



**City of St. Helena
Special City Council Meeting
Monday, December 20, 2021 @ 6:00 PM**

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@cityofstheleena.org. All public comments must be emailed by 4:00 PM prior to the meeting. Emailed public comments will not be read out loud but will be publicly available and attached to the on-line City Council agenda.

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@cityofstheleena.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/88374537704>

Or One tap mobile :

US:+16699006833,,88374537704# or +12532158782,,88374537704#

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 +1 312 626 6799 or
+1 929 205 6099 or +1 301 715 8592

Meeting ID: 883 7453 7704

International numbers available: <https://us02web.zoom.us/j/88374537704>

Page

1. CALL TO ORDER
2. ROLL CALL
Mayor: Geoff Ellsworth, Vice Mayor: Paul Dohring, City Council Members: Anna Chouteau, Eric Hall and Lester Hardy.
3. ADOPTION OF THE AGENDA
4. PUBLIC COMMENT:
Under California law, public comments at special meetings are limited to subjects on the agenda only. Therefore public comment will take place during consideration of the item. Each person's comments shall be limited to 4 minutes.
5. OLD BUSINESS:
 - 5.1. Consideration and Proposed Approval of a Resolution Accepting a Donation from the St. Helena Little League where the Donation is the Purchase and Laying Sod with an Estimated Value of \$50,000. 11 - 26

CEQA Determination: Not a CEQA project
Prepared By: April Mitts, Administrative Services Director
Recommendation:
The Mayor and Vice Mayor recommend the City Council adopt the attached resolution.
[Staff Report - Pdf](#)
 - 5.2. 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 27 - 131

CEQA Determination: Exempt

[Staff Report - Pdf](#)
[Rick Crebs.Public Comment](#)
[Mark Smithers.Public Comment](#)
[Alan Galbraith.Public Comment 2](#)
[Elaine de Man.Public Comment](#)
[Stuart Kresge.Public Comment](#)

6 ADJOURNMENT

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

I do hereby certify that a copy of the foregoing agenda was posted on the City website on December 18, 2021.



Cindy Tzaopoulos, City Clerk

In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call the City Clerk's Office (707) 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.

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 1572 Railroad Avenue, St. Helena, California, during normal business hours and by appointment. 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 AB361. 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.

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

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

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

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

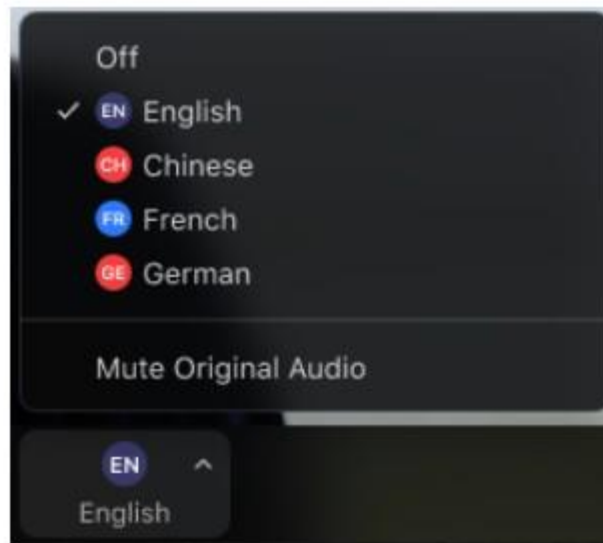
# Cómo escuchar la interpretación de un idioma



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



2. Haga clic en el idioma que desee escuchar.



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



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



2. Toque **Interpretación de idiomas**.

3. Toque el idioma que desee escuchar.



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



5. Haga clic en **Finalizado**.

### **Cómo ver o escuchar las reuniones del Consejo:**

1. Vea 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](https://zoom.us/signup) e ingrese su dirección de correo electrónico. Recibirá un correo electrónico de Zoom ([no-reply@zoom.us](mailto: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](mailto: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](mailto:publiccomment@cityofsthelena.org). Incluya en la línea de asunto "COMENTARIO AL CONSEJO y el PUNTO DEL PROGRAMA". Cualquier comentario público debe presentarse a más tardar 2 horas antes de la reunión programada y se incluirá como un archivo adjunto a la agenda. Todos los comentarios públicos se harán públicos y se adjuntarán al artículo de la agenda y no se leerán en voz alta. Todos los comentarios públicos que se reciban después de las 4:00 PM se adjuntarán a la agenda al día siguiente.

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

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

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





Report to the City Council  
Special City Council - 20 Dec 2021

**Agenda Section: OLD BUSINESS:**

**Subject: Consideration and Proposed Approval of a Resolution Accepting a Donation from the St. Helena Little League where the Donation is the Purchase and Laying Sod with an Estimated Value of \$50,000.**

**CEQA Determination:** Not a CEQA project

**Prepared By:** April Mitts, Administrative Services Director

**Reviewed By:** Mark T. Prestwich, City Manager

**Approved By:** Mark T. Prestwich, City Manager

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**BACKGROUND**

On November 24, 2020, City Council adopted Policy P-FI-0020 Acceptance of Donations and Charitable Gifts to the City. The purpose of this Policy ("Donation Policy") is to establish a policy that is consistent with the City's strategic goals for accepting donations in a transparent and accountable manner from individuals, community groups, and businesses wishing to make donations to the City (Attachment 1).

Section 4 of the Donation Policy outlines the threshold amount for donation acceptance. Section 4.C. states, "Offers of donations of cash or items valued more than \$10,000 must be considered for acceptance by the City Council."

**DISCUSSION**

In November 2021, the St. Helena Little League (Little League) approached the City with a proposal to donate equipment, supplies, and labor for improvements to the Little League field. The donation included: identifying and marking all sprinklers and irrigation lines in the Little League field, discing the field to turn the soil, scraping grass, leveling the playing field, and re-seeding the outfield. The donation was primarily in-kind with minimal supplies. Staff coordinated with the Little League and determined the estimated value of the donation was \$6,300. On December 2, 2021, in accordance with the City's Donation

Policy, the City of St. Helena accepted the donation from the Little League and completed a Donation Acceptance Form (Attachment 2). Work on the field began on December 3, 2021.

On December 16, 2021, the City received a letter from the Little League (Attachment 3) stating the Little League had tilled and leveled the fields to a degree that it would soon be ready for new sod. The letter further stated it was the Little League's original intention to seed the field, but with the recent weather patterns and the uncertainty of the availability of water, they believe it is more prudent to lay sod that is engineered to be drought resistant. The change from seeding the fields to sodding the fields will bring the donation to approximately \$50,000.

It is important to note that both Donation Acceptance Forms (Attachment 2 and Attachment 4) specify that the City is currently in a Phase II Water Emergency and watering is limited to twice per week in accordance with the City's Municipal Code. It is also noted, if further drought measures are taken (Phase III), watering will be limited to restrictions directed by the St. Helena Municipal Code.

In accordance with the Donation Policy, the Mayor and Vice Mayor have reviewed the offer of donation and recommend the City Council accept the donation and the attached Donation Acceptance Form (Attachment 4) as the Written Agreement of acceptance as required by Policy P-FI-0020 Acceptance of Donations to the City, Section 4.C.

#### **FISCAL IMPACT**

There is no fiscal impact for the acceptance of this donation as on-going maintenance of the fields is currently within the Parks maintenance budget.

#### **RECOMMENDED ACTION**

The Mayor and Vice Mayor recommend the City Council adopt the attached resolution.

#### **ATTACHMENTS**

[Attachment 1: P-FI-0020 Acceptance of Donations to the City](#)  
[Attachment 2: Donation Acceptance Form Little League 120221](#)  
[Attachment 3: Little League Letter Dated 121621](#)  
[Attachment 4: Donation Acceptance Form Little League Sod](#)  
[Attachment 5: Resolution Acceptance of Donation](#)

|                                                                                   |                                                       |                                               |
|-----------------------------------------------------------------------------------|-------------------------------------------------------|-----------------------------------------------|
|  | <b>City of St. Helena</b><br><b>Policy</b><br>Finance | Policy<br><b>Donation Policy</b><br>P-FI-0020 |
|                                                                                   |                                                       | Page 1 of 9                                   |

|                                                                                          |                     |                            |            |
|------------------------------------------------------------------------------------------|---------------------|----------------------------|------------|
| <b>Title:</b><br><b>Acceptance of Donations<br/>and Charitable Gifts to the<br/>City</b> |                     | <b>Policy #</b>            | P-FI-0020  |
|                                                                                          |                     | <b>Revision #</b>          | Release    |
|                                                                                          |                     | <b>Implementation Date</b> | 2020-11-25 |
|                                                                                          |                     | <b>Last Update Date</b>    | 2020-11-24 |
| <b>Approval by City Council</b>                                                          | Resolution 2020-118 | <b>Date Approved</b>       | 2020-11-24 |

### **I. Purpose, Overview, and Scope of this Policy**

The purpose of this Policy (the “Donation Policy”) is to establish a policy that is consistent with the City’s strategic goals for accepting donations in a transparent and accountable manner from individuals, community groups, and businesses wishing to make donations to the City. This policy establishes uniform criteria and procedures to guide the review and acceptance of such donations, confirm the City has adequate resources to administer such donations, and ensure that the City appropriately acknowledges the generosity of the donor. The City may accept or reject any gift or donation.

