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Ordinance

Inn at the Abbey Use Permit Major Modification (P19-00038-MOD) and  
Development Agreement  
Planning Commission Hearing Date March 4, 2026

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE NAPA COUNTY BOARD OF SUPERVISORS,  
STATE OF CALIFORNIA, APPROVING THE DEVELOPMENT  
AGREEMENT BETWEEN NAPA COUNTY AND JACKSON FAMILY  
INVESTMENTS III, LLC**

**WHEREAS**, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Sections 65864-65869.5 (the “Development Agreement Statute”), authorizing municipalities to enter into development agreements in connection with the development of real property within their jurisdiction by qualified applicants with a requisite legal or equitable interest in the real property which is the subject of such development agreement; and

**WHEREAS**, the purpose of the Development Agreement Statute is to authorize municipalities, in their discretion, to establish certain development rights in real property for a period of years regardless of intervening changes in land use regulations; and

**WHEREAS**, Jackson Family Investments III, LLC, a Delaware limited liability company (“JFI” or “Landowner”) holds legal or equitable interests in the approximately 15.13-acres of real property in Napa County located at Lodi Lane along SR 29, approximately 0.5 mile north of the city limits of St. Helena, in unincorporated Napa County, California. The Project is comprised of six parcels, designated by Assessor’s Parcel Numbers 022-130-027, 022-130-028, 022-130-023, 022-130-024, 022-220-028, and 022-220-029 (the “Property”), and is more particularly described in the legal description shown on Exhibit A (North Property) and Exhibit B (South Property) and depicted on the site plan shown on Exhibit C (Site Plan) to the form of Development Agreement attached to this Ordinance as Attachment 1; and

**WHEREAS**, JFI has proposed Use Permit Major Modification No. P19-00038-MOD to modify Freemark Abbey’s existing use permits to accommodate development of a boutique hotel within the existing Freemark Abbey Winery complex to allow: demolition of three buildings currently used as a restaurant, retail wine shop, art gallery, and a five-room motel; construction of a 79 room hotel split between the North Property (50 rooms) and the South Property (29 rooms); minor interior renovations to the existing “Stone Building” to serve as the hotel’s main lobby, meeting space, and/or dining; construction of spa, retail operations, circulation, courtyards, landscaped areas, underground parking garage, a freestanding fitness studio, support kitchen and back-of-house uses. All of the improvements referenced herein are referred to as the “Project;” and

**WHEREAS**, on May 21, 2024, the Board of Supervisors approved a Term Sheet between the County and Landowner, setting forth material terms upon which the County and Landowner would negotiate and enter into a development agreement; and

**WHEREAS**, the County has determined that the Project is a development for which a development agreement is appropriate. The Development Agreement will eliminate uncertainty in the County's land use planning process and secure orderly development of the Project, assure progressive and timely installation of necessary improvements and mitigation appropriate to each stage of development of the Project, and otherwise achieve the goals and purposes for which the Development Agreement Statute was enacted. The County desires to provide certainty through the Development Agreement with respect to specific development criteria that will be applicable to the Property in accordance with sound planning principles. The Development Agreement, if approved, would guide development of a boutique hotel within the existing Freemark Abbey

Winery Complex development area, and define the rights and obligations of County and the Landowner; and

**WHEREAS**, after conducting a duly noticed public hearing in accordance with the Development Agreement Statute, the Napa County Planning Commission by a vote of \_\_\_\_\_, on March 4, 2026, recommended that the Board adopt the Development Agreement; and

**WHEREAS**, thereafter on April 28, 2026, the Board held a duly noticed public hearing on the Development Agreement pursuant to the Development Agreement Statute.

**NOW, THEREFORE**, the Napa County Board of Supervisors, State of California, ordains as follows:

**SECTION 1.** The above recitals are true and correct.

**SECTION 2.** The Board finds that pursuant to California Government Code Section 65867.5, the Development Agreement is consistent with the County's Zoning Ordinance and the following goals, policies, action items and objectives and programs of the County's General Plan as set forth in general plan analysis in Exhibit D (General Plan Consistency Analysis) attached to the form of Development Agreement attached to this Ordinance as Attachment 1.

**SECTION 3.** The Board finds that the Project approved by the Development Agreement provides substantial public benefits to persons residing or owning property outside the boundary of the Property beyond the exactions for public benefits required in the normal development review process under federal, state or local law, as described in the foregoing recitals and in the Development Agreement. The Board further finds that the Development Agreement is in compliance with Government Code Section 65867.5 and therefore may be approved.

**SECTION 4.** The Development Agreement, substantially in the form attached hereto as Attachment 1 and incorporated herein by reference, between the County and Jackson Family Investments III, LLC, a Delaware limited liability company, is hereby approved. The Board authorizes and directs the Chair to execute the Development Agreement, subject to any further

modifications that the Chief Executive Officer determines, in consultation with the County Counsel, are in the best interest of the County, do not materially decrease the benefits to or materially increase the obligations or liabilities of the County, and are in compliance with all applicable laws.

**SECTION 5.** The Project Approval or Subsequent Approval set forth in the Development Agreement shall prevail in the event of any conflict or inconsistency with the County Subdivision Code.

**SECTION 6.** All actions taken by County officials in preparing and submitted the Development Agreement to the Board for review and consideration are hereby ratified and confirmed, and the Board further authorizes the Executive Officer and any other appropriate officers, agents or employees of the County to take any and all steps as they or any of them deems necessary or appropriate, in consultation with the County Counsel, in order to consummate the matters set forth in the Development Agreement.

**SECTION 7.** Pursuant to Government Code § 65868.5, the Clerk of the Board of Supervisors shall record with the County Recorder of the County of Napa a copy of the Development Agreement within ten (10) days after the Development Agreement is fully executed.

**SECTION 8.** This ordinance shall be effective thirty (30) days from and after the date of its passage.

**SECTION 9.** A summary of this ordinance shall be published at least once 5 days before adoption and at least once before the expiration of 15 days after its passage in the Napa Valley Register, a newspaper of general circulation published in Napa County, together with the names of members voting for and against the same.

The foregoing Ordinance was recommended for adoption and public hearing held thereon before the Napa County Planning Commission at a regular meeting of the Commission on the 4<sup>th</sup> day of March, 2026. The Planning Commission’s recommendation was considered by the Board of Supervisors, and this Ordinance was introduced and passed at a regular meeting of the Napa County Board of Supervisors, State of California, held on the \_\_\_\_ day of \_\_\_\_\_, 2026, by the following vote:

AYES: SUPERVISORS \_\_\_\_\_  
 \_\_\_\_\_  
 NOES: SUPERVISORS \_\_\_\_\_  
 ABSTAIN: SUPERVISORS \_\_\_\_\_  
 ABSENT: SUPERVISORS \_\_\_\_\_

NAPA COUNTY, a political subdivision of the State of California

\_\_\_\_\_  
 AMBER MANFREE, Chair of the Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: _____ Deputy County Counsel</p> <p>Date: _____</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____ Processed By: _____ Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
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I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON \_\_\_\_\_.

\_\_\_\_\_, DEPUTY  
 NEHA HOSKINS, CLERK OF THE BOARD

Attachment No. 1- Development Agreement  
 Exhibits A and B- Legal Descriptions  
 Exhibit C- Site Plan  
 Exhibit D- General Plan Consistency Analysis

# “Attachment 1”

Development Agreement

OFFICIAL BUSINESS

Fee Exempt per Government Code Section 27383

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Napa County  
1195 Third Street, Suite 310  
Napa, California 94559

Attention: Clerk of the Board of Supervisors

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(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

**DEVELOPMENT AGREEMENT**

**BY AND BETWEEN**

**NAPA COUNTY**

**AND**

**JACKSON FAMILY INVESTMENTS III, LLC**

**EFFECTIVE DATE** \_\_\_\_\_

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**DEVELOPMENT AGREEMENT  
FOR THE INN AT THE ABBEY PROJECT**

This Development Agreement (the “**Agreement**”) is entered into on this \_\_\_ day of \_\_\_\_\_, 2026, by and between Napa County, a political subdivision of the State of California (the “**County**”), Jackson Family Investments III, LLC, a Delaware limited liability company (“**Owner**”). The County and Owner are collectively referred to in this Agreement as the “**Parties**” and singularly as a “**Party**.”

**RECITALS**

**A. Authorization.** To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the legislature of California adopted Government Code Sections 65864, *et seq.* (the “**Development Agreement Statute**”), which authorizes the County and any person having a legal or equitable interest in real property to enter into a development agreement, establishing certain development rights in the property that is the subject of the development project application. The purpose of the Development Agreement Statute is to authorize local agencies, in their discretion, to establish certain development rights regardless of intervening changes in land use regulations.

**B. Property.** Owner holds legal or equitable interests in real property in Napa County, commonly referred to as Freemark Abbey, generally located at 3010-3022 N. St. Helena Highway, St. Helena, California (Napa County APNs 022-130-027, 022-130-028, 022-130-023, and 022-130-024), as more particularly described in the legal description attached as Exhibit A (the “**North Property**”) and depicted on the site plan attached as Exhibit C (“**Site Plan**”). Owner also owns legal or equitable interests in real property in Napa County generally located at 1157-1189 Lodi Lane, St. Helena, California (Napa County APNs 022-220-028 and 022-220-029), as more particularly described in the legal description attached as Exhibit B (the “**South Property**”) and depicted on the Site Plan attached as Exhibit C. The Owner has owned the North Property since 2006 and the South Property since 2013. The North Property historically was developed with agricultural, winery, restaurant, and various commercial uses, while the South Property historically was developed with residential, hotel, and commercial uses. The North Property and the South Property include six parcels that shall be collectively referred to herein as the “**Property**.”

**C. Project Description.** On February 15, 2019, Owner submitted to County an application, with subsequent revisions, for a conditional use permit major modification including plans attached hereto as Exhibit D (the “**Development Plan**”) to allow: demolition of three buildings currently used as a restaurant, retail wine shop, art gallery, and a five-room motel; construction of a 79 room hotel split between the North Property (50 rooms) and the South Property (29 rooms); minor interior renovations to the existing “Stone Building” to serve as the hotel’s main lobby, meeting space, and/or dining; construction of spa, retail operations, circulation, courtyards, landscaped areas, underground parking garage, a freestanding fitness studio, support kitchen and back-of-house uses. The proposed redevelopment and improvements identified in the conditional use permit major modification application and the Development Plan as authorized by this Agreement shall constitute the “**Project**.”

**D. Permit History.** In July 1965, the County approved conditional use permit 76-65 to re-establish the pre-Prohibition Freemark Abbey winery and to establish a candle factory with commercial retail uses on the North Property. From 1965 through 1999, the County approved a series of conditional use permits for the North Property allowing two restaurants, antique sales, gourmet shops, a cocktail lounge, wine tasting, and a commercial brewery with utilities serving these uses. On the South Property, the County approved conditional use permit 96511-UP in 1998 establishing a five-room motel. The County later approved conditional use permit P08-00133 allowing retail space, art gallery, and wine tasting uses on the South Property with a public water system serving these uses. In June 2008, the County adopted an update to its General Plan, which included Agricultural Preservation and Land Use Element Policy AG/LU-45. The General Plan identified portions of the Property on Figure AG/LU-2 that fall within a small number of uniquely-situated properties the development of which will have a minimal impact on any adjacent agriculture or open space activities or the agricultural and open space character of the surrounding area. As such, the development on the Property contemplated by this Agreement constitutes a conforming commercial use that is not detrimental to Agriculture, Watershed and Open Space policies of the General Plan. In August 2013, the County approved use permit modification P12-00359-VMM allowing a remodel of the North Property’s “Stone Building” and acknowledging the established/vested parking areas on agriculturally zoned lands serving commercial uses on the commercially zoned portions of the North Property.

**E. Board Direction on Terms of Agreement.** On December 5, 2023 and May 21, 2024, the Board held duly-noticed public meetings and took public testimony regarding its intent to negotiate terms and conditions of a proposed development agreement with the Owner. After considering public and staff testimony, the Board provided direction to County staff to negotiate a draft development agreement with Owner for the Board’s future consideration based on the terms and conditions set forth below, which are consistent with the terms herein. Those terms included that the Agreement shall provide for:

- (i) a term of 20 years;
- (ii) redevelopment of the Property with a 79-room hotel, retail and hotel lounge space, spa, pool, underground parking, fitness room, back-of-house uses, and on-site employee housing;
- (iii) continued use of the amount of established/vested parking on lands zoned Agricultural Watershed on the North Property and to serve the South Property;
- (iv) continued use of the South Property’s lands zoned Agricultural Watershed with historic/vested wastewater treatment system area to serving employee housing and commercial uses;
- (v) a process for future approvals that are necessary or advisable for the implementation and development of the Project (“**Subsequent Approvals**”) as later defined in this Agreement);
- (vi) that such Subsequent Approvals, once approved, are vested under this Agreement during the term thereof and the County shall not use the Subsequent Approval process

to reduce the height, density, type of permitted uses, number of rooms, and/or square footage of the hotel, except any actions by the County that are necessary and appropriate to protect the health or safety of the public;

- (vii) an amendment process that allows certain types of minor amendments to the Project to be approved administratively by the Napa County Director of Planning, Building & Environmental Services (“**Director**”), without public notice or a hearing;
- (viii) that all applications for development of the Project, including Subsequent Approvals, be submitted to the Director, who will review and respond to said applications in the manner and within the timeframes contained in this Agreement;
- (ix) that all applications for permits (including but not limited to those listed in Section 8.1.1 of this Agreement) that substantially conform to the Development Plan and deemed complete be permitted and require no further discretionary review and that any applications for permits that do not substantially conform to the Development Plan be first reviewed for conformance as a minor amendment to the Development Plan; and
- (x) other similar terms for the completion of this Agreement.

**F. Public Benefits Provided Pursuant to the Agreement.** The Board has determined that the development of the Project will afford the County and its citizens and the surrounding region with the primary benefits set forth in Section 11 of this Agreement (collectively, the “**Public Benefits**”).

**G. Project Approvals.** Concurrent with approval of this Agreement, the County has or will take action to review and approve this Agreement, the Exhibits attached thereto, a conditional use permit major modification incorporating the Development Plan and CEQA determination (collectively, the “**Existing Approvals**”). The Existing Approvals and such Subsequent Approvals are collectively referred to in this Development Agreement as the “**Project Approvals**,” which are necessary for the development, use, and operation of the Project, and such Project Approvals are the subject of this Agreement.

**H. Environmental Review.** On or about April 15, 2019, the County determined the Project was subject to environmental review under CEQA. On July 21, 2020, County published a Notice of Preparation (“**NOP**”) to inform agencies and the public that an environmental impact report would be being prepared for the Project, and the NOP provided a comment period of July 23, 2020 through August 24, 2020. At a duly-noticed public meeting, the Planning Commission held a scoping session on August 5, 2020 to accept testimony on the NOP and the appropriate scope of the Project’s environmental impact report from the public, staff, and Planning Commissioners. On April 10, 2025, the County published the Draft Environmental Impact Report (State Clearing House #2020079021) for the Project (“**DEIR**”) for a 45-day public review period. The substantive terms and public benefits of this Agreement were included and analyzed in the DEIR. In a duly-noticed public meeting on May 7, 2025, the Planning Commission conducted a public hearing to accept testimony from the public, staff and Commissioners on the DEIR. Pursuant to CEQA, the County has prepared a Final Environmental Impact Report (“**FEIR**”) for

the Board’s consideration and certification. The DEIR and FEIR are collectively referred to as the “**EIR**”. The EIR is included in the Project Approvals.

