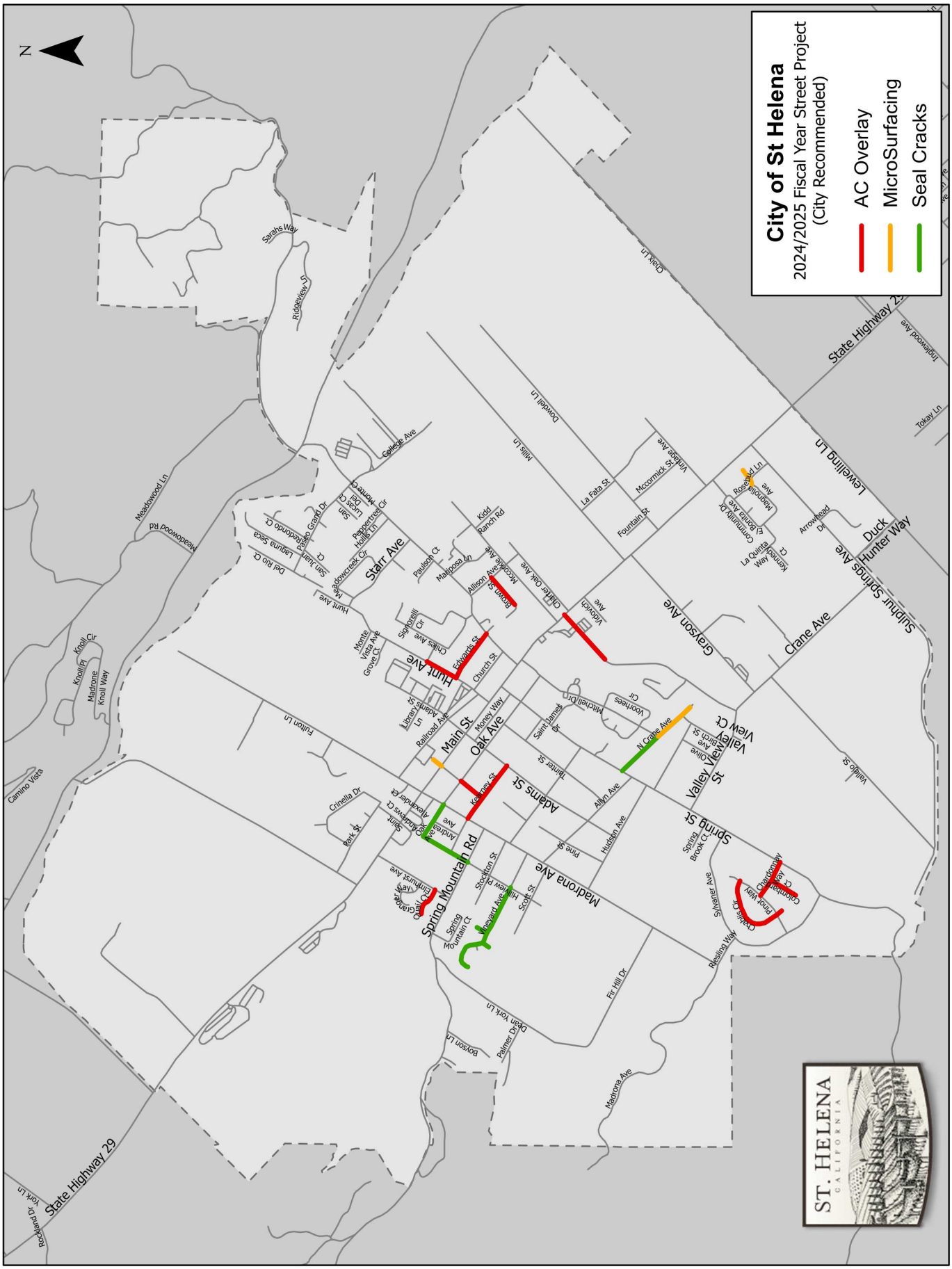
Comment: Please provide any additional information to explaing your project list. E.g. This project list is the jurisdiction's CIP, the jurisdiction opted to include additional projects to have flexibility in completing a variety of projects

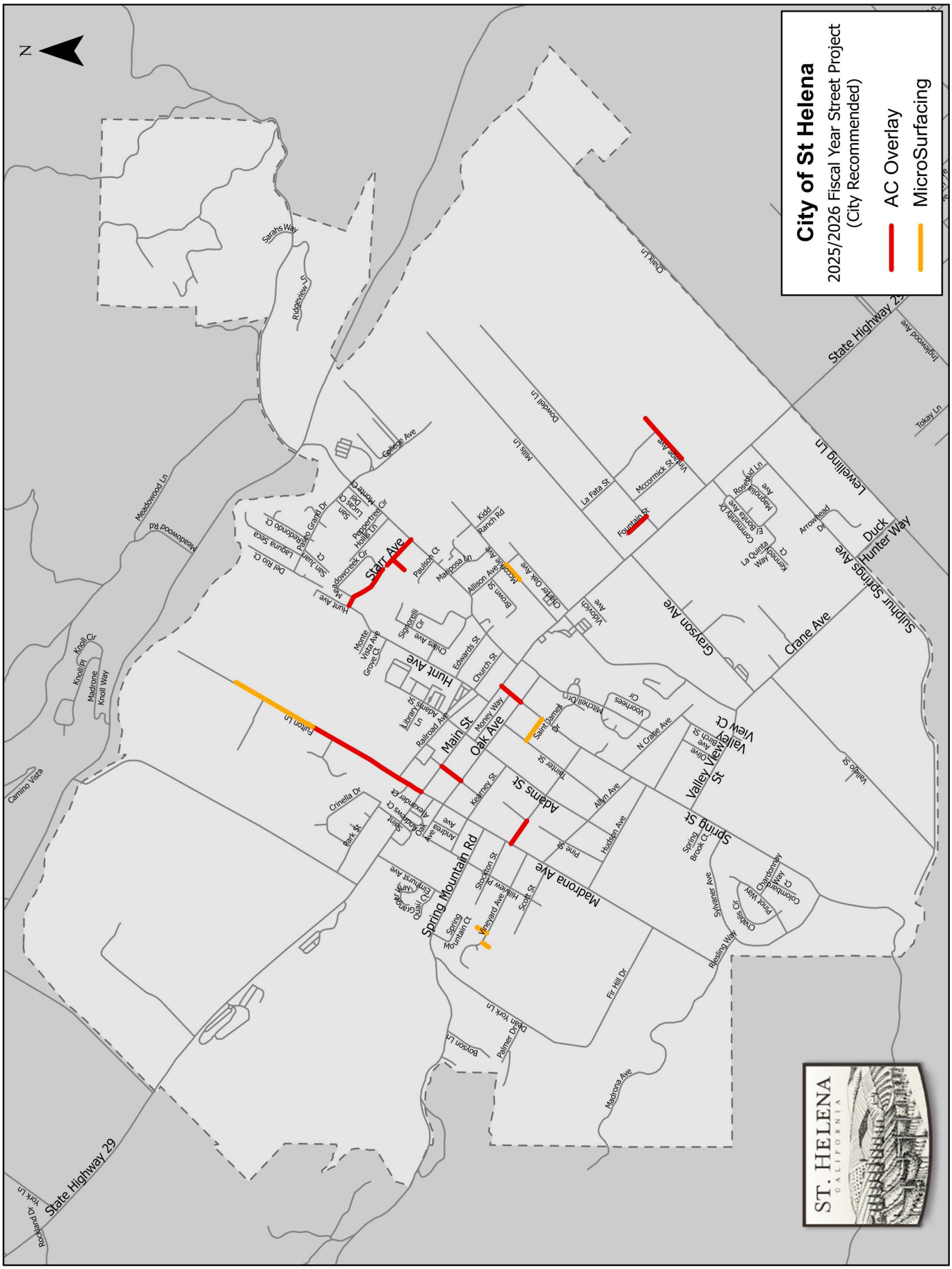
Note: The list will serve as the five-year list of projects required for submittal by each jurisdiction as stated in the Measure T Ordinance. These will be projects that will be delivered, depending on available revenues and when revenues become available. Prior to any allocation, jurisdictions will also be required to submit all of the necessary documentation requested as evidence of a ***public hearing*** to ensure that the members of the public were able to comment on the proposed project list as well as a Resolution in support of the proposed project list.

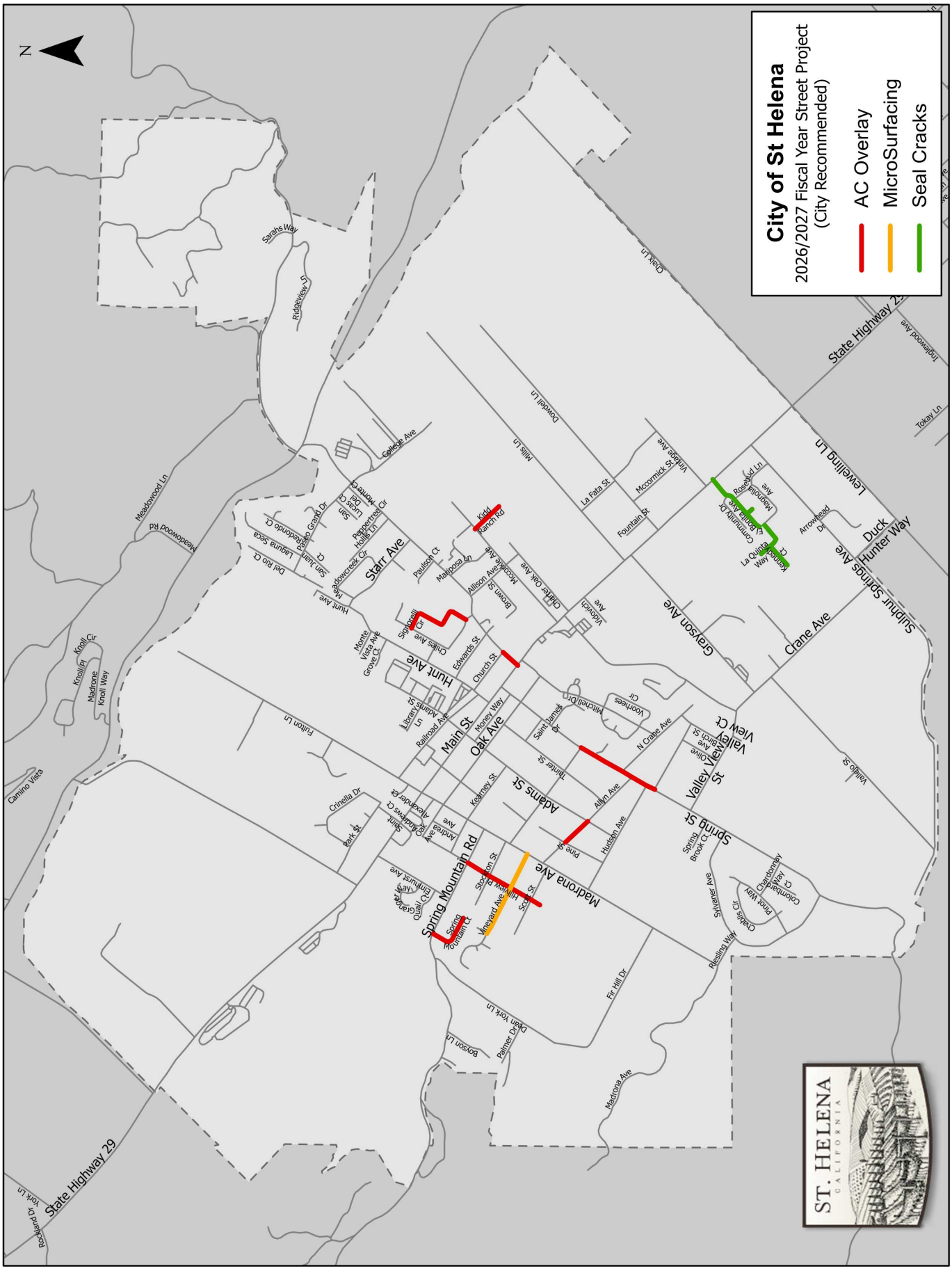

City of St Helena
5-Year Street Project
(City Recommended)
Fiscal Year
2022/2023
2023/2024
2024/2025
2025/2026
2026/2027
N
State Highway 29
Lewelling Ln
Sulphur Springs Ave
Duck Hunter Way
Crane Ave
Grayson Ave
Hunt Ave
Starr Ave
Main St
Oak Ave
Adams St
Spring St
Valley View St
Valley View Ct
Madrona Ave
Spring Mountain Rd
College Ave
Meadowood Rd
Meadowood Ln
Sarahs Way
Ridgeview Ln
Dowdell Ln
Mills Ln
La Fata St
Mccormick St
Fountain St
Vintage Ave
Kidd Ranch Rd
Mallposa Ln
Allison Ave
Brown St
Chalker Oak Ave
Vidovich Ave
Edwards St
Church St
Railroad Ave
Money Way
Saint James Dr
Mitchell Dr
Voorhees Cir
N Crane Ave
Kearney St
Adams St
Price St
Hudson Ave
Allyn Ave
Fulton Ln
Camino Vista
Crinella Dr
Park Dr
Alexander Ct
Andrea Ave
Stockton St
Hillcrest Ave
Quiet Oak Ct
Spring Mountain Ct
Sylvaner Ave
Chardonnay Way
Pinot Way Ct
Charbono Ct
Resting Way
Fir Hill Dr
Dean York Ln
Palmer Dr
Boyson Ln
Madrona Ave
Rockland Dr
York Ln
Tokay Ln
Tallwood Ave
White Ln
Chaix Ln
Arrowhead Dr
Meadowood Pkwy
Continuity Dr
La Quinta Way
Knoll Cir
Knoll Pl
Madrone Knoll Way
Monte Vista Ave
Grove Ct
Sigmund Cir
Del Rio Ct
Laguna Seca Ct
San Lucas Ct
San Juan Grade Dr
Peppertree Cir
Holly Ln
Meadowcreek Cir
Valley St
Spring Brook Ct
Olive Ave
Birch St
Valley Ct
ST. HELENA
CALIFORNIA


City of St Helena
2022/2023 Fiscal Year Street Project
(City Recommended)
AC Overlay
MicroSurfacing
Reconstruct Structure (AC)
N
Main St
Oak Ave
Hunt Ave
Starr Ave
Adams St
Spring St
Valley View St
Valley View Ct
Madrona Ave
Spring Mountain Rd
Grayson Ave
Crane Ave
Lewelling Ln
Sulphur Springs Ave
Duck Hunter Way
State Highway 29
State Highway 29
Railroad Ave
Church St
Edwards St
Kearney St
Allyn Ave
Hudson Ave
Price St
Stockton St
Scott St
Vineyard Ave
Hillview Pl
Money Way
Saint James Dr
Mitchell Dr
Yountees Cir
N Crane Ave
Fir Hill Dr
Palmer Dr
Dean York Ln
Boyson Ln
Madrona Ave
Resting Way
Silverado Trl
Chardonnay Ct
Pinot Way
Cabernet Way
Charles Cir
Spring Brook Ct
Valley St
Olive Ave
Birch St
Vallejo St
Fulton Ln
Camino Vista
Rockland Dr
York Ln
Knoll Cir
Knoll Pl
Madrone Knoll Way
Meadowood Rd
Meadowood Ln
Sarahs Way
Ridgeview Ln
Del Rio Ct
Laguna Seca Ct
San Juan Ct
San Pedro Grande Dr
Meadowcreek Cir
Hunt Ave
Monte Vista Ave
Monte Grove Ct
Siglerelli Cir
College Ave
Peppertree Cir
Holly Ln
Paulison Ct
Mariposa Ln
Kidd Ranch Rd
Allison Ave
McCorkle Ave
Brown St
Chalker Oak Ave
Vidovich Ave
Dowdell Ln
Mills Ln
La Fata St
Mccormick St
Village Ave
Fountain St
Chaix Ln
Tokay Ln
Inglewood Ave
Arrowhead Dr
Meadowood Dr
La Quinta Way
Kennedy Ct
El Bonita Ave
Community Dr
Meadowood Rosedale Ave
Lvn Ave
Adelaide Ln
Lucas Ln
Railroad Ave
Alexander Ct
Alexander Valley Rd
Andrea Ave
Park St
Crinella Dr
Quail Ridge Ct
Enchanted Way
Enchanted Ave
Spring Mountain Ct
Olive Ave
Birch St
Valley View Ct
Valley St
Spring St
Spring Brook Ct
Silverado Trl
Resting Way
Chardonnay Ct
Pinot Way
Cabernet Way
Charles Cir
Fir Hill Dr
Madrona Ave
Palmer Dr
Dean York Ln
Boyson Ln
Rockland Dr
York Ln
ST. HELENA
CALIFORNIA


City of St Helena
2023/2024 Fiscal Year Street Project
(City Recommended)
AC Overlay
MicroSurfacing
Reconstruct Structure (AC)
State Highway
Lewelling Ln
Duck Hunter Way
Sulphur Springs Ave
Crane Ave
Grayson Ave
Hunt Ave
Starr Ave
Main St
Oak Ave
Adams St
Valley View Ct
Valley View St
Spring St
Madrona Ave
Spring Mountain Rd
State Highway 29
Meadowood Rd
Meadowood Ln
College Ave
Dowdell Ln
La Fata St
Fountain St
Mccormick St
Village Ave
Mills Ln
Kidd Ranch Rd
Mariposa Ln
Allison Ave
Mccorkle Ave
Brown St
Chalker Oak Ave
Vidovich Ave
Edwards St
Church St
Cities Ave
Sightorelli Cir
Monte Vista Ave
Grove Ct
Adams St
Library Ln
Railroad Ave
Money Way
Saint James Dr
Mitchell Dr
Yountees Cir
N Crane Ave
Olive Ave
Birch St
Tanner St
Kearney St
Allyn Ave
Hudson Ave
Price St
Stockton St
Hillview Pl
Vineyard Ave
Scott St
Spring Brook Ct
Sylvaner Ave
Riesling Way
Chardonnay Way
Pinot Way
Cabernet Ct
Charlis Cir
Fir Hill Dr
Dean York Ln
Palmer Dr
Boyson Ln
Madrona Ave
Valle Vista Ave
Valle Vista Ct
Quail Crest Way
Enchanted Way
Spring Mountain Ct
Park Dr
Crinella Dr
Alexander Ct
Andrews Ct
Andrews Ave
Fulton Ln
Camino Vista
Knoll Ct
Knoll Pl
Madrone Knoll Way
Del Rio Ct
Laguna Seca
San Lucas Ct
San Lucas Dr
Pebble Beach Dr
Peppertree Ct
Holly Ln
Meadowcreek Cir
Meadowood Ct
Sarahs Way
Ridgeview Ln
Chalk Ln
Tokay Ln
Highwood Ave
Wappo Ave
Rockland Dr
York Ln
Arrowhead Dr
Meadowood Dr
Cinnamon Dr
El Bonita Ave
La Quinta Way
Kentucky Ct
Meadowlark Ave
Rose Ln
ST. HELENA
CALIFORNIA


City of St Helena
2024/2025 Fiscal Year Street Project
(City Recommended)
AC Overlay
MicroSurfacing
Seal Cracks
N
Main St
Oak Ave
Adams St
Spring St
Madrona Ave
Spring Mountain Rd
Hunt Ave
Starr Ave
Grayson Ave
Crane Ave
Sulphur Springs Ave
Duck Hunter Way
Lewelling Ln
Valley View Ct
Valley View St
State Highway 29
State Highway 29
Railroad Ave
Church St
Edwards St
Kearney St
Money Way
Library Ln
Tainter St
Allyn Ave
Hudson Ave
Prune St
Scott St
Stockton St
Hillcrest Ave
Hillcrest Pl
Meadowood Rd
Meadowood Ln
College Ave
Sarahs Way
Ridgeview Ln
Dowdell Ln
Mills Ln
La Fata St
McCormick St
Village Ave
Fountain St
Kidd Ranch Rd
Mallard Ln
Paulson Ct
Allison Ave
McCorkle Ave
Chalker Oak Ave
Vidovich Ave
Mitchell Dr
Yountees Cir
N Crane Ave
Olive Branch Ave
Valley St
Sylvaner Ave
Resling Way
Fir Hill Dr
Madrona Ave
Deer York Ln
Palmer Dr
Boyson Ln
Rockland Dr
York Ln
Camino Vista
Fulton Ln
Crinella Dr
Park Dr
Alexander Ct
Alexander Valley Rd
Andrea Ave
Spring Mountain Ct
Spring Brook Ct
Charles Ct
Chardonnay Way
Pinot Way
Tokay Ln
Tokalon Ave
Arrowhead Dr
Kenwood Ct
La Quinta Way
El Bonita Ave
Continuity Dr
Madrone Rosso Ave
Meadowcreek Cir
Peppertree Cir
Holly Ln
San Lucas Ct
San Juan Grande Dr
Laguna Seca Ct
Del Rio Ct
Monte Vista Ave
Grove Ct
Sighorelli Cir
Chiles Ave
Knoll Cir
Knoll Pl
Madrone Knoll Way
ST. HELENA
CALIFORNIA


City of St Helena
2025/2026 Fiscal Year Street Project
(City Recommended)
AC Overlay
MicroSurfacing
N
Main St
Oak Ave
Hunt Ave
Starr Ave
Adams St
Spring St
Valley View Ct
Valley St
Crane Ave
Grayson Ave
Lewelling Ln
Sulphur Springs Ave
Duck Hunter Way
Madrona Ave
Spring Mountain Rd
State Highway 29
State Highway 29
ST. HELENA
CALIFORNIA


City of St Helena
2026/2027 Fiscal Year Street Project
(City Recommended)
AC Overlay
MicroSurfacing
Seal Cracks
N
State Highway 29
Spring Mountain Rd
Madrona Ave
Main St
Oak Ave
Adams St
Spring St
Valley View St
Valley View Ct
Hunt Ave
Starr Ave
Grayson Ave
Crane Ave
Lewelling Ln
Sulphur Springs Ave
Duck Hunter Way
State Highway 29
ST. HELENA
CALIFORNIA

To: St. Helena City Council
From: Tracy McBride, 916 Hunt Ave
Date: 12/12/21

Subject: St Helena CITY COUNCIL Meeting 12/14/21 ITEM 10.1
Five-year list of projects under Measure T Program, AKA street repairs

The condition of the Hunt Avenue roadway is very poor, and while I believe it should be repaired from Main St to the city park, Hunt's Grove Park (the park without a sign), it should definitely be repaired from Edwards to not only June Lane, but to the current break in the pavement from old to new at the Hunt's Grove park. I believe the repair should consist of a serious repair, not a short-term solution to this well-used street, and a solution that keeps the drainage intact.

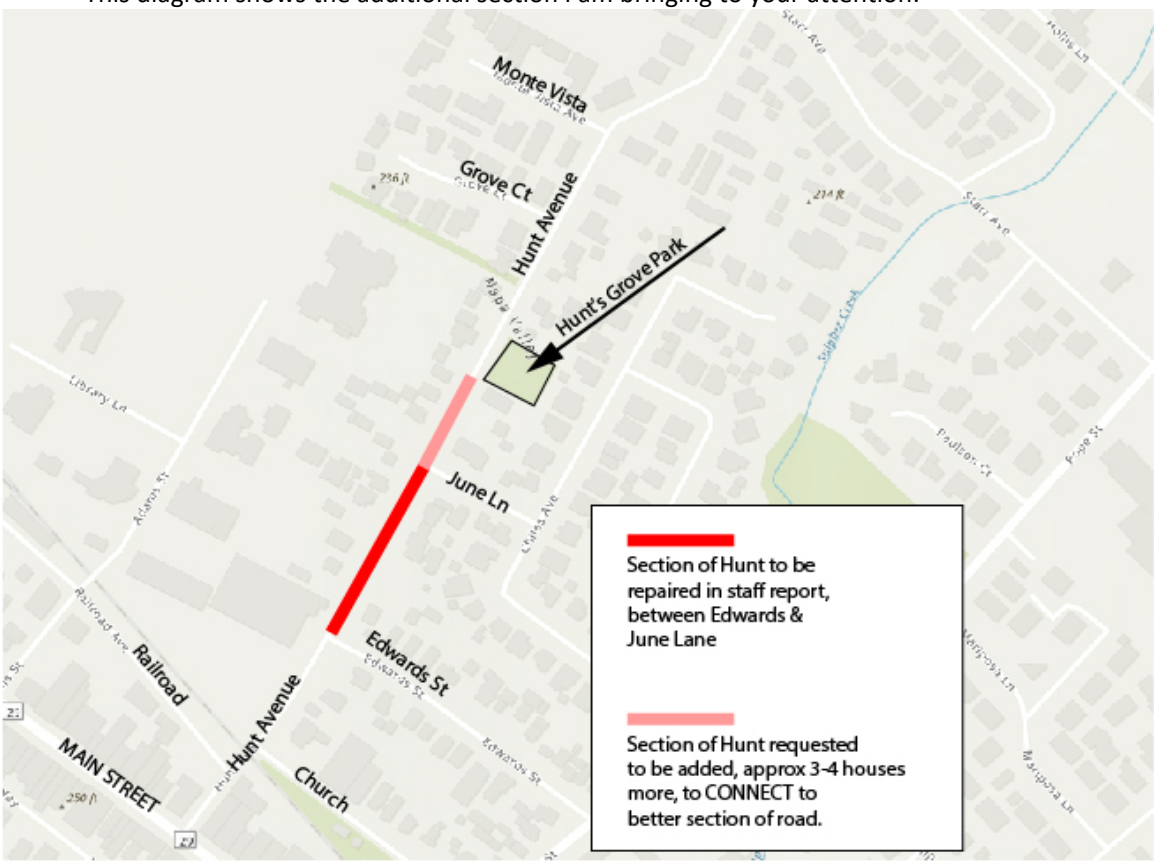
Per staff report, Hunt Ave between Edwards and June Lane is getting a repair of "2.5" AC OL w/Fabric" in FY 2023-2024. My points are this:

- The Hunt Ave road surface is very rough in a much larger section than is proposed.
- As a consequence of the rough road surface, **Hunt Ave is very loud** when cars and trucks pass by – we hear it inside the house and in the back yard. The sound of tires on a rough road is loud—they sound like snow tires on a challenge course 365 days a year. From the 12/10/19 City Council Meeting an unidentified Council Member understands it is unpleasant to live on a noisy road:

  > "I'm one of those people who takes that route [Sulphur Springs] to get to my house because it is easier than coming into Main St, and **I feel for those people who live on Sulphur Springs because the condition of the road makes it noisy when you are traveling down it**."

  Because the road is so rough from both potholes and rocky texture: trying to hold a conversation while cars are going by is actually difficult from both the front yard and it's also noisy from the backyard. I would much appreciate hearing less vehicle sounds from inside the house, such as from a smooth roadway.
- I am pleased so many people use Hunt Ave for walking and cycling to town. **Make Hunt Ave roadway safe,** especially for young people on bikes and elderly people crossing the street – no more uneven surfaces, no more rocky surfaces.
- Because Hunt Ave gets **a lot of automobile use** with so many residences all along Hunt Ave, Monte Vista Apartments, Woodbridge senior housing, Hunt's Grove Apartments, Grove Court houses, Meadowcreek neighborhood houses and it is a connector street to Pope Street—this generates **a lot of noise due to frequency of use in its current rocky state and it gets high usage so the quality of surface needs to last**.
- The section on Hunt Ave between June Lane and the city park (about 3 or 4 houses east from June Lane to Hunt's Grove Park) is in just as poor condition as is Hunt between Edwards/June. **There are two clear visual breaks on the pavement from rough, rocky road to smooth asphalt at approximately 867 Hunt <u>and</u> at the Hunt/Edwards**

intersection. Clearly this full stretch of rocky road should be considered as a whole, and this shorter segment should not be left in its current condition.
This diagram shows the additional section I am bringing to your attention:



- **Please do not make Hunt Avenue a series of alternating rough, smooth, rough, smooth surfaces.** A patchworked street is unattractive, unsafe and loud.
- **PLEASE approve an equitable solution to a very rough road.** I am seeing several other streets getting a longer stretch of renovation – at a minimum, Hunt from Edwards to Hunt's Grove Park should be repaired.
- **The condition of HUNT Ave truly between Main St and Hunts Grove park is almost equivalent to COLLEGE AVE which is getting a RECONSTRUCTION STRUCTURE in FY 22-23.** Hunt Avenue as a whole should be considered for serious renovation due to extremely high frequency of use. See attached photos. Please ensure Hunt Ave is not getting a shorter-term repair which will result in a poor-quality road in less than an adequate amount of time. Per SurbanAsphalt.com, **"it must be stated that one shortcoming of an asphalt overlay is that it doesn't last as long as a full reconstruction**." Please understand the expected lifetime of the Hunt Ave roadway

renovation before you vote for obvious reasons. This would be wasteful spending on many levels, to not fix it right the first time.

- **Please ensure the drainage is not disrupted as there is a slight leveling of the road with 2 subsurface drains between June Lane and Edwards. The height of the roadway should not push water onto residential properties.** Please take care with the drainage as this was an issue when the sidewalk/curb height was constructed at our property because the sidewalk, if elevated, was going to trap water on our property**. Is this proposal adding 2.5" to the height of the road?** This is highly inadvisable in my opinion, and can cause more problems which would be costly to address.
- When I see other smooth, good-condition streets getting maintenance sooner than Hunt Avenue, I am very disappointed.
- PLEASE don't put a seam of rough pavement to smooth pavement at our house AT THE INTERSECTION OF JUNE LANE AND HUNT so we have to hear the "ker-thunk" each time a car passes by.

Conclusion:

1) Repair Hunt Ave between Edwards and Hunt's Grove park.
2) Seriously repair Hunt Ave section with a long-lasting solution that does not disrupt drainage, ideally a full structural renovation not a surface treatment.
3) Review the full condition of Hunt Avenue as there are several failures, and areas of fair condition will need maintenance to remain in decent shape.

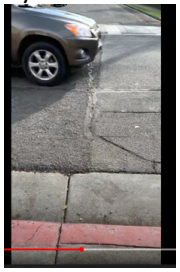
Sincerely,

Tracy McBride, tracymcbride22@gmail.com, 510-517-6202

Attachments:

HERE IS WHAT the ker-thunk sounds like at Hunt & Edwards smooth/rough pavement seam.
(LINK: https://drive.google.com/file/d/1RfTY4MGiMw2PqrHhI7yHJawuuaZu3vrt/view)

Here is what it looks and sounds like: (LINK:
https://drive.google.com/file/d/1C5aL8ZvyIhtKdTG4Tn5XODSLNEvmVh65/view)



Photos of Hunt Ave showing numerous failures between Main Street to Hunt's Grove Park

Hunt Ave Photos:





HUNT AVE NEAR SAFEWAY
NOT ON REPAIR LIST!


DETOUR
CITY OF ST HELENA
HUNT AVE
NEAR SAFEWAY
NOT ON REPAIR
LIST

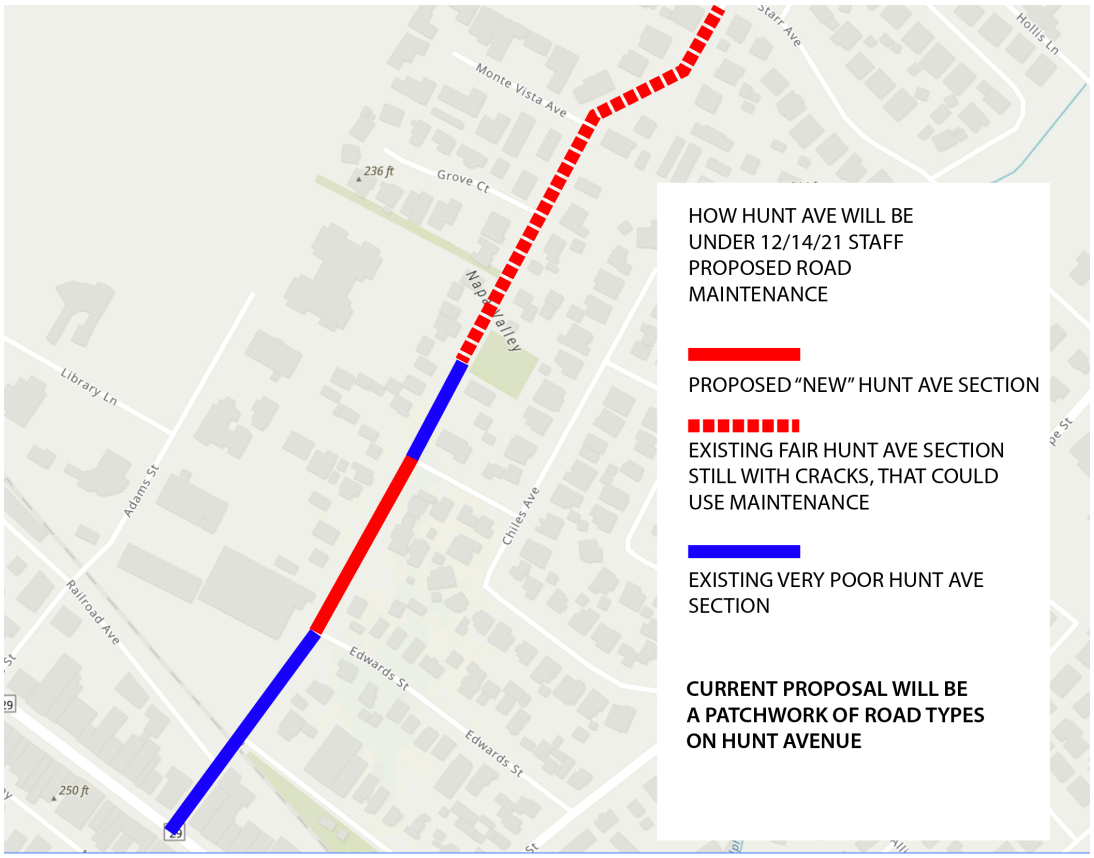

HUNT NEAR RAILROAD
NOT ON REPAIR LIST


HUNT NEAR MAIN
NOT ON REPAIR
LIST
W O N


HUNT NEAR
RAILROAD NOT
ON REPAIR LIST



SAFEWAY TREES BUCKLING STREET AND SIDEWALK


HOW HUNT AVE WILL BE UNDER 12/14/21 STAFF PROPOSED ROAD MAINTENANCE
PROPOSED "NEW" HUNT AVE SECTION
EXISTING FAIR HUNT AVE SECTION STILL WITH CRACKS, THAT COULD USE MAINTENANCE
EXISTING VERY POOR HUNT AVE SECTION
CURRENT PROPOSAL WILL BE A PATCHWORK OF ROAD TYPES ON HUNT AVENUE
Monte Vista Ave
Grove Ct
236 ft
Library Ln
Adams St
Railroad Ave
Edwards St
Edwards St
Chiles Ave
250 ft
Starr Ave
Hollis Ln

Dec 11, 2021
To St. Helena City Council,
Subject: Road repair and Paving Improvement

I support the Council's adoption of approving the five-year list of projects under Measure T Program. However, I implore you to consider repairing Hunt Ave sooner than the proposed 2024-25 timeframe. The chart in the report identifies the Hunt Ave work: '2.5" AC OL w/Fabric from Edwards to June Lane' only. In addition to repaving sooner, the distance should be extended further east past June Lane by approximately 100' until it reaches smooth pavement near the city park, Hunt's Grove Park, at 867 Hunt Ave.

I have inspected many of the roads that are identified in this report. I have driven on them as well as walked the proposed streets identified in this report. Several slated to be repaired in 2022-23 appear to be in good condition. Why are the roads in poorest condition such as Hunt Ave not prioritized over roads in satisfactory condition, which are also less trafficked? Hunt Ave is one of these streets that is in very poor condition and is failing with loose rock, broken and missing chunks of asphalt and large craters that measure several feet across.

I have included six photographs of dangerous variations in the surface of Hunt Ave between Edwards St and June Lane. Hunt Ave is one of the most heavily used streets on the east side of town, possibly as much as Pope Street. The 900 block of Hunt Ave is the worst section of street in the city of St Helena. If one were to ride a bicycle on this section, it is likely to cause loss of control, accidents, and bodily harm.

Was there any study of what roads are most trafficked, and was this part of the schedule prioritization? Is that information available to the public? How are the conditions of each road determined? Where can I see the report/text/facts on each relevant road?

In the Report to the City Council, paragraph 7, percentages are given for all roads in the city:

> "Taken as a network, the citywide average Pavement Condition Index (PCI) is 50. MTC's State of Repair report states that approximately 75 percent of a pavement's serviceable life has been expended by the time its PCI rating falls to 60. The PMP Report shows that approximately 35% of the City's roadway network is in 'Excellent' or 'Very Good' condition, 20% is in "Good" or 'Fair' condition, 15% is in "Poor" condition, and 30% is in 'Very Poor' condition."

I am shocked to read that the condition of nearly one-third of all roads in St Helena has been identified as very poor.

Which of the roads, identified as 30%, are 'very poor condition?'
Can the public see the list?
These are the roads that should be given priority.

I would also like to know how the type of repair is determined? What criteria decides whether a road is micro surfaced, overlayed or fully reconstructed?

QUALITY OF THE SURFACE
There are extreme variations in the surfaces of the streets in St Helena. Some are smooth, quiet to travel on and produce less vibration. Other roads are intolerable because they are coarse and rocky. These 'rough surface roads' are easily identified by driving on them. Standing on such a road surface one can clearly see rock elevated over the entire surface (3/4" or larger) which is protruding upward from the tar base. The distance that the rock projects is measurable at 3/8" to 1". This rough surface amplifies car tires to the degree that it is quite loud and very annoying even inside the house with doors and windows closed.
Is this texture of road a paving quality issue or by design?
Will the contract for resurfacing stipulate the surface texture/smoothness?
A smooth surface allows for water to flow off, which means less maintenance/cost later. A smooth surface is quieter for the neighborhood, safer for the bicyclist and the driver. A smooth surface provides less wear and tear on vehicles.

I encourage you to get out of your car and inspect the area of Hunt Street from ~867 Hunt Ave and walk the centerline toward Main Street. Be careful not to trip or twist your ankle.

Randy Hussong, Hunt Ave.













Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **PUBLIC HEARINGS**

Subject: **Consideration and Proposed Approval of an Urgency Ordinance adding Chapter 16.26 and Chapter 17.114 to the St. Helena Municipal Code to Implement SB9**

CEQA Determination: **Exempt**

Prepared By: Maya DeRosa, Planning & Building Director

Reviewed By: April Mitts, Administrative Services Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On September 16, 2021, Governor Newsom signed Senate Bills 8, 9, and 10 and several other housing related pieces of legislation. SB 9 will have an immediate implication as it requires, after January 1, 2021, that (1) a proposed housing development containing no more than two residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements (a "two-unit project"), and (2) any lot in a single-family residential zone may be split into two lots of roughly equivalent size with resulting lots as small as 1,200 square feet, also without discretionary review or hearing (an "urban lot split") (Attachment 1). The requirements set forth in SB 9 for two-unit projects are very limited, but include, among others:

- That the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low or very low income;
- That the proposed housing development would not require demolition or alteration of housing that has been occupied by a tenant in the last three years;

- That the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls (unless a local ordinance so allows); and
- That the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a City or County landmark or historic property or district.

Similarly, SB 9 only places very limited requirements on urban lot splits. The new law does, however, allow cities to adopt and apply objective standards to two-unit projects and urban lot splits, so long as they comply with SB 9 and do not preclude a property owner from building a two-unit project of a minimum size, or create a new lot of a minimum size as set forth in the statute.

With a significant portion of the City zoned for single-family residential use, this will have an immediate impact on the review of design review applications by the Planning Department.

DISCUSSION

The urgency ordinance adds two new sections to the City's Municipal Code: Chapter 16.26, Urban Lot Splits and Chapter 17.114, Two-Unit Projects.

SB 9 allows cities to impose objective zoning, subdivision, and design standards (collectively "objective development standards") on covered lot splits and two-unit projects. An objective standard is a regulation that does not involve personal or subjective judgement and that is verifiable by reference to an externa and uniform benchmark or criterion (e.g. a height limit).

Generally, the proposed ordinance is written to allow the City to exercise local control over SB 9 projects by enacting objective standards to address privacy concerns and to preserve the character of single family neighborhoods consistent with the limitations in SB 9. The proposed amendments to Chapters 16.26 and 17.114 are provided as Attachment 2. Among other things, the ordinance includes regulation governing the following:

- Locations where two-unit projects and urban lot splits are allowed (Single Family Residential zones-LR, LR-1A, MR and WW; not allowed in sensitive, dangerous, historic areas; two-units projects not on property that has been rented (within the last 3 years)

- Lot size (2,400 sf minimum required for an urban lot to split; 1,200 sf minimum for each of the resulting lots)

- Lot Access (each new lot must adjoin the right of way)

- Floor Area Ratio, Lot Coverage and Open Space (as required by underlying zoning, provided that the property owner must be able to build at least two primary units of at least 800 sf each)
- Unit Height (as required by underlying zoning)
- Setbacks (as required by underlying zoning except as necessary to allow two units at 800 sf each; but no less than 4 feet side and rear)
- Use (residential only, no short-term rental)
- Parking (one space-covered or uncovered, unless exempt by statute)
- Owner occupancy (three year minimum on urban lot splits)
- Architecture and Privacy (must match other dwellings or dwellings on the property; setback restrictions are imposed on upper story unenclosed landings, decks and balconies)
- Landscaping (establishes screening requirements along property lines adjoining other residents)
- Utilities (each individual dwelling unit must have direct connections to service providers)
- Separate conveyance of dwelling units within a single lot is prohibited
- A deed restriction is required prohibiting short-term rental, non-residential use, or separate conveyance and clarifying that development on a lot created by an urban lot split is subject to the requirements of Chapter 16.26
- Notice of Construction (At least 30 days before starting any construction on a lot created by an urban lot split or before starting construction of a two-unit project, the property owner must give written notice to all adjacent property owners)

As part of the Zoning Code Update work effort, objective standards have been drafted to streamline the city's discretionary review process for all multi-unit residential development. As part of that work, draft objective standards for single family residential have been developed but need further refinement to ensure that they are consistent with the intent of SB 9. Staff will bring an amendment to this urgency ordinance with more detailed objective standards to the Planning Commission in early 2022 followed by City Council consideration.

If the City Council does not adopt the proposed ordinance, then the City would be limited to applying the Code's existing development standards which did not anticipate and were

not enacted with ministerially -approved lot splits and two-unit projects in mind. Approving such projects based solely on the code's existing standards would, among other things, pose an immediate threat to the character of existing neighborhoods and negatively impact personal privacy.

FISCAL IMPACT
No fiscal impact.

RECOMMENDED ACTION
Adopt urgency ordinance by a 4/5 vote.

ATTACHMENTS
Attachment 1-SB 9 Bill Text
Attachment 2-Final ST. HELENA - Urgency Ordinance re SB 9 Code Amendments

STATE OF CALIFORNIA
LEGISLATIVE COUNSEL BUREAU
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

Senate Bill No. 9

CHAPTER 162

An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.

[Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 9, Atkins. Housing development: approvals.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill, among other things, would require a proposed housing development containing no more than 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including, but not limited to, that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided, and that the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving the construction of 2 residential units, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of up to 2 units or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24

months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill, among other things, would require a local agency to ministerially approve a parcel map for an urban lot split that meets certain requirements, including, but not limited to, that the urban lot split would not require the demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the parcel is located within a single-family residential zone, and that the parcel is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving an urban lot split, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of 2 units, as defined, on either of the resulting parcels or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances. The bill would require an applicant to sign an affidavit stating that they intend to occupy one of the housing units as their principal residence for a minimum of 3 years from the date of the approval of the urban lot split, unless the applicant is a community land trust or a qualified nonprofit corporation, as specified. The bill would prohibit a local agency from imposing any additional owner occupancy standards on applicants. By requiring applicants to sign affidavits, thereby expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

The California Coastal Act of 1976 provides for the planning and regulation of development, under a coastal development permit process, within the coastal zone, as defined, that shall be based on various coastal resources planning and management policies set forth in the act.

This bill would exempt a local agency from being required to hold public hearings for coastal development permit applications for housing developments and urban lot splits pursuant to the above provisions.

By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

The people of the State of California do enact as follows:

SECTION 1. Section 65852.21 is added to the Government Code, to read:

65852.21. (a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

(1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:

(A) If a local ordinance so allows.

(B) The site has not been occupied by a tenant in the last three years.

(6) The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(b) (1) Notwithstanding any local law and except as provided in paragraph (2), a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this section.

(2) (A) The local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.

(B) (i) Notwithstanding subparagraph (A), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(ii) Notwithstanding subparagraph (A), in all other circumstances not described in clause (i), a local agency may require a setback of up to four feet from the side and rear lot lines.

(c) In addition to any conditions established in accordance with subdivision (b), a local agency may require any of the following conditions when considering an application for two residential units as provided for in this section:

(1) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(2) For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

(d) Notwithstanding subdivision (a), a local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is

no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(f) Notwithstanding Section 65852.2 or 65852.22, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.

(g) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(h) Local agencies shall include units constructed pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(i) For purposes of this section, all of the following apply:

(1) A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.

(2) The terms "objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(3) "Local agency" means a city, county, or city and county, whether general law or chartered.

(j) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.

SEC. 2. Section 66411.7 is added to the Government Code, to read:

66411.7. (a) Notwithstanding any other provision of this division and any local law, a local agency shall ministerially approve, as set forth in this section, a parcel map for an urban lot split only if the local agency determines that the parcel map for the urban lot split meets all the following requirements:

(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet.

(B) A local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval under this subdivision.

(3) The parcel being subdivided meets all the following requirements:

(A) The parcel is located within a single-family residential zone.

(B) The parcel subject to the proposed urban lot split is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(C) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(iv) Housing that has been occupied by a tenant in the last three years.

(E) The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(F) The parcel has not been established through prior exercise of an urban lot split as provided for in this section.

(G) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.

(b) An application for a parcel map for an urban lot split shall be approved in accordance with the following requirements:

(1) A local agency shall approve or deny an application for a parcel map for an urban lot split ministerially without discretionary review.

(2) A local agency shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division

2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

(3) Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section.

(c) (1) Except as provided in paragraph (2), notwithstanding any local law, a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to a parcel created by an urban lot split that do not conflict with this section.

(2) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.

(3) (A) Notwithstanding paragraph (2), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(B) Notwithstanding paragraph (2), in all other circumstances not described in subparagraph (A), a local agency may require a setback of up to four feet from the side and rear lot lines.

(d) Notwithstanding subdivision (a), a local agency may deny an urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) In addition to any conditions established in accordance with this section, a local agency may require any of the following conditions when considering an application for a parcel map for an urban lot split:

(1) Easements required for the provision of public services and facilities.

(2) A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

(3) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(f) A local agency shall require that the uses allowed on a lot created by this section be limited to residential uses.