This policy does not replace reportable gift reporting as required under the Political Reform Act as outlined in California Government Code sections 91000-91014. The Fair Political Practices Commission (FPPC) requires all public officials and reporting employees to file a “Conflict of Interest Statement,” known as Form 700. Nor does this Policy replace City Council Standards of Conduct as adopted in the *City Council Rules of Procedure for the Conduct of Council Meetings and Standard of Conduct*.

### **II. Authority**

Updates to this policy require City Council approval.

### **III. Policy**

#### **1. DEFINITIONS.**

- A. City or City of St. Helena shall mean and include the City of St. Helena, and any other affiliated agency created or activated by the City of St. Helena City Council, and any departments, boards and commissions thereof.
- B. City Manager means the City Manager or their designee.
- C. City Official shall mean every elected official, officer, agent, and employee of the City who is obligated to file an Annual Statement of Economic Interests (FPPC Form 700) under state law or the City’s current conflict of interest code.
- D. City Venue shall mean and refer to any facility owned, controlled, or operated by the City.

P-FI-0020

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|  | <p align="center"><b>City of St. Helena</b><br/><b>Policy</b><br/>Finance</p> | <p align="center">Policy<br/><b>Donation Policy</b><br/>P-FI-0020</p> |
|                                                                                   |                                                                               | <p align="center"><b>Page 2 of 9</b></p>                              |

- E. Designated Donation shall mean monetary donations whose expenditure is restricted to a Donor-specified purpose, which may identify a particular City department, program, project, or other purpose as the beneficiary of the donation. For example: such donations may include the funds directed to support a public art initiative or support construction of a skate park.
- F. Donation or Gift shall mean a monetary contribution, personal property, real property, equipment, or any other asset that the City has accepted and for which the donor has not received any legal consideration in return. For the purposes of this Policy, the terms “donation” and “gift” shall be synonymous.
- G. Donor shall mean a person or legal entity that proposes to provide a donation to the City.
- H. Endowment shall mean monetary donations that are restricted by the respective donor to the extent that only earnings, and not principal, may be expended by the City for the donor’s designated or intended purposes. Such donations are restricted donations in the sense that the donor-specified purpose is to preserve the corpus of the initial donation.
- I. FPPC shall mean and refer to the California Fair Political Practices Commission.
- J. Memorial is an item, object, or monument established to preserve the memory of a deceased person(s) or an event that occurred in the past.
- K. Tribute shall mean an item, object, or gift designated to acknowledge the contributions of living people to society.
- L. Undesignated Donation shall mean a donation made to the City by a donor without limitations or restrictions being placed upon its use.

## 2. TYPES OF DONATIONS.

- A. Donations may be offered in the form of cash, real or personal property, or in-lieu contributions.
- B. Designated donations are those donations that the donor specified for a particular City department, location, or purpose.
- C. Undesignated donations are those donations that are given to the City for an unspecified use.

## 3. CONSISTENCY WITH CITY INTERESTS AND CONSIDERATIONS

- A. Designated donations may only be accepted when they have a purpose consistent with the City’s strategic goals and objectives and are in the best interests of St. Helena.

P-FI-0020

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|                                                                                   |                                                                               | <p align="center"><b>Page 3 of 9</b></p>                              |

- B. The City must always consider the public trust and comply with all applicable laws when accepting donations.
- C. Before accepting a donation, consideration will be taken for the initial and future expenditures that may be required for use and maintenance of the donation. The City Manager will quantify the costs associated with both restricted and unrestricted donations before a donation is accepted. For example, possible clean-up costs of hazardous materials will be considered before real property is accepted.

#### 4. ACCEPTANCE OF UNDESIGNATED DONATIONS OF CASH OR TANGIBLE ITEMS.

All donations to the City, including offers to employees related to the City, shall immediately be submitted for consideration for acceptance. Based on the value of the donation offered as outlined below, appropriate City staff shall review every donation and determine whether the donation is consistent with the requirements of this Policy and if the benefits to be derived warrant acceptance of the donation. The following are the threshold amounts for donation acceptance.

- A. Offers of donations of cash or items valued at \$1,000 or below may be considered for acceptance by a Department Director.
- B. Offers of donations of cash or items valued more than \$1,000 and up to \$10,000 may be considered for acceptance by the City Manager.
- C. Offers of donations of cash or items valued more than \$10,000 must be considered for acceptance by the City Council. Donations valued at more than \$10,000 shall be accepted through a written agreement consistent with these guidelines and approved by the City Council. The required written agreement may be incorporated into another agreement, such as a development agreement, if the donation is made as part of a proposed development or project. The Mayor and Vice Mayor shall review such offers of donation and provide a recommendation to the City Council.
- D. Offers of donations for gratuitous purposes (e.g. holiday gift baskets, etc.) to any employee, department, or the City shall be made available to benefit all employees.
- E. Offers of donations of wine and other alcoholic beverages shall be inventoried and placed in the City's wine cellar for use at City-sponsored events or used for charitable purposes as authorized by the City Manager.

#### 5. ACCEPTANCE OF DESIGNATED DONATIONS OF CASH OR TANGIBLE ITEMS.

P-FI-0020

|                                                                                   |                                                       |                                        |
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|  | <b>City of St. Helena</b><br><b>Policy</b><br>Finance | Policy<br>Donation Policy<br>P-FI-0020 |
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Based on the value of the donation offer as outlined in Section 4, appropriate City staff or the Mayor and Vice Mayor as provided in Section 4(C), will review the conditions of any designated donation and determine if the benefits to be derived warrant acceptance of the donation. Criteria for the evaluation include but are not limited to:

- A. Consideration of whether an immediate or initial expenditure is required in order to accept the donation.
- B. The potential and extent of the City's obligation to maintain, match, or supplement the donation.

**6. ACKNOWLEDGEMENT AND ACCOUNTING OF DONATIONS.**

- A. For all donations provided to the City under \$10,000, a Donations Acceptance Form is required to be completed by the receiving Department Director, the Finance Department, or the City Manager's Office in accordance with Section 4 (A) and Section 4 (B) of this Policy (form attached). The City Manager will acknowledge all donations by signing the designated space on the Donations Acceptance Form.
- B. The City of St. Helena Finance Department is responsible for providing for the deposit and financial administration of any donation to the City. If necessary, the Finance Department shall track the proposed use of any such donation and shall maintain separate records of accounts showing receipts and disbursements if the donation is restricted.
- C. A copy of the Donation Acceptance Form will be forwarded to donors by the receiving department and to the Finance Department.
- D. Donations over \$10,000 must be accepted by the City Council in accordance with Section 4 (C) of this Policy.
- E. The Donor Acceptance Form, including donor names and donation amounts, are public information subject to disclosure pursuant to the California Public Records Act.

**7. DECLINED DONATIONS.**

- A. The City of St. Helena reserves the right to decline any donation if, upon review, acceptance of the donation offer is determined at the sole discretion of the City to not be in the best interest of the City.

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|  | <p align="center"><b>City of St. Helena</b><br/><b>Policy</b><br/>Finance</p> | <p align="center">Policy<br/><b>Donation Policy</b><br/>P-FI-0020</p> |
|                                                                                   |                                                                               | <p align="center"><b>Page 5 of 9</b></p>                              |

**8. DISTRIBUTION OF DONATION.**

- A. Tangible items will be distributed to appropriate City departments for use or, at the discretion of the Department Director or City Manager, disposed of in an appropriate manner according to this policy.
- B. Donations of cash for designated donations will be deposited into the appropriate revenue account for the designated City department.
- C. Donations of cash for undesignated donations under \$5,000 will be deposited into the City's General Fund Other Revenue account. Undesignated donations in an amount of \$5,000-\$25,000 will be designated to the Non-Profit Grant Program. Undesignated donations in an amount over \$25,000 will be distributed at the direction of City Council.

**9. DISPOSITION**

Unless restricted otherwise in writing, the City may keep, sell, or dispose of a donation.

**10. DISSEMINATION OF INFORMATION.**

- A. A copy of each Donation Acceptance Form for accepted donations shall be forwarded to the Finance Department and the designated department for which the donations was assigned.
- B. Accepted donations above \$5,000 shall be reported to the City Council in the Grant Report presented each quarter at a City Council meeting.
- C. Each original Donation Acceptance Form shall be maintained by the City Clerk's Office.