**I. Planning Commission Public Hearing.** On March 4, 2026, at a duly-noticed public hearing, the Planning Commission, serving as the County’s planning agency for purposes of development agreement review pursuant to Government Code Section 65867, considered the Project, this Agreement and the EIR prepared pursuant to CEQA. Thereafter, the Planning Commission unanimously recommended that the Board grant the Project Approvals by certifying the EIR; approving Use Permit Major Modification No. P19-00038-MOD to approve the Development Plan and associated documents; and adopt the proposed Enacting Ordinance approving this Agreement.

**J. Board Action.** On April \_\_, 2026, , the Board held a duly noticed public hearing on this Agreement and, after independent review and consideration, including the Planning Commission’s recommendations related thereto, approved this Agreement pursuant to Ordinance No. \_\_ (the “**Enacting Ordinance**”), making the same findings and determinations as those made by the Planning Commission through its own independent conclusion and this Agreement.

**K. Appropriateness of the Agreement.** The Parties have determined a development agreement is appropriate for this Project. A development agreement will provide the County with specified public benefits, eliminate uncertainty in the County’s land use planning process, secure orderly development of the Project consistent with the Project Approvals, assure progressive and timely installation of necessary improvements, and otherwise achieve the goals and purposes for which the Development Agreement Statute was enacted. The County desires to provide certainty through this Agreement with respect to specific development criteria that will be applicable to the Property in accordance with sound planning principles. This Agreement defines the rights and obligations of the Parties.

NOW, THEREFORE, in consideration of the mutual promises, conditions, and covenants hereinafter set forth, the Parties agree as follows:

## **AGREEMENT**

**1. Incorporation of Exhibits and Recitals.** The Preamble, Recitals, Exhibits, and all defined terms set forth therein are incorporated into this Agreement as if set forth herein in full.

**2. Definitions.** Each reference in this Agreement to any of the following terms shall have the meaning set forth below for each such term. Certain other terms shall have the meaning set forth for such term in this Agreement.

**2.1 Adoption Date.** On April \_\_, 2026, the date the Board approved the Project and adopted this Agreement.

**2.2 Agreement. Defined in the Preamble.**

**2.3 Annual Review Date. Defined in Section 17.1.**

**2.4 Applicable Law. Defined in Section 7.**

**2.5 Approvals.** All amendments to County Laws and any and all permits or approvals (including conditions of approval imposed in connection therewith) of any kind or character granted or issued under the County Laws to confer the lawful right on Owner to develop, use, and operate the Project in accordance with this Agreement, including, but not limited to, the Project Approvals, any Subsequent Approvals, and other permits and approvals that are applicable to the Project in accordance with this Agreement.

**2.6 Board.** The Napa County Board of Supervisors.

**2.7 CEQA.** The California Environmental Quality Act (Publ. Resources Code, §§ 21000 *et seq.*) the Guidelines thereunder (Cal. Code Regs., tit. 14, §§ 15000 *et seq.*) and the County's Local Guidelines for Implementing CEQA.

**2.8 Certificate of Non-Compliance.** Defined in Section 17.4.

**2.9 Chosen Law.** Defined in Section 7.1.5.

**2.10 Claims.** Defined in Section 18.

**2.11 Commission.** The Napa County Planning Commission, serving as the County's planning agency for purposes of development agreement review pursuant to Government Code Section 65867.

**2.12 Complaining Party.** The Party claiming another Party is in default.

**2.13 Conforming Modifications.** "Conforming Modification" means a change to the Project or any Project Approval or Subsequent Approval that remains in substantial conformance with the Development Plan and does not increase the total approved square footage, height, density, or number of rooms. Conforming Modifications may include, but are not limited to, interior layout changes (e.g., reconfiguration of internal walls, relocation of non-structural elements), architectural refinements, relocation of doors or windows within the same façade, or other design or construction changes that do not alter the external building envelope or materially affect Project functionality or environmental impacts. Conforming Modifications shall be processed ministerially and shall not require a Major or Minor Amendment.

**2.14 Construction Codes.** Defined in Section 7.1.4.

**2.15 County.** Napa County, a political subdivision of the State of California.

**2.16 County Law.** The ordinances, resolutions, codes, rules, regulations, and official policies of the County, governing the permitted uses, density, parking requirements, design, operations, improvement and construction standards and specifications applicable to the development, use, or operation of the Property. Specifically, but without limiting the generality of the foregoing, County Laws shall include the County's General Plan, County Code, zoning ordinance, and subdivision regulations.

**2.17 Default.** Defined in Section 19.

- 2.18 Development Agreement Statute.** Defined in Recital A.
- 2.19 Director.** The County’s Director of Planning, Building, and Environmental Services or designee.
- 2.20 Effective Date.** The date this Agreement is entered into as set forth on the cover page of this Agreement.
- 2.21 Existing Approvals.** Described in Recital G.
- 2.22 Existing County Laws.** Defined in Section 7.1.3.
- 2.23 Housing Fees.** “Housing Fees” means impact fees charged by the County to address affordable housing needs pursuant to Napa County Code Chapter 18.107 or any successor provision.
- 2.24 Major and Minor Amendments.** Defined in Sections 13.3 and 13.4, respectively.
- 2.25 Mortgage.** A mortgage or deed of trust, or other transaction, in which the Property, or a portion thereof or an interest therein, or any improvements thereon, is conveyed or pledged as security, contracted in good faith and for fair value, or a sale and leaseback arrangement in which the Property, or a portion thereof or an interest therein, or improvements thereon, is sold and leased back concurrently therewith.
- 2.26 Mortgagee.** The holder of the beneficial interest under a Mortgage, or the owner of the Property, or interest therein, under a Mortgage.
- 2.27 Necessary Subsequent County Laws.** Defined in Section 7.1.4.
- 2.28 Owner.** Defined in the Preamble.
- 2.29 Party; Parties.** Defined in the Preamble.
- 2.30 Party in Default.** The Party alleged to be in Default.
- 2.31 Permitted Delay.** Defined in Section 23.
- 2.32 Prevailing Party.** Defined in Section 20.1.
- 2.33 Project.** Described in Recital C.
- 2.34 Project Approvals.** Described in Recital G.
- 2.35 Property.** Defined in Recital B.
- 2.36 Public Benefits.** Defined in Recital F.
- 2.37 Road & Street Standards.** Defined in Section 8.3.1.

- 2.38 **Subsequent Approvals.** Defined in Section 8.1.1.
- 2.39 **Subsequent County Laws.** Defined in Section 7.1.5.
- 2.40 **Term.** Defined in Section 6.3.
- 2.41 **Transferee.** Defined in Section 14.1.
- 2.42 **Vested Rights.** Defined in Section 9.1.

3. **Description of Property.** The Property that is the subject of this Agreement is described in Exhibits A and B and depicted in Exhibit C.

4. **Interest of Owner.** Owner represents and warrants that it presently has a legal or equitable interest in the Property sufficient to satisfy the requirement of California Government Code Section 65865.

5. **Relationship of County and Owner.** The Parties acknowledge that the Project is a private development, that neither Party is acting as the agent of the other in any respect hereunder, and that each Party is a distinct contracting entity with respect to the terms, covenants, and conditions contained in this Agreement. None of the terms or provisions of this Agreement shall be deemed to create a partnership between the Parties in the businesses of Owner, the affairs of the County, or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. County and Owner renounce the existence of any form of joint venture or partnership between them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making County and Owner joint venturers or partners.

6. **Execution and Recording; Effective Date; Term.**

6.1 **Execution and Recording.** The Parties shall execute and acknowledge this Agreement within forty-five (45) days after the date that the Enacting Ordinance is adopted. The Parties acknowledge that Section 65868.5 of the Development Agreement Statute requires that this Agreement be recorded with the County Recorder no later than ten (10) days after the County enters into this Agreement, and that the burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties. Not later than ten (10) days after the Parties execute and acknowledge this Agreement, the County Clerk shall cause the Agreement to be recorded in the Official Records of Napa County, State of California.

6.2 **Effective Date.** The Effective Date of this Agreement shall be the later of (a) the date that is thirty (30) days after the date that the Enacting Ordinance is adopted, or (b) the date this Agreement is executed by County. The Effective Date is inserted at the beginning of this Agreement. This Agreement shall not become effective and neither Party shall have any rights or obligations hereunder until the Effective Date.

**6.3 Term.** The term of this Agreement (the “Term”) shall commence on the Effective Date and continue for twenty (20) years, unless said Term is terminated, modified, or extended pursuant to the terms of this Agreement.

**6.4 Extension of Term Due to Litigation.** In the event that litigation is filed by a third party (i.e. an entity other than a Party to this Agreement), or by any Party hereto, that seeks to invalidate this Agreement or any of the Approvals, the Term shall be extended for a period of time equal to the length of time from the date a summons and complaint and/or petition are first served on the defendant(s)/respondent(s) until the date that the resolution of the litigation is final and not subject to appeal.

**6.5 Extension of Approvals.** Upon the granting of any Approval, the term of such Approval shall be extended automatically through the Term of this Agreement, notwithstanding any other County Law.

**6.6 Rights and Obligations upon Expiration of the Term or Termination.** Upon termination of this Agreement, all of the rights, duties, and obligations of the Parties shall terminate and be of no further force and effect, except as otherwise expressly set forth in Section 21 or as may be required by law. Termination shall not affect any pre-existing rights of Owner, including without limitation those arising from any previously granted Approval, including but not limited to the Project Approvals described in Recital G (with the exception of this Agreement), for development of all or any portion of the Property, including, without limitation, Owner’s right to complete and/or occupy any building or other improvement authorized by such Approval, provided that any such building or improvement is completed in accordance with all previously granted Approvals in effect at the time of such termination. Notwithstanding the foregoing, Owner shall have the right, but not the obligation, to develop the Project (or portions thereof) as contemplated under this Agreement.

## **7. Applicable Law.**

**7.1 Applicable Law.** As used in this Agreement, “Applicable Law” shall exclusively mean all of the following:

**7.1.1** The Project Approvals, including without limitation, this Agreement, the Development Plan attached as Exhibit D, conditional use permit major modification application, as amended, all of which establish the permitted uses, density, maximum height and size of buildings and other structures, number of rooms, setbacks, parking requirements, and other standards and conditions applicable to the Project.

**7.1.2** Subsequent Approvals, when granted, provided such Subsequent Approvals are processed and approved pursuant to Existing County Laws.

**7.1.3** Existing County Laws, which are the County Laws in effect as of the Adoption Date, as amended by the Project Approvals. For the purposes of this Agreement, Existing County Laws shall mean and include the County rules, regulations, ordinances, policies, standards, specifications, minute orders, motions, agreements, practices and standard operating procedures, taxes, and impact fees, including without limitation, those set forth in the County’s General Plan, the Napa County Code all of which are existing and in effect on the Adoption Date,

and all other County Laws that relate to or specify the permitted uses of land or improvements, the cost of taxes and impact fees, and the density or intensity of use, building area, setbacks, parking requirements and similar development standards that are existing and in effect on the Adoption Date. Any County Law adopted after the Adoption Date shall be considered either a “**Necessary Subsequent County Law**” or “**Subsequent County Law**.”

**7.1.4** Necessary Subsequent County Laws, which are those Subsequent County Laws adopted after the Adoption Date that are generally applicable to a category of development, use, or operation of one or more kinds, wherever the same may be located in the County and that:

- a. are necessary to protect against threatened or actual serious physical health or safety risks to the public, in which case County shall treat Owner in a uniform, equitable, and proportionate manner as all other properties, public and private, which are impacted by said risks; or
- b. are mandated and required by changes in state or federal law, which shall include, but not be limited to, changes to the California Building Code and other State-adopted construction, fire and other codes applicable to improvements, structures and development, and the applicable version or revision of said codes by local County action (collectively referred to as “**Construction Codes**”) in place at that time and date that building plans subject to such Construction Codes are submitted by Owner to County for a Subsequent Approval, provided that such Construction Codes have been adopted by County as generally applicable and in effect on a County-wide basis and that County agrees, to the extent possible, that such Subsequent County Laws shall be implemented in a manner that does not conflict with Owner’s Vested Rights.
- c. Notwithstanding the foregoing, any County Laws which only apply to, meaningfully impact, or uniquely and disproportionately impact the Project or Property (whether explicitly, or as a practical matter) shall not be considered a Necessary Subsequent County Law.

**7.1.5** Subsequent County Laws, which are those County Laws adopted after the Adoption Date that Owner elects to be subject to pursuant to this Agreement. Once Owner elects to be subject to such a Subsequent County Law (“**Chosen Law**”), such Chosen Law shall become part of the Applicable Law, and Owner shall not be able to later decide otherwise, although Owner shall be able to elect to be subject to a Subsequent County Laws that changes the earlier Chosen Law that Owner elected to be subject to. County shall not, without Owner’s written consent, apply any Subsequent County Law that would conflict with or impede Owner’s Vested Rights or otherwise conflict with this Agreement or Existing County Laws except as provided in Subsections 7.1.4 (a) or 7.1.4 (b).

**7.2 Hierarchy of Applicable Laws.** In the event of any conflict between Subsections 7.1.1 through 7.1.5, the hierarchical order of authority shall be Subsection 7.1.1 first, then Subsection 7.1.2, then Subsection 7.1.3, then Subsection 7.1.4, and then Subsection 7.1.5.

**7.3 Conflicting Actions.** Without limiting the generality of Sections 7.1.1 through 7.1.5 above, any action or proceeding of the County (whether enacted administratively, or by a commission, a board, the legislative body, or the electorate) undertaken without the consent of Owner that has any of the following effects on the Project shall be in conflict with the Vested Rights, this Agreement, and Applicable Law:

**7.3.1** limiting, reducing or modifying the uses, height, bulk, number of rooms, density or intensity of permitted uses of all or any part of the Project, or otherwise requiring any reduction in the square footage or total number or location of or other improvements;

**7.3.2** limiting the location or sites, grading, roadways or other improvements or facilities on the Property in a manner that conflicts with, or is more restrictive than the limitations included in this Agreement or the Project Approvals;

**7.3.3** reducing the Term of the Agreement;

**7.3.4** limiting, reducing, or modifying the permitted density, intensity, square footage, location, height or bulk of all or any part of the Project including the location of vehicular access or parking or the number and location of parking or loading spaces for the Project in a manner that is inconsistent with this Agreement or the Project Approvals;

**7.3.5** limiting or controlling the rate, timing, phasing, or sequencing of the approval, development, or construction of all or any part of a Project, including the demolition or removal of existing buildings, facilities, or other infrastructure;

**7.3.6** impeding or delaying the timely completion of the Project, or the processing or procuring of applications and approvals for any Subsequent Approvals that are required to implement the Project;

**7.3.7** changing Existing County Laws in a manner that causes an adverse impact on the use, operation, functionality, accessibility, or economic competitiveness of the Project; and

**7.3.8** changing or limiting the Project Approvals.

**7.4 Evolving Body of Law.** Under this Agreement, the Applicable Law shall be an expanding body of law, such as, for example, when Subsequent Approvals are granted by County (in the future), and/or when Owner determines, in Owner's sole and exclusive discretion, to become subject to a new Subsequent County Law pursuant to this Agreement.

## **8. Subsequent Approvals.**

### **8.1 Generally.**

**8.1.1** The development of the Project is subject to future approvals and actions by County that will occur after the Adoption Date. These future approvals include actions by County, which may include but are not limited to, demolition permits, grading permits, groundwater or well permits, wastewater permits, building permits, final parcel and subdivision maps, lot line adjustments, mergers and also include any and all land use approvals, entitlements,

or other permits or approvals of any kind or character that are necessary or advisable for the implementation and development of the Project, including any amendment thereto or the Project Approvals (collectively referred to as “**Subsequent Approvals**”). The County shall exercise its authority consistent with the Applicable Rules, and the scope of County’s review of Subsequent Approvals shall be limited to a determination of substantial compliance and consistency with Applicable Law, including but not limited to the Project Approvals and any previously approved Subsequent Approvals, in effect at the time of the review.