(g) (1) A local agency shall require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the

housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.

(2) This subdivision shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.

(3) A local agency shall not impose additional owner occupancy standards, other than provided for in this subdivision, on an urban lot split pursuant to this section.

(h) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(i) A local agency shall not require, as a condition for ministerial approval of a parcel map application for the creation of an urban lot split, the correction of nonconforming zoning conditions.

(j) (1) Notwithstanding any provision of Section 65852.2, 65852.21, 65852.22, 65915, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section.

(2) For the purposes of this section, "unit" means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in Section 65852.2, or a junior accessory dwelling unit as defined in Section 65852.22.

(k) Notwithstanding paragraph (3) of subdivision (c), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(*l*) Local agencies shall include the number of applications for parcel maps for urban lot splits pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(m) For purposes of this section, both of the following shall apply:

(1) "Objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(n) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be

considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(o) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for urban lot splits pursuant to this section.

SEC. 3. Section 66452.6 of the Government Code is amended to read:

66452.6. (a) (1) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 24 months. However, if the subdivider is required to expend two hundred thirty-six thousand seven hundred ninety dollars ($236,790) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way that abut the boundary of the property to be subdivided and that are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 48 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2012, and each calendar year thereafter, the amount of two hundred thirty-six thousand seven hundred ninety dollars ($236,790) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) “Public improvements,” as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) The length of time specified in paragraph (1) shall be extended for up to three years, but in no event beyond January 1, 1992, during the pendency of any lawsuit in which the subdivider asserts, and the local agency that approved or conditionally approved the tentative map denies, the existence or application of a development moratorium to the tentative map.

(3) Once a development moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed before the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Before the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action before expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency that owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency that owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency that owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

SEC. 4. The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1 and 2 of this act adding Sections 65852.21 and 66411.7 to the Government Code and Section 3 of this act amending Section 66452.6 of the Government Code apply to all cities, including charter cities.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or

because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O

ORDINANCE NO. ___

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. HELENA ADDING CHAPTERS 16.26 AND 17.114 OF THE ST. HELENA MUNICIPAL CODE RELATING TO URBAN LOT SPLITS AND TWO-UNIT PROJECTS

WHEREAS, the City of St. Helena is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, in 2021, the California Legislature approved, and the Governor signed into law Senate Bill 9 ("SB 9"), which among other things, adds Government Code section 65852.21 and 66411.7 to impose new limits on local authority to regulate urban lot splits and two-unit projects; and

WHEREAS, SB 9 allows local agencies to adopt objective design, development, and subdivision standards for urban lot splits and two-unit projects; and

WHEREAS, SB 9 takes effect January 1, 2022, and preempts any conflicting city ordinance; and

WHEREAS, the City desires to amend its local regulatory scheme to comply with Government Code sections 66411.7 and 65852.21 and to appropriately regulate projects under SB 9; and

WHEREAS, there is a current and immediate threat to the public health, safety, or welfare based on the passage of the new SB 9 Law because if the City does not adopt appropriate objective standards for urban lot splits and two-unit projects under SB 9 as of January 1, 2022, the City would thereafter be limited to applying the few objective standards that already in its code, which did not anticipate and were not enacted with urban lot splits and ministerial two-unit projects in mind; and

WHEREAS, the approval of urban lot splits and two-unit projects based solely on the City's default standards, without appropriate regulations governing lot configuration, unit size, height, setback, landscape, and design, among other things, would threaten the character of existing neighborhoods, and negatively impact property values and personal privacy. These threats to public safety, health, and welfare justify adoption of this ordinance as an urgency ordinance to be effective immediately upon adoption by a four-fifths vote of the City Council; and

WHEREAS, pursuant to Government Code section 36937, the City may adopt an urgency ordinance if it is for the immediate preservation of the public peace, health, or safety.

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

Section 1. The recitals above are each incorporated by reference and adopted as findings by the City Council

Section 2. Under California Government Code sections 65852.21(j), and 66411.7(n), the adoption of an ordinance by a city or county implementing the provisions of Government Code sections 66411.7 and 65852.21 and regulating urban lot splits and two-unit projects is statutorily exempt from the requirements of the California Environmental Quality Act ("CEQA"). Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements these new laws enacted by SB 9.

Section 3. Chapter 16.26 is hereby added to the St. Helena Municipal Code as as set forth in Exhibit A, attached hereto and incorporated herein by reference.

Section 4. Chapter 17.114 is hereby added to the St. Helena Municipal Code as set forth in Exhibit B, attached hereto and incorporated herein by reference.

Section 5. The City hereby finds, determines, and declares that this Urgency Ordinance is necessary to protect the health, safety, and welfare of the public as it is essential to enact appropriate regulations governing lot configuration, unit size, height, setback, landscape, and design, among other things, in order to maintain the character of existing neighborhoods, and mitigate negative impacts to property values and personal privacy.

Therefore, the City further finds, determines, and declares that this Ordinance takes effect immediately upon adoption by a four-fifths vote of the City Council under the authority conferred upon it by California Government Code section 36937.

Section 6. The City Clerk is hereby directed to certify as to the adoption of this Ordinance and cause it to be published in a newspaper of general circulation within 15 days of adoption and post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with California Government Code Section 36933.

The City Clerk is hereby directed to certify as to the adoption of this Ordinance and cause it to be published in a newspaper of general circulation within 15 days of adoption and post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with California Government Code Section 36933.

Section 7. If any provision of this Ordinance or its application to any person or circumstance is held to be invalid, all other provisions and applications of the Ordinance that can be given effect without the invalid provision or application must be given effect, and to this extent, the provisions of this Ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any portion thereof.

THE FOREGOING ORDINANCE was adopted as an urgency ordinance by a four-fifths vote at a regular meeting of the St. Helena City Council on the 14th day of December, 2021, by the following vote:

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

APPROVED:

_____
Geoff Ellsworth, Mayor

ATTEST:

CITY OF ST. HELENA

_____
Cindy Tzafopoulos, City Clerk

I, CINDY TZAFOPOULOS, CITY CLERK of the City of St. Helena, California, do hereby certify that the foregoing Urgency Ordinance was approved by a four-fifths vote at a regular meeting of the City Council on the 14th day of December, 2021, by the following vote:

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

EXHIBIT A

Chapter 16.26 URBAN LOT SPLITS

16.26.010 Purpose. The purpose of this section is to allow and appropriately regulate urban lot splits in accordance with Government Code section 66411.7.

16.26.020 Definition. An "urban lot split" means the subdivision of an existing, legally subdivided lot into two lots in accordance with the requirements of this section.

16.26.030 Application.

A. Only individual property owners may apply for an urban lot split. "Individual property owner" means a natural person holding fee title individually or jointly in the person's own name or a beneficiary of a trust that holds fee title. "Individual property owner" does not include any corporation or corporate person of any kind (partnership, LP, LLC, C corp, S corp, etc.) except for a community land trust (as defined by Rev. & Tax Code § 402.1(a)(11)(C)(ii)) or a qualified nonprofit corporation (as defined by § 214.15).

B. An application for an urban lot split must be submitted on the city's approved form. Only a complete application will be considered. The city will inform the applicant in writing of any incompleteness within 30 days after the application is submitted.

C. The city may establish a fee to recover its costs for adopting, implementing, and enforcing this section of the code, in accordance with applicable law. The city council may establish and change the fee by resolution. The fee must be paid with the application.

16.26.040 Approval.

A. An application for a parcel map for an urban lot split is approved or denied ministerially, by the planning and building director, without discretionary review.

B. A parcel map for an urban lot split is approved ministerially if it complies with all the requirements of this section. The tentative parcel map may not be recorded. A final parcel map is approved ministerially as well, but not until the owner demonstrates that the required documents have been recorded, such as the deed restriction and easements. The tentative parcel map expires three months after approval.

C. The approval must require the owner and applicant to hold the city harmless from all claims and damages related to the approval and its subject matter.

D. The approval must require the owner and applicant to reimburse the city for all costs of enforcement, including attorneys' fees and costs associated with enforcing the requirements of this code.

16.26.050 Requirements. An urban lot split must satisfy each of the following requirements:

A. Map Act Compliance.

1. The urban lot split must conform to all applicable objective requirements of the Subdivision Map Act (Gov. Code § 66410 et. seq., "SMA"), as well as all applicable implementing requirements set forth in this Title 16 of the Municipal Code.

2. If an urban lot split violates any part of the SMA, the city's subdivision regulations, including this section, or any other legal requirement:

(a) The buyer or grantee of a lot that is created by the urban lot split has all the remedies available under the SMA, including but not limited to an action for damages or to void the deed, sale, or contract.

(b) The city has all the remedies available to it under the SMA,

3. Notwithstanding section 66411.1 of the SMA, no dedication of rights-of-way or construction of offsite improvements is required for an urban lot split.

B. Zone. The lot to be split must be located in a single-family residential zone. For purposes of this section, single-family residential zones include the following zoning districts in the City: MR, LR, LR-1, WW.

C. Lot Location. The lot to be split may not be located on a site that is any of the following:

1. Prime farmland, farmland of statewide importance, or land that is zoned or designated for agricultural protection or preservation by the voters.

2. A wetland.

3. Within a very high fire hazard severity zone, unless the site complies with all fire-hazard mitigation measures required by existing building standards.

4. A hazardous waste site that has not been cleared for residential use.

5. Within a delineated earthquake fault zone, unless all development on the site complies with applicable seismic protection building code standards.

6. Within a 100-year flood hazard area, unless the site has either:

(a) been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction, or

(b) meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.

(c) Within a regulatory floodway, unless all development on the site has received a no-rise certification.

(d) Land identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan.

7. Habitat for protected species.

8. Land under conservation easement.

D. Not Historic. The lot to be split must not be a historic property or within a historic district that is included on the State Historic Resources Inventory. The lot also may not be or be within a site that is designated by ordinance to be within a historic preservation district, as a city or county landmark or as a historic property or district.

E. No Prior Urban Lot Split.

1. The lot to be split may not be established through a prior urban lot split.

2. The lot to be split may not be adjacent to any lot that was established through a prior urban lot split by the owner of the lot to be split or by any person acting in concert with the owner. As used herein, "any person acting in concert with the owner" means any third party that coordinates or assists the owners of two adjacent lots with their respective urban lot splits.

F. No Impact on Protected Housing. The urban lot split must not require or include the demolition or alteration of any of the following types of housing:

1. Housing that is income-restricted for households of moderate, low, or very low income.

2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its policy power.

3. Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Gov. Code §§ 7060–7060.7) at any time in the 15 years prior to submission of the urban lot split application.

4. Housing that has been occupied by a tenant in the last three years. The applicant and the owner of a property for which an urban lot split is sought must provide a sworn statement as to this fact with the application for the parcel map. The city may conduct its own inquiries and investigation to ascertain the veracity of the sworn statement, including but not limited to, surveying owners of nearby properties; and the city may require additional evidence of the applicant and owner as necessary to determine compliance with this requirement.

G. Lot Size.

1. The lot to be split must be at least 2,400 square feet.

2. The resulting lots must each be at least 1,200 square feet.

3. Each of the resulting lots must be between 60 percent and 40 percent of the original lot area.

H. Easements.

1. The owner must enter into an easement agreement with each public-service provider to establish easements that are sufficient for the provision of public services and facilities to each of the resulting lots.

2. Each easement must be shown on the tentative parcel map. Copies of the unrecorded easement agreements must be submitted with the application. The easement agreements must be recorded against the property before the final map may be approved, in accordance with Section 16.26.040(B) above.

I. Lot Access.

1. Each resulting lot must adjoin the public right of way.

2. Each resulting lot must have frontage on the public right of way of at least 20 feet.

J. Unit Standards.

1. Quantity. No more than two dwelling units of any kind may be built on a lot that results from an urban lot split. For purposes of this paragraph, "unit" means any dwelling unit, including, but not limited to, a primary dwelling unit, a unit created under Chapter 17.114 of this code, an ADU, or a JADU

2. Floor Area Ratio, Height Limitations, Lot Coverage and Open Space Requirements. All existing standards in Title 17 of this Code related to floor area ratio, height limitations, lot coverage and open space requirements shall apply to lots created pursuant to this Chapter, except to the extent that such standards would prevent two primary dwelling units of at least 800 square feet each to be constructed on the lot.

3. Setbacks.

(a) Generally. All setbacks must conform to those objective setbacks that are imposed in the underlying zone.

(b) Exceptions. Notwithstanding subsection 0 above:

(i) Existing Structures. No setback is required for an existing legally established structure or for a new structure that is reconstructed in the same location and to the same dimensions as an existing legally established structure.

(ii) The setbacks imposed by the underlying zone must yield to the degree necessary to avoid physically precluding the construction of up to two units on the lot or either of the two units from being at least 800 square feet in floor area; but in no event may any structure be less than four feet from a side or rear property line.

(iii) Front Setback Area. Notwithstanding any other part of this code, dwellings that are constructed after an urban lot split must be consistent with the front setback requirements of the underlying zoning district.

4. Parking. Each new primary dwelling unit that is built on a lot after an urban lot split must have at least one covered or uncovered off-street parking space per unit and a driveway connected to a public street unless one of the following applies:

(a) The lot is located within one-half mile walking distance of either

(i) a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours or

(ii) a site that otherwise qualifies as a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.

(b) The site is located within one block of a permanent, marked location for car-share vehicle pickup and dropoff.

5. Design Standards. Each new primary dwelling unit shall comply with all objective standards as set forth in Title 17 of this Code as applicable in the underlying zoning district. Additionally, all development on a lot created by an urban lot split shall comply with all of the following:

(a) All exterior lighting must be limited to down-lights.

(b) If a dwelling is constructed on a lot after an urban lot split and any portion of the dwelling is less than 30 feet from a property line that is not a public right-of-way line, then all windows and doors in that portion must either be (for windows) clerestory with the bottom of the glass at least six feet above the finished floor, or (for windows and for doors) utilize frosted or obscure glass.

(c) No rooftop decks shall be allowed on new dwelling units constructed on lots created by an urban lot split.

(d) Upper story unenclosed landings, decks and balconies greater than 20 square feet that face or overlook an adjoining property, shall be located a minimum of 15 feet from the interior lot lines.

6. Landscaping. Evergreen landscape screening must be planted and maintained between each dwelling and adjacent lots along interior lot lines (but not rights of way) as follows:

(a) At least one 15-gallon size plant shall be provided for every five linear feet of exterior wall of the dwelling unit. Alternatively, at least one 24" box size plant shall be provided for every ten linear feet of exterior wall of the dwelling unit.

(b) Plant specimens must be at least six feet tall when installed. As an alternative, a solid fence of at least 6 feet in height may be installed. All landscaping must be drought tolerant.

(c) A complete landscaping and irrigation plan shall be submitted and approved by the Planning and Building Department prior to the issuance of building permits for construction of one or more dwelling units on a lot created pursuant to this Chapter.

7. Nonconforming Conditions. An urban lot split may be approved without requiring a legal nonconforming zoning condition to be corrected.

8. Utilities. Each primary dwelling unit on the resulting lots must have its own direct utility connection to the utility service provider.

9. Building & Safety. All structures built on the lot must comply with all current local building standards. An urban lot split is a change of use.

10 Stormwater and Runoff Pollution Control. All construction activity or development that occurs on a lot created pursuant to this Chapter shall comply all requirements of Chapter 13.32 of this Code (Stormwater and Runoff Control).

K. Separate Conveyance.

1. Within a resulting lot.

a. Primary dwelling units on a lot that is created by an urban lot split may not be owned or conveyed separately from each other.

b. Condominium airspace divisions and common interest developments are not permitted on a lot that is created by an urban lot split.

c. All fee interest in a lot and all dwellings on the lot must be held equally and undivided by all individual property owners.

2. Between resulting lots. Separate conveyance of the resulting lots is permitted. If dwellings or other structures (such as garages) on different lots are adjacent or attached to each other, the urban lot split boundary may separate them for conveyance purposes if the structures meet building code safety standards and are sufficient to allow separate

conveyance. If any attached structures span or will span the new lot line, the owner must record appropriate CC&Rs, easements, or other documentation that is necessary to allocate rights and responsibility between the owners of the two lots.

L. Regulation of Uses.

1. Residential-only. No non-residential use is permitted on any lot created by urban lot split.

2. No Short Term Rentals. No dwelling unit on a lot that is created by an urban lot split may be rented for a period of less than 30 days.

3. Owner Occupancy. The applicant for an urban lot split must sign an affidavit stating that the applicant intends to occupy one of the dwelling units on one of the resulting lots as the applicant's principal residence for a minimum of three years after the urban lot split is approved.

M. Notice of Construction.

1. At least 30 business days before starting any construction of a structure on a lot created by an urban lot split, the property owner must give written notice to all the owners of record of each of the adjacent residential parcels, which notice must include the following information:

a. Notice that construction has been authorized,

b. The anticipated start and end dates for construction,

c. The hours of construction,

d. Contact information for the project manager (for construction-related complaints), and

e. Contact information for the Planning & Building Department.

2. This notice requirement does not confer a right on the noticed persons or on anyone else to comment on the project before permits are issued. Approval is ministerial. Under state law, the City has no discretion in approving or denying a particular project under this section. This notice requirement is purely to promote neighborhood awareness and expectation.

N. Deed Restriction. Prior to approval of the final map for an urban lot split, the owner must record a deed restriction, acceptable to the city, that does each of the following:

1. Expressly prohibits any rental of any dwelling on the property for a period of less than 30 days.

2. Expressly prohibits any non-residential use of the lots created by the urban lot split.

3. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot.

4. States that the property is formed by an urban lot split and is therefore subject to the city's urban lot split regulations.

16.26.060 Specific Adverse Impacts.

A. Notwithstanding anything else in this section, the city may deny an application for an urban lot split if the building official makes a written finding, based on a preponderance of the evidence, that the project would have a "specific, adverse impact" on either public health and safety or on the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

B. "Specific adverse impact" has the same meaning as in Gov. Code § 65589.5(d)(2): "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" and does not include (1) inconsistency with the zoning ordinance or general plan land use designation or (2) the eligibility to claim a welfare exemption under Revenue and Taxation Code section 214(g).

C. The building official may consult with and be assisted by planning staff and others as necessary in making a finding of specific, adverse impact.

EXHIBIT B

Chapter 17.114 TWO-UNIT PROJECTS

17.114.010 Purpose. The purpose of this section is to allow and appropriately regulate two-unit projects in accordance with Government Code section 65852.21.

17.114.020 Definition. A "two-unit project" means the development of two primary dwelling units or, if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit on a legally subdivided lot in accordance with the requirements of this section.

17.114.030 Application.

A. An application for a two-unit project must be submitted on the city's approved form.

B. Only a complete application will be considered. The city will inform the applicant in writing of any incompleteness within 30 days after the application is submitted.

C. The city may establish a fee to recover its costs for adopting, implementing, and enforcing this section of the code, in accordance with applicable law. The city council may establish and change the fee by resolution. The fee must be paid with the application.

17.114.040 Approval.

A An application for a two-unit project is approved or denied ministerially, by the planning and building director, without discretionary review.

B. The ministerial approval of a two-unit project does not take effect until the city has confirmed that the required documents have been recorded, such as the deed restriction and easements.

C. The approval must require the owner and applicant to hold the city harmless from all claims and damages related to the approval and its subject matter.

D. The approval must require the owner and applicant to reimburse the city for all costs of enforcement, including attorneys' fees and costs associated with enforcing the requirements of this code.

17.114.050 Requirements. A two-unit project must satisfy each of the following requirements:

A. Map Act Compliance. The lot upon which the two-unit project will be located must have been legally subdivided.

B. Zone. The two-unit project must be located in a single-family residential zone. For purposes of this section, single-family residential zones include the following zoning districts in the City: MR, LR, LR-1, and WW.

C. Lot Location. The two-unit project may not be located on a site that is any of the following:

1. Prime farmland, farmland of statewide importance, or land that is zoned or designated for agricultural protection or preservation by the voters.

2. A wetland.

3. Within a very high fire hazard severity zone, unless the site complies with all fire-hazard mitigation measures required by existing building standards.

4. A hazardous waste site that has not been cleared for residential use.

5. Within a delineated earthquake fault zone, unless all development on the site complies with applicable seismic protection building code standards.

6. Within a 100-year flood hazard area, unless the site has either:

(a) been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction, or

(b) meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.

(c) Within a regulatory floodway, unless all development on the site has received a no-rise certification.

(d) Land identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan.

7. Habitat for protected species.

8. Land under conservation easement.

D. Not Historic. The two-unit project must not be located on a historic property or within a historic district that is included on the State Historic Resources Inventory. Further the property upon which the two-unit project will be located also may not be or be within a site that is designated by ordinance to be within a historic preservation district, as a city or county landmark or as a historic property or district.

E. No Impact on Protected Housing. The two-unit project must not require or include the demolition or alteration of any of the following types of housing:

1. Housing that is income-restricted for households of moderate, low, or very low income.

2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its policy power.

3. Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Gov. Code §§ 7060–7060.7) at any time in the 15 years prior to submission of the urban lot split application.

4. Housing that has been occupied by a tenant in the last three years. The applicant and the owner of a property for which a two-unit project is sought must provide a sworn statement as to this fact with the application for the parcel map. The city may conduct its own inquiries and investigation to ascertain the veracity of the sworn statement, including but not limited to, surveying owners of nearby properties; and the city may require additional evidence of the applicant and owner as necessary to determine compliance with this requirement.

F. Unit Standards.

1. Floor Area Ratio, Height Limitations, Lot Coverage and Open Space Requirements. All existing standards in Title 17 of this Code related to floor area ratio, height limitations, lot coverage and open space requirements shall apply to units constructed pursuant to this Chapter, except to the extent that such standards would prevent two units of at least 800 square feet each to be constructed on the lot upon which the units will be located.

2. Demolition Cap. The two-unit project may not involve the demolition of more than 25 percent of the existing exterior walls of an existing dwelling unless the site has not been occupied by a tenant in the last three years.

3. Setbacks.

(a) Generally. All setbacks must conform to those objective setbacks that are imposed in the underlying zone.

(b) Exceptions. Notwithstanding subsection 0 above:

(i) Existing Structures. No setback is required for an existing legally established structure or for a new structure that is constructed in the same location and to the same dimensions as an existing legally established structure.

(ii) The setbacks imposed by the underlying zone must yield to the degree necessary to avoid physically precluding the construction of up to two units on the lot or either of the two units from being at least 800 square feet in floor area; but in no event may any structure be less than four feet from a side or rear property line.

(iii) Front Setback Area. Notwithstanding any other part of this code, dwellings that are constructed pursuant to this Chapter must be must be consistent with the front setback requirements of the underlying zoning district.

4. Parking. Required parking as set forth below must be on the same lot as the residential unit served. Each new dwelling unit constructed pursuant to this Chapter must have at least one off-street parking space per unit unless one of the following applies:

(a) The parcel is located within one-half mile walking distance of either:

(i) a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours or

(ii) a site that otherwise qualifies as a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.

(b) The parcel is located within one block of a permanent, marked location for car-share vehicle pick up and drop off.

5. Replacement Parking Required. When an existing garage, carport, or other covered parking structure is converted or demolished in order to construct a new unit, the required parking spaces that are displaced by the conversion or demolition shall be replaced on the same lot, and may be either covered or uncovered, in order to satisfy the automobile parking requirement of the existing residential unit.

6. Design Standards. Each new dwelling unit constructed pursuant to this Chapter shall comply with all objective standards as set forth in Title 17 of this Code as applicable in the underlying zoning district. Additionally, all units constructed pursuant to this Chapter shall comply with all of the following:

(a) All exterior lighting must be limited to down-lights.

(b) If a new dwelling is constructed pursuant to this Chapter and any portion of the dwelling is less than 30 feet from a property line that is not a public right-of-way line, then all windows and doors in that portion must either be (for windows) clerestory with the bottom of the glass at least six feet above the finished floor, or (for windows and for doors) utilize frosted or obscure glass.

(c) No rooftop decks shall be allowed on new dwelling units constructed pursuant to this Chapter.

(d) Upper story unenclosed landings, decks and balconies greater than 20 square feet that face or overlook an adjoining property, shall be located a minimum of 15 feet from the interior lot lines.

(e) A two-unit residential project constructed pursuant to this Chapter may not include a request for an exception to any objective standards by applying for a variance, modification, exception, waiver or other discretionary approval for height, density, setbacks, open yard, land use, or similar development standard.

(f) On a site already developed with an existing residential unit, the new unit shall be designed and constructed to match the existing paint color and exterior building materials, including but not limited to siding, windows, doors, roofing, and exterior light fixtures.

(g) If a two-unit residential project is proposed on a lot where no residential units currently exist, the units shall be constructed using the same architectural style, exterior building materials, colors and finishes.

7. Landscaping. Evergreen landscape screening must be planted and maintained between each dwelling and adjacent lots along interior lot lines (but not rights of way) as follows:

(a) At least one 15-gallon size plant shall be provided for every five linear feet of exterior wall. Alternatively, at least one 24" box size plant shall be provided for every ten linear feet of exterior wall.

(b) Plant specimens must be at least six feet tall when installed. As an alternative, a solid fence of at least 6 feet in height may be installed. All landscaping must be drought tolerant.

(c) A complete landscaping and irrigation plan shall be submitted and approved by the Planning and Building Department prior to the issuance of building permits for a two-unit residential development.

8. Building Separation. Unless attached to and made part of another main building pursuant to the definition of accessory building in Chapter 17.04, no detached main building shall be closer than 10 feet to any other main building on the same lot; and no detached accessory building shall be closer than 5 feet to any other main or accessory building on the same lot, provided, that the requirements of this paragraph shall not apply if doing so would preclude the construction of two units of at least 800 square feet each on the lot upon which the units will be located.

9. Building & Safety. All two-unit residential projects must comply with all current local building standards.

10. Stormwater and Runoff Pollution Control. All construction activity or development that occurs in furtherance of a two-unit project shall comply all requirements of Chapter 13.32 of this Code (Stormwater and Runoff Control).

G. Separate Conveyance.

1. Primary dwelling units on the lot may not be owned or conveyed separately from each other.

2. Condominium airspace divisions and common interest developments are not permitted within the lot.

3. All fee interest in the lot and all the dwellings must be held equally and undivided by all individual property owners.

H. Notice of Construction.

1. At least 30 business days before starting any construction of a two-unit project, the property owner must give written notice to all the owners of record of each of the adjacent residential parcels, which notice must include the following information:

A. Notice that construction has been authorized,

B. The anticipated start and end dates for construction,

C. The hours of construction,

D. Contact information for the project manager (for construction-related complaints), and

E. Contact information for the Building & Safety Department.

2. This notice requirement does not confer a right on the noticed persons or on anyone else to comment on the project before permits are issued. Approval is ministerial. Under state law, the City has no discretion in approving or denying a particular project under this section. This notice requirement is purely to promote neighborhood awareness and expectation.

I. Deed Restriction. Prior to obtaining a building permit for a two-unit project pursuant to this Chapter, the owner must record a deed restriction, acceptable to the city, that does each of the following:

1. Expressly prohibits any rental of any dwelling on the property for a period of less than 30 days.

2. Expressly prohibits any non-residential use of the lot.

3. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot.

4. If the lot is not created by an urban lot split: Expressly requires the individual property owners to live in one of the dwelling units on the lot as the owners' primary residence and legal domicile.

5. States that the property is formed by an urban lot split and is therefore subject to the city's urban lot split regulations, including all applicable limits on dwelling size and development.

J. Basis for Denial: Specific Adverse Impacts.

1. Notwithstanding anything else in this section, the city may deny an application for a two-unit project if the building official makes a written finding, based on a preponderance of the evidence, that the project would have a "specific, adverse impact" on either public health and safety or on the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

2. "Specific adverse impact" has the same meaning as in Gov. Code § 65589.5(d)(2): "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" and does not include (1) inconsistency with the zoning ordinance or general plan land use designation or (2) the eligibility to claim a welfare exemption under Revenue and Taxation Code section 214(g).

3. The building official may consult with and be assisted by planning staff and others as necessary in making a finding of specific, adverse impact.

K. Remedies.

If a two-unit project violates any part of this code or any other legal requirement:

1. The buyer, grantee, or lessee of any part of the property has an action for damages or to void the deed, sale, or contract.

2. The city may:

(a) Bring an action to enjoin any attempt to sell, lease, or finance the property.

(b) Bring an action for other legal, equitable, or summary remedy, such as declaratory and injunctive relief.

(c) Pursue criminal prosecution, punishable by imprisonment in county jail or state prison for up to one year, by a fine of up to $10,000, or both; or a misdemeanor.

(d) Record a notice of violation.

(e) Withhold any or all future permits and approvals.

(f) Pursue all other administrative, legal, or equitable remedies that are allowed by law or the city's code.

City Council

December 14, 2021

SB 9 Urgency Ordinance

What is SB 9?

- **Signed by Governor Newsom on September 16, 2021**

- **Effective January 1, 2022:**
  - **A proposed housing development containing no more than two residential units within a single-family residential zone is to be considered ministerially, without discretionary review or hearing if meets bill requirements; and**
  - **Any lot in a single family residential zone may be split into two lots of roughly equivalent size with resulting lots as small as 1,200 square feet, also without discretionary review or hearing (an "urban lot split")**

What are the requirements of SB 9?

- Must be located within a single family zoning district
- Development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low or very low income
- Development would not require demolition or alteration of housing that has been occupied by a tenant in the last three years
- Development would not demolish more than 25% of the existing exterior structural walls
- Development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a City or County landmark or historic property
- Cities may apply objective standards

Urgency Ordinance Summary

- Applies to LR, LR-1A, MR and WW zones
- Not allowed in sensitive, dangerous, or historic areas
- Two-unit projects not allowed on a property that has been rented within the last 3 years
- Lot size is 2,400 sf minimum required for an urban lot split; 1,200 sf minimum for each of the resulting lots
- Each new lot must adjoin the right of way
- Floor area ratio, lot coverage, height and open space are regulated by the underlying zoning provided that the property owner must be able to build at least two primary units of at least 800 sf.
- Setback standards are regulated by the underlying zoning except as necessary to allow two units at 800 sf each; but no less than 4 feet side and rear
- Use is limited to residential only, no short term rental
- One parking space per new primary dwelling unit (covered or uncovered) unless exempt by statute

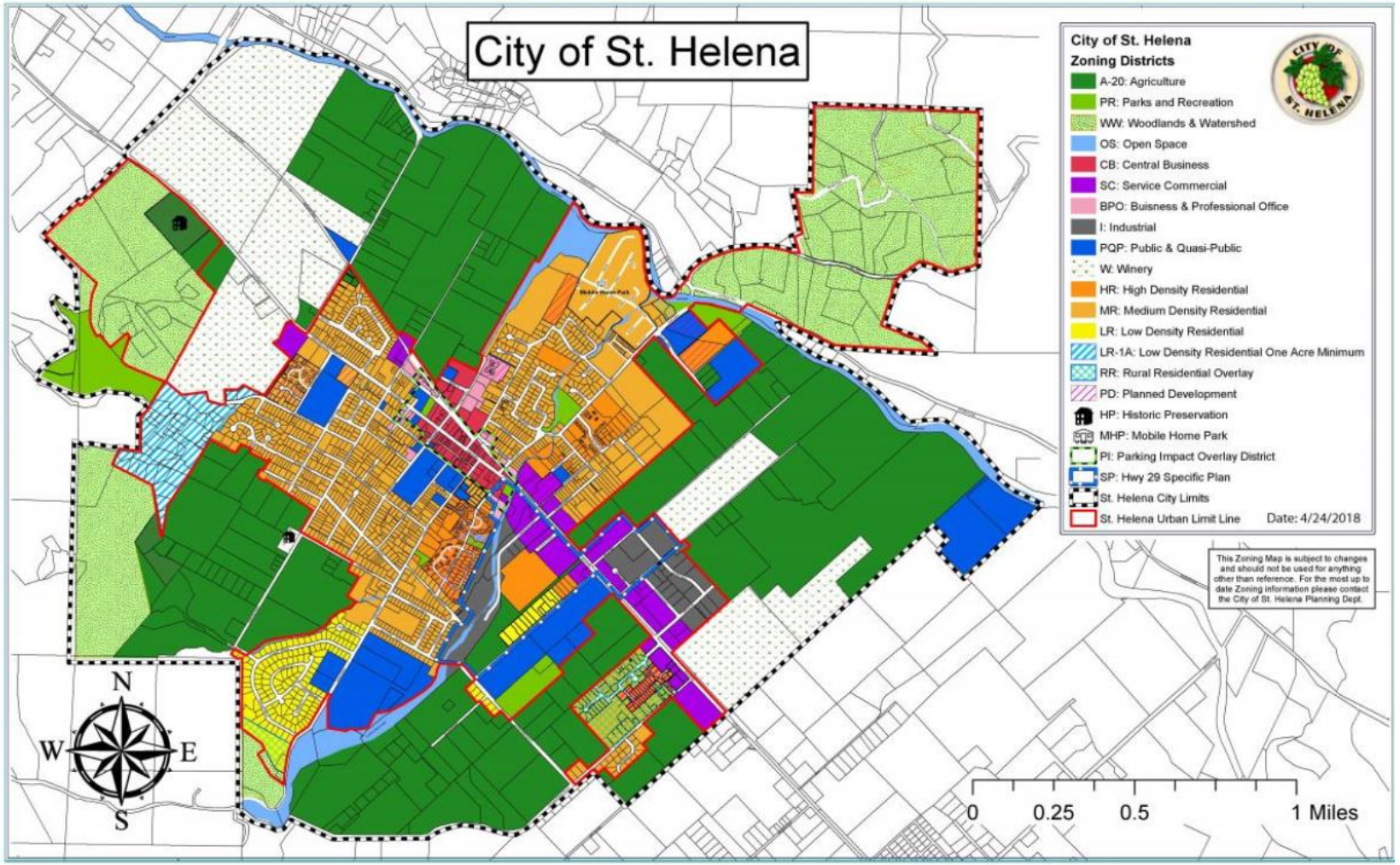
Urgency Ordinance Summary

- **Owner occupancy required (three year minimum on urban lot splits)**
- **New construction must match other dwellings or dwellings on the property**
- **Setback restrictions are imposed on upper story unenclosed landings, decks and balconies**
- **Evergreen landscape screening requirements between each dwelling and adjacent interior lots**
- **Direct connection to utility service provider required**
- **Separate conveyance of dwelling units within single lot prohibited**
- **Deed restriction is required prohibiting short term rental, non-residential use or separate conveyance. Also would clarify that development on a lot created by an urban lot split is subject to requirements of Chapter 16.26**
- **Written notice of construction required by property owner to all adjacent owners**

Zoning Map

Ordinance applies to the following zones:

- **LR: 172 parcels**
- **LR-1A: 45 parcels**
- **MR: 1294 parcels**
- **WW: 54 parcels**



Objective Standards

- **Ordinance includes objective standards however there are additional single family residential objective standards in the draft zoning code that could add further clarity and improved design outcomes**

- **Staff proposes further review of those standards for incorporation into an amended urgency ordinance in early 2022**

Recommended Action

Adopt urgency ordinance by 4/5 vote

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **OLD BUSINESS**

Subject: **Consideration and adoption of a Resolution: (1) Awarding the WWTP Phase 1 Upgrades, Capital Improvement Project S-52 to Thompson Builders in the amount of $14,888,590; (2) Authorizing the City Manager to execute the Construction Contract with Thompson Builders; and (3) Authorizing the Director of Public Works to approve Change Orders not to exceed 10% of the contract amount.**

CEQA Determination: **Mitigated Negative Declaration**

Prepared By: Martin Beltran, Management Analyst

Reviewed By: Mark Rincon-Ibarra, Public Works Director and City Engineer

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The City of St. Helena (City), in Napa County, owns and operates a Wastewater Treatment and Reclamation Plant (WWTRP) located at 1 Chaix Lane. The WWTRP and its discharge are permitted through the San Francisco Bay Regional Water Quality Control Board (RWQCB).

Effluent discharge to the Napa River from the WWTRP was historically regulated by Order No. R2-2016-0003. The permit contained effluent water quality limitations that the WWTRP treatment process could not reliably comply with.

As a result, the RWQCB also issued Cease and Desist Order (CDO) No. R2-2016-0004 to the City, requiring the City WWTRP to comply with new and more stringent effluent water quality limitations that the existing WWTRP process cannot meet. The CDO included both interim effluent water quality limitations and a Time Schedule Order for compliance. The Time Schedule Order was issued because the RWQCB knew that the existing WWTRP cannot reliably meet the new effluent water quality limitations. Based

on the CDO and the effluent water quality limitations, the City decided to initiate a process to prepare an evaluation of how it should modify the WWTRP to comply with these requirements.

On January 14, 2020, City Council was provided a Conceptual Design Report that identified a series of recommendations for upgrading the WWTRP in phases to meet the effluent water quality requirements. The first phase of the recommendations recommended that the existing pond based treatment process be replaced by a membrane bioreactor treatment process, which provides primary, secondary, and tertiary treatment and allows the effluent to be reused as a recycled water supply. This project became the basis for development for the development of contract documents that became the WWTRP Phase I Upgrades Project.

On February 21, 2020, the RWQCB communicated to the City that they had reviewed the Conceptual Design Report, and had no formal comments.

On March 24, 2020, City Council approved an amendment with HydroScience to prepare contract documents for the WWTP Phase I Upgrades.

On February 23, 2021, City Council approved the plans and specifications for the Wastewater Treatment and Reclamation Plant Phase I Upgrades, CIP Project No. S-52 and authorized advertisement for bids. At this meeting, City Council also approved an amendment to the Contract with HydroScience engineers to provide construction management and inspection services for the WWTRP Phase I Upgrades.

On April 15, 2021, the RWQCB issued Order R2-2021-0004. This order rescinded and replaced Order R2-2016-0003. The order was based on effluent water quality limitations that require the construction of a new WWTRP in order to reliably comply with those limitations. The Order also included a description of the Planned Treatment Process, which is the subject of the WWTRP Phase I Upgrades.

On September 16, 2021, the City issued an Advertisement for Bids inviting contractors to submit bids for the construction of the Wastewater Treatment and Reclamation Plant Improvement Project No. S-52

On November 23, 2021, Council was provided a draft plan of finance to complete construction of the project.

DISCUSSION

The contract documents were approved by the Director of Public Works pursuant to authority conferred by City Council on February 23, 2021.

A Notice to Contractors inviting construction bids was posted on September 16, 2021 and was also published online (i.e. City website and Blueprints Express), in the newspaper,

and sent to construction exchanges. There were 23 registered planholders and other companies who either attended the pre-bid meeting or asked questions about the project.

On Thursday, November 4, 2021, at 4:00 PM the City Clerk received five sealed bids which were read aloud publicly. The bids received are listed below:

Thompson Builders of Novato	$14,888,590
Clark Bros, Inc. of Dos Palos	$14,913,890
C. Overaa & Co. of Richmond	$15,514,000
Meyers and Sons of Sacramento	$17,265,637
Anvil Builders Inc. of San Francisco	$17,817,300

A detailed bid tabulation is included as Attachment 2. The Design Engineer's opinion of probable construction cost was estimated at approximately: $11,485,500, which is $3,403,090 above the Engineer's Estimate. There are various reasons why the bids came in higher than estimated. Bid prices have steadily been increasing during 2020 and 2021, and the estimate, which was prepared during late 2020, did not fully take into account the escalation that has been seen in the bidding climate. Additionally, the vendor supplying the treatment process noted significant supply chain issues and increases in material costs, which caused prices to escalate from what was estimated.

Thompson Builders is the lowest responsible, responsive bid, and holds a valid Class A General Engineering Contractor's License No. 626859 in the State of California, with no enforcement actions listed. Their license expires on August 31, 2023. It is the opinion of the engineer, HydroScience Engineers, that the City should accept the bid of Thompson Builders for the WWTRP Phase I Upgrade.

The Project Plans and Specifications remain available for review at the Public Works Department at 1572 Railroad Avenue and at www.blueprintexpress.com/sthelena, but will be removed from the site once the project is awarded.

FISCAL IMPACT

The S-52 – WWTP Phase 1 Upgrades project is included in the June 2021 adopted five-year Capital Improvement Program (Attachment 4). A summary of anticipated expenditures are presented below:

S-52 WWTP Phase I Upgrades Project Costs	
Estimated Construction Costs	$14,888,590
Construction Contingency (10%)	$1,488,859
Estimated Total Construction Cost	**$16,377,449**

The FY 2021-22 CIP project budget identified a total construction cost of $13,693,355 (Attachment 4). The lowest responsive bid represents a budget shortfall of $2,684,094. The Administrative Services Director has prepared a funding plan which was presented

to Council on November 23, 2021, to address the shortfall. The funding plan is presented to Council for adoption under separate staff report and resolution concurrent with this report (Attachment 5).

RECOMMENDED ACTION

Consideration and adoption of a Resolution:

(1) Awarding the WWTP Phase 1 Upgrades, Capital Improvement Project S-52 to Thompson Builders in the amount of $14,888,590.00; and

(2) Authorizing the City Manager to execute the Construction Contract with Thompson Builders; and

(3) Authorizing the Director of Public Works to approve Change Orders not to exceed 10% of the contract amount.

ATTACHMENTS

Attachment 1: Resolution
Attachment 2: S-52 Bid Tabulation
Attachment 3: Bid Recommendation Letter
Attachment 4: CIP S-52 Budget FY2021-22
Attachment 5: CIP S-52 Budget FY2021-22 Updated

CITY OF ST. HELENA

RESOLUTION NO. 2021-

Resolution Of The City Council Of The City Of St. Helena (1) Approving Thompson Builders of Novato, California, As The Lowest Responsive And Responsible Bidder; (2) Authorizing The City Manager To Execute, Enter Into And Implement The Contract By And Between The City And Thompson Builders For Project No. S-52 WWTP Phase 1 Upgrades In The Amount of Fourteen Million Eight Hundred Eighty-Eight Thousand Five Hundred Ninety and 00/100 Dollars ($14,888,590.00); and (3) Authorizing The Director of Public Works to Approve Change Orders Not to Exceed 10% of the Contract Amount.

RECITALS

WHEREAS, the City of St. Helena (City), in Napa County, owns and operates a Wastewater Treatment and Reclamation Plant (WWTRP) located at 1 Chaix Lane. The WWTRP and its discharge are permitted through the San Francisco Bay Regional Water Quality Control Board (RWQCB); and

WHEREAS, effluent discharge to the Napa River from the WWTRP was historically regulated by Order No. R2-2016-0003. The permit contained effluent water quality limitations that the WWTRP treatment process could not reliably comply with; and

WHEREAS, the RWQCB also issued Cease and Desist Order (CDO) No. R2-2016-0004 to the City, requiring the City WWTRP to comply with new and more stringent effluent water quality limitations that the existing WWTRP process cannot meet. The CDO included both interim effluent water quality limitations and a Time Schedule Order for compliance. The Time Schedule Order was issued because the RWQCB knew that the existing WWTRP cannot reliably meet the new effluent water quality limitations. Based on the CDO and the effluent water quality limitations, the City decided to initiate a process to prepare an evaluation of how

it should modify the WWTRP to comply with these requirements; and

WHEREAS, On January 14, 2020, City Council was provided a Conceptual Design Report that identified a series of recommendations for upgrading the WWTRP in phases to meet the effluent water quality requirements. The first phase of the recommendations recommended that the existing pond based treatment process be replaced by a membrane bioreactor treatment process, which provides primary, secondary, and tertiary treatment and allows the effluent to be reused as a recycled water supply. This project became the basis for development for the development of contract documents that became the WWTRP Phase I Upgrades Project; and

WHEREAS, a Notice of Intent to adopt the MND for the Proposed Project, was distributed to responsible agencies, interested parties, and published in two local newspapers, the Napa Valley Register and the St. Helena Star, which initiated a 30-day public review period. The IS/MND was circulated for public review and comment from November 23, 2020 to December 23, 2020; and

WHEREAS, on February 23, 2021, the City Council of the City of St. Helena, by resolution, adopted the CEQA Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Wastewater Treatment and Reclamation Plant Phase I Upgrades, CIP Project No. S-52 ; and

WHEREAS, on February 23, 2021, City Council approved the plans and specifications for the Wastewater Treatment and Reclamation Plant Phase I Upgrades, CIP Project No. S-52 and authorized advertisement for bids; and

WHEREAS, on February 23, 2021, the project plans for the work was approved by the Director of Public Works pursuant to authority conferred by St. Helena City Council; and

WHEREAS, on September 16, 2021, a Notice to Contractors inviting construction bids was posted and was also published online (i.e. City website and Blueprints Express), in the newspaper, and sent to the construction exchanges; and

WHEREAS, on Thursday, November 4, 2021, at 4:00 PM the City Clerk received five (5) sealed bids which were read aloud publicly and Thompson Builders of Novato, California, submitted the lowest bid of $14,888,590.00; and

WHEREAS, Thompson Builders is the lowest responsible, responsive bid, and holds a valid Class A General Engineering Contractor's License No. 626859 in the State of California, with no enforcement actions listed. Their license expires on 8/31/2023; and

WHEREAS, subsequent review of Thompson Builder's bid by City staff indicates that Thompson Builders is a responsible bidder and their bid was in fact responsive, therefore, be it:

RESOLVED, that the City Council of the City of St. Helena hereby determines as follows:

1. That the City Council approves and awards the Contract by and between the City of St. Helena and Thompson Builders for Project No. S-52 - WWTP Phase 1 Upgrades in the amount of Fourteen Million Eight Hundred Eighty-Eight Thousand Five Hundred Ninety and 00/100 Dollars ($14,888,590.00), in the form attached hereto as **Exhibit A** and incorporated herein by this reference.

2. That the City Council authorizes the City Manager to execute, enter into and implement the Contract in the amount of $14,888,590.00 with Thompson Builders for Project No. S-52 - WWTP Phase 1 Upgrades.

3. That the City Council delegates to and authorizes the Public Works Director to approve change orders not to exceed 10% of the contract price.