**11. DONATIONS AS CHARITABLE CONTRIBUTIONS**

- A. When Qualified
  - i. A donation to the City may be tax deductible as a charitable contribution if the donation is made exclusively for a public purpose as described in the IRS Code at 26 U.S.C. § 170(c)(1).
  - ii. The City does not provide legal, accounting, tax, or other such advice to donors. Each donor is ultimately responsible for ensuring the donor's proposed donation meets and furthers the donor's charitable,

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financial, and estate planning goals. As such, each donor is encouraged to meet with a professional advisor before making any donation to the City.

- iii. The City Manager will provide donors whose donations are accepted with a written statement that includes the following information required by the Internal Revenue Code 1.170A-13 and as described in IRS Charitable Contributions, Substantiation and Disclosure Requirements, Publication 1771. The City will not make a determination of whether the donation is tax deductible.
  - 1. Name of donor/Name of organization
  - 2. The amount of cash contribution
  - 3. A description (but not the value) of non-cash contribution
  - 4. Date of receipt
  - 5. A statement that no goods or services were provided by the City in return for the contribution/donation, if that was the case
  - 6. A description and good faith estimate of the value of goods or services, if any, that the City provided in return for the contribution/donation

#### 12. ACCEPTANCE OF GIFTS TO EMPLOYEES AND/OR ELECTED OFFICIALS OF THE CITY.

- A. Employees and officials of the City are required to be objective and fair in dealing with the public and persons or firms doing business with the City. Employees shall not solicit or accept gifts or gratuities for the performance of their City job responsibilities.
- B. No City official or employee shall directly or indirectly solicit, accept, or attempt to accept any money, fee, credit, gift, gratuity, object of value, or compensation of any kind which the official or employee knows, or has reason to know is being offered:
  - i. For the purpose of improperly obtaining or rewarding favorable treatment;
  - ii. With interest to influence the official or employee in the discharge of official duties;
  - iii. In consideration of having exercised official powers or performed official duties.
- C. Anonymous gifts shall be delivered to the City Manager or designee for appropriate disposition.

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|  | <p><b>City of St. Helena</b><br/><b>Policy</b><br/>Finance</p> | <p>Policy<br/><b>Donation Policy</b><br/>P-FI-0020</p> |
|                                                                                   |                                                                | <p><b>Page 7 of 9</b></p>                              |

- D. This policy does not prohibit a City official from accepting anything of value by way of a gift when such a gift is made to and accepted on behalf of, the City of St. Helena. All such gifts to the City shall be forwarded to the City Manager for compliance with this Policy whenever possible; the City Manager or designee will ensure that all such gifts are disposed of accordingly. An example of such gifts would be those received during holiday periods.

**IV. Forms**

- A. City of St. Helena, California Donation Acceptance Form
- B. City of St. Helena, California Donation and Gift Policy Acknowledgement

|                                                                                   |                                                                               |                                                                |
|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------------|----------------------------------------------------------------|
|  | <p align="center"><b>City of St. Helena</b><br/><b>Policy</b><br/>Finance</p> | <p align="center">Policy<br/>Donation Policy<br/>P-FI-0020</p> |
|                                                                                   |                                                                               | <p align="center">Page 8 of 9</p>                              |

**CITY OF ST. HELENA - DONATION ACCEPTANCE FORM**

Name of Donor: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Description of Donation: \_\_\_\_\_

\_\_\_\_\_

Donor estimate of current value: \_\_\_\_\_

Potential immediate/initial acquisition or installation cost, on-going maintenance or replacement cost:

\_\_\_\_\_

Intended use: \_\_\_\_\_

\_\_\_\_\_

Conditions of acceptance or donor designation: \_\_\_\_\_

\_\_\_\_\_

Remarks: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

City Department receiving donation: \_\_\_\_\_

APPROVED ☐

DISAPPROVED ☐

\_\_\_\_\_

Date

\_\_\_\_\_

Department Head Signature

\_\_\_\_\_

Date

\_\_\_\_\_

City Manager Signature

\_\_\_\_\_

Date Submitted to Council

\_\_\_\_\_

Date Approved by Council/Resolution No.

P-FI-0020

|                                                                                   |                                                                  |                                                      |
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|  | <p><b>City of St. Helena</b><br/> <b>Policy</b><br/> Finance</p> | Policy<br><b>Donation Policy</b><br><b>P-FI-0020</b> |
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**CITY OF ST. HELENA - DONATION AND GIFT POLICY ACKNOWLEDGEMENT**

I have received and read the City of St. Helena Donation and Gift Policy P-FI-0020 and understand its provisions. I further understand that when I sign this acknowledgement form it will be placed in my personnel file.

\_\_\_\_\_  
Employee (PRINT name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

P-FI-0020

|                                                                                   |                                                       |                                               |
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|  | <b>City of St. Helena</b><br><b>Policy</b><br>Finance | Policy<br><b>Donation Policy</b><br>P-FI-0020 |
|                                                                                   |                                                       | Page 1 of 1                                   |

CITY OF ST. HELENA - DONATION ACCEPTANCE FORM

Name of Donor: St. Helena Little League

Address: PO Box 241 City: St. Helena State: CA Zip: 94574

Description of Donation: Identify and mark all sprinklers and irrigation lines in Little League Field,

Disc the field to turn soil, scrape grass, level playing field, re-seed the outfield.

Donor estimate of current value: \$6,300

Potential immediate/initial acquisition or installation cost, on-going maintenance or replacement cost:

Mowing, weeding, fertilizing, aerating, edging, irrigation, irrigation repair

Intended use: Baseball - Little League Fields

Conditions of acceptance or donor designation: Watering of fields - current drought conditions (Phase II) limit watering to 2x per week.

Remarks: Due to current drought restrictions watering of fields will be limited to 2x per week. Additionally, if further drought measures are taken (Phase III), watering will be limited to restrictions directed by the COSH Municipal Code.

City Department receiving donation: Public Works - Parks Division

APPROVED ☒ DISAPPROVED ☐

12/2/2021

Date

12/2/2021

Date

n/a

Date Submitted to Council


Digitally signed by Mark Rincon-Ibarra  
Date: 2021.12.02 08:42:12 -08'00'

Department Head Signature

Mark T. Prestwich  
Digitally signed by Mark T. Prestwich  
Date: 2021.12.02 09:15:41 -08'00'

City Manager Signature

n/a

Date Approved by Council/Resolution No.

P-FI-0020



Dear Mayor, City Manager and Council Members,

St. Helena Little League would like to donate new sod for the outfield areas of the two baseball fields at Crane Park.

After years of deterioration and last year's lack of water for the fields we have acted on the need to repair the fields to make them playable for the upcoming season. At this time we have tilled the fields and leveled it to a degree that it will soon be ready for new sod. Our original intention was to seed the field, but with recent weather patterns and the uncertainty of the availability of water, it is more prudent to lay a sod that is engineered to be fairly drought resistant. This brings the level of donation to approximately \$50,000, of which St. Helena Little League is willing to contribute in full.

In order to have the fields ready for use in late February (Opening Day is March 12) the sod would need to be installed no later than the week of January 10.

Thank you for your consideration.

Jeff Blaum  
St. Helena Little League, President

|                                                                                   |                                                       |                                               |
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|  | <b>City of St. Helena</b><br><b>Policy</b><br>Finance | Policy<br><b>Donation Policy</b><br>P-FI-0020 |
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CITY OF ST. HELENA - DONATION ACCEPTANCE FORM

Name of Donor: St. Helena Little League

Address: PO Box 241 City: St. Helena State: CA Zip: 94574

Description of Donation: Sod for the St. Helena Little League Fields

Donor estimate of current value: \$50,000

Potential immediate/initial acquisition or installation cost, on-going maintenance or replacement cost:

Mowing, weeding, fertilizing, aerating, edging, irrigation, irrigation repair

Intended use: Baseball - Little League Fields

Conditions of acceptance or donor designation: Watering of fields - current drought conditions (Phase II) limit watering to 2x per week.

Remarks: Due to current drought restrictions watering of fields will be limited to 2x per week. Additionally, if further drought measures are taken (Phase III), watering will be limited to restrictions directed by the COSH Municipal Code.

City Department receiving donation: Public Works - Parks Division

APPROVED ☐ DISAPPROVED ☐

\_\_\_\_\_  
Date

\_\_\_\_\_  
Department Head Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Manager Signature

December 20, 2021

Date Submitted to Council

\_\_\_\_\_  
Date Approved by Council/Resolution No.