**8.1.2** Design of improvements and development of the Property shall be subject to County review as provided by the Project Approvals, including but not limited to the Development Plan. The Project Approvals, and all improvement plans prepared in accordance with the Project Approvals, shall govern the design and scope of all on-site and off-site improvements to be constructed on or benefiting the Property.

**8.1.3** In the course of such review, County shall not apply criteria or standards that would conflict with Applicable Law, the Project Approvals, or previously approved Subsequent Approvals. Consequently, County shall not use its authority to change the policy decisions reflected by the Project Approvals, expressly or otherwise, or to prevent, delay or modify development of the Project as contemplated by the Project Approvals, except in the case of a violation or other enforcement action.

**8.1.4** The Parties acknowledge that certain Subsequent Approvals may legally require additional analysis under CEQA. In the event supplemental or additional environmental review is required for a Subsequent Approval, County shall limit such supplemental or additional environmental review to the scope of analysis mandated by CEQA and in consideration of the County’s discretion to be exercised in connection with the Subsequent Approval. Consistent with the County’s certification of the EIR and the Board’s adopted findings related thereto, the County shall utilize, to the greatest extent legally possible, any applicable streamlining provision and statutory or categorical exemptions from CEQA for any Subsequent Approval that is determined to be a discretionary approval.

**8.1.5** In reviewing and acting on applications for Subsequent Approvals, County shall consider the Project and the proposed actions to be a priority project and shall act expeditiously and endeavor to expedite processing and apply the Project Approvals when considering the application and may only attach such conditions that are consistent with the Project Approvals.

**8.1.6** As Subsequent Approvals are adopted and therefore become part of the Applicable Law to the Project, those Subsequent Approvals may refine the permitted uses, density, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to the Project. Once approved Subsequent Approvals are vested under the Agreement during the Term thereof. The County shall not use the Subsequent Approval process to reduce the height, density, types of permitted and accessory uses, number of rooms, area of the buildings and development area, alter setbacks, parking requirements or other development standards within the Project or other program elements.

## **8.2 Process.**

**8.2.1** All applications for Subsequent Approvals shall be reviewed for substantial conformity with the Project Approvals, in particular the Development Plan, and substantial conformity with any prior (or concurrent) Subsequent Approvals. The County shall not disapprove, require changes from or impose conditions inconsistent with the Project Approvals, or Subsequent Approvals it has previously approved, provided that the current submittal is consistent with any matter previously approved. A table depicting the Subsequent Approval process for the Project's permit applications is set forth in Exhibit E.

**8.2.2** Applications for a Subsequent Approval shall be submitted to the Director. The Director shall review the application as expeditiously as practicable and make a good faith effort to advise the applicant in writing that the application is complete or that additional materials or information are required within thirty (30) calendar days of submittal. If the Director determines that the application is not complete and additional materials or information is required, then upon resubmittal of the additional materials and information, the Director shall make a good faith effort to advise the applicant in writing within fourteen (14) calendar days that the submittal is complete or whether and what specific additional materials or information is still required. Upon the Director's determination that the application is complete, the County shall make a good faith effort to expeditiously process and take an action on the complete application within thirty (30) calendar days of being deemed complete. The Director's action may be to approve, approve with conditions not inconsistent with Applicable Law, deny, or continue the application for redesign, if necessary. If the Director disapproves an application in whole or in part, the reasons for such disapproval shall be provided to the applicant. Any revisions or resubmittals shall be reviewed within the time-frames provided herein.

**8.2.3** Applications for permits, including but not limited to those listed in Section 8.1.1, that are Conforming Modifications shall be reviewed and if deemed complete and requiring no further CEQA review consistent with the applicable laws shall be approved ministerially by the Director consistent with the intent and regulations adopted with this Agreement.

**8.2.4** Applications for permits that are not substantially consistent with the Development Plan due to a material deviation from the Development Plan or that require exceptions or exemptions to any applicable standards shall be processed as a Minor Amendment, unless said permits require a Major Amendment as determined in the Director's sole discretion. All Minor Amendments, including any non-administrative exceptions or exemptions to any standards under County Laws shall be processed pursuant to the procedures contained in Section 18.124.130B of the Napa County Code.

**8.2.5** Owner shall pay the County any and all processing fees imposed by the Board's current Fee Resolution in effect at the time of the application, including the establishment of an hourly fee application agreement and initial deposit. Owner acknowledges that fees may include, but not be limited to Planning, Building, Engineering, Public Works, Fire, Environmental Health and County Counsel staff time; required consultant service billed rates; production or reproduction of materials and exhibits; public notice advertisements; and postage.

### **8.3 Standards to be Addressed in Certain Subsequent Approvals.**

**8.3.1** Applications for building or grading permits shall demonstrate compliance with the effective Napa County Road & Street Standards (the “RSS”) by providing sufficient details, plans, and profiles depicting emergency ingress and egress in conformity with the design standards for commercial roadways. Nothing in this Section or the Project Approvals prohibits the County from granting certain exceptions administratively (without a hearing before the Planning Commission) to the RSS promulgated thereunder, provided that said exceptions are allowed under the RSS and further provided that the Project Approvals or building or grading permit applications are otherwise ministerial. Any road depicted on the Development Plan may be designed in an alternative manner provided it complies with the effective RSS.

**8.3.2** Applications for building or grading permits that involve new earth-disturbing activities shall provide topographic information, including cross-sections, to depict sufficient information and data that demonstrates through Napa County’s Slope Determination Methodology that the percent slope for the proposed project do not exceed those uses prohibited without an exemption or an exception

**8.3.3** Applications for building or grading permits shall describe the project metrics and corresponding submittal requirements as described in Napa County’s BASMAA Post-Construction Manual Table 1-1- Requirements at a Glance, ‘Regulated Projects’. The project will demonstrate a low impact development approach by implementing Provision E.12 of the Phase II Small MS4 General Permit in order to control pollutants in runoff from newly created or replaced impervious surface.

**8.3.4** Applications for permits shall contain a project description that describes the proposed improvement, including the number, size, type and use, and sufficient information on how the proposed improvement conforms to the Development Plan, and whether there are additional licenses and/or approvals required from Federal, State, or other public or quasi-public agencies, or private third parties.

**8.3.5** Applications for permits shall contain sufficient information for the Director to determine whether the infrastructure in place or proposed infrastructure adjacent thereto is adequate to serve the Project development.

**8.3.6** The Director may require technical information and studies if in Director’s sole discretion such additional study is required to determine conformance with Applicable Laws.

### **8.4 Conflicts. In case of conflicts, Section 7.2 shall govern the precedence.**

### **8.5 Modifications to the Development Plan or Subsequent Approvals.**

**8.5.1** Any modification to the Development Plan or other Subsequent Approval that is not deemed a Major Amendment, as defined in Section 13.3 below, shall be deemed a Minor Amendment. Any amendment that in the aggregate increases the intensity of the permitted uses of the Property, increases the allowed density or intensity of the use of the Property, or substantially alters the intent of the Development Plan shall be deemed a Major Amendment and shall require giving of notice and a public hearing before the Planning Commission. A

reconfiguration of buildings or infrastructure, including a consolidation of units or uses shall not be considered a Major Amendment, unless it increases the aggregate area of development or overall intensity of use. Notwithstanding the foregoing, Conforming Modifications shall not be considered a Minor or Major Amendment.

**8.5.2** The Director shall have the sole discretion to determine if an amendment is a Major Amendment or a Minor Amendment.

**8.5.3** The Director shall, by written decision, approve, with or without conditions, Minor Amendments provided that the following determinations are made by the Director: (i) the requested project approval involves a material deviation that does not constitute a Major Amendment; (ii) the requested project approval will not be materially detrimental to the public health, safety, and welfare or injurious to the Property or improvements in the vicinity of the Property; and (iii) the grant of the Minor Amendment will be consistent with the general purposes and intent of the Project Approvals.

**8.6 Appeals.** Any appeals of a discretionary decision of the Director and any decision of the Planning Commission or the Zoning Administrator may be appealed to the Board in accordance with the standard procedures established under County Law.

## **9. Vested Rights.**

**9.1** During the Term of this Agreement, except as otherwise provided herein, the permitted uses and rules applicable to the development, use, and operation of the Property, including, but not limited to the Temporary Uses, density and intensity of uses, number of rooms, the approximate location and designs of any buildings, structures, streets, paths, or other improvements, building coverage areas, setbacks, parking standards, and other improvement standards, shall be those set forth in this Agreement, Existing County Laws, the Project Approvals, and subsequently approved Subsequent Approvals (the “**Vested Rights**”).

**9.2** During the Term of this Agreement, Owner shall have Vested Rights (but not the obligation) to develop the Project subject only to, and in accordance only with, the Applicable Law. County’s regulation of the Project and its development and operation, including without limitation, any discretion exercised by the County on any and all Project Approval(s), shall occur pursuant to, and in accordance with, only the Applicable Law except as otherwise stated herein. County shall not prevent development or use of the Property that substantially conforms to the Project Approvals and this Agreement, require Owner to modify or redesign any building which substantially complies with the Applicable Laws or, except as otherwise provided herein, the time and manner that Owner seeks to develop, construct, and operate the Project during the Term.

**9.3** During the Term of this Agreement, or while this Agreement is otherwise in legal effect as relates to any portion of the Project, all of the following shall apply:

**9.3.1** This Agreement shall provide and shall control over any and all other claims of Vested Rights of the Project (and Property) by either Party. For example, if a conflict is presented between the Vested Rights provided under this Agreement and the vested rights provided under some other right or permits obtained by Owner, the vested rights provided by this

Agreement shall prevail and control over any and all other vested rights of the Project and/or Party or Parties might otherwise hold or claim.

**9.3.2** The Vested Rights provided by this Agreement shall terminate as provided by this Agreement, provided that upon termination of this Agreement the County may continue to process applications for permits for development on the Property consistent with the Development Plan processes and Development Standards adopted by this Agreement unless the County takes legislative action to terminate Owner's rights consistent with County Law. All project components, improvements and development that occurred under the terms of this Agreement shall be considered legal conforming notwithstanding the termination of Vested Rights as provided by the Agreement.

**9.3.3** Notwithstanding anything to the contrary set forth herein, Owner shall have the Vested Right to develop the Project in phases and in the order, at the rate and at the time as market conditions dictate, subject to the terms and conditions of this Development Agreement. Notwithstanding that Owner has a Vested Right to develop the Project consistent with the Approvals and Applicable Law, Owner shall have no obligation to commence construction of any phase of the Project; provided, however, it is expressly understood that the County is not obligated to issue Owner a certificate of occupancy for any phase unless Owner demonstrates that improvements necessary to support such a phase have either been installed or Owner has provided the County adequate security in the form of a bond, letter of credit, or other surety approved by the County.

**9.4** Nothing herein is intended to vest Owner to any environmental approvals that may be required in connection with the future development of the Property which may be required to comply with CEQA.

**10. Other Governmental Permits.** Owner shall apply for such other permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the development or operation of the Project, which may include the Bay Area Air Quality Management District, California Department of Transportation, City of St. Helena, and the California Regional Water Quality Control Board. County shall reasonably cooperate with Owner in its endeavors to obtain such permits and approvals.

**11. Public Benefits.** Owner shall endeavor to provide County, its residents, and the surrounding region with the Public Benefits set forth below and, in exchange, County shall grant the permits and approvals required for the development, use, and operation of the Project in accordance with procedures provided by Applicable Law and in this Agreement.

**11.1 On-site Employee Housing.** The existing 6 dwelling units on the South Property shall be renovated and leased to employees of the Project at affordable levels. Prior to issuance of a final certificate of occupancy for the Project, a deed restriction in the form contained at Exhibit F shall be recorded to ensure that the six (6) dwelling units are rented to employees at affordable levels.

**11.2 Off-Site Housing.** Prior to issuance of a final certificate of occupancy of the Project, Owner shall cause to construct and/or commit to deliver five (5) new residential units in Napa County (the “**Off-Site Units**”) that may be occupied by employees of the Project, employees of Owner’s affiliated companies, or outside tenants. Construction of the Off-Site Units shall be in lieu of any and all Housing Fees that would otherwise be imposed on the Project, and the Owner shall not be required to pay Housing Fees to develop the Project. The Off-Site Units shall be subject to a deed restriction or equivalent restriction requiring any rental to outside tenants be with rents affordable to moderate income levels as defined by the California Department of Housing and Community Development. This restriction shall be in a form mutually agreeable to the Parties and shall have a term of at least 40 years.

**11.3 Tax Revenue.** Tax Revenue, including payment of Transient Occupancy Tax annually, increase in property taxes through redevelopment of the Property, and increase in sales tax through increased economic activity at the Property.

**11.4 Lodi Lane Crossing Improvement.** The Project shall include at-grade street crossing enhancement to the existing Vine Trail to increase pedestrian, bicycle, and on-site operational safety as depicted in the Crossing Improvements Concept Plan attached as Exhibit G. The Crossing Improvements Concept Plan may be modified to meet County and Caltrans requirements and may include traffic calming measures (such as a rumble strip/speed table, and/or signage) along Lodi Lane to reduce traffic speeds and increase driver awareness.

**11.5 Fire Prevention Contribution.** Owner will contribute a total of two hundred fifty thousand dollars (\$250,000.00) to Napa County for fuel reduction and management. The payment shall be made in five annual installments of fifty thousand dollars (\$50,000.00). The first installment shall be made upon issuance of a final or temporary certificate of occupancy (whichever occurs first) for the Project, and the four subsequent payments shall be made on or before each anniversary of the final or temporary certificate of occupancy’s issuance.

**11.6 GSA Pilot Program.** Prior to issuance of a final certificate of occupancy for the Project, Owner shall install two “Tule” sensors or similar evapotranspiration sensors, on Owner’s lands within the Napa River Subbasin. Data from these sensors shall be shared with the Napa County Groundwater Sustainability Agency (GSA). Exact location of the sensors shall be determined by Owner in coordination with GSA staff.

**11.7 Sustainability Measures.** The Project includes the following sustainability measures:

**11.7.1** The Project shall include graywater recycling and reuse as described and depicted in the Project Approvals. Owner will offer excess treated graywater to adjacent property owners for irrigation. Conveyance of reclaimed water to adjacent properties shall be subject to County approval and the willingness of nearby property owners to connect to the Property’s system conveying reclaimed water.

**11.7.2** Project will be designed and constructed to a minimum LEED Gold standard, but Owner is not required to obtain LEED Gold certification of the Project.

**11.7.3** The Project will provide 150% of the number of electric vehicle charging stations required by the Construction Codes in effect at the time the Project is constructed.

**11.7.4** The Project will include an e-bike charging station that will be available to both hotel guests and public users of the Vine Trail.

**11.7.5** The Project will not remove and convert existing vineyard on the Property to another use. Owner's management and farming of the existing vineyard remains within Owner's sole discretion.

**11.7.6** Prior to occupancy, Owner shall install an air quality monitoring sensor to provide data to an online platform that communicates air quality information to the public.

**12. Easements; Improvements; Abandonments.** County shall reasonably cooperate with Owner and any federal, state or local agencies in connection with any arrangements for abandoning or vacating existing easements, right-of-ways, utilities, or facilities, including groundwater wells and pipelines, and the relocation thereof or creation of any new easements, right-of-ways, utilities, or facilities within the County in connection with the development of the Project. Any location or relocation of new or existing easements, rights-of-way, utilities or facilities, public or private, shall be processed as a Minor Amendment, notwithstanding if said location or relocation is located outside of the Property. If any such easement, right-of-way, utility, or facility is owned by County, County shall, at the request of Owner, take such action and execute such documents as may be reasonably necessary to abandon that existing easement, right-of-way, utility, or facility and relocate them, as necessary or appropriate in connection with the development of the Project.