APPROVED AND ADOPTED, by the City Council of the City of St. Helena at a Regular Meeting held on December 14, 2021, by the following vote:

Mayor Ellsworth: _____

Vice Mayor Dohring: _____

Councilmember Chouteau:_____

Councilmember Hall: _____

Councilmember Hardy: _____

APPROVED: ATTEST:

_____ _____

Geoff Ellsworth, Mayor Cindy Tzafopoulous, City Clerk

WWTRP Preliminary Bid Results - Project S-52
Bid Opening: 11/4/21 at 4:00 pm

Description	Bid Amount				
	Anvil Builders	**Myers and Sons**	**Thompson Builders**	**C. Overaa and Sons**	**Clark Brothers**
Mobilization, Demobilization & General Conditions	$300,000	$500,000	$660,000	$1,100,000	$500,000
SWPPP Compliance	$45,000	$40,000	$25,000	$25,000	$55,000
Startup & Commissioning	$225,000	$57,000	$75,000	$200,000	$55,000
Earthwork, Grading, Trenching, & Sheeting/Shoring	$390,000	$67,000	$103,000	$600,000	$90,000
Site Demolition	$90,000	$34,500	$86,000	$50,000	$90,000
Structural Concrete MBR Slab	$245,000	$540,000	$331,000	$400,000	$450,000
Concrete Yard Structures/Slabs	$110,000	$145,000	$42,000	$50,000	$50,000
48” SS Manhole on existing 24” Sewer	$36,000	$10,500	$37,000	$100,000	$75,000
Plant Drain Utilities	$170,000	$63,000	$220,000	$175,000	$350,000
Self Priming Influent Pump Station Improvements	$440,000	$310,000	$194,000	$200,000	$400,000
Pond 1A Temporary Shoring and Dewatering Allowance	$65,000	$65,000	$65,000	$65,000	$65,000
Coarse Screening Structure Extension/Improvements	$82,000	$99,000	$95,000	$75,000	$150,000
Packaged Membrane Bioreactor Treatment Plant	$9,559,000	$8,694,155	$6,433,800	$6,362,200	$6,700,000
Packaged Sludge Dewatering Facility	$940,000	$1,060,000	$1,065,500	$900,000	$800,000
Packaged UV Disinfection, Storage, Effluent Pump Station Skid	$1,260,000	$1,315,000	$857,600	$1,100,000	$1,000,000
Coarse Screening Mechanical System, Gates & Piping	$470,000	$395,000	$207,300	$250,000	$250,000
Site Civil Improvements	$105,000	$82,000	$46,200	$75,000	$150,000
Yard Piping	$65,000	$296,000	$589,500	$250,000	$440,000
Modular Operations Trailer	$250,000	$210,000	$237,500	$220,000	$195,000
Chemical Building, Distribution, & Pumping Improvements	$210,000	$34,000	$62,950	$200,000	$165,000
Site Electrical/Communication Improvements	$630,000	$1,371,016	$1,249,000	$1,095,000	$1,300,000
Switchboard, Control Panels, & MCCs	$790,000	$816,561	$1,029,400	$950,000	$631,000
Instrumentation	$60,000	$62,502	$87,000	$100,000	$16,000
3Water Pump Station Improvements & Enclosure	$250,000	$166,000	$82,500	$100,000	$215,000
SCADA Integration	$440,000	$433,483	$475,000	$500,000	$320,000
Sound wall	$276,000	$120,000	$267,300	$123,000	$210,000
Elstomeric Polyurethane Coatings	$46,800	$58,500	$43,550	$45,500	$29,250
Recycled Water Pipeline and Appurtenances	$267,500	$220,420	$221,490	$203,300	$162,640
Total Bid Price	**$17,817,300**	**$17,265,637**	**$14,888,590**	**$15,514,000**	**$14,913,890**

HydroScience
Strategic Water Solutions

HydroScience Engineers, Inc.
741 Allston Way
Berkeley, CA 94710
T: 510.540.7100
F: 510.540.7106

November 23, 2021

Mark A. Rincón-Ibarra, PE
Public Works Director/City Engineer
City of St. Helena
1572 Railroad Avenue
St. Helena, CA 94574

Subject: Bid Recommendation
Wastewater Treatment and Reclamation Plant Improvement Project No. S-52

Dear Mark:

HydroScience evaluated the bids received for the subject project that were received by the City on November 4, 2021 at 4:00 pm.

The Project consists of constructing a turn-key, fully furnished, Packaged Membrane Bioreactor Treatment Facility, packaged Sludge Dewatering System, Coarse Screening System, UV disinfection, sewage pumping systems, yard improvements, chemical feed system and storage improvements, electrical and communications upgrades, and a packaged tertiary treated wastewater distribution system for the City Wastewater Treatment and Reclamation Plant at 1 Chaix/Thomann Lane, St. Helena, CA.

A total of five bids were received. Those bids were as follows:

Anvil Builders, Inc.	$17,817,300
Myers and Sons	$17,265,637
Thompson Builders	$14,888,590
C. Overaa and Co.	$15,514,000
Clark Brothers, Inc.	$14,913,890
Engineer's Estimate	$11,485,500

The low bid was submitted by Thompson Builders in the amount of $14,888,590. Our evaluation of the experience, reputation, and financial condition of Thompson Builders indicates that they are capable of completing the work required. Therefore, HydroScience recommends awarding a contract for construction of the subject project to Thompson Builders in the amount of **$14,888,590**.

The City previously adopted the CEQA document for this project during March 2021, and it was filed with the State Clearinghouse. USDA approved the NEPA document for this project, and is entering into an agreement with the City to help fund the project. All permits and rights-of-way are in hand to implement the project.

Should you have any questions about this memorandum, please feel free to contact me at (510) 540-7100 X12 or clam@hydroscience.com.

Sincerely yours,
HYDROSCIENCE ENGINEERS, INC.

Curtis Lam, PE
Principal

WWTP Phase 1 Upgrades

Project No: S-52

Category: Wastewater

Project Location: 1 Chaix Ln

Responsible Department:



PROJECT PURPOSE & DESCRIPTION: Per the State Cease and Desist Order, upgrade the plant to meet compliance requirements by 2021. In addition, to compliance requirements, levee repairs and sludge removal will be incorporated into construction of this project.

Merged into S-52: S-53, S-62, S-66, S18-79.

EXPENDITURE ACCOUNTS:

Fund: 773 **Dept**: 5059

EXPENDITURES	Total YTD 05/11/21		2021-22	2022-23	2023-24	2024-25	2025-26	PROJECT TOTAL
3110 - Design	1,530,887							1,530,887
3120 - Environmental/Planning	108,795		23,021					131,816
3140 - Legal Services	1,151		68,900					70,051
3150 - Construction Management	5,000		535,085					540,085
3160 - Construction Contract			12,509,247					12,509,247
3170 - Contingency			1,184,088					1,184,088
EXPENDITURE TOTALS	1,645,833		14,320,341					15,966,174
FUNDING SOURCES								
740-Traffic Impact Fees Fund Loan			873,610					873,610
773-Wastewater Capital Improvement	1,645,833		3,359,729					5,005,562
773-Wastewater Capital Improvement - Debt			9,362,925					9,362,925
774-Wastewater Impact Fees			724,077					724,077
FUNDING TOTALS	1,645,833		14,320,341					15,966,174

WWTP Phase 1 Upgrades

Project No: 04001-S-52

Category: Wastewater

Project Location: 1 Chaix Ln

Responsible Department:



PROJECT PURPOSE & DESCRIPTION: Per the State Cease and Desist Order, upgrade the plant to meet compliance requirements by 2021. In addition, to compliance requirements, levee repairs and sludge removal will be incorporated into construction of this project.

Merged into S-52: S-53, S-62, S-66, S18-79.

EXPENDITURE ACCOUNTS:

Fund: 773 **Dept**: 5059

EXPENDITURES	Total YTD 05/11/21		2021-22	2022-23	2023-24	2024-25	2025-26	PROJECT TOTAL
3110 - Design	1,530,887							1,530,887
3120 - Environmental/Planning	108,795		23,021					131,816
3140 - Legal Services	1,151		68,900					70,051
3150 - Construction Management	5,000		535,085					540,085
3160 - Construction Contract			14,888,590					14,888,590
3170 - Contingency			1,488,859					1,488,859
EXPENDITURE TOTALS	1,645,833		17,004,455					18,650,288
FUNDING SOURCES								
571-Wastewater Cash Operations Fund Balance			2,684,114					2,684,114
740-Traffic Impact Fees Fund Loan			873,610					873,610
773-Wastewater Capital Improvement	1,645,833		3,359,729					5,005,562
773-Wastewater Capital Improvement - Debt			9,362,925					9,362,925
774-Wastewater Impact Fees			724,077					724,077
FUNDING TOTALS	1,645,833		17,004,455					18,650,288

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **NEW BUSINESS**

Subject: **Introduction and First Reading of SB 1383 Ordinance Repealing and Recasting Chapter 8.04 to Title 8 of the St. Helena Municipal Code Regarding Solid Waste Collection, and Adoption of a Resolution Approving a Memorandum of Understanding with Upper Valley Waste Management Agency Regarding Implementation Thereof and Authorize the City Manager to Execute the MOU on Behalf of the City.**

CEQA Determination: **Not a CEQA project**

Prepared By: Ethan Walsh, City Attorney

Reviewed By: April Mitts, Administrative Services Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

In 2016, Governor Brown signed into law Senate Bill 1383 (Lara, Chapter 395, Statutes of 2016) ("SB 1383"), establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants (SLCP) in various sectors of California's economy. SB 1383 is the State's most aggressive waste reduction law in the last 30 years and enacts the following targets to reduce organic waste in landfills:

A. Achieve a 50% reduction in statewide disposal of organic waste from 2014 levels by 2020 and a 75% reduction by 2025; and

B. Recover at least 20% of currently disposed edible food by 2025.

Landfills are the third largest producer of methane. Food scraps, green waste, paper, and cardboard are organic materials that account for a significant portion of California's overall waste stream and are ultimately disposed in landfills. As a result, the State's SLCP strategy includes managing disposal of organic waste to reach the reduction targets noted

above. Increasing food waste prevention, encouraging edible food rescue, and expanding the composting and in-vessel digestion of organic waste will reduce methane from landfill operations. In addition to setting specific emissions reduction goals, SB 1383 and its implementing regulations mandate that cities and counties:

- Provide organic waste collection services to all residents and businesses;
- Develop and adopt an enforcement mechanism or ordinance by January 2022;
- Establish an edible food recovery program;
- Update the City's procurement policy to purchase recycled content paper and recycled organic waste products (e.g., compost, mulch, and renewable natural gas) at a volume of 0.08 tons/resident;
- Provide outreach and education for generators, haulers, facilities, edible food recovery organizations, and municipal departments;
- Plan and secure access for recycling and edible food recovery capacity;
- Monitor compliance and conduct enforcement; and
- Maintain accurate compliance records.

The ordinance must be adopted by January 1, 2022 to mandate that organic waste generators, haulers, and other entities subject to the requirements of SB 1383 and its implementing regulations comply with the law. Under the SB 1383 Regulations, local jurisdictions that do not adopt enforceable mechanism by January 1, 2022 to implement the SB 1383 Regulations locally are subject to penalties issued by the California Department of Resources Recycling and Recovery ("CalRecycle"). On October 5, 2021, the Governor signed SB 619 to provide some relief from penalties for jurisdictions that may not be fully compliant with SB 1383 requirements by the January 1, 2022 deadline. It may also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange for the maximum amount of their edible food, that would otherwise be disposed of, to be recovered for human consumption.

DISCUSSION

SB 1383 Ordinance

The City of St. Helena is a member of the Upper Valley Waste Management Agency ("Member"), a joint powers agency organized and operating under the Joint Exercise of Powers Act (Government Code section 6500 et seq.) and a "regional agency" under the California Integrated Waste Management Act of 1989 (the "Agency"). 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. In early 2021, the Members amended Section 6.1 of the Joint Powers Agreement to allow the Agency to assist Members in complying with state organic waste recycling mandates. Specifically, the Agency is authorized 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…

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 also gives the Agency the authority to enter into arrangements for the procurement of recovered organic waste products and implementation and administration of food recovery programs.

The attached Ordinance meets the requirements of SB 1383 and is drafted so the City may delegate its responsibilities to the Agency, with the exception of the authority to impose civil penalties, as authorized by the SB 1383 Regulations (Cal. Code. Regs., tit. 14, § 18981.2). These responsibilities include monitoring, reporting, education and outreach, waivers, and ensuring compliance by the hauler among others. Also attached is a Memorandum of Understanding between the City and the Agency, which delegates these responsibilities to the Agency. Enforcement of the Ordinance through civil penalties remains with the City.

Memorandum Of Understanding

The Agency intends to delegate many of the responsibilities under SB 1383 to its franchisees, Upper Valley Disposal Service and Clover Flat Land Fill, as authorized by the SB 1383 Regulations (Cal. Code. Regs., tit. 14, § 18981.2). This will ensure consistent implementation throughout the Agency's jurisdiction and relieve much of the administrative burden of implementing the SB 1383 Regulations, which would otherwise be borne by the Members or the Agency (or both). This delegation must be done by the Agency because only the Agency has franchise agreements with these entities on behalf of the Members.

FISCAL IMPACT

As members of the Upper Valley Waste Management Agency (Agency), the Agency is in a position to accomplish many of the tasks required by SB 1383; however, there are certain tasks that must be completed at the jurisdiction level, including adopting the ordinance and administering and enforcing the program (compliance). Staff does not anticipate significant costs for the current fiscal year (FY 2021-22), but the program will require additional General Fund resources be allocated in future fiscal years to maintain program compliance. Staff is estimating in FY 2022-23 and additional $30,000 will be required for code enforcement of this program.

RECOMMENDED ACTION

1. Introduce and waive first reading of an Ordinance repealing and recasting Chapter 8.04 to Title 8 of the St. Helena Municipal Code regarding solid waste collection I
2. Approve a Resolution approving a Memorandum of Understanding with Upper Valley Waste Management Agency regarding implementation of SB 1383 and authorize the City Manager to execute the MOU on behalf of the City.

ATTACHMENTS

Attachment 1: St. Helena _ SB 1383 Ordinance-c1

Attachment 2: St. Helena MOU SB 1383
Attachment 3: Resolution MOU with UVWMA Implementation of 1383

ORDINANCE NO. _____

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. HELENA REPEALING AND RECASTING CHAPTER 8.04 TO TITLE 8 OF THE ST. HELENA MUNICIPAL CODE REGARDING SOLID WASTE COLLECTION

WHEREAS, SB 1383 (Chapter 395, Statutes of 2016) directed the California Department of Resources Recycling and Recovery ("CalRecycle") to adopt regulations to reduce organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025; and

WHEREAS, SB 1383 also requires the regulations to recover, for human consumption, at least 20 percent of edible food that is currently thrown away; and

WHEREAS, CalRecycle promulgated regulations as directed in SB 1383 in Chapter 12 (Short-Lived Climate Pollutants) of Division 7 of Title 14 of the California Code of Regulations ("SB 1383 Regulations"); and

WHEREAS, the SB 1383 Regulations take effect January 1, 2022, and requires the City of St. Helena to adopt an ordinance to enforce the SB 1383 Regulations by said date; and

WHEREAS, the City Council desires to amend its Solid Waste Collection Ordinance to comply with the SB 1383 Regulations; and

WHEREAS, the City, pursuant to the police powers delegated to it by the State Constitution, has the authority to enact laws that promote the public health, safety, and general welfare of its residents.

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

Section 1: Recitals.

The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2: Amendment.

Chapter 8.04 of Title 8 of the St. Helena Municipal Code is repealed in its entirety and replaced in its entirety as set forth in Exhibit A, incorporated by this reference.

Section 3: CEQA.

Environmental review is not required because adoption of the Ordinance is not a project under the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline 15378(b)(5) (organization or administrative activities of governments not a project).

Section 4: Severability.

If any section, subsection, clause or phrase in this Ordinance or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this Ordinance or the application of such provisions to other persons or circumstances shall not be affected thereby. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof to any person or circumstance be held invalid.

Section 5: Publication.

No less than five days prior to the adoption of this Ordinance, the City Clerk published a summary of this Ordinance in accordance with Government Code section 36933. The City Clerk will certify to the passage of this Ordinance by the City Council of the City of St. Helena, California, and cause a summary to be published once within fifteen (15) days after its passage in the St. Helena Star, a newspaper of general circulation, printed, published and circulated in the City in accordance with Government Code section 36933.

Section 6: Effective Date.

This ordinance shall take effect 30 days after its final adoption.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the 14th day of December, 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 Tzafopoulos, City Clerk

I, CINDY TZAFOPOULOS, CITY CLERK of the City of St. Helena, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the _____ day of _____, 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: _____

EXHIBIT A

Chapter 8.04

SOLID WASTE COLLECTION

Article 1
Generally

Sections:

8.04.010 Definitions.

Article 2
Storage of Solid Waste, Recyclable Materials, and Organic Waste

Sections:

8.04.020 Storage of Solid Waste at point of origin.
8.04.030 Solid Waste container requirements.
8.04.040 Container area to be kept clean.
8.04.050 Location of containers.
8.04.060 Storage of Solid Waste, Recyclable Materials, and Organic Waste.
8.04.070 Food facility solid waste storage.
8.04.080 Solid Waste, Recyclable Materials, and Organic Waste storage areas.
8.04.090 Burning or burying Solid Waste, Recyclable Materials, and Organic Waste prohibited.
8.04.100 Throwing or depositing Solid Waste, Recyclable Materials, and Organic Waste.

Article 3
Collection, Transportation and Disposal of Solid Waste, Recyclable Materials, and Organic Waste

Sections:

8.04.110 Collection of Solid Waste, Recyclable Materials, and Organic Waste.
8.04.120 Solid Waste, Recyclable Materials, and Organic Waste removal contract.
8.04.130 Collection and disposal rates.
8.04.140 Collection by Contractor mandatory unless otherwise specified.
8.04.150 Exemptions to mandatory collection.
8.04.160 Vehicles used to transport Solid Waste, Recyclable Materials, and Organic Waste.
8.04.170 Frequency and hours of collection by contractor.
8.04.180 Ownership and collection of Recyclable Materials.
8.04.190 Violations—Penalties.
8.04.200 Nonapplicability.

Article 4
Organic Waste Disposal Reduction

Sections:

8.04.210 Requirements for Single-Family Generators
8.04.220 Requirements for Commercial Businesses
8.04.230 Requirements for Commercial Edible Food Generators
8.04.240 Requirements for Food Recovery Organizations and Services
8.04.250 Requirements for Haulers and Facility Operators
8.04.260 Self-Hauler Requirements
8.04.270 Inspections and Investigations by City or Designee
8.04.280 Delegation of Authority
8.04.290 Enforcement

Article 1
Generally

8.04.010 Definitions.
For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Blue Container” has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste.

“C&D” means construction and demolition debris.

“CalRecycle” means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations.

“CCR” means the California Code of Regulations. CCR references in this Chapter are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

“City” means the City of St. Helena, California.

“Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this chapter.

“Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in this chapter or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

“Community Composting” means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).

“Compliance Review” means a review of records by the City to determine compliance with this chapter, SB 1383, and the SB 1383 Regulations.

“Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

“Container Contamination” or “Contaminated Container” means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).

“Contractor” means any person authorized by the council to collect Solid Waste from others within the city limits.

“Designated Source Separated Organic Waste Facility”, as defined in 14 CCR Section 18982(14.5), means a Solid Waste facility that accepts a Source Separated Organic Waste collection stream as defined in 14 CCR Section 17402(a)(26.6) and complies with one of the following:

A. The facility is a “transfer/processor,” as defined in 14 CCR Section 18815.2(a)(62), that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d), and meets or exceeds an annual average Source Separated organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024 and 75 percent on and after January 1, 2025 as calculated pursuant to 14 CCR Section 18815.5(f) for Organic Waste received from the Source Separated Organic Waste collection stream.

    1. If a transfer/processor has an annual average Source Separated organic content Recovery rate lower than the rate required in Paragraph A of this definition for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a “Designated Source Separated Organic Waste Facility”.

B. The facility is a “composting operation” or “composting facility” as defined in 14 CCR Section 18815.2(a)(13), that pursuant to the reports submitted under 14 CCR Section 18815.7 demonstrates that the percent of the material removed for landfill disposal that is Organic Waste is less than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), whichever is applicable, and, if applicable, complies with the digestate handling requirements specified in 14 CCR Section 17896.5.

    1. If the percent of the material removed for landfill disposal that is Organic Waste is more than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a “Designated Source Separated Organic Waste Facility.” For the purposes of this chapter, the reporting periods shall be consistent with those defined in 14 CCR Section 18815.2(a)(49).

“Designee” means an entity that the City authorizes, permits, or contracts with or otherwise arranges to carry out any or all of its responsibilities under this chapter, SB 1383, and/or the SB 1383 Regulations, as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, Regional Agency, a hauler, a private entity, or a combination thereof.

“Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this chapter or as otherwise defined in 14 CCR Section 18982(a)(18), “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this Chapter or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

“Enforcement Action" means an action of the City to address non-compliance with this chapter including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

“Enforcement Official” means the City Manager of the City of St. Helena or other duly appointed official.

“Excluded Waste” means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in the City’s, or its Designee’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the City, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Public Resources Code Sections 41500 and 41802. Excluded Waste does not include used motor oil and filters, household batteries, electronic wastes, universal wastes, and/or paints and coatings when such materials are defined as allowable materials for collection through the City’s collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by City or its Designee for collection services.

“Food Distributor” means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

“Food Facility” has the same meaning as in Section 113789 of the Health and Safety Code.

“Food Recovery” means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

“Food Recovery Organization” means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

A. A food bank as defined in Section 113783 of the Health and Safety Code.

B. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,

C. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this chapter.

"Food Recovery Service" means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

"Food Scraps" means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.

"Food Service Provider" means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

"Food-Soiled Paper" is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, paper towels, napkins, tissues, and pizza boxes, and milk cartons that are generated in all areas of commercial buildings and properties. This definition excludes paper that has contacted substantial amounts of inorganic, toxic, or corrosive substances.

"Food Waste" means Food Scraps, Food-Soiled Paper, and Compostable Plastics.

"Garbage" means that solid waste which includes kitchen refuse, offal, swill, and other matter that attends the preparation, dealing in or handling of food-stuffs. It shall also include all other refuse, except rubbish, sewage, trash and recyclable material.

"Gray Container" has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste.

"Gray Container Waste" means Solid Waste that is collected in a Gray Container that is part of a three-container Organic Waste collection service that prohibits the placement of Organic Waste in the Gray Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).

"Green Container" has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.

"Grocery Store" means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).

"Hauler Route" means the designated itinerary or sequence of stops for each segment of the City's collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).

"Health officer" is defined as the health officer of the city, his or her authorized representatives, or the county health officer, or any of his or her authorized representatives, whenever a contract is in force between the city and the county for the furnishing of the services of the county health officer.

"High Diversion Organic Waste Processing Facility" means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the "Mixed waste organic collection stream" as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).

"Inspection" means a site visit where the City reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).

"Large Event" means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this chapter.

"Large Venue" means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this chapter.

“Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

“Mixed Waste Organic Collection Stream” or “Mixed Waste” means Organic Waste collected in a container that is required by 14 CCR Sections 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR Section 17402(a)(11.5).

“Multi-Family Residential Dwelling” or “Multi-Family” means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

“Non-Compostable Paper” includes but is not limited to paper that is coated in a plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).

“Non-Local Entity” means the following entities that are not subject to the City’s enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42):

A. Special district(s) located within the boundaries of the City.

B. Federal facilities, including military installations, located within the boundaries of the City.

C. Prison(s) located within the boundaries of the City.

D. Facilities operated by the State park system located within the boundaries of the City.

E. Public universities (including community colleges) located within the boundaries of the City.

F. County fairgrounds located within the boundaries of the City.

G. State agencies located within the boundaries of the City.

“Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR Section 18982(a)(43).

“Notice of Violation” or “NOV” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

“Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing

Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

“Organic Waste Generator” means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).

“Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).

“Printing and Writing Papers” include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).

“Place” means public or private land, building, site, public or private drainage ditch, or public or private road in the city.

“Prohibited Container Contaminants” means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the City’s Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the City’s Green Container; (iii) discarded materials placed in the City’s Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in the City’s Green Container and/or Blue Container; and, (iv) Excluded Waste placed in any container.

“Recovery” means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

“Recyclable material” means that material which otherwise would become or be treated as solid waste but which, by means of a process of collecting, sorting, cleansing, treating and/or reconstructing, may be returned to the economic mainstream in the form of finished or source material for new, reused or reconstituted products which may be used in the market place. The term includes, but is not limited to, paper, books, magazines, cardboard, boxes, plastic, metal, glass and other similar materials authorized by the City for collection by the contractor.

“Recyclable materials collector” means an agent or employee of the city or any person with whom the city has duly contracted to collect and transport curbside recyclable materials through, in and from the City.

“Recycled-Content Paper” means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).

“Regional Agency” means regional agency as defined in Public Resources Code Section 40181 and the Upper Valley Waste Management Agency, of which the City is a member.

“Remote Monitoring” means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers, and Gray Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.

“Renewable Gas” means gas derived from Organic Waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

“Restaurant” means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).

“Route Review” means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).

“Rubbish” means those nonputrescible solid wastes including all dry refuse such as tree trimmings, ashes, dead plants and lawn and yard clippings, except to the extent such materials are exempt under this chapter.

“SB 1383” means Senate Bill 1383 (Chapter 395, Statutes of 2016), establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

“SB 1383 Regulations” or “SB 1383 Regulatory” means or refers to the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

“Self-Hauler” means a person, who hauls Solid Waste, Organic Waste or Recyclable material he or she has generated to another person or facility. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). “Back-haul” means generating and transporting Organic Waste to a destination owned and operated by the generator using the generator’s own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).“Single-Family” means of, from, or pertaining to any residential premises with fewer than five (5) units.

“Solid waste” has the same meaning as defined in Public Resources Code Section 40191, which defines Solid Waste as all 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, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

A. Hazardous waste, as defined in the Public Resources Code Section 40141.

B. Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).

C. Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the Public Resources Code.

"Solid waste removal contract" means a garbage collection and disposal contract entered into by the City and a contractor pursuant to this chapter, or a franchise agreement between the contractor and the Upper Valley Waste Management Agency, a joint powers authority, as long as St. Helena is a member.

Source Separated" means materials, including commingled Recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Gray Container Waste/ or other Solid Waste for the purposes of collection and processing.

"Source Separated Blue Container Organic Waste" means Source Separated Organic Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in Section 18982(a)(43), or as otherwise defined by Section 17402(a)(18.7).

"Source Separated Green Container Organic Waste" means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the generator, excluding Source Separated Blue Container Organic Waste, carpets, Non-Compostable Paper, and textiles.

"Source Separated Recyclable Materials" means Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste.

"State" means the State of California.

"Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars ($2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

"Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

A. Supermarket.

B. Grocery Store with a total facility size equal to or greater than 10,000 square feet.

C. Food Service Provider.

D. Food Distributor.

E. Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this chapter.

"Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

A. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.

B. Hotel with an on-site Food Facility and 200 or more rooms.

C. Health facility with an on-site Food Facility and 100 or more beds.

D. Large Venue.

E. Large Event.

F. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.

G. A Local Education Agency facility with an on-site Food Facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this chapter.

"Uncontainerized Green Waste and Yard Waste Collection Service" or "Uncontainerized Service" means a collection service that collects green waste and yard waste that is placed in a pile or bagged for collection on the street in front of a generator's house or place of business for collection and transport to a facility that recovers Source Separated Organic Waste, or as otherwise defined in 14 CCR Section 189852(a)(75).

"Wholesale Food Vendor" means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

Article 2
Storage of Solid Waste, Recyclable Materials, and Organic Waste

8.04.020 Storage of Solid Waste at point of origin.
No person may keep or dispose of solid waste in a manner or upon any place which affords food or harborage for rodents or insects, or which causes a public nuisance or public health hazard, or in a manner which violates this article.

8.04.030 Solid Waste container requirements.
It shall be the duty of every person occupying, using or controlling any dwelling, flat, apartment, boardinghouse, lodging house, restaurant, hotel, eating house or place of business, where Solid Waste, Recyclable Material or Organic Waste accumulates, to place the Solid Waste, Recyclable Material, or Organic Waste in a container as approved or supplied by the contractor, or in a container which is watertight and made out of plastic or galvanized metal; has suitable handles and a tight-fitting cover; is covered continuously except when being filled or emptied; and is kept clean by the user.

8.04.040 Container area to be kept clean.
Each person who has a Solid Waste, Recycling, or Organic Waste Container shall keep the area where the Container is located clean and free of Solid Waste, Recyclables, and Organic Waste.

8.04.050 Location of containers.
Each person from whom Solid Waste, Recyclable Material, or Organic Waste is collected shall maintain the Container in locations as designated by the Contractor, but where it will not be a public nuisance or otherwise offensive.

8.04.060 Storage of Solid Waste, Recyclable Material, and Organic Waste.
Each person who has charge or control of a place where rubbish accumulates shall provide a suitable method of storage so that the rubbish does not scatter about the premises in an unsightly or unsanitary manner.

8.04.070 Food facility solid waste storage.
Food facilities shall provide adequate Solid Waste storage locations, as determined by the health officer, with a hose bib within twenty-five (25) feet. Additional requirements such as coverage and sewer drainage may be required to assure the storage location is operated in a sanitary manner.

8.04.080 Solid Waste, Recycling, and Organic Waste storage areas.
A. Projects that require approval of a use permit shall provide one or more Solid Waste, Recycling, and Organic Waste areas for storage of these materials.

B. Materials other than Solid Waste, Recyclable Materials, or Organic Waste (e.g., building materials, business supplies, etc.) shall not be stored in Solid Waste, Recycling, or Organic Waste storage areas.

C. Solid Waste, Recycling, and Organic Waste areas shall be adequate in capacity, number and distribution to accommodate the amount and different types of Solid Waste, Recyclable Materials generated by all users of the areas.

D. Solid Waste, Recycling, and Organic Waste areas shall be adequately signed to provide instructions for depositing Solid Waste, Recyclable Materials, and Organic Waste in the appropriate Containers and to identify the name and phone number of the management authority responsible for the maintenance of the areas.

8.04.090 Burning or burying Solid Waste, Recyclable Materials, and Organic Waste prohibited.

No person shall burn or bury Solid Waste, Recyclable Materials, or Organic Waste in any yard or open space within the City.

8.04.100 Throwing or depositing Solid Waste, Recyclable Materials, or Organic Waste.

No person shall deposit, throw, scatter or sweep any solid waste on any private property without the permission of the owner thereof or on any publicly owned place in the City except in containers provided for such purposes by the City. No person shall deposit in any public container any Solid Waste, Recyclable Materials, or Organic Waste not produced by an activity lawfully conducted in the street, sidewalk, park, or public place.

Article 3
Collection, Transportation and Disposal of Solid Waste, Recyclable Materials, and Organic Waste

8.04.110 Collection of Solid Waste, Recyclable Materials, and Organic Waste.
The collection, removal and disposal of Solid Waste, Recyclable Materials, and Organic Waste may be performed only by the City under the direction of the city council, or by any person with whom the City has entered into a Solid Waste, Recyclable Materials, and Organic Waste removal contract, or may enter, into contracts for the collection, removal and disposal thereof.

8.04.120 Solid Waste, Recyclable Materials, and Organic Waste removal contract.
The city council may contract for the collection, disposal, and/or recycling, of Solid Waste, Recyclable Materials, and Organic Waste by granting to a qualified person the privilege of doing so. The privilege granted by the city may be exclusive or nonexclusive, and may relate to all or a portion within the City and may relate to all Solid Waste, Recyclable Materials, and Organic Waste or to any one or more of the substances constituting Solid Waste, Recyclable Materials, and Organic Waste.

8.04.130 Collection and disposal rates.
A. Solid Waste, Recyclable Materials, and Organic Waste removal rates shall be as set forth in the Solid Waste, Recyclable Materials, and Organic Waste removal contract or any extension thereof between the City and Contractor and as the same may be modified from time to time pursuant to the terms thereof. No Contractor shall make any charge for such collection or disposal in excess of the established rates.

B. The owner of each premises shall be liable for payment of all charges for Solid Waste, Recyclable Materials, and Organic Waste removal service to his or her premises whether the owner occupies the premises or not.

8.04.140 Collection by Contractor mandatory unless otherwise specified.
A. No person shall collect, transport and/or dispose of any Solid Waste, Recyclable Materials, or Organic Waste from any other person in the City and no person except the Contractor shall collect, transport and/or dispose of any Solid Waste, Recyclable Materials, and Organic Waste on the streets of the City, except as otherwise expressly provided in this article.

B. No person who produces, generates or otherwise accumulates Solid Waste, Recyclable Materials, or Organic Waste shall pay, reimburse, contract with or in any other way arrange for any person other than the Contractor to collect, transport and/or dispose of Solid Waste, Recyclable Materials, and Organic Waste, except as otherwise expressly authorized in this article.

8.04.150 Exemptions to mandatory collection.
A. No provision of this article shall prevent the disposition of Recyclable Materials or Organic Waste for which there are established commercial values, and for which the generator, accumulator or producer actually receives compensation, such as used kitchen fats, provided such materials are accumulated in a sanitary manner and disposed of through regular commercial channels.

B. No provision of this article shall prohibit the donation of Recyclable Materials or Organic Waste for which there are established commercial values by the generator, accumulator or producer of such recyclable material to any approved drop-off center. Further, Recyclable Materials or Organic Waste may be provided free of charge to any charitable, youth, civic, religious or similar person, group or organization, and the collection, transport and/or disposal of such Recyclable Material and Organic Waste may be provided free of charge by such person, group or organization.

C. Nothing in this article shall prohibit any person from collecting, disposing or transporting any Recyclable Materials or Organic Waste for which the Contractor does not provide recycling services pursuant to the City's approved recycling program to or at any recycling drop-off center, community compositing site or facility which is appropriately permitted or authorized under applicable health and safety laws and regulations.

D. Nothing in this article shall apply to or prohibit the disposition, collection, transport or disposal by any person of construction and demolition debris and wastes.

E. Nothing in this article shall prohibit the collection, transportation or disposal of lawn, tree and garden trimmings by any person as an incidental part of a landscaping or gardening service by that person.

F. All owners and occupants of structures who demonstrate and certify to the satisfaction of the director of public works or his or her designee that Solid Waste collection service is not needed may collect and transport Solid Waste produced on the premises where he or she resides or which he or she owns if the owner or occupant satisfies any of the following criteria:

1. The owner or occupant does not generate sufficient Solid Waste to require service and timely and appropriately transports his or her Solid Waste to a permitted disposal facility at least every seven days; or

2. The owner or occupant otherwise has arranged for shared Solid Waste disposal with the owner or occupant of another structure receiving Solid Waste collection service from the Contractor, and such shared service does not involve an undue accumulation or improper storage of Solid Waste.

G. No provisions of this article shall bar any person from removing Solid Waste in an emergency situation where the Contractor for any reason is unable to handle such Solid Waste and where such removal is necessary for the protection of public health.

8.04.160 Vehicles used to transport Solid Waste, Recyclable Materials, and Organic Waste.

No person shall remove, convey or transport any Solid Waste, Recyclables, or Organic Waste along, upon or over any public street, highway or public place in the City, except in such manner so as to prevent the contents thereof from dropping upon the public streets. The Contractor shall only convey Solid Waste, Recyclables, and Organic Waste on City streets in a tightly sealed and metal enclosed watertight motor truck. The truck body shall be constructed of metal, of sufficient strength to withstand fire from within, without endangering persons or property. The truck body in which Solid Waste, Recyclables, or Organic Waste are hauled shall be washed thoroughly and

cleaned at least once each week. The Contractor shall park and store all vehicles used in the pickup and transport of solid waste in a designated area to be agreed upon between the city and contractor.

8.04.170 Frequency and hours of collection by Contractor.

A. Solid Waste, Recyclable Materials, and Organic Waste shall be collected at least once each week.

B. The Contractor shall dispose of Solid Waste, Recyclable Materials, and Organic Waste at its disposal site or processing facility on the same day as the Contractor collects the Solid Waste, Recyclable Materials, and Organic Waste. The Contractor shall not permit a vehicle to be parked overnight with Solid Waste, Recyclable Materials, or Organic Waste stored in it.

C. The Contractor and the City may agree upon the hours for the collection of Solid Waste, Recyclable Materials, and Organic Waste. However, the hours of collection may not begin before four-thirty a.m.

8.04.180 Ownership and collection of Recyclable Materials.

A. Recyclable Materials which are placed at the curbside or other collection location designated by the City or the Contractor for collection by the Contractor in containers provided by the Contractor shall be collected solely by the Contractor.

B. No person other than the Contractor shall remove Recyclable Materials which has been placed at the curbside or other designated collection location for removal by the Contractor in Containers provided by the Contractor.

C. No person shall burn, break, destroy, scatter, scavenge, collect or take any Recyclable Materials placed at the curbside or other designated collection location for collection by the Contractor, without the consent of either: (1) the resident, owner or occupant of the premises or establishment which generated the Recyclable Materials; or (2) the authorized Contractor.

D. Nothing in this chapter shall limit the right of an individual person, organization or entity to donate, sell or otherwise dispose of Recyclable Materials, provided that any such conduct is otherwise in accordance with the provisions of this chapter.

8.04.190 Violations—Penalties.

A. No person shall interfere with the collection, removal or disposal of refuse or curbside recyclable materials by the Contractor.

B. No person other than an authorized City employee or the City's authorized curbside Recyclable Materials collector to take, remove, move or otherwise appropriate any Container in which Recyclable Materials are placed for collection or the curbside Recyclable Materials contained therein.

8.04.200 Nonapplicability.

This article does not apply to the services provided pursuant to the Upper Valley Waste Management Agency Formation Agreement to the extent such agreement conflicts with the provisions hereof, as long as that agreement is effective.

Article 4
Organic Waste Disposal Reduction

8.04.210 Requirements for Single-Family Generators

A. Single-Family Organic Waste Generators shall comply with the following requirements except Single-Family generators that meet the Self-Hauler requirements in Section 8.04.260:

1. Shall subscribe to the City's Organic Waste collection services for all Organic Waste generated as described below in Section 8.04.210(A)(2). The City shall have the right to review the number and size of a generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and Single-Family generators shall adjust their service level for their collection services as requested by the City. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

2. Shall participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below, and shall not place Prohibited Container Contaminants in collection containers. Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or the Blue Container.

8.04.220 Requirements for Commercial Businesses

Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall:

A. Subscribe to the City's Organic Waste collection services as described below in Section 8.04.220(B), except Commercial Businesses that meet the Self-Hauler requirements of Section 8.04.260. The City shall have the right to review the number and size of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and Commercial Businesses shall adjust their service level for their collection services as requested by the City.

B. Except Commercial Businesses that meet the Self-Hauler requirements of Section 8.04.260, participate in the City's Organic Waste collection services by placing designated materials in designated Containers as described below. Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green

Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generator shall not place materials designated for the Gray Container into the Green Container or Blue Container.

C. Supply and allow access to adequate number, size and location of collection Containers with sufficient labels or colors for employees, contractors, tenants, and customers, consistent with the City's Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program in accordance with Section 8.04.260.

D. Excluding Multi-Family Residential Dwellings, provide Containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. If a Commercial Business provides substantial evidence and the City agrees that the business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:

1. A body or lid that conforms with the container colors provided through the collection service provided by the City, with either lids conforming to the color requirements or bodies conforming to the color requirements, or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

2. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant to 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.

E. To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a container not designated for those materials per the City's Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program in accordance with Section 8.04.260.

F. Excluding Multi-Family Residential Dwellings, inspect at least one time per month Blue Containers, Green Containers, and Gray Containers for contamination, and inform

employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).

G. On at least a quarterly basis, provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.

H. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste and the location of containers and the rules governing their use at each property.

I. Provide or arrange access for the City, its agent, or its Designee to their properties during all Inspections to confirm compliance with the requirements of this chapter.

J. Accommodate and cooperate with any Remote Monitoring program approved by the City or its Designee.

K. If a Commercial Business wants to self-haul, meet the Self-Hauler requirements of Section 8.04.260.

L. Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

M. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements of Section 8.04.230.

8.04.230 Requirements for Commercial Edible Food Generators

A. Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

B. Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.

C. Commercial Edible Food Generators shall comply with the following requirements:

1. Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.

2. Contract with or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.

3. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

4. Allow the Enforcement Official or a Designee to access the premises and review records pursuant to 14 CCR Section 18991.4.

5. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:

    a. A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).

    b. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).

    c. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:

        i. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.

        ii. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.

        iii. The established frequency that food will be collected or self-hauled.

        iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

D. Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 (Chapter 285, Statutes of 2017), as amended, supplemented, superseded and replaced from time to time).

8.04.240 Requirements for Food Recovery Organizations and Services

A. Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR

Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):

1. The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.

2. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.

3. The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.

4. The name, address, and contact information for each Food Recovery Organization to which the Food Recovery Service transports Edible Food for Food Recovery.

B. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):

1. The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.

2. The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.

3. The name, address, and contact information for each Food Recovery Service from which the organization receives Edible Food for Food Recovery.

C. Food Recovery Organizations and Food Recovery Services shall inform generators about California and Federal Good Samaritan Food Donation Act protection in written communications, such as in their contract or agreement established under 14 CCR Section 18991.3(b).

D. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the City or its Designee the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators with which they have established a contract or written agreement pursuant to 14 CCR Section 18991.3(b), no later than July 30th and upon the City's or its Designee's request.

E. In order to support Edible Food Recovery capacity planning assessments, Food Recovery Organizations operating in the City shall provide information and consultation to the City or its Designee, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City or its Designee and its Commercial

Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City or its Designee shall respond to such request for information within 60 days.

8.04.250 Requirements for Haulers and Facility Operators

A. Requirements for Haulers

1. Franchised and permitted haulers providing residential, Commercial, or industrial Organic Waste collection services to generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the City or Regional Agency to collect Organic Waste:

   A. Through written notice to the City or Regional Agency annually on or before January 1, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials and Source Separated Green Container Organic Waste.

   B. Transport Source Separated Recyclable Materials and Source Separated Green Container Organic Waste, to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.

   C. Obtain approval from the City or Regional Agency to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, this chapter, and any applicable provision(s) of this code.

2. Franchised and permitted haulers authorization to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with City or Regional Agency.

B. Requirements for Facility Operators and Community Composting Operations

1. Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon request of the City or Regional Agency, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City or Regional Agency shall respond within 60 days.

2. Community Composting operators, upon request of the City or Regional Agency, shall provide information to the City or Regional Agency to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City or Regional Agency shall respond within 60 days.

8.04.260 Self-Hauler Requirements

A. Self-Haulers shall Source Separate all Recyclable Materials and Organic Waste (materials the City otherwise requires generators to separate for collection in its organics and recycling collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2 or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.

B. Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.

C. Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the City or its Designee. The records shall include the following information:

1. Delivery receipts and weight tickets from the entity accepting the waste.

2. The amount of material in cubic yards or tons transported by the generator to each entity.

3. If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.

D. Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 8.04.260(C) to the City or its Designee if requested. Self-haulers must also register with the City or its Designee prior to engaging in hauling.

E. A residential Organic Waste Generator that self-hauls Organic Waste is not required to record or report information in Section 8.04.260(C) and (D).

8.04.270 Inspections and Investigations by City or Designee

A. City representatives and its Designee are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow the City to enter the interior of a private residential property for Inspection. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this article described herein. Failure to provide or arrange for: (i) access to an entity's premises; (ii) installation and operation of Remote Monitoring equipment or (ii) access to records for any Inspection or investigation is a violation of this article.

1. Any records obtained by the City and/or its Designee during its inspections and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

2. City representatives and its Designee are authorized to conduct any inspections or other investigations as reasonably necessary to further the goals of this article, subject to applicable laws.

3. The City and/or its Designee shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

8.04.280 Delegation of Authority

A. The City Council may delegate all City responsibilities and authority under this article, SB 1383, and the SB 1383 Regulations, including, but not limited to, those related to Organic Waste collection services, education, inspections and investigations, and Edible Food recovery services, to its Designee by:

1. Contracts with haulers or other private entities; or

2. Agreements such as memorandums of understandings with other jurisdictions, entities, regional agencies as defined in Public Resources Code Section 40181, or other government entities, including environmental health departments.

B. The City Council shall not delegate authority to impose civil penalties, or to maintain an action to impose civil penalties under Section 8.04.290 or as otherwise provided in this code.

8.04.290 Enforcement

A. Violation of any provision of this article shall constitute grounds for issuance of a Notice of Violation and assessment of a fine or penalty by the Enforcement Official. Enforcement Actions under this chapter are issuance of an administrative citation and assessment of a fine. The City's procedures on imposition of administrative fines in Chapter 1.12 are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Chapter and any rule or regulation adopted pursuant to this chapter.

B. Other remedies allowed by law may be used, including civil action or prosecution as a misdemeanor or an infraction. The City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. The City may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of City staff and resources.

C. Responsible Entity for Enforcement. Enforcement pursuant to this chapter may be undertaken by the Enforcement Official.

D. Penalty Amounts for Types of Violations. The penalty levels are as follows:

1. For a first violation, the amount of the base penalty shall be $100 per violation.

2. For a second violation, the amount of the base penalty shall be $200 per violation.

3. For a third or subsequent violation, the amount of the base penalty shall be $500 per violation.

4. The penalties shall be consistent with Government Code section 36900.

E. Appeals Process. Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation pursuant to Section 1.12.210(B).

F. Education Period for Non-Compliance Beginning January 1, 2022, and through December 31, 2023. The City will conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if the City determines that Organic Waste Generator, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, the City shall provide educational materials to the entity describing its obligations under this Chapter and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties from the City starting on January 1, 2024.

G. Civil Penalties for Non-Compliance. Beginning January 1, 2024, if the City determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial

Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this Chapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action, as needed.

Memorandum of Understanding
Between the City of St. Helena and
The Upper Valley Waste Management Agency
Regarding Implementation of SB 1383

This Memorandum of Understanding ("MOU") is made this 20th day of December, 2021 (the "Effective Date") by and between the **CITY OF ST. HELENA**, a California municipal corporation (the "City") and the **UPPER VALLEY WASTE MANAGEMENT AGENCY,** a California joint powers authority (the "Agency") (collectively, the "Parties"), with respect to the following Recitals:

RECITALS

WHEREAS, the Agency is a joint powers agency organized and operating under the Joint Exercise of Powers Act (Gov. Code section 6500 et seq.) and a "regional agency" under the California Integrated Waste Management Act of 1989; and

WHEREAS, the City is a Member of the Agency, which operates certain core programs on behalf of and for the benefit of the City including, but not limited to, providing education regarding recycling, composting, and other methods of waste diversion to the City and the public, and conducting, preparing, and submitting all monitoring and reporting as a regional agency pursuant to the Integrated Waste Management Act of 1989; and

WHEREAS, SB 1383 (Chapter 395, Statutes of 1383) requires the California Department of Resources Recycling and Recovery (CalRecycle) to adopt regulations to reduce organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025, which regulations have been finalized and are now in effect (Division 7 of Title 14 of the California Code of Regulations) (the "SB 1383 Regulations"); and

WHEREAS, the SB 1383 Regulations require local jurisdictions, among other things, to implement programs requiring organic waste generators and waste haulers to meet minimum standards for organic waste collection services, inspect waste containers for prohibited contamination of materials, provide education and outreach information to organic waste generators, report to

CalRecycle on compliance with the SB 1383 Regulations, and maintain records of compliance with the SB 1383 Regulations; and

WHEREAS, the City has introduced and intends to adopt Ordinance No. ____, which implements and meets the requirements of the SB 1383 Regulations; and

WHEREAS, the SB 1383 Regulations authorize the City to enter into a Memorandum of Understanding with the Agency to fulfill its responsibilities under the SB 1383 Regulations; and

WHEREAS, the Parties wish to enter into this MOU to establish certain roles and responsibilities that the Agency shall assume on behalf of the City to implement the SB 1383 Regulations under the terms and conditions set forth herein.