P-FI-0020

**CITY OF ST. HELENA**

**RESOLUTION NO. 2021-\_\_**

**Resolution Accepting a Donation from the St. Helena Little League where the Donation is the Purchase and Laying Sod with an Estimated Value of \$50,000.**

**RECITALS**

- A. On November 24, 2020, City Council adopted Policy P-FI-0020 Acceptance of Donations and Charitable Gifts to the City via Resolution 2020-118; and
- B. Section 4.C. of this Policy establishes that offers of donations of cash or items valued more than \$10,000 must be considered for acceptance by the City Council; and
- C. In November 2021, the St. Helena Little League (Little League) approached the City with a proposal to donate equipment, supplies, and labor for much needed improvements to the Little League field with a total estimated value of \$6,300; and
- D. On December 2, 2021, in accordance with the City's Donation Policy the City of St. Helena accepted the donation from the Little League and completed a Donation Acceptance Form and work on the field began on December 3, 2021; and
- E. On December 16, 2021, the City received a letter from the Little League stating the Little League had tilled the fields and leveled the fields to a degree that it would soon be ready for new sod. The letter further states it was the Little Leagues original intention to seed the field, but with the recent weather patterns and the uncertainty of the availability of water, they feel it is more prudent to lay sod that is engineered to be fairly drought resistant. The change from seeding the fields to sodding the fields will bring the donation to approximately \$50,000; and
- F. Due to the City currently being in a Phase II Water Emergency, both Donation Acceptance Forms specify that the City is currently in a Phase II Water Emergency and watering is limited to twice per week in accordance with the City's Municipal Code. It is also noted, if further drought measures are taken (Phase III), watering will be limited to restrictions directed by the St. Helena Municipal Code; and
- G. In accordance with the Donation Policy, the Mayor and Vice Mayor have reviewed the offer of donation and recommend the City Council accept the donation.

**RESOLUTION**

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

1. Accepts a donation from the St. Helena Little League where the donation is the purchase and laying sod with an estimated value of \$50,000; and
2. Approves the attached Donation Acceptance Form as the Written Agreement of Acceptance as required by P-FI-0020 Acceptance of Donations to the City, Section 4.C.

Approved at a Special Meeting of the St. Helena City Council on December 20, 2021, by the following vote:

Mayor Ellsworth:

Vice Mayor Dohring:

Councilmember Chouteau:

Councilmember Hall:

Councilmember Hardy:

APPROVED:

ATTEST:

\_\_\_\_\_  
Geoff Ellsworth, Mayor

\_\_\_\_\_  
Cindy Tzaopoulos, City Clerk



Supplemental Report to the City Council  
Special City Council Meeting - 20 Dec 2021

**Agenda Section:** Old Business

**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

This supplemental staff report addresses issues raised in written and oral public comments for the December 14, 2021 City Council meeting with respect to the proposed settlement with Hall Vineland, LLC and Hall Vista, LLC ("Hall") of the above-entitled lawsuit.

**RESPONSES TO ISSUES RAISED IN PUBLIC COMMENTS**

**Issue:** Whether the City is approving Hall's project for 341 St. Helena Highway (the "Property").

**Response:** The City is not approving Hall's project, either as Hall has previously proposed or as Hall may revise it. Since the Property is outside City limits, the County of Napa has jurisdiction to approve or deny any project Hall proposes, which the County has yet to do. Whether the County will determine that Hall's project is a residential or lodging project, whether it satisfies County and State regulations, and whether to approve it will be issues for the County to resolve. In the meantime, Hall must first complete the

County's development application process, which includes Hall demonstrating to the County that the project will have a water supply.

**Issue:** Whether the City has considered benefits and/or detriments of Hall's proposed project, such as those that concern land use, ownership or rental interests in and to the Property, or taxation issues.

**Response:** Because the Property is outside City limits, the City has no authority to approve or deny Hall's proposed project. However, the City does have authority with respect to terms and conditions by which City water is provided. That authority concerns water-related issues, such as compliance with City regulations and policies with respect to water neutrality requirements and Water Service Agreements for new development outside City limits. The City's rights and obligations as a water provider do not encompass non-water issues, such as benefits or detriments of projects outside City limits, nor do they encompass land use, real estate, ownership or rental interests in and to the Property, or taxation issues.

**Issue:** Whether Hall's project will be water neutral or negatively impact the City's water supplies and customers.

**Response:** While the City does not exercise authority regarding how Hall uses the Property, it does have authority to ensure that Hall's water use complies with the City's regulations and policies, including that proposed projects are water neutral. The 2016 Will-Serve Letter—which the City withdrew in 2018—did not include an annual limitation that bound Hall to use no more water than its historic allotment. By contrast, the Water Service Agreement to be entered contemporaneously with the Settlement Agreement (Exh. A thereto) includes an annual limitation that matches Hall's historic allotment, which is 2,135,250 gallons per year (approximately 6.5 acre feet). This annual limitation is for a project of not more than 44 bedrooms, and for which on-site City water usage for other than dwelling units (e.g., for common areas, clubhouse, laundry, and recreational facilities) would be consistent with the water usage studied in the Water Demand Analysis submitted to the City in connection with Hall's application for water service for the project. The Water Use Agreement provides that City water shall be only for a project that meets these parameters. If Hall were to propose a project that deviated therefrom (e.g., that proposed more bedrooms or required additional water for common areas), Hall would need to notify the City, and the City could require an amendment to the Water Service Agreement for such a modified project.

The 2016 Will Serve Letter also did not include any enforcement mechanism in the event of excess consumption. By contrast, the Water Service Agreement includes enforcement mechanisms if Hall were to exceed the annual limitation, such as (i) penalty surcharges and (ii) provisions authorizing the City to require conservation measures and/or to terminate water service for non-essential uses.

In sum, these provisions of the Water Service Agreement are designed to ensure that Hall's project will be water neutral and not negatively affect the City's water supplies and customers.

**Issue:** How the City calculated Hall's historic allotment for the Property.

**Response:** The City calculated Hall's historic allotment pursuant to the City's Water Neutral Policy and associated water use table, which is based on factors such as the number bedrooms. While the Property has been vacant in recent years, Hall has continued to draw and pay for City water, and its account has remained active.

**Issue:** How much water has Hall consumed at the Property.

**Response:** Hall's actual water consumption data is confidential.

**Issue:** Whether the City is vesting Hall with water allocation rights.

**Response:** The Water Service Agreement is not vesting Hall with water allocation rights. Hall already has a right to use City water without any agreement limiting the amount thereof. Hall's use of water will continue to be subject to City regulations, such as conservation measures. The Water Service Agreement creates rights for the City by imposing an annual limitation on Hall's rights to use City water, as well as enforcement mechanisms. The City would not have secured such rights through the litigation, no matter the outcome. As discussed above, the annual limitation is based on the City's Water Neutral Policy for residential project as existed at the Property.

**Issue:** Whether the City's provision of water to the Property depends on whether Hall's proposed land use constitutes a residential or commercial project.

**Response:** Because the City does not regulate the land use Hall chooses to make of the Property, the City does not control whether Hall seeks to use City water for a residential or commercial project. The Water Service Agreement is consistent with this principle. However, if and when the County approves a project for the Property, City regulations governing water conservation and rationing would apply, including with respect to any conditions that depend upon whether the Property is then being used for residential or commercial purposes.

**Issue:** Why the City provides water to properties outside City limits, such as the Property at issue.

**Response:** Decades ago, the City extended water service beyond City limits including to this Property, as part of its expansion of its water supply and infrastructure system. When property owners pursue development projects, including redevelopment or rehabilitation of properties for which the owners seek permit approvals from the County of Napa, the City requires the owners to enter into Water Service Agreements. As with the Water

Service Agreement attached to the Settlement Agreement as Exhibit A, they include annual limitations on consumption of City water, with enforcement mechanisms in the event of overages such as (i) penalty surcharges and (ii) provisions authorizing the City to require conservation measures and/or to terminate water service for non-essential uses. The City posts its Water Service Agreements, including for such extra-territorial water service, on its website at <https://www.cityofsthelena.org/publicworks/page/water-agreements>. Through this settlement, Hall will enter into such a Water Service Agreement.

The City has prohibited new connections for water service outside City limits since 1964. The City has provided water service to the Property since before then, and thus the Water Service Agreement provides for continued water service, with an annual limitation and other conditions.

**Issue:** The circumstances under which Hall caused mobile home park tenants to vacate.

**Response:** As the owner of the Property, Hall took steps to cause mobile home park tenants to vacate the Property. The City had no role in that process and lacks firsthand knowledge about the means Hall employed to terminate tenancies.

**Issue:** Source of funding for legal defense and payment to Hall.

**Response:** The City has paid for its defense of this lawsuit from its Water Enterprise Fund since this matter arises from the City's implementation and enforcement of regulations and policies with respect to its provision of domestic water service. The City may pay Hall from its General Fund or from its Water Enterprise Fund for the reasons stated above.

**Issue:** How much water City water Hall has drawn at Hall's adjacent winery property.

**Response:** Hall's actual consumption data is confidential. However, where the City has entered into a Water Service Agreement, the City posts information about the user's compliance with the annual limitation set forth therein. See Water Agreements Compliance Survey at <https://www.cityofsthelena.org/publicworks/page/water-agreement-compliance-summary>.

In 2007, the City approved a Water Service Agreement for the winery property, but the City did not have an executed copy. Through the negotiations, the City secured an executed copy of the 2007 agreement, which provides for a reduction in the annual limitation from 12 million gallons to 8 million gallons. The City will update its Water Agreements Compliance Survey.