**13. Agreement Amendment, Cancellation or Suspension.**

**13.1 Modification Because of Conflict with State or Federal Laws.** In the event that Laws or regulations enacted after the Adoption Date of this Agreement prevent or preclude compliance with one or more provisions of this Agreement or require substantial and material changes in the Project or Project Approvals, the Parties shall meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such change in Laws. Any such amendment of the Agreement shall be approved by the Board, in accordance with existing local laws and this Agreement.

**13.2 Amendment by Mutual Consent.** This Agreement may be amended in writing from time to time by mutual consent of the Parties and in accordance with the procedures of State law, the County Code, and this Agreement.

**13.3 Major Amendments.** Any Major Amendment to the Agreement shall require the County's approval through the Board in accordance with Applicable Law. The term "Major Amendment" is defined to include the following: (a) any change to the term of this Agreement beyond the Term; (b) any changes to the permitted uses allowed under the Project Approvals or any changes that in the aggregate increases the allowed density or intensity of use of the Project; or (c) any changes to provisions in this Agreement or the Project Approvals related to monetary contributions or payments by Owner.

**13.4 Minor Amendment.** A “Minor Amendment” is any amendment of this Agreement other than a Major Amendment, including waiver of conditions for the benefit of another party and modifications to the conditions to the Approvals, provided that the Director finds that, on the basis of substantial evidence, the changed measures or conditions are substantially equivalent to or more effective. A Minor Amendment may be approved by means of a written agreement, without a public hearing, by the Director.

**13.5 Amendment Exemptions.** No Subsequent Approval shall require an amendment to this Agreement. Upon approval of any Subsequent Approval, the meaning of the term “Project Approval” as used in this Agreement shall be amended to reflect the approved amendment to the Project Approval, and, along with any Subsequent Approval or amendment to a Subsequent Approval, shall be deemed to be incorporated automatically into the Project and vested under this Agreement (subject to any conditions set forth in the Subsequent Approval or amendment). Notwithstanding the foregoing, in the event of any direct conflict between the terms of this Agreement and a Subsequent Approval, or between this Agreement and any amendment to a Project Approval or Subsequent Approval, Section 7.2 shall govern.

**13.6 Cancellation by Mutual Consent.** This Agreement may be terminated in whole or in part by the mutual consent of all the Parties or their successors in interest, in accordance with the provisions of Applicable Law. Any fees or payments of any kind paid pursuant to this Agreement prior to the date of mutual termination shall be retained by County.

**13.7 Suspension by County.** County may suspend a portion of this Agreement, if it finds, in its reasonable discretion, that suspension is necessary to protect persons or property from a condition which would create an immediate and serious risk to the physical health and safety of the general public or residents or employees who are occupying or will occupy the Property, such as might be the case in the event of a major earthquake or natural disaster of similar magnitude. In the event any portion of this Agreement is suspended pursuant to this Section 13.7, the Term shall be extended for a period of time equal to the length of time from the date of suspension until the date County provides written notice that the circumstances requiring the suspension have abated or been resolved.

## **14. Transfers and Assignments.**

**14.1 Transfers Generally.** Subject to the terms of this Section 14.1, Owner shall have the right to sell, lease, transfer, encumber or assign the Property in whole or in part to any person or entity (the “Transferee”) at any time without the consent of County. Any sale or transfer of the Property shall include the assignment and assumption of all rights, duties, and obligations arising from this Agreement to the Transferee for the Property or portion thereof. Owner shall no longer be obligated under this Agreement for the respective portion of the Property it owns if that Owner is not in default under this Agreement at the time of the sale or transfer. Owner shall provide written notice to the County within 30 days after the effective date of any sale or transfer of its interest in all or any portion of the Property or any of its interests, rights, and obligations under this Agreement. Upon the completion of such sale or transfer, the Transferee shall be deemed a Party to this Agreement.

**14.2 Effect of Transfer; Agreement Binding on Successors and Assigns.** The burdens of this Agreement are binding upon, and the benefits of this Agreement inure to all successors in interest of the Parties to this Agreement, and constitute covenants that run with the Property. To provide continued notice, the Parties will record this Agreement as set forth herein.

**14.3 Constructive Notice.** Every person or entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is, and shall be, constructively deemed to have consented to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property. Every person or entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property and undertakes any development activities on the Property is, and shall be, constructively deemed to have consented to, and is obligated by, all of the terms and conditions of this Agreement, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property.

**15. Lender Obligations and Protections.**

**15.1 Encumbrances on Property.** The Parties agree that this Agreement shall not prevent or limit Owner in any manner from encumbering the Property, any part of the Property, or any improvements on the Property with any Mortgage.

**15.2 Mortgagee Obligations.** A Mortgagee who is not in legal possession of the Property or any portion thereof shall not be subject to the obligations or liabilities of the Owner under this Agreement, including the obligation to construct or complete construction of improvements or pay fees. A Mortgagee in legal possession shall not have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to pay, perform, or provide any fee, dedication, improvements, or other imposition. A Mortgagee in legal possession of the Property or any portion thereof shall be entitled to use the Property, or in Mortgagee's discretion, to construct any improvements on the Property in accordance with the Project Approvals if Mortgagee fully complies with the terms of this Agreement; provided, however, that a Mortgagee shall not have any obligation or duty under this Agreement or the Project Approvals to construct or complete the construction of improvements or to pay, perform or provide any fee, dedication, improvement or other imposition.

**15.3 Mortgage Protection.** This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof, after the date of recording this Agreement, including the lien for any deed of trust or Mortgage. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish, or impair the lien of any Mortgage made in good faith and for value, but all the terms and conditions contained in this Agreement shall be binding upon and effective against any Person or entity, including any Mortgagee that acquires title to the Property, or any portion thereof by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise, and any such Mortgagee or successor to a Mortgagee that takes title to the Property or any portion thereof shall be entitled to the benefits arising under this Agreement.

**15.4 Notice of Default to Mortgagee; Right of Mortgagee to Cure.** If County receives notice from a Mortgagee requesting a copy of any notice of Default or a Certificate of Non-Compliance (as defined in Section 17.4) sent to Owner under this Agreement and

specifying the address for service thereof, then County shall deliver to such Mortgagee, concurrently with service thereon to Owner, any notice sent to Owner with respect to any claim by County that Owner is in Default and/or not in compliance as described in a Certificate of Non-Compliance. Each Mortgagee shall have the right during the same period available to Owner to cure or remedy, or to commence to cure or remedy, the Default or non-compliance as provided in this Agreement; provided, however, that if the Default, non-compliance or Certificate of Non-Compliance is of a nature which can only be remedied or cured by such Mortgagee upon obtaining possession, such Mortgagee may seek to obtain possession with diligence and continuity through a receiver or otherwise, and shall thereafter remedy or cure the Default, noncompliance or Certificate of Non-Compliance within 90 days after obtaining possession. If any such Default, noncompliance or Certificate of Non-Compliance cannot, with diligence, be remedied or cured within such 90-day period, then such Mortgagee shall have such additional time as may be reasonably necessary to remedy or cure such Default, noncompliance or Certificate of Non-Compliance (including but not limited to proceeding to gain possession of the Property) if such Mortgagee commences cure during such 90-day period, and thereafter diligently pursues completion of such cure to the extent possible.

**16. Estoppel Certificate.** Any Party may, at any time, deliver written notice to any other Party requesting such Party to certify in writing that, to the knowledge of the certifying Party, (a) this Agreement is in full force and effect and a binding obligation of the Parties, (b) this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments, (c) the requesting Party is not in Default in the performance of its obligations under this Agreement, or if in Default, to describe therein the nature and amount of any such Default, and (d) such other information as may reasonably be requested. A party receiving a request hereunder shall execute and return such certificate within 30 days following the receipt thereof. The County Executive Officer, or the County Executive Officer's designee, shall have the right to execute any certificate requested by Owner hereunder. County acknowledges that a certificate hereunder may be relied upon by the requesting Party, Transferees, lenders, and Mortgagees.

**17. Annual Review.**

**17.1 Review Date.** The annual review date for this Agreement shall occur each year on the anniversary date of the Effective Date of this Agreement (the "Annual Review Date").

**17.2 Required Information.** Not more than 60 days and at least 45 days prior to the Annual Review Date, Owner shall provide a letter to the Director demonstrating good faith compliance with this Agreement.

**17.3 County Report.** Within 40 days after Owner submits its letter, County shall review the information submitted and all other available evidence on compliance with this Agreement. All such available evidence including public or non-privileged staff comments and final staff reports, if any, shall, upon receipt by County, be made available as soon as practicable to Owner. County shall notify Owner in writing whether it has complied with the terms of this Agreement. If County finds Owner in compliance, County shall issue a Certificate of Compliance to Owner. If County finds Owner is not in compliance, County shall issue a Certificate of Non-Compliance, together with any available evidence of such non-compliance,

after complying with the procedures set forth in Section 17.4. County's failure to timely complete the annual review is not deemed to be a waiver of the right to do so at a later date.

**17.4 Non-Compliance with Agreement; Hearing.** If County, on the basis of substantial evidence, finds that an Owner has not complied with the terms of this Agreement, it shall specify in writing, together with any available evidence of such non-compliance, with reasonable specificity, the respects in which Party has failed to comply. County shall specify a reasonable time for Owner to respond, to provide additional evidence of compliance, and/or to meet the terms of compliance, which time shall be not more than 30 days, but may be extended by the Director where reasonably related to the time necessary for the Owner to adequately bring its performance into compliance; provided, however, that if the non-compliance solely involves a monetary Default, then County may require payment in 30 days. If Owner has failed to meet the terms of compliance after the required time period and County, on the basis of substantial evidence, continues to find that Owner has not complied, County shall issue a Certificate of Non-Compliance that describes, with reasonable specificity, the reasons for the determination ("Certificate of Non-Compliance").

If County issues a Certificate of Non-Compliance, the Board shall conduct a hearing within 30 days of issuance, or at the next available, regularly scheduled hearing thereafter. The County shall give Owner not less than 20 calendar days written notice of the hearing and copies of the evidence upon which County made its determination. The Owner will be given the opportunity to present evidence at the hearing. If the Board determines that the Owner is not in compliance with this Agreement, it may proceed to utilize County's rights and remedies, including modifying or terminating this Agreement.

**17.5 Appeal of Determination.** The Board's decision as to Owner's compliance shall be final, and any Court action or proceeding to attack, review, set aside, void, or annul any decision of the determination by the Board shall be commenced within 90 days of the final decision by the Board.

**17.6 Costs.** Costs reasonably incurred by County in connection with the annual review and related hearings shall be paid by Owner in accordance with the County's schedule of fees and billing rates for staff time in effect at the time of review.

**17.7 No Limits on Remedies for Default.** The rights and powers of the County under this Section are in addition to, and shall not be limited to, the rights of the County to terminate or take other action under this Agreement on account of an event of Default; provided that failure to conduct annual review by either Party shall not be considered a Default by either party.

**18. Indemnification.** Owner shall indemnify, defend, and hold harmless County, County's designee, and their respective elected and appointed councils, boards, commissions, officers, agents, employees, volunteers and representatives from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death or physical property damage) and from any and all claims, demands, and actions in law or equity (including attorneys' fees and litigation expenses) (collectively, "Claims") by any third party, that may arise, directly or indirectly, from the acts,

omissions, or operations of Owner, or Owner's agents, contractors, subcontractors, agents, or employees pursuant to this Agreement.

Notwithstanding the foregoing, Owner shall have no indemnification obligation with respect to the gross negligence or willful misconduct of County or their respective contractors, subcontractors, agents or employees, or by any one or more persons directly or indirectly employed by or acting as an agent for Owner or any of Owner's contractors or subcontractors.

The indemnity under this Section 18 shall survive termination of this Agreement. Except as otherwise provided herein, Owner shall timely pay all costs incurred by County in defending Claims or challenges, and Owner shall be solely responsible to pay, in a timely manner and on County's behalf, any and all awards of money damages, attorney fees and court costs against County resulting from such Claims.

**19. Default.** Subject to Section 17, a Party's violation of any material term of this Agreement or failure by any Party to perform any material obligation of this Agreement required to be performed by such Party shall constitute a default (the "Default").

**19.1 Default by Owner.** Pursuant to California Government Code Section 65865.1, if County determines, following a noticed public hearing and on the basis of substantial evidence, that Owner has not complied in good faith with Owner's obligations pursuant to this Agreement, County shall, by written notice to Owner, specify the manner in which Owner has failed to comply and state the steps Owner must take to bring itself into compliance. If Owner does not initiate steps reasonably necessary to bring itself into compliance within 30 days after receipt of the County's written notice, Owner shall be deemed to be in Default and County may then: (1) seek a modification of this Agreement, (2) terminate this Agreement, or (3) seek any other available legal or equitable remedies as provided in this Agreement or in law, including specific performance.

**19.2 Default by County.** If County has not complied with any of its obligations and limitations under this Agreement, Owner shall by written notice to County specify the manner in which County has failed to comply and state the steps necessary for County to bring itself into compliance. If County does not initiate steps reasonably necessary to bring itself into compliance within 30 days after receipt of the written notice from Owner, and thereafter diligently pursue such steps to completion, then County shall be deemed to be in default under the terms of this Agreement. Owner may then exercise any or all of the following remedies: (1) seek a modification of this Agreement; (2) terminate this Agreement; (3) withhold payments that might be otherwise due to County under this Agreement; and/or (4) seek specific performance or pursue other available legal and/or equitable remedies.

**19.3 Remedies for Default.** Subject to the notice and opportunity to cure provisions in Section 19.4 below, the available remedies for any Party in the event of a Default by the other Party (except with respect to a payment Default) shall be an action in mandamus, or for damages, specific performance, or other injunctive or declaratory relief. In addition, upon the occurrence of a Default and subject to the procedures described in Section 19.4, the non-defaulting Party shall have the right to terminate this Agreement, but any such termination shall not affect such Party's right to seek such remedies as are provided for in this Agreement on account of the

Default for which this Agreement has been terminated, and shall be subject to the procedures specified in this Agreement. Any legal action by a Party alleging a Default shall be filed within 180 days from the end of the default procedure described in Section 19.4.

**19.4 Procedure Regarding Defaults.** A Complaining Party shall not exercise any of its remedies as the result of a Default unless the Complaining Party first gives notice to the Party in Default as provided in Section 19.4.1, and the Party in Default fails to cure such Default within the applicable cure period.

**19.4.1 Notice; Meet and Confer.** The Complaining Party shall give written notice of Default to the Party in Default specifying the Default alleged by the Complaining Party. Delay in giving such notice shall not constitute a waiver of any Default nor shall it change the time of Default.

Before sending a Notice of Default, the Party which may assert that the other Party has failed to perform or fulfill its obligations under this Agreement shall first attempt to meet and confer with the other Party to discuss the alleged failure and shall permit such Party a reasonable period, but not less than 10 days, to respond to or cure such alleged failure; provided, however, the meet and confer process shall not be required (i) for any failure to pay amounts due and owing under this Agreement or (ii) if a delay in sending a notice pursuant to this Section 19.4.1 would materially and adversely affect a Party or its rights under this Agreement. The Party asserting such failure shall request and if, despite the good faith efforts of the requesting Party such meeting has not occurred within 7 business days of such request, such Party shall be deemed to have satisfied the requirements of this Section 19.4.1 and may proceed in accordance with the issuance of a Notice of Default.