NOW, THEREFORE, the Parties hereby agree as follows:

AGREEMENT

1. **Term**. This MOU shall commence on the Effective Date and remain in full force and effect until terminated as provided herein.

2. **Definitions**. The terms below are defined as follows and any other terms used but not defined herein shall have the meaning set forth in the SB 1383 Regulations, Section 17402 of Title 14 of the California Code of Regulations, or Section 18815.2 of Title 14 of the California Code of Regulations:

(a) "Agency" means the Upper Valley Waste Management Agency.

(b) "CalRecycle" or "Department" means the California State Department of Resources Recycling and Recovery.

(c) "County" means the County of Napa.

(d) "Edible Food" means food intended for human consumption.

(e) "Generator(s)" means a person or entity that is responsible for the initial creation of Organic Waste.

(f) "Hauler(s)" means a person or entity who collects material from a Generator and delivers it to a reporting entity, end user, or a destination. "Hauler" includes public contract haulers, private contract haulers, food waste self-haulers, and self-haulers. A person who transports material from a reporting entity to another person is a transporter, not a hauler.

(g) "Implementation Record" means the compiled records, physical or electronic, of the City that must be stored in one central location and contain the records and information required by Section 18995.2 of the SB 1383 Regulations.

(h) "Organics," "Organic Materials" or "Organic Waste" are materials that originate from living organisms and their metabolic waste products, including food, green material, landscape and pruning waste, vegetables, grain, meat, bones, paper towels, leaves, digestate and wood.

(i) "Route review" means a visual inspection of containers along a hauler route for the purpose of determining container contamination and may include mechanical inspection methods such as the use of cameras.

(j) "SB 1383 Regulations" means Chapter 12 (Short-lived Climate Pollutants) of Division 7 of Title 14 of the California Code of Regulations.

(k) "Waste evaluation" means collecting samples from garbage, recycling, and organics from different areas in the jurisdiction so that the samples are representative of the jurisdiction's waste stream.

3. **Responsibilities of the Agency.**

(a) **Organic Waste Collection Services.** Pursuant to Section 18981.2 of the SB 1383 Regulations, the City designates the Agency as the entity responsible for Organic Waste collection services on behalf of the City. The Agency shall contract, permit, or authorize one or more public or private entities to collect Organic Waste with the jurisdiction of the City.

(b) **Education and outreach.** The Agency shall provide educational materials and community outreach to Organic Waste Generators in English and Spanish that explain and provide information on the requirements of the SB 1383 Regulations, as more specifically described below. In providing the education and outreach materials described below, the Agency intends that its education and outreach efforts will be consistent with, and supplemental to, the education and outreach provided by the franchised Haulers. Since Non-Local Entities and Local Education Agencies are not under the City's control but are still subject to the SB 1383 Regulations and other laws, the Agency shall also identify and provide them with the educational materials on the requirements set forth below.

(i) Prior to February 1, 2022, the Agency will make available to Generators, through print and/or electronic media as permitted pursuant to the SB 1383 Regulations, information regarding the responsibilities and requirements set forth in Sections 18984.9, 18984.10, 18985.1, 18985.2, 18988.3, 18991.3, 18991.4, and 18991.5 of the SB 1383 Regulations. The information generated pursuant to this subparagraph shall be made available through posting on the Agency's website, content made available for posting on the City's website, and brochures made available for distribution to Generators. The Agency will additionally provide the information through other sources as deemed appropriate at the Agency's discretion. The information generated pursuant to this subparagraph shall be updated at least annually.

(ii) Through email, letters, or other direct communication, the Agency shall annually notify Tier I and II Commercial Edible Food Generators within the City of their food recovery obligations and requirements pursuant to Sections 18991.3 and 18991.4 of the SB 1383 Regulations. Such notification shall include corresponding resources to assist in compliance with the applicable food recovery obligations and requirements.

(iii) The Agency shall perform outreach to non-compliant residential and commercial Generators to seek voluntary compliance with the SB 1383 Regulations, as more particularly described in this MOU. As part of seeking voluntary compliance, the Agency will provide non-compliant residential and commercial Generators with information and resources to encourage

compliance with the SB 1383 Regulations related to the collection and recovery of Organic Materials.

(iv) On or before January 1, 2022, the Agency will design or cause to be designed container decals that comply with Section 18984.8 of the SB 1383 Regulations and distribute them upon request.

(c) **Procurement.** The Agency shall annually notify the City of its Organic Waste product procurement target, as required and determined by CalRecycle pursuant to Section 18993.1 of the SB 1383 Regulations. Before CalRecycle releases the official procurement targets for the City on January 1, 2022 and every five years thereafter, the Agency shall assist the City in calculating estimates of the procurement targets.

(d) **Reporting and recordkeeping**.

(i) The Agency shall prepare and submit the reports required pursuant to Sections 18992.1 and 18992.2 of the SB 1383 Regulations on Organics processing capacity and Edible Food recovery capacity planning requirements. The Agency shall submit the required reports in accordance with the schedule established in Section 18992.3 of the SB 1383 Regulations.

(ii) The Agency will store and maintain the Implementation Record for the City in conformance with Section 18995.2 of the SB 1383 Regulations. The City will be given access to its own Implementation Record upon request. Staff of the Agency will upload documents to CalRecycle within the 60-day timeframe as required in the SB 1383 Regulations, provided that the information is made available to the Agency by the parties creating such records in a prompt manner.

(iii) Upon request by a CalRecycle representative, the Agency will provide access to the Implementation Record within 10 business days and will respond to a request for public records contained in the Implementation Record in conformance with the California Public Records Act (Government Code § 6250 et seq.) The Agency and the City shall each notify the other if they receive a request for all or part of the Implementation Record and coordinate a response to such request.

(iv) The Agency shall prepare and submit the Initial Compliance Report and Annual Reports to CalRecycle on behalf of the City in compliance with Sections 18994.1 and 18994.2 of the SB 1383 Regulations.

(e) **Organic waste processing capacity and diversion planning.** As a component of preparing the reports required pursuant to Sections 18992.1 and 18992.2 of the SB 1383 Regulations, the Agency shall estimate existing Organics processing and Edible Food recovery capacities available in the County. If it is found that capacity in either category is needed, the Agency shall assist the City in creating an implementation plan to expand capacity.

(f) **Complaints and violations.**

(i) The SB 1383 Regulations require that the City provide a procedure for the receipt and investigation of written complaints of alleged violations of the SB 1383 Regulations. In conformance with this requirement, the Agency shall make an online complaint form available on its website for public submission and will make the form available for the City to place on its website. The complaint form shall collect all information required under Section 18995.3 of the SB 1383 Regulations. Upon receipt of a complaint, the Agency shall forward the complaint to the City and the Hauler. The Agency shall work with the Hauler to investigate the validity of the complaint within 90 days of receipt of the complaint in accordance with Section 18995.3 of the SB 1383 Regulations. If a Generator is found to be non-compliant, the Agency shall notify the Generator of the Agency's determination of non-compliance, including the basis for its determination and the supporting evidence received or generated by the Agency. As part of the notification, the Agency will provide resources to assist the Generator in achieving compliance with the SB 1383 Regulations.

(ii) The Agency will develop a standardized procedure for seeking voluntary compliance from Generators that are in violation of the SB 1383 Regulations. The Agency's responsibilities will include contacting Generators who have repeatedly contaminated and/or refuse to use the recycling and/or organics collection containers despite reasonable efforts by the franchised Hauler to notify the Generator and seek compliance. The Agency will use incrementally escalating efforts to educate

the non-compliant Generator and seek voluntary compliance through the standardized procedures developed by the Agency. In the event the Agency is unable to achieve voluntary compliance through these contacts, the Agency will refer the matter, along with all evidence collected by the Agency related to the Generator's non-compliance, to the City for consideration of formal enforcement action.

(iii) In the event the City initiates an enforcement action against a Generator, the Agency will provide support to the City in carrying out the enforcement action, including working with the franchised Hauler to determine whether the Generator has come into compliance prior to a compliance deadline established by any Notice of Violation or other enforcement tool. The Agency's support will be directed by the City as it retains sole responsibility for any formal enforcement action.

(g) **Inspections of Commercial Edible Food Generators.** Beginning January 1, 2022, the Agency shall conduct annual inspections of Tier I Commercial Edible Food Generators, food recovery organizations, and food recovery services within the City in a manner as necessary to comply with the requirements of Section 18995.1(a)(2) of the SB 1383 Regulations. The Agency may conduct inspections of a random sampling of food recovery entities or prioritize inspections of entities that it determines are more likely to be out of compliance, provided that such manner of selection shall satisfy the requirements of the SB 1383 Regulations. Beginning January 1, 2024, the Agency shall additionally conduct annual inspections of Tier II Commercial Edible Food Generators within the City in a manner as necessary to comply with the requirements of Section 18995.2(a)(2) of the SB 1383 Regulations. The Agency may adjust the frequency or number of inspections from time to time in its discretion or if required by CalRecycle.

(h) **Transfer and Assignment of Agency Responsibilities.** The Agency may transfer all of its responsibilities under this MOU to a franchise Hauler or other entity pursuant to a franchise agreement or other written agreement.

4. **Responsibilities of the City.**

(a) Except for those responsibilities and requirements expressly assumed by the Agency pursuant to

this MOU, the City shall be responsible for compliance with the SB 1383 Regulations, as applicable. With respect to CALGreen and Model Water Efficient Landscaping Ordinance ("MWELO") requirements, if the City has incorporated CALGreen or MWELO requirements within its municipal code, the local requirements shall apply but if not, the state statutes and regulations governing CALGreen and MWELO shall apply in all circumstances where necessary.

(b) The City shall be responsible for the adoption of its own enforceable ordinance and procurement policy as required by SB 1383.

(c) **Sharing of information.** Within thirty (30) days of request by the Agency, or as soon as such information is available to the City, the City shall share with the Agency all data, documents, contact information for Generators within the City, and any other information necessary for the Agency to carry out the responsibilities set forth in this MOU. At the Agency's request, the City shall provide the following information:

(i) Debris Removal:

(1) A record of the amount of sediment debris that is disposed pursuant to Section 18984.13 of the SB 1383 Regulations on an annual basis.

(2) All solid waste removed for landfill disposal from homeless encampments and illegal disposal sites as part of an abatement activity to protect public health and safety that exceeds 100 tons annually.

(ii) CALGreen and Model Efficient Water Landscaping Ordinances:

(1) The number of construction and demolition debris removal activities conducted in compliance with Section 18989.1 of the SB 1383 Regulations.

(2) The number of projects subject to Section 18989.2 of the SB 1383 Regulations.

(iii) Purchasing:

(1) The amount of each recovered Organic Waste product procured directly by the City or through direct service providers, or both during the prior calendar year.

(2) If the City is implementing the procurement requirements of Section 18993.1 of the SB 1383 Regulations through an adjusted recovered Organic Waste product procurement target pursuant to Section 18993.1(j) of the SB 1383 Regulations, the City shall include in its report the total amount of transportation fuel, electricity, and gas for heating applications procured during the calendar year prior to the applicable reporting period.

(3) All recycled content paper procurement records required by Section 18993.4 of the SB 1383 Regulations.

(d) **Enforcement.** The City shall be responsible for any enforcement of the SB 1383 Regulations within its boundaries. The Agency's role in seeking compliance with the SB 1383 Regulations will be limited to conducting investigations and seeking voluntary compliance as more specifically described in this MOU. The City shall however provide the Agency with the following information regarding enforcement actions:

(i) The number of complaints pursuant to Section 18995.3 of the SB 1383 Regulations that were received and investigated, and the number of Notices of Violation issued based on investigation of those complaints.

(ii) The number of Notices of Violation issued, categorized by type of entity subject to the SB 1383 Regulations.

(iii) The number of penalty orders issued, categorized by type of entity subject to the SB 1383 Regulations.

(iv) The number of enforcement actions that were resolved, categorized by type of regulated entity.

5. **Indemnification/Hold Harmless.** The Agency shall indemnify, defend, and hold harmless the City, its officials, consultants, agents, and employees from and against any and all losses, damages, liability, claims, suits, costs and expenses, including reasonable attorney's fees, arising from the Agency's performance of this MOU, with the exception of matters that are based upon the negligent or intentional acts or omissions of the City, its officials, consultants, agents and/or employees. The City shall also indemnify, defend, and hold harmless the Agency, its officials, consultants, agents, and employees from and against any and all losses, damages, liability, claims, suits, costs and expenses, including reasonable attorney's fees, arising from the City's performance of this MOU, with the exception of matters that are based upon the negligent or intentional acts or omissions of the Agency, its officials, consultants, agents and/or employees.

6. **Withdrawal of Member Agency; Termination by Agency**. The City may withdraw as a party to this MOU upon giving at least one hundred and eighty (180) calendar days' prior written notice to the Agency. Further, the Agency may terminate this MOU upon giving at least three hundred and sixty-five (365) calendar days' prior written notice to the City or such shorter period agreed to by the Parties. Upon termination of this MOU, the Agency shall have no further

obligations to carry out its responsibilities as described in this MOU.

7. **Notice**. During the term of this MOU, all notices shall be made in writing and either served personally, sent by first class mail, or sent by email provided confirmation of delivery is obtained at the time of email transmission, addressed as follows:

To: Agency Management Agency

Executive Director

94574

707-963-7988

Upper Valley Waste

Attention:

1285 Whitehall Ln
St Helena, CA

Telephone Number:

Email: PublicWorks@countyofnapa.org

To City Manager

Avenue

City of St. Helena
Attention: City

1572 Railroad

St. Helena, CA 94574
Telephone Number: 707-968-2744 x500
Email: mprestwich@cityofsthelena.org

The Parties may change the address to which notice is to be given by providing the other written notice of such change at least fifteen (15) calendar days prior to the effective date of the change.

Service of notices shall be deemed complete on the date of receipt if personally served or if served using email

provided confirmation of delivery is obtained at the time of email transmission. Service of notices sent by first class mail shall be deemed complete on the fifth (5th) day following deposit in the United States mail.

8. **Governing Law and Venue.** This MOU shall be governed by and construed in accordance with the laws of the State of California. Venue in any proceeding or action arising out of this MOU shall be in the Superior Court of California for the County of Napa.

9. **Amendment.** This MOU and the exhibits hereto may only be amended in writing signed by all Parties and any other purported amendment shall be of no force or effect. This MOU may be amended from time to time to modify its provisions and/or add tasks to one or both of the Parties.

10. **Entire Agreement**. This MOU and its exhibits constitute the entire agreement between the City and the Agency and supersedes all prior negotiations, representations, or agreements related hereto, whether written or oral.

IN WITNESS WHEREOF, the Parties hereto have executed this agreement in duplicate on the day and year first above written.

CITY OF ST. HELENA, A California Municipal Corporation and Member of the Upper Valley Waste Management Agency.

By: _____
Mark Prestwich
City Manager

APPROVED AS TO FORM:

_____
Ethan Walsh
City Attorney

UPPER VALLEY WASTE MANAGEMENT AGENCY, A California Joint Powers Authority

By: _____
Steven Lederer
Executive Director

APPROVED AS TO FORM:

_____

Agency Counsel

CITY OF ST. HELENA

RESOLUTION NO. 2021-___

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH UPPER VALLEY WASTE MANAGEMENT AGENCY REGARDING IMPLEMENTAITON OF SB 1383 REGULATIONS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE MEMORANDUM OF UNDERSTANDING ON BEHALF OF THE CITY

RECITALS

A. In 2016, Governor Brown signed into law Senate Bill 1383 (Lara, Chapter 395, Statutes of 2016) ("SB 1383"), establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants (SLCP) in various sectors of California's economy; and

B. SB 1383 is the State's most aggressive waste reduction law in the last 30 years and enacts the following targets to reduce organic waste in landfills; and

C. SB 1383 and its implementing regulations mandate that cities and counties:

   a. Provide organic waste collection services to all residents and businesses;

   b. Develop and adopt an enforcement mechanism or ordinance by January 2022;

   c. Establish an edible food recovery program;

   d. Update the City's procurement policy to purchase recycled content paper and recycled organic waste products (e.g., compost, mulch, and renewable natural gas) at a volume of 0.08 tons/resident;

   e. Provide outreach and education for generators, haulers, facilities, edible food recovery organizations, and municipal departments;

   f. Plan and secure access for recycling and edible food recovery capacity;

   g. Monitor compliance and conduct enforcement; and

   h. Maintain accurate compliance records; and

D. The City of St. Helena is a member of the Upper Valley Waste Management Agency ("Member"), a joint powers agency organized and operating under the Joint Exercise of Powers Act (Government Code section 6500 et seq.) and a "regional agency" under the California Integrated Waste Management Act of 1989 (the "Agency"); and

E. 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. In early 2021, the Members amended Section 6.1 of the Joint Powers Agreement to allow the Agency to assist Members in complying with state organic waste recycling mandates. Specifically, the Agency is authorized 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…

F. The Agency intends to delegate many of the responsibilities under SB 1383 to its franchisees, Upper Valley Disposal Service and Clover Flat Land Fill, as authorized by the SB 1383 Regulations (Cal. Code. Regs., tit. 14, § 18981.2); and

G. This will ensure consistent implementation throughout the Agency's jurisdiction and relieve much of the administrative burden of implementing the SB 1383 Regulations, which would otherwise be borne by the Members or the Agency (or both).

RESOLUTION

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

1. Approval of a Memorandum of Understanding with Upper Valley Waste Management Agency for the implementation of SB 1383 is exempt per California Environmental Act (CEQA) Guideline, Section 15061(b)(3);
2. Approval a Memorandum of Understanding with Upper Valley Waste Management Agency for the implementation of SB 1383; and
3. Authorize the City Manager to execute the MOU on behalf of the City.

Approved at a Regular Meeting of the St. Helena City Council on December 14, 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

Cindy Tzafopoulos

From: Sandi Thompson <saludwi94062@yahoo.com>
Sent: Tuesday, December 14, 2021 8:03 AM
To: Cindy Tzafopoulos
Subject: [External] Letter to Council, December 14, 2021 Meeting of St Helena City Council, Item 12.1

Cindy, thank you for handling this letter to Council.

****
***

For distribution to Councilmembers and staff. New Business Item 12.1

Mayor Ellsworth and St Helena City Councilmembers:
One of the key objectives of S1383 is to reduce methane production and the City Attorney in his report clearly states that landfills are the third largest methane producer. The proposed Memorandum of Understanding purports to enable St Helena to reduce methane.

Please help us understand how, on one hand, we are aggressively taking action to cut organic waste that contributes to methane production and yet, on their other, allow Clover Flats to take in out-of-county waste that will in all likelihood increase methane production at that site?

And a small reminder that all waste processed at Clover Flats sits atop our Napa River watershed and has already been found to have produced forever chemicals in all samples taken, at the commission of the Clover Flats operator for Bay Area Water Quality District.

Again why are we taking in out-of-county waste if our objective is to reduce the amount of methane produced in our jurisdiction?

Sandi Thompson
1457 South Whitehall Lane
St Helena

****

Report to the City Council
Regular City Council - 14 Dec 2021

Agenda Section: **NEW BUSINESS**

Subject: **Consideration and Proposed Approval of the First Reading of an Ordinance Amending Chapter 2.56 of the St. Helena Municipal Code Pertaining to the Parks and Recreation Commission**

CEQA Determination: **Not a CEQA project**

Prepared By: Mark T. Prestwich, City Manager

Reviewed By: April Mitts, Administrative Services Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

Chapter 2.56 of the St. Helena Municipal Code outlines the membership composition, duties, and responsibilities of the City's Parks and Recreation Commission. On July 20, 2020, the City's Parks and Recreation Commission appointed an Ad Hoc subcommittee to work with City staff to review, and potentially recommend adjustments to, the ordinance language.

DISCUSSION

At the Parks and Recreation Commission meeting of June 21, 2021, the Parks and Recreation Commission reviewed recommendations prepared by the Parks and Recreation Ad Hoc Committee and endorsed proposed recommendations to the ordinance. The recommended changes are noted in track changes in Attachment A. A clean version of the proposed ordinance is included in Attachment B.

FISCAL IMPACT

There is no fiscal impact associated with the recommended ordinance.

RECOMMENDED ACTION

Proposed approval of the first reading of an Ordinance amending Chapter 2.56 of the St. Helena Municipal Code pertaining to the Parks and Recreation Commission, by title only and waive further reading.

ATTACHMENTS

Attachment A Ordinance-REDLINE
Attachment B Ordinance-CLEAN

CITY OF ST. HELENA

ORDINANCE NO. _____

AMENDING CHAPTER 2.56 OF THE ST. HELENA MUNICIPAL CODE PERTAINING TO THE PARKS AND RECREATION COMMISSION

WHEREAS, the City Council of the City of St. Helena ("City") has determined to revise the provisions of Chapter 2.56 of the City of St. Helena Municipal Code pertaining to the Parks and Recreation Commission, in order to better meet the City's needs.

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 2.56 of the St. Helena Municipal Code is hereby amended to read as follows:

"Chapter 2.56 – PARKS AND RECREATION COMMISSION

Sections:
2.56.010 Membership
2.56.030 Meetings
2.56.040 Duties
2.56.050 Review of Annual Budgets

Section 2.56.010 – Membership.

The parks and recreation commission shall consist of five members. Commissioners shall be residents of the city; provided, that the mayor reserves the authority to appoint nonresidents to the commission on a case-by-case basis, with the consent of the city council. Commissioners shall serve for a term of two years, with the term of office to expire at the end of the fiscal year. The city council may establish one-year terms for some ~~trustees~~ commissioners for the purpose of staggering term expirations. Each commissioner shall be appointed by the mayor with the approval of the city council and may be removed without cause by the city council. If a vacancy shall occur otherwise than by expiration of the term of office, it shall be filled by appointment for the unexpired portion of the term. ~~The superintendent of schools of the St. Helena Unified School District shall be an ex officio member of the commission.~~

Section 2.56.030 – Meetings.

The commission shall meet at least once a month at such ~~date,~~ time and place as it may fix by resolution. Special meetings of the commission may be called at any time by the chairperson or three members thereof by written notice provided as required by the Ralph M. Brown Act. (Cal. Govt. Code § 54950 *et seq.*)~~three commissioners, with written notice served upon each commissioner at least three hours before the time specified for the proposed meeting~~. A majority of the commissioners shall constitute a quorum for the transaction of business. The commissioners shall appoint the chairperson and vice-chairperson from their number, each of whom shall serve for one year and until his or her successor is appointed. The commission shall cause a proper record of their proceedings to be kept and shall file minutes of all meetings with the city clerk.

Section 2.56.040 – Duties.

The duties of the commission shall be as follows:

A. To act in an advisory capacity to the city council and ~~its~~ the director of ~~Parks & Recreation~~parks & recreation in all matters pertaining to ~~the~~ public parks and recreation, and to cooperate with other governmental agencies and civic groups in the advancement of sound parks and recreation planning and programming;

B. To ~~formulate~~ review and recommend ~~developed~~ policies on recreation services, park use, and park improvement and ~~for~~development for approval by the city council;

C. To advise ~~with~~ the city council, city manager, ~~and its~~ Director of Parks & ~~Recreation~~director of recreation, and director of public works ~~director~~ on ~~problems of administration, development of~~ matters related to parks and recreation areas, facilities, park development, and programs and ~~improved~~ recreation services;

D. ~~To periodically~~Upon request by the city council or city staff, study, review, evaluate and recommend the adoption of standards and policies on parks and recreation matters;

E. To provide recommendations related to: ~~organization, personnel, areas and~~

1. facility maintenance and development
2. social equity, environmental stewardship, and health and wellness
3. projects within the city that may have an impact on the availability and delivery of parks, trails, and recreation servicesies;
4. service levels;
5. ~~prioritize~~ parks and recreation needs;
6. the Parks and Recreation Master Plan;
7. recreational programs and events, and;
8. ~~1.~~ parks and recreation user fees; ~~and financial support;~~

F~~G~~. To establish annual goals and action plans consistent with city council goals and objectives. ~~To make periodic inventories of recreation services that exist or may be needed and interpret the needs of the public to the city council;~~

~~F. To aid in coordinating the recreation services with the programs of other governmental agencies and voluntary organizations.~~

G~~H~~. The commission shall provide an annual report to the city council related to its activities for the past year.

H~~K~~. Members of the commission shall not receive compensation for attendance at commission meetings but are entitled to reimbursement for reasonable expenses actually incurred in the course of their duties, provided that such reimbursement shall first be approved by the city manager.

Section 2.56.050 – Review of Annual Budgets~~Budget Submittal~~

~~The commission shall submit annually a budget to the city council for its approval in whole or in part. The budget should provide not only for recreation services and operating costs for the ensuing year, but should also contain estimates and recommendations for such long-term capital outlay as may be necessary to provide for an orderly and coordinated development program.~~

The commission shall ~~receive~~review and provide ~~feedback~~recommendations to the city council on ~~an~~ the annual budgets ~~presentation from the Administrative Services Department of the budgets~~ for the Parks & Recreation Department, park maintenance, and parks and recreation-related Capital Improvement Plan projects.”

SECTION 3: 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 4: CEQA

The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 5: 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 _____ day of _____, 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:

_____

83578.00007\34188460.2

Geoff Ellsworth, Mayor

ATTEST:

CITY OF ST. HELENA

_____
Cindy Tzafopoulos, City Clerk

I, CINDY TZAFOPOULOS, CITY CLERK of the City of St. Helena, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the _____ day of _____, 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:	_____

83578.00007\34188460.2

CITY OF ST. HELENA

ORDINANCE NO. _____

AMENDING CHAPTER 2.56 OF THE ST. HELENA MUNICIPAL CODE PERTAINING TO THE PARKS AND RECREATION COMMISSION

WHEREAS, the City Council of the City of St. Helena ("City") has determined to revise the provisions of Chapter 2.56 of the City of St. Helena Municipal Code pertaining to the Parks and Recreation Commission, in order to better meet the City's needs.

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 2.56 of the St. Helena Municipal Code is hereby amended to read as follows:

"Chapter 2.56 – PARKS AND RECREATION COMMISSION

Sections:
2.56.010 Membership
2.56.030 Meetings
2.56.040 Duties
2.56.050 Review of Annual Budgets

Section 2.56.010 – Membership.

The parks and recreation commission shall consist of five members. Commissioners shall be residents of the city; provided, that the mayor reserves the authority to appoint nonresidents to the commission on a case-by-case basis, with the consent of the city council. Commissioners shall serve for a term of two years, with the term of office to expire at the end of the fiscal year. The city council may establish one-year terms for some commissioners for the purpose of staggering term expirations. Each commissioner shall be appointed by the mayor with the approval of the city council and may be removed without cause by the city council. If a vacancy shall occur otherwise than by expiration of the term of office, it shall be filled by appointment for the unexpired portion of the term.

Section 2.56.030 – Meetings.

The commission shall meet at least once a month at such time and place as it may fix by resolution. Special meetings of the commission may be called at any time by the chairperson or three members thereof by written notice provided as required by the Ralph M. Brown Act. (Cal. Govt. Code § 54950 *et seq.*). A majority of the commissioners shall constitute a quorum for the transaction of business. The commissioners shall appoint the chairperson and vice-chairperson from their number, each of whom shall serve for one year and until his or her successor is appointed. The commission shall cause a proper record of their proceedings to be kept and shall file minutes of all meetings with the city clerk.

Section 2.56.040 – Duties.

The duties of the commission shall be as follows:

A. To act in an advisory capacity to the city council and the director of parks & recreation in all matters pertaining to public parks and recreation, and to cooperate with other governmental agencies and civic groups in the advancement of sound parks and recreation planning and programming;

B. To review and recommend policies on recreation services, park use, and park improvement and development for approval by the city council;

C. To advise the city council, city manager, director of recreation, and director of public works on matters related to parks and recreation areas, facilities, park development, and programs and recreation services;

D. Upon request by the city council or city staff, study, review, evaluate and recommend the adoption of standards and policies on parks and recreation matters;

E. To provide recommendations related to:

1. facility maintenance and development
2. social equity, environmental stewardship, and health and wellness
3. projects within the city that may have an impact on the availability and delivery of parks, trails, and recreation services;
4. service levels;
5. parks and recreation needs;

6. the Parks and Recreation Master Plan;
7. recreational programs and events, and;
8. parks and recreation user fees;

F. To establish annual goals and action plans consistent with city council goals and objectives.

G. The commission shall provide an annual report to the city council related to its activities for the past year.

H. Members of the commission shall not receive compensation for attendance at commission meetings but are entitled to reimbursement for reasonable expenses actually incurred in the course of their duties, provided that such reimbursement shall first be approved by the city manager**.**

Section 2.56.050 – Review of Annual Budgets

The commission shall review and provide recommendations to the city council on the annual budgets for the Parks & Recreation Department, park maintenance, and parks and recreation-related Capital Improvement Plan projects.**"**

SECTION 3: 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 4: CEQA

The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 5: 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 _____ day of _____, 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 Tzafopoulos, City Clerk

I, CINDY TZAFOPOULOS, CITY CLERK of the City of St. Helena, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the _____ day of _____, 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 - 14 Dec 2021

Agenda Section: **OLD BUSINESS**

Subject: **Authorizing a Resolution of the City Council of the City of St. Helena Approving: (1) installment sale financing to provide interim financing of wastewater system improvements, and (2) financing documents and related official actions; and**

Authorizing a Resolution of the Board of the St. Helena Financing Authority Approving: (1) installment sale financing to provide interim financing of wastewater system improvements, and (2) financing documents and related official actions.

CEQA Determination: **Not a CEQA project**

Prepared By: Mandy Kellogg, Asst. Administrative Services Director

Reviewed By: April Mitts, Administrative Services Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

As a part of the City's efforts to secure low interest funding to implement projects for the City's wastewater system, the City has a draft Letter of Conditions ("LOC") from the United States Department of Agriculture Rural Utilities Service ("USDA Loan") to fund $9,362,000 of the project costs. The USDA Loan has a proposed term of 40 years and a proposed interest rate of 2.25%. The City Council will be given the opportunity to review and discuss the proposed USDA Loan at an upcoming meeting. Under the proposed USDA Loan, LOC, Section III.8. Interim Financing is required as follows:

> For all loans exceeding $500,000, where loan funds can be borrowed at reasonable interest rates on an interim basis from commercial sources for the construction period, such interim financing will be used to preclude the necessity for multiple advances of Agency loan funds. The recipient must provide the

Agency with a copy of the interim loan financing agreement for review prior to advertising for bids. The Agency approving official may make an exception when interim financing is cost prohibitive or unavailable.

City staff and the City's Municipal Advisor, Del Rio Advisors, LLC, approached USDA staff about waiving the requirement for interim financing and USDA staff denied the request.

DISCUSSION

City staff and the City's Municipal Advisor discussed the need for interim financing. It was determined that short-term financing sold as a direct placement would be the most cost-efficient structure. A direct placement is the sale of a bond to a commercial bank or loan from a bank or other lender that operates in the municipal lending space. The City assembled the rest of the financing team that worked on the City's direct placement water refunding in 2019. These professionals include Jones Hall as Bond Counsel and Brandis Tallman, A Division of Oppenheimer & Co., Inc. as Placement Agent. On Friday, August 20, 2021, a Request for Proposal ("RFP") was circulated to 17 lenders with responses due by Thursday, September 2, 2021. The City requested a loan with a final maturity date of October 1, 2024 and stated it would consider both fixed rate and variable rate alternatives. The City received four RFP responses summarized as follows:

	Bank of the West	**CoBank**	**First Foundation**	**Western Alliance**
Interest Rates	Variable 80% of One Month LIBOR plus 0.55% (currently 0.6825%) Fixed: 1.10%	Variable: One Month LIBOR plus 0.85% (currently 0.93%) Fixed: 1.38% - 1.60% (Forward Fix Agreement)	2.14%	2.53%
Draws	Variable: $500k minimum, up to 2 draws per month Fixed: at closing	Variable: Unlimited Fixed: Per set draw schedule	12 months, max 5 draws	1 per month
Rate Locks	Variable: N/A Fixed: +0.10% (1.20%)	Variable: N/A Fixed: Forward Fix Agreement	60 days	Upon credit approval
Prepayment	Variable: 100% at end of of each month Fixed: Any date on or before 10/01/23 @ 100.50%, 100% thereafter	Variable: 100% Fixed: 1-year, 100% thereafter	2 years, 100% thereafter	After 10/01/22 @ 100%

Bank Counsel/Other	$20,000 Variable: 0.125% Commitment Fee on undrawn amounts	$7,500	$10,000	$8,500 0.25% Obligation Fee
Rate Covenant/ABT	1.20x	1.20x	1.20x	1.20x
Interest Cost	Variable: $151,727 Fixed: $331,903	Variable: $195,093		

Based on the results from the previous table, the City's financing team discussed the pros and cons of the various proposals. The most attractive option appears to be the variable rate RFP response from Bank of the West, **attached hereto as Exhibit 3**.

While a variable rate carries with it a certain amount of interest rate risk, the interest rate would need to move immediately to 1.55% to be equivalent to the best fixed rate proposal. While short-term rates can move quickly, any period the interest rate remains low means the rate would need to move even higher to be equivalent to the fixed rate option. The term of this loan is only for a period of 3 years (October 1, 2024) but is expected to be repaid much earlier upon USDA Loan reimbursement. The repayment could begin as soon as 12 to 18 months. Therefore, even if interest rates move higher, the loan is expected to be outstanding for only a short period of time. **Exhibit 4 shows a Ten-Year History of One-Month LIBOR**.

The Bank of the West variable rate proposal carries with it a proposed 0.125% commitment fee which is the interest rate paid on any undrawn balance. The interest cost comparison in the table includes the payment of those fees based on the City's estimated draw schedule. In addition, the comparison in the table also includes the estimated costs of issuance.

The Bank of the West variable rate option allows for up to two draws per month in amounts of not less than $500,000 each. The Bank of the West fixed rate option requires a full draw of the amount at closing, meaning the City begins paying interest immediately on the amount borrowed.

On September 14, 2021, City staff and the City's Financing Team briefed the City Council on the need for the interim financing and presented the various financing options for discussion. At that meeting, City staff and the Financing Team received direction to move forward in the preparation of documents on the Bank of the West variable rate option and bring the item to the City Council for formal approval at a future meeting.

One item of note, the US Dollar One-Month LIBOR will continue to be published until June 30, 2023. After this date, there are several short-term variable rate replacement indexes proposed. One such replacement is the Secured Overnight Financing Rate ("SOFR").

The term of the proposed Bank of the West variable rate option has a final maturity date of October 1, 2024, meaning that if the interim loan is still outstanding by June 30, 2023, One-Month LIBOR will cease to be published and will need to be replaced with another index. Bank of the West is proposing to use SOFR. While SOFR is an overnight rate, some adjustment will need to be built into the rate to make it equivalent to One-Month LIBOR. The documents, specifically the Supplement Agreement discussed below, reflects this possibility with the proposed SOFR plus the proposed adjustment being equivalent to the one-month LIBOR rate.

With approval tonight, it is anticipated that the interim loan will not close until the first quarter of 2022. This is because the proceeds of the loan are not needed until the City makes the first draw from the loan for construction and there is no need to pay the ongoing loan commitment fee until the City needs to spend the money. Before the first draw, the City needs to finalize contractual terms with the proposed contractor, secure performance bonds and then stage for construction.

The action being considered tonight is approving the financing proposal from Bank of the West, approving the Installment Sale Agreement to provide interim financing of wastewater system improvements along with the other financing documents, and approving related actions. Each Authorized Officer, any assistant or deputy thereof, the City Clerk, and the City Attorney are authorized and directed in the name and on behalf of the City to execute any and all certificates, requisitions, agreements, notices, consents, and other documents, which they or any of them might deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution.

Documents for Review and Approval

(1) ***Installment Sale Agreement (Exhibit 5):*** A document between the City of St. Helena and the St. Helena Financing Authority. The Authority has proposed to enter into this Agreement with the City under which the Authority agrees to provide financing for a portion of the cost of the Project and to sell the completed Project to the City in consideration of the agreement by the City to pay installment payments equal to the purchase price of the Project. This document governs all terms and conditions related to the responsibilities of the City, including but not limited to, the rate covenant, the issuance of additional obligations, the pledge of net system revenue of the City's wastewater system, prepayment provisions and events of default.

(2) ***Assignment Agreement (Exhibit 6):*** In order for the Authority to obtain the moneys required to provide interim financing for a portion of the costs of the Project in accordance with the terms hereof, the Authority has assigned and transferred certain of its rights under this Agreement to Bank of the West.

(3) ***Supplemental Agreement (Exhibit 7):*** A document between the St. Helena Financing Authority, the City of St. Helena and Bank of the West that provides

additional detail as to the specifics of the interim loan including, but not limited, the calculation of interest, the use of One-Month LIBOR and the possible conversion to SOFR, and ongoing reporting requirements to Bank of the West.

Estimated Costs of Issuance

The table below shows the estimated budget of the proposed costs of issuance for the Bank of the West variable rate option:

Role	Amount
Bond Counsel	$32,500
Placement Agent	$32,500
Municipal Advisor	$32,500
Bank Counsel	$20,000
Miscellaneous	$12,500
Total	**$130,000**

FISCAL IMPACT

Below is a table comparing the leading RFP responses.

	Bank of the West (Variable Rate)	Bank of the West (Fixed Rate)	CoBank (Variable Rate)
Estimated Amount	$9,492,000	$9,492,000	$9,479,500
Project Fund	$9,362,000	$9,362,000	$9,362,000
Costs of Issuance (1)	$130,000	$130,000	$117,500
Total Interest	$151,727 (2,3)	$331,904	$195,093 (2)
Total Debt Service	$9,643,727 (2,3)	$9,823,904	$9,674,593 (2)
"All-In" TIC	$1.0255% (2,3)	1.6837%	1.1374% (2)

Notes

(1) Amounts differ based on the respective RFP response

(2) Estimated based on the estimated current market variable rate, subject to change

(3) Includes estimated amounts paid on undrawn balance at 0.125%

RECOMMENDED ACTION

1. Staff recommends approving the approving the Resolution of the City Council of the City of St. Helena approving: (1) installment sale financing to provide interim financing of wastewater system improvements, and (2) financing documents and related official actions; and
2. Staff recommends approving the Resolution of the Board of the St. Helena Financing Authority approving: (1) installment sale financing to provide interim

financing of wastewater improvements, and (2) financing documents and related official actions.

ATTACHMENTS

EXHIBIT 1 Interim Financing City Resolution 2021-__
EXHIBIT 2 Interim Financing Authority Resolution 2021-__
EXHIBIT 3 Bank of the West RFP Response
EXHIBIT 4 Ten-Year History of One-Month LIBOR
EXHIBIT 5 Installment Sale Agreement
EXHIBIT 6 Assignment Agreement
EXHIBIT 7 Supplemental Agreement

CITY OF ST. HELENA

RESOLUTION NO. 2021-____

Resolution Approving: (1) installment sale financing to provide interim financing of wastewater system improvements; and (2) financing documents and related official actions

RECITALS

A. WHEREAS, the City of St. Helena (the "City") owns and operates a system for the collection, treatment and disposal of wastewater within the service area of the City (the "Wastewater System"); and

B. WHEREAS, the City desires to finance a membrane bioreactor treatment system and various other improvements to the Wastewater System (the "Project"); and

C. WHEREAS, the City has received a Letter of Conditions from the United States Department of Agriculture for long-term financing of the Project in an amount not to exceed $9,362,000, which financing requires that the Project be completed; and

D. WHEREAS, in order to provide short-term construction financing for the Project, the City has caused the solicitation of commercial banks for short-term financing proposals; and

E. WHEREAS, City staff, with the assistance of City consultants and legal counsel, has evaluated financing terms offered by banks responding to the request for proposals and recommends entering into a loan transaction with Bank of the West according to terms it submitted; and

F. WHEREAS, the City and this Council have determined that it is in its best interests to provide interim financing for the Project and in order to implement such financing the City has proposed to enter into an Installment Sale Agreement (the "Installment Sale Agreement) with the St. Helena Financing Authority (the "Authority") pursuant to which the Authority agrees to provide financing for the Project and to sell the completed Project to the City in consideration of the payment by the City of periodic installment payments (the "Installment Payments"), which are payable from and secured by a pledge of and lien on the net revenues of the Wastewater System; and

G. WHEREAS, in order to provide the funds needed to finance the Project in an amount not exceeding $10,000,000, the Authority proposes to assign the Installment Payments to Bank of the West, as lender (the "Lender") under an Assignment Agreement (the "Assignment Agreement) among the City, the Authority and the Lender; and

H. WHEREAS, the Lender has requested the City and the Authority to enter into a Supplemental Agreement (the "Supplemental Agreement) which contains additional terms and conditions relating to the transactions represented by the Installment Sale Agreement

and Assignment Agreement, including without limitation terms regarding the calculation of interest with respect to the Installment Payments; and

I. WHEREAS, pursuant to Government Code Section 5852.1 which became effective by the enactment of Senate Bill 450, certain information relating to the proposed financing is set forth in Appendix A attached to this Resolution, and such information is hereby disclosed and made public; and

J. WHEREAS, the City Council approves all of said transactions in furtherance of the public purposes of the City, and the City Council wishes at this time to authorize all proceedings and documents relating to the interim financing of the Project as described herein

RESOLUTION

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

Section 1. Approval of Financing Proposal. The City Council hereby approves the interim financing plan for the Project as described above, and in accordance with the proposal submitted to the City by the Lender, in the form on file with the City Clerk. The Mayor, City Manager, or Administrative Services Director (each, an "Authorized Officer") are each hereby authorized and directed for and in the name and on behalf of the City to execute any and all documents which are required to accept said proposal of the Lender.

Section 2. Installment Sale Agreement. The City Council hereby approves the Installment Sale Agreement in substantially the form on file with the City Clerk together with any changes therein or additions thereto deemed advisable by an Authorized Officer, whose execution thereof shall be conclusive evidence of such approval. Any Authorized Officer is hereby authorized and directed for and in the name and on behalf of the City to execute, and the City Clerk is hereby authorized and directed to attest to, the final form of the Installment Sale Agreement on behalf of the City.

Section 3. Assignment by Authority; Assignment Agreement. The City Council hereby approves the assignment to the Lender of certain rights of the Financing Authority under the Installment Sale Agreement, including the right to receive the Installment Payments, under the Assignment Agreement. The City Council hereby approves the Assignment Agreement in substantially the form on file with the City Clerk, together with any changes therein or additions thereto deemed advisable by an Authorized Officer, whose execution thereof shall be conclusive evidence of such approval. Any Authorized Officer is hereby authorized and directed for and in the name and on behalf of the City to execute, and the City Clerk is hereby authorized and directed to attest to, the final form of the Assignment Agreement on behalf of the City.

Section 4. Supplemental Agreement. The City Council hereby approves the Supplemental Agreement in substantially the form on file with the City Clerk together with any changes therein or additions thereto deemed advisable by an Authorized Officer, whose execution thereof shall be conclusive evidence of such approval. Any Authorized Officer is hereby authorized and directed for and in the name and on behalf of the City to execute, and the City Clerk is hereby authorized and directed to attest to, the final form of the Supplemental Agreement on behalf of the City.

Section 5. Official Actions. Each Authorized Officer, any assistant or deputy thereof, the City Clerk, and the City Attorney are each authorized and directed in the name and on

behalf of the City to execute any and all certificates, requisitions, agreements, notices, consents and other documents, which they or any of them might deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution. Whenever in this resolution any officer of the City is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable. All actions previously taken by an Authorized Officer or any other official of the City in furtherance of this Resolution are hereby ratified and confirmed.

Section 6. Effective Date. This Resolution shall take effect immediately upon its passage and adoption.

Approved at a Regular Meeting of the St. Helena City Council on December 14, 2021, by the following vote:

Mayor Ellsworth: _____

Vice Mayor Dohring: _____

Councilmember Chouteau: _____

Councilmember Hall: _____

Councilmember Hardy: _____

APPROVED:

_____
Geoff Ellsworth, Mayor

ATTEST:

_____
Cindy Tzafopoulos, City Clerk

ATTACHMENT TO RESOLUTION

Good Faith Estimates

California Government Code Section 5852.1 requires the City of St. Helena and the St. Helena Financing Authority ("Borrowing Parties") to disclose specified information obtained as a good faith estimate from an underwriter or municipal advisor prior to authorization of the Installment Sale Agreement (the "Interim Financing"). The Borrowing Parties have received such information from the Municipal Advisor and discloses such information as set forth below.

(1) Name of Municipal Advisor: Del Rio Advisors, LLC

(2) City Council / Authority Meeting Date: December 14, 2021

(3) Name of Issue: 2021 Installment Sale Agreement

(4) The Municipal Advisor has provided to the Borrowing Parties the following required good faith estimates relating to the Interim Financing:

a. The true interest cost of the Interim Financing, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the Interim Financing (to the nearest ten-thousandth of one percent): 0.547879%(*).

b. The finance charges of the Interim Financing, which means the sum of all fees and charges paid to third parties: $130,000.00. This amount is not paid from the proceeds of the Interim Financing.

c. The amount of proceeds received by the public body from the Interim Financing, less the finance charges of the Interim Financing described in subparagraph (B), if paid from proceeds of the Interim Financing, less any reserves or capitalized interest paid or funded with proceeds of the Interim Financing: $9,362,000.

d. The total payment amount, which means the sum total of all payments the public body will make to pay debt service on the Interim Financing plus the finance charge of the Interim Financing described in subparagraph (B) not paid with the proceeds of the Interim Financing (which total payment amount shall be calculated to the final maturity of the Interim Financing): $9,643,727.39(*) ($9,635,421.83 of estimated debt service plus an estimated $8,305.55 in commitment fees based on the City's anticipated draw schedule).

The foregoing estimates constitute good faith estimates only. The actual principal amount of the Interim Financing, the true interest cost thereof, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to a variety of factors. The actual interest rate borne by the Interim Financing and the actual amortization of the Interim Financing will depend on the actual interest rates borne over time and the timing of project draws from the City thereon. Market interest rates are affected by economic and other factors beyond the control of the Borrowing Parties.

(*) Assumes 80% of One-Month Libor plus 55 basis points. Variable interest rates subject to frequent change.