**Issue:** Whether Government Code section 1090 prohibits the City from entering into the settlement and associated agreements.

**Response:** It does not. As discussed in the December 14, 2021 Staff Report, the Superior Court has made findings and authorized the City to enter into the settlement and associated agreements pursuant to Government Code section 1091(b)(15), under the “remote interest” exception described therein, which applies where these conditions are satisfied:

- (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, Government Code section 1090 does not prohibit the proposed action.

#### **CEQA**

As discussed in the December 14, 2021 Staff Report, 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.

As for the source of funds, see the discussion above.

#### **RECOMMENDED ACTION**

Approval of Proposed Resolution

#### **ATTACHMENTS**

December 14, 2021 Staff Report with Proposed Settlement Agreement attached, including Exhibits:

- A. Water Service Agreement

- B. Fire Service Agreement
- C. Request for Dismissal, with Prejudice



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

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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.<sup>1</sup>

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

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<sup>1</sup> 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:

ATTEST:

\_\_\_\_\_  
Geoff Ellsworth, Mayor

\_\_\_\_\_  
Cindy Tzaopoulos, 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

CITY OF ST. HELENA AND CITY OF ST.  
HELENA OFFICE OF THE DIRECTOR OF  
PUBLIC WORKS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Mark Prestwich  
Title: City Manager

HALL VISTA, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**APPROVED AS TO FORM:**

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Christian Baker, attorney for Hall  
Vineland, LLC and Hall Vista, LLC

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  
City Manager

ATTEST:

\_\_\_\_\_  
Cindy Tzafofoulous, 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)

[illegible]

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 Tzafofoulous, 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.

Exhibit A

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  $87^{\circ} 32' 14''$  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  $46^{\circ} 23'$  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  $41^{\circ} 39' 48''$  East 25.37 feet); thence South  $43^{\circ} 37'$  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  $47^{\circ} 07' 58''$  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  $46^{\circ} 23'$  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  $46^{\circ} 57' 10''$  West 45.65 feet) thence North  $43^{\circ} 37'$  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  $41^{\circ} 45' 47''$  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. Josés 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.

Page 1 of 7

**VINELAND VISTA MOBILE HOME PARK  
FIRE SERVICE AGREEMENT  
HALL VINELAND, LLC**

- 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

Page 2 of 7

**VINELAND VISTA MOBILE HOME PARK  
FIRE SERVICE AGREEMENT  
HALL VINELAND, LLC**

- 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**

**City: City of St. Helena**

By: \_\_\_\_\_  
Mike Reynolds; President

By: \_\_\_\_\_  
Mark Prestwich; City Manager

Dated: \_\_\_\_\_

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.

Exhibit A

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. Josés 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 C

CIV-110

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):<br><b>Christian Baker (SBN CA 247006); Brandon Hughes (SBN CA 329947)</b><br><b>Manatt, Phelps &amp; Phillips, LLP</b><br><b>One Embarcadero Center, 30th Floor</b><br><b>San Francisco, CA 94111</b><br>TELEPHONE NO.: <b>415.291.7400</b> FAX NO. (Optional): <b>415.291.7474</b><br>E-MAIL ADDRESS (Optional):<br>ATTORNEY FOR (Name): <b>Plaintiffs Hall Vineland, LLC and Hall Vista, LLC</b> | FOR COURT USE ONLY             |
| <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF NAPA</b><br>STREET ADDRESS: <b>825 Brown Street</b><br>MAILING ADDRESS: <b>825 Brown Street</b><br>CITY AND ZIP CODE: <b>Napa, CA 94559</b><br>BRANCH NAME: <b>Historic Courthouse</b>                                                                                                                                                                                                                                            |                                |
| PLAINTIFF/PETITIONER: <b>HALL VINELAND, LLC, et al.</b><br>DEFENDANT/RESPONDENT: <b>CITY OF ST. HELENA, et al.</b>                                                                                                                                                                                                                                                                                                                                                           |                                |
| <b>REQUEST FOR DISMISSAL</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                 | CASE NUMBER: <b>19CV000897</b> |
| <b>A conformed copy will not be returned by the clerk unless a method of return is provided with the document.</b>                                                                                                                                                                                                                                                                                                                                                           |                                |
| <b>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.)</b>                                                                                                                                                                                                                                                                                  |                                |

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):
- (4) ☐ Cross-complaint filed by (name):
- (5) ☒ Entire action of all parties and all causes of action
- (6) ☐ Other (specify):\*

on (date):

on (date):

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)

\*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.



(SIGNATURE)

Attorney or party without attorney for:

- ☒ Plaintiff/Petitioner ☐ Defendant/Respondent
- ☐ Cross-Complainant

**TO THE CLERK: Consent to the above dismissal is hereby given.\*\***

Date:



(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

(SIGNATURE)

\*\* 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).

Attorney or party without attorney for:

- ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
- ☐ Cross-Complainant

(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

CIV-110

|                                                                                                      |                            |
|------------------------------------------------------------------------------------------------------|----------------------------|
| PLAINTIFF/PETITIONER: Hall Vineland, LLC, et al.<br>DEFENDANT/RESPONDENT: City of St. Helena, et al. | CASE NUMBER:<br>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)

**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 special Meeting of the St. Helena City Council on December 20, 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:

ATTEST:

\_\_\_\_\_  
Geoff Ellsworth, Mayor

\_\_\_\_\_  
Cindy Tzaopoulos, 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

CITY OF ST. HELENA AND CITY OF ST.  
HELENA OFFICE OF THE DIRECTOR OF  
PUBLIC WORKS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Mark Prestwich  
Title: City Manager

HALL VISTA, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**APPROVED AS TO FORM:**

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Christian Baker, attorney for Hall  
Vineland, LLC and Hall Vista, LLC

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 Tzafofoulous, 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)

[illegible]

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 Tzafofopoulos, 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.

Exhibit A

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  $87^{\circ} 32' 14''$  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  $46^{\circ} 23'$  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  $41^{\circ} 39' 48''$  East 25.37 feet); thence South  $43^{\circ} 37'$  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  $47^{\circ} 07' 58''$  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  $46^{\circ} 23'$  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  $46^{\circ} 57' 10''$  West 45.65 feet) thence North  $43^{\circ} 37'$  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  $41^{\circ} 45' 47''$  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. Josés 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.

Page 1 of 7

**VINELAND VISTA MOBILE HOME PARK  
FIRE SERVICE AGREEMENT  
HALL VINELAND, LLC**

- 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

Page 2 of 7

**VINELAND VISTA MOBILE HOME PARK  
FIRE SERVICE AGREEMENT  
HALL VINELAND, LLC**

- 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**

**City: City of St. Helena**

By: \_\_\_\_\_  
Mike Reynolds; President

By: \_\_\_\_\_  
Mark Prestwich; City Manager

Dated: \_\_\_\_\_

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.

Exhibit A

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. Josés 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 C

CIV-110

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):<br><b>Christian Baker (SBN CA 247006); Brandon Hughes (SBN CA 329947)</b><br><b>Manatt, Phelps &amp; Phillips, LLP</b><br><b>One Embarcadero Center, 30th Floor</b><br><b>San Francisco, CA 94111</b><br>TELEPHONE NO.: <b>415.291.7400</b> FAX NO. (Optional): <b>415.291.7474</b><br>E-MAIL ADDRESS (Optional):<br>ATTORNEY FOR (Name): <b>Plaintiffs Hall Vineland, LLC and Hall Vista, LLC</b> | FOR COURT USE ONLY             |
| <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF NAPA</b><br>STREET ADDRESS: <b>825 Brown Street</b><br>MAILING ADDRESS: <b>825 Brown Street</b><br>CITY AND ZIP CODE: <b>Napa, CA 94559</b><br>BRANCH NAME: <b>Historic Courthouse</b>                                                                                                                                                                                                                                            |                                |
| PLAINTIFF/PETITIONER: <b>HALL VINELAND, LLC, et al.</b><br>DEFENDANT/RESPONDENT: <b>CITY OF ST. HELENA, et al.</b>                                                                                                                                                                                                                                                                                                                                                           |                                |
| <b>REQUEST FOR DISMISSAL</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                 | CASE NUMBER: <b>19CV000897</b> |
| <b>A conformed copy will not be returned by the clerk unless a method of return is provided with the document.</b>                                                                                                                                                                                                                                                                                                                                                           |                                |
| <b>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.)</b>                                                                                                                                                                                                                                                                                  |                                |

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):
- (4) ☐ Cross-complaint filed by (name):
- (5) ☒ Entire action of all parties and all causes of action
- (6) ☐ Other (specify):\*

on (date):

on (date):

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)

\*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.



(SIGNATURE)

Attorney or party without attorney for:

- ☒ Plaintiff/Petitioner ☐ Defendant/Respondent
- ☐ Cross-Complainant

**TO THE CLERK: Consent to the above dismissal is hereby given.\*\***

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

\*\* 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).