**19.4.2 Cure.** The Party in Default shall have 30 days from receipt of the Notice of Default to effect a cure prior to exercise of remedies by the Complaining Party. If the nature of the alleged Default is such that it cannot practicably be cured within such 30-day period, then it shall not be considered a Default during that 30-day period so long as: (a) the cure was commenced at the earliest practicable date following receipt of the notice; (b) the cure was reasonably prosecuted to completion at all times thereafter; (c) at the earliest practicable date (in no event later than 30 days after the curing Party's receipt of the notice), the curing Party provided written notice to the Complaining Party that the cure cannot practicably be completed within such 30-day period; and (d) the cure was completed at the earliest practicable date. The Party in Default shall diligently endeavor to cure, correct or remedy the matter complained of, provided such cure, correction or remedy shall be completed within the applicable time period set forth herein after receipt of written notice (or such additional time as may be agreed to by the Complaining Party to be reasonably necessary to correct the matter).

**19.4.3 Failure to Assert.** Any failures or delays by a Complaining Party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies. Delays by a Complaining Party in asserting any of its rights and remedies shall not deprive the Complaining Party of its right to institute and maintain any actions, which it may deem necessary to protect, assert, or enforce any such rights or remedies.

**20. Attorneys' Fees and Costs.**

**20.1 Legal Actions by Parties to the Agreement.** If either Party brings an action or proceeding (including, without limitation, any cross-complaint, counterclaim, or third-party claim) against another Party by reason of a Default, or otherwise arising out of this Agreement, the prevailing Party in such action or proceeding shall be entitled to its costs and expenses of suit, including but not limited to reasonable attorneys' fees (including, without limitation, costs and expenses), which shall be payable whether or not such action is prosecuted to judgment. "Prevailing Party" within the meaning of this Section 20 shall include, without limitation, a Party who dismisses an action for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action.

**20.2 Legal Actions by Third Parties.** If any person or entity not a Party to this Agreement initiates an action at law or in equity to challenge the validity of any provision of this Agreement, the Project Approvals or the Subsequent Approvals, the Parties shall cooperate in defending such action. Owner shall bear its own costs of defense as a real party in interest in any such action and timely reimburse County for all costs (including court costs) and attorneys' fees incurred by County in defense of any such action or other proceeding. For purpose of this provision, "timely" reimbursement means full payment by Owner of all costs incurred by County, as applicable, not later than 45 days following Owner's receipt of an invoice from County describing costs previously incurred by County in defense of such action. In its sole discretion, Owner may tender its defense of such action to County or defend the action itself. Upon tender of defense to Owner by County, Owner shall defend through counsel approved by County, which approval shall not be unreasonably withheld, and Owner shall bear all attorneys' fees and costs from the date of tender.

**20.3 Third Party Court Action/Limitation on Action.** If any court action or proceeding is brought by any third party to challenge any Project Approval or this Agreement, then (a) Owner shall have the right to terminate this Agreement upon 30 days' notice, in writing to County, given at any time during the pendency of such action or proceeding, or within 90 days after the final determination therein (including any appeals), irrespective of the nature of such final determination, and (b) any such action or proceeding shall constitute a Permitted Delay(s).

**21. Surviving Provisions.** In the event this Agreement is terminated or cancelled, neither Party shall have any further rights or obligations hereunder, except for those rights or obligations under any provision that, by its express terms, survives the expiration and termination of this Agreement, including but not limited to Sections 9.3.2 and 18.

**22. Agreement Runs with the Land.** All of the provisions, agreements, rights, terms, powers, standards, covenants, and obligations contained in this Agreement shall be binding upon the Parties and their respective heirs, successors and assignees, representatives, lessees, and all other Persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1468 of the Civil Code of the State of California, and the burdens and benefits shall be binding upon and inure to the benefit of each of

the Parties and their respective heirs, successors (by merger, consolidation, or otherwise), assigns, devisees, administrators, representatives, and lessees.

**23. Excuse for Nonperformance.** Notwithstanding anything to the contrary in this Agreement, the Parties shall be excused from performing any obligation or undertaking provided in this Agreement, except any obligation to pay any sum of money under the applicable provisions hereof, in the event and so long as the performance of any such obligation is prevented or delayed, retarded or hindered by act of God; fire; earthquake; flood; explosion; action of the elements; war; civil unrest; pandemic; quarantine restrictions; invasion; insurrection; riot; mob violence; sabotage; inability to procure or shortage of labor, equipment, facilities, materials or supplies in the open market; failure of transportation; freight embargoes, strikes; lockouts; labor disputes; condemnation; requisition; changes in laws; litigation; orders of governmental authority; the failure of any governmental agency, public utility or communication or transportation provider to issue a permit, authorization, consent, or approval required for development, construction, use, or operation of the Project or portion thereof within typical, standard or customary timeframes; or any other cause, whether similar or dissimilar to the foregoing, not within the reasonable control of the Party claiming the extension of time to perform (a "Permitted Delay"). The Party claiming such extension shall send written notice of the claimed extension to the other Party within 30 days from the commencement of the cause entitling the Party to the extension.

**24. Third Party Beneficiary.** This Agreement is made and entered into solely for the protection and benefit of the Parties, and their respective successors and assigns, and no other Person shall have any right of action based upon any provision in this Agreement.

**25. Notice.** Any notice to any Party required by this Agreement, the enabling legislation, or the procedure adopted pursuant to Government Code Section 65865, shall be in writing and given by delivering the same to such party in person or by sending the same by registered or certified mail, or express mail, return receipt requested, with postage prepaid, to the Party's mailing address. The respective mailing addresses of the Parties are, until changed as hereinafter provided, the following:

**County:** Napa County  
1195 Third Street, Suite 310  
Napa, California 94559  
Attn: County Executive Officer

*With a copy to:* Napa County Counsel  
1195 Third Street, Suite 301  
Napa, California 94559

*With a copy to:* Napa County Planning, Building, & Environmental  
Services  
Attn: Director  
1195 Third Street, Second Floor  
Napa, California 94559

**Owner:** Jackson Family Investments III, LLC  
421 Aviation Boulevard  
Santa Rosa, CA 95403  
Attn: Owner Representative

*With an Owner copy to:* Rob Anglin  
Holman Teague Roche Anglin, LLP  
1455 First Street, Suite 217  
Napa, CA 94559

Any Party may change its mailing address at any time by giving written notice of such change to the other Party in the manner provided herein at least 10 days prior to the date such change is affected. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal delivery is effected or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

**26. Severability.** Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any Person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to Persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a Party hereto of an essential benefit of its bargain hereunder, then such Party so deprived shall have the option to terminate this entire Agreement from and after such determination.

**27. Waiver; Remedies Cumulative.** Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such Party's right to demand strict compliance by such other Party in the future. No waiver by a Party of a Default shall be effective or binding upon such Party unless made in writing by such Party and no such waiver shall be implied from any omission by a Party to take any action with respect to such Default. No express written waiver of any Default shall affect any other Default, or cover any other period of time, other than any Default and/or period of time specified in such express waiver. Except as provided in Section 19.3, all of the remedies permitted or available to a Party under this Agreement, or at law or in equity, shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

**28. Applicable Law and Venue.** This Agreement, and the rights and obligations of the Parties, shall be governed by and interpreted in accordance with the laws of the State of California. The Parties agree that any lawsuit or legal proceeding arising hereunder shall be heard in the Federal District Court in the Northern District (San Francisco branch) if in federal court or the Napa County Superior Court if in California Superior Court.

**29. Further Assurances.** Each Party covenants, on behalf of itself and its successors, heirs and assigns, to use good faith efforts to take all actions and do all things as may reasonably be necessary or appropriate to carry out this Agreement, the Project Approvals and Subsequent Approvals, and to execute, with acknowledgment or affidavit if required, any and all documents and writings that may be necessary or appropriate to achieve the purposes and objectives of this Agreement, the Project Approvals and Subsequent Approvals.

**30. Not a Public Dedication.** Except as provided herein and in the Project Approvals, nothing contained herein shall be deemed to be a gift or dedication of the Property to the general public, for the general public.

**31. Entire Agreement.** This Agreement and the Exhibits hereto contain all the representations and the entire agreement between the Parties with respect to the subject matter hereof. Except as otherwise specified in this Agreement, any prior correspondence, memoranda, agreements, warranties, or representations are superseded in total by this Agreement.

**32. Form of Agreement; Entirety; Recordation; Exhibits.** This written Agreement, which consists of 30 pages and 8 exhibits (Exhibits “A” through “G”, contains the entire agreement between the Parties with respect to its subject matter. Except as otherwise specified herein, any prior correspondence, memoranda, agreements, warranties or representations by, among and between the Parties are superseded in total by this Agreement. The County shall cause this Agreement, any amendment hereto and any termination of any parts or provisions hereof, to be recorded, at Owner’s expense, with the County Recorder within 10 days of the Adoption Date, the date of the approval of an amendment hereto, or the date of termination of any parts or provisions hereof, as applicable. Any amendment or termination of this Agreement to be recorded that affects less than all of the Property shall describe the portion thereof that is the subject of such amendment or termination. This Agreement is executed in three duplicate originals, each of which is deemed to be an original.

EXHIBIT DESIGNATION	DESCRIPTION
A	Legal Description of North Property
B	Legal Description of South Property
C	Site Plan
D	Development Plan
E	Subsequent Approval Process
F	On-Site Housing Deed Restriction Format
G	Crossing Improvements Conceptual Plan

**33. Construction of Agreement.** The provisions of this Agreement shall be construed as a whole according to their common meaning in order to achieve the objectives and purposes of the Parties, and not strictly for or against any Party. The captions and headings are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Agreement. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neuter genders, or vice versa. The exhibits to this Agreement are intended to be and shall be incorporated into this Agreement as if stated fully herein. The use in this Agreement of the words “including”, “such as” or words of similar import when following any general term, statement or matter shall not be construed to limit such statement, term or matter to the specific items or matters, whether or not language of non-limitation, such as “without limitation” or “but not limited to”, or words of similar import, are used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter. This Agreement has been reviewed and revised by legal counsel for Owner and County, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

**34. Signature Pages.** For convenience, the signatures of the Parties to this Agreement may be executed and acknowledged on separate pages in counterparts which, when attached to this Agreement, shall constitute this as one complete Agreement.

**35. Time Is of the Essence.** Time is of the essence of this Agreement and of each and every term and condition hereof.

**36. Enforcement.** Unless amended or canceled as provided in Section 13.6 of this Agreement, or modified or suspended pursuant to California Government Code Section 65869.5, this Agreement is enforceable by either Party despite any change in any applicable general or specific plan, zoning, subdivision, or building regulation or other applicable ordinance or regulation adopted by County that purports to apply to any or all of the Property.

**37. Non-Liability of County Officers and Employees.** No official, officer, director, employee, agent, or representative of either Party shall be personally liable to the other Party or its successors and assigns for any loss arising out of or connected with this Agreement.

**38. Authority to Execute.** The persons executing this Agreement warrant and represent that they have the authority to execute this Agreement on behalf of the entity for which they are executing this Agreement. They further warrant and represent that they have the authority to bind their respective Party to the performance of its obligations under this Agreement.

**39. Bankruptcy.** The obligations of this Agreement shall not be dischargeable in bankruptcy.

*[SIGNATURE PAGE TO FOLLOW]*

“OWNER”

JACKSON FAMILY INVESTMENTS III, LLC,  
a Delaware limited liability company

\_\_\_\_\_  
By:  
Its:

“COUNTY”

NAPA COUNTY, a political subdivision of the  
State of California

\_\_\_\_\_  
AMBER MANFREE  
Chair of the Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>(e-sign)</u> Deputy County Counsel</p> <p>Date:</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____ Processed By: _____ Deputy Clerk of the Board</p>
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EXHIBIT A  
LEGAL DESCRIPTION

EXHIBIT B  
LEGAL DESCRIPTION

EXHIBIT C  
SITE PLAN

EXHIBIT D  
DEVELOPMENT PLAN

EXHIBIT E  
SUBSEQUENT APPROVAL PROCESS

EXHIBIT F  
ON-SITE HOUSING DEED RESTRICTION FORMAT

EXHIBIT G

CROSSING IMPROVEMENTS CONCEPT PLAN

# “Exhibit A”

North Property Legal Description

**EXHIBIT A**

**North Property**

Those four parcels of land as described in the following three grant deeds recorded in Napa County Records as follows:

Tract Six Parcel One and Tract 7 Parcel One as described in the grant deed recorded April 5, 2007 as 2007-0011572 (APNs 022-130-023 & 024), together with the parcel as described in the grant deed recorded December 26, 2019 as 2019-0026603 (APN 022-130-027), together with the parcel as described in the grant deed recorded December 26, 2019 as 2019-0026604 (APN 022-130-028).

**End Description**



# “Exhibit B”

South Property Legal Description

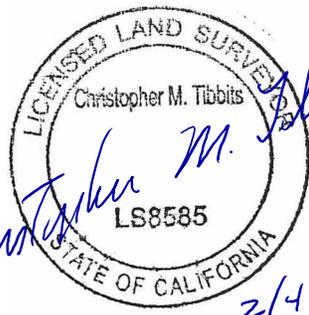
**EXHIBIT B**

**South Property**

Those two parcels of land as described in the following two grant deeds recorded in Napa County Records as follows:

Parcel 1 as described in the grant deed recorded November 15, 2013 as 2013-0032053 (APN 022-220-028), together with Parcel 1 as described in the grant deed recorded November 10, 2016 as 2016-0028867 (APN 022-220-029).

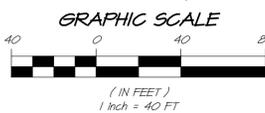
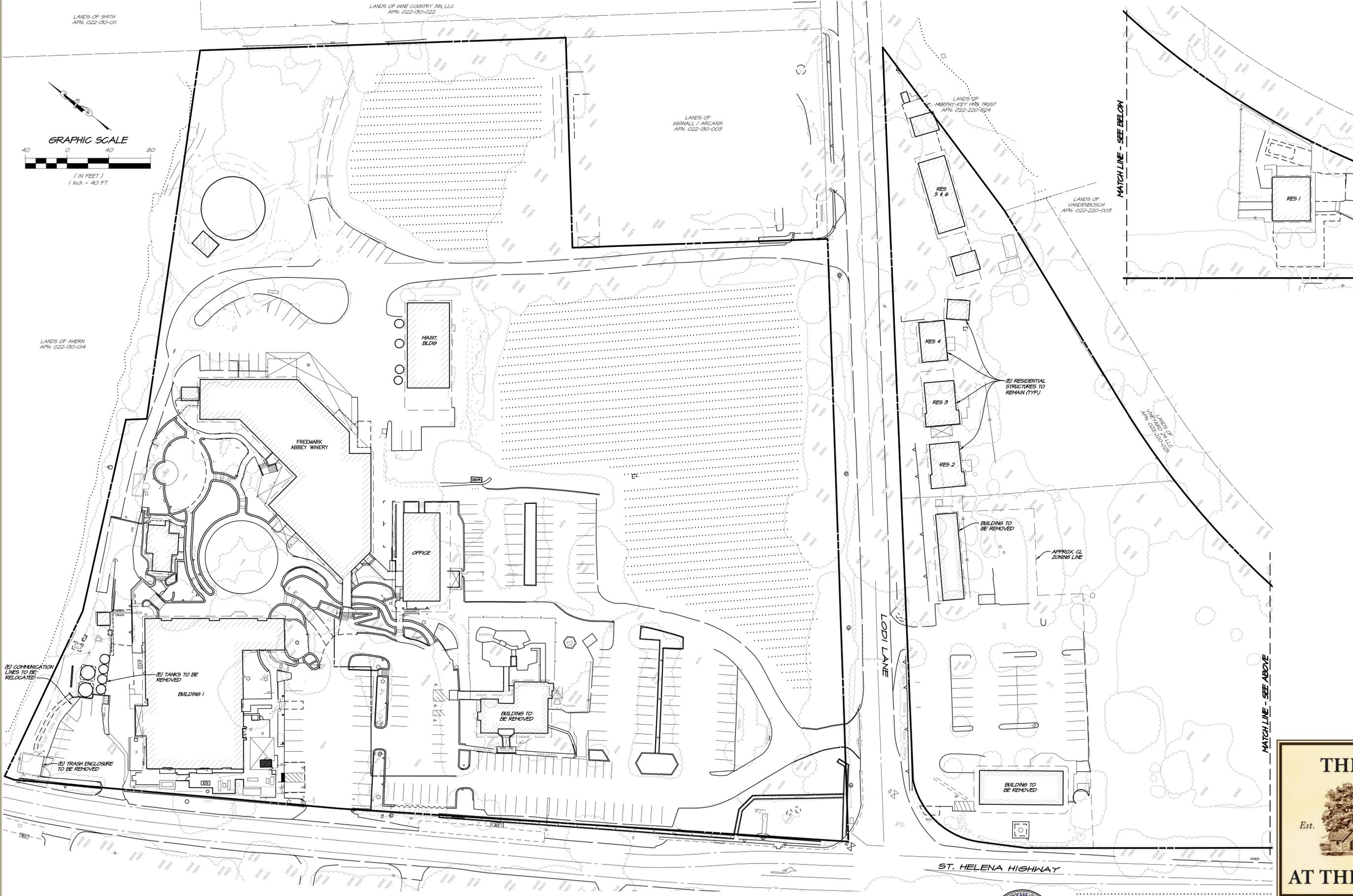
**End Description**