ST. HELENA FINANCING AUTHORITY

RESOLUTION NO. 2021-____

Resolution Approving: (1) installment sale financing to provide interim financing of wastewater system improvements; and (2) financing documents and related official actions

RECITALS

A. WHEREAS, the City of St. Helena (the "City") owns and operates a system for the collection, treatment and disposal of wastewater within the service area of the City (the "Wastewater System") and desires to finance a membrane bioreactor treatment system and various other improvements to the Wastewater System (the "Project"); and

B. WHEREAS, the City has received a Letter of Conditions from the United States Department of Agriculture for long-term financing of the Project in an amount not to exceed $9,362,000, which financing requires that the Project be completed in order to provide short-term construction financing for the Project, the City has determined that it is in its best interests to provide interim financing for the Project through an Installment Sale Agreement (the "Installment Sale Agreement) with the Authority pursuant to which the Authority agrees to provide financing for the Project and to sell the completed Project to the City in consideration of the payment by the City of periodic installment payments (the "Installment Payments"), which are payable from and secured by a pledge of and lien on the net revenues of the Wastewater System; and

D. WHEREAS, in order to provide the funds needed to finance the Project in an amount not exceeding $10,000,000, the Authority proposes to assign the Installment Payments to Bank of the West, as lender (the "Lender") under an Assignment Agreement (the "Assignment Agreement) among the City, the Authority and the Lender; and

E. WHEREAS, the Lender has requested the City and the Authority to enter into a Supplemental Agreement (the "Supplemental Agreement) which contains additional terms and conditions relating to the transactions represented by the Installment Sale Agreement and Assignment Agreement, including without limitation terms regarding the calculation of interest with respect to the Installment Payments; and

I. WHEREAS, pursuant to Government Code Section 5852.1 which became effective by the enactment of Senate Bill 450, certain information relating to the proposed financing is set forth in Appendix A attached to this Resolution, and such information is hereby disclosed and made public; and

J. WHEREAS, the Board approves all of said transactions in furtherance of the public purposes of the City, and the Board wishes at this time to authorize all proceedings and documents relating to the interim financing of the Project as described herein.

RESOLUTION

The Board of Directors of the St. Helena Financing Authority hereby resolves as follows:

Section 1. Approval of Financing Proposal. The Board hereby approves the interim financing plan for the Project as described above, and in accordance with the proposal submitted to the City.

Section 2. Installment Sale Agreement. The Board hereby approves the Installment Sale Agreement in substantially the form on file with the Secretary together with any changes therein or additions thereto deemed advisable by the Chair, Vice Chair, Executive Director, Secretary, and Treasurer (each an "Authorized Officer"), whose execution thereof shall be conclusive evidence of such approval. Any Authorized Officer is hereby authorized and directed for and in the name and on behalf of the Authority to execute, and the Secretary is hereby authorized and directed to attest to, the final form of the Installment Sale Agreement on behalf of the Authority.

Section 3. Assignment Agreement. Assignment Agreement. The Board hereby approves the Assignment Agreement in substantially the form on file with the Secretary, together with any changes therein or additions thereto deemed advisable by an Authorized Officer, whose execution thereof shall be conclusive evidence of such approval. Any Authorized Officer is hereby authorized and directed for and in the name and on behalf of the Authority to execute, and the Secretary is hereby authorized and directed to attest to, the final form of the Assignment Agreement on behalf of the Authority.

Section 4. Supplemental Agreement. The Board hereby approves the Supplemental Agreement in substantially the form on file with the Secretary together with any changes therein or additions thereto deemed advisable by an Authorized Officer, whose execution thereof shall be conclusive evidence of such approval. Any Authorized Officer is hereby authorized and directed for and in the name and on behalf of the Authority to execute, and the Secretary is hereby authorized and directed to attest to, the final form of the Supplemental Agreement on behalf of the Authority.

Section 5. Official Actions. Each Authorized Officer, and any assistant or deputy thereof, are each authorized and directed in the name and on behalf of the Authority to execute any and all certificates, requisitions, agreements, notices, consents and other documents, which they or any of them might deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution. Whenever in this resolution any officer of the Authority is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable. All actions previously taken by an Authorized Officer or any other official of the Authority in furtherance of this Resolution are hereby ratified and confirmed.

Section 6. Effective Date. This Resolution shall take effect immediately upon its passage and adoption.

Approved at a Regular Meeting of the St. Helena Financing Authority Board of Directors on December 14, 2021, by the following vote:

Chair Ellsworth: _____

Vice Chair Dohring: _____

Boardmember Chouteau: _____

Boardmember Hall: _____

Boardmember Hardy: _____

APPROVED:

_____
Geoff Ellsworth, Chair

ATTEST:

_____
Cindy Tzafopoulos, Secretary

Exhibit 3

BANK OF THE WEST

The bank for a changing world

CITY OF ST. HELENA, CALIFORNIA

RESPONSE TO REQUEST FOR PROPOSAL
FOR 2021 INSTALLMENT SALE
AGREEMENT

DUE: SEPTEMBER 2, 2021; 1:00 PM PT

Prepared for:
City of St. Helena, CA

Prepared by:
Ted Neu
Managing Director
Bank of the West
180 Montgomery Street
San Francisco, CA 94101
C: 415-765-4938
ted.neu@bankofthewest.com

Victor Shin
Senior Relationship Manager
Bank of the West
180 Montgomery Street
San Francisco, CA 94104
510-285-0848
victor.shin@bankofthewest.com

BANK OF THE WEST
BNP PARIBAS

3620480.2 001098 EML

BANK OF THE WEST
BNP PARIBAS

COVER LETTER

September 2, 2021

Brandis Tallman as placement agent via email

Nolan Blair, nolan.blair@opco.com
Nicki Tallman, nicki.tallman@opco.com

RE: Request for Proposals for 2021 Installment Sale Agreement

Dear Finance Team:

Bank of the West (the "Bank" or "BOTW") is pleased to submit our proposal to the City of St. Helena, CA (the "City") to provide a term loan to the City pursuant to a 2021 Installment Sale Agreement (the "Agreement"), to provide interim financing for various improvements to the City's wastewater enterprise system in an amount up to $9,482,000.

Bank of the West is a member of BNP Paribas Group, one of the largest and healthiest banks in the world. We are a financially sound, California State-Chartered bank and California State approved depository bank, headquartered in San Francisco, California. BOTW Public Finance is a major provider of credit facilities in the form of letters of credit, private placements, direct purchase facilities, lines of credit, funded loans, and leases to municipal borrowers.

We have provided approximately $300 million in credit facilities to municipal borrowers over the last 12 months, including a $110 million line of credit to back the San Diego County Water Authority's commercial paper program and a $100 million line to back Los Angeles County Department of Water & Power's bonds. Additional municipal borrowers include the State of California, LA County, Tri-County Metropolitan Transportation District, and the City of Portland.

In choosing Bank of the West as your financial partner, the City will be selecting a bank with an **Outstanding CRA** rating. We appreciate this opportunity to submit our proposal and to support the City's financing needs by providing this Term Loan.

Sincerely,

Edward C. Neu
Managing Director
ted.neu@bankofthewest.com

Victor Shin
Senior Relationship Manager
victor.shin@bankofthewest.com

$9,482,000
City of St. Helena, California
2021 Installment Sale Agreement

The proposed terms and conditions are provided for discussion purposes only and do not constitute an offer, agreement, or commitment to lend by Bank of the West (the "Bank"). The actual terms and conditions upon which Bank of the West might extend credit to the City of St. Helena, California (the "City") are subject to satisfactory completion of due diligence, internal credit approval, satisfactory documentation and other such terms and conditions as determined solely by Bank of the West.

Lender:	Bank of the West (the "Bank")
Borrower:	City of St. Helena, California (the "City")
Commitment Amount:	$9,482,000
Structure: **Purpose:**	The Bank is proposing to provide a Tax-Exempt Bank Qualified $9.482 million drawdown Term Loan to the City pursuant to a 2021 Installment Sale Agreement, by and between the City and a financing counterparty, and a 2021 Assignment Agreement, by and between such financing counterparty and the Bank (the "Term Loan"). The Term Loan will be used provide interim financing for various improvements to the City's Wastewater Enterprise system prior to receipt of the proceeds of long-term financing from the USDA's Rural Utility Services (the "USDA Loan"). The Term Loan shall be repaid or prepaid immediately following receipt of the proceeds of the USDA Loan.
Term:	The Term Loan shall have a final maturity of October 1, 2024. The principal amount of the Term Loan shall be paid in full on the final maturity date. Interest on the Term Loan shall be payable semiannually on each April 1 and October 1, commencing on April 1, 2022.
Security:	The principal of and interest on the Term Loan and other amounts due to the Bank shall be payable from and secured by a pledge of (i) net revenues of the City's Wastewater

Enterprise and (ii) the proceeds of the USDA Loan. The Bank is willing to accept a subordinate lien on the Net Revenues.

The City shall covenant to prepay the Term Loan immediately following receipt of the proceeds of the USDA Loan.

No Reserve Fund is required.

Interest Rate and Fees:

Variable Rate Option

Draws on the Term Loan will bear interest at 80% of one month LIBOR plus 0.55%, calculated on an actual/360 day basis. LIBOR interest will be due quarterly in arrears.[1] (As of today, one month LIBOR is 8.25bps, making the all-in-rate 68.25bps).

The undrawn portion of the Commitment Amount will accrue a Commitment Fee of 0.125% per annum, calculated on an actual/360 day basis. Commitment Fees are due quarterly in arrears.

In the event that LIBOR is not ascertainable or does not adequately and fairly reflect the cost of making or maintaining the Term Loan borrowing and such circumstances are unlikely to be temporary, the Bank's standard language regarding any replacement rate shall be included.

Not later than May 15, 2023, the Bank shall provide written notice to the City of the terms of any such replacement rate. The City and the Bank agree that the intent of the foregoing notice is solely to assist the City in managing its financing costs and that the Bank shall have no liability of any kind for failure to timely provide such notice. Notwithstanding the foregoing, a failure or delay by the Bank to timely deliver to the City the notice described above shall in no event relieve any obligation of the City under Term Loan.

Fixed Rate Option

The Bank will offer a fixed rate borrowing option, but the Term Loan must be fully drawn at closing. The Fixed Rate of interest will be 1.10%, calculated on an actual/360 day basis.

The above rate is not locked and will be adjusted based on any extraordinary changes in market rates. The Bank is willing to enter into a rate lock agreement once credit approval has been obtained. The rate lock will increase the coupon by 0.10% per

[1] Floor?

annum.

If the City decides not to lock the rate, the Bank is willing to informally hold the rate quoted above until the earlier of the transaction closing or September 30, 2021.

Drawdown Provisions:

Variable Rate Option

The City may request to drawdown on the Term Loan at any time, provided there is no event of default. Initial and any subsequent draws shall be in an amount of $500,000 or greater. There shall be no more than two draws per month. Any amounts drawn and repaid shall not be subject to re-borrowing. Appropriate conditions precedent for each draw will be required, including timely submission of a request for advance, no termination of the available commitment and the existence of no default or event of default. No governing body action will be required by the Bank to drawdown on the Term Loan once it has been established.

Fixed Rate Option

A full draw down of the Term Loan will be required at closing. If the full amount is not initially required, the proceeds may be held in an escrow account at Bank of the West and may be accessed as necessary.

Prepayment:

The City may prepay amounts drawn on the Term Loan on any date prior to final maturity, upon 30 days' prior written notice, with payment of the breakage costs and prepayment premium set forth below and together with payment of any other amounts due and payable to the Bank.

If the Variable Rate Option is selected, LIBOR breakage costs may apply.

If the Fixed Rate Option is selected, a prepayment premium of 0.50% will apply to payments made prior to [October] 1, 2023. No prepayment premium will apply on and after [October] 1, 2023.

Key Documents:	The 2021 Installment Sale Agreement, the Assignment Agreement, and a Supplemental Agreement between the City and the Bank. Such documents shall be in form and substance satisfactory to the Bank and will contain key Bank provisions including events of default, covenants, representations and warranties, conditions precedent, increased costs/ capital adequacy, indemnification and costs and expenses. The 2021 Installment Sale Agreement shall include the events of default set forth in the Supplemental Agreement. The Bank will not sign a bond purchase agreement or similar document in advance of closing. If the City desires to lock the rate, the City shall sign the rate lock agreement described above.
Events of Default:	Usual and customary for this type of financing and otherwise acceptable to the Bank, including but not limited to: failure to make payments when due; cross-default to Wastewater Enterprise Fund debt of the City; breach of covenants (including reporting covenants); breach of representations and warranties; invalidity; loss of tax exemption; bankruptcy/insolvency; and withdrawal, suspension or downgrade of the long term unenhanced ratings assigned to any Enterprise Wastewater Fund obligation below BBB-/Baa3.
Default Rate:	The Default Rate will be the Bank's Base Rate + 3%.
Base Rate:	The Bank's Base Rate is equal to the greater of the Bank's Prime Rate or Fed Funds plus 50 basis points.
Conditions Precedent:	Customary for transactions of this nature and otherwise acceptable to the Bank. The City shall provide the Bank with a copy of the signed Obligation Letter from USDA. The Bank will require legal opinions of Special Counsel related to the Installment Sale Agreement, Assignment Agreement and Supplemental Agreement being valid and binding and tax-exemption, legal opinions of counsel to the City and the financing counterparty and any other financing parties and

	other customary conditions precedent. The Term Loan shall have no CUSIP number assigned to it, shall be in a single denomination, and will not be divisible or transferable except to a bank, financial institution, or a qualified investor. The Term Loan shall not be rated. No official statement or other offering materials shall be prepared for the Term Loan. If requested, the Bank will execute a "sophisticated lender" letter at closing.
Representations and Warranties:	Customary for transactions of this nature and otherwise acceptable to the Bank.
Covenants:	The City shall comply with a Rate Covenant of 1.20x annual debt service substantially similar to the Rate Covenant for the City's existing Series 2005B and Series 2012B Water and Wastewater Revenue Bonds. The City may not issue or incur any new indebtedness senior to the Term Loan. The City may issue or incur indebtedness on a parity with the Term Loan only in compliance with an Additional Bonds Test of 1.20x Maximum Annual Debt Service substantially similar to the Additional Bonds Test for the City's existing Series 2005B and Series 2012B Water and Wastewater Revenue Bonds. For the purposes of debt service calculations, amounts outstanding under the Term Loan shall be assumed to amortize over a ten year period at prevailing ten-year municipal tax-exempt rates.
Fees, Costs and Charges:	Bank of the West's outside counsel fee will be capped at $20,000, provided there are no prolonged discussions. Provided that the City awards the Term Loan to the Bank and bank counsel commences documentation, legal costs incurred will be the responsibility of the City, whether or not the Term Loan closes. The Bank envisions no other upfront costs. CDIAC's fee for public sector financings, if any, will be payable by the City.

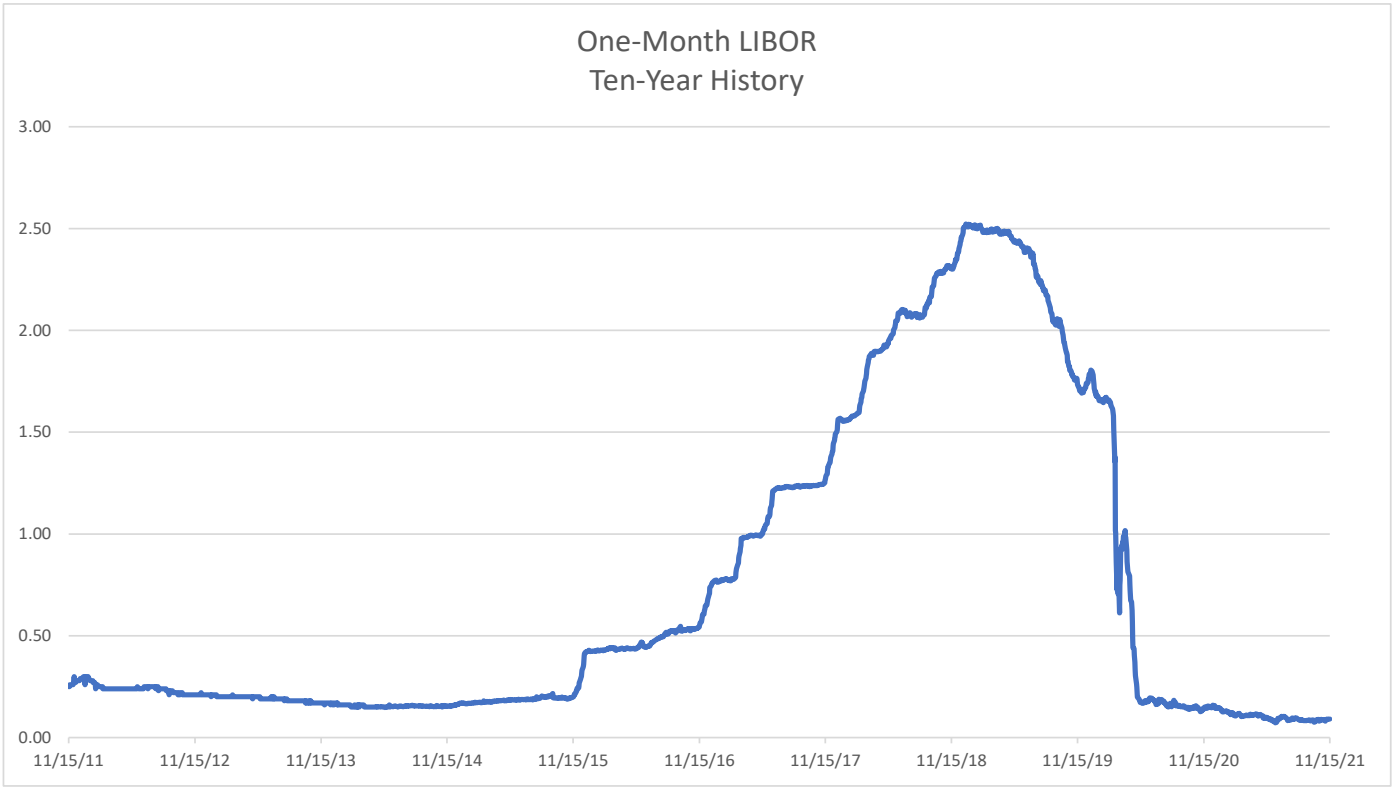
Reporting Requirements:	The City's audited financial statements shall be due within 210 days after the close of each fiscal year. The City's Annual Adopted Budget shall be due within 60 days of adoption. Other information shall be provided upon request of the Bank.
Bank Counsel:	The Bank proposes using the following law firm to review the Installment Sale Agreement and Assignment Agreement and to draft the Supplemental Agreement on behalf of the Bank and to otherwise represent the Bank in the transaction: **Melanie S. Murakami, Esq.** Hawkins Delafield & Wood LLP 333 So. Grand Avenue, 36th Floor Los Angeles, CA 90071 Office: (213) 236-9063 Mobile: (213) 393-9441 Temporarily working from home mmurakami@hawkins.com
Governing Law:	State of California
Bank Representatives:	**Edward C. (Ted) Neu** Public Finance-Managing Director 180 Montgomery Street San Francisco, CA 94101 (415) 572-7054 Ted.Neu@bankofthewest.com **Victor Shin** Senior Relationship Manager Bank of the West 180 Montgomery Street San Francisco, CA 94104 510-285-0848 victor.shin@bankofthewest.com
Credit Approval:	This facility is subject to final credit approval by the Bank. Additional terms and conditions may be requested at the time of final credit approval.
Other:	Additional terms and conditions may be requested at the time of final credit approval.

Expiration:

This proposal expires September 30, 2021 unless the proposal is accepted in writing by the City or the proposal expiration is extended by the Bank.

Confidentiality:

The terms contained in this document are confidential and, except for disclosure to your governing body, officers and employees, to professional advisors retained by you in connection with the transaction, or as may be required by law, may not be disclosed in whole or part to any other person or entity without prior written consent from the Bank. **Bank of the West understands that, ultimately, results of the selection process are public information.**



10 Year Average	0.72
10 Year Maximum	2.52
10 Year Minimum	0.07

Exhibit 5

INSTALLMENT SALE AGREEMENT

This INSTALLMENT SALE AGREEMENT (together with any amendments hereof and supplements hereto, this "Agreement"), dated as of _____, 202_, is between the ST. HELENA FINANCING AUTHORITY, a joint exercise of powers authority duly organized and existing under the laws of the State of California (the "Authority"), as seller, and the CITY OF ST. HELENA, a general law city and municipal corporation duly organized and existing under the Constitution and laws of the State of California (the "City"), as purchaser.

B A C K G R O U N D :

1. The City owns and operates a system for the collection, treatment and disposal of wastewater within the service area of the City (the "Wastewater System").

2. The City wishes to finance a portion of the costs of improvements to the Wastewater System comprised of a membrane bioreactor treatment system and related improvements, which is described more fully in Appendix A attached to this Agreement (the "Project").

3. The Authority has been formed for the purpose of assisting the City in the financing and refinancing of public capital improvements.

4. The City has received a Letter of Conditions from the United States Department of Agriculture for long-term financing of the Project in an amount not to exceed $9,362,000 (the "USDA Loan") for the purpose of providing long-term financing the Project, which financing requires that the Project be completed.

5. For the purpose of obtaining the moneys required to provide interim financing for a portion of the costs of construction and acquisition of the Project in accordance with the terms hereof, the Authority has proposed to enter into this Agreement with the City under which the Authority agrees to provide financing for a portion of the cost of the Project and to sell the completed Project to the City in consideration of the agreement by the City to pay installment payments equal to the purchase price of the Project.

6. In order for the Authority to obtain the moneys required to provide interim financing for a portion of the costs of the Project in accordance with the terms hereof, the Authority has assigned and transferred certain of its rights under this Agreement to Bank of the West (the "Assignee"), under an Assignment Agreement dated as of _____, 2021, among the City, the Authority and the Assignee.

7. The Installment Payments and the Assignee Additional Payments (defined herein) will be payable from and secured by a pledge of and lien on the net revenues of the Wastewater System and a pledge of and lien on the proceeds of the USDA Loan.

A G R E E M E N T :

In consideration of the foregoing and the material covenants hereinafter contained, the City and the Authority formally covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS; RULES OF INTERPRETATION

SECTION 1.1. *Definitions*. Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms in this Agreement shall have the following respective meanings given to them in this Section.

"Advance Period" has the meaning given that term in the Supplemental Agreement.

"Advances" means amounts funded by the Assignee to the City pursuant to a Funding Request.

"Annual Debt Service" means, for any Fiscal Year, the sum of (1) the interest accruing on all Parity Debt during such Fiscal Year, assuming that all Parity Debt is retired as scheduled, plus (2) the principal amount (including principal due as sinking fund installment payments) allocable to all Parity Debt in such Fiscal Year, calculated as if such principal amounts were deemed to accrue daily during such Fiscal Year in equal amounts from, in each case, each payment date for principal or the date of delivery of such Parity Debt (provided that principal shall not be deemed to accrue for greater than a 365-day period prior to any payment date), as the case may be, to the next succeeding payment date for principal, provided, that the following adjustments shall be made to the foregoing amounts in the calculation of Annual Debt Service:

(A) with respect to any such Parity Debt bearing or comprising interest at other than a fixed interest rate, the rate of interest used to calculate Annual Debt Service shall be (i) with respect to such Parity Debt then outstanding, one hundred ten per cent (110%) of the greater of (1) the daily average interest rate on such Parity Debt during the twelve (12) calendar months next preceding the date of such calculation (or the portion of the then current Fiscal Year that such Parity Debt has borne interest) or (2) the most recent effective interest rate on such Parity Debt prior to the date of such calculation or (ii) with respect to such Parity Debt then proposed to be issued, 80% of the interest rate on actively traded 30-year United States Treasury obligations;

(B) with respect to any such Parity Debt (other than the Installment Payments) having twenty-five per cent (25%) or more of the aggregate principal amount thereof due in any one Fiscal Year, Annual Debt Service shall be calculated for the Fiscal Year of determination as if the interest on and principal of such Parity Debt were being paid from the date of incurrence thereof in substantially equal annual amounts over a period of twenty (20) years from the date of such Parity Debt; provided that with respect to the Installment Payments, Annual Debt Services shall be calculated for the Fiscal Year of determination as if the principal components of the Installment Payments were being paid from the date of incurrence thereof in substantially equal annual amounts over a period of ten (10) years from the Closing Date and the rate of interest used to calculate such Annual

Debt Service shall be equal to prevailing ten-year municipal tax-exempt rates; and provided, further, however that the full amount of such Parity Debt shall be included in Annual Debt Service if the date of calculation is within 24 months of the actual maturity of the payment;

(C) with respect to any such Parity Debt or portions thereof bearing no interest but which are sold at a discount and which discount accretes with respect to such Parity Debt or portions thereof, such accreted discount shall be treated as due when scheduled to be paid;

(D) Annual Debt Service shall not include interest on Parity Debt which is to be paid from amounts constituting capitalized interest; and

(E) if an interest rate swap agreement is in effect with respect to, and is payable on a parity with, any Parity Debt to which it relates, no amounts payable under such interest rate swap in excess of debt service payable under such Parity Debt agreement shall be included in the calculation of Annual Debt Service unless the sum of (i) the interest payable on such Parity Debt, plus (ii) the amounts payable by the City under such interest rate swap agreement, less (iii) the amounts receivable by the City under such interest rate swap agreement, are greater than the interest payable on such Parity Debt, in which case the amount of such payments to be made that exceed the interest to be paid on such Parity Debt shall be included in such calculation, and for this purpose, the variable amount under any such interest rate swap agreement shall be determined in accordance with the procedure set forth in subparagraph (A) of this definition.

"Applicable Law" means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case, whether or not having the force of law.

"Assignee" means Bank of the West, as assignee of certain rights of the Authority hereunder, its successors and assigns.

"Assignee Additional Payments" means any amounts owing to the Assignee under this Agreement or the Supplemental Agreement, other than amounts payable to the Assignee as Installment Payments.

"Assignment Agreement" means the Assignment Agreement dated as of _____, 202_, among the Authority, the City and the Assignee, including any authorized amendments thereto.

"Authority" means the St. Helena Financing Authority, a joint exercise of powers authority duly organized and existing under the laws of the State of California.

"Authorized Investments" means [_____].

"Authorized Representative" means: (a) with respect to the Authority, its Chair, Vice Chair, Executive Director, Secretary, Treasurer or any other person designated as

an Authorized Representative of the Authority by a Written Certificate of the Authority signed by its Executive Director and filed with the City and the Assignee; and (b) with respect to the City, its Mayor, City Manager, Administrative Services Director, City Attorney, City Clerk, or any other person designated as an Authorized Representative of the City by a Written Certificate of the City signed by its City Manager or Administrative Services Director and filed with the Authority and the Assignee.

"Available Commitment" means, on the Closing Date, an initial amount equal to the Commitment Amount less the Initial Advance, and thereafter as adjusted from time to time as follows: (a) downward in an amount equal to any Advance (other than the Initial Advance) made by the Assignee hereunder; (b) downward in an amount equal to any reduction of the Available Commitment effected pursuant to Section 3.5(c) or (d) hereof or Section 6.4 hereof; and (c) downward to zero upon termination of the Commitment in accordance with the terms hereof.

"Bond Counsel" means (a) Jones Hall, A Professional Law Corporation, or (b) any other attorney or firm of attorneys of nationally recognized expertise with respect to legal matters relating to obligations the interest on which is excludable from gross income for purposes of federal income taxation under Section 103 of the Tax Code.

"Business Day" has the meaning given that term in the Supplemental Agreement.

"Certificate of the City" means an instrument in writing signed by an Authorized Representative of the City, or by any other officer of the City duly authorized by the City for that purpose, such authorization to be evidenced by a certificate verifying the specimen signatures of such officers at the request of the Authority or the Assignee.

"City" means the City of St. Helena, a general law city and municipal corporation duly organized and existing under the Constitution and laws of the State of California.

"Closing Date" means _____, 202_, being the date of execution and delivery of this Agreement.

"Commitment" means the obligation of the Assignee to make future Advances of the unfunded portion of the Available Commitment hereunder subject to the terms and conditions of this Agreement. Advances under the Commitment are non-revolving.

"Commitment Amount" means $9,482,000.

"Commitment Termination Date" means the earlier of (i) the Stated Commitment Expiration Date, (ii) the date Commitment terminates or the date the Available Commitment is reduced to zero in accordance with the terms of this Agreement.

"Costs of Issuance" means all items of expense directly or indirectly payable by or reimbursable to the City or the Authority relating to the execution and delivery of this Agreement, including but not limited to filing and recording costs, settlement costs, printing costs, reproduction and binding costs, initial fees and charges of Bond Counsel, the City's municipal advisor and legal counsel to the Assignee, legal fees and charges, insurance fees and charges, financial and other professional consultant fees, and any charges and fees in connection with the foregoing.

"Date of Taxability" means the date from and for the interest component of the Installment Payments is subject to federal or State income taxation as a result of a Determination of Taxability.

"Default Rate" has the meaning given that term in the Supplemental Agreement.

"Environmental Laws" means any federal, state, or local law, rule or regulation now or hereafter in effect and in each case as amended, and any judicial or administrative interpretation thereof, relating to health, safety, or the environment.

"Event of Default" means an event of default as described in Section 6.1.

"Excess Investment Earnings" means an amount required to be rebated to the United States of America under Section 148(f) of the Tax Code due to investment of gross proceeds of the Installment Payments at a yield in excess of the yield on the Installment Payments.

"Federal Securities" means: (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged; and (b) obligations of any agency, department or instrumentality of the United States of America, the timely payment of principal and interest on which are directly or indirectly secured or guaranteed by the full faith and credit of the United States of America.

"Fiscal Year" means the period beginning on July 1 of each year and ending on the last day of June of the next succeeding year, or any other twelve-month period selected and designated as the official Fiscal Year of the City.

"Funding Request" means a written request in the form of Exhibit C to the Supplemental Agreement submitted by the City to Assignee under Section 3.5 for the purpose of providing funds for the payment of Project Costs.

"Generally Accepted Accounting Principles" means the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

"Governmental Authority" means the government of the United States or any state or political subdivision thereof or any other nation or political subdivision thereof or any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other Person with authority to bind a party at law.

"Independent Accountant" means any independent certified public accountant or firm of independent certified public accountants appointed and paid by the City, and who, or each of whom: (a) is in fact independent and not under domination of the City; (b) does

not have any substantial interest, direct or indirect, with the City; and (c) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make annual or other audits of the books of or reports to the City.

"Independent Certified Public Accountant" means any firm of certified public accountants appointed by the City, which is independent of the City and the Authority pursuant to the Statement on Auditing Standards No. 1 of the American Institute of Certified Public Accountants.

"Initial Advance" means the initial Advance in the amount of $[_____] made by the Assignee on the Closing Date to provide funds for payment of Costs of Issuance and other Project Costs.

"Interest Payment Date" means April 1 and October 1 each year commencing April 1, 2022.

"Installment Payment Date" means each Interest Payment Date and the Maturity Date.

"Installment Payments" means all payments required to be paid by the City on any date under Section 4.4, including any amounts payable upon delinquent installments and including any prepayment thereof under Section 7.2.

"Law" means the laws of the State of California pursuant to which the City was formed and operates and Section 5451 of the Government Code of the State of California and in each case all laws amendatory thereof or supplemental thereto.

"Maturity Date" means the Commitment Termination Date or any earlier date on which all amounts due under this Agreement (including without limitation all Advances) are accelerated pursuant to Section 6.1 hereof.

"Maximum Annual Debt Service" means, as of any date of calculation, the largest Annual Debt Service during the period from the date of such calculation through the final maturity date of all Parity Debt.

"Maximum Rate" means the maximum non-usurious interest rate that may, under applicable federal law and applicable state law, be contracted for, charged or received under such laws.

"Operation and Maintenance Costs" means the reasonable and necessary costs paid or incurred by the City for maintaining and operating the Wastewater System, determined in accordance with Generally Accepted Accounting Principles, including all reasonable expenses of management and repair and all other expenses necessary to maintain and preserve the Wastewater System in good repair and working order, and including all administrative costs of the City that are charged directly or apportioned to the operation of the Wastewater System, such as salaries and wages of employees, overhead, taxes (if any) and insurance premiums (including payments required to be paid into any self-insurance funds), and including all other reasonable and necessary costs of the City or charges required to be paid by it to comply with the terms hereof or of the Supplemental Agreement or of any Parity Debt Document or of any resolution authorizing the execution of any Parity Debt, such as compensation, reimbursement and

indemnification of the Assignee, any trustee and the Authority and fees and expenses of Independent Certified Public Accountants; but excluding in all cases (i) payment of Parity Debt and Subordinate Obligations, (ii) costs of capital additions, replacements, betterments, extensions or improvements which under Generally Accepted Accounting Principles are chargeable to a capital account, and (iii) depreciation, replacement and obsolescence charges or reserves therefor and amortization of intangibles.

"Parity Debt" means the Installment Payments and any Parity Obligations.

"Parity Debt Documents" means, collectively, the installment purchase or sale agreement, indenture of trust, trust agreement or other document authorizing the issuance of any Parity Debt or any securities which evidence Parity Debt.

"Parity Obligation Payments" means the payments scheduled to be paid by the City under and pursuant to the Parity Obligations, which payments are secured by a pledge of System Net Revenues on a parity with the Installment Payments as provided herein.

"Parity Obligations" means all obligations of the City authorized and executed by the City other than the Installment Payments, the Parity Obligation Payments under which are secured by a pledge of the System Net Revenues on a parity with the Installment Payments entered into or issued under and in accordance with Section 5.7, including but not limited to any Repayment Obligations secured by System Net Revenues on a parity with the Installment Payments. Parity Obligations include the obligations of the City under the 2005 Installment Purchase Agreement and 2012 Installment Purchase Agreement.

"Project" means the facilities, improvements and other property comprising the construction and acquisition of a membrane bioreactor treatment system and related improvements, which is described more fully in Appendix A attached to this Agreement, as may be amended from time to time.

"Project Costs" means all costs of the acquisition, construction and installation of the Project which are paid from moneys on deposit in the Project Fund, including but not limited to:

(a) all costs required to be paid to any person under the terms of any agreement for or relating to the acquisition, construction and installation of the Project;

(b) obligations incurred for labor and materials in connection with the acquisition, construction and installation of the Project;

(c) the cost of performance or other bonds and any and all types of insurance that may be necessary or appropriate to have in effect in connection with the acquisition, construction and installation of the Project;

(d) all preliminary costs of the Project, including but not limited to design, environmental, engineering and architectural services, costs for testing, surveys, estimates, plans and specifications and preliminary investigations therefor, development fees and costs for supervising

construction, as well as for the performance of all other duties required by or consequent to the proper acquisition, construction and installation of the Project;

(e) any sums required to reimburse the City for advances made for any of the above items or for any other costs incurred and for work done which are properly chargeable to the acquisition, construction and installation of the Project;

(f) Costs of Issuance and other financing costs incurred in connection with the acquisition, construction and installation of the Project; and

(g) the interest components of the Installment Payments during the period of acquisition, construction and installation of the Project.

"Project Fund" means the fund or account by that name established and held by the City under Section 3.6.

"Rate Stabilization Fund" means any fund established and held by the City as a fund for the stabilization of rates and charges imposed by the City with respect to the Wastewater System, which fund is established, held and maintained in accordance with Section 4.7.

"Repayment Obligation" means the reimbursement obligation or any other payment obligation of the City under a written agreement between the City and a credit provider to reimburse the credit provider for amounts paid pursuant to a credit facility for the payment of the principal amount or purchase price of and/or interest on any Parity Debt.

"Stated Commitment Expiration Date" means October 1, 2024 unless extended as provided in this Agreement.

"Subordinate Obligations" means the obligations of the City that are subordinate in payment to the Installment Payments.

"Supplemental Agreement" means the agreement entitled Supplemental Agreement, dated as of _____, 202_, among the City, the Authority and the Assignee.

"System Net Revenues" means for any period System Revenues less Operation and Maintenance Costs for such period; provided that certain adjustments in the amount of System Net Revenue deemed collected during a Fiscal Year may be made in connection with amounts deposited in the Rate Stabilization Fund as provided in Section 4.7 herein.

"System Revenues" means all gross income and revenue received or receivable by the City from the ownership or operation of the Wastewater System, determined in accordance with Generally Accepted Accounting Principles, including all fees (including connection fees), rates, charges and all amounts paid under any contracts received by or owed to the City in connection with the operation of the Wastewater System and all proceeds of insurance relating to the Wastewater System and investment income

allocable to the Wastewater System and all other income and revenue howsoever derived by the City from the ownership or operation of the Wastewater System or arising from the Wastewater System.

"Tax Code" means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official guidance published, under the Tax Code.

"Term" means the time during which this Agreement is in effect, as provided in Section 4.3.

"2005 Installment Purchase Agreement" means the Installment Purchase Agreement, dated as of July 1, 2005 by and between the City and the California Statewide Communities Development Authority, which supports payment on the California Statewide Communities Development Authority Water and Wastewater Revenue Bonds (Pooled Financing Program), Series 2005B, as amended or supplemented from time to time.

"2012 Installment Purchase Agreement" means the Installment Purchase Agreement, dated as of June 1, 2012 by and between the City and the California Statewide Communities Development Authority, which supports payment on the California Statewide Communities Development Authority Water and Wastewater Revenue Bonds, Series 2012B, as amended or supplemented from time to time.

"Undrawn Fee Payment Date" means April 1 and October 1 each year commencing April 1, 2022.

"USDA" means the United States Department of Agriculture.

"USDA Loan" means the USDA Rural Development loan contemplated to be made by the United States Department of Agriculture pursuant to its "Letter of Conditions" dated August 6, 2021 addressed to the City.

"Undrawn Fees" has the meaning given that term in Section 4.5.

"Wastewater Fund" means the fund or funds established and held by the City with respect to the Wastewater System for the receipt and deposit of System Revenues.

"Wastewater System" means the facilities and property for the collection, transportation and treatment of wastewater for customers within the service area of the City, including but not limited to all facilities, properties, lands, rights, entitlements and other property useful in connection therewith, together with all extensions thereof and improvements thereto at any time acquired, constructed or installed by the City.

"Written Certificate" of the Authority or the City means, respectively, a written certificate, request or requisition signed in the name of the Authority or the City by its Authorized Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

SECTION 1.2. *Interpretation.*

(a) Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and do not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

SECTION 2.1. *Representations, Covenants and Warranties of the City*. The representations and warranties of the City set forth in Article IV of the Supplemental Agreement, as well as the related defined terms contained in the Supplemental Agreement, are hereby incorporated by reference in this Agreement with the same effect as if each and every such representation and warranty and defined term were set forth herein in its entirety. In addition, the City represents, covenants and warrants to the Authority as follows:

(a) Due Organization and Existence. The City is a general law city and municipal corporation duly organized and existing under the Constitution and laws of the State of California, and is empowered, among other things, to maintain and operate the Wastewater System and to acquire in the name of the City any interest in real or personal property necessary or convenient for the operation of the Wastewater System.

(b) Due Authorization. The laws of the State authorize the City to enter into this Agreement, and to enter into the transactions contemplated hereby and to carry out its obligations hereunder.

(c) No Conflicts. The execution and delivery of this Agreement, the consummation of the transactions herein contemplated and the fulfillment of or compliance with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to

which the City is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially adversely affect the consummation of the transactions contemplated by this Agreement or the financial condition, assets, properties or operations of the City, including but not limited to the performance of the City's obligations under this Agreement.

(d) Valid, Binding and Enforceable Obligations. This Agreement has been duly authorized, executed and delivered by the City and constitutes the legal, valid and binding agreements of the City enforceable against the City in accordance with its terms; except as the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and except as such enforceability may be subject to the exercise of judicial discretion in accordance with principles of equity.

(e) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the City after reasonable investigation, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Agreement, or upon the financial condition, assets, properties or operations of the City, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially adversely affect the consummation of the transactions contemplated by this Agreement, or the financial conditions, assets, properties or operations of the City, including but not limited to the payment and performance of the City's obligations under this Agreement.

(f) No Prior Defaults. No lease, rental agreement, installment purchase or sale agreement, lease-purchase agreement, loan, note, payment agreement or contract for purchase to which the City has been a party at any time during the past ten years has been terminated by the City as a result of either insufficient funds available in any Fiscal Year, or due to the non-payment of required payments. No event has occurred which would constitute a payment-related event of default under any debt, note, revenue bond or obligation which the City has issued during the past ten years.

(g) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and

no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Agreement, or the consummation of any transaction herein contemplated, except as have been obtained or made and as are in full force and effect.

(h) Financial Information. The financial information concerning the City heretofore delivered to the Assignee is complete and correct and fairly presents the financial condition of the City for the period(s) referred to and has been prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the period(s) involved. There are no liabilities (of the type required to be reflected on balance sheets prepared in accordance with generally accepted accounting principles), direct or indirect, fixed or contingent, of the City as of the date of such financial information which are not reflected therein. There has been no material adverse change in the financial condition or operations of the City since the date of such information (and to the City's knowledge no such material adverse change is pending or threatened), and the City has not guaranteed the obligations of, or made any investment in or loans to, any person except as disclosed in such information. The City has good and marketable title to all of its properties and assets related to the Project, and all of such properties and assets are free and clear of encumbrances, except as reflected in such financial information. To the best of the City's knowledge, no document furnished nor any representation, warranty or other written statement made to the Assignee in connection with the negotiation, preparation or execution of this Agreement contains any untrue or misleading statement of a material fact.

(i) Adequacy of System Net Revenues. The City has structured fees, estimated revenues and/or taken other lawful actions necessary to ensure that the pledge of and lien on System Net Revenues are sufficient to pay the Installment Payments and Assignee Additional Payments when due and payable, and such moneys have been and will continue to be applied in the funds and accounts as required herein and towards payment of the Installment Payments when due and payable.

(j) Completion of Project. The City has an immediate need for, and expects to make immediate use of, the Project, which need is not temporary or expected to diminish during the Term of this Agreement. To the extent the City is or may be required to use additional revenues or spend additional money to complete the Project or make the Project useable, the City represents, warrants and covenants to take all required actions to complete the Project and make the Project useable. The City presently intends to continue this Agreement and make all Installment Payments required hereunder for the entire Term of this Agreement.

(k) Intent to Receive USDA Loan. The City has executed and delivered to the USDA a "Letter of Intent to Meet Conditions" indicating to the USDA that (i) it has reviewed and understands the conditions set forth in the Letter of Conditions and (ii) it intends to meet all of the conditions not later than August 6, 2022, and the City knows of no circumstances which currently exist which would prevent the City for meeting that intent and timely closing the USDA Loan.

(l) Environmental. The Project and the Wastewater System are in full compliance with all applicable Environmental Laws.

(m) Sufficient Funds. The City reasonably believes that sufficient funds can be obtained to make all Installment Payments, the Undrawn Fees and all other amounts required to be paid pursuant to this Agreement.

(n) Tax-Exempt Status. The City has not taken any action or omitted to take any action, and has no actual knowledge of any action taken or omitted to be taken by any other Person, which action, if taken or omitted, would adversely affect the exclusion of interest on the Installment Payments from gross income for federal income tax purposes.

(o) Role of Assignee. The City acknowledges that (i) the Assignee, as the assignee of the Authority under the Assignment Agreement, is acting solely for its own loan account and not as a fiduciary for the City or in the capacity of broker, dealer, placement agent, municipal securities underwriter or municipal advisor, (ii) the Assignee has not provided, and will not provide, financial, legal (including securities law), tax, accounting or other advice to or on behalf of the City or with respect to this Agreement and the financing related thereto, and (iii) the Assignee has expressed no view regarding the legal sufficiency of its representations for purposes of compliance with any legal requirements applicable to any other party, or the correctness of any legal interpretation made by counsel to any other party with respect to any such matters.

SECTION 2.2. *Representations, Covenants and Warranties of Authority*. The Authority represents, covenants and warrants to the City as follows:

(a) Due Organization and Existence. The Authority is a joint exercise of powers authority duly organized and existing under the laws of the State of California, and has power to enter into this Agreement and to perform the duties and obligations imposed on it hereunder and thereunder. The Board of Directors of the Authority has duly authorized the execution and delivery of this Agreement.

(b) Due Execution. The representatives of the Authority executing this Agreement are fully authorized to execute the same.

(c) Valid, Binding and Enforceable Obligations. This Agreement has been duly authorized, executed and delivered by the Authority and

constitutes the legal, valid and binding agreement of the Authority with the City, enforceable against the Authority in accordance with the respective terms; except as the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and except as such enforceability may be subject to the exercise of judicial discretion in accordance with principles of equity.

(d) No Conflicts. The execution and delivery hereof and of the Assignment Agreement, the consummation of the transactions herein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the Authority is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Authority, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially adversely affect the consummation of the transactions contemplated hereby and by the Assignment Agreement or the financial condition, assets, properties or operations of the Authority, including but not limited to the performance of the Authority's obligations under this Agreement.

(e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the Authority, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery hereof or of the Assignment Agreement, or the consummation of any transaction herein contemplated, except as have been obtained or made and as are in full force and effect.

(f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the Authority after reasonable investigation, threatened against or affecting the Authority or the assets, properties or operations of the Authority which, if determined adversely to the Authority or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Agreement, or upon the financial condition, assets, properties or operations of the Authority, and the Authority is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially adversely affect the consummation of the transactions contemplated by this Agreement or the financial conditions, assets,

properties or operations of the Authority, including but not limited to the performance of the Authority's obligations hereunder and under the Assignment Agreement.

ARTICLE III

ACQUISITION AND CONSTRUCTION OF THE PROJECT

SECTION 3.1. *Deposit of Moneys*. The Authority hereby agrees to cause the Project to be acquired, constructed and improved as provided in Section 3.2, and to sell the completed Project to the City as provided in Section 4.1. In order to provide funds for the construction of the Project, the Authority shall assign certain of its rights under this Agreement, including the right to receive the Installment Payments from the City, to the Assignee under the Assignment Agreement, and to cause the proceeds of such assignment to be deposited into the Project Fund as provided in Section 3.5.

SECTION 3.2. *Acquisition and Construction of the Project.* The Authority hereby agrees with due diligence to supervise and provide for, or cause to be supervised and provided for, the acquisition, construction and installation of the Project in accordance with the plans and specifications, purchase orders, construction contracts and other documents relating thereto and approved by the City under all applicable requirements of law. All contracts for, and all work relating to, the acquisition, construction and installation of the Project are subject to all applicable provisions of law relating to the acquisition and construction of public works by the City. The failure of the Authority to complete the Project by its expected completion date does not constitute an Event of Default hereunder or a grounds for termination hereof, nor does any such failure result in the diminution, abatement or extinguishment of the obligations of the City hereunder to pay the Installment Payments when due hereunder.

SECTION 3.3. *Appointment of City as Agent*. The Authority hereby appoints the City as its agent to carry out all phases of the acquisition, construction and installation of the Project under and in accordance with the provisions hereof. The City hereby accepts such appointment and assumes all rights, liabilities, duties and responsibilities of the Authority regarding the acquisition, construction and installation of the Project. As agent of the Authority hereunder, the City shall execute all duties under this Agreement, including, but not limited to, entering into, administer and enforce all purchase orders or other contracts relating to the Project. Payment of Project Costs will be made by the City from amounts held by it in the Project Fund in accordance with the provisions of this Agreement.