(SIGNATURE)

Attorney or party without attorney for:

- ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
- ☐ Cross-Complainant

(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

CIV-110

|                                                                                                      |                            |
|------------------------------------------------------------------------------------------------------|----------------------------|
| PLAINTIFF/PETITIONER: Hall Vineland, LLC, et al.<br>DEFENDANT/RESPONDENT: City of St. Helena, et al. | CASE NUMBER:<br>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)

## Cindy Tzaopoulos

---

**From:** Katie Somple <katiesomple@gmail.com>  
**Sent:** Tuesday, December 14, 2021 10:47 PM  
**To:** Cindy Tzaopoulos  
**Subject:** RE: [External] Hall property settlement consent calendar

Good evening Cindy,

Great job juggling all the moving pieces at tonight's Zoom- based council meeting. Your profession has done a lot of pivoting in the past few years.

As offered verbally at tonight's meeting, here is a list of my questions for the council to consider and respond to:

1. Please provide a recent historic use of water usage for Hall Winery (5 years actual + average) so we can determine the value of the "win" of the City's decreased water commitment from 12m gallons to 8m.
2. Please confirm the actual amount, in annual gallons, the City is obligated to provide the Vineland development project per year.
3. I request details on how this issue came to be, starting in 2016, when our then Public Works director issued a 'will serve' letter on behalf of St. Helena taxpayers that committed the city to providing historic water to the Halls proposed development project, but failed to put into place a water usage agreement (that, according to Kevin Seigal, would have provided limitations and a cap on the City's obligations). If this assumption is incorrect, please provide further insight(s).
4. Please respond to my request that the current city council provide the learning(s) from this "unfortunate" event and put into place accountable processes that will not allow these kind of monumental City exposures to take place without layers of oversight and prevention in the future.
5. does the city have any sense of the projected water usage of the Hall's proposed development plan, as compared to what the City is obligated to provide?

Thank you for passing along to the proper channels these questions that I verbalized on tonight's Council meeting.

-----Original Message-----

From: Cindy Tzaopoulos [mailto:ctzaopoulos@cityofstheleena.org]  
 Sent: Monday, December 13, 2021 2:46 PM  
 To: Katie Somple  
 Subject: RE: [External] Hall property settlement consent calendar

Hi Katie,

I just republished the agenda with noting that item 9.13 will be removed from consent and heard under old business.

Thank you,

Cindy Tzaopoulos  
 City Clerk  
 City of St. Helena  
 \*1572 Railroad Avenue – NEW ADDRESS!  
 St. Helena, CA 94574

Direct 707-968-2742 | Cell 707-312-1257  
 Fax 707-963-7748  
 ctzaopoulos@cityofstheleena.org  
 www.cityofstheleena.org

\*Please note that City Hall is closed to the public and will not answer calls from 12:00 to 1:00 pm for lunch. Please phone individual departments to make an appointment for service.

E-mail correspondence with the City of St. Helena (and attachments, if any) may be subject to the California Public Records Act, and as such may therefore be subject to public disclosure unless otherwise exempt under the Act.

-----Original Message-----

From: Katie Somple <katiesomple@gmail.com>  
Sent: Monday, December 13, 2021 2:40 PM  
To: Cindy Tzaopoulos <ctzaopoulos@cityofsthelena.org>  
Subject: [External] Hall property settlement consent calendar

Cindy,

I am on the road and have limited capability to send this email to the entire city council so will you please forward to them at your earliest opportunity?

I am formally requesting that the Hall's Vineland project settlement be REMOVED from the consent calendar for the December 14 meeting to allow locals like me- who will be impacted by this settlement- to better understand the implications and weigh in on the City's "settlement deal".

At this point with access to only limited knowledge this smells bad and should be handled with extreme transparency. Putting it on the consent calendar is opposite of this.

Thank you Cindy.

Best Regards, Katie Somple

## Cindy Tzaopoulos

---

**From:** Kelly Wheaton <a4est42@gmail.com>  
**Sent:** Wednesday, December 15, 2021 11:34 AM  
**To:** Geoff Ellsworth; Paul Dohring; Lester Hardy; Eric Hall; Mark Prestwich; Cindy Tzaopoulos  
**Subject:** [External] Hall water settlement Questions to be answered in Writing before Meeting Dec 20, 2021

Dear Mayor & City Council Members, and City Manager,

Re: Hall Winery Water Agreement.

We first must take issue with Lester Hardy's comment at the public hearing on Dec. 14, 2021, where he said **"that a parcel owner can use their water allotment any way they wish."** Mr Hardy misspoke. That is categorically untrue for residential customers. During the current water emergency we are not allowed to use water for landscaping between Nov-Mar, we were only allowed to use outside water on specific days, and we are limited to 65 gallons per person per day. We respectfully request that Mr Hardy correct his statement and furthermore that he and the council acknowledge the inequities between commercial and residential customers and vow to address this.

We would appreciate the City answer the following questions on the record, even as we realize this will likely have no effect on the negotiated settlement. The public has a right to know the answers. **Public input could have provided leverage the City needed in negotiating with the Hall's. When an item of such grave importance as WATER, is placed on the consent calendar after years where public input has not been considered, this is not in the Public interest.** The failure to bring the public along in the process was a grave mistake. It is the same mistake that brings us to the point where we no longer have representative government. What we have is a government for those with the deepest pockets, the ones buying candidates with campaign contributions, and those who can afford the most lawyers and experts.

**1) Are the occupants of the "Mobile home park/Luxury time-share" that the Hall's are planning to develop going to be treated as residential or commercial water customers by the City of St. Helena?** If they are commercial, then Mr Hardy, you, as the person who crafted the current regulations (to benefit commercial clients) are to be held to account. For those not aware commercial customers have a limited reduction in their average historic use, whereas residential customers are very much told where and when they can use their water and how much. This discrepancy exacerbates the current negotiated agreement.

**2) What is being done to prevent this kind of staff malfeasance from happening in the future?** Where is the legislation to adjust water contracts based on water usage in light of Climate Change and future drought? (not just the current crisis)

**3) Before Monday we respectfully ask that the public be provided with the gallons of water per year, used for both the Hall Winery parcel and the Mobile Home Park parcel on a yearly basis for the past 20 years.** Follow-up question: if the amount of historic use is less than the negotiated amount, please explain why this is a good deal for St. Helena? **Given the water emergency, why does the contract obligate the City of St Helena to provide water that they may not have in the future?**

This litigation is a perfect example of how the deep pockets of the Hall's or their ilk can bring about a forced settlement because they can out-spend and threaten additional lawsuits which are beyond St Helena's ability to defend. **The problem is when you pay the ransom once, you open the City up to further litigation by others.** This shows the fundamental ability of big money to circumvent the best interests of the citizens of St. Helena. The Council should be proactive in crafting regulations to minimize this extortion. St. Helena has not adopted new legislation to address the emergency water situation that climate change will engender in the coming years. **Historical water usage based contracts need to be overridden by new reality based water legislation.** Water is a finite

resource and even if normal rainfall ends the current crisis this is a long term problem. At the Federal, State, county and Community levels long term Water laws must be challenged and rewritten.

Thank you to the staff, the Mayor and the City Council for your hard work on our behalf. The hearing and decision should have been extended to next year as the Mayor and citizens asked. Instead what we have is a rush by attorneys to be done with it, which appears to accrue to the benefit of the Hall's who avoid further scrutiny. **Threats of more lawsuits by the Hall's as one of the reasons given to settle this suit (in their favor), shows just how vulnerable we are.**

Respectfully,

Michael & Kelly Wheaton

1335 Inglewood Ave

St. Helena

## Cindy Tzaopoulos

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**From:** Nancy Dervin <nancydervin@hotmail.com>  
**Sent:** Thursday, December 16, 2021 12:01 AM  
**To:** Geoff Ellsworth; Paul Dohring; Eric Hall; Lester Hardy; Anna Chouteau; Mark Prestwich; Cindy Tzaopoulos  
**Subject:** [External] Questions regarding Hall lawsuit.  
**Attachments:** Hall Lawsuit.pages

December 15, 2021

Dear City Council and Legal Council,

1. The St. Helena Public Works Department issued a “will-serve” letter in 2016 agreeing to provide water for a project on the site of the old Vineland Vista Mobile Home Park. The city rescinded that letter in 2018, claiming it had been based on the property owners’ “incorrect assumptions” about existing water use at the park, which had been vacant since 2014. Please explain in detail what the “incorrect assumptions” are/were.

2. Please explain how the settlement agreement being considered constitutes a “continuation of water service” on a site that has been vacant since 2014. Is there documentation that the Hall’s have been using and paying for water at that specific site throughout the last 7 years?

3. Why hasn’t the City already proactively secured a separate water agreement limiting the Hall winery property to 8 million gallons of water per year instead of 12 million if that is something that can be done? Who is calling the shots on water agreements?