*Christopher M. Tibbits*  
2/4/2026

# “Exhibit C”

Site Plan



(E) COMMUNICATION LINES TO BE RELOCATED

(E) TANKS TO BE REMOVED

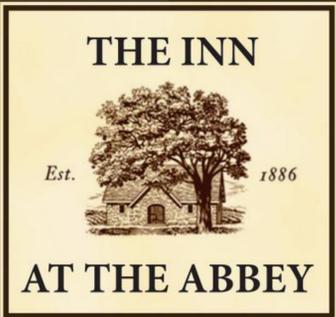
(E) TRASH ENCLOSURE TO BE REMOVED



**C2.0 - EXISTING SITE PLAN**

PRELIMINARY - NOT FOR CONSTRUCTION

USE PERMIT APPLICATION JANUARY 2022

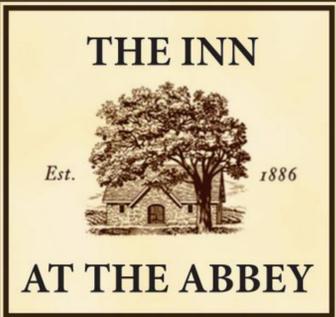
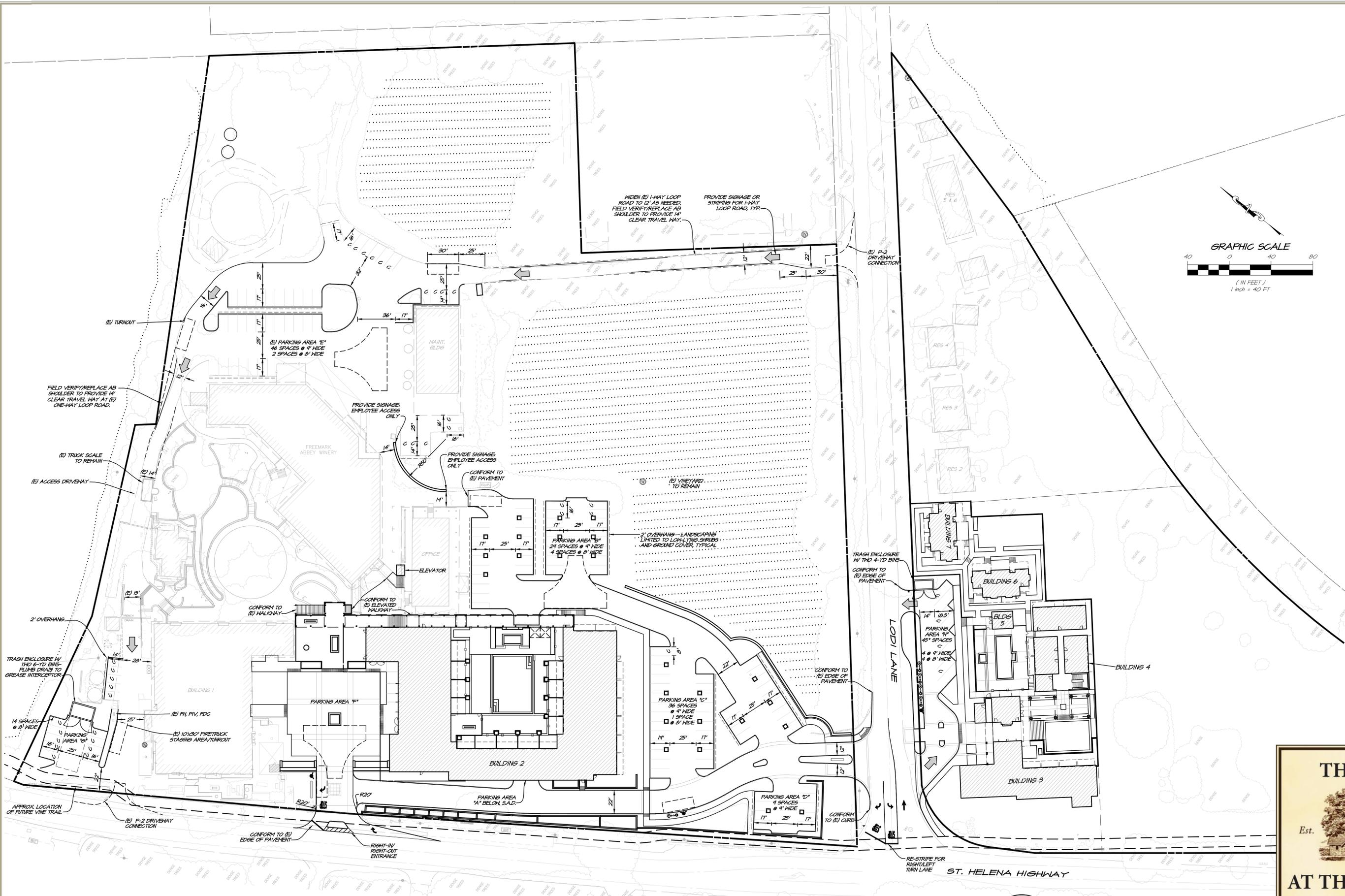


RSAT Job #: 4111050.2  
Drawn: JFW/LMM Design: PSW

P:\2021\14110502\_TheInnAtTheAbbey\_Development\Drawings\SitePlan\C2.0-EXISTING SITE PLAN.dwg, 07/15/2022 10:17:24AM, InPlan, COPYRIGHT RSA-

# “Exhibit D1”

Site Plan



**C2.1 - PROPOSED SITE PLAN**

PRELIMINARY - NOT FOR CONSTRUCTION

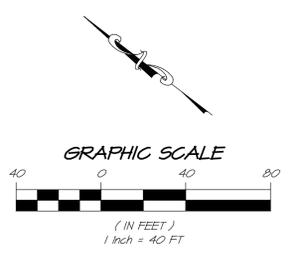
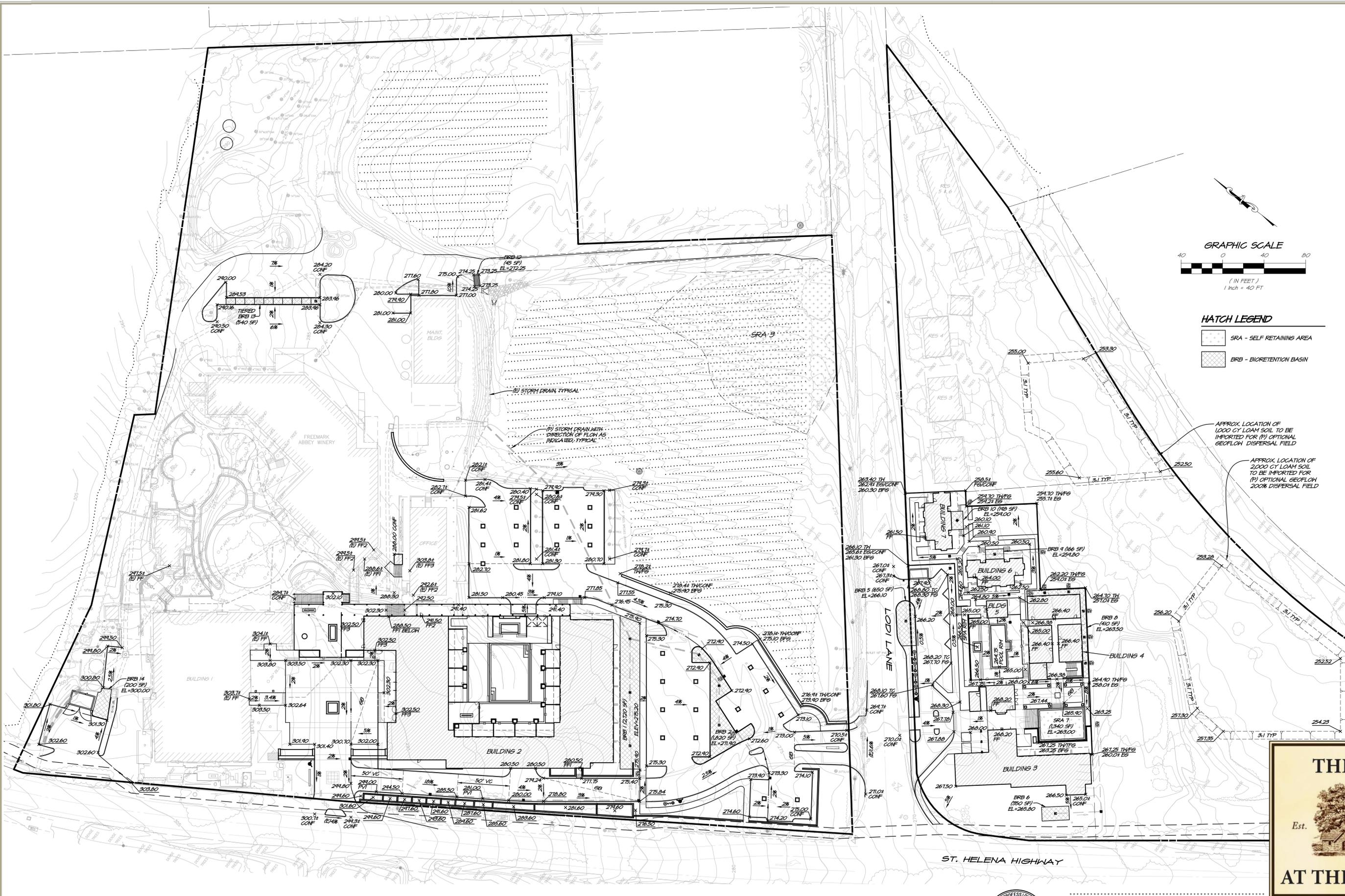
USE PERMIT APPLICATION JANUARY 2022

RS&A Job #: 4111050.2  
Drawn: JFW/LMM Design: PSW

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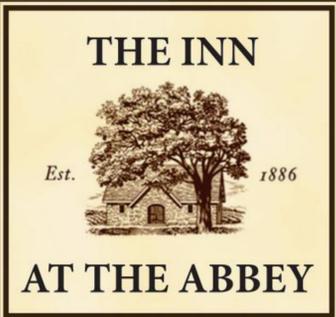
# “Exhibit D2”

Grading and Drainage Plan



APPROX. LOCATION OF 1,000 CY LOAM SOIL TO BE IMPORTED FOR (P) OPTIONAL GEOWEAP DISPERSAL FIELD

APPROX. LOCATION OF 2,000 CY LOAM SOIL TO BE IMPORTED FOR (P) OPTIONAL GEOWEAP 200% DISPERSAL FIELD



**C3.0 - GRADING & DRAINAGE PLAN**

PRELIMINARY - NOT FOR CONSTRUCTION

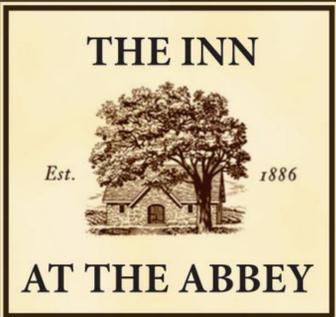
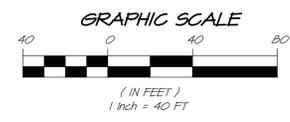
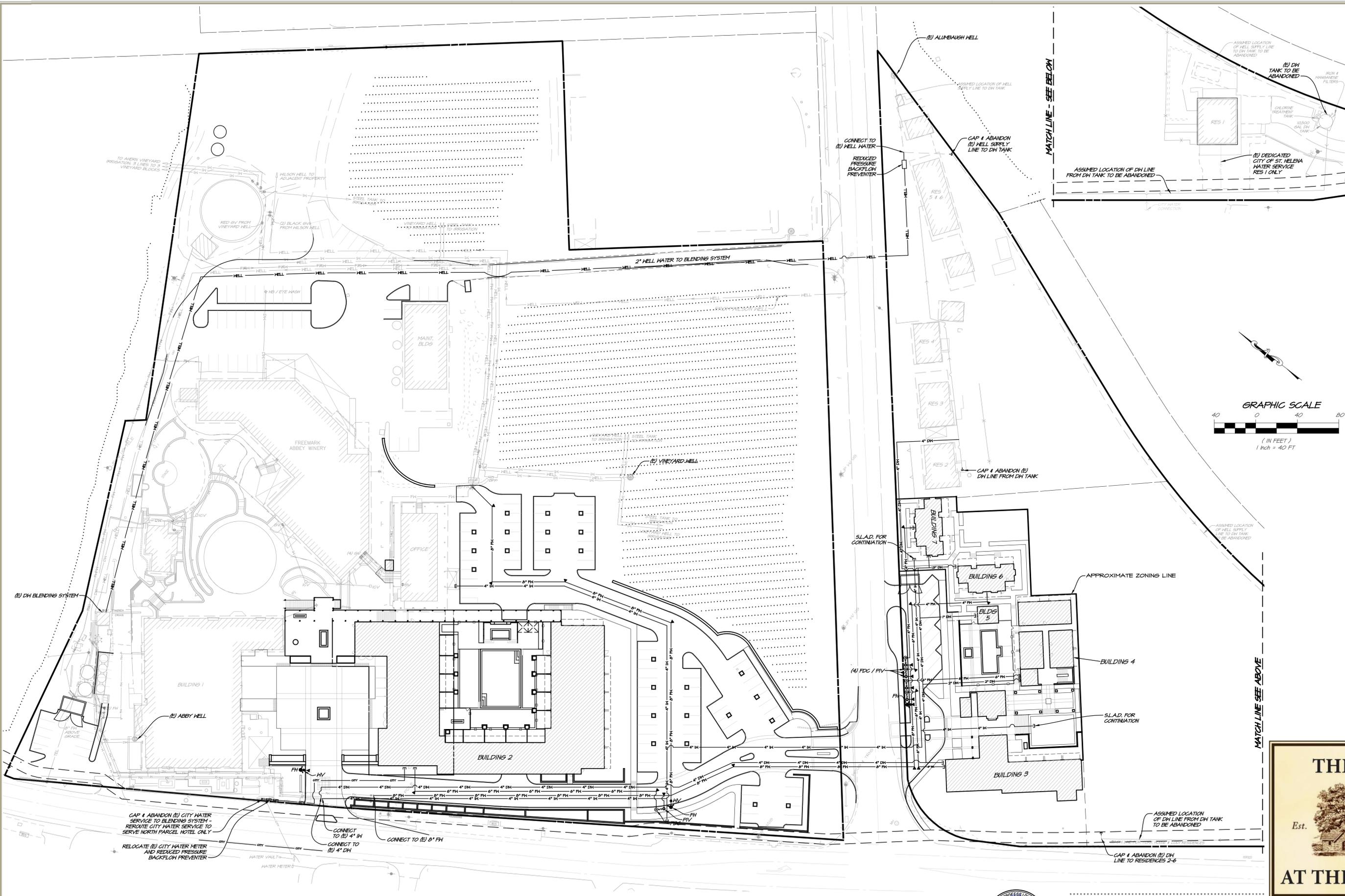
USE PERMIT APPLICATION JANUARY 2022