SECTION 3.4. *Project Description*. The City has the right to specify the exact scope, nature and identification of the Project and the respective components thereof. The City may from time to time change or modify the description of the Project or any component thereof.

SECTION 3.5. *Funding of Project Costs; Permanent Reduction of Available Commitment; Termination of Commitment*.

(a) Initial Funding on Closing Date. The Agency hereby requests the Initial Advance on the Closing Date.

(b) Subsequent Funding Requests. The City may request the Assignee to provide additional funds for the payment of Project Costs from time to time during the Term of this Agreement by submitting to Assignee a Funding Request in accordance with the Supplemental Agreement.

(c) Permanent Reduction of Available Commitment. The Available Commitment shall be reduced from time to time as requested by the City within three (3) Business Days of the City's written notice to the Assignee in the form of Exhibit D to the Supplemental Agreement requesting such reduction; provided that such reduction in the Available Commitment shall not be effective until the Assignee delivers to the City a notice in the form of Exhibit E to the Supplemental Agreement reflecting such reduction.

(d) Termination of Commitment. The City may at any time and at its sole option terminate the Commitment and reduce the Available Commitment to zero upon three (3) Business Days' prior written notice to the Assignee in the form of Exhibit D to the Supplemental Agreement; provided, that any termination of the Commitment and reduction of the Available Commitment to zero shall not be effective until the Assignee delivers to the City a notice in the form of Exhibit F to the Supplemental Agreement reflecting such termination. As a condition to any such termination, the City shall pay or cause to be paid all Installment Payments and Additional Payments owed to the Assignee.

SECTION 3.6. *Project Fund*. The City shall establish and maintain a special fund or account designated as the "Project Fund" to be held by the City and which shall be accounted for as a separate fund or account. The City shall deposit all amounts advanced to it by the Assignee under the Assignment Agreement in the Project Fund promptly upon receipt of such amounts. Except as otherwise provided herein, moneys in the Project Fund shall be used solely for the payment of the Project Costs. The City shall disburse moneys in the Project Fund from time to time to pay Project Costs (or to reimburse the City for payment of Project Costs). The City shall maintain accurate records showing all disbursements from the Project Fund. The City shall invest proceeds in the Project Fund in investments authorized by California law and the City's investment policy.

ARTICLE IV

INSTALLMENT SALE OF PROJECT; INSTALLMENT PAYMENTS

SECTION 4.1. *Sale of Project*. The Authority hereby sells the Project to the City, and the City hereby purchases the Project from the Authority, upon the terms and conditions set forth in this Agreement.

SECTION 4.2. *Title*. Title to the Project, and each component thereof, will be deemed conveyed by the Authority to and vested in the City upon the completion of the

acquisition, construction and installation thereof. The Authority and the City will execute, deliver and cause to be recorded any and all documents reasonably required by the City to consummate the transfer of title to the Project.

SECTION 4.3. *Term of this Agreement*. The Term of this Agreement commences on the Closing Date and ends on the date the City has paid all Installment Payments, Additional Payments and other amounts due hereunder.

SECTION 4.4. *Installment Payments.*

(a) Obligation to Pay. The City agrees to pay to the Authority, its successors and assigns, as the purchase price of the Project, the Installment Payments payable on the Installment Payment Dates, with each Installment Payment consisting of interest components payable on the Interest Payment Dates and the Maturity Date and principal components payable on the Maturity Date as set forth below, resulting in Installment Payments payable on each Installment Payment Date other than the Maturity Date consisting of (i) an interest component calculated on the unpaid principal components of the Installment Payments and (ii) a principal component of $0, and the Installment Payment payable on the Maturity Date consisting of (x) an interest component calculated on the unpaid principal components of the Installment Payments and (y) a principal component equal to the full unpaid principal components of the Installment Payments. The Installment Payments shall be secured by and payable from System Net Revenues and the proceeds of the USDA Loan as hereinafter provided.

The interest components of the Installment Payments shall be calculated in accordance with the Supplemental Agreement. On or prior to the Maturity Date, the interest components of the Installment Payments shall be due and payable on each Interest Payment Date.

The principal components of the Installment Payments as of any date shall be equal to the aggregate amounts advanced by the Assignee pursuant to Funding Requests under Section 3.5, less any amount of such principal which has previously been prepaid by the City, if any. The unpaid principal components of the Installment Payments shall be due and payable in full on the Maturity Date.

The amount of each Installment Payment shall be specified by Assignee in a written invoice to City not later than each Installment Payment Date, which invoice shall include sufficient detail for City to verify the calculated amount of the Installment Payment. In the event the Assignee fails for any reason to provide the City with an invoice for any Installment Payment by the related Installment Payment Date, the City shall not be relieved of its obligation to pay such Installment Payment, but the City shall not be required to make such payment prior to the receipt of such invoice.

It is understood and agreed by the City and the Assignee that this Agreement shall not be (i) assigned a rating by any rating agency, (ii) registered with The Depository Trust Company or any other securities depository, (iii) issued pursuant to any type of offering document or official statement, or (iv) assigned CUSIP numbers by Standard & Poor's CUSIP Service Bureau.

(b) Rate on Overdue Payments. If the City fails to make any of the payments required in this Section on or before the due date therefor, the Installment Payment in

default shall continue as an obligation of the City until the amount in default shall have been fully paid and the City agrees to pay the same with interest thereon, to the extent permitted by law, from the due date thereof at the Default Rate, or, if lower, the maximum rate then permitted by law.

(c) Payment Provisions. Each Installment Payment payable hereunder and each Assignee Additional Payment shall be paid in lawful money of the United States of America in immediately available funds to or upon the order of the Assignee to the Assignee's account set forth in the Supplemental Agreement. Notwithstanding any dispute between the Authority and the City, the City will make all Installment Payments when due without deduction or offset of any kind and will not withhold any Installment Payments pending the final resolution of such dispute. In the event of a determination that the City was not liable for said Installment Payments or any portion thereof, said payments or excess of payments, as the case may be, will be credited against subsequent Installment Payments due hereunder or refunded at the time of such determination.

(d) Assignment. The City understands and agrees that all Installment Payments have been assigned by the Authority to the Assignee under the Assignment Agreement, and the City hereby assents to such assignment. The Authority hereby directs the City, and the City hereby agrees, to pay to the Assignee all payments payable by the City under this Section and all amounts payable by the City under Article VII.

(e) Maximum Rate. Anything herein to the contrary notwithstanding, the amount of interest payable hereunder shall not exceed the Maximum Rate. If the applicable interest rate would exceed the Maximum Rate, then (i) such interest rate will not exceed but will be capped at such Maximum Rate and (ii) thereafter if the applicable interest rate is less than the Maximum Rate, any obligation hereunder will bear interest at the Maximum Rate until the earlier of (x) payment to the Assignee of an amount equal to the amount which would have accrued but for the limitation set forth in this Section and (y) the date on which all Installment Payments have been paid in full. On the date on which all Installment Payments have been paid in full or, if no Advance is outstanding, on the date the Commitment is terminated, in consideration for the limitation of the rate of interest otherwise payable hereunder, to the extent permitted by Applicable Law, the City shall pay to the Assignee a fee in an amount equal to the amount which would have accrued but for the limitation set forth in this Section that has not previously been paid to the Assignee in accordance with the immediately preceding sentence.

SECTION 4.5. *Undrawn Fees.* In addition to the Installment Payments, the City hereby agrees to pay to the Assignee, in immediately available funds, for each day during the Advance Period, payable semiannually in arrears on each Undrawn Fee Payment Date during the Advance Period and on the Commitment Termination Date, a non-refundable undrawn fee (the "*Undrawn Fee*") in an amount equal for each day during such semiannual calculation period to the product of 0.125% multiplied by the Available Commitment for such day, calculated on an annual basis of 360 days and actual days elapsed.

The Undrawn Fee shall be calculated from and including one Undrawn Fee Payment Date (or, in the case of the first Undrawn Fee payment, the Closing Date) to but excluding the next Undrawn Fee Payment Date (each, a "*Payment Period*"), and the Assignee shall provide the City with a written invoice for each Undrawn Fee not later than each Undrawn Fee Payment Date during the Advance Period and the Commitment

Termination Date. In the event the Assignee fails for any reason to provide the City with an invoice for any Undrawn Fee by the related Undrawn Fee Payment Date, the City shall not be relieved of its obligation to pay such Undrawn Fee, but the City shall not be required to make such payment prior to the receipt of such invoice.

SECTION 4.6. *Pledge and Application of System Net Revenues and Proceeds of USDA Loan*.

(a) Pledge. The System Net Revenues and the proceeds of the USDA Loan shall be irrevocably pledged to the punctual payment of the Installment Payments and the Assignee Additional Payments. Such pledge constitutes a lien on the System Net Revenues and the proceeds of the USDA Loan for the payment of the Installment Payments and the Assignee Additional Payments in accordance with the terms hereof, which lien on the System Net Revenues shall be on a parity with the pledge and lien which secures any Parity Debt.

Pursuant to Section 5451 of the Government Code of the State of California, the pledge of the System Net Revenues and the proceeds of the USDA Loan by the City for the payment of the Installment Payments and the Assignee Additional Payments constitutes a lien and security interest which immediately attaches to such System Net Revenues and proceeds of the USDA Loan, and which shall be effective and binding against the City, its successors, creditors and all others asserting rights therein irrespective of whether those parties have notice of the pledge, irrespective of whether such amounts are or may be deemed to be a fixture and without the need for physical delivery, recordation, filing or further act.

(b) Allocation of System Revenues. The City has previously established the Wastewater Fund, which the City shall continue to hold and maintain for the purposes and uses set forth herein. In order to carry out and effectuate the pledge and lien contained herein, the City agrees and covenants that all System Revenues shall be received by the City in trust hereunder and shall be deposited when and as received in the Wastewater Fund, which fund the City agrees and covenants to maintain and to hold separate and apart from other funds so long as any Installment Payments remain unpaid. To the extent the City has an existing fund which satisfies the foregoing requirements, then such shall be deemed to be the "Wastewater Fund" and the City shall not be required to create a new fund. The City may maintain separate accounts within the Wastewater Fund. The amounts in the Wastewater Fund shall be invested in Authorized Investments. Moneys in the Wastewater Fund shall be used and applied by the City as provided in this Agreement.

The City shall, from the moneys in the Wastewater Fund, pay all Operation and Maintenance Costs (including amounts reasonably required to be set aside in contingency reserves for Operation and Maintenance Costs, the payment of which is not then immediately required) as such Operation and Maintenance Costs become due and payable. Thereafter, all remaining moneys in the Wastewater Fund shall be set aside by the City at the following times for the transfer to the following respective special funds in the following order of priority; and all moneys in each of such funds shall be held in trust and shall be applied, used and withdrawn only for the purposes set forth in this Section.

(i) Installment Payments. On or before the first Business Day of each month, the City shall, from the moneys in the Wastewater Fund, transfer to the Assignee the Installment Payment due and payable on any Installment

Payment Date occurring in such month. The City shall also, from the moneys in the Wastewater Fund, transfer to the applicable trustee for deposit in the respective payment fund, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference, any other Parity Obligation Payments becoming due in such month in accordance with the provisions of any Parity Obligation.

(ii) Reserve Account. On or before the first Business Day of each month, the City shall, from the remaining moneys in the Wastewater Fund, thereafter, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference, transfer to the applicable trustee for such reserve accounts, if any, as may have been established in connection with Parity Obligations that sum, if any, necessary to restore such reserve accounts to an amount equal to the amount required to be maintained therein.

(iii) Surplus. Moneys on deposit in the Wastewater Fund not necessary to make any of the payments required above, may be expended by the City at any time for any purpose permitted by law, including but not limited to payments with respect to Subordinate Obligations and deposits to the Rate Stabilization Fund.

(c) Budget and Appropriation of Installment Payments. During the Term of this Agreement, the City will adopt all necessary budgets and make all necessary appropriations of the Installment Payments from the System Net Revenues. If any Installment Payment requires the adoption by the City of a supplemental budget or appropriation, the City will promptly adopt the same. The covenants on the part of the City contained in this subsection are duties imposed by law and it is the duty of each and every public official of the City to take such actions and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this subsection.

(d) Application of Proceeds of USDA Loan. Immediately upon receipt thereof, the City covenants to apply all proceeds of the USDA Loan to prepay or pay all or a portion of the principal balance of the Installment Payments prior to maturity and such proceeds of the USDA Loan may not be used for any other purpose.

SECTION 4.7. *Rate Stabilization Fund*. The City has previously established the Rate Stabilization Fund, which the City shall continue to hold and maintain for the purposes and uses set forth herein. The City may, during or within 210 days after a Fiscal Year, deposit surplus System Net Revenues transferred from the Wastewater Fund attributable to such Fiscal Year (on the basis of Generally Accepted Accounting Principles) into the Rate Stabilization Fund. The City may at any time withdraw moneys from the Rate Stabilization Fund and deposit such amounts into the Wastewater Fund. Notwithstanding anything to the contrary provided herein, System Net Revenues deposited into the Rate Stabilization Fund shall not be taken into account as System Net Revenues for purposes of the calculations in Sections 5.5(b) and 5.7 in the Fiscal Year to which such deposit is attributable, and amounts withdrawn from the Rate Stabilization Fund and deposited into the Wastewater Fund, during or within 210 days after a Fiscal Year, may be taken into

account as System Revenues for purposes of the calculations required under Sections 5.3 and 6.8(b) in such Fiscal Year; provided that, for purposes of the calculation required under Section 5.3, the amount of System Net Revenues before any credits for withdrawals from the Rate Stabilization Fund may not be less than 100% of Maximum Annual Debt Service for outstanding Parity Debt and the proposed additional Parity Debt. The amounts in the Rate Stabilization Fund shall be invested in the Authorized Investments.

SECTION 4.8. *Special Obligation of the City; Obligations Absolute.* The City's obligation to pay the Installment Payments and any other amounts coming due and payable hereunder will be a special obligation of the City limited solely to the System Net Revenues. Under no circumstances is the City required to advance moneys derived from any source of income other than the System Net Revenues and other sources specifically identified herein for the payment of the Installment Payments and such other amounts, and no other funds or property of the City are liable for the payment of the Installment Payments.

The obligation of the City to make the Installment Payments from the System Net Revenues and to perform and observe the other agreements contained herein is absolute and unconditional and is not subject to any defense or any right of set-off, counterclaim or recoupment arising out of any breach by the Authority or the Assignee of any obligation to the City or otherwise with respect to the Wastewater System, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the City by the Authority or the Assignee. Until all of the Installment Payments, Additional Payments and other amounts coming due and payable hereunder have been fully paid or prepaid, the City:

(a) will not suspend or discontinue payment of any Installment Payments, Additional Payments or such other amounts,

(b) will perform and observe all other agreements contained in this Agreement, and

(c) will not terminate this Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Wastewater System, failure to complete the acquisition and construction of the Project by the estimated completion date thereof, sale of the Wastewater System, the taking by eminent domain of title to or temporary use of any component of the Wastewater System, commercial frustration of purpose, any change in the tax or law other laws of the United States of America or the State of California or any political subdivision of either thereof or any failure of the Authority or the Assignee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement.

SECTION 4.9. *Additional Payments*. In addition to the Installment Payments and any Parity Debt, the City will pay when due the following amounts to the following parties:

(a) to the Authority, all costs and expenses (including but not limited to reasonable legal costs and expenses) incurred by the Authority to comply with or that result from the provisions of this Agreement; and

(b) all costs and expenses of auditors, engineers and accountants and other professional services relating to the Wastewater System; and

(c) all Excess Investment Earnings payable under Section 5.10(e); and

(d) to the Assignee, any other amounts owing to the Assignee under the Supplemental Agreement, other than amounts payable to the Assignee as Installment Payments.

The Assignee Additional Payments shall be payable from and secured by a pledge and lien upon the System Net Revenues as hereinafter provided. The Additional Payments (other than the Assignee Additional Payments) shall be payable from, but shall not be secured by, a pledge or lien upon any of the System Net Revenues. The rights of the Authority under this Section, and the obligations of the City under this Section, shall survive the termination of this Agreement. It is expressly understood that the provisions of this Section are and will be assigned to the Assignee.

ARTICLE V

COVENANTS OF THE CITY

SECTION 5.1. *Disclaimer of Warranties*. The Assignee makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the City of the Project or any component thereof, or any other representation or warranty with respect to any of the Project or any component thereof. In no event shall the Authority or the Assignee be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Agreement for the existence, furnishing, functioning or use of the Project.

SECTION 5.2. *Sale or Eminent Domain of Wastewater System*. Except as provided herein, the City covenants that the Wastewater System will not be encumbered, sold, leased, pledged, any charge placed thereon, or otherwise disposed of, as a whole or substantially as a whole if such encumbrance, sale, lease, pledge, charge or other disposition would materially impair the ability of the City to pay the Installment Payments or the principal of or interest on any Parity Debt, or would materially adversely affect its ability to comply with the terms of this Agreement, Senior Debt or any Parity Debt Documents. The City may not enter into any agreement which impairs the operation of the Wastewater System or any part of it necessary to secure adequate System Net Revenues to pay the Installment Payments or any Parity Debt, or which otherwise would impair the rights of the Assignee with respect to the System Net Revenues. If any substantial part of the Wastewater System is sold, the payment therefor must either (a) be

used for the acquisition or construction of improvements and extensions or replacement facilities or (b) be applied on a pro rata basis to prepay the Installment Payments and any Parity Debt on the next available prepayment date.

Any amounts received as awards as a result of the taking of all or any part of the Wastewater System by the lawful exercise of eminent domain, if and to the extent that such right can be exercised against such property of the City, will either (a) be used for the acquisition or construction of improvements and extension of the Wastewater System, or (b) be applied to prepay on a pro rata basis the Installment Payments and any Parity Debt on the next available prepayment date.

SECTION 5.3. *Insurance*. The City will at all times maintain with responsible insurers all such insurance on the Wastewater System as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to the Wastewater System. All amounts collected from insurance against accident to or destruction of any portion of the Wastewater System will be used, at the option of the City, either (a) to repair or rebuild such damaged or destroyed portion of the Wastewater System, or (b) to prepay on a pro rata basis the Installment Payments and any Parity Debt on the next available prepayment date.

The City will also maintain, with responsible insurers, worker's compensation insurance and insurance against public liability and property damage to the extent reasonably necessary to protect the City, the Authority and the Assignee.

Any policy of insurance required under this Section may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of self-insurance by the City or in the form of the participation by the City in a joint powers agency or other program providing pooled insurance.

SECTION 5.4. *Records and Accounts*. The City shall keep proper books of record and accounts of the Wastewater System in which complete and correct entries shall be made of all transactions relating to the Wastewater System. Said books shall, upon prior request, be subject to the reasonable inspection of the Authority upon not less than two Business Days' prior notice to the City.

The City shall cause the books and accounts of the Wastewater System to be audited annually by an Independent Accountant not more than 270 days after the close of each Fiscal Year and shall file a copy of such report with the Assignee. Such report may be part of a combined financial audit or report covering all or part of the City's finances.

SECTION 5.5. *Rates and Charges*.

(a) The City will, at all times while any of the Installment Payments remain unpaid, fix, prescribe and collect rates, fees and charges and manage the operation of the Wastewater System for each Fiscal Year so as to yield System Revenues at least sufficient, after making reasonable allowances for contingencies and errors in the estimates, to pay the following amounts during such Fiscal Year:

(i) All current Operation and Maintenance Costs.

(ii) The Installment Payments and the payments for the other Parity Debt and the Repayment Obligations and the payment of the Subordinate Obligations as they become due and payable.

(iii) All payments required for compliance with the terms hereof, including payment of any amounts due and payable under the Supplemental Agreement.

(iv) All payments to meet any other obligations of the City which are charges, liens or encumbrances upon, or payable from, the System Net Revenues.

(b) In addition to the requirements of the foregoing subsection (a) of this Section 5.5, the City will, at all times while any Installment Payments remain unpaid, to the maximum extent permitted by law, fix, prescribe and collect rates, fees and charges and manage the operation of the Wastewater System for each Fiscal Year so as to yield System Net Revenues during such Fiscal Year equal to at least 120% per cent of the Annual Debt Service in such Fiscal Year; provided, an adjustment shall be made to the amount of System Net Revenues as provided in Section 4.7 hereof.

The City may make or permit to be made adjustments from time to time in such rates, fees and charges and may make or permit to be made such classification thereof as it deems necessary, but shall not reduce or permit to be reduced such rates, fees and charges below those then in effect unless the System Revenues from such reduced rates, fees and charges will at all times be sufficient to meet the requirements of this Section.

SECTION 5.6. *Superior and Subordinate Obligations*. The City may not issue or incur any additional bonds or other obligations during the Term of this Agreement having any priority in payment of principal or interest out of the System Revenues or the System Net Revenues over the Installment Payments. Nothing herein limits or affects the ability of the City to issue or incur (a) Parity Debt under Section 5.7, or (b) obligations which are either unsecured or which are Subordinate Obligations.

SECTION 5.7. *Issuance of Parity Debt*. The City may issue or incur any Parity Debt during the Term hereof provided:

(a) the City shall be in compliance with all agreements, conditions, covenants and terms contained herein and in the Supplemental Agreement and in each Parity Debt Document required to be observed or performed by it, and a Certificate of the City to that effect shall have been filed with the Authority and the Assignee;

(b) the Parity Debt shall have been duly authorized pursuant to the Law and all applicable laws;

(c) the System Net Revenues for the last completed Fiscal Year or any 12 consecutive months within the last 18 months preceding the date of execution of such Parity Debt, as shown by a Certificate of the City on file with the Assignee, plus an allowance for increased System Net Revenues arising from any increase in the rates, fees and charges of the System which was duly adopted by the governing board of the City prior to the date of the execution of such Parity Debt but which,

during all or any part of such 12 month period, was not in effect, in an amount equal to the amount by which the System Net Revenues would have been increased if such increase in rates, fees and charges had been in effect during the whole of such 12 month period, as shown by a Certificate of the City on file with the Assignee, shall have produced a sum equal to at least 120% per cent of the Maximum Annual Debt Service as calculated after the execution of such Parity Debt; provided, that in the event that all or a portion of such Parity Debt is to be issued for the purpose of refunding and retiring any Parity Debt then outstanding, interest and principal payments on the Parity Debt to be so refunded and retired from the proceeds of such Parity Debt being issued shall be excluded from the foregoing computation of Maximum Annual Debt Service; provided further, that the City may at any time issue Parity Debt without compliance with the foregoing conditions if the Annual Debt Service for each Fiscal Year during which such Parity Debt is outstanding will not be increased by reason of the issuance of such Parity Debt; and provided further, an adjustment shall be made in the amount of System Net Revenues as provided in Section 4.7 hereof.

(d) The City will deliver to the Authority and the Assignee a written certificate of an Authorized Representative of the City certifying that the conditions precedent to the issuance of such Parity Debt set forth in subsections (a), (b) and (c) of this Section have been satisfied.

Nothing contained in this Section shall limit the issuance of any revenue bonds of the City payable from the System Net Revenues and secured by a lien and charge on the System Net Revenues if, after the issuance and delivery of such revenue bonds, none of the Installment Payments shall be unpaid. Furthermore, nothing contained in this Section shall limit the issuance of any Subordinate Obligations.

SECTION 5.8. *Operation of Wastewater System in Efficient and Economical Manner; No Free Service*. The City will operate the Wastewater System in an efficient and economical manner and to operate, maintain and preserve the Wastewater System in good repair and working order. The City will not permit any part of the Wastewater System or any facility thereof to be used or taken advantage of free of charge by any corporation, firm or person, or by any public agency (including the State of California and any city, county, public agency, political subdivision, public corporation or agency or any thereof), unless otherwise required by law or existing written agreements.

SECTION 5.9. *Assignment and Amendment Hereof.* This Agreement may not be assigned by the City in whole or in part. This Agreement may be amended by the City and the Authority, but only with the prior written consent of the Assignee.

SECTION 5.10. *Tax Covenants*.

(a) Generally. The City shall not take any action, or permit to be taken any action or omission within its control, which would cause or which, with the passage of time if not cured would cause, the interest components of the Installment Payments to become includable in gross income of the Authority or its Assignee for federal income tax purposes.

(b) Private Activity Bond Limitation. The City shall assure that the proceeds of the Installment Payments are not so used as to cause the Installment Payments to satisfy the private business tests of Section 141(b) of the Tax Code or the private loan financing test of section 141(c) of the Tax Code.

(c) Federal Guarantee Prohibition. The City shall not take any action, or permit to be taken any action or omission within its control, if the result of the same would be to cause the Installment Payments to be "federally guaranteed" within the meaning of Section 149(b) of the Tax Code.

(d) No Arbitrage. The City shall not take any action, or permit or suffer to be taken any action or omission within its control, with respect to the proceeds of the Installment Payments which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Installment Payments to constitute "arbitrage bonds" within the meaning of Section 148(a) of the Tax Code.

(e) Arbitrage Rebate. The City shall take any and all actions necessary to assure compliance with section 148(f) of the Tax Code, relating to the rebate of Excess Investment Earnings, if any, to the federal government, to the extent that such section is applicable to this Agreement.

(f) Record Retention. The City will retain its records of all accounting and monitoring it carries out with respect to this Agreement for at least three years after the payment or prepayment in full of the Installment Payments, whichever is earlier, or for such lesser period of time as may be permitted under the Tax Code.

(g) Acquisition, Disposition and Valuation of Investments. Except as otherwise provided in the following sentence, the City covenants that all investments of amounts deposited in any fund or account created by or under this Agreement, or otherwise containing gross proceeds of this Agreement (within the meaning of Section 148 of the Tax Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Agreement or the Tax Code) at Fair Market Value. Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Tax Code shall be valued at their present value (within the meaning of Section 148 of the Tax Code).

For purposes of this subsection, the term "Fair Market Value" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Tax Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, (iii) the investment is a United States Treasury Security – State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any

commingled investment fund in which the City and related parties do not own more than a 10% beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

SECTION 5.11. *Discharge of Claims*. The City covenants that in order to fully preserve and protect the priority and security of the Installment Payments the City shall pay from the System Net Revenues and discharge all lawful claims for labor, materials and supplies furnished for or in connection with the Wastewater System which, if unpaid, may become a lien or charge upon the System Net Revenues prior or superior to the lien of the Installment Payments and impair the security of the Installment Payments. The City shall also pay from the System Net Revenues all taxes and assessments or other governmental charges lawfully levied or assessed upon or in respect of the Wastewater System or upon any part thereof or upon any of the System Net Revenues therefrom.

SECTION 5.12. Enforcement of and Performance Under Contracts. The City shall enforce all material provisions of any contracts to which it is a party, an assignee, successor in interest to a party or third-party beneficiary, in any case where such contracts provide for material payments or services to be rendered to the Wastewater System. Further, the City will comply with, keep, observe and perform all material agreements, conditions, covenants and terms, express or implied, required to be performed by it, contained in all contracts affecting or involving the Wastewater System, to the extent that the City is a party thereto.

SECTION 5.13. *Collection of Charges, Fees and Rates*. The City will have in effect at all times rules and regulations requiring each user of the Wastewater System to pay the applicable charges, fees and rates and providing for the billing thereof and for a due date and a delinquency date for each bill. In each case where such bill remains unpaid in whole or in part after it becomes delinquent, the City will enforce the collection procedures contained in such rules and regulations.

SECTION 5.14. *Indemnification*. To the maximum extent permitted by law, the City will pay, as Additional Payments hereunder, the amounts set forth in Section 7.01 of the Supplemental Agreement.

SECTION 5.15. *Costs, Expenses and Taxes*. The City will pay, as Additional Payments hereunder, the amounts set forth in Section 7.02 of the Supplemental Agreement.

SECTION 5.16. *Increased Costs*. The City will pay, as Additional Payments hereunder, the amounts set forth in Section 7.03 of the Supplemental Agreement.

SECTION 5.17. *Additional Covenants*. The City will comply with the covenants set forth in Article V of the Supplemental Agreement. The covenants of the City set forth in Article V of the Supplemental Agreement, as well as the related defined terms contained in the Supplemental Agreement, are hereby incorporated by reference in this Agreement with the same effect as if each and every such covenant and defined term were set forth herein in its entirety.

ARTICLE VI

EVENTS OF DEFAULT

SECTION 6.1. *Events of Default Defined*. The following events constitute Events of Default hereunder:

(a) Failure by the City to pay any Installment Payment by the applicable Installment Payment Date or failure to make any other payment required to be paid hereunder at the time specified herein.

(b) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed in this Agreement other than as referred to in clause (a) of this Section, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Assignee or the Authority; *provided, however*, that if the failure stated in the notice cannot be corrected within such 30-day period, the Authority shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the City within such 30-day period and diligently pursued until the default is corrected.

(c) The filing by the City of a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or the approval by a court of competent jurisdiction of a petition filed with or without the consent of the City seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction assumes custody or control of the City or of the whole or any substantial part of its property.

(d) Any statement, representation or warranty made by the City in or pursuant to this Agreement or its execution, delivery or performance shall prove to have knowingly been false, incorrect, misleading or breached in any material respect on the date when made.

(e) The occurrence of any event defined to be an event of default under Senior Debt or any Parity Debt Documents.

(f) The occurrence of an Event of Default set forth in Section 6.01 of the Supplemental Agreement.

In the case of any Event of Default specified in Section 6.1(c) hereof or Section 6.01(h) of the Supplemental Agreement that has occurred, the Commitment shall immediately terminate automatically and the Available Commitment shall be reduced to zero automatically and will no longer be reinstated and thereafter, the Assignee will have no further obligation to make Advances hereunder. In the case of any Event of Default specified in Sections 6.1(a)-(f) above (including any Event of Default specified in Section 6.1(c) hereof or Section 6.01(h) of the Supplemental Agreement) that has

occurred, the Assignee may, by notice in writing to the City, terminate the Commitment and reduce the Available Commitment to zero and, thereafter, the Assignee will have no further obligation to make Advances hereunder. Upon such termination, the Assignee shall send a notice thereof in the form of Exhibit G to the Supplemental Agreement to the City; provided that failure to send or receive such notice shall not affect the termination of the Commitment as provided hereunder.

In the case of any Event of Default specified in Section 6.1(c) hereof or Section 6.01(h) of the Supplemental Agreement that has occurred, the entire principal amount of the unpaid Installment Payments and the accrued interest thereon and any other unpaid amount required to be paid hereunder shall automatically become due and payable immediately and thereupon said unpaid Installment Payment and any other unpaid amount required to be paid hereunder becomes immediately due and payable, anything contained herein to the contrary notwithstanding.

In the case of any Event of Default specified in Section 6.1 above (including any Event of Default specified in Section 6.1(c) hereof or Section 6.01(h) of the Supplemental Agreement) that has occurred, the Assignee may declare the entire principal amount of the unpaid Installment Payments and the accrued interest thereon and any other unpaid amount required to be paid hereunder to be due and payable immediately, and upon any such declaration said unpaid Installment Payment and any other unpaid amount required to be paid hereunder becomes immediately due and payable, anything contained herein to the contrary notwithstanding.

This Section is subject to the condition, however, that if at any time after the entire principal amount of the unpaid Installment Payments and the accrued interest thereon have been so declared due and payable, and before any judgment or decree for the payment of the money due has been obtained or entered, the City shall deposit with the Authority a sum sufficient to pay the unpaid principal amount of the Installment Payments due and payable prior to such declaration and the accrued interest thereon and any other unpaid amount required to be paid hereunder, with interest on such overdue installments at the rate or rates applicable to such unpaid principal amounts of the Installment Payments if paid in accordance with their terms, and the reasonable expenses of the Authority, and any and all other defaults known to the Authority (other than in the payment of the entire principal amount of the unpaid Installment Payments and the accrued interest thereon due and payable solely by reason of such declaration) have been cured to the satisfaction of the Authority or provision deemed by the Authority to be adequate has been made therefor, then and in every such case the Authority, by written notice to the City, may rescind and annul such declaration and its consequences; but no such rescission and annulment extends to or affects any subsequent default or shall impair or exhaust any right or power consequent thereon

SECTION 6.2. *Application of System Net Revenues Upon Acceleration*. All System Net Revenues upon the date of the declaration of acceleration by the Authority as provided in Section 6.1 and all System Net Revenues thereafter received will be applied in the following order:

First, to the payment of the costs and expenses of the Authority, if any, in carrying out the provisions of this Article, including reasonable compensation to its agents, accountants and counsel and including any indemnification expenses;

Second, to the payment of the interest then due and payable on the entire principal amount of the unpaid Installment Payments, and, if the amount available is not sufficient to pay in full all such interest then due and payable, then to the payment thereof ratably, according to the amounts due thereon without any discrimination or preference; and

Third, to the payment of the unpaid principal amount of the Installment Payments which has become due and payable, whether on the original due date or upon acceleration, with interest on the overdue principal and interest amounts of the unpaid Installment Payments at the rate or rates of interest then applicable to such Installment Payments if paid in accordance with their terms, and, if the amount available shall not be sufficient to pay in full all the amounts due with respect to the Installment Payments on any date, together with such interest, then to the payment thereof ratably, according to the principal amount due on such date, without any discrimination or preference; and

Fourth, to the payment of any other amount required to be paid hereunder.

SECTION 6.3. *Other Remedies on Default*. If an Event of Default occurs and is continuing, the interest rate shall increase to the Default Rate, and the Assignee has the right, at its option and without any further demand or notice, to take any one or more of the following actions:

(a) Apply to and obtain from any court of competent jurisdiction such decree or order as may be necessary to require officials of the City to charge and collect rates for services provided by the City and the Wastewater System sufficient to meet all requirements of this Agreement.

(b) Take whatever action at law or in equity, including specific enforcement, mandamus, or any equitable remedies available, as may be desirable and permitted by law to collect the Installment Payments then due or thereafter to become due during the Term of this Agreement, or enforce performance and observance of any obligation, agreement or covenant of the City under this Agreement.

SECTION 6.4. *No Remedy Exclusive*. No remedy herein conferred upon or reserved to the Authority is intended to be exclusive and every such remedy will be cumulative and will be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default will impair any such right or power or will be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article, it is not necessary to give any notice, other than such notice as may be required in this Article or by law.

SECTION 6.5. *Agreement to Pay Attorneys' Fees and Expenses*. If either party to this Agreement defaults under any of the provisions hereof and the non-defaulting party employs attorneys or incurs other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the non-defaulting party the reasonable fees and expenses of such

attorneys and such other expenses so incurred. The provisions of this Section will survive the expiration of the Term of this Agreement.

SECTION 6.6. *No Additional Waiver Implied by One Waiver*. If any agreement contained in this Agreement is breached by either party and thereafter waived by the other party, the waiver will be limited to the particular breach so waived and will not be deemed to waive any other breach hereunder.

SECTION 6.7. *Liability Limited to System Net Revenues*. Notwithstanding any provision of this Agreement, the City's liability to pay the Installment Payments and other amounts hereunder is limited solely to System Net Revenues as provided in Article IV. If the System Net Revenues are insufficient at any time to pay an Installment Payment in full, the City is not liable to pay or prepay such Installment Payment other than from System Net Revenues.

SECTION 6.8. *Rights of Assignee*. Such rights and remedies as are granted to the Authority under this Article or under this Agreement shall be exercised by the Assignee, as assignee of the rights of the Authority hereunder, in accordance with the provisions of the Assignment Agreement.

ARTICLE VII

PREPAYMENT OF INSTALLMENT PAYMENTS

SECTION 7.1. *Prepayment*. The City has the right to prepay the Installment Payments, but only in the manner, at the times and in all respects in accordance with the provisions of this Article.

SECTION 7.2. *Optional Prepayment*. Subject to the provisions set forth in the Supplemental Agreement, the City has the right at its option to prepay the Installment Payments in whole or in part, on any date at a prepayment price equal to 100% of the principal balance outstanding as of the date of prepayment, plus any accrued but unpaid interest, and any costs to the Assignee under the Supplemental Agreement.

Notice of prepayment shall be given by the City not less than 30 calendar days prior to the prepayment date, to the Authority and the Assignee at their respective addresses set forth in Section 8.2 or at such other address as is furnished to the City in writing by the Authority or the Assignee. Any notice mailed as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Authority or the Assignee receives such notice.

If notice of prepayment is given as aforesaid, the Installment Payments shall become due and payable at the prepayment price and on the prepayment date therein designated and if, on the designated prepayment date, money for the payment of the prepayment price have been paid, then from and after the prepayment date, interest on the principal amount of the prepaid Installment Payments shall cease to accrue and become payable.

SECTION 7.3. No *Surrender of Agreement Required*. No surrender of this Agreement shall ever be required as a condition for payment or otherwise. The Authority,

the City, and the Assignee agree that this Agreement shall terminate, excepting those provisions expressly surviving termination of this Agreement.

ARTICLE VIII

MISCELLANEOUS

SECTION 8.1. *Further Assurances*. The City agrees that it will execute and deliver any and all such further agreements, instruments, financing statements or other assurances as may be reasonably necessary or requested by the Authority, the Assignee to carry out the intention or to facilitate the performance of this Agreement, including, without limitation, to perfect and continue the security interests herein intended to be created.

SECTION 8.2. *Notices*. Any notice, request, complaint, demand or other communication hereunder shall be given by first class mail, personal delivery or email or other form of electronic communication, to the party entitled thereto, at its respective address set forth below. Notice shall be effective (a) 48 hours after deposit in the United States mail, postage prepaid, (b) in the case of personal delivery to any person, upon actual receipt, and (c) upon transmission by email or other form of electronic communication. The City, the Authority and the Assignee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the City or the Authority	City of St. Helena 1572 Railroad Avenue St. Helena, California 94574 Attention: Administrative Services Director Email: amitts@cityofsthelena.org
If to the Assignee:	Bank of the West 180 Montgomery Street San Francisco, California 94104 Attention: Ted Neu Email: Ted.Neu@bankofthewest.com

The Authority, the City and the Assignee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

SECTION 8.3. *Third Party Beneficiary.* The Assignee is hereby made a third-party beneficiary under this Agreement with all rights of a third party beneficiary.

SECTION 8.4. *Governing Law*. This Agreement will be construed in accordance with and governed by the laws of the State of California.

SECTION 8.5. *Binding Effect*. This Agreement inures to the benefit of and is binding upon the Authority, the City and the Assignee, and their respective successors and assigns.

SECTION 8.6. *Severability of Invalid Provisions*. If any one or more of the provisions contained in this Agreement are for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions will be deemed severable from the remaining provisions contained in this Agreement and such invalidity, illegality or unenforceability will not affect any other provision of this Agreement, and this Agreement will be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The Authority and the City each hereby declares that it would have entered into this Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Agreement may be held illegal, invalid or unenforceable.

SECTION 8.7. *Article and Section Headings and References*. The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, will be solely for convenience of reference and do not affect the meaning, construction or effect of this Agreement. All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof; and words of the masculine gender mean and include words of the feminine and neuter genders.

SECTION 8.8. *Payment on Non-Business Days*. Whenever any payment is required to be made hereunder on a day which is not a Business Day, such payment will be made on the immediately preceding Business Day.

SECTION 8.9. *Execution of Counterparts*. This Agreement may be executed in any number of counterparts, each of which for all purposes is deemed to be an original and all of which together constitutes but one and the same instrument.

SECTION 8.10. *Waiver of Personal Liability*. No member of the City Council, officer, agent or employee of the City has any individual or personal liability for the payment of Installment Payments or Additional Payments or be subject to any personal liability or accountability by reason of this Agreement; but nothing herein contained shall relieve any such member of the City Council, officer, agent or employee from the performance of any official duty provided by law or by this Agreement.

SECTION 8.11. *Defeasance*. If and when all of the Installment Payments shall be paid in any one or more of the following ways:

(a) by paying or causing to be paid the principal and interest with respect to the Installment Payments as and when the same become due and payable in good and indefeasible funds via check or wire transfer as may from time to time be directed by the Assignee;

(b) with the prior written consent of the Assignee, which shall not unreasonably be withheld, by depositing with an escrow agent or

other fiduciary, in trust, at or before the final stated Installment Payment Date, money which is fully sufficient to pay and discharge the Installment Payments, including all principal and interest and prepayment premium, (if any) at or before their respective Installment Payment Dates;

(c) with the prior written consent of the Assignee, which shall not unreasonably be withheld, by depositing with an escrow agent or other fiduciary, in trust, Federal Securities in such amount as an independent certified public accountant shall determine in writing will, together with the interest to accrue thereon and without reinvestment, be fully sufficient to pay and discharge the Installment Payments, including all principal and interest and prepayment premium, (if any), at or before their respective Installment Payment Dates; or

(d) with the prior written consent of the Assignee, which shall not unreasonably be withheld, by depositing with an escrow agent or other fiduciary, under an escrow deposit and trust agreement, security for the payment and discharge of the Installment Payments, including all principal and interest and prepayment premium (if any) in form and substance acceptable to the Authority, or its assign, in its sole discretion, said security to be applied to pay the Installment Payments, including all principal and interest and prepayment premium (if any) in full on the earliest possible date;

all obligations of the City with respect to this Agreement shall cease and terminate and this Agreement shall be discharged, except for any provision herein which expressly states that it survives termination. The City shall provide to the Authority and the Assignee at least 30 calendar days prior written notice of its intent to discharge its obligations with respect to this Agreement by satisfying the conditions of this Section, and shall provide the Authority and the Assignee with an opinion of Bond Counsel stating that (i) the deposit and application of funds under this Section does not, of itself, cause the interest components of the Installment Payments to be includable in gross income for federal tax purposes, and (ii) as a result of the deposit and application of funds under this Section, all obligations of the City with respect to this Agreement have ceased and terminated and this Agreement has been discharged.

[SIGNATURE PAGE TO INSTALLMENT SALE AGREEMENT]

IN WITNESS WHEREOF, the Authority and the City have caused this Agreement to be executed in their respective names by their duly authorized officers, all as of the date first above written.

ST. HELENA FINANCING AUTHORITY

By: _____
Executive Director

ATTEST:

By _____
Secretary

CITY OF ST. HELENA

By: _____
City Manager

ATTEST:

By _____
City Clerk

APPENDIX A

DESCRIPTION OF PROJECT

Project Location: 1 Chaix/Thomann Lane, St. Helena, California 030-240-013; 030-240-009; 030-240-017; 030-250-018.

Project Description: The proposed project involves upgrades to the City of St. Helena's existing WWTRP that are required to comply with the Cease-and-Desist Order (CDO) No. R2-2016-0004 from the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) and the 2016 National Pollutant Discharge Elimination System (NPDES) Permit No. CA0038016 (Order No. R2-2016-0003). All proposed improvements would take place within the existing development footprint of the WWTRP. The Project consists of constructing a turnkey, fully furnished, Packaged Membrane Bioreactor Treatment Facility, packaged Sludge Dewatering System, Coarse Screening System, UV disinfection, sewage pumping systems, yard improvements, chemical feed system and storage improvements, electrical and communications upgrades, stand-by generator, and a packaged tertiary treated wastewater distribution system for the City Wastewater Treatment and Reclamation Plant.

Exhibit 6

ASSIGNMENT AGREEMENT

This ASSIGNMENT AGREEMENT (this "Agreement"), dated as of _____, 202_, is among the ST. HELENA FINANCING AUTHORITY, a joint exercise of powers authority duly organized and existing under the laws of the State of California (the "Authority"), BANK OF THE WEST, a national banking association and existing under the laws of the United States of America, as assignee (including its successors and assigns, the "Assignee"), and the CITY OF ST. HELENA, a general law city and municipal corporation duly organized and existing under the Constitution and laws of the State of California (the "City").

B A C K G R O U N D :

1. The City owns and operates a system for the collection, treatment and disposal of Wastewater within the service area of the City (the "Wastewater System").

2. The City wishes to finance a portion of the costs of improvements to the Wastewater System comprised of a membrane bioreactor treatment system and related improvements, which is described more fully in Appendix A attached to this Agreement (the "Project").

3. The Authority has been formed for the purpose of assisting the City in the financing and refinancing of public capital improvements.

4. In order to provide funds to finance the a portion of the costs of Project, the Authority and the City have entered into an Installment Sale Agreement dated as of _____, 202_ (the "Installment Sale Agreement") under which the Authority agrees to provide financing for a portion of the costs of the Project and to sell the completed Project to the City in consideration of the agreement by the City to pay the purchase price of the Project in semiannual installments (the "Installment Payments").

5. For the purpose of obtaining the moneys required to finance a portion of the costs of the Project in accordance with the terms of the Installment Sale Agreement, the Authority has agreed to assign and transfer certain of its rights under the Installment Sale Agreement to the Assignee, including but not limited to its right to receive and enforce the payment of the Installment Payments, under this Agreement.

A G R E E M E N T :

In consideration of the material covenants contained in this Agreement, the parties hereto hereby formally covenant, agree and bind themselves as follows:

SECTION 1. *Defined Terms*. All capitalized terms not otherwise defined herein have the respective meanings given those terms in the Installment Sale Agreement.

SECTION 2. *Assignment*. In consideration for the agreement of the Assignee to make Advances from time to time under the Installment Sale Agreement, subject to the terms and conditions of the Supplemental Agreement and the Installment Sale Agreement, the Authority hereby assigns to the Assignee all of the Authority's rights, title and interest

under the Installment Sale Agreement (excepting only the Authority's rights to indemnification and to payment or reimbursement of its reasonable costs and expenses under the Installment Sale Agreement), including but not limited to:

(a) the right to receive and collect all of the Installment Payments and all of the Undrawn Fees from the City under the Installment Sale Agreement;

(b) the right to receive and collect any proceeds of any insurance maintained thereunder with respect to the Project, or any eminent domain award (or proceeds of sale under threat of eminent domain) paid with respect to the Project; and

(c) the right to exercise such rights and remedies conferred on the Authority under the Installment Sale Agreement as may be necessary or convenient (i) to enforce payment of the Installment Payments, the Undrawn Fees and any amounts required to be credited to the payment or prepayment thereof, or (ii) otherwise to protect the interests of the Authority in the event of a default by the City under the Installment Sale Agreement;

The assignment made under this Section is absolute and irrevocable, and without recourse to the Authority.

SECTION 3. *Acceptance*. The Assignee hereby accepts the assignments made herein.

SECTION 4. *Representations and Warranties of the Authority*. The Authority hereby represents, warrants and covenants to and with the City and the Assignee as follows:

(a) The Installment Sale Agreement is free and clear of all claims, liens, security interests, encumbrances of any kind or character created by, through or under the Authority, except the rights of the City thereunder, and except as contemplated in the Installment Sale Agreement. The Installment Sale Agreement is and shall remain free of all claims, liens, security interests and encumbrances arising through any act or omission of the Authority.

(b) The Authority has complied with and performed all of its obligations under the Installment Sale Agreement and all related documents and instruments.

(c) The Installment Sale Agreement delivered to the Assignee herewith is an original and constitutes the entire writing, obligation and agreement between the Authority and City respecting the Installment Payments and the Undrawn Fees due thereunder.