Council member Hardy said the settlement would allow the city staff and council to focus on more pressing matters like water. Giving up 2,135,250 gallons of city water per year so we can focus on water is astoundingly contradictory.

Kevin Siegel, special counsel to the city, said “the City would have a reasonably good chance of prevailing in the trial court or on appeal” but it would be “risky” and “costly.” So paid legal council is telling you we have a good chance of winning. It may be risky and costly, but the costs will eventually be absorbed and life will go on. Acquiescing to this lawsuit will result in the loss of millions of gallons of water every year in perpetuity.

I look forward to your detailed and verifiable responses.

Sincerely,

Nancy Dervin

## Cindy Tzaopoulos

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**From:** susan kenward <psckenward@gmail.com>  
**Sent:** Tuesday, December 14, 2021 6:51 PM  
**To:** Cindy Tzaopoulos  
**Subject:** [External] For tonight

Please disregard the previous, I sent the uncorrected copy.  
City Council of St. Helena,

From the beginning I have been appalled at the bogus lawsuits that Catherine Hall brought against the city. Clearly, she knew we didn't have the financial reserve to fight this. I don't fault the council for caving in. I believe if we had had the money, we had a good land use case against the Halls and our lawyer said as much.

But most importantly and this is really important, I need to know if we can oppose this project when it comes up for approval in the county. What does this mean for the relationship between the county and cities: it was always that hotels were to be commercial enterprise in the cities not in agriculture. Does this means that the county will now allow hotels in Ag ?  
City council of St Helena, CA

Now for the really important issue tonight. How can we legally enter into a contract with the Halls as Anna Chouteau sits on the council, I am referring to the 1090 FPPC ruling that the city can not enter into a contract with a conflicted council member.

I want the city to get a ruling on this from the FPPC. I remind the city of the FPPC ruling for Peter White and the Adams Street Property.

Best regards, Susan Kenward

## Cindy Tzaopoulos

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**From:** TOM BELT <tmbelt@comcast.net>  
**Sent:** Friday, December 17, 2021 1:44 PM  
**To:** Cindy Tzaopoulos  
**Subject:** [External] City Council Questions About the Hall's Proposed Lawsuit Settlement

Hi Cindy,

Please include the following requests for added information to be addressed by city council during this Monday's CC Meeting:

The December 16th issue of the St. Helena Star's article about the Hall's lawsuit reads: St. Helena's Public Works Director issued a "will serve letter" in 2016 agreeing to provide water for a project on the site of the old Vineland Vista Mobile Home Park, based on historical water annual water demand of 2,135,250 gallons per year.

1. Please disclose complete written copies of the original 2016 Hall request for the will serve letter as well as the city's 2016 approval of the Hall's request?
2. What criteria/records did the city employ to ensure the 2,135,250 gallons per year was an accurate claim of the historical amount of annual water requested by the Hall's?
3. If St. Helena's water billing records for the Vineland Vista Mobile Home Park were used to determine the accuracy of the will serve letter request, how many years of water billing records were reviewed by the city before the will serve letter was signed?
4. What criteria/research/city records did the city use to rescind the 2016 will serve letter claiming the will serve letter had been based on the property owner's incorrect assumptions about existing water use at the park?

Thank you,

Tom and Margot Belt

## Cindy Tzaopoulos

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**From:** April Mitts  
**Sent:** Wednesday, December 15, 2021 2:33 PM  
**To:** Cindy Tzaopoulos  
**Subject:** FW: [External] Hall Water Settlement Expense

April Mitts  
Administrative Services Director  
1572 Railroad Avenue  
St. Helena, CA 94574  
707.968.2751  
amitts@cityofsthelena.org

-----Original Message-----

From: Alan Galbraith <agalbraith94574@gmail.com>  
Sent: Wednesday, December 15, 2021 2:33 PM  
To: Mark Prestwich <MPrestwich@cityofsthelena.org>; April Mitts <AMitts@cityofsthelena.org>  
Subject: [External] Hall Water Settlement Expense

Dear Mark and April:

We urge that the Staff memo supporting the Special Meeting on the Hall Water Settlement matter contains City management's strong recommendation that all expenses associated with the Settlement, including the City's own outside legal costs, be charged to the Water Enterprise.

As we have both previously expressed, these expenses were all incurred on behalf of the Water Enterprise, a point not subject to dispute. There is no arguable justification for charging these expenses to the General Fund. They belong to ratepayers, not taxpayers, in accordance with sound public policy and correlative accounting perspectives.

If City management has any doubt about the proper handling of the Hall Settlement expense, then we recommend that City management obtain the written opinion of a respected expert in government finance.

Respectfully,

Alan Galbraith  
Mark Smithers

Sent from my iPad

## Cindy Tzaopoulos

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**From:** Ester Akerslout <heliosascarta@gmail.com>  
**Sent:** Wednesday, December 15, 2021 5:01 PM  
**To:** Cindy Tzaopoulos  
**Subject:** [External] Hall Expansion Project

I am a resident of St. Helena for 26 years, and very concerned with our environment, especially the water.

Unfortunately, I was unable to attend the ZOOM meeting of the St. Helena City Council on December 14, 2021, in which the subject of Approving Settlement of Hall Vineland, LLC and Hall Vista, LLC, Incorporated in the State of Texas, and their expansion project was on the consent calendar, without public discussion.

It is my understanding that the Hall Project requires the following::

1. Water use of 2,135,250 gallons of St. Helena water per year. This is in addition to the 8 million gallons already guaranteed, according to the Staff Report.

In view of our recent drought, where reservoirs were at their lowest levels in many years, and St. Helena residents were severely restricted in water use, it appears to be extremely indulgent and unfeasible to provide this amount of water to the Hall Project or any other project proposed.

2. The provision of converting 14 trailer park homes into a plush resort of 44 bedrooms with plunge pools, does not fit with the requirement of government officials mandating hundreds of new affordable homes in St. Helena.

3. The use of City Facilities would be stretched severely to accommodate a project of this size.

Bill Dodd, California State Senator, has co-authored a bill, SB 13-Local agency services:Contracts: Counties of Napa and San Bernardino. This bill would authorize a Napa Commission (believed to be the Napa County Board of Supervisors) to extend services outside its jurisdictional boundaries and sphere of influence to specified parcels, subject to approval in which the Napa Commission determines extension of services.

4. In addition, the City of St. Helena and the County of Napa will receive no benefit in taxes or Hotel TOT. The Hall Project would be out of the jurisdiction of the City of St. Helena.

Bill Dodd, California State Senator, and the Napa County Board of Supervisors have received thousands of dollars in contributions for reelection campaigns from the Halls. One wonders if they have forgotten who they are working for. One hopes the members of the St. Helena City Council have not forgotten.

I have seen no notice in local newspapers regarding this Hall Project. The residents of St. Helena have a right to know the specifics of the Hall Project before it is approved.

Sincerely,

Ester Akerslout

**From:** [rickcrebs25@gmail.com](mailto:rickcrebs25@gmail.com)  
**To:** [Cindy Tzafopoulos](#)  
**Subject:** [External] Special City Council Meeting, January 20, 2021.  
**Date:** Saturday, December 18, 2021 3:28:13 PM

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RE: Agenda Item 5.2 regarding Hall Vineyard settlement.

Many spoke out at the December 14<sup>th</sup> CC meeting requesting this matter be held over until after the 1<sup>st</sup> of the year as many interested parties may be away for the holidays.

I agree, and request the matter be held over.

Rick Crebs



## Cindy Tzaopoulos

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**From:** Mark Smithers <msmithers@tfewines.com>  
**Sent:** Sunday, December 19, 2021 8:52 PM  
**To:** Cindy Tzaopoulos  
**Cc:** Geoff Ellsworth; Paul Dohring; Anna Chouteau; Lester Hardy; Eric Hall; Mark Prestwich  
**Subject:** [External] Public Comment December 20, 2021 Special Meeting - Hall Settlement

Cindy,

Please post the following for the Special Meeting agenda item noted:

Alan Galbraith and I early sent a communication to Mark Prestwich and April Mitts seeking a clear statement from our City recommending in no uncertain terms that the Hall settlement expense be fully charged to the Water Enterprise. The outside attorney's Response Nine states: "The City may pay Hall from its General Fund or from the Water Enterprise for the reasons stated above."

Reading and rereading the referenced "above," I can't find anything that I identify as a suggested "reason" the expense in whole or in part is chargeable to the General Fund. To the contrary, Response Eight states the City's legal expense has been charged to the Water Enterprise. This was, of course, the proper way to book this substantial charge.

It's quite disappointing City management, with our email in hand, did not address our position that the expenses belong solely to the Water Enterprise and instead ducking the issue in favor of an unsupported/unreasoned position from the City's outside attorney.

I just hope City management at the special meeting will strongly advise the City Council that the expenses belong strictly and solely in the Water Enterprise or at least City Council on its own will recognize the proper funding of these expenses are through the water enterprise.