RS&A Job #: 4111050.2  
Drawn: JFW/LMM, Design: PSW

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# “Exhibit D3”

Water and Utilities Plan



**NOTE**  
NORTH PARCEL INTERNAL PROPERTY LINES NOT SHOWN FOR CLARITY



**C4.1 - UTILITY PLAN - WATER**

PRELIMINARY - NOT FOR CONSTRUCTION

USE PERMIT APPLICATION JANUARY 2022

RS&T Job #: 4111050.2  
Drawn: JFW/LMM Design: PSW

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# **“Exhibit D4B”**

**Wastewater Utilities Alternative Plan**



# “Exhibit E”

Subsequent Approvals Process Chart

EXHIBIT E

SUBSEQUENT APPROVAL PROCESS

A.	<p style="text-align: center;">OWNER SUBMITS PERMIT APPLICATION</p> <p>Permits include, but are not limited to, demolition permits, grading permits, groundwater or well permits, wastewater permits, building permits, final parcel and subdivision maps, lot line adjustments, and also include any and all land use approvals, entitlements, or any other permits.</p>
B.	<p style="text-align: center;">COUNTY COMPLETENESS REVIEW</p> <p><b><u>STANDARDS.</u></b> County reviews permit applications for:</p> <ul style="list-style-type: none"><li>a) <b><u>General Application Checklist Completeness.</u></b></li><li>b) <b><u>Plan Conformance.</u></b> Substantial conformance with the Project Approvals, including the Development Agreement (DA), Development Plan, and other Subsequent Approvals (DA § 8.2.1); Owner shall include with permit application a project description that describes the proposed improvement, including the number, size, type and use, and sufficient information on how the proposed improvement conforms to the Development Plan and Project Approvals (DA Sec 8.3.3).</li><li>c) <b><u>Fire Safe Roads:</u></b> Sufficient details, plans, and profiles depicting emergency ingress and egress to demonstrate compliance with the effective Napa County Road and Street Standards design standards for commercial roadways (DA § 8.3.1)</li><li>d) <b><u>Slope Analysis:</u></b> Topographic information including cross-section to depict sufficient information and data that demonstrates through Napa County’s Slope Determination Methodology that the percent slope for the proposed project do not exceed those uses prohibited without an exemption or an exception from any applicable regulations. (DA § 8.3.2)</li><li>e) <b><u>Stormwater:</u></b> Project metrics and information demonstrating a low impact development approach by implementing Provision E.12 of the Phase II Small MS4 General Permit in order to control pollutants in runoff from newly created or replaced impervious surface (DA § 8.3.3)</li><li>f) <b><u>Infrastructure Adjacency:</u></b> Information sufficient to determine whether the infrastructure in place or proposed infrastructure adjacent thereto is adequate to serve that respective portion of Project’s development (DA § 8.3.5)</li><li>g) <b><u>Other information:</u></b> Other technical information and studies reasonably required to determine conformance (DA § 8.3.5)</li></ul> <p><b><u>Process Timing:</u></b> The Director shall make a good faith effort to notify Owner that the application is complete or that additional materials or information are required within 30 calendar days of submittal; The Director shall make a good faith to notify Owner within 14 calendar days that the submittal is complete or whether and what specific additional materials or information is still required; upon completeness determination, the County shall make a good faith effort to take action within 30 calendar days. (DA § 8.2.2)</p>

EXHIBIT E

SUBSEQUENT APPROVAL PROCESS

<p>C.</p>	<p style="text-align: center;"><b>CONFORMITY DETERMINATION</b> (Director Determination)</p> <p>County determines if application (a) is substantially conforming to, (b) has a material deviation from or (c) creates an increase in aggregate density or intensity compared to the Project Approvals and Development Plan.</p>		
<p><b>(a) Conforming:</b> Substantially conforms with Approvals and Development Plan. (DA § 8.2.3)</p>	<p><b>(b) Minor Amendment:</b> Does not substantially conform to Approvals and Development Plan based on a material deviation or exception or exemption from applicable standards as provided in Approvals and Development Plan. (DA §§ 8.2.4, 8.5.1, 8.5.3)</p>	<p><b>(c) Major Amendment:</b> Does not substantially conform to Approvals and Development Plan and is not a Minor Amendment due to increase in aggregate density or intensity. (DA §§ 8.2.4, 8.5.1, 8.5.3)</p>	
<p>D.</p>	<p style="text-align: center;"><u>APPLICATION PROCESSING</u> (Based upon Directors Determination Above)</p>		
<p><u><b>(a) Conforming:</b></u>  <u><b>Plan Check Review:</b></u> Approved ministerially by the Director consistent with the intent and regulations adopted under DA.</p>	<p><u><b>(b) Minor Amendment:</b></u>  <u><b>Very Minor Modification Process:</b></u> Complete processing, review, and approval pursuant to Section 18.124.130G 3&amp;4 of the Napa County Code.</p>	<p><u><b>(c) Major Amendment:</b></u>  <u><b>Modification Process:</b></u> Complete review and provide notice and a public hearing before Planning Commission.</p>	

# “Exhibit F”

Onsite Housing Deed Restriction

<p>RECORDING REQUESTED BY AND PLEASE RETURN TO:</p> <p>ROB ANGLIN 1455 1<sup>ST</sup> ST., STE 217 NAPA, CA 94559</p> <p>Brian Bordona, Director 1195 Third Street, Second Floor PBES Dept. Napa, California 94559</p> <p>Exempt from recording fees: Gov. Code § 27383; Exempt from documentary transfer tax: Rev &amp; Tax Code §11922</p> <p>Assessor's Parcel Nos: 022-130-027, &amp; -028 and 022-220-028 &amp; -029</p>	<p><b>For Recorder's Use Only</b></p>
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**AGREEMENT CONTAINING COVENANTS AND RESTRICTIONS GOVERNING RENTAL OF AFFORDABLE DWELLING UNITS**

This AGREEMENT CONTAINING COVENANTS AND RESTRICTIONS GOVERNING RENTAL OF AFFORDABLE DWELLING UNITS (the "Agreement") is made and entered into as of \_\_\_\_\_, 20\_\_ (the "Effective Date"), by and between the County of Napa, a political subdivision of the State of California (the "County"), and Jackson Family Investments III, LLC, a Delaware limited liability company (the "Owner"). The County and the Owner are referred to in this Agreement individually as a "Party" and collectively as the "Parties."

**RECITALS**

A. The Owner is the owner in fee simple of certain real property within the unincorporated area of Napa County, State of California, designated Assessor's Parcel Numbers 022-130-027, & -028 and 022-220-028 & -029 on the Napa County Assessor's Maps in effect as of the date of this Agreement, and more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property"). As of the Effective Date, the Property is developed with six (6) residential units (referred to collectively as the "On-Site Units" and individually as an "On-Site Unit") identified on the site plan attached as Exhibit B.

B. The County has approved Use Permit Major Modification No. P19-00038-MOD (the "Use Permit") and that certain Development Agreement recorded on \_\_\_\_\_ as document number \_\_\_\_\_ - \_\_\_\_\_ in the Official records of Napa County (the "Development Agreement") allowing the development and subsequent operation of a 79-room hotel with associated amenities on the Property (the "Project"). The Use Permit and Development Agreement are referred to collectively as the "Approvals".

C. The Approvals require that Owner restrict rents of the On-Site Units to affordable

levels so that the On-Site Units may serve the employees working at the Property. This Declaration is intended to fulfill the Development Agreement's requirements of Owner's commitment to restrict the On-Site Units to rental for employees.

D. The Development Agreement provides that the Owner will record this Agreement against the Property prior to occupancy of the Project.

NOW THEREFORE, it is agreed by and between the Parties as follows:

## **ARTICLE 1 DEFINITIONS**

As used in this Agreement, the terms set forth below will have the following meanings (other defined terms in this Agreement not referenced below will have the meanings where first used).

1.1 "Affordable Rent" means the maximum allowable Rent for an On-Site Unit, equal to one-twelfth (1/12th) of thirty percent (30%) of eighty percent (80%) of the Median Household Income, adjusted for assumed household size, as follows: (a) Studio - 1 person; (b) 1 bedroom - 2 persons; (c) 2 bedrooms - 4 persons; (d) 3 bedrooms - 6 persons; (e) 4 bedrooms - 6 persons; and (f) 5 bedrooms - 8 persons, as determined by the County and provided to the Owner on an annual basis.

1.2 "Eligible Household" means a household that has been determined to be eligible to be a Tenant of an On-Site Unit as a Low Income Household.

1.3 "HCD" means the State of California Department of Housing and Community Development, or any successor.

1.4 "HUD" means the U.S. Department of Housing and Urban Development, or any successor.

1.5 "Low Income Household" means a household whose income does not exceed the low income limits applicable to Napa County, adjusted for household size, as determined by HUD and published annually by HCD. As of the Effective Date, such income limit is approximately equal to eighty percent (80%) of Median Household Income. In any shared housing arrangement where multiple employees occupy an On-Site Unit, each employee shall constitute a separate household when applying low income limits.

1.6 "Median Household Income" means median yearly income in Napa County as determined by HUD and published by HCD.

1.7 "Rent" means the total monthly payment by the Tenant of the On-Site Unit for all of the following: (1) use and occupancy of an On-Site Unit and land and all facilities associated with that On-Site Unit, including but not limited to parking, storage, and use of any common areas; (2) any separately charged fees or service charges assessed by the Owner to a Tenant, except security deposits; (3) any other interest, taxes, fees, or charges for use of the On-Site Unit or associated facilities that are assessed by a public or private entity

other than the Owner and paid by the Tenant. Rent excludes costs for public or private utilities (e.g. water sewer, electricity, phone) used by the Tenant.

1.8 "Tenant" means an Eligible Household entitled by written or oral agreement with the Owner to have the exclusive right to occupy an On-Site Unit as a home or residence to the exclusion of all others.

1.9 "Transferee" has the meaning set forth in Section 5.6

## **ARTICLE 2 OWNER'S OBLIGATIONS**

2.1 Rental of On-Site Unit to Eligible Households. The Owner will ensure that each On-Site Unit is rented to, and occupied by, Eligible Households in accordance with this Agreement. The Owner will not use an On-Site Unit for any other purpose other than as set forth in this Agreement; provided, however, nothing in this Agreement will be deemed to prohibit an On-Site Unit from being vacant as necessary for maintenance and changing of tenancy so long as such vacant On-Site Unit is not used by Owner (or any other person) for any purpose, including use by the Owner in conjunction with the use and transient occupancy.

(a) Income Certification. The Owner will not enter into a lease or rental agreement, or receive Rent from a Tenant, for the On-Site Unit unless the Owner has made a good faith effort to verify that the income provided by an applicant in an income certification is accurate by taking one or more of the following steps as a part of the verification process: (1) obtain a pay stub for the three most recent pay periods; (2) obtain an income tax return for the most recent tax year; (3) obtain an income verification form from the applicant's current employer; (4) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or (5) if the applicant is unemployed and has no such tax return, obtain another form of independent verification acceptable to the County. Copies of tenant income certifications will be available to the County upon request.

(b) Maximum Allowable Rent. The maximum Rent charged to the Tenant of the On-Site Unit will not exceed Affordable Rent.

(c) Use as Primary Residence. Owner's lease or rental agreements for the On-Site Units shall require: (1) annual certification that Tenant continues to occupy the On-Site Unit as Tenant's primary residence; (2) that Tenant shall not sublease except as allowed by Section 2.4 below; and (3) that Tenant shall not use the On-Site Unit as a transient commercial occupancy or list the On-Site Unit on a hosting platform (as defined by California Business & Professions Code §22590).

(d) Increased Income of Tenants. If the Owner determines that a Tenant's household income has increased and exceeds the qualifying income for a Low Income Household, then such Tenant will continue to be considered an "Eligible Household", and will be permitted to continue to occupy the On-Site Unit, at the rent set forth in subsection (b), above; provided, however, nothing in this Agreement will prohibit the Owner from terminating such tenancy upon the expiration of such Tenant's lease. Following such Tenant's vacancy, the Owner will lease the On-Site Unit to an Eligible Household.

(e) Information. At the request of the Owner, the County will provide the Owner with the low income limits applicable to Napa County, adjusted for household size, as published from time to time by HCD.

2.2 Inspection. For purposes of confirming compliance with this Agreement, the On-Site Unit will be made available by Owner to be inspected by the County during regular business hours upon seventy-two (72) hours' written notice; provided, however, that any such inspection will occur only once during any twelve (12) calendar month period unless: (i) the County receives a complaint that a Tenant is occupying the On-Site Unit in violation of this Agreement (or that the Owner is otherwise violating this Agreement); or (ii) a new Tenant is occupying the On-Site Unit, in which case County may re- inspect.

2.3 Records. The Owner will maintain reasonably complete and accurate records pertaining to such rental of each On-Site Unit throughout the duration of each tenancy. Owner will permit any authorized representative of the County to inspect such records of any current Tenant upon reasonable notice, including those resident files pertaining to said rental, for the purpose of confirming compliance with the terms, conditions and covenants of this Agreement.

2.4 Assignments and Subletting. The Owner will at no time permit the Tenant to assign its leasehold interest in the On-Site Unit or to sublet all or a portion of the On-Site Unit to any person other than to another Eligible Household. Owner will have the right to approve or disapprove any proposed assignment or sublease at Owner's sole discretion; provided that prior to approving any proposed assignment or sublease, Owner will comply with the provisions of Section 2.1 above to confirm the eligibility of the proposed assignee or sub-lessee.

### **ARTICLE 3 TERM**

3.1 Term. This Agreement shall remain in effect so long as the Project remains in use. Should Owner or its successor abandon the Project's improvements and activities, Owner may request in writing that the County terminate this Agreement. In that event, Owner or its successor may request that the County record a Notice of Cancellation documenting the termination of this Agreement.

### **ARTICLE 4 DEFAULT**

4.1 Violations by Owner. Failure of the Owner to cure any default in the Owner's obligations under the terms of this Agreement within thirty (30) days after the delivery of a written notice of default from the County (or such longer period of time up to an additional sixty (60) days as may be necessary to remedy such default, provided that the Owner has commenced action during the thirty (30) days necessary to remedy such default, and the Owner is proceeding with reasonable diligence to remedy such default) will constitute a default under this Agreement.

4.2 Remedies. Subject to the applicable notice and cure period set forth

above, the County may exercise remedies available to it at law or equity with respect to the Owner's failure to satisfy the terms of this Agreement. Owner agrees that the County is entitled to equitable relief in the form of specific performance, and that an award of damages alone may not be adequate to compensate the County for a failure to perform according to the terms of this Agreement. Notwithstanding the foregoing, the County, in its sole and absolute discretion, may elect the appropriate remedy for Owner's default under this Agreement.

## **ARTICLE 5 GENERAL PROVISIONS**

5.1 Notices. Except for any notice, demand, or communication required under applicable law to be given in another matter, all notices, demands, and communications to be sent pursuant to this Agreement will be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other Parties in accordance with this Section. All notices demands or communications will be sent by: (i) personal delivery, with a delivery receipt; (ii) certified mail, return receipt requested; or (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account with a delivery receipt. Delivery will be deemed to have occurred on the date shown on the delivery receipt as the date of delivery, the date delivery was refused, or the date on which the item was returned as undeliverable. Either Party may change the address to which notices are to be sent by notifying the other Parties of the new address, in the manner set forth above.