SECTION 5. *Representations and Warranties of the Assignee*. The Assignee hereby certifies, represents, warrants, acknowledges, and covenants to and with the City and the Authority as follows:

(a) The Assignee acknowledges that the City will rely on the certifications, representations, warranties, acknowledgements, and covenants contained in this Agreement.

(b) The Assignee is authorized to acquire an assignment of the Installment Sale Agreement as set forth herein.

(c) The Assignee is a "qualified institutional buyer" (a "Qualified Institutional Buyer") within the meaning of Rule 144A promulgated under the Securities Act of 1933, as amended (the "Securities Act"), or is an "accredited investor" as described in Section 501(a)(1), (2), (3) or (7) of Regulation D promulgated under the Securities Act (an "Institutional Accredited Investor").

(d) The Assignee is not acquiring an assignment of the Installment Sale Agreement for more than one account, has no present intention to re-assign the Installment Sale Agreement, and is not acquiring an assignment of the Installment Sale Agreement with a view to distributing the Installment Sale Agreement.

(e) The Assignee has sufficient knowledge and experience in financial and business matters, including the purchase and ownership of municipal bonds and other obligations similar to the Installment Sale Agreement, to be capable of evaluating the merits and risks of the Installment Sale Agreement, and the Assignee is able to bear the economic risks of the Installment Sale Agreement.

(f) The Assignee recognizes that the Installment Sale Agreement involves significant risks, that there is no established market for the Installment Sale Agreement and that none is likely to develop and, accordingly, that the Assignee must bear the economic risk of the Installment Sale Agreement for an indefinite period of time.

(g) The Assignee is not relying upon the City or any of its employees or agents for advice as to the merits and risks of the Installment Sale Agreement. The Assignee has sought such accounting, legal and tax advice as it has considered necessary to make an informed lending decision.

(h) The Assignee has conducted its own independent examination of, and has had an opportunity to ask questions and receive answers concerning the City, the Project, the Wastewater System, the Gross Revenues and the Net Revenues, the Installment Sale Agreement, and the security therefor, and the transactions and documents related to or contemplated by the foregoing.

(i) The Assignee has been furnished with all documents and information regarding the City, the Project, the Wastewater System, the Gross Revenues and the Net Revenues, the Installment Sale Agreement, and the security therefor, and the transactions and documents related to or contemplated by the foregoing, and all matters related thereto, that it has requested.

(j) The Assignee understands that the offering and sale of the Installment Sale Agreement by the City were exempt from Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, pursuant to Section (d)(1)(i) of said Rule.

(k) The Assignee understands that the Installment Sale Agreement carries no rating from any rating service.

(l) The Assignee understands that the Installment Sale Agreement is not registered under the Securities Act and is not registered or otherwise qualified for sale under the "blue sky" laws and regulations of any state.

(m) The person executing this Agreement on behalf of the Assignee is duly authorized to do so on the Assignee's behalf.

SECTION 6. *Limitations on Further Assignments*. The Assignee may resell or otherwise transfer all (but not less than all) of its interest in the Installment Sale Agreement, but only to an institution that (i) the Assignee reasonably believes is either a Qualified Institutional Buyer, or an Institutional Accredited Investor and is purchasing the Installment Sale Agreement for its own account, (ii) delivers to the City and the Authority an executed Investor Letter containing substantially the representations and warranties set forth in Section 5, and (iii) otherwise complies in all respects with the provisions of the Installment Sale Agreement regarding such sale or transfer.

SECTION 7. *Conditions to Closing*. At or prior to the Closing Date, the Assignee shall have received the documents set forth in Section 3.01 of the Supplemental Agreement, in each case satisfactory in form and substance to the Assignee.

SECTION 8. *Expenses*. The fees and disbursements of Bond Counsel, the fees and disbursements of the municipal advisor to the City or the Authority, CDIAC fees, fees of Assignee's Counsel, and other miscellaneous expenses of the City or the Authority incurred in connection with the offering and delivery of the Installment Sale Agreement shall all be the obligation of the Authority. The Assignee shall have no responsibility for any expenses associated with the Installment Sale Agreement, including, but not limited to, the expenses identified above as the obligation of the City or the Authority.

SECTION 9. *Execution in Counterparts*. This Agreement may be executed in any number of counterparts, each of which is an original and all together constitute one and the same agreement. Separate counterparts of this Agreement may be separately executed by the Assignee and the Authority, both with the same force and effect as though the same counterpart had been executed by the Assignee and the Authority.

SECTION 10. *Binding Effect*. This Agreement inures to the benefit of and binds the Authority and the Assignee, and their respective successors and assigns, subject, however, to the limitations contained herein.

SECTION 11. *Governing Law*. This Agreement is governed by the Constitution and laws of the State of California.

SECTION 12. *No Sovereign Immunity*. The Authority hereby represents that it does not possess and will not invoke a claim of sovereign immunity for disputes arising out of contractual claims relating to this Agreement. To the extent the Authority has or hereafter may acquire under any applicable law any rights to immunity from legal proceedings on the grounds of sovereignty, the Authority hereby waives and agrees not to claim, to the extent permitted by law, such rights to immunity for itself in respect of its obligations arising under or related to this Agreement.

SECTION 13. *Arm's Length Transaction*. The transaction described in this Agreement is an arm's length, commercial transaction between the City and the Authority, on one hand, and the Assignee, on the other, in which: (i) the Assignee is acting solely as a principal (i.e., as a Assignee) and for its own interest; (ii) the Assignee is not acting as a municipal advisor or financial advisor to the City or the Authority; (iii) the Assignee has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to the City or the Authority with respect to this transaction and the discussions, undertakings and procedures leading thereto (irrespective of whether the Assignee or any of its affiliates has provided other services or is currently providing other services to the City or the Authority on other matters); (iv) the only obligations the Assignee has to the City and the Authority with respect to this transaction are set forth in this Agreement or the Installment Sale Agreement; and (v) the Assignee is not recommending that the City or the Authority take an action with respect to the transaction described in this Agreement and the other Basic Documents, and before taking any action with respect to the this transaction, the City or the Authority should discuss the information contained herein with the City's or the Authority's own legal, accounting, tax, financial and other advisors, as the City's or the Authority's deems appropriate.

[SIGNATURE PAGE TO ASSIGNMENT AGREEMENT]

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers as of the day and year first written above.

ST. HELENA FINANCING AUTHORITY, *as Assignor*

By _____
Executive Director

ATTEST:

By_____
Secretary

CITY OF ST. HELENA

By _____
City Manager

ATTEST:

By_____
City Clerk

BANK OF THE WEST,
as Assignee

By _____

Name _____

Title _____

Exhibit 7

SUPPLEMENTAL AGREEMENT

dated as of [_____], 202_,

among

CITY OF ST. HELENA,

CITY OF ST. HELENA FINANCING AUTHORITY

and

BANK OF THE WEST

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS

Section 1.01. Certain Defined Terms....2
Section 1.02. Construction....12
Section 1.03. Incorporation of Certain Definitions by Reference....12
Section 1.04. Accounting Terms and Determinations....12

ARTICLE II

FUNDING OF PROJECT COSTS

Section 2.01. Funding of Project Costs; Making of Advances....13
Section 2.02. Method of Borrowing....13
Section 2.03. Calculation of Interest Components of Installment Payments....14
Section 2.04. Repayment of Advances....17
Section 2.05. Prepayment....17
Section 2.06. Form and Method of Payments....17
Section 2.07. Net Payments....17

ARTICLE III

CONDITIONS PRECEDENT

Section 3.01. Closing Conditions....18
Section 3.02. Conditions Precedent to Each Advance....22

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.01. Existence and Power....23
Section 4.02. Due Authorization....23
Section 4.03. Valid and Binding Obligations....24
Section 4.04. Noncontravention; Compliance with Law....24
Section 4.05. Pending Litigation and Other Proceedings....24
Section 4.06. Financial Statements....24
Section 4.07. Defaults....25
Section 4.08. Insurance....25
Section 4.09. Accuracy of Information....25
Section 4.10. Environmental Matters....25
Section 4.11. Security....26
Section 4.12. Tax-Exempt Status....26

Section 4.13. Sovereign Immunity....26
Section 4.14. Investment Policies....26
Section 4.15. Usury....26
Section 4.16. Budget....26
Section 4.17. Wastewater System....27

ARTICLE V

COVENANTS OF THE CITY

Section 5.01. Reporting Requirements....27
Section 5.02. Notices....28
Section 5.03. Access to Property and Books, Records and Accounts....28
Section 5.04. Further Assurances....28
Section 5.05. Maintenance of Existence....29
Section 5.06. Environmental Compliance....29
Section 5.07. Swap Termination Payments....29
Section 5.08. Sovereign Immunity....29
Section 5.09. No Priority Claim....29

ARTICLE VI

EVENTS OF DEFAULT

Section 6.01. Events of Default....30

ARTICLE VII

INDEMNIFICATION; COSTS, EXPENSES AND TAXES

Section 7.01. Indemnification....31
Section 7.02. Costs, Expenses and Taxes....31
Section 7.03. Increased Costs....32
Section 7.04. Late Payment....33
Section 7.05. Survival....34

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Payment Account....34
Section 8.02. Amendments....34
Section 8.03. Severability....34
Section 8.04. Governing Law; Consent To Jurisdiction; Waiver Of Jury Trial....34
Section 8.05. No Advisory or Fiduciary Responsibility....35
Section 8.06. Counterparts....36
Section 8.07. Successors and Assigns....36

Exhibit A	Installment Sale Agreement and Assignment Agreement Terms	A-1
Exhibit B	City Wastewater Obligations	B-1
Exhibit C	Form of Funding Request	C-1
Exhibit D	Form of Request for Termination or Reduction	D-1
Exhibit E	Form of Notice of Permanent Reduction	E-1
Exhibit F	Form of Notice of Termination at the Request of the City	F-1
Exhibit G	Notice of Termination Upon Event of Default	G-1

SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT, dated as of [_____], 202_ (as the same may be amended, restated, supplemented or otherwise modified from time to time, this "Supplemental Agreement"), among the **CITY OF ST. HELENA**, a general law city and municipal corporation duly organized and existing under the Constitution and laws of the State of California (the "City"), the **CITY OF ST. HELENA FINANCING AUTHORITY**, a joint exercise of powers authority duly organized and existing under the laws of the State of California (the "Authority") and **BANK OF THE WEST** (the "Assignee").

RECITALS

WHEREAS, the City owns and operates a system for the collection, treatment and disposal of wastewater within the service area of the City (the "Wastewater System");

WHEREAS, wishes to finance a portion of the costs of improvements to the Wastewater System comprised of a membrane bioreactor treatment system and related improvements, which is described more fully in Appendix A attached to the Installment Sale Agreement referenced below (the "Project");

WHEREAS, the Authority has been formed for the purpose of assisting the City in the financing and refinancing of public capital improvements;

WHEREAS, the City has received a Letter of Conditions from the United States Department of Agriculture for long-term financing of the Project in an amount not to exceed $9,362,000 (the "USDA Loan") for the purpose of providing long-term financing the Project, which financing requires that the Project be completed;

WHEREAS, for the purpose of obtaining the moneys required to provide interim financing for a portion of the costs of construction and acquisition of the Project in accordance with the terms of the Installment Sale Agreement referenced below, the Authority has proposed to enter into Installment Sale Agreement, dated as of [_____], 202_ (as more particularly defined herein, the "Installment Sale Agreement") with the City under which the Authority agrees to provide financing for a portion of the cost of the Project and to sell the completed Project to the City in consideration of the agreement by the City to pay installment payments equal to the purchase price of the Project; and

WHEREAS, in order for the Authority to obtain the moneys required to provide interim financing for a portion of the costs of the Project in accordance with the terms of the Installment Sale Agreement, the Authority has assigned and transferred certain of its rights under this Supplemental Agreement to the Assignee under an Assignment Agreement, dated as of [_____], 202_ (as more particularly defined herein, the "Assignment Agreement"), among the City, the Authority and the Assignee; and

WHEREAS, in consideration of such assignment, the Assignee has agreed to provide the moneys required to provide interim financing for a portion of the costs of the Project, and as a condition to such funding, the Assignee has required the City to enter into this Supplemental Agreement.

NOW, THEREFORE, to induce the Assignee to provide interim financing for a portion of the costs of the Project, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the City, the Authority and the Assignee hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Certain Defined Terms. In addition to the terms defined in the recitals and elsewhere in this Supplemental Agreement and the Installment Sale Agreement, the following terms shall have the following meanings:

"Advance" means any borrowing under the Installment Sale Agreement which is made by the Assignee to the City to finance the payment of Project Costs.

"Advance Date" means the date on which the Assignee honors a Funding Request and makes the funds requested available to the City.

"Advance Period" means the period from the Closing Date through and including the Commitment Termination Date.

"Applicable Rate" for any Interest Period means a per annum rate of interest equal to the sum of (i) 80% of the One Month LIBOR Rate plus (ii) 0.55% per annum. Upon the occurrence or during the continuance of any Event of Default under the Installment Sale Agreement, the Applicable Rate shall be equal to the Default Rate. If at any time the Applicable Rate becomes equal to the Default Rate pursuant to the definition of Applicable Rate hereunder, the City shall also pay, as Additional Payments under the Installment Sale Agreement, all amounts as described under Section 2.03(b) hereof in accordance with the terms thereof due to such change in the interest rate. Interest shall be adjusted concurrently with any change in the Applicable Rate.

"Assignee" means Bank of the West, and its successors and assigns.

"Assignment Agreement" means the Assignment Agreement, dated as of [_____], 202_, by and among the City, the Authority and the Assignee, as it may be amended or supplemented from time to time.

"Available Commitment" means, on the Closing Date, an initial amount equal to the Commitment Amount less the Initial Advance, and thereafter as adjusted from time to time as follows: (a) downward in an amount equal to any Advance (other than the Initial Advance) made by the Assignee under the Installment Sale Agreement; (b) downward in an amount equal to any reduction of the Available Commitment effected pursuant to Section 3.5(c) or (d) of the Installment Sale Agreement or Section 6.4 of the Installment Sale Agreement; and (c) downward to zero upon termination of the Commitment in accordance with the terms of the Installment Sale Agreement.

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark or payment period for interest calculated with reference to such Benchmark, as applicable, that is or may be used for determining the length of an Interest Period pursuant to this Supplemental Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" pursuant to Section 2.03(d)(v) hereof.

"Base Rate" means a fluctuating rate per annum equal to the higher of (i) the Prime Rate and (ii) the Federal Funds Rate plus 0.50% per annum.

"Benchmark" means, initially, the One Month LIBOR Rate; provided that if a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred with respect to the One Month LIBOR Rate or the then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (ii) of Section 2.03(d) hereof.

"Benchmark Replacement" means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Assignee for the applicable Benchmark Replacement Date:

(1) the sum of: (a) Term SOFR and (b) the related Benchmark Replacement Adjustment;

(2) the sum of: (a) Daily Simple SOFR and (b) the related Benchmark Replacement Adjustment; and

(3) the sum of: (a) the alternate Benchmark rate that has been selected by the Assignee as the replacement for the then-current Benchmark for the applicable Corresponding Tenor and (b) the related Benchmark Replacement Adjustment;

provided that, in the case of clause (1), such Unadjusted Benchmark Replacement is displayed on a screen or other information service that publishes such rate from time to time as selected by the Assignee in its reasonable discretion; provided further that, notwithstanding anything to the contrary in this Supplemental Agreement or in any other Transaction Document, upon the occurrence of a Term SOFR Transition Event and the delivery of a Term SOFR Notice, on the applicable Benchmark Replacement Date the Benchmark Replacement shall revert to and shall be deemed to be the sum of (a) Term SOFR and (b) the related Benchmark Replacement Adjustment as set forth in clause (1) of this definition (subject to the first proviso above). If the Benchmark Replacement as determined pursuant to clause (1), (2) or (3) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Supplemental Agreement and the other Transaction Documents.

"Benchmark Replacement Adjustment" means, with respect to any replacement of the then current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement:

(1) for purposes of clauses (1) and (2) of the definition of "Benchmark Replacement," the first alternative set forth in the order below that can be determined by the Assignee:

(a) the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that has been selected or recommended by the Relevant Governmental Body for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for the applicable Corresponding Tenor; and

(b) the spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that would apply to the fallback rate for a derivative transaction referencing the ISDA Definitions to be effective upon an index cessation event with respect to such Benchmark for the applicable Corresponding Tenor; and

(2) for purposes of clause (3) of the definition of "Benchmark Replacement," the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Assignee for the applicable Corresponding Tenor;

provided that, in the case of clause (1) above, such adjustment is displayed on a screen or other information service that publishes such Benchmark Replacement Adjustment from time to time as selected by the Assignee in its reasonable discretion.

"Benchmark Replacement Conforming Changes" means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Base Rate," the definition of "Business Day," the definition of "Interest Period," timing and frequency of determining rates and making payments of interest, timing of Advance requests or prepayment, length of look back periods, the applicability of breakage provisions and other technical, administrative or operational matters) that the Assignee decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Assignee in a manner substantially consistent with market practice (or, if the Assignee decides that adoption of any portion of such market practice is not administratively feasible or if the Assignee determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Assignee decides is reasonably necessary in connection with the administration of this Supplemental Agreement and the other Transaction Documents).

"Benchmark Replacement Date" means the earliest to occur of the following events with respect to the then-current Benchmark:

(1) in the case of clause (1) or (2) of the definition of "Benchmark Transition Event," the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof);

(2) in the case of clause (3) of the definition of "Benchmark Transition Event," the date of the public statement or publication of information referenced therein;

(3) in the case of a Term SOFR Transition Event, the date that is thirty (30) days after the date a Term SOFR Notice is provided to the City pursuant to Section 2.03(d)(ii) hereof; or

(4) in the case of an Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the City.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the "Benchmark Replacement Date" will be deemed to have occurred in the case of clause (1) or (2) above with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

"Benchmark Transition Event" means the occurrence of one or more of the following events with respect to the then-current Benchmark:

(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component thereof), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component thereof) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component thereof), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer representative.

For the avoidance of doubt, a "Benchmark Transition Event" will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above

has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

"Benchmark Unavailability Period" means the period of time (i) commencing on the date, as determined by the Assignee in its sole discretion, that the Benchmark has become unavailable or unreliable, either temporarily, indefinitely, or permanently, during the term of the Installment Sale Agreement and either (a) a successor to the Benchmark has not been designated by the Assignee as provided in Section 2.03(d) or (b) the successor Benchmark so designated by the Assignee has not yet become effective, and (ii) ending on the date that the either (a) the Assignee determines that the Benchmark has become available again, or (b) the successor Benchmark designated by the Assignee becomes effective.

"Business Day" means a day, other than a Saturday or Sunday, on which the Assignee is open for business for the funding of corporate loans, and, with respect to a One Month LIBOR Rate, a day on which dealings are carried on in the London interbank market and banks are open for business in London.

"Change in Law" has the meaning set forth in Section 7.03 hereof.

"City Wastewater Obligation" means any long-term obligations to third parties in respect of borrowed moneys payable from or secured by System Net Revenues, including without limitation installment payments in connection with certificates of participation and wastewater revenue bonds. The City Wastewater Obligations outstanding as of the Closing Date are listed on Exhibit B hereto.

"City Wastewater Obligation Issuing Document" means any Contract or resolution authorizing or evidencing the issuance or incurrence of any City Wastewater Obligation.

"Closing Date" means [_____], 2022, being the date of execution and delivery of the Installment Sale Agreement.

"Commitment" means the obligation of the Assignee to make future Advances of the unfunded portion of the Available Commitment under the Installment Sale Agreement subject to the terms and conditions of the Installment Sale Agreement. Advances under the Commitment are non-revolving.

"Commitment Amount" means $9,482,000.

"Commitment Termination Date" means the earlier of (i) the Stated Commitment Expiration Date, (ii) the date Commitment terminates or the date the Available Commitment is reduced to zero in accordance with the terms of the Installment Sale Agreement.

"Contract" means any indenture, contract, agreement (other than this Supplemental Agreement), other contractual restriction, lease, mortgage, instrument, guaranty, certificate of incorporation, charter or by-law.

"Corresponding Tenor" with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

"Daily Simple SOFR" means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Assignee in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining "Daily Simple SOFR" for business loans; provided, that if the Assignee decides that any such convention is not administratively feasible for the Assignee, then the Assignee may establish another convention in its reasonable discretion.

"Default" means any event or condition which with notice, passage of time or any combination of the foregoing would constitute an Event of Default.

"Default Rate" means a fluctuating rate per annum equal to the Base Rate plus 3.00%; provided that at no time shall the Default Rate exceed the Maximum Rate. The Default Rate shall be calculated on the basis of a 360-day year and actual days elapsed.

"Dodd-Frank Act" means the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, as enacted by the United States Congress, and signed into law on July 21, 2010, and all statutes, rules, guidelines, or directives promulgated thereunder.

"Early Opt-in Election" means, if the then-current Benchmark is the One Month LIBOR Rate, the occurrence of:

(1) a determination by the Assignee that at least five (5) currently outstanding U.S. dollar-denominated syndicated or bilateral loan facilities at such time contain (as a result of amendment or as originally executed) a SOFR-based rate (including SOFR, a term SOFR or any other rate based upon SOFR) as a benchmark rate, and

(2) the election by the Assignee to trigger a fallback from the One Month LIBOR Rate and the provision by the Assignee of written notice of such election to the City.

"Event of Default" with respect to this Supplemental Agreement, has the meaning assigned to that term in Section 6.01 of this Supplemental Agreement, with respect to the Installment Sale Agreement, has the meaning assigned to that term in Section 6.1 of the Installment Sale Agreement and, with respect to any other Transaction Document, has the meaning assigned therein.

"Event of Insolvency" means, with respect to any Person, the occurrence of one or more of the following events:

(a) the issuance, under the laws of any state or under the laws of the United States of America, of an order of rehabilitation, liquidation or dissolution of such Person;

(b) the commencement by or against such Person of a case or other proceeding seeking liquidation, reorganization or other relief with respect to such Person or its debts under any bankruptcy, insolvency or other similar state or federal law now or

hereafter in effect, including, without limitation, the appointment of a trustee, receiver, liquidator, custodian or other similar official for such Person or any substantial part of its property or there shall be appointed or designated with respect to it, an entity such as an organization, board, commission, authority, agency or body to monitor, review, oversee, recommend or declare a financial emergency or similar state of financial distress with respect to it or there shall be declared or introduced or proposed for consideration by it or by any legislative or regulatory body with competent jurisdiction over it, the existence of a state of financial emergency or similar state of financial distress in respect of it;

(c) the making of an assignment for the benefit of creditors by such Person;

(d) the failure of such Person to generally pay its debts as they become due;

(e) a debt moratorium, debt adjustment, debt restructuring or comparable restriction with respect to the payment of any indebtedness of such Person is declared or imposed by such Person or by any governmental authority having jurisdiction over such Person;

(f) such Person shall admit in writing its inability to pay its debts when due; or

(g) the initiation of any actions to authorize any of the foregoing by or on behalf of such Person.

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average (rounded upwards, if necessary to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Assignee from three Federal funds brokers of recognized standing selected by it.

"Floor" means the benchmark rate floor, if any, provided in this Supplemental Agreement initially (as of the execution of this Supplemental Agreement, the modification, amendment or renewal of this Supplemental Agreement or otherwise) with respect to the One Month LIBOR Rate.

"Funding Request" means any request for an Advance made by the City to the Assignee, in the form of Exhibit C hereto, executed and delivered on behalf of the City by an Authorized Representative of the City.

"Generally Accepted Accounting Principles" means generally accepted accounting principles in effect from time to time in the United States and applicable to entities such as the City.

"Initial Advance" means the initial Advance in the amount of $[_____] made by the Assignee on the Closing Date to provide funds for payment of Costs of Issuance (as defined

in the Installment Sale Agreement) and other Project Costs (as defined in the Installment Sale Agreement).

"Installment Sale Agreement" means the Installment Sale Agreement, dated as of [_____], 202_, by and between the Authority and the City, as it may be amended or supplemented from time to time.

"Interest Period" means initially, the period commencing on the Closing Date and ending on [_____], 202_ [the last day of the month of the Closing Date], and thereafter each one month period; provided, however, that (a) any Interest Period that would otherwise end on a day which is not a Business Day shall be extended to the next Business Day unless such extension would carry such Interest Period into the next month, in which event such Interest Period shall end on the preceding Business Day; (b) any Interest Period that begins on the last Business Day of a calendar month (or on a date for which there is no numerically corresponding day in the calendar month during which such Interest Period is to end), shall (subject to clause (a) above) end on the last Business Day of such calendar month; and (c) any Interest Period that would otherwise extend beyond the Maturity Date shall end on the Maturity Date.

"ISDA Definitions" means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.

"Last Advance Request Date" means the Business Day which is three (3) Business Days immediately prior to the day of the requested Advance. If a Request for Advance is received by the Assignee prior to 8:00 a.m., California time, on any Business Day, such Business Day shall be counted towards such Business Day requirement.

"Material Adverse Effect" means an event or occurrence which adversely affects in a material manner (a) the assets, liabilities, condition (financial or otherwise), business or operations of the Wastewater System or the Wastewater Service (including the System Net Revenues generated therefrom), (b) the ability of the City to operate the Wastewater System or furnish the Wastewater Service as of the Closing Date or as proposed in this Supplemental Agreement, the Installment Sale Agreement or any of the other Transaction Documents to be conducted or to meet or perform its obligations under this Supplemental Agreement, the Installment Sale Agreement or any of the other Transaction Documents on a timely basis, (c) the validity or enforceability of this Supplemental Agreement, the Installment Sale Agreement or any other Transaction Document, (d) the rights or remedies of the Assignee under this Supplemental Agreement, the Installment Sale Agreement or any other Transaction Document, or (e) the exclusion of the interest components of the Installment Payments from gross income for Federal income tax purposes or the exemption of such interest components from State personal income taxes.

"Material Litigation" has the meaning assigned to such term in Section 4.05(a) of this Supplemental Agreement.

"Maturity Date" means the Commitment Termination Date or any earlier date on which all amounts due under the Installment Sale Agreement (including without limitation all Advances) are accelerated pursuant to Section 6.1 of the Installment Sale Agreement.

"One Month LIBOR Floor Rate" means the rate of 0.0% per annum

"One Month LIBOR Rate" means the rate per annum determined by the Assignee equal to the London interbank offered rate as administered by the ICE Benchmark Administration (or any other Person that takes over the administration of such rate) for deposits in U.S. dollars with a term equivalent to the Interest Period appearing on the applicable page or screen at Bloomberg.com (or, in the event such rate does not appear on a Bloomberg.com page or screen, on the appropriate page or screen of such other information service that publishes such rate as shall be selected by Assignee from time to time in its reasonable discretion) at approximately 11:00 a.m., London time on the second Business Day prior to the initial Advance, or the second Business Day prior to the next Interest Period; provided that, except as set forth below, if the One Month LIBOR Rate is less than the One Month LIBOR Floor Rate (as hereinafter defined), the "One Month LIBOR Rate" shall be deemed to be the One Month LIBOR Floor Rate; and provided, further, that the One Month LIBOR Rate may be adjusted from time to time in the Assignee's discretion for reserve requirements, deposit insurance assessment rates and other regulatory costs on that day (or, if such day is not a Business Day, the immediately preceding Business Day). Notwithstanding the foregoing the deemed One Month LIBOR Floor Rate shall not apply to interest accruing on any portion of the principal outstanding under this Note that is subject to an interest rate derivative agreement, such as a swap, cancellable swap, cap, corridor, or collar.

"Person" means an individual, corporation, firm, association, partnership, limited liability company, trust, or other legal entity or group of entities, including a governmental entity or any agency or political subdivision thereof.

"Prime Rate" means the rate per annum from time to time established by the Assignee as the Prime Rate and made available by the Assignee at its main office or, in the discretion of the Assignee, the base, reference or other rate then designated by the Assignee for general commercial loan reference purposes, it being understood that such rate is a reference rate, not necessarily the lowest, established from time to time, which serves as the basis upon which effective interest rates are calculated for loans making reference thereto.

"Reference Time" with respect to any setting of the then-current Benchmark means (1) if such Benchmark is the One Month LIBOR Rate, 11:00 a.m. (London time) on the day that is two London banking days preceding the date of such setting, and (2) if such Benchmark is not the One Month LIBOR Rate, the time determined by the Assignee in its reasonable discretion.

"Relevant Governmental Body" means the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York or a committee officially endorsed or convened by the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York or, in each case, any successor thereto.

"SOFR" means, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by the SOFR Administrator on the SOFR Administrator's Website on the immediately succeeding Business Day.

"SOFR Administrator" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"SOFR Administrator's Website" means the website of the Federal Reserve Bank of New York, currently at http://www.newyorkfed.org, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

"State" means the State of California.

"Stated Commitment Expiration Date" means October 1, 2024 unless extended as provided in the Installment Sale Agreement.

"Swap Contract" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"System Net Revenues" has the meaning assigned to such term in the Installment Sale Agreement.

"Tax Certificate" means the Tax Certificate of the City dated the Closing Date, as it may be amended or supplemented from time to time.

"Taxable Date" means the date as of which any interest component of the Installment Payments is first includable in the gross income of the holders (including, without limitation, any previous holders) thereof as determined pursuant to either (i) an opinion of Special Counsel, or (ii) a final decree or judgment of any federal court or a final action by the Internal Revenue Service that is delivered to the City.

"Term SOFR" means, for the applicable Corresponding Tenor as of the applicable Reference Time, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

"Term SOFR Notice" shall mean a notification by Assignee to the City of the occurrence of a Term SOFR Transition Event.

"Term SOFR Transition Event" shall mean the determination by the Assignee that (a) Term SOFR has been recommended for use by the Relevant Governmental Body, (b) the administration of Term SOFR is administratively feasible for the Assignee, and (c) a Benchmark Transition Event or an Early Opt in Election, as applicable, has previously occurred resulting in a Benchmark Replacement in accordance with Section 2.03(d) hereof that is not Term SOFR.

"Transaction Documents" means this Supplemental Agreement, the Installment Sale Agreement, the Assignment Agreement and the Tax Certificate.

"Transactions" means the execution and delivery of the Transaction Documents, the providing of interim financing for a portion of the costs of the Project, the execution and delivery by the City of this Supplemental Agreement and the other Transaction Documents, the making of installment sale payments under the Installment Sale Agreement, the performance by the City of its obligations (including payment obligations) hereunder and under the Transaction Documents.

"Unadjusted Benchmark Replacement" means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"Wastewater Service" means the water collection, transportation, treatment, storage and delivery service furnished, made available or provided by the Wastewater System.

Section 1.02. Construction. Unless the context of this Supplemental Agreement otherwise clearly requires, references to the plural include the singular, to the singular include the plural and to the part include the whole. The word "including" shall be deemed to mean "including but not limited to," and "or" has the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereunder" and similar terms in this Supplemental Agreement refer to this Supplemental Agreement as a whole and not to any particular provision of this Supplemental Agreement. The Section headings contained in this Supplemental Agreement and the table of contents preceding this Supplemental Agreement are for reference purposes only and shall not control or affect the construction of this Supplemental Agreement or the interpretation thereof in any respect. Section, subsection and exhibit references are to this Supplemental Agreement unless otherwise specified. Each exhibit, schedule and annex attached hereto is incorporated by reference herein and is a constituent part of this Supplemental Agreement.

Section 1.03. Incorporation of Certain Definitions by Reference. Any capitalized term used herein and not otherwise defined herein shall have the meaning provided therefor in the Installment Sale Agreement.

Section 1.04. Accounting Terms and Determinations. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with Generally Accepted Accounting Principles consistently applied. In the event of changes to Generally Accepted Accounting Principles which become effective after the Closing Date, the City and the Assignee agree to negotiate in good faith appropriate revisions

of this Supplemental Agreement so as to perpetuate the meaning and effect of such provisions as originally negotiated and agreed upon.

ARTICLE II
FUNDING OF PROJECT COSTS

Section 2.01. Funding of Project Costs; Making of Advances. Subject to the terms and conditions of this Supplemental Agreement and the Installment Sale Agreement and in reliance upon the representations, warranties and agreements set forth herein and in the Installment Sale Agreement, including without limitation satisfaction of the conditions set forth in Section 3.02 hereof, the Assignee hereby agrees to make Advances from time to time on any Business Day during the Advance Period, in amounts not to exceed at any time outstanding the then-outstanding Available Commitment, in accordance with the procedures set forth in Section 2.02 hereof; provided, that the Assignee shall not be required to make more than two Advances per calendar month. Each Advance (other than the Initial Advance) requested shall be in an amount equal to or greater than $500,000 and integral multiples of $1 in excess thereof. The Initial Advance shall be made solely for the purpose of providing funds in the amount of $[_____] to provide funds for payment of Costs of Issuance and other Project Costs. Each Advance (other than the Initial Advance) shall be made solely for the purpose of providing funds to pay the Project Costs. The amount of any Advance made on any Advance Date shall not exceed the applicable Available Commitment (calculated without giving effect to any Advance made on such date) at 8:00 a.m. (California time) on such date. On the Commitment Termination Date, the Commitment shall terminate and the Available Commitment shall be reduced to zero.

Section 2.02. Method of Borrowing. The City hereby requests the Initial Advance in the amount of $[_____] on the Closing Date to provide funds for payment of Costs of Issuance and other Project Costs. For any Advance (other than the Initial Advance), upon receipt of a Funding Request by the Assignee not later than 8:00 a.m. (California time) on the Last Advance Request Date for such Advance, the Assignee subject to the terms and conditions of this Supplemental Agreement, including without limitation, satisfaction of the conditions precedent set forth in Section 3.02 hereof, shall be required to make an Advance by 11:30 a.m. (California time) on the day of the proposed Advance for the account of the City in an amount equal to the amount of the requested Advance. With respect to any such Funding Request received by the Assignee after 8:00 a.m. (California time) on the Last Advance Request Date for such Advance, the City will be deemed to have submitted such Funding Request not later than 8:00 a.m. (California time) on the following Business Day. Any Funding Request shall be signed by an Authorized Representative. On the Closing Date, the Assignee shall deposit the Initial Advance in the City's deposit accounts with the Assignee. Each Advance (other than the Initial Advance) shall be made by the Assignee by wire transfer of immediately available funds to the City in accordance with the instructions set forth in the Funding Request. Each Advance shall be made from the Assignee's own funds. If, after examination, the Assignee shall have determined that a request for advance does not conform to the terms and conditions hereof, then the Assignee shall use its best efforts to give notice to the City to the effect that negotiation was not in accordance with the terms and conditions hereof and stating the reasons therefor. The City may attempt to correct any such nonconforming request for advance, if, and to the extent that, the City is entitled (without regard to the provisions of this sentence) and able to do so.

Section 2.03. Calculation of Interest Components of Installment Payments. The interest components of the Installment Payments shall be calculated in accordance with the following provisions set forth in this Section 2.03.

(a) Basis of Calculation. The interest components of the Installment Payments shall be calculated on the unpaid principal components of the Installment Payments, on the basis of the actual number of days elapsed in a year of 360 days, at the Applicable Rate.

(b) Funding Loss Indemnification. During any period of time in which interest on any Advance is accruing on the basis of the One Month LIBOR Rate, the City shall, upon the Assignee's request, promptly pay to and reimburse the Assignee for all costs incurred and payments made by the Assignee by reason of any future assessment, reserve, deposit or similar requirement or any surcharge, tax or fee imposed upon the Assignee or as a result of the Assignee's compliance with any directive or requirement of any regulatory authority pertaining or relating to funds used by the Assignee in quoting and determining the One Month LIBOR Rate.

(c) Default Rate. After a default has occurred under the Installment Sale Agreement, whether or not the Assignee elects to accelerate the maturity of the Installment Sales Agreement because of such default, all Advances outstanding under the Installment Sales Agreement shall bear interest at the Default Rate.

(d) Benchmark Replacement.

(i) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Transaction Document, if a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then, (x) if a Benchmark Replacement is determined in accordance with clause (1) or (2) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Transaction Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Supplemental Agreement or any other Transaction Document and (y) if a Benchmark Replacement is determined in accordance with clause (3) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Transaction Document in respect of any Benchmark setting at or after 2:00 p.m. (California time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the City without any amendment to this Supplemental Agreement or any other Transaction Document, or further action or consent of the City.

(ii) Term SOFR Transition Event. Notwithstanding anything to the contrary herein or in any other Transaction Document and subject to the proviso

below in this Section 2.03(d), if a Term SOFR Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then the applicable Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder or under any Transaction Document in respect of such Benchmark setting and subsequent Benchmark settings, without any amendment to, or further action or consent of any other party to, this Supplemental Agreement or any other Transaction Document; provided that this paragraph (b) shall not be effective unless the Assignee has delivered to the City a Term SOFR Notice.

(iii) Benchmark Replacement Conforming Changes. In connection with the implementation of a Benchmark Replacement, the Assignee will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Transaction Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of the City.

(iv) Notices; Standards for Decisions and Determinations. The Assignee will promptly notify the City of (i) any occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, (iv) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (e) below and (v) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Assignee pursuant to this Section 2.03(d), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its sole discretion and without consent from the City, except, in each case, as expressly required pursuant to this Section 2.03(d).

(v) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other Transaction Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including Term SOFR or the One Month LIBOR Rate) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Assignee in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Assignee may modify the definition of "Business Day" or the definition of "Interest Period" for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i)

above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Assignee may modify the definition of "Business Day" or the definition of "Interest Period" for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(vi) Benchmark Unavailability Period. If the Assignee determines, in its sole discretion, that the Benchmark has or may become unavailable or unreliable, either temporarily, indefinitely, or permanently, during the term of the Installment Sale Agreement, the Assignee may, in its sole discretion, designate a successor to the Benchmark (which may include a spread adjustment). The Assignee may also change and adjust the spread adjustment included in the Applicable Rate to accompany the substitute Benchmark. The change to the spread adjustment included in the Applicable Rate may be a positive or negative value, or zero. Any change to the Benchmark and spread adjustment included in the Applicable Rate will become effective and bind the City ten (10) Business Days after the Assignee gives written notice to the City without any action or consent of the City. In connection with the selection and implementation of any such replacement rate, the Assignee may make any technical, administrative or operational changes that the Assignee decides may be appropriate to reflect the adoption and implementation of such replacement rate. The Assignee does not warrant or accept any responsibility for the administration or submission of, or any other matter related to Daily Simple SOFR or with respect to any alternative or successor Benchmark thereto, or replacement Benchmark thereof, including without limitation whether any such alternative, successor or replacement Benchmark will have the same value as, or be economically equivalent to, Daily Simple SOFR. The Assignee's internal records of applicable interest rates shall be determinative in the absence of manifest error.

(vii) London Interbank Offered Rate Benchmark Transition Event. On March 5, 2021, the ICE Benchmark Administration ("IBA"), and the UK Financial Conduct Authority announced in public statements (collectively, the "Announcements") that the final publication or representativeness date for the London interbank offered rate for: (A) English pounds, Euros and Swiss francs will be December 31, 2021, (B) Dollars for 1-week and 2-month tenor settings will be December 31, 2021 and (C) Dollars for overnight, 1-month, 3-month, 6-month and 12-month tenor settings will be June 30, 2023. No successor administrator for the IBA was identified in such Announcements. The parties hereto agree and acknowledge that the Announcements resulted in the occurrence of a Benchmark Transition Event with respect to the London interbank offered rate for the each of the aforementioned currencies and that any obligation of the Administrative Agent to notify any parties of any such Benchmark Transition Event pursuant to Section 2.03(d) shall be deemed satisfied.

Section 2.04. Repayment of Advances. The principal of each Advance outstanding under the Installment Sale Agreement shall be repaid in full on the Maturity Date.

Section 2.05. Prepayment. The City may prepay all or any part of any Advance at any time without premium or penalty, upon thirty (30) days' prior written notice and payment of any costs to the Assignee arising under Section 2.03(b) hereof. Upon any prepayment of an Advance, the Available Commitment shall not be reinstated and may not be reborrowed by the City. Accrued interest on all prepayments of principal to the prepayment date shall be payable on the earlier of the Maturity Date or the Installment Payment Date next following the prepayment date.

Section 2.06. Form and Method of Payments. All payments made to the Assignee under this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents shall be made not later than 4:00 p.m. (California time) without setoff, counterclaim or other defense by wire transfer in lawful currency of the United States and in immediately available funds to the Assignee by the wire instructions set forth in Section 8.01 hereof (or at such other bank, address or account as the Assignee may designate in writing from time to time to the City). Any payment received by the Assignee later than 4:00 p.m. (California time) shall be deemed to be made on the next succeeding Business Day. If any payment required to be made by the City hereunder or under the Installment Sale Agreement or any other Transaction Document becomes due and payable on a day other than a Business Day, the due date thereof shall be extended to the next succeeding Business Day and interest thereon shall be payable at the applicable rate during such extension. The City hereby authorizes the Assignee to charge, from time to time, against any or all of the City's deposit accounts maintained with the Assignee any amount so due under this Supplemental Agreement, the Installment Sale Agreement or any other Transaction Document. Notwithstanding this authorization, the City shall be in default for nonpayment as provided in the Installment Sale Agreement until and unless the default is cured by payment, whether initiated by the Assignee or by the City.

Section 2.07. Net Payments. All such payments will be made free and clear of, and without deduction or withholding for, any present or future taxes, levies, imposts, duties, fees, assessments or other charges of whatever nature now or hereafter imposed by any jurisdiction or by any political subdivision or taxing authority thereof or therein (but excluding any tax imposed on the overall net income of the Assignee pursuant to the laws of the jurisdiction (or any political subdivision or taxing authority thereof or therein) in which the principal office of the Assignee is located) and all interest, penalties or similar liabilities with respect thereto (collectively, "Taxes"); provided, however, that the City shall have no liability with respect to any Taxes which are imposed on the Assignee that is a foreign banking institution pursuant to the laws of the jurisdiction (or any political subdivision or taxing authority thereof or therein) in which the principal office of the Assignee is located, unless (i) the Assignee is entitled to benefits of an income tax treaty with the United States that provides for an exemption from United States withholding tax on interest and other amounts payable to the Assignee pursuant to the terms of this Supplemental Agreement, the Installment Sale Agreement or any other Transaction Document, or (ii) all interest and other amounts payable to the Assignee pursuant to the terms of this Supplemental Agreement, the Installment Sale Agreement or any other Transaction Document will be effectively connected with the conduct by the Assignee of a trade or business within the United States. If any Taxes are so levied or imposed, the City agrees to pay the full

amount of such Taxes and such additional amounts as may be necessary so that every payment of all amounts due hereunder or under the Installment Sale Agreement or the other Transaction Documents, after withholding or deduction for or on account of any Taxes, will not be less than the amount provided for herein or in the Installment Sale Agreement or the other Transaction Documents. The City will deliver to the Assignee within 45 days after the date the payment of any Taxes is due pursuant to applicable law certified copies of tax receipts evidencing such payment by the City. To the extent permitted by law, the City will indemnify and hold harmless the Assignee, and reimburse the Assignee upon written request, for the amount of any Taxes so levied or imposed and paid by the Assignee.

ARTICLE III

CONDITIONS PRECEDENT

Section 3.01. Closing Conditions. The Assignee has agreed to provide interim financing for a portion of the costs of the Project pursuant to the Installment Sale Agreement in reliance upon the representations, warranties and agreements of the City contained herein, and in reliance upon the representations, warranties and agreements of the City, the Authority to be contained in the documents and instruments to be delivered on the Closing Date and upon the performance by the City of its obligations hereunder as of the Closing Date. Accordingly, the Assignee's obligations under this Supplemental Agreement to provide interim financing for a portion of the costs of the Project shall be conditioned upon the performance by the City of its obligations to be performed hereunder and under such documents and instruments on or prior to the Closing Date, and shall also be subject to the following additional conditions, including the delivery by the City of such documents as are enumerated herein, in form and substance reasonably satisfactory to the Assignee and its counsel; *provided that*, unless set forth in a separate section of this Supplemental Agreement or in a Transaction Document other than this Supplemental Agreement, the City's obligation to satisfy any condition under this Section 3.01 shall exist only until the Closing Date and shall cease thereafter:

(a) The following Authority documents:

(i) A copy of the resolution of the Authority approving the execution and delivery of the Transaction Documents to which the Authority is a party, approving the form of the Transaction Documents to which it is not a party and the other matters contemplated hereby and thereby, certified by the Secretary of the Authority as being true and complete and in full force and effect on the Closing Date.

(ii) Certified copies of the Authority's joint exercise of powers agreement, notice of a joint powers agreement filed with the Secretary of State and roster of public agencies filing and acknowledgment from the Secretary of State.

(iii) A certificate by an authorized representative of the Authority certifying the names and signatures of the persons authorized to sign, on behalf of

the Authority, the Transaction Documents to which it is a party and the other documents to be delivered by it hereunder or thereunder.

(b) The following City documents:

(i) A copy of the resolution of City Council of the City approving the execution and delivery of the Transaction Documents to which the City is a party, approving the form of the Transaction Documents to which it is not a party and the other matters contemplated hereby and thereby, certified by the City Clerk as being true and complete and in full force and effect on the Closing Date.

(ii) A certificate by an authorized representative of the City certifying the names and signatures of the persons authorized to sign, on behalf of the City, the Transaction Documents to which it is a party and the other documents to be delivered by it hereunder or thereunder.

(c) The following financing documents:

(i) An executed original of each of the Transaction Documents (including without limitation an Installment Sale Agreement and an Assignment Agreement that include the terms set forth on Exhibit A hereto).

(ii) Certificates signed by an authorized representative of the City and an authorized representative of the Authority, respectively, stating that on and as of the Closing Date, copies of each of the Transaction Documents to which it is a party furnished to the Assignee are true, correct and complete copies of such documents, such documents were duly issued, adopted or executed and delivered, have not been modified, amended or rescinded and are in full force and effect on and as of the Closing Date, and such other customary matters as the Assignee may reasonably request.

(iii) A certificate signed by an authorized representative of the City, stating that on and as of the Closing Date (i) all requirements and preconditions to the execution and delivery of the Transaction Documents shall have been satisfied; (ii) the City has complied with all agreements and covenants and satisfied all conditions stated in this Supplemental Agreement on its part to be performed or satisfied at or prior to the Closing Date; (iii) each representation and warranty on the part of the City contained in this Supplemental Agreement and the other Transaction Documents is true and correct as though made on and as of such date, (iv) no Default or Event of Default under the Installment Sale Agreement has occurred and is continuing or would result from the execution or performance of this Supplemental Agreement or the other Transaction Documents to which the City is a party; and (v) and such other customary matters as the Assignee may reasonably request.