With hope,

Mark Smithers  
 CPA with municipal government accounting experience

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

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## Cindy Tzaopoulos

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**From:** Alan Galbraith <agalbraith94574@gmail.com>  
**Sent:** Sunday, December 19, 2021 8:24 PM  
**To:** Cindy Tzaopoulos  
**Subject:** Fwd: [External] Further Public Comment (November 20 Special Meeting)

Please change my public comment or add an addendum changing the date from November 20 to December 20. Time moves too quickly. Alan  
 Sent from my iPad

Begin forwarded message:

**From:** Alan Galbraith <agalbraith94574@gmail.com>  
**Date:** December 19, 2021 at 8:04:40 PM PST  
**To:** Cindy Tzaopoulos <ctzaopoulos@cityofsthelena.org>  
**Subject:** Further Public Comment (November 20 Special Meeting)

In a joint email Mr. Smithers and I sought a clear statement from City management recommending in no uncertain terms that the Hall settlement expense be fully charged to the Water Enterprise — and not the General Fund. The outside attorney's Response Nine states: "The City may pay Hall from its General Fund or from the Water Enterprise for the reasons stated above."

I have read and reread the "above" and am not able to identify any suggestion much less "reason" that the expense in whole or in part is chargeable to the General Fund. To the contrary, Response Eight states that the City's legal expense has been charged to the Water Enterprise. This was, of course, the only proper way to book this substantial (though not stated — but my speculation approaching \$500,000) charge.

It is deeply disappoint that City management, with our informed email in hand, did not address our position that the expenses belong solely to the Water Enterprise — and instead ducking the issue in favor of an unsupported/unreasoned position from the City's outside attorney.

Hope springs eternal: I hope that the City management at the special meeting will strongly advise the City Council that the expense belong strictly and solely in the Water Enterprise.

Respectfully,

Alan Galbraith  
 Mayor, 2014-2018

Sent from my iPad



To: Mayor Geoff Ellsworth & Members of the St. Helena City Council

Ref: Special Meeting Agenda Item: 5.2

Date: 12/20/2021

Greetings and Happy Holidays,

First of all, many thanks to Mayor Ellsworth and the city council, for listening to the concerns of the community and postponing this matter so that the citizens of St. Helena have time to weigh-in. It was a refreshing change after the County Board of Supervisors meeting that same day where the 3 of the 5 supervisors, ignoring the scientists and the community, voted in favor of Walt Ranch, another controversial project being pushed through local governments by Texas residents, Craig and Kathryn Hall.

I also appreciate the time Vice Mayor Dohring and Council Member Hardy invested in this agreement, hundreds of hours, just so the members of our community would not be *completely* hosed by the financial aspirations of these very deep pockets. Unfortunately, it seems we are now bearing the burden of some very poor decisions made by previous administrations.

Given that the projects in question are outside city limits, where the County Board of Supervisors is responsible for any land use issues, here are my questions as related to the settlement agreement:

- 1) **DROUGHT CONSIDERATIONS:** According to the Supplemental Report accompanying the agenda item, "As discussed above, the annual limitation is based on the City's Water Neutral Policy for **residential** project as existed at the Property." Given that St. Helena previously delivered water for *residential* use at Vineland Vista, will the property be subject to the same onerous water use restrictions (43%) imposed on the residents of St. Helena during the drought or will they enjoy the commercial use restrictions of only 10%? This isn't clear in the settlement agreement. If it is in fact, the Vineland Vista Property that has been divided into at least 15 Vineland Villa LLC's, would they be considered commercial or residential customers for the purposes of future drought restrictions?
- 2) **WINERY USE:** Part of this agreement commits 8 million gallons of St. Helena water to an adjacent parcel also owned by the Halls, the Hall winery. What is the historic use of St. Helena Water at Hall Winery? I.e. Do we know how much of St. Helena's water has been used at the Hall winery annually in the past? Is it used for winery operations or is it used to water vineyards? Does the winery pay the same water rates as St. Helena resident water customers? Is the Hall winery subject to the same water restrictions as the *residents* of St. Helena or is it afforded the "commercial advantage" when it comes to restrictions--10% restriction for commercial users vs 43% restriction for residential users? Does the City of St. Helena derive any financial benefit in terms of sales tax revenue from commercial operations at the Hall winery?

- 3) **WATER USE ON VACANT PROPERTY:** From the Staff report: “While the Property has been vacant in recent years, Hall has continued to draw and pay for City water, and its account has remained active.” So what have the Halls been using St. Helena water for since the property has been vacant and how much have they been using? Why the is amount of water consumed by out-of-city-limit water users considered “confidential?” How can the residents of St. Helena understand how our water is being used and make informed decisions without this very basic information?
- 4) **TOT or TRANSIENT OCCUPANCY TAX:** A number of people in the community still think this project will generate TOT for St. Helena. Assuming the Hall’s do build a resort on the property, which was their original intention, can you please explain who will benefit from any TOT collected from the guests? Will any of that money go to St. Helena? The collection of any TOT at all is assuming they don’t sell off the individual units as LLC’s (*ala* Pacaso). If that is the case, would any entity in Napa County benefit from TOT for this project?
- 5) **CENSURESHIP:** I find Item 7 in the Discussion rather disturbing, where the city is withdrawing its Sept. 25, 2018 letter to the county “by which the city offered comments with respect to the land use issues to be considered by the county in consideration of the project.” Does this mean the city won’t be able to comment on *future* projects concerning the Vineland Vista property that may be brought before the County Board of Supervisors? It is very suspicious to me that the project as presented originally seems to have been withdrawn from the county. So, not only do we not know what is actually planned for the site, (other than they get 2,135,250 gallons of St. Helena water per year. Keep in mind that the Hall’s have contributed \$54,300 to Napa County Supervisors Alfredo Pedroza, the current board chair, Ryan Gregory, and Belia Ramos, [which seems to have given them carte blanch when it some to these three supervisors.](#)
- 6) **SB – 13:** Though many of the Hall’s *business* enterprises are located in Napa County, Craig and Kathryn Hall reside in Texas, and all of their various corporate entities are incorporated in Texas. Never-the-less, they make significant campaign contributions to *our* elected officials, most notably Napa County Supervisors Alfredo Pedroza (\$42,300), Ryan Gregory (\$10,000), and Belia Ramos \$2,000), *and* our State Senator Bill Dodd (\$17,500).

Dodd recently co-authored California State Senate Bill 13: Local agency services: contracts: Counties of Napa and San Bernardino. However, this bill specifically calls out St. Helena *and* the Hall parcels mentioned in the settlement agreement, Napa County, Assessor’s Parcel Numbers 027-130-006 and 027-130-005, and to 401 St. Helena Highway S, St. Helena, Napa County, Assessor’s Parcel Numbers 027-120-052, 027-120-061, and 027-120-062. From the bill:

*The bill would require the Napa commission to include information on its decision to approve, deny, or approve with conditions any authorization for the **City of St. Helena** to provide new or extended services outside its jurisdictional boundary and sphere of influence. The bill would also authorize the Napa commission, until January*

*1, 2026, as part of the pilot program, to authorize the **City of St. Helena** to provide new or extended services outside its jurisdictional boundary and sphere of influence to specified property parcels, subject to approval at a noticed public hearing in which the Napa commission makes all of specified determinations concerning the extension of services.*

*This bill would make legislative findings and declarations as to the necessity of a special statute for the Counties of Napa and San Bernardino.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

So my question is: was SB 13 written by Bill Dodd on behalf of the City of St. Helena or on behalf of Craig & Kathryn Hall? And what are the implications of this bill on the “delivery of services” to the Hall properties as per the settlement agreement and the potential impacts or benefits to the citizens of St. Helena? Did the “urgency” expressed by Dodd in SB-13 have anything to do with the settlement agreement or impending lawsuit?

Thank you. I hope you will be able to address these issues this evening so that we can all be more informed.

Elaine de Man



**Cindy Tzaopoulos**

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**From:** Stuart Kresge <stuartkresge@gmail.com>  
**Sent:** Monday, December 20, 2021 3:27 PM  
**To:** Public Comment  
**Cc:** Cindy Tzaopoulos  
**Subject:** [External] Special City Council Meeting, December 20, 2021

Please add to Public Comments:

RE: Agenda Item 5.2 regarding Hall Vineyard settlement

In regards to The City of Saint Helena Special City Council Meeting being held on December 20th at 6 PM PST, I would like to add my name to the many others who have expressed concern over the settlement of this lawsuit and also request that the council hold this matter over till after the 1st of the year. Many of those affected and who could provide additional relevant information may be out of town for the holidays. I feel and know that many others agree that to settle this law suit with the limited information that has been provided would be a huge disservice and not in the best interest of the people of The City of St. Helena.

Please do the right thing for your constituents and hold this matter over till after the first of the year.

Respectfully,

Stuart Kresge