**County:** Brian Bordona, Director  
1195 Third Street, Second Floor PBES Dept.  
Napa, California 94559

**Owner:** Jackson Family Investments III, LLC  
421 Aviation Blvd.  
Santa Rosa, CA 95403

5.2 Entire Agreement. The Recitals set forth above, and all exhibits attached to this Agreement, are incorporated into this Agreement by this reference. This Agreement contains the entire agreement between the Parties as to the subject matter of this Agreement and supersedes any and all prior arrangements and understandings between the Parties, and no other agreement, statement or promise made by either Party to this Agreement which is not contained in this Agreement will be binding or valid provided, however, that nothing in this Section limits the effect or enforceability of Napa County Code. This Agreement will not be construed as if it had been prepared by one of the Parties, but rather as if both Parties had prepared it. The Parties have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party (including but not limited to California Civil Code §1654 as may be amended from time to time) will not apply to the interpretation of this Agreement.

5.3 Amendment. This Agreement may be amended only by the written agreement of the Parties.

5.4 Severability. In the event any limitation, condition, restriction, covenant, or provision contained in this Agreement is to be held invalid, void or unenforceable by any court

of competent jurisdiction, or if any provision of this Agreement is rendered invalid or unenforceable pursuant to any California statute which became effective after the Effective Date, the remaining portions of this Agreement will nevertheless remain in full force and effect to the greatest extent allowed by law.

5.5 Waiver. The waiver of or failure to enforce any provision of this Agreement will not operate as a waiver of any future breach of any such provision or any other provisions of this Agreement.

5.6 Covenant Running with the Land. The covenants and conditions in this Agreement contained will apply to and bind, during their respective periods of fee ownership, Owner and their heirs, executors, administrators, successors, transferees, and assignees (each a "Transferee") having or acquiring any right, title or interest in or to any part of the Property, whether by operation of law or in any manner whatsoever, and will run with and burden the Property for the entire term unless or until released and terminated in accordance with Section 3.1 above. All of the provisions of this Agreement will be enforceable as equitable servitudes and will constitute covenants running with the land pursuant to applicable laws, including without limitation California Civil Code §1468. Each covenant to do, or to refrain from doing, some act on the Property under this Agreement: (a) is for the benefit of the Property and is a burden on the Property, (b) runs with the Property, and (c) is binding upon each Party and each successive owner during its ownership of the Property or any portion of the Property and will be a benefit to and a burden upon each Party and the Property under this Agreement and each other person or entity succeeding in an interest to the Property.

5.7 Assignment; Release. A Transferee assumes Owner's obligations under this Agreement in connection with the transfer of any part of the Property, and prior Owners are released from all obligations following recordation of a deed conveying the Property to a Transferee is recorded in the Official Records. Owner may contract with a third party to manage the On-Site Units, and such an arrangement shall not constitute an assignment of this Agreement. Any contracting third party shall be bound by the requirements of this Agreement.

5.8 Relationship of Parties. Nothing contained in this Agreement will be deemed or construed by the Parties or any third party to create the relationship of principal and agent or of partnership or of joint venture or of association.

5.9 Applicable Law and Venue. This Agreement is governed by and construed in accordance with the laws of the State of California. Venue for any action with respect to this Agreement is the Federal and State Courts for Napa County.

5.10 Attorneys' Fees and Costs. In the event any action or proceeding in court or other dispute resolution mechanism permitted under this Agreement is commenced by either Party to interpret or enforce the terms of this Agreement, the prevailing Party in such action or proceeding will be entitled to recover from the non-prevailing Party all of the prevailing Party's reasonable costs and expenses in connection with such action or proceeding, including on any appeal and including expert witness fees, document copying expenses, exhibit preparation costs, carrier expenses and postage and communication expenses, and reasonable attorneys' fees and costs for the services rendered to the prevailing Party in such action or proceeding (which will include the reasonable costs for services of the Party's in-house counsel).

5.11 Time is of the Essence. In all matters under this Agreement, the Parties agree that time is of the essence. References in this Agreement to days will be to calendar days. If the last day of any period to give or reply to a notice, meet a deadline or undertake any other action occurs on a day that is not a day of the week on which the County of Napa is open to the public for carrying on business functions (a "Business Day"), then the last day for giving or replying to such notice, meeting such deadline or undertaking any such other action will be the next succeeding Business Day. In no event will a Saturday or Sunday be considered a Business Day.

5.12 Interpretation. The use in this Agreement of the words "including", "such as" or words of similar import when used with reference to any general term, statement or matter will not be construed to limit such statement, term or matter to the specific statements, terms or matters, unless language of limitation, such as "and limited to" or words of similar import are used with reference to "including". The headings of this Agreement are for convenience only and do not in any way limit or amplify the terms or provisions of this Agreement.

5.13 Government Standards. In the event any standard established and maintained by any governmental agency which is necessary to give effect to this Agreement ceases to exist, and no comparable replacement is issued, the Parties will create a replacement standard utilizing the formula and factors previously used to create the discontinued standard.

5.14 No Limitation on Municipal Powers; No Modification of Approvals. Nothing in this Agreement will limit, waive, or otherwise impair the authority and discretion of: (a) the County's Building Department, in connection with the review and approval of any proposed construction plans for the Property (or any change to such plans), or any use, or proposed use, of the Property; or (b) any other office or department of the County acting in its capacity as a governmental regulatory authority with jurisdiction over the development, use, or operation of the Property. This Agreement in no way modifies the Approvals, which shall control in the event of any conflict.

5.15 Counterparts. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts, which will constitute one and the same agreement.

***Remainder of Page Left Intentionally Blank***

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the Effective Date.

**COUNTY:**

COUNTY OF NAPA, a political subdivision of the State of California

By: \_\_\_\_\_  
Brian Bordona, PBES Director

**APPROVED AS TO FORM BY:**

County Counsel

\_\_\_\_\_  
Laura Anderson, Deputy County Counsel

**OWNER:**

**Jackson Family Investments, III, a Delaware limited liability company**

By: \_\_\_\_\_

Name:

Its:

*(Signatures must be notarized)*

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 )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
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.

Name: \_\_\_\_\_  
Name: Notary Public

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 )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
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.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Name: Notary Public

**EXHIBIT A**

**PROPERTY LEGAL**

**DESCRIPTION**

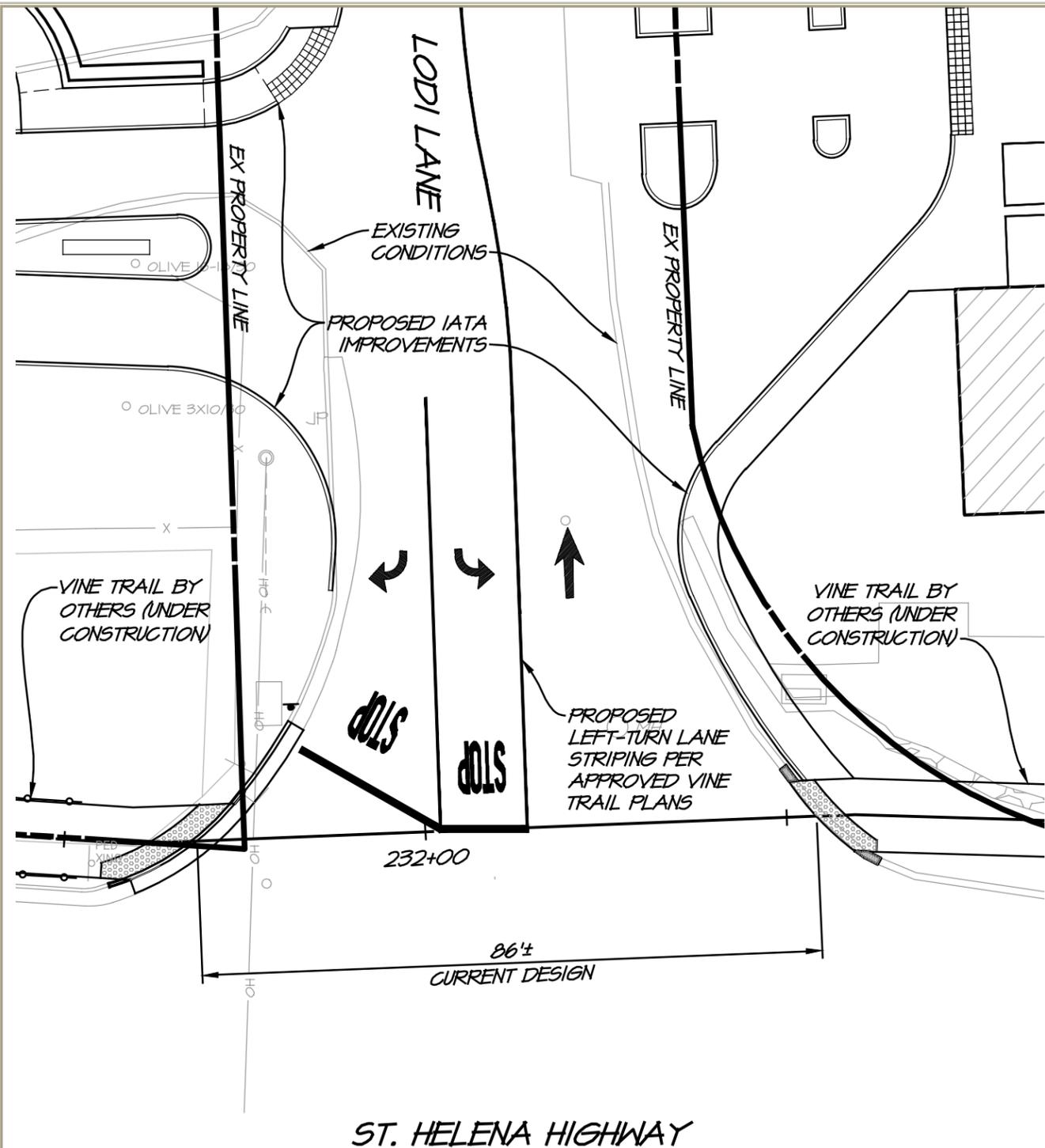
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22-220-028 and 022-220-029

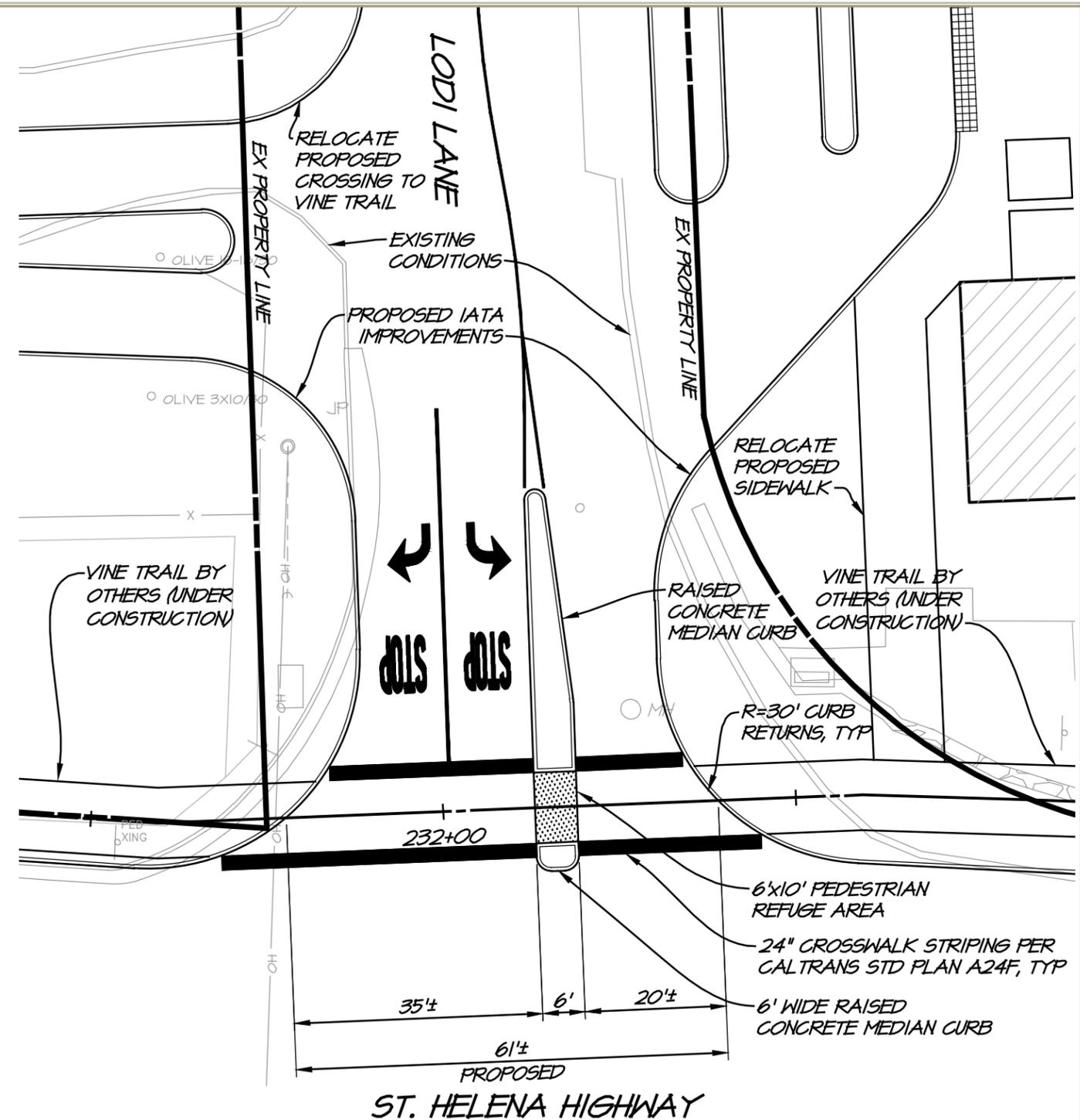
**EXHIBIT B**  
**SITE PLAN**

# “Exhibit G”

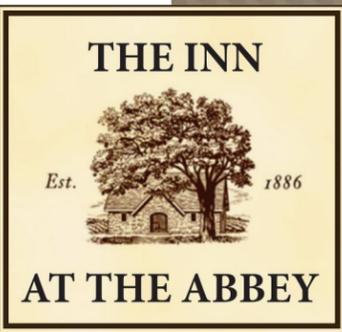
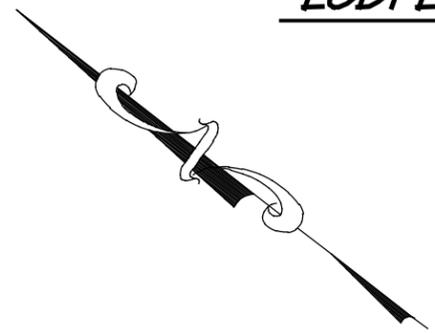
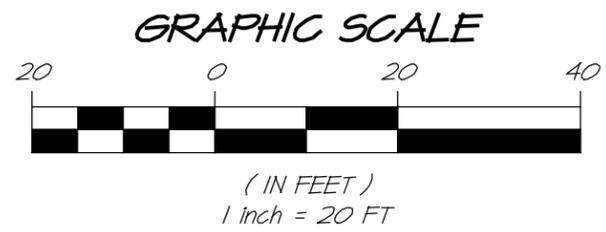
Crossing Improvements Conceptual Plans



**LODI LANE CROSSING - CURRENT DESIGN**  
SCALE: 1" = 20'



**LODI LANE CROSSING - PROPOSED NEW DESIGN**  
SCALE: 1" = 20'



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