(iv) A certificate of the Authority, signed by an authorized representative of the Authority, stating that on and as of the Closing Date (i) the representations and warranties of the Authority contained in the Transaction

Documents to which the Authority is a party are correct on and as of the Closing Date as though made on and as of such date; (ii) no Default or Event of Default under the Installment Sale Agreement has occurred and is continuing, or would result from the Authority's execution and performance of any of the Transaction Documents to which the Authority is a party; (iii) all conditions precedent to the execution and delivery of the Transaction Documents to which the Authority is a party are correct have been satisfied; and (iv) and such other customary matters as the Assignee may reasonably request.

(v) Evidence that no CUSIP number has been assigned to this financing, this financing is not rated, and that the Assignee's right, title and interest in and to the Assignment Agreement shall be in a single denomination, and shall not be divisible or transferable except to a bank, financial institution or a qualified investor.

(vi) Evidence of the City's maintenance of insurance required by Section 5.3 (Insurance) of the Installment Sale Agreement.

(vii) The most recent adopted budget of the Wastewater System and the audited financial statements of the Wastewater System for the fiscal years ended June 30, 2020, 2019 and 2018 and a copy of the City's investment policies.

(viii) True and correct copies of any and all governmental approvals necessary for the City and the Authority to enter into this Supplemental Agreement and the City and the Authority to enter into the other Transaction Documents to which it is a party and the transactions contemplated thereby and hereby and not otherwise covered by Section 3.01(a)(i) or Section 3.01(b)(i) hereof.

(ix) Written confirmation from the City that the only outstanding City Wastewater Obligations, as of the Closing Date, other than the Installment Sale Agreement, are listed on Exhibit B hereto.

(x) A copy of the signed Obligation Letter from the United States Department of Agriculture with respect to the USDA Loan.

(xi) Such other certifications as to matters of fact, due authorization, execution and delivery by the parties thereto of the Transaction Documents, evidence of corporate authority, copies of governmental consents, permits, licenses and approvals, and other documents as shall be reasonably requested by the Assignee, and the form and substance of any order or other official action granting any consent, permit, license or approval shall be satisfactory to the Assignee.

(d) The following opinions, addressed to the Assignee or on which the Assignee is otherwise expressly authorized to rely:

(i) From counsel to the Authority, as to the due authorization, execution and delivery of each of the Transaction Documents to which it is a party, their validity, binding effect and enforceability, and such other customary matters as the Assignee may reasonably request.

(ii) From counsel to the City, as to the due authorization, execution and delivery of each of the Transaction Documents to which it is a party, their validity, binding effect and enforceability, and such other customary matters as the Assignee may reasonably request.

(iii) From Special Counsel, in customary form, an approving opinion to the effect that the Transaction Documents have been duly authorized and validly executed and delivered, that the interest components of the Installment Payments will not be included in gross income of the holders thereof for federal or state tax purposes, as the validity of the pledge of System Net Revenues and the proceeds of the USDA Loan and the priority of the lien provided for in the Installment Sale Agreement and as to such other customary matters as the Assignee may reasonably request.

(e) Other conditions:

(i) Each representation and warranty contained in this Supplemental Agreement and the other Transaction Documents is true and correct.

(ii) No Default or Event of Default under the Installment Sale Agreement has occurred and is continuing or would result from the execution or performance of this Supplemental Agreement or the other Transaction Documents.

(iii) Since the most current date of the information, financial or otherwise, supplied by the City to the Assignee, there has been no change in the assets, liabilities, financial position or results of operations of the Wastewater System or the Wastewater Service (including the System Net Revenues generated therefrom) which might reasonably be anticipated to cause a Material Adverse Effect and the City has not incurred any obligations or liabilities which might reasonably be anticipated to cause a Material Adverse Effect.

(iv) The Assignee shall be reasonably satisfied that the fee of the California Debt and Investment Advisory Commission shall have been paid and that payment will be made promptly after demand therefor after the Closing Date of the Assignee's fees and expenses (including outside counsel legal fees) incurred in connection with the Transactions.

(v) All other legal matters pertaining to the execution and delivery of each of the Transaction Documents shall be reasonably satisfactory to the Assignee and its counsel.

(vi) The Assignee shall have completed all due diligence with respect to the Wastewater System, the Wastewater Service, the System Net Revenues, the Authority, the City and the Transaction Documents in scope and determination satisfactory to the Assignee.

(f) Such other instruments, documents and opinions as the Assignee shall reasonably require to evidence and secure the obligations of the City under this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents and to comply with the provisions of this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents and the requirements of any governmental authority to which the Assignee, the City or the Authority are subject.

Section 3.02. Conditions Precedent to Each Advance. The obligation of the Assignee to make an Advance on any date is subject to the following conditions precedent:

(a) Other than for the Initial Advance, the City shall have delivered to Bank a Funding Request signed by an Authorized Representative not later than 8:00 a.m. (California time) on the Last Advance Request Date for such Advance.

(b) At the time any Advance is to be made and as a result thereof, immediately thereafter, all representations and warranties of the City set forth in Article II of the Installment Sale Agreement are true and correct as though made on the date of such Funding Request and on the date of the proposed Advance and no Default or Event of Default under the Installment Sale Agreement shall have occurred and be continuing.

(c) The Commitment and the obligation of the Bank to make Advances hereunder shall not have terminated pursuant to Section 6.4 of the Installment Sale Agreement.

(d) The aggregate amount of the Advance requested pursuant to the Funding Request does not exceed the Available Commitment.

Unless the City shall have otherwise previously advised the Assignee in writing, delivery to the Assignee of a Funding Request shall be deemed to constitute a representation and warranty by the City that on the date of such Funding Request and on the date of the proposed Advance each such condition is satisfied.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

All representations and warranties made herein to the Assignee or incorporated herein for the benefit of the Assignee are made with the understanding that the Assignee is relying upon the accuracy of such representations and warranties. Notwithstanding that the Assignee may conduct its own investigation as to some or all of the matters covered by the representations and warranties in this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents, and any certificates, information, opinions or documents delivered in connection herewith and therewith, the Assignee is entitled to rely on all representations and warranties as a material inducement to the Assignee's extension of the credit evidenced by this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents. All representations and warranties made herein to the Assignee or incorporated herein for the benefit of the Assignee shall survive the making of and shall not be waived by the execution and delivery of this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents.

Section 4.01. Existence and Power. The City is a general law city and municipal corporation duly organized, validly existing and in good standing under the Constitution and laws of the State and has the corporate power and authority to operate the Wastewater System and furnish the Wastewater Service and to carry on its businesses as now being conducted and as currently contemplated to be conducted hereafter and is duly qualified to do business in each jurisdiction in which the character of the properties owned or leased by it or in which the transaction of any material portion of its business (as now conducted and as currently contemplated to be conducted) makes such qualification necessary.

Section 4.02. Due Authorization.

(a) The City has the corporate power, and has taken all necessary corporate action to authorize this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents to which it is a party, to execute, deliver and perform its obligations under this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents to which it is a party in accordance with their respective terms. The City has approved the form of the Transaction Documents to which it is not a party.

(b) The City is duly authorized and licensed to conduct its business and activities under all laws, rules, regulations and ordinances applicable to the City, its business and activities (including the Wastewater System), and the City has obtained all requisite approvals of all such governmental authorities required to be obtained for such purposes. All authorizations and approvals necessary for the City to enter into this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents and to perform the transactions contemplated hereby and thereby and to conduct its business activities (including operation of the Wastewater System and furnishing the Wastewater Service) have been obtained and remain in full force and effect and are subject to no further administrative or judicial review. No other

authorization or approval or other action by, and no notice to or filing with, any governmental authority is required for the due execution, delivery and performance by the City of this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents to which it is a party.

Section 4.03. Valid and Binding Obligations. This Supplemental Agreement, the Installment Sale Agreement and each of the other Transaction Documents to which the City is a party has been duly executed and delivered by one or more duly authorized officers of the City and are legal, valid and binding obligations of the City enforceable in accordance with their respective terms, except as such enforceability may be limited by (a) the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally, and (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

Section 4.04. Noncontravention; Compliance with Law.

(a) The execution, delivery and performance of this Supplemental Agreement, the Installment Sale Agreement and each of the other Transaction Documents in accordance with their respective terms do not and will not (i) require any consent or approval of any creditor of the City, (ii) violate any applicable law, (iii) conflict in any material respect with, result in a material breach of or constitute a material default under any Contract to which the City is a party or by which it or any of its property may be bound or (iv) result in or require the creation or imposition of any lien upon or with respect to any property now owned or hereafter acquired by the City except such liens, if any, expressly created by any Transaction Document.

(b) The City is in compliance with all applicable laws, except for noncompliance that, singly or in the aggregate, has not caused and could not reasonably be expected to cause a Material Adverse Effect or an adverse effect on the City's ability to perform its obligations hereunder or under the Installment Sale Agreement or under the other Transaction Documents.

Section 4.05. Pending Litigation and Other Proceedings. There are no actions, suits or proceedings pending nor are there any actions, suits or proceedings threatened against the City or any property of the City in any court or before any arbitrator of any kind or before or by any governmental or nongovernmental body, which, in any case, (i) directly or indirectly relates to the Wastewater System or the Wastewater Service or the enforceability of this Supplemental Agreement, the Installment Sale Agreement or any of the other Transaction Documents; or (ii) may have a Material Adverse Effect (any of the foregoing being herein referred to as "Material Litigation").

Section 4.06. Financial Statements. The balance sheet of the City as of June 30 of the most recently completed Fiscal Year of the City and the related statement of revenues and expenses and changes in financial position for such Fiscal Year and the auditors' reports with respect thereto, copies of which have heretofore been furnished to the Assignee pursuant to Section 5.01(a) hereof, are complete and correct and fairly present the financial condition, changes in financial position and results of operations of the Wastewater System and the

Wastewater Service (including the System Net Revenues generated therefrom) at such dates and for such periods, and were prepared in accordance with Generally Accepted Accounting Principles consistently applied. Since the period of such statements, there has been no change which would have a Material Adverse Effect.

Section 4.07. Defaults. No Default or Event of Default under the Installment Sale Agreement has occurred and is continuing or exists.

Section 4.08. Insurance. The City currently maintains insurance of such type and in such amounts or in excess of such amounts as are required by Section 5.3 (Insurance) of the Installment Sale Agreement and as are customarily carried by, and insures against such risks as are customarily insured against by, public agencies with similar activities.

Section 4.09. Accuracy of Information. All information, reports and other papers and data furnished by the City to the Assignee were, at the time the same were so furnished, complete and correct in all material respects and insofar as necessary to give the Assignee a true and accurate knowledge of the subject matter and were provided in expectation of the Assignee's reliance thereon in providing interim funding to pay Project Costs. No fact is known to the City which has had or, so far as the City can now reasonably foresee, may in the future have a Material Adverse Effect, which has not been set forth in the budget and financial statements previously furnished to the Assignee or in other such information, reports, papers and data or otherwise disclosed in writing to the Assignee prior to the Closing Date. Any financial, budget and other projections furnished to the Assignee by the City or its agents were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair and reasonable in light of the conditions existing at the time of delivery of such financial, budget or other projections, and represented, and as of the Closing Date, represent the City's best estimate of its future financial performance. No document furnished by the City or its agents nor any representation, warranty or other written statement made by the City or its agents to the Assignee in connection with the negotiation, preparation or execution of this Supplemental Agreement, the Installment Sale Agreement or any of the other Transaction Documents contains or will contain any untrue statement of a material fact or omits or will omit to state (as of the date made or furnished) any material fact necessary in order to make the statements contained herein or therein, in light of the circumstances under which they were or will be made, not misleading.

Section 4.10. Environmental Matters. The City has reviewed the effect of Environmental Laws on the business, operations and properties of the Wastewater System and the Wastewater Service (including the System Net Revenues generated therefrom), and has identified and evaluated associated liabilities and costs (including, without limitation, any capital or operating expenditures required for clean up or closure of properties presently or previously owned or operated, any capital or operating expenditures required to achieve or maintain compliance with environmental protection standards imposed by law or as a condition of any license, permit or contract, and related constraints on operating activities, including any periodic or permanent shutdown of any facility or reduction in the level of or change in the nature of operations conducted there at and any actual or potential liabilities to third parties, including employees, and any related costs and expenses). On the basis of this review, the City has reasonably concluded that it has not failed to comply with any Environmental Laws in a manner which may reasonably be expected to have a Material Adverse Effect.

Section 4.11. Security. The Installment Payments and the Assignee Additional Payments are secured by a pledge of and first charge and lien on and pledge of the System Net Revenues under the Installment Sale Agreement. No filing, registering, recording or publication of the Installment Sale Agreement or any other instrument is required to establish such pledge under the Installment Sale Agreement or to perfect, protect or maintain such liens created thereby on the System Net Revenues. There are no obligations of the City that are entitled to a prior lien on the System Net Revenues relative to the charge and lien on the System Net Revenues under the Installment Sale Agreement. The only obligations of the City entitled to a parity lien on the System Net Revenues relative to the charge and lien on the System Net Revenues under the Installment Sale Agreement are Parity Debt permitted to be issued in compliance with Section 5.7 (Issuance of Parity Debt) of the Installment Sale Agreement. The only obligations of the City entitled to a subordinate lien on the System Net Revenues relative to the charge and lien on the System Net Revenues under the Installment Sale Agreement are Subordinate Obligations permitted to be issued in compliance with Section 5.6 (Superior and Subordinate Obligations) of the Installment Sale Agreement. The City has not entered into any Swap Contract under which a termination payment would be required to be paid from any portion of the System Net Revenues on basis senior to or on a parity with the charge and lien on the System Net Revenues under the Installment Sale Agreement.

Section 4.12. Tax-Exempt Status. The City has not taken any action or omitted to take any action, and knows of no action taken or omitted to be taken by any other Person, which action, if taken or omitted, would adversely affect the exclusion of the interest components of the Installment Payments from gross income for Federal income tax purposes or the exemption of such interest components from State personal income taxes.

Section 4.13. Sovereign Immunity. The City does not enjoy any rights of immunity on the grounds of sovereign immunity in respect of its obligations under this Supplemental Agreement, the Installment Sale Agreement or any of the other Transaction Documents to which it is a party. To the extent the City has or hereafter may acquire under any applicable law any right to immunity from set-off or legal proceedings on the grounds of sovereignty, the City hereby waives, to the fullest extent permitted by law, such rights to immunity for itself in respect of its obligations arising under or related to this Supplemental Agreement, the Installment Sale Agreement or the other Transaction Documents to which it is a party.

Section 4.14. Investment Policies. The City has delivered to the Assignee a true and correct copy of its investment policies. All investments of the City have been and are made substantially in accordance with its investment policies. Only the City Council of the City may amend, rescind or otherwise modify its investment policies.

Section 4.15. Usury. The terms of this Supplemental Agreement and the Transaction Documents regarding the calculation and payment of interest and fees do not violate any applicable usury laws.

Section 4.16. Budget. The annual operating budget of the Wastewater System and any supplements thereto for the current Fiscal Year, a true and correct copy of which has been delivered to the Assignee, fairly presents the anticipated income and expenses of the Wastewater System and the System Net Revenues for such Fiscal Year.

Section 4.17. Wastewater System. The City has maintained the Wastewater System in good working order and repair, and there have been no changes to and no event has occurred which has had, or may result in, a Material Adverse Effect.

ARTICLE V

COVENANTS OF THE CITY

So long as any Installment Payments, any Additional Payments or other amounts required to be paid under the Installment Sale Agreement or any obligation of the City hereunder or under the Transaction Documents remains unpaid or unperformed, the City shall comply with the following covenants hereunder and as additional covenants under the Installment Sale Agreement, unless waived in writing by the Assignee:

Section 5.01. Reporting Requirements. The City shall keep proper books of record and account in which full, true and correct entries will be made of all dealings or transactions of or in relation to the business and affairs of the Wastewater System and the Wastewater Service (including the System Net Revenues generated therefrom) in accordance with Generally Accepted Accounting Principles consistently applied, and will furnish to the Assignee each of the following:

(a) as soon as available, and in any event within 210 days after the close of each Fiscal Year of the City, the financial statements of the Wastewater System and the Wastewater Service (including the System Net Revenues generated therefrom) which shall be audited and reported on without qualification by independent certified public accountants reasonably acceptable to the Assignee and shall be certified to the City by such accountants as (i) having been prepared in accordance with Generally Accepted Accounting Principles consistently applied, (ii) fairly presenting the financial condition of the Wastewater System and the Wastewater Service (including the System Net Revenues generated therefrom) as at the end of such Fiscal Year and reflecting its operations during such Fiscal Year and (iii) showing all material liabilities, direct or contingent, and disclosing the existence of any off-balance sheet transactions, and shall include, without limitation, balance sheets, profit and loss statements and statements of cash flows, together with notes and supporting schedules, all on a consolidated and consolidating basis and in reasonable detail and including a copy of any management letter or audit report provided to the City by such auditors, accompanied by a certificate from an authorized representative of the City substantially in the form described in subparagraph (b);

(b) simultaneously with the delivery of each set of financial statements referred to in (a) above, a certificate signed by an authorized representative of the City stating that (i) under his/her supervision the City has made a review of its activities during the preceding annual period for the purpose of determining whether or not the City has complied with all of the terms, provisions and conditions of this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents (including without limitation, Section 4.4 (Installment Payments), Section 4.5 (Undrawn Fees), Section 4.6 (Pledge and Application of System Net Revenues), Section 4.7

(Establishment of Rate Stabilization Fund), Section 4.9 (Additional Payments), Section 5.5 (Rates and Charges), Section 5.6 (Superior and Subordinate Obligations) or Section 5.7 (Issuance of Parity Debt) of the Installment Sale Agreement) and (ii) to the best of his/her knowledge the City is not in Default in the performance or observance of any of the terms, covenants, provisions or conditions of this Supplemental Agreement, the Installment Sale Agreement or any of the Transaction Documents, or if the City shall be in Default, such certificate shall specify each such Default, the nature and status thereof and any remedial steps taken or proposed to correct each such Default;

(c) as soon as available and in any event within 60 days after adoption, the annual operating budget of the Wastewater System for such Fiscal Year; and

(d) such other information respecting the business, properties or the condition or operations, financial or otherwise, of the Wastewater System and the Wastewater Service (including the System Net Revenues generated therefrom) as the Assignee may from time to time reasonably request.

Section 5.02. Notices. The City shall provide to the Assignee:

(a) immediate notice by telephone, promptly confirmed in writing, of any event, action or failure to take any action which constitutes a Default or an Event of Default;

(b) prompt written notice of any Material Litigation; and

(c) prompt written notice of any event which has or is reasonably anticipated to have a Material Adverse Effect.

Section 5.03. Access to Property and Books, Records and Accounts. The City shall permit the duly authorized representatives of the Assignee during the City's normal administrative business hours, to enter the premises of the City, or any parts thereof, to examine and copy the City's books, records and accounts with respect to the Wastewater System and the Wastewater Service (including the System Net Revenues generated therefrom), and to discuss the affairs, finances, business and accounts of the Wastewater System and the Wastewater Service (including the System Net Revenues generated therefrom) with the members of the City Council of the City and the City's officers and employees.

Section 5.04. Further Assurances. The City shall, and shall cause the Authority to, upon the request of the Assignee, from time to time, execute and deliver and, if necessary, file, register and record such further financing statements, amendments, continuation statements and other documents and instruments and take such further action as may be reasonably necessary to effectuate the provisions of this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents. Except to the extent it is exempt therefrom, the City will pay or cause to be paid all filing, registration and recording fees incident to such filing, registration and recording, and all expenses incident to the preparation, execution and acknowledgment of such instruments of further assurance, and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery

of this Supplemental Agreement, the Installment Sale Agreement, the other Transaction Documents and such instruments of further assurance.

Section 5.05. Maintenance of Existence. The City shall preserve and maintain its existence as a general law city and municipal corporation duly organized and existing under the Constitution and the laws of the State, and its rights, franchises and privileges material to the operation of the Enterprise and shall not, without the prior written consent of the Assignee, initiate proceedings to reorganize, merge or consolidate with or into any Person, wind up, liquidate or dissolve its affairs (or suffer any liquidation or dissolution) or convert, sell, assign, transfer, lease or otherwise dispose of (or agree to do any of the foregoing at any future time), whether in one transaction or a series of transactions, all or substantially all of its property or assets.

Section 5.06. Environmental Compliance. The City shall comply with all Environmental Laws applicable to the construction, ownership or use of the Enterprise and will cause, to the extent possible, its tenants and other Persons occupying or using its facilities to comply with such Environmental Laws, will timely pay or cause to be paid all costs and expenses incurred in such compliance, and will keep or cause to be kept all of its facilities free and clear of any liens imposed pursuant to such Environmental Laws, unless the same are being contested in good faith and by appropriate legal proceedings and such contest shall operate to stay the material adverse effect of any such non-compliance.

Section 5.07. Swap Termination Payments. The City shall not enter into any Swap Contract under which a termination payment would be required to be paid from any portion of the Collateral on a basis senior to or on a parity with the lien on the System Net Revenues securing the Installment Payments.

Section 5.08. Sovereign Immunity. The City agrees not to assert any defense of sovereign immunity, if available, in any proceeding initiated by the Assignee to enforce any of the obligations of the City hereunder or under the Installment Sale Agreement or the other Transaction Documents. To the extent that the City has or hereafter may acquire under any applicable law any right to immunity from set off or legal proceedings, including but not limited to a writ of mandamus ordering a levy of taxes by the City, on the grounds of sovereignty or otherwise, the City, to the extent permitted by law, hereby irrevocably waives such rights to immunity for itself and agrees not to invoke any defense of immunity in respect of its obligations arising under or related to this Supplemental Agreement, the Installment Sale Agreement or the other Transaction Documents.

Section 5.09. No Priority Claim. The City shall not incur, assume or permit any pledge, lien, charge or encumbrance on any portion of System Net Revenues with a claim to payment of higher priority than the claim of the Installment Payments and the Assignee Additional Payments.

ARTICLE VI

EVENTS OF DEFAULT

Section 6.01. Events of Default. The occurrence of any of the following events (whatever the reason for such event and whether voluntary, involuntary, or effected by operation of law) shall be an "Event of Default" hereunder and an additional Event of Default under the Installment Sale Agreement entitling the Assignee to the rights and remedies available under the Installment Sale Agreement, unless waived in writing by the Assignee:

(a) the City fails to comply with the requirements of (i) any provision of this Supplemental Agreement (not otherwise enumerated in another Event of Default) and such failure shall remain unremedied for 30 days after receipt of written notice of such failure from the Authority or the Assignee (as assignee of the Authority); or (ii) Section 4.4 (Installment Payments), Section 4.5 (Undrawn Fees), Section 4.6 (Pledge and Application of System Net Revenues), Section 4.7 (Establishment of Rate Stabilization Fund), Section 4.9 (Additional Payments), Section 5.5 (Rates and Charges), Section 5.6 (Superior and Subordinate Obligations) or Section 5.7 (Issuance of Parity Debt) of the Installment Sale Agreement;

(b) the City defaults (i) in the payment of any amount when due in respect of any City Wastewater Obligation, or (ii) under any City Wastewater Obligation Issuing Document and continuance of such default beyond the period of grace, if any, allowed with respect thereto; or the occurrence of any act or omission by the City under any such City Wastewater Obligation Issuing Document which results in such City Wastewater Obligation becoming, or being capable of becoming, immediately due and payable or being terminated early or being subject to early termination;

(c) this Supplemental Agreement, the Installment Sale Agreement or any of the other Transaction Documents or any material provision of this Supplemental Agreement, the Installment Sale Agreement or any of the other Transaction Documents shall at any time, for any reason, cease to be the legal, valid and binding obligation of the City or the Authority or shall cease to be in full force and effect, or shall be declared to be unenforceable, invalid or void, or the validity or enforceability thereof shall be contested by the City or the Authority, or the City or the Authority shall renounce the same or deny that it has any further liability hereunder or thereunder, or any court of competent jurisdiction or other governmental authority with jurisdiction to rule on the validity of any provision of this Supplemental Agreement, the Installment Sale Agreement or any of the other Transaction Documents shall find or rule that this Supplemental Agreement, the Installment Sale Agreement or any of the other Transaction Documents are not valid or not binding on the City or the Authority;

(d) the City or the Authority is dissolved or its existence is terminated;

(e) any representation or warranty made or deemed made by the City herein or by the Authority or the City in any Transaction Document or in any certificate, financial or other statement furnished by the City or the Authority pursuant to this

Supplemental Agreement, the Installment Sale Agreement or any other Transaction Document shall prove to have been inaccurate, misleading or incomplete in any material respect when made or deemed made;

(f) the occurrence of a Taxable Date;

(g) the long-term unenhanced ratings assigned to any City Wastewater Obligation shall be withdrawn or suspended or otherwise unavailable for credit-related reasons or reduced below Baa3 by Moody's, BBB- by S&P or BBB- by Fitch;

(h) an Event of Insolvency shall occur with respect to the City or the Authority; or

(i) any funds or investments on deposit in, or otherwise to the credit of, the Water Fund or any of the other funds or accounts established under the Installment Sale Agreement shall become subject to any writ, judgment, warrant or attachment, execution or similar process.

ARTICLE VII

INDEMNIFICATION; COSTS, EXPENSES AND TAXES

Section 7.01. Indemnification. In addition to any and all other rights of reimbursement, indemnification, subrogation and other similar rights pursuant to this Supplemental Agreement, the Installment Sale Agreement, the other Transaction Documents or under law or equity, the City hereby covenants and agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the Assignee and its affiliates, officers, directors, employees, representatives and agents (each, an "Indemnitee") from and against any and all claims, causes of action, judgments, fines, penalties, damages, losses, liabilities, and expenses whatsoever (including reasonable attorneys' fees) which may be incurred by an Indemnitee or which may be claimed against an Indemnitee by any Person whatsoever by reason of or directly or indirectly in connection with any of the Transactions; provided that the City shall not be required to indemnify an Indemnitee for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by the willful misconduct or gross negligence of such Indemnitee as determined in a final, non-appealable judgment. Such amounts shall be payable by the City as Additional Payments under the Installment Sale Agreement. Nothing under this Section 7.01 is intended to limit the City's payment of its obligations under this Supplemental Agreement, the Installment Sale Agreement or the other Transaction Documents.

Section 7.02. Costs, Expenses and Taxes. The City shall pay, as Additional Payments under the Installment Sale Agreement, to the Assignee within thirty (30) days after demand: (a) the reasonable fees and out of pocket expenses for counsel to the Assignee in connection with the execution and delivery of this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents; (b) if an Event of Default shall have occurred, all costs and expenses of the Assignee in connection with the enforcement (whether by means of legal proceedings or otherwise) of any of its rights under this Supplemental Agreement, the

Installment Sale Agreement, the other Transaction Documents and such other documents which may be delivered in connection therewith; (c) the reasonable fees and out of pocket expenses for counsel or other reasonably required consultants to the Assignee in connection with advising the Assignee as to its rights and responsibilities under this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents or in connection with responding to requests from the City for approvals, consents, amendments and waivers; and (d) any fee set forth in Section 4.4(f) of the Installment Sale Agreement. In addition, if at any time any governmental authority shall require revenue or other documentary stamps or any other tax in connection with the execution or delivery of this Supplemental Agreement, the Installment Sale Agreement or the other Transaction Documents, then, if the City lawfully may pay for such stamps, taxes or fees, the City shall pay, when due and payable, for all such stamps, taxes and fees, including interest and penalties thereon, and the City agrees to save the Assignee harmless from and against any and all liabilities with respect to or resulting from any delay or omission of the City in paying, such stamps, taxes and fees hereunder.

Section 7.03. Increased Costs. If, after the Closing Date, any change in applicable law, treaty, regulation, guideline or directive or the adoption of any law, treaty, regulation, guideline or directive, or any interpretation of any of the foregoing by any authority charged with the administration or interpretation thereof or any central bank or other fiscal, monetary or other authority having jurisdiction over the Assignee or the transactions contemplated by this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents (whether or not having the force of law) (each, a "Change in Law"), or compliance by the Assignee therewith, shall: (i) subject the Assignee to any tax, charge, fee, deduction or withholding of any kind with respect to this Supplemental Agreement, the Installment Sale Agreement, the other Transaction Documents or the payment by the City of Installment Payments, Additional Payments or other amounts under the Transaction Documents, or any amount paid or to be paid by the Assignee with respect to this Supplemental Agreement, the Installment Sale Agreement, the other Transaction Documents or the payment by the City of Installment Payments, Additional Payments or other amounts under the Transaction Documents (other than any tax measured by or based upon the overall net income of the Assignee); (ii) impose, modify or deem applicable any reserve, premium, special deposit or similar requirements against any assets held by, deposits with or for the account of, or loans, lines of credit or commitments by, an office of the Assignee; (iii) change the basis of taxation of payments due the Assignee in respect of this Supplemental Agreement, the Installment Sale Agreement, the other Transaction Documents or the payment by the City of Installment Payments, Additional Payments or other amounts under the Transaction Documents (other than a change in taxation of the overall net income of the Assignee); or (iv) impose upon the Assignee any other condition with respect to such amount paid or payable to or by the Assignee or with respect to this Supplemental Agreement, the Installment Sale Agreement, the other Transaction Documents or the payment by the City of Installment Payments, Additional Payments or other amounts under the Transaction Documents, and the result of any of the foregoing is to increase the cost to the Assignee of receiving payments by the City of Installment Payments, Additional Payments or other amounts under the Transaction Documents, or to reduce the amount of any payment (whether of principal, interest or otherwise) receivable by the Assignee or to require the Assignee to make any payment on or calculated by reference to the gross amount of any sum received by it, in each case by an amount which the Assignee in its reasonable judgment deems material, then: (x) the Assignee shall, after making a determination to impose increased costs as

a result of the occurrence of any of the foregoing, notify the City of such determination in writing; (y) after giving notice of such determination, the Assignee shall also deliver to the City a certificate stating the change which has occurred or the reserve requirements or other costs or conditions which have been imposed on the Assignee or the request, direction or requirement with which they have complied together with the date thereof, the amount of such increased cost, reduction or payment and the way in which such amount has been calculated, including a reasonably detailed calculation and the Assignee's determination of such amounts, absent fraud or manifest error, shall be conclusive; and (z) the City shall pay to the account of the Assignee, from time to time as specified by the Assignee but not later than 30 days after notice and demand to the City, such an amount or amounts as will compensate the Assignee for such additional cost, reduction or payment, together with interest on such amount from, but including, the day specified by the Assignee for payment at the Default Rate. Such amounts shall be payable by the City as Additional Payments under the Installment Sale Agreement.

In addition to the foregoing, if after the Closing Date the Assignee shall have determined that any Change in Law regarding capital adequacy or liquidity, or compliance by the Assignee therewith, has or would have the effect of reducing the rate of return on the capital or liquidity of the Assignee to a level below that which the Assignee could have achieved but for such Change in Law (taking into consideration the policies of the Assignee with respect to capital adequacy or liquidity) by an amount deemed by the Assignee to be material, or affects or would affect the amount of capital or liquidity required or expected to be maintained by the Assignee or any corporation controlling the Assignee by an amount deemed by the Assignee to be material, as a consequence of its obligations hereunder or with respect to the Transaction Documents, then the City shall be obligated to pay or cause to be paid to the account of the Assignee from time to time as specified by the Assignee, but not later than 30 days after notice and demand to the City, such additional amount or amounts as will compensate the Assignee for such reduction or capital or liquidity increase with respect to any period for which such reduction or capital or liquidity increase was incurred, together with interest on such amounts from, but including, the day specified by the Assignee for such payment at the Default Rate. Such amounts shall be payable by the City as Additional Payments under the Installment Sale Agreement. A certificate setting forth in reasonable detail such reduction in the rate of return on capital or liquidity, or such capital or liquidity increase, of the Assignee as a result of any event mentioned in this paragraph shall be submitted by the Assignee to the City and such certificate shall, in the absence of manifest error, be conclusive as to the amount thereof.

The protections of this Section shall be available to the Assignee regardless of any possible contention of invalidity or inapplicability of the law, regulation or condition which has been imposed. Notwithstanding the foregoing (x) all requests, rules, guidelines or directives in connection with the Dodd-Frank Act shall be deemed to be a Change in Law, regardless of the date enacted, adopted or issued and (y) all requests, rules, guidelines or directives promulgated by: (1) the Bank for International Settlements, (2) the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) or (3) any governmental authority shall be deemed a Change in Law regardless of the date enacted, adopted or issued.

Section 7.04. Late Payment. Any Installment Payment, Additional Payment or any other amount required to be paid under the Installment Sale Agreement or hereunder which shall not be paid by the City when due and payable under the Installment Sale Agreement or

hereunder shall accrue interest until the same shall be paid at a rate equal to the Default Rate, and the City hereby agrees to pay such amounts to the Assignee upon demand.

Section 7.05. Survival. The obligations of the City under this Article VII shall survive the payment in full of the Installment Payments, the Additional Payments and the other amounts required to be paid under the Installment Sale Agreement and the termination of the Transaction Documents.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Payment Account. Unless charged by the Assignee against the City's deposit accounts with the Assignee as authorized below, all amounts payable to the Assignee under the Installment Sale Agreement or hereunder shall be transferred to the following account of the Assignee, or such other account as may be subsequently designated by the Assignee in writing to the City:

Bank of the West
13300 Crossroads Pkwy North
City of Industry, CA 91746
ABA #: 121100782
Account Name: Commercial Loan Servicing
Account #: 239855-332
Ref: City of St. Helena – Obligor #[_____] (Closed on [__]/[__]/21)
Attention: Katherine Mendoza

Section 8.02. Amendments. No amendment or waiver of any provision of this Supplemental Agreement nor consent to any departure by the parties hereto shall in any event be effective unless the same shall be in writing and signed by such parties, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

Section 8.03. Severability. The provisions of this Supplemental Agreement are intended to be severable. If any provision of this Supplemental Agreement shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction.

Section 8.04. Governing Law; Consent To Jurisdiction; Waiver Of Jury Trial.

(a) This Supplemental Agreement shall be governed by, and construed and interpreted in accordance with the laws of the State.

(b) The City, the Authority and the Assignee each hereby consents to and submits to in personam jurisdiction and venue in a court of record in the State of California located in the City and County of San Francisco or in the United States District

Court for the Northern District of California located in the City and County of San Francisco. The City, the Authority and the Assignee each asserts that it has purposefully availed itself of the benefits of the laws of the State of California and waives any objection to in personam jurisdiction on the grounds of minimum contacts, waives any objection to venue, and waives any plea of forum non conveniens. This consent to and submission to jurisdiction is with regard to any action related to this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents. Regardless of whether the party's actions took place in the State of California or elsewhere in the United States, this submission to jurisdiction is nonexclusive, and does not preclude either party from obtaining jurisdiction over the other in any court otherwise having jurisdiction.

(c) The City, the Authority and the Assignee, to the fullest extent permitted by law, hereby waives its respective right to a trial by jury in any legal proceeding arising out of or relating to this Supplemental Agreement or any other Transaction Document or the transactions contemplated hereby or thereby. The City, the Authority and the Assignee each warrants and represents that such waiver has been intentionally, knowingly and voluntarily made, following consultation with its legal counsel. If the waiver of jury trial as set forth in this Section shall be declared void or unenforceable, each of the City, the Authority and the Assignee agrees to refer the dispute to a judicial referee in accordance with the provisions of Section 638 et seq. of the California Code of Civil Procedure.

Section 8.05. No Advisory or Fiduciary Responsibility. In connection with all aspects of the transactions contemplated by this Supplemental Agreement, the Installment Sale Agreement or the other Transaction Documents (including in connection with any amendment, waiver or other modification hereof or of any other Transaction Document), the City and the Authority each acknowledges and agrees that: (a) (i) the arranging, structuring and other services regarding this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents provided by the Assignee are arm's length commercial transactions between the City and the Authority, on the one hand, and the Assignee on the other hand, (ii) the City and the Authority have each consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the City and the Authority are each capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents; (b)(i) the Assignee is and has been acting solely as a principal and has not been, is not, and will not be acting as an advisor, agent or fiduciary for the City or the Authority, or any other Person and (ii) the Assignee does not have any obligation to the City or the Authority with respect to the transactions contemplated by this Supplemental Agreement, the Installment Sale Agreement or the other Transaction Documents, except those obligations expressly set forth herein and therein; and (c) the Assignee may be engaged in a broad range of transactions that involve interests that differ from those of the City or the Authority, and the Assignee does not have any obligation to disclose any of such interests to the City and the Authority. To the fullest extent permitted by applicable laws, the City and the Authority each hereby waives and releases any claims that it may have against the Assignee with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any

transaction contemplated by this Supplemental Agreement, the Installment Sale Agreement and the other Transaction Documents.

Section 8.06. Counterparts. This Supplemental Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same instrument.

Section 8.07. Successors and Assigns. This Supplemental Agreement is a continuing obligation and shall be binding upon the City the Authority, and their permitted successors and assigns and shall inure to the benefit of the Assignee and its permitted successors, transferees and assigns. The City and the Authority may not assign or otherwise transfer or delegate any of their respective rights or obligations hereunder or under the other Transaction Documents without the prior written consent of the Assignee. The Assignee may, in accordance with applicable law, from time to time and without the consent of the City or the Authority or any other Person assign, sell or transfer in whole or in part, this Supplemental Agreement and any of its rights or interests hereunder and all or any part of its interest in the Transaction Documents, subject to the limitations set forth in the Assignment Agreement. In addition, the Assignee may at any time pledge or grant a security interest in all or any portion of its rights under the Transaction Documents to secure obligations of the Assignee, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release the Assignee from any of its obligations hereunder or substitute any such pledgee or assignee for the Assignee as a party hereto.

[Signatures begin on the following page]

[Signature page of Supplemental Agreement]

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to be duly executed and delivered as of the date first above written.

CITY OF ST. HELENA

By:_____
Name:
Title:

CITY OF ST. HELENA FINANCING AUTHORITY

By:_____
Name:
Title:

BANK OF THE WEST

By:_____
Name:
Title:

Exhibit A

Installment Sale Agreement and Assignment Agreement Terms

1. (a) Closing Date: [_____], 202_

(b) Commitment Amount: $9,482,000; amounts drawn and repaid shall not reinstate.

(c) Term: final maturity date of October 1, 2024.

(d) Commitment Fee: 0.125% per annum on the undrawn portion of the Commitment Amount calculated on the basis of a 360-day year and actual days elapsed. Commitment Fees are payable semiannually in arrears.

(e) Calculation of Interest Components of Installment Payments: The interest components of the Installment Payments shall be calculated as set forth in the Supplemental Agreement. Interest on Advances shall be payable semi-annually on each April 1 and October 1, commencing on April 1, 2022.

(f) Principal Components of Installment Payments: The principal components of the Installment Payments as of any date shall be equal to the aggregate amounts advanced by the Assignee pursuant to Funding Requests under Section 3.5 of the Installment Sale Agreement, less any amount of such principal which has previously been prepaid by the City.

(g) Prepayment: As provided in the Supplemental Agreement.

(h) Financial Covenants:

(1) Rates and Charges: 1.20x annual debt service coverage

(2) Additional Debt: Parity Debt only upon 1.20x Maximum Annual Debt Service coverage (assumed ten year amortization of the Advances at prevailing ten-year municipal tax-exempt rates); no Senior Debt

(i) Additional Covenants under Installment Sale Agreement: Includes Covenants under this Supplemental Agreement.

(j) Additional Representations and Warranties of City under Installment Sale Agreement: Includes Representations and Warranties of City under this Supplemental Agreement.

(k) Events of Default under the Installment Sale Agreement: Includes Events of Default under this Supplemental Agreement.

(l) Tax Exemption: An opinion from Special Counsel as to the exclusion of the interest components of the Installment Payments from gross income of the holders

thereof for Federal income tax purposes and the exemption of such interest components from State personal income taxes.

(m) Other Installment Sale Agreement Terms: No CUSIP number and in a single denomination; not rated; no official statement or other offering materials; right to accelerate upon an Event of Default.

(n) Assignability/Transferability: Not divisible or transferable except to a bank, financial institution or a qualified investor.

Exhibit B

City Wastewater Obligations

1. Installment Purchase Agreement, dated as of July 1, 2005 by and between the City and the California Statewide Communities Development Authority, which supports payment on the California Statewide Communities Development Authority Water and Wastewater Revenue Bonds (Pooled Financing Program), Series 2005B.

2. Installment Purchase Agreement, dated as of June 1, 2012 by and between the City and the California Statewide Communities Development Authority, which supports payment on the California Statewide Communities Development Authority Water and Wastewater Revenue Bonds, Series 2012B

Exhibit C

Form of Funding Request

Bank of the West
13300 Crossroads Pkwy North
City of Industry, CA 91746
Attention: Commercial Loan Servicing
Email: CLSServicing@bankofthewest.com

Bank of the West
180 Montgomery Street
San Francisco, California 94104
Attention: Ted Neu
Email: ted.neu@bankofthewest.com

Ladies and Gentlemen:

The undersigned, an Authorized Representative of the City of St. Helena (the "City"), pursuant to Section 3.5 of the Installment Sale Agreement, dated as of [_____], 202_ (together with any amendments or supplements thereto, the "Installment Sale Agreement"), by and between the City and the City of St. Helena Financing Authority (the "Authority"), and Sections 2.02 and 3.02 of the Supplemental Agreement, dated as of [_____], 202_ (together with any amendments or supplements thereto, the "Supplemental Agreement"), by and among the City, the Authority and Bank of the West (the "Assignee") (the terms defined therein being used herein as therein defined), hereby requests that the Assignee make an Advance under the Installment Sale Agreement in a principal amount not exceeding the then-outstanding Available Commitment, and in that connection sets forth below the following information relating to such Advance (the "Proposed Advance"):

1. The aggregate amount of the Proposed Advance is $_____;

2. The Proposed Advance is requested to be funded on _____ (the "Advance Date"), which date is a Business Day during the Advance Period and which date is at least three (3) Business Days after the Bank's receipt of this Funding Request;

3. The aggregate amount of the Proposed Advance shall be used solely for the payment of Project Costs;

4. The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the Proposed Advance, at the time the Proposed Advance is to be made and as a result thereof, immediately thereafter: (a) all representations and warranties of the City contained in the Installment Sale Agreement are true and correct as though made on the date hereof and on the Advance Date; and (b) no Default or Event of Default under the Installment Sale Agreement shall have occurred and be continuing on the date hereof and on the Advance Date; and

5. The proposed Advance shall be made by the Assignee by wire transfer of immediately available funds to the City in accordance with the instructions set forth below:

[Insert wire instructions]

IN WITNESS WHEREOF, the City has executed and delivered this Funding Request this ____ day of _____, ____.

CITY OF ST. HELENA

By:_____
Name:
Title:

Exhibit D

Form of Request for Termination or Reduction

Bank of the West
13300 Crossroads Pkwy North
City of Industry, CA 91746
Attention: Commercial Loan Servicing
Email: CLSServicing@bankofthewest.com

Bank of the West
180 Montgomery Street
San Francisco, California 94104
Attention: Ted Neu
Email: ted.neu@bankofthewest.com

Ladies and Gentlemen:

Re: Installment Sale Agreement dated as of [____ _____], 202_

The City of St. Helena (the "City"), through its undersigned, an Authorized Representative, hereby certifies to Bank of the West (the "Assignee"), with reference to the Installment Sale Agreement, dated as of [_____], 202_ (together with any amendments or supplements thereto, the "Installment Sale Agreement"), by and between the City and the City of St. Helena Financing Authority (the terms defined therein and not otherwise defined herein being used herein as therein defined):

[(1) The City hereby requests a reduction of the Available Commitment from [insert amount as of the date of Certificate] to [insert new amount], such reduction to be effective on _____.]

OR

[(1) The City hereby requests the termination of the Commitment and the reduction of the Available Commitment to zero in accordance with the Agreement.]

IN WITNESS WHEREOF, the City has executed and delivered this Request for Termination or Reduction this ____ day of _____, ____.

CITY OF ST. HELENA

By:_____
Name:
Title:

Exhibit E

Form of Notice of Permanent Reduction

City of St. Helena
1572 Railroad Avenue
St. Helena, California 94574
Attention: Administrative Services Director
Email: amitts@cityofsthelena.org

Ladies and Gentlemen:

We hereby notify you that pursuant to Section 3.5(c) of the Installment Sale Agreement, dated as of [_____], 202_ (together with any amendments or supplements thereto, the "Installment Sale Agreement"), by and between the City of St. Helena and the City of St. Helena Financing Authority, the Available Commitment is reduced from [insert amount as of the date of Certificate] to [insert new amount], such reduction to be effective on _____.

IN WITNESS WHEREOF, we have executed and delivered this Notice of Permanent Reduction as of the ____ day of _____, 20__.

BANK OF THE WEST

By:_____
Name:
Title:

Exhibit F

Form of Notice of Termination at the Request of the City

City of St. Helena
1572 Railroad Avenue
St. Helena, California 94574
Attention: Administrative Services Director
Email: amitts@cityofsthelena.org

Ladies and Gentlemen:

We refer to the Installment Sale Agreement, dated as of [_____], 202_ (together with any amendments or supplements thereto, the "Installment Sale Agreement"), by and between the City of St. Helena and the City of St. Helena Financing Authority. Any term below which is defined in the Agreement shall have the same meaning when used herein.

Pursuant to Section 3.5(d) of the Installment Sale Agreement, we hereby notify you that:

1. The Available Commitment is hereby reduced to zero and will no longer be reinstated; and

2. The Commitment is hereby terminated and the Assignee has no further obligation to make Advances under the Installment Sale Agreement.

IN WITNESS WHEREOF, we have executed and delivered this Notice of Termination at the Request of the City as of the ____ day of _____, 20__.

BANK OF THE WEST

By:_____
Name:
Title:

Exhibit G

Form of Notice of Termination Upon Event of Default

City of St. Helena
1572 Railroad Avenue
St. Helena, California 94574
Attention: Administrative Services Director
Email: amitts@cityofsthelena.org

Ladies and Gentlemen:

We refer to the Installment Sale Agreement, dated as of [_____], 202_ (together with any amendments or supplements thereto, the "Installment Sale Agreement"), by and between the City of St. Helena and the City of St. Helena Financing Authority. Any term below which is defined in the Agreement shall have the same meaning when used herein.

We hereby notify you that an Event of Default has occurred under Section ____ of the Installment Sale Agreement. As a result, unless and until you have been advised otherwise by us:

1. The Available Commitment [has been automatically]/[is hereby] reduced to $0.00 and will no longer be reinstated; and

2. The Commitment [has been automatically]/[is hereby] terminated and the Assignee has no further obligation to make Advances under the Installment Sale Agreement.

[3. All unpaid Installment Payments and the accrued interest thereon and any other unpaid amount required to be paid under the Installment Sale Agreement are immediately due and payable.]

IN WITNESS WHEREOF, we have executed and delivered this Notice of Termination Upon Event of Default as of the ____ day of _____, 20__.

BANK OF THE WEST

By:_____
Name:
Title: